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## Part II

# Election Assistance Commission

**Publication of State Plans Pursuant to the Help America Vote Act; Notice**

## ELECTION ASSISTANCE COMMISSION

### Publication of State Plans Pursuant to the Help America Vote Act

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

**ACTION:** Notice.

**SUMMARY:** Pursuant to Section 255(b) of the Help America Vote Act(HAVA), Pub. L. 107–252, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** the election plans submitted by the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United StatesVirgin Islands.

**DATES:** This notice is effective March 24, 2004.

**FOR FURTHER INFORMATION CONTACT:** Bryan Whitener at (202) 694–1095.

*Submit Comments:* Any comments regarding the plans published herewith should be made in writing to the chief election official of the individual States at the address listed in the **SUPPLEMENTARY INFORMATION** section.

**SUPPLEMENTARY INFORMATION:** The Commission wishes to acknowledge the great effort that went into the development of the State plans and encourages public comment. The Commission notes that plans published herein include only those that meet the notice and comment requirements of Sec. 256 of HAVA. The Commission also notes that States, Territories and the District of Columbia (the jurisdiction) may change or update their plans from time to time pursuant to Section 254 (a)(11),(12),(13) of HAVA. Those commenting on these plans should contact the chief State election official of their respective State, Territory or the District of Columbia listed in the **SUPPLEMENTARY INFORMATION** section, to determine if their jurisdiction has or is in the process of making changes in their plans pursuant to Section 254.

Upon the expiration of 45 days from March 24, 2004, any State, Territory or the District of Columbia whose plan is published herein will be eligible to file a statement of certification under Sec. 253 of HAVA. The statement of certification must confirm that the jurisdiction is in compliance with the requirements referred to in Section 253(b) of HAVA. The statement of certification must be provided to the Election Assistance Commission in order for the jurisdiction to receive a requirements payment under Subtitle D of Title II of HAVA.

The members of the U.S. Election Assistance Commission are: DeForest B. Soaries, Jr., Chairman; Gracia M. Hillman, Vice-Chair; Paul S. DeGregorio, Commissioner; and Ray Martinez, III, Commissioner.

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

Signed: March 8, 2004.

**DeForest B. Soaries, Jr.,**

*Chairman, U.S. Election Assistance Commission.*

**BILLING CODE 6820–MP–P**

# State of Alabama

# State Plan – Final Draft

As Required by Public Law 107-252,
The "Help America Vote Act of 2002," Section 253 (b)

Submitted to the People of Alabama
For Public Comment and Recommendations By
Nancy L. Worley
Secretary of State
P.O. Box 5616
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1-800-274-VOTE (8683)
August 19, 2003

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## INTRODUCTION

On October 29, 2003, President Bush signed into law the Help America Vote Act of 2002. Perhaps the most sweeping elections legislation since the Voting Rights Act of 1965, the Help America Vote Act (HAVA) seeks to increase public confidence in the accuracy of our elections and to make voting more accessible to our citizens.

The Help America Vote Act contains two sets of federal mandates:

By the end of this year (2003), Alabama must:

- Combine all local voter registration lists into a single state list made available to local officials through an interactive computer network.
- Require that voters who register by mail show identification before voting in their next federal election.
- Create a system of provisional voting where an individual's eligibility to vote must be verified before his or her ballot is counted when the person's name is not on the precinct's list, or when they do not have an ID but are required to show one, or when their vote is challenged by the inspector of the polling place.
- Provide a single state office for military and overseas voters to contact in order to get
- applications for voter registration or absentee voting; and
- Offer voters greater information about the voting process and how to file a complaint.

By the end of 2005, Alabama must:

- Replace mechanical lever voting machines in Bullock county;
- Replace or modify voting machines in Mobile, Montgomery and DeKalb counties;
- Replace centralized ballot counting systems in nine (9) counties; and
- Place a modern computerized direct record voting machine in each precinct in the state capable of permitting persons with disabilities to vote without assistance and which facilitates voting in an alternative language (e.g., Spanish) for those counties whose voting age population exceeds 5% in that language group.

The Help America Vote Act promises significant federal funds to states in order to assist the states in meeting the Act's federal mandates. In order to qualify for this funding, each state must provide a five percent (5%) match of state money and must complete a State Plan to be filed with the federal government.

I wish to express my gratitude to the diverse group of citizens who worked diligently to provide the recommendations which helped to create this plan. Despite coming from differing backgrounds with respect to race, age, gender, political affiliations, and careers, this group was surprisingly unified in their conclusions.

The work is not finished, however, until we have heard from the public. I look forward to learning about your suggestions and concerns. In the end, we will find that what we have accomplished will be a lasting change to the infrastructure of conducting elections in Alabama. I am convinced this will be a fitting beginning to our efforts to restore public confidence in the elections process.

Nancy L. Worley
Secretary of State

## Section 1 - Federal Mandates in Title III and Other Activities

*How the State will use the requirements payments to meet the requirements of Title III, and, if applicable under Section 251(a)(2), to carry out other activities to improve the administration of elections.*

The total amount of federal funding available as requirements payments under Section 254 of HAVA to Alabama is uncertain. Congress has not appropriated funds beyond Federal Fiscal Year 3 (FFY 3). The initial appropriation provides an estimated 12,807,000 in requirements payments. HAVA requires the state to match this payment by appropriating an amount equal to 5% of the total spent. In order to match the initial federal payment, the state must appropriate $640,350 in the current fiscal year.

The FFY 3 appropriation by Congress was substantially less than what was projected within HAVA. This has created uncertainty with respect to the commitment of Congress to fully fund HAVA in the second and third years of implementation. This plan must nonetheless presume full funding by Congress.

HAVA establishes a number of requirements that all states must meet whether or not federal funds are accepted. The specific choices on the methods of complying with these requirements is left to the discretion of the state. (See HAVA Section 305.) A brief description of the requirements and how Alabama will meet the requirements is set out below.

**Voting Systems Standards Requirements - HAVA Section 301 (a)**
*Deadline for Compliance: January 1, 2006; no waiver permitted.*

HAVA establishes standards for voting systems. The deadline for meeting these standards is January 1, 2006. Each voting system used in an election for Federal office shall meet the following requirements:

- In general, the voting system shall:
  - Permit the voter to verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast and counted;
  - Provide the voter with the opportunity in a private and independent manner to change the ballot or correct any error before the ballot is cast and counted including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error; and
  - If the voter selects votes for more than one candidate for a single office:
    - notify the voter that the voter has selected more than one candidate for a single office on the ballot;
    - notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and
    - provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet these requirements by establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

The voting system shall ensure that any notification preserves the privacy of the voter and the confidentiality of the ballot.

- The voting system shall produce a record with an audit capacity for the system. The record shall be a permanent paper record with a manual audit capacity. The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. The paper record produced shall be available as an official record for any recount conducted with respect to any election in which the system is used.
- The voting system shall be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence as for other voters. This requirement can be satisfied through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.
- The voting system shall provide alternative language accessibility pursuant to the requirements of the Voting Rights Act of 1965.
- The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under the voting systems standards issued by the Federal Election Commission.
- Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.

Of Alabama's 67 counties, 53 counties use precinct-level tabulation optical scan voting systems, 10 counties use central count tabulation systems for optical scan voting systems, 3 counties use direct record equipment voting systems and 1 county uses lever voting machines. Alabama has not used punch card voting systems.

The optical scan voting system meets the general requirements on privacy and independence. It also meets the audit capacity requirements. Alabama anticipates adopting a uniform style of voting by use of precinct-level tabulation optical scan voting systems supplemented by one (1) direct record voting system at each precinct deemed necessary for compliance with HAVA's provisions for persons with disabilities and for alternative language capabilities. The direct record system is also seen as offering privacy to those citizens who have difficulty reading but who are not visually impaired.

As a consequence, Alabama anticipates replacing voting systems in 14 of 67 counties and providing one (1) direct record voting system in each precinct. This can only be accomplished with full funding of HAVA by Congress.

While Alabama is presently exempt from the alternative language requirements of the Voting Rights Act of 1965, Alabama anticipates achieving compliance with those requirements by January 1, 2006. At present, 4 of Alabama's 67 counties have populations of Hispanic people which exceeds 5% of that county's voting age population. Full funding of HAVA is essential to Alabama's ability to reach out to this growing sector of our citizenry.

Since 2001, the Alabama statutes governing the Alabama Electronic Voting Committee require any electronic voting system to be qualified against the voting systems standards established by the Federal Election Commission before it can be used in the state. The qualification must be done by an independent testing laboratory approved by the National Association of State Election Directors (NASED).

In order to promote public confidence in the accuracy of Alabama's voting equipment, the Alabama Electronic Voting Committee will be requiring systems in use in Alabama that were approved prior to 2001 also have a certification on file by a NASED-approved independent testing laboratory that the system complies with voting system standards established by the Federal Elections Commission. The Alabama Secretary of State will also seek state legislation which requires recertification upon any material change in the voting system standards established by the Federal Elections Commission.

Historically, Alabama has conducted its own testing of the accuracy of electronic voting equipment and will continue to do so as a supplement to the findings of the independent testing laboratories approved by NASED.



Currently uniform standards of what constitutes a vote are established by administrative rule of the Alabama Electronic Voting Committee. ALABAMA ADMINISTRATIVE CODE Rule 307-X-1-.17. A review of whether to modify this rule pursuant to HAVA is under way.

**Provisional Voting Requirements - HAVA Section 302 (a)**
*Deadline for Compliance: January 1, 2004; no waiver permitted.*

HAVA requires a state to provide an individual the opportunity to vote a provisional ballot if the individual asserts that he is registered, but the person's name does not appear on the list of qualified voters or when an election official asserts that the individual is not eligible to vote. The individual must complete a written affirmation that he is a registered voter in the jurisdiction and eligible to vote in that election. The individual is then permitted to vote a provisional ballot. The provisional ballot is not counted unless it is verified that the individual is a registered voter in the jurisdiction and eligible to vote in that election.

Historically, Alabama has operated under a similar system of "challenged ballots" wherein the vote is counted on election day but made identifiable so that the election count may be modified in an election contest.

Alabama replaces "challenged ballots" with provisional balloting through Act 2003-313 which is pending preclearance by the U.S. Department of Justice. This legislation would provide a three day period after a primary election and a seven day period in all other federal, state and county elections to verify provisional ballots. It will be the role of the Board of Registrars in each county to verify provisional ballots and to certify their verification of the provisional ballots to the Judge of Probate. The Judge of Probate, the Sheriff and the Circuit Court Clerk will have the responsibility of counting the provisional ballots and reporting those returns as though from an individual precinct within the county – similar to the manner in which absentee ballots are reported in Alabama.

**Voting Information Requirements - HAVA Section 302 (b)**
*Deadline for Compliance: January 1, 2004; no waiver permitted.*

HAVA requires that specific information be posted at each polling place on election day. The required information is:

- A sample version of the ballot that will be used for that election;
- Information regarding the date of the election and the hours during which polling places will be open;
- Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;
- Instructions for mail-in registrants and first-time voters;

- General information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
- General information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

Alabama's current law does not fully encompass these requirements but each of these requirements is addressed in Act 2003-313 which is pending preclearance by the U.S. Department of Justice. Act 2003-313 further provides that three sets of these instructions will be posted at each polling place in various locations specifically convenient to voters.

**Voters Allowed to Vote After the Polls Close Pursuant to a Court Order - HAVA Section 302 (c)**

*Deadline for Compliance: January 1, 2004; no waiver permitted.*

HAVA requires that any individual who votes after the polls close pursuant to a court order shall vote a provisional ballot. The ballot shall be separated and kept apart from other provisional ballots.

Act 2003-313, which is pending preclearance by the U.S. Department of Justice, addresses this requirement.

**Computerized Statewide Voter Registration List Requirements - HAVA Section 303 (a)**

Deadline for Compliance: January 1, 2004; State can submit a certification stating "good cause" that will extend the deadline for compliance to January 1, 2006.

HAVA requires the state, acting through the chief State election official, to implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State. The chief State election official is also responsible for defining, administering and maintaining the statewide list of registered voters. HAVA requires the computerized list to have the following attributes:

- The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State.
- The computerized list contains the name and registration information of every legally registered voter in the State.
- Under the computerized list, a unique identifier is assigned to each legally registered voter in the State.



- The computerized list shall be coordinated with other agency databases within the State.
- Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.
- All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.
- The chief State election official shall provide such support as may be required so that local election officials are able to electronically enter voter registration information into the computerized list on an expedited basis.
- The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State.

Under current law, each county in Alabama has at least two official lists of registered voters – one maintained by the Board of Registrars for that county and one maintained by the Judge of Probate from which each precinct's list of qualified voters is produced. In addition, Alabama has a statewide computer file of registered voters which serves to assist each county in updating their records. The statewide computer file is maintained by the Office of Voter Registration which operates independently of the chief State election official – the Secretary of State. Due to a lack of adequate funding, the statewide computer file has become obsolete according to Alabama's Chief Information Officer.

In order to comply with the voter ID and provisional balloting provisions of HAVA, which may not be waived beyond January 1, 2004, Alabama will implement the state voter registration system under the authority of the enabling legislation, Act 2003-313, which is pending preclearance by the U.S. Department of Justice. The State Plan Committee found that establishing an official centralized state voter registration list with interactive links to other state agencies is the most economical and effective method to comply with HAVA's voter ID and provisional balloting requirements.

The State Plan Committee also recommended that lines of responsibility be clearly established in order to comply with HAVA. HAVA mandates that the state act through its chief State election official in managing a single statewide voter registration list. Act 2003-313 consolidates the Office of Voter Registration into the office of the chief State election official (the Secretary of State in Alabama) and will codify the federal requirements into Alabama law. In order to comply with HAVA's requirement that the list be defined, administered and maintained at the state level, Act 2003-313 provides that the Secretary of State may remove a member of a county's Board of Registrars for cause in order to create accountability in a system dependent on maintenance of the state voter registration system by county-level registrars. Due to the obsolete condition of the existing statewide voter file and admissions by Alabama's Chief Information Officer that state agencies have historically been overcharged for computer services by the Alabama Department of Finance, the Alabama Secretary of State is

submitting requests for proposals to various prospective vendors for computer-related services associated with establishing and maintaining the statewide voter registration list. The Alabama Secretary of State expects to get proposals to evaluate from several vendors and from the Information Systems Division of the Alabama Department of Finance and will cooperate with the Department of Finance in the implementation of the system. The proposals will assist the Secretary of State in defining the computerized statewide voter registration list in accordance with HAVA Section 303(a) and with Act 2003-313, which is pending preclearance by the U.S. Department of Justice.

The Alabama Secretary of State is committed to achieving the most economical, reliable and effective system for the statewide voter registration list and will evaluate proposals and define the computerized state voter registration list only in that context. The system in Alabama will provide redundant PC servers managed by the Office of the Secretary of State with direct interactive connection to county boards of registrars and will provide multiple report functions to county Judges of Probate and Circuit Court Clerks in a format helpful to them in administering their election responsibilities. In addition Circuit Court Clerks will use the system to account for military and overseas absentee reporting requirements imposed on Alabama by HAVA. Pursuant to a recommendation of the State Plan Committee, Alabama is studying the feasibility of optical image scanning of voter registration applications of various types as part of its system. The statewide voter registration list system will also have direct interactive access to the Alabama Department of Public Safety (drivers license database and Social Security Administration); the Alabama Administrative Office of Courts (felony records and records showing reinstatement of voting rights for ex-felons) and the Alabama Department of Public Health (death records). Access to voter registration information on the statewide voter registration list system by individuals, entities and agencies will be limited to that access required by state law in order to protect the privacy of voter registration information in accordance with Section 17-4-122, CODE OF ALABAMA.

**Requirements for Voters Who Register by Mail - HAVA Section 303 (b)**
*Deadline for Compliance: January 1, 2004; no waiver permitted.*

HAVA requires an individual who registers by mail and who has never voted in the state before registering by mail to provide specific identification before being permitted to vote. The identification specified in HAVA includes a current and valid photo identification or a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Act 2003-313, which is pending preclearance by the

U.S. Department of Justice, adopts HAVA's exception to the voter identification requirement where a driver's license number or last four digits of a social security number given by the applicant enables the registrars to verify the identity of the applicant via the computer link with the driver's license database of the Alabama Department of Public Safety. If the registrars



are unable to identify the applicant in advance, they will note through the computerized state voter registration list that the registered voter must provide identification at the next federal election. Should that individual fail to provide the required identification, the individual must vote on a provisional ballot.

An absentee voter, subject to this requirement may provide a copy of the identification as part of the absentee voting process. Local election officials will have to track first-time voters and secure the required identification. This can be done after the voter registers and before election day.

Act 2003-313, which is pending preclearance by the U.S. Department of Justice, adopts the HAVA voter identification requirements. As noted previously, the State Plan Committee has recommended prompt implementation of the statewide voter registration list system, with interactive links to the drivers license database of the Alabama Department of Public Safety, to assist boards of registrars in identification of mail-in registrants as a way of reducing the number of voters required to produce identification and consequently reducing the number of provisional ballots in the 2004 elections.

## Section 2 - Distribution of Requirements Payments

*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 Section 1 of the State Plan, including a description of the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and 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 Section 8 of the State Plan.*

Alabama does not plan to distribute any of the requirements payments to local governments in Fiscal Year 2003.

Subject to future guidance from the Alabama legislature, Alabama anticipates making distribution of requirements payments to county governments principally for the purpose of purchasing voting equipment necessary to comply with HAVA.

The State Plan Committee recommended that counties be required to certify a means of effort establishing that county election expenditures would not fall below the amount expended in the fiscal year immediately preceding the November, 2000 election and that the county would reimburse the State Help America Vote fund for monies returned to the federal government as a result of an audit exception showing the county has mis-spent a distribution of requirements payments.

County governments seeking a distribution of the requirements payment shall apply with the Secretary of State. The application must show performance goals and measures relating to compliance with HAVA and itemize how the local distribution of requirements payments will be spent in support of those performance goals and measures.



## Section 3 – Voter Education, Election Official Education and Training, and Pollworker Training

*How the State will provide for programs for voter education, election official education and training, and pollworker training which will assist the State in meeting the requirements of Title III.*

Training of election officials and voter education is the foundation of the election system. Trained election officials and informed voters are crucial resources in ensuring the integrity of the entire electoral process. The process of training and education will be enhanced by HAVA funding to assure that uniform and standardized procedures are implemented within each locality.

Currently, training programs in the State are localized at the county level. The Secretary of State distributes a training video and Pollworker Guides to the local election officials. These officials are responsible for how the information is disseminated to the pollworkers and to the public. The Secretary of State, in cooperation with local election officials, and with input from advocacy groups, will enhance the existing system by providing regular training to local election officials. HAVA funds will be used to provide uniform and standardized training programs, to produce and distribute training materials, and to establish other training resources.

The Secretary of State will include additional training on the HAVA requirements in the election officials training program. The Secretary of State will include material in the Pollworker Guide that addresses sensitivity training and the use of the voting machines.

The successful implementation of HAVA will require comprehensive election official training programs and public education. The Secretary of State will work with advocates for persons with disabilities to devise an outreach and education program to train voters on the new voting machines. The Secretary of State and local election officials will use public service announcements in the major media markets in the state as a forum to conduct voter education. Improved website and other free access systems for voters to obtain voter registration and election information will be utilized. The website will include information on, or links to, local websites with information on polling place hours and location.

The Secretary of State will place an increased emphasis on the recruitment of pollworkers. The State Plan Committee recommended the enactment of legislation that will raise the pay for pollworkers and will provide pay for attending training sessions. The Secretary of State will also involve civic and service organizations in pollworker recruitment, will recruit college students to become pollworkers, and will use the media and the Secretary of State website in recruiting pollworkers.

Information posted on election day at the polling locations will include a sample version of the ballot, information on the date of the election, the hours of the polling place, instructions on provisional ballots, instructions for mail-in registrants voting for the first time, and general information on voter rights. These instructions will also be available on the Secretary of State website.



## Section 4 - Voting System Guidelines

*How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.*

Alabama's current statutes provide for voting system guidelines and processes to be established by administrative rules adopted by the Alabama Electronic Voting Committee made pursuant to the Alabama Administrative Procedures Act. See Chapter 307-X-1, ALABAMA ADMINISTRATIVE CODE; Chapter 17-24, CODE OF ALABAMA; and Chapter 41-22, CODE OF ALABAMA.

Alabama requires that each electronic voting system used in the state must be approved by the Alabama Electronic Voting Committee and must be certified by an Independent Testing Authority designated by the National Association of State Election Directors (NASED) that the system complies with voting systems standards established by the Federal Elections Commission.

Act 2003-313, which is pending preclearance by the U.S. Department of Justice, requires compliance with Section 301 by January 1, 2006.

## Section 5 – HAVA Election Fund Management

*How the State will establish a separate Election fund for purposes of administering the State's activities under this part, including information on fund management.*

The Secretary of State has established a state "Help America Vote Act" fund to receive the federal and state money for the purpose of complying with HAVA. This fund is separate and distinct from all other funds within the office. All disbursements from the fund will require the approval of the Secretary of State. The Secretary of State will work with the State Comptroller and the Executive Budget Office to ensure that all mandated fiscal controls and policies are put into effect.



## Section 6 – Alabama's HAVA Budget

*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 the costs of the activities required to be carried out to meet the requirements of Title III: the position of the requirements payment which will be used to carry out other activities.*

The total amount of federal funding available to Alabama under HAVA is uncertain.

Congress has not appropriated funds beyond Federal Fiscal Year 2003. Funds have been appropriated under HAVA Title I for activities to improve the administration of elections and replacement of lever voting machines. The Secretary of State plans to use funds to reimburse the agency for staff training costs associated with HAVA and agency costs associated with the preparation of the State Plan.

**Estimated HAVA-Related Receipts**

| Federal Fiscal Year | Total Federal Funds | Alabama Federal Share | 5% State Match Requirement |
|---|---|---|---|
| **Early Payments (Title I Funds)** | **$650, 000, 000 (Appropriated)** | **$5,000,000** | **$0** |
| 2003 (Title II Funds) | $833, 000, 000 (Appropriated) | $12,807,000 | $640,350 |
| 2004 (Title II Funds) | $1,000,000,000 (Authorized) | $16,404,000 | $820,000 |
| 2005 (Title II Funds) | $600, 000, 000 (Authorized) | $9,843,000 | $492,132 |
| Total | $2, 564, 000, 000 | $44,054,000 | $1,952,682 |

Estimated HAVA-Related Expenditures

| | |
|---|---|
| Statewide Voter Registration System | $12,000,000 |
| Direct Record Voting Machines for Persons with Disabilities/Others | $11,000,000 |
| Upgrade Other Voting Machines to HAVA Standards | $12,000,000 |
| Voter Education and Outreach | $2,500,000 |
| Election Official Training | $2,500,000 |
| Military and Overseas Balloting | $334,000 |
| Provisional Balloting | $333,000 |

Voter ID for Mail-in Registrants..... $333,000
Complaint Review Process ..... $1,000,000
Improvement of Election Administration..... $2,000,000
TOTAL..... $44,000,000

If no additional federal funding is appropriated, Alabama will not be able to fund the requirements mandated by HAVA. Alabama must also appropriate the required 5% spending match. Legislation has been approved that will fund this 5% match.

Alabama is assuming that the costs of complying with HAVA will not end after federal appropriations have ceased. The Secretary of State plans to hold the HAVA election fund any unspent federal funds remaining after all HAVA requirements have been met and using the interest earned from these funds to pay on-going maintenance and program costs at the state and local levels.

The duration for the budget is based on HAVA deadlines and projected funding. The State is concerned, however, that beyond the three years of federal funding, the ongoing costs of operating and maintaining the statewide voter registration list and the new voting equipment will be considerably higher than current local budget for these efforts and any unspent money in the Elections Fund. The operation and maintenance of the new infrastructure will be a financial burden when HAVA funding is no longer available.



## Section 7 - Maintenance of Alabama's Effort in Funding Elections

*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.*

Alabama will maintain the level of state budgeting for election requirements at the same or greater level as the state spent in the fiscal year ending before the November 2000 election. In the fiscal year ending September 30, 2000, the state spent no funds on activities related to HAVA requirements. The state election-related budget consisted of the following line items:

"125. Secretary of State
(A) Administrative Support Services Program
(1) State General Fund $753,056
(3) Electronic Voting Fund .....$5,000
Conditional Appropriation:
Section 5. Page 103, Line 17 Secretary of State .....$84,977

"142 Voter Registration Identification Program
(A) Special Services Program $566,140
Conditional Appropriation: Section 5, Page 103, Line 8.....$41,316

"2D OTHER:
"6. Distribution of Public Documents:
(A) Administrative Support Services Program, Estimated $305,206
"8. Election Expenses:
(A) Special Services Program, Estimated $4,500,000
(B) Training of Election Officials.....$72,694
"28. Registration of Voters Special Services Program, Estimated ..... $2,800,000
TOTAL.....$9,128,389

Any payments to local government will be conditioned on a continuing maintenance of effort to ensure that federal funds do not replace existing local expenditures on election administration.

## Section 8 – HAVA Performance Goals and Measures

*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.*

The State's goal is to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in the State Plan. The Secretary of State and local election officials are responsible for ensuring the success in meeting each performance goal and objective.

The Secretary of State will establish performance objectives and measurement processes to monitor the progress under the State Plan. This will provide measurable management objectives. The performance goals and measurements will provide a high-level view of a project's progress towards achieving compliance with HAVA requirements. The Secretary of State will measure critical areas of each project.

The Secretary of State will continuously monitor and, at a minimum, audit semi-annually the performance of each initiative that is funded by requirements payments in three areas: financial controls, compliance with standards, and program results.
Concurrent with the public comment period of the State Plan, the Secretary of State will be developing performance goals and measurements required by HAVA. This process includes input already obtained from the State Plan Committee and will also include input from local election officials and public comments received pertaining to this Plan. Performance goals and measurements will be established for the following elements of the State Plan.

Performance Topics

1. Statewide Voter Registration List
2. Voter Education and Outreach
3. Training of Election Officials
4. Military and Overseas Ballot Process
5. Provisional Voting
6. Voting Accessibility
7. Complaint Review Procedure

The Secretary of State will ensure that the State and any recipient of payments under HAVA maintain records in accordance with the record-keeping requirements of the Act and all such records will be available for audit. This will include Quality Assurance Reviews.



## Section 9 - Creating Alabama's Administrative Complaint Procedure

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under Section 402.*

Act 2003-313, which is pending preclearance by the U.S. Department of Justice, establishes an administrative complaint procedure requirement in order to comply with HAVA Section 402. The legislation authorizes the Secretary of State to promulgate detailed procedures by rule pursuant to the Alabama Administrative Procedures Act.
As recommended by the State Planning Committee, complaints will be on a form prescribed by the Secretary of State and submitted either to the Probate Judge of the county or directly to the Secretary of State. Complaints submitted at the local level will be forwarded to the Secretary of State for review.

The Secretary of State will determine whether the complaint relates to a local matter or a matter requiring resolution at the state level. If local in nature, the complaint will be submitted to the county Judge of Probate who will convene a meeting of the county appointing board (Probate Judge, Sheriff and Circuit Court Clerk) to evaluate and make a disposition of the complaint on behalf of the state. Such evaluations may include a hearing on the record upon request of the complainant.

If the matter is to be resolved at the state-level, the Secretary of State shall evaluate the merits of the complaint with the assistance of the Secretary of State's Elections Division. Requested hearings will be conducted by a hearings officer on the record appointed by the Secretary of State.

Whether resolved locally or at the state-level, complaints shall be reviewed, resolved and appealed pursuant to the Alabama Administrative Procedures Act. If not resolved within 90 days after receipt of the complaint, the complainant may then obtain arbitration pursuant to the Rules of the American Arbitration Association. Should arbitration fail to resolve the matter within 150 days after the complaint was originally filed, the complainant may then pursue their remedy through litigation under the terms of the Alabama Administrative Procedures Act.

## Section 10 – Use of Title I Payments

*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.*

The State of Alabama has received payments under HAVA Title I. The Secretary of State plans to use the Section 101 payments to reimburse the agency for staff training costs associated with HAVA and agency costs associated with the preparation of the State Plan. In addition, these funds will be used for activities to meet the following requirements:

- Statewide voter registration list
- Voter education and outreach
- Training of election officials
- Military and overseas ballot process
- Provisional voting
- Voter ID for mail registrants voting for the first time
- Complaint review procedure

The State has also applied for Section 102 payments to be used as reimbursement for the acquisition of electronic voting systems that replace lever voting machines used at the November 2000 election. The one county that uses lever voting machines has not purchased replacement equipment that complies with HAVA Section 301.

The Secretary of State will evaluate new voting systems for HAVA Section 301 and disability access compliance and develop an implementation and acquisition plan for compliant voting systems. Section 102 payments will be part of the acquisition funds that apply to the voting equipment purchased for the qualifying county.



## Section 11 – State Plan Management

*How the State will conduct ongoing management of the plan.*

Act 2003-313, which is pending preclearance by the U.S. Department of Justice, establishes a committee of 20 individuals to assist the Secretary of State in the development of the State Plan. This committee will reflect the racial diversity of the state and will consist of the following members:

- The Judge of Probate in the most populous county;
- The Judge of Probate in the second most populous county;
- Three local elections officials to be appointed by the Secretary of State, one of whom shall be recommended by the Sheriffs' Association and one of whom shall be recommended by the Circuit Clerks Association;
- Five individuals representing the interests of the electorate to be appointed by the Secretary of State, one of whom shall represent the political party with the highest number of votes in the last Presidential election, recommended by the chair of the party; one of whom shall represent the political party with the second highest number of votes in the last Presidential election, recommended by the chair of the party; and one of whom shall represent an organization serving as an advocate for the rights of individuals with disabilities;
- Three private citizens, representing the public at large, to be appointed by the Governor;
- Five members of the state House of Representatives to be appointed by the Speaker of the House of Representatives and two members of the state Senate to be appointed by the President of the Senate.

This committee will have the power and the duty to advise the Secretary of State on the further development of the State Plan and to make recommendations on all aspects of the State Plan. The committee will continue to meet and revise and refine the State Plan to reflect goals of HAVA and respond to legislative and executive direction. The State Plan will be reviewed in January of each year, or more frequently upon the discretion of the Secretary of State, in order to incorporate changes that reflect the State's progress in implementing HAVA and addressing new election-related challenges.

The State will not make any material change in the administration of the plan unless the change is developed and published in the Federal Register in accordance with HAVA Section 255 in the same manner as the original State Plan. Any modifications to this State Plan will be subject to public notice and comment in accordance with HAVA Section 256. The revised State

Plan will take effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.



## Section 12 – Changes to State Plan from Previous Fiscal Year

*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.*

This State Plan is the Preliminary State Plan required under the Help America Vote Act of 2002 (HAVA). This section will be updated in the next fiscal year, reflecting changes to the State Plan, as well as a summary of the 2003 success.

## Section 13 – State Plan Committee

*A description of the committee which participated in the development of the State Plan in accordance with HAVA Section 255 and the procedures followed by the committee.*

The State Plan Committee was appointed in April 2003 by Secretary of State Nancy L. Worley, Alabama's chief election official (§17-4-250, Code of Alabama). The committee consists of 36 Alabama citizens from throughout the state. There are 19 local elections officials, including the chief election official from Jefferson and Mobile counties. The committee has five representatives of groups of individuals with disabilities and one representative of groups of individuals who speak an alternative language. A list of the committee members are attached to the State Plan as Appendix 1.

The committee held meetings May 7, May 12, and May 21, 2003. These meetings were held in Montgomery, Clanton, and Prattville. The committee reviewed the Help American Vote Act (Public Law 107-252) and provided comments to the Secretary of State. These comments were incorporated into Recommendations from the Committee for inclusion into the State.



## Appendix 1 – State Plan Committee Members

Tim Baer
Executive Director, Republican Party

Robert Bates
Circuit Court Clerk, Cullman County

Mike Bolin
Judge of Probate, Jefferson County

Betsy Burkhalter
Pollworker, Talladega County

Lauren Carr
Alabama Disabilities Advocacy Program

Joan Carter
American Association of Retired Persons

T.C. Coley
County Commissioner, Tallapoosa County

Marty Connors
Chairman, Republican Party

Reuben Cook
Alabama Disabilities Advocacy Program

Catherine Crosby
Close-up Foundation

Gayle Crume
Persons with Disability Representative

Barbara Crozier
Governor's Office on Disability

Don Davis
Judge of Probate, Mobile County

Karey DeShazo
Ms. Crume's Assistant

Stephen Goodwin
Deputy Sheriff, Calhoun County

Alba Hernandez
Democratic Hispanic Caucus

Ricky Hill
Elections Supervisor, Jefferson County

Earlean Issac
Judge of Probate, Greene County

T. Michael Jones
Alabama Federation of the Blind

Walta Mae Kennie
County Administrator, Perry County

Joe McEarchern
Chief Probate Court Clerk, Mobile County

Myra McKinney
Elections Clerk, Jefferson County

Jerry Morris
Alabama Education Association

Chad Nichols
Governor's Representative

Anne Permaloff
League of Women Voters

Paul Pinyan
Alabama Farmers Federation

Redding Pitt
Chairman, Democratic Party

Guin Robinson
Mayor, Pell City

Les Sellers
Registrar, Coosa County

Buddy Smith
Registrar, Dale County

Jane Smith
Circuit Clerk, Madison County

Frankie Stone
Registrar, Etowah County

Gloria Strickland
Clerk, Jefferson County

Donald Watkins, Jr.
Youth Representative

Susan Wilson
Circuit Court Clerk, Mobile County

Wallace Wyatt, Jr.
Judge of Probate, St. Clair County

# State of Alaska

# Preliminary State Plan

As required by Public Law 107-252,
Help America Vote Act 2002, Section 253 (b)

**Laura A. Glaiser, Director**
**Alaska State Division of Elections**
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**P.O. Box 110017**
**Juneau, Alaska 99811-0017**
**(907) 465-4611**

**July 21, 2003**

"When it comes to election reform and advanced election technology, Alaska is one of the forerunners in this country. We have a few changes to make to our election laws, our voter registration and database, election equipment and accessibility, but I expect that Alaska will be able to make a clean transition into compliance with the federal act."

Lieutenant Governor Loren Leman, State of Alaska

*Date: 7/21/2003*

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State of Alaska
Division of Elections
Preliminary State Plan

# ALASKA STATE PLAN INTRODUCTION

The Lieutenant Governor of Alaska is responsible for the overall direction of the Division of Elections. The Lieutenant Governor appoints a director and under the Director of Elections, the Division is responsible for implementing, planning, and conducting all statewide and federal elections as well as all voter registration activities and maintenance of Alaska's voter registration database.

The Division is divided into four election regions managed by election supervisors. The election supervisors are responsible for voter registration and election management activities for the state house districts in their region, as designated by the director.

Alaska Statute Title 15 and Alaska Administrative Code Title 6 govern the election process in the State of Alaska. Alaska falls under Section 5 of the Voting Rights Act of 1965 which requires U.S. Department of Justice preclearance for any substantive change in the electoral process that directly affects the voter.

The Division of Elections maintains a statewide electronic voter registration database, implemented in 1985, referred to as the Voter Registration and Election Management System (VREMS). Each election office has real-time access to VREMS for viewing and updating data information. The Division processes all voter registration applications in VREMS and assigns each applicant a unique voter registration number. Immediately upon entering information in the system, any state election office can view the information processed. Although Alaska has a statewide voter registration database, the mainframe system is antiquated, costly to maintain, and needs to be replaced.

Alaska has more than 459,000 registered voters. The voting age population is 436,215. Alaska attributes its inflated registration rolls to the fact that Alaska Statute Title 15 allows a person who is temporarily out of state to remain registered in Alaska if that person has the "intent" to return. Because of Alaska's Permanent Fund Dividend program benefits, many Alaskans maintain their residency in Alaska even though they may relocate outside the state. Another contributing factor to inflated voter rolls has been the prohibition in the National Voter Registration Act (NVRA) from "purging" or "inactivating" a voter registration record due to lack of voting. From 1995 through 1998 the only reason Alaska was allowed to remove voters from the statewide voter list was because of death, felony conviction, or a voter registered in another state and Alaska was notified. In 1999, Alaska was able to obtain preclearance from the U.S. Department of Justice to annually conduct list maintenance on the statewide voter registration database following NVRA requirements.

Voter registration is available in each state election office and other numerous locations throughout the State of Alaska. The Director of Elections has appointed as voter registration agencies all Division of Motor Vehicles offices, Public Assistance offices, Armed Forces

Recruitment offices, Municipal Clerks' offices, and various offices that provide services to persons with disabilities. In addition to the registration agencies, voter registration is available in most libraries throughout the State, village council offices, schools, the University of Alaska, and through individually appointed voter registrars. The Division of Elections has also made voter registration applications available on the Division's web site for easy access.

Individuals may register to vote in person, by mail, or by fax machine. Voters must be registered to vote at least 30 days prior to an election. If a voter's registration application is incomplete, the Division notifies the voter and provides the voter an opportunity to properly complete the application. The only exception to the registration deadline is during presidential elections. A voter may register and vote for president on the same day.

Alaska has 40 state house districts and 20 state senate districts. Within these districts there are 446 precincts, each with a designated polling place. Following is a breakdown of voter turnout during the past several general elections:

**1996 = 59.1%**
**1998 = 50.11%**
**2000 = 60.77%**
**2002 = 50.53%**

Alaska has 159 rural communities with precincts that are isolated from connecting road systems and the only way to physically reach these communities is by airplane or boat. Of the 446 precincts in Alaska, 118 have 100 or fewer registered voters.

In 1998, the Division of Elections replaced all punch-card voting systems used in statewide and federal elections with an optical-scan voting system. Since that time, Alaska has expanded the use of the optical-scan voting system throughout the State. Alaska uses a combination of hand counting and optical-scan ballot tabulators to count ballots throughout the State. There are 163 hand-count precincts and 283 optical-scan precincts. Alaska uses a uniform paper ballot in each precinct regardless of how the ballots are tallied. All absentee, questioned, and special needs ballots voted in Alaska's primary and general elections are counted using the optical-scan ballot tabulators. Currently, there are no precincts in Alaska utilizing direct recording electronic (DRE) voting systems.

There are several alternative voting methods available to Alaska voters who are unable to vote at their assigned polling place. For many voters in remote areas of Alaska the only voting method available is by absentee ballot.

**Absentee By Mail** – any qualified voter in Alaska may apply to receive an absentee ballot by mail. Alaska statute requires a ballot application to be completed each election year.





**Absentee Voting In Person** – any qualified voter may vote through an absentee voting official beginning 15 days prior to election day. Alaska has numerous absentee locations available throughout the State. An absentee voting location may have ballots available to voters for a single, multiple, or all 40 house districts.

**Absentee Voting by Fax** – beginning 15 days prior to election day, any qualified voter may apply for a fax ballot. The ballot is faxed to the voter and the voter may either return the voted ballot by fax or by mail.

**Special Needs Voting** – if a voter is unable to vote at his or her assigned polling place due to age, illness, or disability, the voter may assign a personal representative to deliver the ballot and other voting material.

**Questioned (Provisional) Voting** – is available for any voter who does not have identification or is not personally known by the election official, or whose name does not appear on the precinct register at the polling place where the voter is attempting to vote. Questioned (provisional) ballots are delivered to a regional election office for verification of eligibility before being counted.

Each ballot cast using one of the alternative voting methods is sealed inside a secrecy sleeve and the sleeve placed inside an envelope. The outside of the envelope provides for voter information: name, address, identifier, and signature. The voter's ballot envelope is reviewed, the data is entered into VREMS, and the envelope is assigned a sequence number. At the time the ballot envelope is reviewed, VREMS will search other voting activity for the same election and will report if the voter has voted more than once.

In addition to conducting all statewide and federal elections, the Division of Elections is responsible for conducting rural school board, coastal resource area, liquor option, incorporation and consolidation elections in areas of the State that are not incorporated into municipal governments. Although the Division is not responsible for conducting local municipal elections such as borough assembly or city council, the Division provides voter registration, lists of eligible voters, and precinct registers for municipal elections. The Division also assists municipalities by providing for the use of the Division's polling place and ballot counting equipment for local elections.

Although Alaska has already implemented a statewide voter registration database and has replaced all punch-card voting systems, there are several improvements needed to meet the specific requirements of HAVA. Alaska needs to upgrade its voter registration database, implement the use of DRE units, implement new statutory requirements, redesign all versions of its voter registration form and other pertinent election forms and expand training efforts. Statutory changes required for compliance with HAVA passed the Legislature unanimously and were signed into law by the Governor in 2003.

The Alaska State Plan is organized as specified in HAVA, section 254, providing a description of current election procedures used in Alaska and outlining how Alaska will meet the new requirements mandated by HAVA.





## Section 1. Title III Requirements and Other Activities

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

### 1. A Section 301(a), Voting Systems Standards Requirements

The State of Alaska transitioned from a punch-card voting system to an optical-scan voting system in 1998. Currently the State uses two types of voting systems in its 446 established polling locations: a hand-count paper-ballot system is used in 163 precincts, and an optical-scan (Accu-Vote OS 2000) paper-ballot system is used in 283 precincts. Since that time, the State has transitioned an additional 13 communities from hand count to optical scan. The State will continue to expand the use of the optical-scan voting system in hand-count precincts to improve the overall administration of elections.

At the time the State transitioned to an optical-scan voting system, it also transitioned its absentee ballot counting to optical scan.

In 2002, the State enacted legislation requiring that new voting systems purchased allow voters with disabilities to use the systems privately and independently. With the passage of HAVA, the State is required to purchase DRE units for each established polling location. The Division has requested and received a capital appropriation for FY '04 to purchase 55 Accu-Vote Touch Screen (TS) voting units for use in the 2004 elections.

The voting system will be utilized in absentee voting stations located in each of the regional election offices and test sites throughout the State. This will allow for the implementation and testing of the voting system for compatibility with the State's current optical-scan voting system, and properly address any concerns and/or problems prior to implementing the use of the Accu-Vote TS voting units in every precinct in the State.

Once the State is confident that the TS voting system purchased is able to support the needs of the voting community, statewide implementation will be pursued. The State will purchase each Accu-Vote TS unit, complete with a combination carrying case/booth. The carrying case/booth will provide a stable voting platform and a secure container, which will adequately handle the stress of shipping the TS units through the United States Postal Service to remote polling locations. Implementing the use of TS units in each polling location throughout the State will require substantial funding.

An extensive training program will be required for Division of Elections staff. The vendor, as part of the contract, will be providing training and technical support.

Public outreach/training will be required to familiarize the disabled community with the new voting system. Division employees and election officials will also receive awareness training to recognize the special needs of people with disabilities. Alaskans will be informed of the availability of these systems in each polling location. Additionally, the Division will need to coordinate with agencies that provide services for the disabled community to ensure that clients are knowledgeable in the use of the new voting system.

### Maintenance

The State will need to provide additional storage facilities for the TS units. Heated and accessible storage facilities will be required for the four regional offices as well as some of the communities that will have multiple units stored at their locations. Funding will be required to accommodate the additional storage requirements.

The State will budget for increased costs associated with shipping election materials to polling locations. Currently the State mails election materials (ballots, supplies, etc.) to 239 of its remote polling locations. In addition to these election materials, at least one TS unit will be shipped to each remote polling location. The cost increase related to the shipment of TS units will be extensive, as it will require mailing an additional 23 pounds (the approximate weight of a TS unit) to each polling location. After the election cycle a majority of the units will be shipped back to regional offices for maintenance and storage. This will be an increase of approximately $35.00 per unit shipped.

The State will establish a maintenance program to ensure the TS units receive required maintenance. This will permit the Division of Elections to conduct periodic maintenance and identify potential problems, make necessary adjustments to the unit, or send the unit to the vendor for more extensive maintenance or repair. The maintenance program may require contractual staffing at some levels to ensure all maintenance requirements are met.

## 1. B Section 302, Provisional Voting and Voting Information Requirements

The State currently has a provisional voting process established. In Alaska, this process is referred to as "Questioned Voting."

State law requires any voter who votes at a polling location where his or her name does not appear on the precinct register or the voter does not have identification and is not personally known by the election official to vote a questioned ballot.



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The State will implement a free-access system to provide voter information. This system will allow the voter to determine if his or her questioned ballot was counted and, if not counted, why the vote or a portion of the vote did not count.

The State will develop two free-access systems, as outlined below:

a. The State currently utilizes an interactive toll-free telephone system that allows voters to determine their assigned polling place based on their current voter registration record. Additionally, voters can determine their party affiliation during the Primary election. The State will expand its current telephone system to allow voters to verify if their vote was counted and if not, why the vote did not count. This system will interface with the voter registration and election management system to access the data specific to the voter.

b. The State currently utilizes its web site on a limited interactive basis that allows voters to check the status of their absentee ballot application. The State will improve its current web site to allow more interaction and enable voters to log-in and verify if their vote was counted and if not, why the vote did not count. This system will interface with the voter registration and election management system to access the data specific to the voter.

Currently, the Division sends a letter to each voter whose vote was not counted or was only partially counted. The Division will continue this practice in addition to the systems outlined above.

The State will develop informational posters and flyers that inform voters at the polling location when voting a questioned ballot is required and the method established to vote a questioned ballot.

### Voting Information

The Division of Election, under current State law, is required to mail an *Official Elections Pamphlet (OEP)* to each registered household prior to the General election.

Current State law requires full public notice of an election. This public notice is achieved through newspaper advertisements and posting notices in communities that do not have general circulation of newspapers. Other methods of informing voters include radio advertisements, public service announcements, direct mailings, and information posted on the Division of Elections web site. In addition, there are sample ballots, posters, information flyers and instructions posted in polling locations.

The State will create new media formats that address voting rights under applicable federal and state laws. These formats will provide information on federal and state laws regarding acts of fraud and misrepresentations as well as what to do should voters allege their rights have been violated as required by HAVA.

The State will modify registration, questioned voting, and absentee voting forms as well as other election materials to meet the requirements of HAVA. This will require adapting a significant number of the current forms in use and reprinting these forms on a statewide level. Funding will be required to meet these requirements.

### 1. C Section 303, Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register By Mail

Alaska has a statewide voter registration and election management system (VREMS) in use; however, this is not a fully interactive system. VREMS is an antiquated system, maintained in Natural language and is on a mainframe. As technology has advanced, it has become difficult to find programmers knowledgeable in Natural programming.

A new voter registration and election management system must be implemented to effectively serve the voters of the State. This system must meet new technology requirements and allow for better management capabilities. In previous years, Division of Elections employees looked at systems that were being developed; however, at the time there were no systems that would support a statewide system with real time updates. However, as technological advances occur the State will pursue systems that supports real time updates. There are several methods available to replace the current system:

a. Assess systems that are currently used in other states to determine if there is a system that meets the needs of the State.

b. Assess systems that are being developed or modified to determine if there is a system that meets the needs of the State.

c. Research available database programs to determine if developing a voter registration and election management system would meet the needs of the State.

The State will have to maintain VREMS at its current level and modify the system to meet the requirements of section 303 of HAVA. The State is currently modifying VREMS to track those voters who are initial registrants and register by mail, as well as the additional voter identifying information required by HAVA.





The State will develop a procedure that allows the Division of Elections to match identifying information provided by a first-time, by-mail registrant on his or her registration application to information established in either the Division of Motor Vehicles or the Permanent Fund Dividend Division databases. Funding will be required to permit these agency databases to interact with VREMS and provide the required information.

## Section 2. Alaska's Distribution of Requirements Payment

*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).*

(A) In Alaska, federal elections are conducted by the State of Alaska, Division of Elections. As a result, there will be no distribution of requirements payments to local governments or entities.

The Division serves Alaskans through four regional offices located in Juneau, Anchorage, Fairbanks, and Nome. Funds necessary for improving the elections' system, voter registration, voter access and education, outreach, and training will be managed by the Division of Elections to ensure that regional needs are met and the State is in compliance with the Act.

The criteria foundation will be weighted in terms of achieving compliance, maximizing improvements to all aspects of the election process, and responsible use of available funds. The Division will use standard financial reporting and accounting procedures to track expenditure of authorized funds.

(B) The Division will monitor the funds in accordance with the statewide performance measures adopted under section 254 (a)(8). The Division will centrally manage the distribution of all funds appropriated to the Election Fund, including but not limited to the requirements payments. Priorities and timelines will be incorporated into the budgeting process so that Alaska will implement mandates and improvements in a wise and timely manner.

The State of Alaska is audited annually by the Division of Legislative Audit. The Statewide Single Audit is conducted in accordance with auditing standards generally accepted in the United States of America; Government Auditing Standards, issued by the Comptroller General of the United States; and compliance with the Federal Single Audit Act Amendments of 1996 and the related Circular A-133 issued by the U.S. Office of Management and Budget.





## Section 3. Voter Education, Election Official Education and Training, and Poll Worker Training

*How the State of Alaska 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.*

### Voter Education and Outreach

Voter education and outreach efforts in Alaska vary depending on the type of election and level of changes affecting voters. All outreach efforts for statewide and federal elections are coordinated by the Director's office and include numerous public notices, newspaper and radio advertising, public service announcements, direct mail, the production of a quarterly newsletter and other publications (such as brochures), speeches and presentations, and continuous direct contact with the statewide media.

Prior to the General election, each registered household in Alaska receives an *Official Election Pamphlet (OEP)*. Alaska is one of only four states that require, by statute, the production of voter pamphlets with candidate-related information for distribution to the public. The Division of Elections produces a regionally specific guide for each of the four election regions. The *OEP* contains information about candidates appearing on the ballot (including photographs), information about the retention of judges (including photographs), information about ballot measures (including statements of support and opposition), sample ballots, polling place information, absentee and alternate voting information, voter assistance information, and election district maps.

In addition to printed materials, the Division's web site provides a vast array of information on voter registration, election issues, results and history. Alaska currently provides a toll-free telephone system for voters to obtain their polling place location. To meet the requirements of HAVA, this system will be expanded to allow voters to obtain other types of registration and election information.

When new voting systems or election laws are implemented, Alaska increases its outreach efforts. For example, when Alaska instituted an optical-scan voting system in 1998, demonstrations of the new system were conducted as an education tool and a multi-faceted outreach plan was executed. Prior to implementing a new, complex primary election system in 2002, Alaska instituted a well-funded, comprehensive outreach plan aimed at educating voters specifically about primary ballot choices.

Alaska is able to enhance its efforts through positive relationships with the press. Division staff performs radio and television interviews and responds to questions from the print media on a daily basis beginning several months before a statewide election.

Alaska recognizes the need to enhance its outreach and communications program to better educate the voting public. In addition to the public notices required by Alaska statute and the use of additional communication tools, Alaska needs to implement an outreach plan that includes:

- Interactive statewide database.
- Free-access system for voters to obtain voter registration and election information.
- Improved web site.
- Increased delivery of election information through the Rural Alaska Television network.
- Coordinated voter education and awareness efforts with Alaska Native organizations and community groups, including groups providing services to individuals with disabilities.
- Targeted voter education efforts to address the needs of the disabled community and individuals with alternative language considerations.
- Coordinated public outreach/training with organizations assisting the disabled community on use of the new voting systems.
- Improved and increased public notices, public service announcements, and posters used in the polling places.
- Division employees and election officials will receive awareness training to recognize the special needs of people with disabilities.

## Election Official Training

Election officials are critical to an efficient, secure, and reliable election process. In Alaska, the regional election supervisors are responsible for providing a comprehensive training program to election officials in their respective regions prior to statewide and federal elections. Training needs are determined by the election supervisors and are community-based and targeted towards the following election officials:

- Precinct election boards
- Absentee voting officials
- Accu-Vote coordinators
- Accu-Vote troubleshooters
- Absentee ballot review boards
- Questioned ballot review boards
- Regional Accu-Vote boards

Improving and implementing statewide training resources and procedures is an ongoing process each election year. Working as a team, the four election supervisors develop uniform training





materials that are coordinated with election official handbooks and distributed with election day ballots and supplies. All training materials and handbooks are created for the type of ballot counting utilized: hand count or optical scan. The inclusion of TS voting units will require new materials to be developed. Training sessions are generally presented in a paper-based format. At this time, there is little use of technology in training presentations.

Alaska faces many unique challenges when providing election official training, especially for polling place officials. Due to the State's vast size and the large number of precincts that are not connected by a road system, our training programs are categorized into two groups: urban and rural.

In order to train precinct polling place officials in rural Alaska, election supervisors and their assistants spend several months prior to an election traveling in small bush planes, ferries and boats to Alaskan communities to conduct training. Due to limited flights scheduled to these remote communities, chartered flights are often required and only one community can be trained per day. This requires training election officials so far in advance of the election that training materials may not be finalized. In addition, election officials may not have been appointed or agreed to serve in all precincts, and those who do receive training may not retain the procedures at the time of the election.

Urban-based training in Alaska is generally conducted closer to the election day. However, travel is required to some communities and these officials are trained 30 – 45 days prior to the election. In our urban areas, training sessions for precinct election boards are usually conducted with multiple election boards present. In some areas, training is presented using a PowerPoint presentation.

With the many challenges Alaska faces to properly train election officials, handbooks for the various types of officials are critical to their ability to conduct their duties correctly. The handbooks must be developed in such a way that if an election official has not received training, the official would be able to clearly understand and implement procedures.

In an effort to ensure all election officials have the training and resources available to allow them to successfully conduct elections, Alaska will develop a systematic approach to training that includes:

- Developing a regional and community-needs comprehensive training plan. This will include acquiring necessary resources for improving training methods and utilizing training coordinators in an effort to bring the rural based training closer to election day.
- Improving training and election day materials and handbooks so they are flexible to accommodate updates and changes, are effective in the trainee's retention of information, and take into consideration the wide variety of skill levels within the training audience.

- Researching and/or implementing training delivery options such as videos, interactive web-based training, and conference style training.
- Recognizing the differences between urban and rural training, and coordinating training needs, methods, and approaches with various Alaska Native organizations to obtain input and guidance on delivering training to individuals with diverse cultural backgrounds.





## Section 4. Voting System Guidelines and Processes

*How the State of Alaska will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.*

The State currently meets most of the voting system requirements required under HAVA as outlined in the attached matrix. The State has procedures established for conducting recounts on a statewide level, as well as state house and state senate levels. The State has a procedure established for system certification. As the State implements a new voting system, we will maintain the current procedure and create new procedures, guidelines and processes as necessary. New processes and guidelines may take the form of internal procedures, regulations or changes to State law.

To attain compliance, the State must provide DRE units to every polling location and has passed legislation that defines what constitutes a vote.

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| Requirements | Status of Alaska's Current Voting Systems (Meets, partially meets or does not meet) | Planned Action |
|---|---|---|
| **Section 301. VOTING SYSTEM STANDARDS** | | |
| (a) REQUIREMENTS - Each voting system used in an election for federal office shall meet the following requirements<br>(1) IN GENERAL<br>(A)Except as provided in subparagraph (B), the voting system (including any lever voting system, optical-scanning voting system, or direct recording electronic system) shall-- | | |
| (i) Permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before ballot is cast and counted; | Meets requirements. | No action necessary. |
| (ii) Provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | Meets requirements. | No action necessary. |
| (iii) if the voter selects votes for more than one candidate for a single office - (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | Meets requirements. | No action necessary. |
| (B) A State or jurisdiction that uses a paper ballot voting system, a punch-card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots) may meet the requirements of subparagraph (A)(iii) by-- | | |



| Requirements | Status of Alaska's Current Voting Systems (Meets, partially meets or does not meet) | Planned Action |
|---|---|---|
| (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Meets requirements. | No action necessary. |
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error. | Meets requirements. | No action necessary. |
| (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | Meets requirements. | No action necessary. |
| (2) AUDIT CAPACITY - | | |
| (A) IN GENERAL - The voting system shall produce a record with an audit capacity for such system. | Meets requirements. | No action necessary. |
| (B) MANUAL AUDIT CAPACITY - | | |
| (i) the voting system shall produce a permanent paper record with a manual audit capacity for such system. | Meets requirements. | No action necessary. |
| (ii) the voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | Meets requirements. | No action necessary. |
| (iii) the paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | Partially meets requirements. | Will need to develop procedures for conducting recounts using the Accu-Vote TS voting units. |
| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES - The voting system shall-- | | |

| Requirements | Status of Alaska's Current Voting Systems (Meets, partially meets or does not meet) | Planned Action |
|---|---|---|
| (A) be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | Does not meet. | The State will meet this requirement upon installation of a TS unit in each polling location and updating accessibility studies. |
| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Does not meet. | The State will purchase TS units with funding provided under HAVA. |
| (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph). | Not applicable. | |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY - The voting system shall provide alternative language accessibility pursuant to the requirements of Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | Meets requirements. | No action necessary. |
| (5) ERROR RATES - The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | Meets requirements. | No action necessary. |
| (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE - Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting systems used in the State. | Legislation was passed in 2003 to meet the requirements of the Act. | The law will be submitted to DOJ for preclearance. |





## Section 5. Alaska's HAVA Election Fund

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

In accordance with State law and in coordination with the Department of Administration, Division of Finance, and the Department of Revenue, Division of Treasury, the Division of Elections will establish an election fund within the State's treasury whose appropriations are accounted for separately within the State accounting system. This fund will contain both federal and general funds. Accounting structures will be in place to ensure federal fund receipts and expenditures are tracked separately from the general funds portion relating to the 5% State match required under HAVA. The election fund will consist of the following amounts:

a. Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment is made to the State under this part.

b. The requirements payment made to the State under this part.

c. Such other amounts as may be appropriated under law.

d. Interest earned on deposits of the fund.

The Governor's Finance Officer and the Division of Elections' Administrative Officer will work with the Department of Administration, Division of Finance to ensure compliance with all mandated fiscal controls and policies.

## Section 6. Alaska's Budget for Implementing HAVA

*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.*

There are two major forms of election reform funding: ***election reform payments*** and ***requirements payments***. While the *election reform payments* for federal FY '03 are fully funded at $650 million, it is important to note that the *requirements payment* amount appropriated for federal FY '03, $830 million, is significantly less than the $1.4 billion authorized. The federal funds for FY '04 are based on current information regarding the President's proposed budget for HAVA. FY '05 funds reflect the authorizations as described in section 257 (a) of HAVA.

Payments authorized under title I of HAVA for *election reform payments* include three components: *administration of elections*, *payments to replace punch card and lever voting machines* and *the small state minimum.* Alaska's portion of federal funds for FY '03 under title I section 101, the "Early Payment," is for improving the administration of elections and is determined by the *"small state minimum"* of $5 million ( *see additional notes 1* ).

The requirements payments available to Alaska through federal FY '05 are calculated by multiplying the total available amount of federal funding in that year by 1/2 of 1 percent. These payments require a 5% State match for all funds spent in each fiscal year. However, the State may draw down funds each fiscal year without providing the match if the State's election plan accounts for the 5% funds in future use. The State's requirements payment is calculated as the 5% State match portion plus Alaska's requirements payment portion. To determine the 5% State match based on the federal requirements payment, multiply Alaska's requirements payment portion by .0526 (5 divided by 95).

Table 6.1 outlines the portion of funds available according to the FFIS report dated March 5, 2003 and the authorization stated in section 257 (a) of HAVA for FY05.

*Table 6.1*

| Federal Fiscal Year | Available Federal Funds | Alaska's Requirement Payment Portion | 5% State Match Requirement |
|---|---|---|---|
| (§101) Early Payment | $650,000.0 (appropriated) | $5,000.0 | None |
| (§252, 257) 2003 | $830,000.0 (appropriated) | $4,150.0 | 218.3 |
| (§252, 257) 2004 | $490,000.0 (President's budget authorized $1,000.0) | $2,450.0 | 128.9 |
| (§252, 257) 2005 | $600,000.0 | $3,000.0 | 158.0 |
| Total | $2,570,000.0 | $14,600.0 | 505.2 |





Alaska's budget in Table 6.2 is based on the levels of funding as shown in Table 6.1 and represents the cost of implementing requirements of title III and "other" activities as specified in title I of HAVA through calendar year 2005. Costs associated with the maintenance and operations of implementing these requirements are also reflected in the budget. It is important to note that the maintenance and operation costs associated with these requirements will have an impact on the State's budget in future years when federal funding is no longer available.

*Table 6.2*

| HAVA Requirements | Estimated Total Cost | Source of Funding | | | Implementation Period |
|---|---|---|---|---|---|
| ***Title III Requirements*** | | § 101 | § 252 & 257 | State 5% Match | |
| (§301) Voting System | $4,500.0 | | $4,263.3 | $225.0 | FY2003 to FY2006 |
| (§302) Provisional Voting and voting information requirements | $550.0 | | $521.0 | $27.50 | FY2003 to FY2004 |
| (§303) Computerized statewide voter registration list requirements and requirements for voters who register by mail. | $7,000.0 | $2,805.0 | $3,974.0 | $210.0 | FY2003 to FY2004 |
| ***"Other" activities*** | | | | | |
| (§254 (3)) Voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of title III. | $1,250.0 | $1,250.0 | | | FY2003 to FY2006 |
| (§402) Establish a State-based *HAVA* administrative complaint procedures to remedy grievances | $80.0 | $80.0 | | | |
| (§704) Improvements to military absentee voting program | $25.0 | $15.0 | $09.5 | $.500 | |
| (§101) Management of State Plan | $300.0 | $100.0 | $189.5 | $10.0 | FY2003 to FY2005 |
| (§101 (1)(H))Technology planning/improvements | $400.0 | $250.0 | $142.1 | $07.5 | FY2003 to FY2006 |
| (§101 (1)(H)) Polling place accessibility | $1,000.0 | $500.0 | $473.7 | $25.0 | FY2003 to FY2006 |
| **TOTALS** | **$15,105.0** | **$5,000.0** | **$9,600.0** | **$505.5** | |

**Additional notes for title III requirements:**

*(1) Voting System* - Alaska purchased an optical-scan voting system in 1998 to replace its punch-card voting system. Alaska has 446 voting precincts. 64 percent of the precincts are equipped with optical scan and 36 percent are hand count. The estimated $4.5 million will be used to implement the HAVA compliant DRE voting system and to purchase additional optical-scan units for a portion of Alaska's precincts. Installation, training and maintenance costs are included in this figure.

Alaska purchased its statewide optical-scan voting system, which replaced the punch-card voting system, prior to November 2000; therefore, Alaska is not eligible to seek reimbursement under the *payments to replace punch card and lever voting* component for these expenditures. However, outside of HAVA, there is a separate appropriation which includes $15 million in funds to states who purchased optical-scan voting systems prior to the 2000 election. So far only five states, which include Alaska, are eligible for compensation from the $15 million fund. Alaska's portion may be used as reimbursement to the State's general fund for the cost of purchasing the optical-scan voting system for a approximately $1.1 million.

(2) *Provisional Voting* - A type of provisional voting (questioned voting) has been available to voters in Alaska since the early 1980s. There will be minimal changes needed in order to meet the provisional voting requirements of the Act.

(3) *Computerized Statewide Voter Registration System* - Currently Alaska has a mainframe based statewide Voter Registration and Election Management System (VREMS) that has been in place for 17 years and is antiquated. This is no longer cost effective for the State to maintain due to the "Natural" language it is written in and the complexity of the program. The State will use the estimated $7.5 million in funds to research and purchase a statewide voter registration and election management system that is conducive to the State's administration of elections and is cost effective to maintain and improve.

The estimated costs associated with implementing the requirements in HAVA are based on the funding information available at the time that this plan was written. The budget will be revised appropriately to reflect the most current information available regarding federal funding, according to changes that may be made in the implementation schedule.





## Section 7. Maintenance of Effort

*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 accordance with HAVA section 254 (a)(7), Alaska will maintain the same level of expenditures on similar activities funded by the requirements payment that was spent in the fiscal year ending prior to November 2000. Alaska's expenditures for these activities totaled $537,500.

The Division of Elections administers all state and federal elections. These elections occur in an even calendar year. The Division receives an increment to the annual operating budget in an odd fiscal year beginning July 1 in order to conduct primary and general elections. This increment provides for the expenditures associated with election officials, polling place recruitment, temporary employees, ballot printing and distribution, election supplies, election day support, and other costs associated with conducting an election.

Other expenditures in an even-numbered calendar year are spent in preparation of election activities that occur after July 1. These activities include election official training, voter education, advertising, information technology support, and the purchasing of equipment and supplies. The maintenance of effort for the State's FY '00 represents a portion of the total operating budget that is appropriated to carry out election administrative activities in an even fiscal year.

The State Legislature appropriated adequate funding in Election's FY '04 1.7 million-dollar budget to maintain the level of expenditures related to our Maintenance of Effort.

## Section 8. HAVA Performance Goals and Measures

*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.*

The Division of Elections will establish performance goals in conjunction with the Alaska State Legislature during the deliberation of the annual operating budget. The "Missions and Measures" process undertaken by the Legislature in concurrence with the consideration of the annual operating budget has been established as a respected means for developing performance measures that accurately quantify program success.

The Director of the Division of Elections, as the "chief State election official" under section 253(e), is responsible for coordination of the State's responsibilities under this Act. As a result, the Director is ultimately responsible for ensuring that each performance goal is met. In addition, the Legislature will be monitoring the Division's efforts through the annual preparation of the State's operating budget.

| Plan Elements | Official | Time frame |
|---|---|---|
| **Voting Systems** §301 | Director of Elections | To be implemented by January 1, 2006 |
| **Provisional Voting** §302 | Director of Elections | To be implemented by January 1, 2004 |
| **Voter Registration** §303(a) | Director of Elections | §303(a) is implemented |
| §303(b) | | §303(b) to be implemented by January 1, 2004 |
| **Other Activities** §101 (b)(1), §251 (b)(2) | | |
| Technical Infrastructure | | TBD by DOE |
| Free-Access System | | TBD by DOE |
| **Education and Training** §254(a)(3) | Regional Supervisors | TBD by DOE |
| **Budget and Fiscal Controls** §254(a)(2) §254(a)(6) §254(a)(7) §254(a)(10) | Administrative Officer | TBD by DOE |
| **Complaint Procedures** §254(a)(9) §402 | Director of Elections in conjunction with Department of Law | To be implemented by January 1, 2004 |





## Section 9. State-based Administrative Complaint Procedure

*A description of the uniform, nondiscriminatory State-based administrative complaint procedure in effect under section 402.*

The State of Alaska, Division of Elections has developed administrative regulations to establish the required complaint procedure. These regulations will constitute a new article that will be part of the Division's administrative regulations set out at Title 6 of the Alaska Administrative Code.

These regulations satisfy the requirements of HAVA section 402 by providing a uniform and nondiscriminatory complaint procedure. Under these procedures, any person who believes there has been a violation of HAVA title III may file a complaint. The complaint must in writing, sworn, and notarized. At the complainant's request, there will be a hearing on the record. If the State finds a violation, it shall provide an appropriate remedy. If there is no violation, the complaint will be dismissed and the results will be published. The State will make a final determination on a complaint within 90 days, and if the State cannot meet this deadline, the complaint will proceed under alternative dispute resolution procedures.

The Division is now in the process of adopting these administrative regulations, and anticipates that the regulations will be in effect by the required deadline.

## Section 10. Effect of Title I Payments

*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.*

Under section 103, Guaranteed Minimum Payment, Alaska received the minimum payment of $5 million and has established an Election Fund.

Any activities carried out under the Plan will be aimed at improving the administration of elections for federal office and the election process as a whole.

Upon receipt of title I monies, it is the intent of the Division of Elections to use the funds for one or more of the following:

- **Developing the State plan for requirements payments to be submitted under part 1 of subtitle D of title II.**

  While an outside contractor was not hired to produce the State Plan in order to minimize costs, the Division is tracking costs associated with the related process.

- **Educating voters concerning voting procedures, voting rights, and voting technology.**

  A preliminary investment is needed to increase voter outreach through voter education, public service announcements, and community events. Modifications to the Division's forms web site, free-access systems, and training materials used by voters are necessary to comply with the Act.

- **Training election officials, poll workers, and election volunteers.**

  The Division will begin to develop improved training systems with the goal of training more election officials closer to an election. The challenge will be to train so many people with diverse physical, social and cultural differences across a vast area in a limited time frame.

- **Improving, acquiring, leasing, modifying, or replacing voting systems and technology and methods for casting and counting votes.**

  Improvements will need to be made to VREMS, the Division's voter database, in order to comply with title III while planning for the purchase and implementation of a new voter registration and election management system.

- **Improving the accessibility and quantity of polling places, including providing physical access for individuals with disabilities, providing non-visual access for individuals with visual impairments, and providing assistance to Native Americans, Alaska Native citizens, and to individuals with limited proficiency in the English language.**

  The Division will begin updating and modifying polling place accessibility studies. Develop a detailed plan, with the assistance of the State Americans with Disabilities Act (ADA) Coordinator to reassess current polling place locations for increased accessibility. Increased outreach to remote areas of Alaska may require an initial investment of these monies.

- **Establishing free access systems for voters to report possible voting fraud and voting rights violations, to obtain general election information, and to access detailed automated information on their own voter registration status, specific polling place locations, and other relevant information.**

  The Division currently uses an interactive toll-free telephone system for voters to verify their polling location and party affiliation. Improving this current system or creating a new free access system to expand the options available to voters will be made through available funding provided under this Act.



State of Alaska
Division of Elections
Preliminary State Plan

## Section 11. Alaska's HAVA State Plan Management

*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 that begins on the date the change is published in the Federal Register in accordance with subparagraph (A).*

The Director of the Division of Elections, as the "chief State election official" under section 253(e), is responsible for coordination of the State's responsibilities under this Act. As a result, the Director is ultimately responsible for the ongoing management of the Plan.

The State Plan will be an essential component in the Division's continuing efforts to improve accessibility and accountability in the election process. Alaska has already implemented many aspects of HAVA, and the Division sees the ongoing management of the State Plan as a continuation of the State's commitment to election reform. Each element will be managed for achieving compliance, maximizing improvements to all aspects of the election process, and responsible use of available funds.

The State understands and agrees to comply with HAVA requirements related to ongoing management of the State Plan. More specifically, the State agrees that it may not make any material change in the administration of the State Plan unless the change:

(A) is developed and published in the Federal Register in accordance with HAVA section 255 in the same manner as the State Plan;
(B) is subject to public notice and comment in accordance with HAVA section 256 in the same manner as the State Plan; and
(C) takes effect only after the expiration of the 30-day period that begins on the date the change is published in the Federal Register in accordance with subparagraph.





## Section 12. Changes to State Plan from Previous Fiscal Year

*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.*

This is Alaska's 2003 State Plan, and is the State's initial plan. As a result, there are no changes or successes to report related to the implementation of HAVA.

## Section 13. State Plan Development and Committee

*A description of the committee that 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 draft of Alaska's State Plan was created by the Division of Elections with the legal guidance of the State's Attorney General's Office. It was distributed to members of the State Plan Committee for discussion and input.

Two public meetings were conducted on March 26 and April 10, 2003. These meetings of the State Plan Committee were held telephonically. The meetings were noticed in accordance with Alaska's public notice requirements.

The preliminary version of the State Plan was made available for public inspection and comment for 30 days (April 28 through May 28, 2003) and public comments were taken into account when final preparations of the Plan were made in accordance with section 256 of the Act.

Additionally, a statewide teleconference was advertised and conducted in order to afford the public an opportunity to provide comment to the Division of Elections on May 23, 2003.

The State Plan Committee members were selected to reflect a cross section of election stakeholders throughout the State, in accordance with section 255 of the Act.

The Lieutenant Governor named the following Alaskans to serve on the State Plan Committee:

**Laura Glaiser**, Director of the Division of Elections, who will chair the Committee and is ultimately responsible for the development and implementation of the State Plan

**Pam Crowe**, Region I Election Supervisor, Division of Elections

**Doug Pryor**, Region II Acting Election Supervisor, Division of Elections

**Mona Lisa Drexler**, Fairbanks North Star Borough Municipal Clerk

**Katy Suiter**, City of Ketchikan Municipal Clerk

**Jim Beck**, Executive Director, Access Alaska

**Lynne Koral**, President, Alaska Independent Blind

**Joanne Baker**, Member, Anchorage League of Women Voters





**Major Tim Nelson**, Elmendorf Installation Voting Officer

**Gene Therriault**, Senate President, Alaska State Legislature

**Donny Olson**, State Senator, Alaska State Legislature

**John B. Coghill**, House Majority Leader, Alaska State Legislature

**Mary Kapsner**, State House Representative, Alaska State Legislature

**Tara Sweeney**, Rural Affairs Assistant to the Governor

**Sarah Felix**, Assistant Attorney General, State of Alaska

**Mario Lim**, Representative from the Alternative Language Community

**TERRITORY OF AMERICAN SAMOA**

Preliminary State Plan

As required by Public Law 107-252
Help America Vote Act 2002, Section 253(b)

Soliai T. Fuimaono
Chief Election Officer
P. O. Box 3970
Pago Pago, American Samoa 96799

January 30, 2004

INTRODUCTION BY THE CHIEF ELECTION OFFICER

Section 253(b) of the Help America Vote Act of 2002 (HAVA) requires each State and Territory to develop a long-range plan for implementing HAVA. The Act significantly reforms the election process for federal elections, and American Samoa welcomes the opportunity to be a part of the process.

I am pleased to report that American Samoa currently complies with most of the requirements of HAVA. This Preliminary State Plan serves as the framework for continuing progress in election reform, and achieving full compliance with those portions of HAVA for which American Samoa is not yet in compliance.

This Preliminary State Plan will be updated on an annual basis. The Election Office, through its in-house HAVA Coordinator, and the State Plan Committee, will continue their efforts to fulfill the intent of HAVA.

Soliai T. Fuimaono
Chief Election Officer

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## I. INTRODUCTION

The Help America Vote Act (HAVA) was signed into law on October 29, 2002 by the President of the United States. HAVA requires each State and Territory to develop a comprehensive plan for implementing mandates aimed at improving the conduct of elections.

Each plan must address the following:

* Provide for disabled voters the opportunity to vote independently through the use of at least one (1) Direct Recording Electronic (DRE) voting system in each polling place.

* Implement a system of provisional voting.

* Provide a complaints process where voters are entitled to a public hearing after filing a valid notarized complaint.

* Establish a statewide voter registration system.

* Establish a toll free number for voters to call to receive pertinent voting information.

The following State Plan for the Territory of American Samoa was developed in accordance with Section 254 of HAVA and under the direction of the Chief Election Officer. America Samoa's plan establishes a framework for the Territory to continue progress that was already in place before HAVA, and to achieve compliance with HAVA.

Because HAVA may have a profound impact on some aspects of the voting process in our Territory, we anticipate that this Plan will require updating and refining over the upcoming years to address changes and developing requirements.

## II. BACKDROP FOR AMERICAN SAMOA'S STATE PLAN

Pursuant to American Samoa Code Annotated (ASCA), Title 6, the Chief Election Officer is responsible for the supervision of all elections in the Territory. American Samoa has had and continues to have a territory-wide, uniform, and standardized election system – something HAVA mandates each State and Territory to have. All services are provided in a uniform and nondiscriminatory manner.



### A. Overview

The Territory of American Samoa consists of seven islands, six (6) of which are inhabited: the main island of Tutuila, the island of Aunu'u, the Manu'a islands of Ta'u, Ofu and Olosega, and Swains Island. The population on each island (based on the American Samoa Statistical Yearbook 2000) is as follows:

| | |
|---|---|
| Tutuila | 55,400 |
| Aunu'u | 476 |
| Ta'u | 873 |
| Ofu | 289 |
| Olosega | 216 |
| Swains | 37 |

### B. Election Contests

The following election contests are concurrently held: federal election contests and territorial elections. These elections are held in even numbered years.

Federal Contests:

Delegate to the U.S. House of Representatives (1 seat)

Territory-wide Contests:

Governor (1 seat)
Lieutenant Governor (1 seat)
Representatives (20 seats)

Ballot issues include amendments to the Revised Constitution of American Samoa.

### C. Voter Registration

Voter registration from 1994 to 2002 were (numbers based on General Elections):

| | |
|---|---|
| 2002 | 14,778 |
| 2000 | 15,598 |
| 1998 | 14,526 |
| 1996 | 14,498 |
| 1994 | 11,138 |

D. Voter Turnout

Voter turnout numbers from 1994 to 2002 were (numbers based on General Elections):

| | |
|---|---|
| 2002 | 10,394 |
| 2000 | 12,080 |
| 1998 | 9,415 |
| 1996 | 11,088 |
| 1994 | 10,236 |

E. Polling Stations

In 2002, there were forty-five (45) polling stations territory-wide. In 2004, the Election Office does not anticipate a change in the total number of polling stations.

The number of registered voters assigned to a polling station in 2002 ranged from 87 to 1,307.

F. Vote Counting

American Samoa has had and continues to have a uniform, standard, and territory-wide election system, something HAVA mandates each State and Territory to have.

American Samoa uses paper ballots, which are counted manually at each polling station upon the close of polls. Paper ballots are used in every polling place, as well as at the absentee walk-in polling place (early voting site) located at the central Election Office. The processing and tabulation of the absentee mail ballots are handled by the staff at the central Election Office. The consolidation and distribution of election results are carried out at the central Election Office.

G. Absentee Walk-In Polling Place (Early Voting Site)

Absentee voting commences when the candidates are certified, and the ballots are printed. An absentee walk-in polling place is maintained at the central Election Office for early voting. The site opens upon commencement of absentee voting and closes at 4:30 p.m. on the day prior to the election.

H. Polling Station Officials

Territory-wide training of approximately 250 polling station officials begins in early October and continues through November of an election year. The Election Office conducts all training sessions. Close to one-third (a) of polling station officials from a previous election are usually hired back to conduct subsequent elections.



American Samoa's State Plan as presented herein is limited to the extent local appropriations are made available and based on the assumption that adequate federal funding will be appropriated. American Samoa intends to fully comply with HAVA; however, if adequate federal funding is not made available, the manner in which the funds are dedicated may be altered from the information contained in this State Plan.

## III. STATE PLAN REQUIRED ELEMENTS (HAVA §254)

From start to finish, American Samoa's election system is built around the standards of accuracy, transparency, security, accountability, integrity and replicability. These standards serve as the bases for the development and implementation of this State Plan.

A. Title III Requirements and Other Activities

*Section 254(a)(1) requires a description of how the State will use the requirements payment to meet the requirements of Title III, and, if applicable under §251(b)(2), to carry out other activities to improve the administration of elections. Title III requires the establishment of certain voting system standards, provisional voting, public posting of voting information, a computerized statewide voter registration list, and voter registration application modifications.*

1. Voting System Standards Requirements

*Section 301(a) establishes several voting system standards which must be met by January 1, 2006. Under this section, no waiver of the requirements is permitted.*

HAVA requires each voting system to:

* Permit voters to verify whom they voted for and make changes to their vote in a private, secret, and independent manner;
* Notify voters if they have overvoted, what happens in instances of an overvote, and provide the opportunity to correct the ballot;
* Ensure that any notification to the voter maintains the privacy, secrecy, and independence of the voter's ballot;
* Produce a permanent paper record with manual audit capacity;

* Be accessible for the disabled through the use of at least one (1) Direct Recording Electronic (DRE) voting system placed at each polling place;

* Provide alternative language accessibility pursuant to §203 of the Voting Rights Act of 1965;

* Comply with error rates in effect by the Federal Elections Commission (FEC); and

* Have a definition of what constitutes a vote and what will be counted.

Since American Samoa began conducting gubernatorial elections in 1977, it has had uniform and standard procedures territory-wide. Pursuant to ASCA, the Chief Election Officer is responsible for supervising all elections in American Samoa. Procedures have been developed and implemented territory-wide which address all operational areas of elections.

American Samoa uses a single, uniform, territory-wide voting system. Presently, paper ballots are used in every polling place (as well as the early voting site, and for absentee mail ballots). All ballots have instructions printed thereon in both English and Samoan. The voter is informed to vote for a single candidate for a single office. The voter is able to view his choice before casting a ballot. Furthermore, ASCA allows a voter to obtain a replacement ballot by returning the ballot that was completed in error.

Upon the close of polls, all ballots are manually counted and the results tabulated at each polling station. All candidates or their designees, observers, voters, the media and any interested person may witness the public counting of the ballots. This practice aids in the efficiency and security of the Election Office's administration of elections. The results of each polling station are forwarded to the central Election Office, where Election Office staff verify the tabulations before announcing the results live on territory-wide television.

ASCA currently allows a physically disabled or visually impaired or illiterate voter, who is unable to mark his ballot, to be assisted by two election officials, or a person of the voter's choice, in the marking of a ballot. To satisfy the HAVA requirement that "any voter may have the opportunity to vote independently," American Samoa intends to allow individuals with disabilities access to the polling places by instituting a



voter system equipped for such individuals. The Election Office will work closely with the Office of Protection and Advocacy for the Disabled to identify the voter system that best suits American Samoa voters' needs.

Additionally, American Samoa will conduct voter education to educate individuals on what constitutes a vote, the effect of casting multiple votes for an office, and the procedure for correcting an error through the issuance of a replacement ballot.

Requirements payment will also be used for maintaining, modifying, and improving the voting system in American Samoa to ensure compliance with HAVA §301(a) standards.

2. Provisional Voting and Voting Information Requirements

*Section 302 requires the establishment of provisional voting and the posting of voting information at polling places by January 1, 2004. Under this section, no waiver is permitted.*

HAVA identifies voters who may vote using a provisional ballot. They are as follows: 1) a voter who declares that he or she is a registered voter in the jurisdiction and is eligible to vote in an election for Federal office, but whose name does not appear on the official list of registered voters at the polling place; or a voter who the election official assert is not eligible to vote; or a voter who registered by mail and is a first-time voter in the jurisdiction but who appears at the polling place without proper identification; and 2) a voter who votes in an election for federal office pursuant to a federal or state court order or any other order extending the time established for closing the polls.

While there is no local law that permits provisional voting, ASCA provides a challenge process to ensure that registered voters who appear at the polling place but are not in the register of voters, may resolve their voter registration problems. Polling station officials are trained to contact the central Election Office to search the voter registration database to determine if the individual is registered to vote. Any voter who is not found in the voter registration system is allowed to cast a "challenged" ballot. Determination reached in this process may be appealed to a Board of Registration, and, ultimately, the High Court of American Samoa.

American Samoa will comply with the requirements of HAVA as outlined in § 302. Voters will be notified by polling station officials that they may vote a provisional ballot. Voters will complete an affidavit in which the individuals affirm under penalty of perjury that they are registered in the

jurisdiction in which the individual desires to vote and is eligible to vote in that election.

Voters will be provided "free access" to learn if their ballots have been counted. In addition, any voter whose ballot is not counted will be provided a reason for that action. All responses to provisional voters will be confidential.

In addition to provisional voting requirements, § 302 of HAVA mandates that a sample ballot and other voting information be posted at the polling place on election Day. The Election Office will design the materials to be posted. Requirements payment will be used to develop, print and post this information.

3. Computerized Territory-wide Voter Registration List and Requirements for Voters Who Register by Mail

*Section 303 requires the establishment of a computerized statewide voter registration list, first time voters who register by mail to provide identification when they cast their ballots, and changes to be made to the voter application by January 1, 2004. A waiver is permitted to extend compliance with §303(a) to January 1,2006.*

Presently the guidelines for voter registration (process, context, and parameters) are set forth in ASCA. Procedures and policies are set by the Election Office.

American Samoa's existing voter registration system is a "single, uniform, official, centralized" computerized territory-wide voter register as required by HAVA. American Samoa's voter registration system has always been centralized and has been maintained by the Chief Election Officer. The Election Office staff conduct all registrations by obtaining necessary documents for eligibility (i.e. certified copy of birth certification, U.S. passport, photo ID, etc.), and by maintaining copies of such eligible documents on file. The Election Office staff is responsible for inputting the data and for maintaining the computerized register of voters.

Upon registration, voters are issued Voter Registration Cards (VRC) to serve as identification at the polls. A VRC contains a photograph of the registered voter, the voter's name, the voter's unique Voter Registration Number (VRN), the district where the voter is entitled to vote, as well as other pertinent information. In it's efforts to prevent counterfeit VRCs, the Election Office has purchased a new digital camera and accompanying software to produce VRCs that will replace the laminated VRCs currently



issued to registered voters.

Registration is conducted throughout the year by Election Office staff. Besides maintaining office hours at the central location, Election Office staff also conduct registration in villages throughout the islands. Election Office staff also visit high schools in the months of April and May as part of the effort to register eligible graduating seniors before they leave American Samoa for college or the military.

American Samoa currently accepts the Federal Post Card Application (FPCA) for purposes of mail-in registration and requests for absentee ballot. Upon receipt of a FPCA for registration, the Election Office staff conducts a verification of eligibility process (i.e. U.S. citizenship, residency, etc.) before the individual is registered as a voter. In addition, the Election Office will design mail-in voter registration and other forms. These will be posted on the Election Office's website to allow off-island individuals to download the forms, complete them and send them to the Election Office.

4. Minimum Requirements

American Samoa understands that the requirements in HAVA Title III are minimum requirements and that American Samoa may establish election technology and administration requirements that are more stringent. Any more stringent requirement that American Samoa imposes will comply with Title III requirements, as well as the laws described in HAVA § 906.

5. Methods of Implementation Left to the Discretion of the Territory of American Samoa

American Samoa chose various means to comply with the requirements of HAVA Title III. Specific details on the implementation methodology chosen can be found in the foregoing sections 1 through 3 above.

6. Adoption of Voluntary Guidance by Commission

Once the federal Election Assistance Commission (EAC) has issued its voluntary recommendations with respect to Title III, American Samoa will consider that guidance in updating the State Plan. American Samoa will incorporate those recommendations deemed appropriate into subsequent versions of the State Plan.

7. Process for Adoption

American Samoa will stay aware of the progress of the EAC on developing the Title III recommendations. If appropriate, American Samoa will provide feedback during the public comment period after recommendations are published in the Federal Register and participate in public hearings regarding the recommendations.

8. Other Activities to Improve the Administration of Elections [§ 251 (b)(2)]

a. Development of Staff

Staff at the Election Office does not readily have access to continuing professional education and contact with other election administrators in the U.S. American Samoa would be well served by encouraging their professional development through continuing professional education.

Requirements payments will be used to support training and professional certification.

b. Section 261 Payments to States and Units of Local Government To Assure Access for Individuals with Disabilities

The Election Office, in conjunction with the Office of Protection and Advocacy for the Disabled (OPAD), has applied for a grant pursuant to §261 of HAVA. The plan calls for the following:

* Ensure that all polling places are accessible.

* Provide territory-wide training to voters with full range of disabilities, and utilizing trainers with disabilities, to embrace privacy and independence in the voting process.

* Develop and implement training curricula and educational materials for election officials and polling station officials.

* Provide individuals with the full range of disabilities with information about the accessibility of the polling places.

It is proposed that requirements payments will be used to provide a project coordinator for program development, implementation, and territory-wide coordination of this project. As detailed in section K of this State Plan, this same individual will have other HAVA-related responsibilities.

Requirements payments will also be used for equipment, materials, and supplies to assure accessibility to the polling place for individuals with disabilities.

[See Attachment A]

B. Distribution of Requirements Payments & Eligibility for Distribution

*Section 254(a) (2) requires a description of how the State or Territory will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State or Territory for carrying out the activities described in § 254(a)(1), including a description of:*

*-the criteria to be used to determine the eligibility of such units or entities for receiving payment; and*

*-the methods to be used by the State or Territory to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under §254(a)(8).*

All elections and related activities in American Samoa are conducted by the Election Office. No units of local government or any other entity are authorized to conduct elections within the Territory. Therefore, the Election Office will be managing and monitoring the performance of activities funded by the requirements payments. The Election Office will also be accountable for all expenditures, funding levels, program controls, and outcomes. All applicable local and procurement laws regarding the use of the requirements payments will be followed.

C. Voter Education, Election Official and Poll Worker Training

*Section 254(a)(3) requires a description of how the State or Territory will provide for programs for voter education, election official education and training, and poll worker training which will assist the State or Territory in meeting the requirements of Title III.*

The Election Office intends to improve on its existing voter education program. Currently, the voter education program consists of passive information in the form of FACTSHEETS (hard copy and electronically on the website), brochures, and public service announcements (PSA). Besides information about the candidates

and the issues, voters also need information on the process of registration and voting. Information given at the polls represents the very last step in an education process that begins with civic education in the schools.

A voter education program will be developed to inform citizens:

* how to register to vote and confirm their registration status;

* where and when to vote;

* how to cast a valid ballot; and

* their rights as voters.

The Election Office will embark on a more active outreach program, but still retain the FACTSHEETS and brochures. This would be accomplished by informational programs on the local television station, participation in high school civic classes, and newspaper publication of upcoming election events and dates. In addition, the Election Office will use civic and advocacy groups, community organizations, candidates, the media, and election officials to educate the voters.

Requirements payments will be used for the purposes of materials development and outreach activities.

D. Voting System Guidelines and Process

*Section 254(a)(4) requires a description of how the State will adopt voting system guidelines and processes which are consistent with the requirements of § 301.*

Section 301 requires each voting system to:

* Permit voters to verify whom they voted for and make changes to their vote in a private, secret, and independent manner;

* Notify voters if they have overvoted, what happens in instances of an overvote, and provide the opportunity to correct the ballot;

* Ensure that any notification to the voter maintains the privacy, secrecy, and independence of the voter's ballot;

* Produce a permanent paper record with manual audit capacity;

* Be accessible for the disabled through the use of at least one (1) Direct Recording Electronic (DRE) voting system placed at each polling place;



* Provide alternative language accessibility pursuant to §203 of the Voting Rights Act of 1965;

* Comply with error rates in effect by the Federal Elections Commission (FEC); and

* Have a definition of what constitutes a vote and what will be counted.

ASCA specifies the voting system (i.e. paper ballots) and the manner in which the votes must be counted and certified. Except for DRE voting system, the statutes are consistent with the requirements of § 301. The Election Office also complies with the High Court of American Samoa's decision on what constitutes a vote.

E. American Samoa's HAVA Fund Management

*Section 254(a)(5) requires a description of how the State or Territory will establish a fund described in subsection (b) for purposes of administering the State's or Territory's activities under this part, including information on fund management.*

At the request of the Election Office, the Department of Treasury has created an account into which Section 101 funds were deposited. The same arrangement will be requested for requirement payments that are received. The 5% match will also be deposited into this latter account. Unspent federal funds in this latter account will be set aside in the Section 101 fund for payment of long-term costs of complying with HAVA.

The Election Office will work with the Office of Planning and Budget, and the Department of Treasury to follow and enforce all mandated fiscal controls and policies.

F. American Samoa's HAVA Budget

*Section 254(a)(6) requires the State's or Territory's budget for activities under this part, based on the State's or Territory's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on:*

*-the costs of the activities required to be carried out to meet the requirements of Title III;*

*-the portion of the requirements payment which will be used to carry out activities to meet such requirements; and*

*-the portion of the requirements payment which will be used to carry out other activities.*

The attached table outlines American Samoa's budget for the use of federal funding for HAVA activities. The figures in the table are based upon the annual amounts authorized for appropriation under § 257 of HAVA, and pursuant to the allocation formula delineated in § 252. The table will be modified according to the actual amounts appropriated by Congress and received by American Samoa.

[See Attachment B]

G. Maintenance of Effort

*Section 254(a)(7) requires a showing of how the State or Territory, in using the requirements payment, will maintain the expenditures of the State or Territory for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State or Territory for the fiscal year ending prior to November 2000.*

Consistent with HAVA § 254(a)(7), in using any requirements payment, American Samoa will maintain expenditures for activities funded by the payment at a level equal to or greater than the level of such expenditures in FY 2000 – a total of $250,000.

H. HAVA Performance Goals and Measures

*Section 254(a)(8) requires a description of how the State or Territory will adopt performance goals and measures that will be used by it to determine its success and the success of units of local government in the State or Territory in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State or Territory 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.*

American Samoa will establish performance goals and will institute a process to measure progress toward the achievement of these goals. This process will provide the structure and continued measurable targets for accomplishment.

As detailed in section K of this State Plan, the Election Office will establish a position and hire an individual to oversee continuous management of the State Plan. The individual will be responsible for developing and monitoring a uniform performance evaluation process. In measuring progress, original goals and objectives need to be revisited, and adjustments need to be made where



appropriate.

I. State/Territory-Based Administrative Complaint Procedures

*Section 254(a)(9) requires a description of the uniform, nondiscriminatory State/Territory-based administrative complaint procedures in effect under § 402. Deadline for compliance: Prior to certification of State Plan, but no later than January 1, 2004; no waiver permitted.*

American Samoa has developed administrative regulations to establish the required procedure to address complaints revolving around election issues. The nature of the complaints will be restricted to suspected violations of HAVA Title III and therefore pertain to the processes of voter registration, voting and election reporting. These regulations constitute a new chapter that are part of the administrative regulations governing elections, contained in Title 3 of the American Samoa Administrative Code.

These regulations satisfy the requirements of HAVA §402 by providing a uniform and nondiscriminatory complaint procedure. Under these procedures, any person who believes that there has been a violation of HAVA Title III may file a complaint. The complaint must be in writing, sworn and notarized. At the complainant's request, there will be a hearing on the record.

If there is a finding that a violation occurred or is occurring, an appropriate remedy shall be provided. Appropriate remedy will not include financial payments to complainants or civil penalties for election officials, even if it is determined that a violation of Title III has occurred. Remedies may include written findings that a violation of Title III has occurred, strategies for insuring that the violation does not re-occur, and, if it appears that the complaint is systemic, possible actions by the Election Office to eliminate or prevent future incidences.

If there is no violation, the complaint will be dismissed and the results will be published. A final determination on a complaint must be made within 90 days, and if this deadline can not be met, the complaint will proceed under alternative dispute resolution procedures.

The administrative regulations were adopted pursuant to the Administrative Procedures Act, ASCA §4.1001 et seq.

Requirements funding will be used for the hearings requirement of this section.

J. Effect of Title I Payments

*Section 254(a)(10) requires, if the State or Territory 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.*

The Territory of American Samoa has thus far received $1,000,000.00 in Title I payments.

1. §101 – Payments for activities to improve administration of elections.

American Samoa received $1,000,000.00 under §101. These funds will be used for activities to meet the following requirements:

-To maintain the voting and vote counting system.

-To supplement voter education efforts.

-Unspent federal funds will be set aside (in the account set up by Treasury) for payment of long-term costs of complying with HAVA.

2. §102 – Replacement of punch card or lever voting machines.

American Samoa did not apply for, and therefore did not receive, funding under §102.

K. American Samoa's HAVA State Plan Management

*Section 254(a)(11) requires a description of how the State or Territory will conduct ongoing management of the plan, except that the State or Territory may not make any material change in the administration of the plan unless the change:*

*-is developed and published in the Federal Register in accordance with §255 in the same manner as the State Plan;*

*-is subject to public notice and comment in accordance with §256 in the same manner as the State Plan; and*

*-takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.*



The success of future elections will depend on sound and responsible management of the State Plan. Due to the complexity of HAVA and the potential variety of projects it encompasses, American Samoa will establish a position and hire an individual to oversee all HAVA-related activities. This individual will conduct ongoing management of the State Plan, including project planning (for all HAVA-related and other election reform projects) and establishing and implementing program management standards (i.e. performance measures, review and approval processes, issue/risk management, etc.). This same individual will also be responsible for other election functions, including: budget and fiscal, personnel, office support functions, and HAVA accounting requirements.

L. Changes to State Plan from Previous Fiscal Year

*Section 254(a)(12) requires, in the case of a State or Territory with a state plan in effect during the previous fiscal year, a description of how the plan reflects changes from the state plan for the previous fiscal year and how the State or Territory succeeded in carrying out the state plan for such previous fiscal year.*

This FY 2003-2004 State Plan is American Samoa's inaugural plan under HAVA. This section will be updated in the FY 2004-2005 State Plan, reflecting any changes to the Plan, as well as a summary of 2003-2004 successes.

M. State Plan Development and Committee

*Section 254(a)(13) requires a description of the committee which participated in the development of the state plan in accordance with §255, and the procedures followed by the committee under §§255 and 256.*

American Samoa's State Plan development committee consists of individuals who are familiar with the election process in American Samoa. They are:

-Director, Office of Protection and Advocacy for the Disabled

-Legal Counsel to the Governor

-Deputy Chief Election Officer

-President, American Samoa Bar Association

A preliminary plan was drafted under the direction of the Chief Election Officer. The committee reviewed and then distributed the preliminary draft to the public to receive input and feedback. The statements received were taken into consideration in finalizing this Plan.

The committee intends to meet at least twice a year to review any supplements and/or modifications to this State Plan that the HAVA coordinator (who is identified in the foregoing section K) develops.



# ATTACHMENTS

# ELECTION ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES (EAID)

GRANT APPLICATION FOR AMERICAN SAMOA

"Empowering American Samoa Voters with Disabilities" Project

A State Project in Collaboration with Government and Community

Submitted to:

U.S. Department of Health and Human Services
ACF/Office of Grants Management
370 L'Enfant Promenade SW
Mail Stop 326F
Washington, DC 20447-0002
ATTN: Joseph Lonergan

Submitted by:

The American Samoa Election Office
American Samoa Government
Pago Pago, American Samoa 96799



**I. Application Purpose**

The purpose of the application is to obtain funds available under the Help American Vote Act (HAVA), Public Law (Pub.L.) 107-272, title II subtitle D, part 2, section 261, to states to Assure Access for Individuals with Disabilities (42 U.S.C 15421)

**II. Applicant Information**

| State/Territory | American Samoa |
|---|---|
| State Election Officer And Contact Person | Mr. Soliai T. Fuimaono Election Commissioner |
| State Agency | The American Samoa Election Office |
| Address | Election Office P.O. Box 3970 American Samoa Government Pago Pago, American Samoa 96799 |
| State Election Officer and Contact Person | Mr. Soliai T. Fuimaono Election Commissioner |
| Contact number | 011 (684) 633-2522 011 (684) 633-7116 Fax Asgelect@samoatelco.com |

**III. Background**

American Samoa is an unincorporated territory of United States administered by the Department of Interior. Composed of five main islands (and two atolls), American Samoa covers an area of 77 square miles and lies 2,3000 miles southwest of Hawaii. Located in the South Pacific, it is the only U.S. possession south of the equator.

The official population census in April 2000 was listed as 57,300. The mid-year estimate for the same year was 57,700. The annual population growth rate calculated from 1990 and 2000 was 2.0 percent. The population is very young. The median age of the local population remains 21.3 years. By citizenship, sixty-five percent of the residents are American Samoans.

**IV. Overview of Voting Trends**

There are 17 voting districts for the five main islands that comprise American Samoa. The very remote Swains Island is 200 miles away from the main island of Tutuila. The Thompson family owns it and have eight registered voters. Forty-two villages are represented in the 17 voting districts. In the last twenty years since American Samoans have been voting for the Governor and other elected officials, voters have expressed their desire to vote by turning out in large numbers to polling places. The highest voter turnout was 91.9 percent in 1994. The lowest voter turnout was 64.8 percent in 1998. The median voter turnout in elections is 82 percent. The U.S. state and national averages for voter turnout has been far below American Samoa's!

In the last general election of November 7, 2000, the Official Roll of Registered Voters listed 15,598 voters. Over 52 percent of registered voters were women. Most of them (52 percent) were between the ages of 18 to 34 years. Over 12,000 or 77 percent of the registered voters turned out to vote in the 2000 General Election. Three districts had the highest voter turnout; Tualauta (2,428 registered voters) had a voter turnout of 88 percent. Manu'a District #2 had an 83 percent voter turnout and Ituau District had an 81 percent voter turnout.

In the area of disabilities in American Samoa, it is unknown as to the numbers of voters with disabilities or **potential voters** with disabilities. An assessment has never been conducted.

However, what is known is that The Report of the 1995 Population Housing and Expenditure Survey (Department of Commerce, January 1998) places persons 5 years and over with disability at 2 percent of the population. According to the National Center of Disability (1995), physically challenged individuals represent 4 percent of the territory's population. This national estimate will be utilized in planning and resource allocation.

The Help American Vote Act (HAVA), signed by President George W. Bush, stands to benefit a large number of persons with disabilities in the territory.

**V. Description of what applicant intends to do in each of the 4 categories**

**Project Overview**

The American Samoa Election Office under the leadership of Mr. Soliai T. Fuimaono, State Election Commissioner, will administer the accessibility project. The project proposes to be a collaboration between the government agencies of the Election Office and the American Samoa Office of Protection and Advocacy for the Disabled (OPAD). Additional project support will be received from other government agencies, disability service providers and disability consumer groups such as the Office of Protection and Advocacy advisory councils.



The Election Office proposes to subcontract the grant to the Office of Protection and Advocacy for the Disabled (OPAD) to carry out the major activities under the grant. The OPAD office will also serve as a consultant to the Election Office on disability issues.

This partnership provides an excellent way to assure that grant funds are used in the best manner possible to meet the needs of disabled voters and potential disabled voters in the territory.

**VI. Overview of Proposed Voting Activities**

| #1 | **Make polling places, including the path of travel, entrances, and exits and voting areas of each polling facility, accessible to individuals with the full range of disabilities.** | |
|---|---|---|
| | **Activity** | **Agency Responsible** |
| | ξ Conduct pre-project meeting and planning to determine government agencies and key stakeholders to seek input, advice and cooperation on project. | EO (Election Office) OPAD (Office of Protection & Advocacy for the Disabled) |
| | ξ Meet with the Office of Samoan Affairs and the local village mayors to outline a plan for conducting a district assessment of accessible polling places. | EO, OPAD |
| | ξ Conduct village and district assessment of polling places. | EO, OPAD |
| | ξ Work with village mayors to determine polling places needing assistance in making the polling places accessible with ramps. | EO, OPAD |
| | ξ Develop a work plan and timetable for achieving accessible polling places. | EO, OPAD |
| | ξ Begin accessibility construction and completion of identified district polling places. | EO, OPAD |

**Overview of Proposed Voting Activities (continued)**

| #2 | **Provide the same opportunity for access and participation (including privacy and independence) to individuals with the full range of disabilities as for other voters** | |
|---|---|---|
| | **Activities** | **Agency Responsible** |
| ξ | Meet with disability consumer groups, disability service providers to seek input on needed voting aids, Assistive technology, access and participation in the polling places. | OPAD |
| ξ | Develop a work plan and timetable, based on community input received, for implementing accessibility at the polling places. | OPAD |
| ξ | Conduct research to determine workable solutions to achieving accessible polling places for voters with a full range of disabilities. | OPAD |
| ξ | Research local legislation to determine areas of law that can be proposed or strengthened to ensure equal access and participation of voters and potential voters with disabilities. | OPAD |
| ξ | Work with the Governor's Office and the American Samoa Legislature to propose needed legislature that will ensure equal opportunity and access to voting for people with disabilities. | OPAD |



**Overview of Proposed Voting Activities (continued)**

| #3 | **Train election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with the full range of disabilities in elections for Federal Office.** | |
|---|---|---|
| | **Activities** | **Agency Responsible** |
| ξ | Develop Etiquette Disability Training curriculum for election officials, poll workers and election volunteers to promote the access of participation of voters with a full range of disabilities. | OPAD |
| ξ | Develop bilingual videos or PowerPoint training presentations | OPAD |
| ξ | Develop manuals to supplement the PowerPoint presentation and focus on the importance of a secret vote and allowing equal access and participation. | OPAD |
| ξ | Determine timetable for implementing the training | OPAD |
| ξ | Research local legislation to incorporate laws mandating disability-training attendance for all election officials, poll workers and election volunteers. | OPAD |

**Overview of Proposed Voting Activities (continued)**

| #4 | **Provide individuals with the full range of disabilities with information about the accessibility of polling places.** | |
|---|---|---|
| | **Activities** | **Agency Responsible** |
| ξ | Conduct assessment of types of information available about accessibility in polling places. | OPAD |
| ξ | Develop information on accessibility in polling places in various media, including brochures and newsletters, to assure access to the information for individuals with a full range of disabilities. | OPAD |
| ξ | Develop information, in various formats for voters and potential voters with a variety and full range of disabilities. | OPAD |



**VII. Proposed Funding to be Allocated per Categories:**

| | Categories of Mandated Activities | Proposed Allocation for Funding |
|---|---|---|
| #1 | Make polling places, including the path of travel, entrances, and exits and voting areas of each polling facility, accessible to individuals with the full range of disabilities. | $ 45,000 |
| #2 | Provide the same opportunity for access and participation (including privacy and independence) to individuals with the full range of disabilities as for other voters. | $ 15,000 |
| #3 | Train election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with the full range of disabilities in elections for Federal Office. | $ 25,000 |
| #4 | Provide individuals with the full range of disabilities with information about the accessibility of polling places. | $ 15,000 |
| | **TOTAL** | **$ 100,000** |

JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

The Help America Vote Act of 2002 (HAVA) is civil rights legislation to ensure voters are treated equally across the United States of America. I am proud to say that here in the State of Arizona, many of the federal election reforms brought by HAVA are already addressed in our own state law and procedures.

HAVA will significantly change our state election process as we replace punch card voting systems in 9 counties, add new DRE (touch screen) equipment to every precinct in the state, and implement new statewide systems to address voter registration, grievance process and provisional balloting. All these are daunting new tasks which bring powerful new responsibilities. I truly believe it will take a yeoman-like effort to ensure each new requirement is implemented correctly. As Arizona Secretary of State, it is with great pleasure I present the 2003 Preliminary State Plan for election reform.

This Arizona Preliminary State Plan identifies the priorities and specific steps our state will take to address election reform and bring Arizona into compliance with HAVA. The Plan was developed in conjunction with the State Planning Committee and was adopted unanimously from the group of state officials, legislative representatives, local officials, party representatives and individuals with special interests in improving access to the disabled.

Although HAVA increases responsibility for election administration at the State level in order to establish consistency across the state, the Secretary of State acknowledges that the county recorders and election officials are charged with the conduct of elections and are critical to the elections process. As we move forward, the Secretary of State will continue to encourage coordination, cooperation, and collaboration between the local officials on innovations and technology as we mutually share in a successful new election process.

Within this Preliminary State Plan, Arizona encourages election accessibility for individuals with disabilities and those with alternative language considerations. Arizona has already taken significant steps to improve polling place accessibility and is in the process of implementing an accessible, uniform statewide voting system. We will continue to strive toward accessibility throughout all aspects of the elections process.

In presenting this new plan, let me point out it is a living, breathing document in which we will need to update and refine as necessary over time, to reflect effective election reform. Overall, Arizona is in a good position relative to meeting the HAVA requirements. I welcome the challenges of HAVA and look forward to receiving appropriate financial support from the federal government as we continue our efforts to lead the nation in election reform.

Janice K. Brewer
Arizona Secretary of State

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JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

Help America Vote Act of 2002 (HAVA)
State Plan

**PRESS RELEASE**
**January 31, 2003**

### Sec. of State Jan Brewer Announces State Planning Committee on Election Reform

***New Committee Will Formulate New Process for Arizona Voter Registration & Elections***

**PHOENIX** -- Secretary of State Jan Brewer announced the creation of Arizona's State Planning Committee in an effort to improve administration of elections, educate voters, and upgrade statewide voting systems and technology. This action comes on the heels of Congress and President Bush passing the "Help America Vote Act of 2002" which specifically mandates strategic planning for elections by each state.

"The federal government requires our state to undertake comprehensive election reform," said Secretary Brewer. "The first step is to put forward a quality group of people from throughout this state to help develop a workable system for all of Arizona voters."

This new Committee will put forward recommendations on how to create a new statewide and uniform voter registration database, maintain new and existing voting systems, provide accessible voting devices for the disabled, and increase voter education and training for the new systems.

Stated Secretary Brewer, "My first priority with this Committee is to get a centralized voter registration system that will help update our voter rolls, and then we need to do away with punch card voting systems." Added Brewer, "Arizonan's deserve to have their votes counted accurately."

All fifty states must submit a state plan that delivers compliance with the new federal requirements. The plan must also be sent on to the federal government in order to receive any federal funding aid. Secretary Brewer's new State Planning Committee meetings will be open to the public. The Committee has a diverse group of appointees including representatives from: 10 counties, all recognized state parties, several statewide election experts, visually impaired groups, African-American, Hispanic, Native American, disability groups, computer technology, and campaign and voter outreach experts.

"I have assembled a group of 'can-do' people that can handle the complexities we confront in developing this plan," said Secretary Brewer, "the challenge is enormous, but is one we can accomplish by working together."

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5/15/03

## Help America Vote Act of 2002

## Public Law 107-252 – October 29, 2002

## (HAVA)

SEC. 254. STATE PLAN.
(a) IN GENERAL.—The State plan shall contain a description of each of the following:

### State Plan # (1)

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

### State Plan # (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).

### State Plan # (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.

### State Plan # (4)

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

### State Plan # (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.



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STATE OF ARIZONA

Help America Vote Act of 2002 (HAVA)
State Plan

### State Plan # (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.

### State Plan # (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.

### State Plan # (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.

### State Plan # (9)

A description of the uniform, nondiscriminatory Statebased administrative complaint procedures in effect under section 402.

### State Plan # (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.



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JAN BREWER
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STATE OF ARIZONA



### State Plan # (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).

### State Plan # (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.

### State Plan # (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.



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STATE OF ARIZONA

Help America Vote Act of 2002 (HAVA)
State Plan

## Section 1

**Sec 254. (a) IN GENERAL - The State plan shall contain a description of each of the following:**

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

***Recommended Language:***

The Help America Vote Act of 2002 (HAVA), public law 107-252, establishes minimum election administration standards for states that affect the offices of the secretary of state, county recorders and county election officials. HAVA provides election reform across the nation and brings uniformity to state elections, HAVA will enable each voter an opportunity to cast their ballot. It specifically requires the state of Arizona to:

- Create a new uniform statewide voter registration system;
- Certify new and existing voting systems according to national standards;
- Replace all punch card voting devices used by counties for elections;
- Improve voting device accessibility, to include physical and language accessibility;
- Maintain uniform election procedures and certification of election officials and poll workers;
- Increase voter education for new voting systems; and,
- Establish a statewide complaint system for a uniform, nondiscriminatory response to grievances.

The state of Arizona is in a relatively good position to implement the requirements of HAVA. Many standards or activities required in HAVA are already in place and being successfully executed. Uniformity across Arizona is achieved through state statute and the state election procedures manual covering the topics surrounding elections: voter qualification; voting system certification; what constitutes a vote; election official and poll worker training; alternative language requirements; uniform provisional ballots procedures (previously "ballots to be verified"); procedures for military (or "absentee") ballots; and tabulating and reporting. The state has consistently followed the National Voter Registration Act of 1993 and therefore already has sound procedures for voter registration and maintenance of the voter registration rolls.

For those minor statutory and regulatory changes required, the secretary of state has submitted legislation and has begun the revision process of the state election procedures manual to bring terminology and procedures into conformance with HAVA.



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5/15/03

HAVA provides funding to the state of Arizona for the implementation of election reform, a total of $51,764,959 (Sections 252 and 257) and $6.9 million as early monies (Section 101). In order to qualify for funding, the state must:

- meet the requirements of Title III, including the bullet points above;
- provide the same maintenance of effort for election operations as in the budget year prior to the 2000 general election; and
- provide matching funds of five percent of the federal dollars, calculated at $2.5 million.

The state has certified it will meet the budgeting requirements, and in addition, has determined the counties must also meet the same maintenance of effort as experienced in the 2000 general election. The state will establish the state election fund, in which monies from HAVA will be deposited and appropriately disbursed. Many of the expenditures affect county operations, so eligibility to receive funds will be determined by compliance with state statute, the election procedures manual, and the statewide efforts regarding elections. This state plan, as prescribed in HAVA, describes actions that will be taken to address the election procedures reform, voter registration reform, voter registration system centralization, and voting systems buyout.

Subject to the complete funding allocated in HAVA, the state will embark on parallel statewide efforts to be consistent with HAVA requirements:

- Arizona – Adios Chad is a statewide contract effort to facilitate replacement of voting systems in counties where punch card systems were used in the 2000 General Elections. The procurement effort will also include the voting accessibility standards for disabilities for the remaining counties.

- Voter Registration Arizona (VRAZ) will also be a priority of the secretary of state to implement a statewide voter registration system. Working with the county recorders and state election officials, the state will define functional requirements, roles and responsibilities of carrying out the functions of voter registration to enhance the operations of each of these offices, with the voter as the primary benefactor of the resulting system.

- 877 THE VOTE is the secretary of state's current toll-free election information line. This system will be expanded to implement the initial call-in element of a statewide grievance tracking system. The statewide grievance tracking system will allow for the comprehensive coordination of response by the secretary of state, (and as designees: the county recorders, county and state election officials) and the state attorney general with the initial grievance handled by phone call and escalating to a written process when needed.

- Accessibility, whether physical disability or a language barrier, is widely addressed in state law and the state election procedures manual and is largely maintained under the current efforts of the secretary of state and county officials. However, given the intent of HAVA



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to further enhance accessibility, the state will engage statewide efforts to ensure accessibility to voter registration, voting systems, voting information, voting locations and all processes directly connected to the election process. This will include disbursements to counties to improve physical accessibility of polling locations, language accessibility requirements beyond the current efforts, and expansion to voting education through public service announcements and coordinated statewide efforts.

- To meet these efforts, the secretary of state will incur administrative costs associated with the coordination, planning, operations and reporting on these programs. In addition, the secretary of state will need to expand its voting system certification efforts and election official certification, as well as expanding the state election procedures manual to include uniform guidelines for all training relative to election processes. These costs, along with portions of infrastructure and support systems, will be funded through the state election fund.

To ensure that HAVA reform is sustained, the state will also extend current reporting requirements to gauge performance of the state and county officials. These reports will not only provide public inspection of election process performance, but will also be the foundation to determine future modifications required in law or the state election procedures manual. While the state election fund consists of federal funds, the secretary of state will maintain this state plan to reflect the state's direction and preparedness to fulfill the requirements of HAVA.



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## Section 2

**Sec 254. (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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).**

### *Recommended Language*

To maintain uniformity of voting equipment purchases and the other expenditures, the state will develop a statewide Request For Proposal (RFP) for satisfying the requirements of the Help America Vote Act of 2002 (HAVA). The commitments under Title III will be based on federal and state funds deposited in the state election fund. The state will administer the resulting contracts and the disbursements consistent with state budget plan described in subsection 6 of Section 254 (a).

Funds will be distributed based on availability and set to the priorities established in this state plan. County voter registration statistics at the time of the 2002 General Election will be taken into consideration for any proportionate distribution of funds to counties for which they qualify under the various elements of distribution. Counties will submit their county budgets that contain the 2002 election cycle maintenance of effort to establish baseline amounts for efforts already in practice. All expenditures beyond the maintenance of effort will be coordinated with statewide efforts to be eligible for reimbursement of such efforts.

The explicit distribution method and eligibility for each element of distribution is described in section 6. In general, the distribution of funds to counties will be in accordance with Memorandums of Understanding (MOU). The MOU will be the contract between the state and the county to enable payment from the state election fund, and therefore all service levels or compliances required by the MOU will dictate disbursement. Upon receipt and validation of documentation of compliance with the MOU, the state will issue disbursements from the state election fund. Any commitment of funds from the state election fund shall not exceed the proportions identified in this plan beyond one half of one percent of the state election fund. The state may revise the state plan, using the procedures identified in section 11, to adjust the proportions at any time.



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The state will require, as part of the MOU, that counties use established accounting practices for all aspects of project management to monitor the implementation of the elements in section 6. Project management and time schedules for these efforts will be conducted by the secretary of state in coordination with the county recorders and county election officials. Compliance with the terms of any applicable MOU and with the project management and time schedules established for each element in Section 6 will establish eligibility to receive payments from the state election fund. Any portions not in compliance, or not completed on the time schedule will delay payments until such time the county has complied with the necessary requirements. Failure to comply with the MOU for more than six months may release the state election fund from commitment to provide such funds associated with that element. Failure to comply with any portion of Title III will result in the county being liable for all previously disbursed funds to that county from the state election fund. If a county has failed to comply on an effort that prohibits other counties, or the state, to proceed with the time schedule of that same effort, the secretary of state may postpone all other payments to that county until such time of compliance.

The performance measures detailed in section 8 of this state plan will be used to evaluate participation and effectiveness of disbursements. Monitoring performance measures will be completed biennially during the compilation of the reports required by the state election procedures manual. The reports will be filed with the secretary of state and will include specific data to disclose the successes and failures of each county's performance as it relates to the implementation of HAVA.

The ongoing maintenance of the centralized voter registration database requires a well-coordinated interaction of the county officials who register voters, state officials who manage the central voter registration database, county officials who manage elections and state officials who oversee elections. This creates an incentive for the state election fund to be an ongoing fund to handle cross-jurisdictional expenses in managing voter registration and elections.



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## Section 3

**Sec 254. STATE PLAN (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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.**

### *Recommended Language*

Poll workers and elections officers will be kept abreast of changes in law, including new laws and to maintain uniformity, the secretary of state will offer continuing education programs to election officials. The state already has adopted laws that address these programs.

1. Pursuant to Arizona Revised Statutes § 16-427, voters are given instruction on the use of voting machines.
2. Pursuant to Arizona Revised Statutes § 16-406, voting equipment is on public display at different times and places.
3. Pursuant to Arizona Revised Statutes § 16-407, election officers participate in an election officer education, training and certification program.
4. Pursuant to Arizona Revised Statutes § 16-532, poll workers are required to attend instructional programs "Instruction of election board inspectors and judges; certificate of qualification; optional training; instruction of counting center election officials".
5. Pursuant to Arizona Revised Statutes §§ 16-444 and 16-452, Arizona has adopted uniform definitions of election terms.
6. Pursuant to Arizona Revised Statutes § 19-123, the state mails the publicity pamphlet for ballot measures to every household that contains a registered voter. The publicity pamphlet will include a section for voter education.

The secretary of state may use public service announcements via the public broadcasting system in the two major markets in the state, Phoenix and Tucson, as a forum to conduct voter education and poll worker training education.

The secretary of state will include additional training in the election officer certification training program on the requirements under the Help America Vote Act of 2002 (HAVA). The secretary of state will include material in the procedures manual for implementing poll worker training and public display of voting systems. The secretary of state will continue to include election terminology in the procedures manual.

The secretary of state will further adopt voter education guidelines, which shall inform voters that if they fail to cast a vote for a candidate or issue, the voter will not be notified of the undervote.



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## Section 4

**Sec 254. (a) IN GENERAL - The State plan shall contain a description of each of the following:**

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

### *Recommended Language*

- The secretary of state will adopt voting systems guidelines and processes consistent with the Voting Systems Standards identified in section 301.
- Pursuant to Arizona Revised Statutes § 16-446, specifications for electronic voting systems shall provide for voting secrecy, prevention of over votes, prevent duplicate voting, and count accurately every vote cast.
- Pursuant to Arizona Revised Statutes § 16-442, the secretary of state shall appoint a three member committee to investigate and test electronic voting equipment and tabulating devices and shall recommend final adoption of approved systems. The committee appointed by the secretary of state will review standards set by the Standards Board and make recommendations to the secretary of state based on tabulating systems meeting the standards and standards set by the Federal Election Commission.
    - Part of Senate Bill 1145 (the Help America Vote Act of 2002 bill) sponsored by Senator Marilyn Jarrett addresses the secretary of state's three member committee and the specific requirement for certifying voting systems according to the federal voting system guidelines.
- The committee will also review and decertify systems that no longer meet the Voting Systems Standards. All approved electronic voting systems and tabulating devices will carry required ITA and NASED certification.

Pursuant to Arizona Revised Statutes § 16-452, the secretary of state defines what constitutes a vote and a voting system through the state procedures manual for voting processes and equipment.

- Pursuant to Arizona Revised Statutes § 16-449, the secretary of state shall perform logic and accuracy tests before state and federal elections and will have the automatic tabulating equipment and programs tested to ensure correct vote count cast for all offices.



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## Section 5

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

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

### *Recommended Language*

Senator Marilyn Jarrett and Representative John Huppenthal introduced Senate Bill 1075 and House Bill 2197 on behalf of the secretary of state (see attached copies of Bills.) The State Planning Committee supports the attached Senate Bill 1075 and House Bill 2197. The Bills establish the Elections Fund to implement the Help America Vote Act of 2002 (HAVA). The Secretary of state shall be the single signing authority for administration of said funds, in compliance with HAVA. There is no appropriation identified with this legislation. These bills simply create the mechanism to receive money.



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## Section 6

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**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.**

### *Recommended Language*

The state of Arizona's proposed budget appropriation, subject to full federal funding of the Help America Vote Act of 2002 (HAVA), includes the appropriations to fund programs to conform to the requirements of Title III. In order to fairly distribute the funds, the secretary of state will use the county statistics at the time of the 2002 General Election to determine:

- Population counts;
- Voter Registration counts;
- Precinct counts;
- Poll worker counts;
- Election official counts; and
- Maintenance of effort of the county.

**A. Voting Accessibility - "Arizona - Adios Chad"**

With requirement to replace voting systems in counties where punch card systems were used in the 2000 general election in order to receive federal funds under HAVA, Arizona has initiated the Arizona – Adios Chad Program to facilitate punch card buyout. There are still nine counties in the state that will require new voting systems. The secretary of state will lead a statewide procurement effort to acquire these systems. The scope of Adios Chad will be the replacement of these voting systems, in which the secretary of state will work with county election officials to ensure that all needs are met, including but not limited to:

- device acquisition;
- system maintenance;
- election preparation services; and
- election tabulation services.



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The secretary of state will act as contract administrator to maximize the purchasing power. The counties will own, operate, and work with the vendor to maintain the new voting systems and retain control of election services at the county level. Those counties requiring voting system replacement will notify the state of their intent to participate in Adios Chad. Eligibility to participate in complete voting system replacement and receive funds from the state election fund will require participating counties to:

- have operated punch card systems in the 2000 general election;
- still have punch card systems; and
- agree to use the state contract to purchase replacement systems.

Adios Chad will also facilitate the ability for counties not operating punch cards in the 2002 General Election to purchase addendum Direct Recording Electronic (DRE) devices or other voting system equipped for individuals with disabilities at each polling place to meet the accessibility requirements of Title III. Eligibility to participate in addendum voting system device acquisition and receive funds from the state election fund will require participating counties:

- do not require complete voting system replacement;
- require accessibility devices in polling places; and
- have presented to the secretary of state a plan outlining accessibility compliance.

For counties that require complete voting system replacement and do not purchase the voting system replacement from the coordinated state contract, the county will be able to purchase addendum devices from the state contract but will not be eligible for funds from the state election fund. For counties that require reimbursement for voting systems that meet the voting systems standards and were purchased for use in the 2002 general election, those counties will receive reimbursement equivalent to the dollar per voter established for a complete replacement county subject to the statewide contract, but will not exceed the contract established by the county for the acquisition of the devices and will be payable upon availability of Title III funds.
Subject to complete federal funding for HAVA, Adios Chad will be funded for the acquisition and additional maintenance of effort to operate replacement voting systems over the punch card systems to address punch card buyout at a rate of 28.50 percent of the state election fund (16.16 percent for acquisition and 12.34 percent for operational). Adios Chad will also be funded for the acquisition and additional maintenance of effort to operate voting systems to address system accessibility requirements of Title III at a rate of 27.64 percent of the state election fund (20.49 percent for acquisition and 7.15 percent for operational).

**B. Language Accessibility**
The State Plan does not appropriate any additional state election funds for language accessibility because language accessibility is already a responsibility, and included in the maintenance of efforts, of the secretary of state, county recorders and county election officials according to the



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Voting Rights Act of 1965. Devices will be evaluated for adaptability for alternative language accessibility.

**C. Physical Accessibility**
HAVA provides for use of monies to improve physical accessibility to polling places. Since polling places are private locations, with a few exceptions such as the county recorder's office, only a small portion of the state election fund will be appropriated to counties for physical accessibility improvement. The secretary of state may appropriate per precinct to reimburse counties to improve physical accessibility to polling locations. The request by a county to receive these funds from the state election fund is upon the conditional approval by the secretary of state:

- The county certifies to the secretary of state the costs incurred to improve physical accessibility after January 1, 2003;
- The secretary of state has sufficient funds in the state election fund; and
- Full funding from the federal government is appropriated to the state election fund.

Subject to complete federal funding of HAVA, funding for improving physical accessibility to polling places will receive no more than 0.58 percent of the state election fund.

**D. Provisional Balloting**
Provisional Balloting is already a responsibility, and included in the maintenance of effort, of the county election officials in conjunction with the county recorders as prescribed in law and the state election procedures manual. However, the requirement to build a free access system for the voter to determine the status of their provisional ballot is a new requirement. At this time, the secretary of state envisions the function of provisional ballot status to be built into the grievance phone system and statewide voter registration system due to the similarities in function and expectations. Monies to incorporate provisional balloting status have been included in those services, however, because many jurisdictions will be changing voting technology, there are deemed to be costs associated with provisional balloting above the current maintenance of effort for these jurisdictions to provide that service. Subject to complete federal funding of HAVA, provisional balloting reimbursement shall be funded at a rate of 0.45 percent of the state election fund. Allocation of funds to the county will be determined by the number of registered voters in the county.

**E. Voter Education**
Voter Education is already a responsibility, and included in the maintenance of effort, of the secretary of state, county recorders and county election officials as prescribed in the state election procedures manual. Because many jurisdictions will be changing voting technology, there are deemed to be costs associated with voter education above the current maintenance of effort for these jurisdictions. Subject to complete federal funding of HAVA, additional voter education will be funded at a rate of 3.65 percent of the state election fund. Allocation of funds to the county will be determined by the number of registered voters in the county.



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**F. Voter Registration Arizona (VRAZ)**
The secretary of state will implement a statewide voter registration system to comply with HAVA Title III. Working with county recorders and state election officials, the state will define functional requirements, roles and responsibilities of carrying out the functions of voter registration within the principles:

- secretary of state shall acquire, maintain and support the statewide system;
- counties will remain responsible for the operations of voter registration, including but not limited to: maintaining voter registration information, borders and boundaries of jurisdictions, poll resource management, local registration list information, and candidate registration for local contests;
- counties will remain responsible for furnishing lists, reports, and other printing requirements, however the state may enter into a statewide contract vehicle to maximize purchasing power;
- the official voter registration list will remain under the central control of the secretary of state;
- the counties will be responsible for voter registration operations, printing responsibilities, and common infrastructure requirements for supporting statewide system;
- the counties and the state will maintain the statewide system through maintenance of effort appropriations;
- the system will include provisional ballot status report functions to the voter.

Subject to complete federal funding of HAVA, the VRAZ program will be funded for acquisition and additional maintenance efforts for maintaining the VRAZ system at a rate of 24.71 percent of the state election fund (9.01 percent for acquisition and 15.7 percent for operational).

**G. Grievance System**
The secretary of state will implement a statewide grievance tracking system to comply with HAVA Title IV in order to qualify for Title III funding. Working with the county recorders, state election officials, state attorney general, the state will define functional requirements, roles and responsibilities of grievance procedures as defined in Section 9 of the State Plan. Subject to complete federal funding of HAVA, the Grievance System will be funded for acquisition and additional maintenance efforts for maintaining the system at a rate of 2.37 percent of the state election fund (1.12 percent for acquisition and 1.25 percent for operational).

**H. Administration costs**
To fulfill the requirements of Title III, the secretary of state will have to provide for the coordination, planning, operations and reporting on these programs. Subject to complete federal funding of HAVA, the secretary of state will use funds to administer the implementation of HAVA above the current maintenance effort for elections at a rate of 5.03 percent of the state election fund (.28 percent for initial administration costs and 4.75 percent for operational).



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**I. Poll Worker Training**
Poll worker training is already a responsibility, and included in the maintenance of effort by county election officials as prescribed by state law. Many jurisdictions will be changing voting technology, there will be costs associated with poll worker training above the current maintenance of effort for these jurisdictions. Subject to complete federal funding of HAVA, additional poll worker training will be funded at a rate of 3.49 percent of the state election fund.

**J. Election Official Training**
Election official training is already a responsibility, and included in the maintenance of effort, for the secretary of state as prescribed in Arizona Revised Statutes § 16-407. Due to changes in voting technology, there will be costs associated with election official training above the current maintenance of effort. Subject to complete federal funding of the Help America Vote Act of 2002, additional election official training will be funded at a rate of .17 percent of the state election fund.

**K. Telecommunications**
Implementation of VRAZ, the provisional ballot system and the statewide grievance tracking system requires the design, purchase, installation, and maintenance of a telecommunications infrastructure. Subject to complete federal funding of HAVA, this communication system and the costs associated with the system will be funded at a rate of 3.41 percent of the state election fund.



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## Section 7

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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.**

### *Recommended Language*

The secretary of state will not use the requirements money to maintain the expenditures previously incurred by the state. Funds will be appropriated in the 2004-2005 state of Arizona fiscal budget to carry out the Federal Election. The requirements payments will not be used to fund the following:

- Travel to conduct logic and accuracy tests
- Printing, labeling and postage of sample ballots
- Production and mailing of publicity pamphlets

The secretary of state and counties shall continue to provide maintenance of effort in providing election and voter education as required in the Help America Vote Act of 2002 (HAVA).



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## Section 8

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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.**

### *Recommended Language*

The secretary of state is responsible for ensuring the success in meeting each performance goal. Each county's voter registration and election office also have a substantial responsibility in meeting performance goals in that the counties will monitor performance measures and will report to the state on a biennial basis. The performance goals and measurement guidelines will be included in the state's election procedures manual.

The secretary of state and the counties will create a report to enhance the National Voter Registration Act of 1993 reporting requirements. The report will include specific data to disclose the successes and failures of their jurisdiction as it relates to the implementation of the Help America Vote Act of 2002 (HAVA). The report will be completed on a biennial basis, to be filed with the secretary of state no later than March 31 of each year following a general election. The secretary of state will compile the data in the reports and create a statewide report on the programs. The report will include an indication of whether each county met the performance goals.



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**Performance Goal 1: Elimination of punch card voting machines.**
Eliminating punch card voting machines require two things once the appropriate funds are available: 1) development by the secretary of state of a statewide Request for Proposal (RFP) to contract for replacement voting systems with successful award of contracts, and 2) requisition and use by counties of alternative voting systems under the contracts. The measure of success for both elements is the successful replacement of all punch card voting machines by the 2004 Federal election.

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| Performance measure 1.a | Number of counties using punch card voting machines in the 2004 Federal election |
| Timetable | January 1, 2003 to Federal election 2004 |
| Description of the criteria used to measure performance | Ten Arizona counties had qualifying precincts in the 2000 Federal election according to HAVA descriptions of replacement voting systems. |
| Process used to develop the criteria | Success of meeting the performance goal will be based upon the number of punch card voting systems still in use by the Federal election 2004. |
| Description of official to be held responsible for ensuring each performance goal is met | While each county board of supervisors is responsible for implementing the replacement voting system in their county, the secretary of state is leading the statewide effort for replacement and is therefore ultimately responsible for meeting this performance measure. |

**Performance Goal 2: Voting Accessibility**
Improving voting accessibility, as required by HAVA, which shall include accessibility for individuals with disabilities and alternative language accessibility as determined in Title III, Section 301 of HAVA, will be accomplished by the secretary of state and county election officials in two steps once the appropriate funds are available: 1) development by the secretary of state of a statewide Request for Proposal (RFP) to contract for addendum voting system devices with successful award of contracts, and 2) requisition and use by counties of addendum voting system devices under the contracts. The measure of success for both elements is the successful acquisition and deployment of accessible voting machines by the 2006 Federal election.

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| Performance measure 2.a | Compliance of counties using voting accessible compliant devices in the 2006 Federal election |
| Timetable | January 1, 2003 to Federal election 2006 |
| Description of the criteria used to measure performance | All 15 Arizona counties will require alternative voting accessibility devices in the 2006 Federal election according to HAVA. |
| Process used to develop the criteria | Success of meeting the performance goal will be based upon the number of counties using voting accessible devices weighted by the voting registration in the Federal election 2006. |
| Description of official to be held responsible for ensuring each performance goal is met | While each county election official is responsible for implementing the voting system in their county, the secretary of state is leading the statewide effort for acquisition and is therefore ultimately responsible for meeting this performance measure. |



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**Performance Goal 3: Centralized Statewide Voter Registration System**
The state will have a centralized statewide voter registration database operational by January 1, 2004. The development of the central statewide voter registration system will be known as Voter Registration Arizona (VRAZ) and extends the current secretary of state program from duplicate match registrations between counties to online voter registration and updates via online driver license renewal and address changes. Goal is to meet the requirements of HAVA, but also enhance the activities of the county recorders, county election officials and the experience of the voter.

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| Performance measure 3.a | Ratio of the counties with procedures in place to update the centralized voter registration database multiplied by the registration of the county over the total voter registration population of the state, using the scale:<br>0 – Not updating<br>25 – updating on weekly batch mode<br>80 – updating on daily batch mode<br>95 – updating upon new information (batch mode)<br>98 – updating real-time<br>100 – using VRAZ for all voter registration processing |
| Timetable | January 1, 2003 to Federal election, 2004 |
| Description of the criteria used to measure performance | Participation is measured on the scale of interaction, whereas a county that does not participate causes the score to be significantly low. Higher degrees of interaction result in higher scores on performance. |
| Process used to develop the criteria | Success of VRAZ will be dependent first upon the successful capture, migration and standardization of voter registration information into the central voter registration database as a percentage of the voting population affected by the implementation. |
| Description of official to be held responsible for ensuring each performance goal is met | The secretary of state is responsible for implementing the statewide voter registration system and coordinating the efforts of all 15 county recorders to meet this performance measure. |

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| Performance measure 3.b | Percentage of usage is the voting population of the counties using VRAZ over all voter registration counts, multiplied by the following scale:<br>0 – Not using VRAZ<br>50 – updating in batch mode<br>90 – updating real-time<br>100 – using VRAZ for all voter registration processing |
| Timetable | January 1, 2003 to January 1, 2006 |
| Description of the criteria used to measure performance | Participation is measured on the scale of migrating to replacement voter registration system VRAZ with minimal performance for degrees of interaction in place of using VRAZ. |
| Process used to develop the criteria | Success of VRAZ will be dependent ultimately upon the successful replacement of all voter registration systems in the state by a single, statewide, uniform user interface. |
| Description of official to be held responsible for ensuring each performance goal is met | The secretary of state is responsible for implementing the statewide voter registration system and coordinating the efforts of all 15 county recorders to meet this performance measure. |



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| Performance measure 3.c | Percentage of provisional ballots counted to voter registration. |
| Timetable | January 1, 2003 to January 1, 2006 |
| Description of the criteria used to measure performance | Number of provisional ballots cast and counted over the total voting population as reported by the county election official and collected in the statewide provisional ballot status system. |
| Process used to develop the criteria | Provisional ballots are primarily used when the voter is not present on the precinct roster. Success of VRAZ will be evident as the number of people with incorrect addresses in the voter registration information decreases, which should correspond to the number of provisional ballots that are actually counted (meaning the ballot was cast and the county verified that the voter is qualified and therefore the ballot is also counted). |
| Description of official to be held responsible for ensuring each performance goal is met | The secretary of state is responsible for implementing the statewide voter registration system and the statewide provisional ballot status system while coordinating the efforts of all fifteen county recorders and county election officials to meet this performance measure. |

**Performance Goal 4: Statewide Grievance System**

The secretary of state will implement a statewide grievance tracking system. Working with the county recorders, state election officials, state attorney general, the secretary of state will define functional requirements, roles and responsibilities of grievance procedures and build these procedures on the current voter information call center system. The system will allow for the centralized call center system to forward grievance calls to counties when appropriate. Measurement of successes of the statewide grievance system will be the availability and performance of the system, as well as, the experience for the voter.

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| Performance measure 4.a | With respect to the voter registration of each county, the following information will be collected to subjectively measure performance:<br>• Number of complaints received<br>• Number of complaints resolved<br>o Number of complaints resolved in 30 days or less<br>o Number complaints resolved in 60 days<br>o Number of complaints resolved in 90 days<br>• Number of complaints unresolved<br>• Description of reason complaint is left unresolved |
| Timetable | December 31, 2003 and biennially thereafter |
| Description of the criteria used to measure performance | The secretary of state will review the total number of complaints received and resolved. Success of the program may be determined by percentage of resolution of all complaints. |
| Process used to develop the criteria | A formal complaint process will be setup by the 2004 Federal election. Counties will report their success in transitioning to a statewide system to the secretary of state who will analyze them, add the state's success and report the state's overall status in transitioning to a statewide system. To measure performance, data will be provided covering the number of complaints received, the number of complaints resolved and the timeframe for resolution of complaints. |
| Description of official to be held responsible for ensuring each performance goal is met | The secretary of state is responsible for ensuring each performance goal is met, with the assistance and cooperation of each county recorder and county election official. |



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STATE OF ARIZONA

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| Performance measure 4.b | Percentage of usage is the voting population of the counties using grievance system for all voter registration processing multiplied by the scale of usage:<br>0 – Not using grievance system<br>100 – using grievance system for all grievance processing in a timely manner over the voting population of the state. |
| Timetable | December 31, 2003 and biennially thereafter |
| Description of the criteria used to measure performance | The secretary of state will review the percentage of availability to the percentage of compliance usage of the grievance system for determining success in implementation. |
| Process used to develop the criteria | Availability is the success factor in whether the implementation of the grievance system has been successful. |
| Description of official to be held responsible for ensuring each performance goal is met | The secretary of state is responsible for ensuring each performance goal is met, with the assistance and cooperation of each county recorder and county election official. |

**Performance Goal 5: Provisional Ballots**

There are many requirements for provisional balloting in HAVA that need measuring: provisional ballot uniform processing, verification, and status availability. While the secretary of state has already addressed ballots to be verified (to be re-named provisional ballots) in statute and in the state election procedures manual, the measurement of success is the compliance with those procedures. In addition, the secretary of state's centralized voter registration system will be designed to allow counties to verify provisional ballot status such that the voter may check the status of their provisional ballot. The goal is to have the uniform procedures in place, have each county in compliance and have the statewide system reporting back status of the provisional ballots.

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| Performance measure 5.a | With respect to the voter registration of each county, the following information will be collected to measure compliance performance:<br>• The number of provisional ballots in each precinct<br>• The number of voters in each precinct<br>• The number of provisional ballots that were verified and counted in each precinct<br>• The number of provisional ballots not counted in each precinct and the reason for not counting<br>• Whether each voter was notified of the status of their ballot<br>• Whether the uniform procedures were followed for determining whether a provisional ballot is counted or not counted |
| Timetable | December 31, 2004 and biennially thereafter |
| Description of the criteria used to measure performance | The data in the report will provide specific information relating to how many provisional ballots are voted and provide a means for verifying the procedures for establishing whether the ballots are counted.<br>HAVA requires uniform procedures for checking and verifying provisional ballots, the data in the report will provide specific information for the secretary of state to determine the success of implementation. |
| Process used to develop the criteria | The secretary of state will review the state election procedures manual and make any changes needed for provisional balloting. |



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| Description of official to be held responsible for ensuring each performance goal is met | County election officials are responsible for provisional ballot verification and compliance to procedures established by the state election procedures manual. Therefore the secretary of state is responsible for establishing the procedures, compliance requirements, reporting requirements and ultimately the success of this performance measure. |

**Performance Goal 6: Physical Accessibility**

One of the primary goals of HAVA is to improve the voting process. Improving physical accessibility is a performance goal that will change election cycle to election cycle, as most physical accessibility issues tend to be at the polling places which are acquired on private property. This goal is to monitor and uniformly address physical accessibility in the polling place.

The secretary of state will encourage private-public partnerships to enhance the voting participation of all voters with disabilities in coordination with the Help America Vote Foundation established by HAVA. Though activities are beyond the scope of this state plan, activities of such groups may be incorporated into performance reporting to compliment physical accessibility goals.

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| Performance measure 6.a | County will report the number of polling places that are 100 percent accessible pursuant to guidelines in the state election procedures manual and the voter registration for those polling places.<br>For those polling places that are not in compliance, list the voter registration count, reason for non-compliance, and the steps taken to bring polling place into compliance. |
| Timetable | January 1, 2004 to December 31, 2004, biennially thereafter. |
| Description of the criteria used to measure performance | Counties will complete an inspection of all polling places and determine the accessibility for each polling place. Accessibility requirements for polling places will be included in the state election procedures manual. |
| Process used to develop the criteria | Counties currently inspect all polling places for physical accessibility. Beginning with the 2004 federal election, the inspection results will be added to the report that counties file with the secretary of state certifying their election results and process. Success will be measured by compliance with the state election procedure manual sections on physical accessibility. Report on accessibility from counties to include data from on-site inspections of polling places and number of polling places that are accessible, and the voter registration that polling place serves. Counties will provide a report on the number of precincts that are physically accessible and describe measures taken to bring inaccessible polling places into compliance. |
| Description of official to be held responsible for ensuring each performance goal is met | County election officials are responsible for inspecting and reporting on physical accessibility, however the secretary of state is responsible for establishing the accessibility requirements, reporting requirements and ultimately the success of this performance measure. |

**Performance Goal 7: Alternative Language Accessibility**

The goal of providing useful and ample language accessibility has always been in compliance with the Voting Rights Act of 1965. Measuring the success of language accessibility is complicated. Those requiring alternative languages are represented in percentages based on census figures, which then are applied to voter participation for rating effective voter participation. Voter participation has variables that dictate turnout, such as: weather, uncontested races, and controversial ballot measures. The secretary of state views the entire election process, from voter registration to casting the ballot as a potential language accessibility issue to the voter, so success will be determined by the subjective inspection of many factors revolving around the voter.

The secretary of state will encourage private-public partnerships to enhance the voting participation of all voters with disabilities in coordination with the Help America Vote Foundation established by HAVA. Though activities are beyond the scope of this state plan, activities of such groups may be incorporated into performance reporting to compliment alternative language accessibility goals.



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| Performance measure 7.a | With respect to the voter registration of each county, the following information will be collected to subjectively measure performance:<br>• Voter turnout<br>• Alternative language accessibility for publicity pamphlets<br>o Number of languages required<br>o Number of languages provided<br>• Alternative language accessibility for ballots<br>o Number of languages required<br>o Number of languages provided<br>• Alternative language accessibility for voter registration forms<br>o Number of languages required<br>o Number of languages provided<br>• Alternative language accessibility for voter outreach materials<br>o Number of languages required<br>o Number of languages provided |
| Timetable | Federal election 2004 and biennially thereafter |
| Description of the criteria used to measure performance | Counties will provide the state a report of alternate language capabilities with reference to ballots, publicity pamphlets, voter registration forms and voter education materials. The report will include data on the alternative language accessibility provided for ballots, publicity pamphlets, voter registration forms and voter outreach. The data provided will allow the secretary of state to determine if the uniform procedures for providing alternative language accessibility has been successful |
| Process used to develop the criteria | The state and counties already provide language accessibility. By the 2004 Federal election, the state election procedures manual be reviewed by the secretary of state for any additional requirements to be included regarding language accessibility. |
| Description of official to be held responsible for ensuring each performance goal is met | The secretary of state is responsible for ensuring each performance goal is met, with the assistance and cooperation of each county recorder and county election official. |

**Performance Goal 8: Voter Education**

The goal of providing useful and ample voter education has always been in the mission statement of the secretary of state, county recorders, and the county election officials. Measuring the success of voter education, however, is more complicated than just measuring voter participation. Variables that dictate voter participation range from weather, uncontested races, and controversial ballot measures, causing highly subjective results. The secretary of state views the entire election process, from voter registration to casting the ballot, as an education of the voter, so success will be determined by the subjective inspection of many factors revolving around the voter.



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| Performance measure 8.a | With respect to the voter registration of each county, the following information will be collected to measure performance:<br>• Voter turnout<br>• The number of early ballots requested<br>• The number of early ballots voted<br>• The number of provisional ballots voted<br>• Number of public service announcements<br>• Number of seminars providing voter education<br>• Number of locations where voting equipment is on public display<br>• Compliance with the state election procedures manual for voter information and voter outreach<br>• Length of time voting systems are on public display<br>• Number of voter education and voter outreach initiatives, including:<br>o Description<br>o Estimated costs<br>o Participation<br>• A comparison of voter turnout in a federal election with the voter turnout in the immediately preceding four-year cycle |
| Timetable | January 1, 2004 and biennially thereafter |
| Description of the criteria used to measure performance | The information will summarize the voter outreach and voter education methods employed by each county and state. |
| Process used to develop the criteria | The state and counties already provide voter education. By the 2004 Federal election, additional steps will be taken to ensure voter knowledge of changes in voter registration and voting caused by this act. These steps will be incorporated into the state election procedures manual. The counties will include details of their efforts in the report they file with the secretary of state certifying their election results and process. Success will be county compliance with the state election procedures manual sections on voter education. |
| Description of official to be held responsible for ensuring each performance goal is met | The secretary of state and the county recorders and election officials are all responsible for ensuring the success of voter education; however, the secretary of state is responsible for the success of all statewide coordinated efforts for voter education. |

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| Performance measure 8.b | With respect to the responsibilities for voter education set forth in the state election procedures manual, the following information will be collected from the grievance system to measure performance:<br>• Number of complaints<br>• Number of complaints dismissed<br>• Nature of complaints dismissed<br>• Number of complaints resulting in action<br>• Nature of complaints resulting in action<br>• Number of complaints unresolved<br>• Nature of complaints unresolved |
| Timetable | January 1, 2004 and biennially thereafter |



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| Description of the criteria used to measure performance | The information will provide a measurement of performance regarding voter outreach and voter education with respect to county and state. |
| Process used to develop the criteria | The state and counties already provide voter education. By the 2004 Federal election, the grievance system will be in place and provide feedback to the voter outreach and voter education efforts of the counties and state. These results will be reviewed for additional requirements to be incorporated into the state election procedures manual. |
| Description of official to be held responsible for ensuring each performance goal is met | The secretary of state and the county recorders and election officials are all responsible for ensuring the success of voter education; however, the secretary of state is responsible for the success of the state elections procedures manual for providing adequate guidance for uniform voter outreach and voter education. |

**Performance Goal 9: Poll worker training.**
Ample poll worker training results in positive experiences and smooth elections for voters and the state of Arizona. The performance goal to measure poll working training in respect to HAVA, as well as realization of existing training efforts, will be dependent upon the compliance of poll worker training within the counties.

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| Performance measure 9.a | With respect to the voter registration of each county, the following information will be collected to measure poll worker training performance:<br>• The number of board workers trained in each county<br>• For each polling place, the description of the types of board workers trained<br>o Number of Inspectors, Marshals, Judges and Clerks trained in each precinct<br>o Number of "premium" board workers pursuant to A. R. S. § 16-532 (D) and (E) trained in each precinct<br>• The number of provisional ballots voted |
| Timetable | January 1, 2003 to Federal election 2004, biennially thereafter. |
| Description of the criteria used to measure performance | Analyzing the number of board workers trained in each county and comparing the data to the number of provisional ballots will allow the secretary of state to determine whether the uniform board worker training implemented is successful. If it is determined that the uniform board worker training is not successful, new training methods will be incorporated in the state election procedures manual before the next election cycle. |
| Process used to develop the criteria | The state and counties already provide poll worker training. By the 2004 Federal election, additional steps will be taken to ensure poll worker knowledge of changes in voter registration and voting under HAVA. Uniform poll worker training criteria will be incorporated into the state election procedures manual. The counties will include details of their efforts in the report they file with the secretary of state certifying their election results and process. Success is dependent upon the training with respect to the voter registration serviced at the polls. |
| Description of official to be held responsible for ensuring each performance goal is met | County election officials are responsible for poll worker training and reporting, however the secretary of state is responsible for establishing the guidelines, requirements for polling places, reporting requirements and ultimately the success of this performance measure. |

**Performance Goal 10: Election Official Training**
Ample election official training results in positive experiences and smooth elections for voters and the state of Arizona. The performance goal to measure election official training in respect to HAVA, as well as realization of existing certification efforts, will be dependent upon the ratio of compliance of trained election officials to voter registration within the counties.



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| Performance measure 10.a | With respect to the voter registration of each county, the following information will be collected to measure election official training performance:<br>• The number of people trained in each recorders / voter registration office<br>o The total number of employees in the recorders / voter registration office<br>• The number of people trained in each county election office<br>o The total number of employees in the election office<br>• The total number of people in each county that are certified for the first time<br>• The total number of people in each county that have completed re-certification requirements |
| Timetable | December 31, 2003 and biennially thereafter |
| Description of the criteria used to measure performance | Pursuant to Arizona Revised Statutes, the secretary of state completes a report on or before December 31 of each year of a general election detailing the achievements and problems of the previous two-year period and specifies the expected education and training for the following two-year period. The report that is completed and filed with the president of the senate and the speaker of the house of representatives will include details measuring the success of the program as it relates to instruction covered under HAVA. |
| Process used to develop the criteria | The state and counties already provide election official training. By the 2004 Federal election, additional steps will be taken to ensure election official knowledge of changes in voter registration and voting as it relates to HAVA. Essentially, presence of certified election officials as a ratio to voter registration gives us a baseline for compliance. |
| Description of official to be held responsible for ensuring each performance goal is met | The secretary of state is responsible for election official training and reporting, as well as the responsibility of establishing the guidelines, requirements for certification, reporting requirements and ultimately the success of this performance measure. |



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## Section 9

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

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

### *Recommended Language*

The complaint system will be an extension of the secretary of state's office general election information line and implementation will be subject to funding.

The secretary of state will develop a unified statewide complaint system for the tracking, management and conduction of hearings to address complaints revolving around election issues. The unified statewide system will provide secure online access and phone call center access for complaint processing to the secretary of state and their designee, county recorders and county election officials. The system will also provide secure online review of the complaint by the submitter. The nature of the complaints contained within the system will be treated as suspected violations of the Help America Vote Act of 2002 (HAVA), Title III and therefore pertain to the processes of voter registration, voting and election reporting. Since multiple jurisdictions from the county, state and possibly localities will be working in coordination to resolve the complaints, the Administrative Procedure Act does not apply to this system.

When an issue arises on the general information line that is deemed a voting rights violation by the secretary of state or their designee addressed in Title III of HAVA and is requested further attention by the caller, the caller will be given a tracking number and directed to complete a complaints form, notarize the form, and send it back via facsimile and postal services. Upon receiving the formal complaint, the secretary of state's office shall assign the complaint tracking number and begin the resolution process which will include, but is not limited to:

- initial contact with the complainant indicating the complaint has been received and current status;
- if the complaint is transmitted via facsimile, it will be logged until the original notarized paper complaint is received. In the case the paper is not received, the secretary of state may postpone action until such time the original notarized paper arrives;
- the secretary of state, or their designee, will decide the resolution of the complaint. They may use mail, email, facsimile or other messaging service to correspond such information with the complainant;



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- in the event the complaint is of similar nature with other pending complaints, the secretary of state may consolidate complaints into a new tracking number and notify the complainants of the changed status;
- in the event that a hearing is requested, the secretary of state or their designees, may use conferencing, tele-conferencing and/or other electronic forums to address the issue with the parties involved. The complainant must agree to one of these options;
- upon final disposition of the complaint, the secretary of state will report the complaint, findings and disposition in writing to the complainant;
- If a remedy is required to address the final disposition of the complaint, the secretary of state, or their designee, shall notify the complainant at such time the remedy is applied.

All complaints shall be addressed by the secretary of state or their designee, within 90 days of receiving the complaint unless the secretary of state determines a longer period is required for resolution and the complainant agrees to the extension.

If the complaint is not resolved within the 90 days after reception of the complaint, or extension of the expiration as agreed upon with the complainant, the complainant may seek alternative dispute resolution.

Upon request of alternative dispute resolution, the secretary of state will refer the complaint to the attorney general's office, and/or the Department of Justice, depending on the nature of the violation or complaint for resolution.

The unified complaint system shall contain for each formal complaint, at minimum:

- name and address of the complainant;
- date and nature of complaint;
- relevant records and minutes; and
- disposition of the complaint

A record of the complaint will exist for a minimum of one federal election following the current federal election cycle.



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## Section 10

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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.**

### *Recommended Language*

Pursuant to the Act and in anticipation of receiving full funding for Title I, money will be distributed to provide for punch card replacement for each county that was using a punch card voting system in the 2000 general election. Section 6 details how the federal funds will be spent to meet the requirements of Section 301 of the Help America Vote Act of 2002 (HAVA).

Arizona has initiated the "Arizona – Adios Chad" Program to facilitate punch card buyout. There are nine counties in the state that will require new voting systems. The secretary of state will lead a statewide procurement effort to acquire these systems. The scope of Adios Chad will be the replacement of voting systems, in which the secretary of state will work with county election officials to ensure that all needs are met, including but not limited to:

- device acquisition;
- system maintenance;
- election preparation services; and
- election tabulation services.

The secretary of state will act as contract administrator to maximize the purchasing power. The counties will own, operate, and work with the vendor to maintain the new voting systems and retain control of election services at the county level.

The secretary of state will implement a statewide voter registration system to comply with the HAVA Title III. Working with the county recorders and state election officials, the state will define functional requirements, and roles and responsibilities of carrying out the functions of voter registration. The system will serve as the single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level. This is a priority of the state's activities that is second only to the removal of all punch card systems. Should any Title I funds remain after the replacement of punch card systems, those funds will be allocated as described in the section 6.

The committee recommends that any remaining funds will be used for the other programs described in Title I section 101 (b) (1) in accordance with the priorities established by this committee. Section 6 of the State Plan details how the funds will be allocated.



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## Section 11

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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).**

***Recommended Language***

- Pursuant to Arizona Revised Statutes § 16-452 the secretary of state "...prescribes rules to achieve and maintain the maximum degree of correctness, impartiality, uniformity and efficiency on the procedures for early voting and voting, and of producing, distributing, collecting, counting tabulating and storing ballots." Many of the provisions of the Help America Vote Act of 2002 (HAVA) are addressed by the statutes and secretary of state procedures.

- The secretary of state shall conduct annual meetings with county recorders and elections officials to review standards and assess the goals and objectives of the HAVA State Plan.

- If the secretary of state determines the State Plan requires material change, the secretary of state shall:
  1. propose the recommended changes within 60 days of the annual meeting;
  2. allow for public comment not less than 30 days; and
  3. submit to the Department of Justice for pre-clearance;
  4. publish in the federal register upon submitting the revised plan to the Election Assistance Commission.



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## Section 12

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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.**

This State Plan is the Preliminary State Plan required under the Help America Vote Act of 2002 (HAVA). This section will be updated in the next fiscal year, reflecting changes to the State Plan, as well as a summary of the 2003 successes.



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## Section 13

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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.**

### *Recommended Language*

Pursuant to Section 255, on January 31, 2003, the chief state election official, Janice K. Brewer, Arizona Secretary of State, appointed a citizen advisory committee to help in the development of the State Plan (see press release page 4). The citizen advisory committee was named the Arizona State Planning Committee. Secretary of State Jan Brewer invited Governor Janet Napolitano to select two members for the committee, the President of the Arizona State Senate, Honorable Ken Bennett and Speaker of the House, Jake Flake, each also nominated one member. Pursuant to Section 255 of the Help America Vote Act of 2002 (HAVA), the committee included the chief state election official, the election officials from the two most populous jurisdictions, other local election officials, stake holders and citizens. Secretary Brewer made committee appointments which included a cross-section of people from throughout Arizona, including representation of groups of individuals with disabilities and minority representation.

On February 5, 2003, the secretary of state established the website at www.hava.sos.state.az.us as an open forum for public review and comment of the State Planning Committee meeting agendas, minutes of meetings, and all back-up material for the State Plan. This information was available for public inspection at all times during the duration of time the public meetings were held.

The State Planning Committee held open, public meetings in compliance with the *Open Meeting Laws of the State of Arizona* on February 7, 14, 21, and 28, March 7 and 14, 2003. Following the March 14, 2003 State Planning Committee Meeting, the "preliminary" State Plan will be posted on the secretary of state's website and made available for public review and comment for a period of 30 days. The secretary of state will announce through a statewide press release after March 14, 2003 the locations where the preliminary State Plan is available for public review and comment. Various media outlets will be requested to publish the preliminary State Plan and/or announce its availability as a public service announcement.



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Arizona State Planning Committee Membership list:

| MEMBER NAME | OFFICE / REPRESENTING |
|---|---|
| Pam Allan | AZ Bridge to Independent Living |
| Hon. Kerry Ballard | Mayor of Snowflake |
| Hon. Janice K. Brewer | Arizona Secretary of State |
| Chuck Coughlin | AZ Highground |
| Nicole Davis | Deputy Counsel to the Governor |
| Barry Dill | Governor's nomination |
| Hon. Steve M. Gallardo | House of Representatives, District 13 |
| Calvin C. Goode | Former Phoenix City Councilman |
| Barry Hess | Libertarian Party |
| Gilberto Hoyos | Pinal County Election Director |
| Hon. Marilyn Jarrett | State Senator, District 19 |
| Hon. Wendy John | Graham County Recorder |
| Kenton D. Jones | Prescott – Private Citizen |
| Mary Jo Kief | State Election Director |
| Hon. Joan McCall | Mohave County Recorder |
| Brad R. Nelson | Pima County Election Director |
| Hon. Candace Owens | Coconino County Recorder |
| Hon. Clinton Pattea | President, Fort McDowell, Yavapai Nation |
| Hon. Helen Purcell | Maricopa County Recorder |
| Tom Schelling | Cochise County Election Officer |
| Ruth M. Swenson | Arizona President, National Federation of the Blind |
| Mike Totherow | Chief Information Officer, Secretary of State |
| Phil Townsend | Yuma – Private Citizen |
| Kevin P. Tyne | Assistant Secretary of State |
| Hon. Patricia Wall | LaPaz County Recorder |



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# Arkansas Secretary of State

## Implementation Plan for the Help America Vote Act (HAVA)

**Charlie Daniels**
**Arkansas Secretary of State**
**Room 256 State Capitol**
**Little Rock, AR 72201**
**501-682-1010**

### Introduction

As Secretary of State, it is my pleasure to present Arkansas's draft plan for implementation of the Help America Vote Act. As required by Public Law 107-252, this document represents a long-range plan for implementation of various election improvements in the state.

The Help America Vote Act represents a significant shift in the administration of elections to the state level and mandates improvements in almost every area of the election process—from voter registration to equipment used at the polls.

Arkansas considers the mandates of HAVA an opportunity to build on a successful system of elections. Much thought was given early in the planning process to involve local election officials and other members of the election community in strategic direction as well as implementation of HAVA mandates. As a result of many months of communication and planning, we have arrived at a plan that we feel is in the best interest of Arkansas's voting public.

The Arkansas General Assembly passed Acts 994 and 995 to put the state in compliance with the provisions of Public Law 107-252. A committee of stakeholders met to discuss various elements of these acts and the broad requirements of HAVA. During the planning process, the committee discussed various options available to meet HAVA mandates contingent on the level of federal funding available over the next three years. As a result, this plan envisions either an ultimate, comprehensive implementation of HAVA's full intent, or a more conservative implementation approach to meet basic mandated guidelines should funding fail to meet authorized levels.

As chief election official, it is my pledge to work with the local election officials and other state election officials to make HAVA's goals a reality in this state. The State Board of Election Commissioners, county election commissions, county clerks, and county election coordinators will each have a role in implementing various provisions of this plan. The state will provide communication, education, and leadership, as well as support, to each of these entities to ensure full compliance with HAVA in Arkansas.

The State of Arkansas looks forward to this exciting and historic opportunity to affect significant improvements to the elections process.

Charlie Daniels
Arkansas Secretary of State

## Use of Requirements Payments

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

Title III contains the following requirements:

*I. VOTING SYSTEMS STANDARDS*

**General Requirements**

HAVA requires the states to have in place by January 1, 2006, voting systems that meet the standards set out in Section 302 of the Act. Voting systems include punch card equipment, lever voting machines, optical scan machines, direct read electronic voting devices (DRE's) and paper ballots counted by hand. HAVA does not ban any type of voting system presently in use, but the standards set out in Section 302 are most easily met by DRE's.

HAVA requires that any voting system in use after January 1, 2006 must:

1. Permit the voter to verify the vote before the ballot is cast and counted;
2. Provide the voter with an opportunity to change the ballot or correct an error, including the opportunity for a replacement ballot in paper ballot counties;
3. Privately notify the voter of an overvote, the effect of an overvote, and an opportunity to correct the overvote.

**Audit Requirements**

In addition, each voting system must produce a permanent paper record for audit purposes that is capable of manual audit, and the voting system must allow the voter to change a vote before the paper record is finalized.

**Accessibility Requirements**

The state must also ensure that its voting systems are accessible for individuals with disabilities "in a manner that provides the same opportunity for access and participation ... as for other voters." Section 301(a)(3)(A).

Some counties may be required to offer Spanish language accessibility.

**Other Requirements**

Finally, voting equipment used in the state must comply with the error rate standards set by the Federal Election Commission that were in effect on October 29, 2002. The state must also have a uniform and nondiscriminatory definition for what constitutes a vote.

***How the State will use the requirements payments to meet the requirements of Title III relating to voting systems standards.***

The Title III requirements are most easily and efficiently met by direct read electronic (DRE) voting machines. Only five counties currently use DRE's in Arkansas, and whether the machines in some of those counties meet the requirements of Title III has not yet been determined. An additional 46 counties in Arkansas use optical scan ballots that are tabulated in a central location. Three counties use optical scan ballots that are tabulated at the polling sites, and 8 counties use paper ballots that are counted by hand. The 13 counties that use lever machines or punch card systems will have those systems replaced with DRE's using Title I funds.

Arkansas's preference with regard to compliance with Title III voting system requirements is to use requirements payments, local funds (if necessary) and state funds (if possible) to purchase uniform, Title III compliant voting systems for each county in the state. Preferably, these voting systems would be DRE's of the same brand and model throughout the state.

There is a great deal of uncertainty, though as to the availability of sufficient federal, state and local funds to meet this goal. Also, it may require legislation to mandate the use of uniform systems. Alternatively, then, the State may use requirements payments to purchase at least one DRE for each polling site in those counties to meet accessibility requirements. If the necessary funding or legislation is not in place to implement a uniform electronic voting system, the State may use requirements payments to establish a voter education program for those counties with paper ballots counted by hand and central tabulation equipment.

*II. PROVISIONAL VOTING*

HAVA requires that when a voter goes to a polling place and the voter's name does not appear on the precinct list, the following procedure is required:

1. The poll worker notifies the voter that the voter may cast a provisional ballot;
2. The voter may cast a provisional ballot if the voter executes a written affirmation before the poll worker that the voter is a registered voter at that place and is eligible to vote in that election;

3. The poll worker provides written information to the voter that the voter can find out whether the vote was counted by accessing a toll-free telephone number, receiving a postage-paid mailer, or internet website and, if not counted, the reason the availability of which information is limited to the voter;
4. The provisional ballot and the affirmation are then transmitted to the election commission for determination of the eligibility of the voter;
5. The election commission makes its determination and transmits information regarding the provisional ballot to The Secretary of State's office.

***How the State will use the requirements payments to meet the requirements of Title III relating to provisional voting.***

Act 994 of 2003 implements these requirements. Arkansas will use requirements payments to provide information and training to local election officials regarding this change and to establish a confidential free access system using either a toll-free telephone number, the internet, postage-paid mailer or all of the above, depending on funds available.

*III. VOTING INFORMATION*

On Election Day, the following information must be posted at each polling site:

1. Sample ballots for that polling place;
2. The date and hours the polls will be open;
3. Instructions on how to vote, including how to cast a provisional ballot;
4. Instructions for first time voters who registered by mail;
5. General information on voting rights under applicable federal and state law, including information about provisional ballots and how to contact an appropriate official if a voters rights are alleged to have been violated;
6. General information on voter fraud laws.

***How the State will use the requirements payments to meet the requirements of Title III relating to voting information.***

Act 995 of 2003 provides for implementation of this requirement. The State will provide information and training to voters and election officials regarding the information to be posted at the polling sites. The State may provide posters with the information required in items 5 and 6 above, depending upon the availability of funds.

*IV. STATEWIDE VOTER REGISTRATION LIST*

The Secretary of State currently maintains a statewide voter registration list. HAVA requires certain characteristics and procedures regarding such a list that will result in substantial changes in the way the state maintains and operates the list.

Arkansas is ahead of many states, in that all the counties utilize the same voter registration software. However, the process by which the sharing of this information via the Internet between the counties, The Secretary of State's office and the Department of Motor Vehicles lacks many of the features required under HAVA.

Currently, The Secretary of State's office retains a copy of the voter registration database for every county. The original voter registration database is housed and maintained at each individual county. The Secretary of State's office retrieves data from the counties and updates it's file each weekend. The current system of file transfers is achieved through a 56kbs phone line connection. This system is extremely slow and requires constant maintenance and supervision. Manual intervention is often necessary to intervene in the electronic transmission of data to achieve a successful transfer of this information. The Secretary of State's Office utilizes 16 phone lines for connections with the counties and of course, the phone bills are quite costly for this process.

The Department of Motor Vehicles (DMV) transfers a file to Department if Information Services (DIS) containing voter registrations each evening. The Secretary of State's office then retrieves the file from DIS, sorts it by county and transfers the information to the appropriate counties. This process is also very difficult to manage and maintain the integrity of the transmissions due to network connectivity problems. In order to ensure complete reception of voter registrations via this method, the use of a manual record is used as a backup system. This requires the DMV to send The Secretary of State's office a daily log of registrations. The log is mailed to each county on a weekly basis.

HAVA requires that The Secretary of State's office "implement, in a uniform and nondiscriminatory manner, a *single*, uniform, official, centralized, interactive, computerized statewide voter registration list, defined, maintained and administered *at the State level*." (emphasis supplied) The list must contain the name of every registered voter and a "unique identifier" for each voter. In effect, every voter will have a unique number.

Presumably, for new voters, that "unique identifier" will be either their drivers' license number or the last four digits of their social security number (or, if they have neither of those, a random number assigned by the state). This is because each new voter will be required to list their driver's license number or, if they do not have a driver's license, the last four digits of their social security number on their application for registration. If new registrants have neither, a number will be assigned.

HAVA stresses that:

1. The statewide list "shall serve as the *single system* for storing and managing the *official* list of registered voters throughout the state." (emphasis supplied);
2. The statewide list must be coordinated with other agency databases within the state;
3. *Any* election official must have immediate electronic access to the list;
4. Registration information obtained by local officials must be electronically entered into the computerized list on an expedited basis, and The Secretary of State's office must provide support for this.

Under these new requirements, the Voter Registration List will now be centralized at The Secretary of State's office. The counties will continue to function in the same capacity; however, they will be logged into the Internet and have access to one large database containing all 75 counties, rather than being able to only view their own county's data. This new configuration will provide a faster and more dependable connection to the new centralized database. In addition, it will allow the Arkansas County Clerks access to the entire statewide file to check for duplicate registrants. The new system will allow access to the system using any computer, provided the user has an account and a password.

HAVA requires that list maintenance – the addition and removal of names from the list - must be performed in accordance with existing federal laws, and such procedures must ensure the names of all eligible voters appear on the list; only voters that are not eligible to vote are removed from the list. Duplicate names are also eliminated from the list. Information regarding deceased registrants will be obtained from the Department of Health and an additional connection with the Arkansas Crime Information Center will also be utilized to obtain information regarding persons convicted of a felony from which that person has not been pardoned or discharged. HAVA also requires that The Secretary of State's office and county clerks provide security for the system.

Additionally, The Secretary of State's office must enter into an agreement with the Department of Motor Vehicles (DMV) to match information in the statewide list to the DMV information. The transmission of data with the new system will be transferred from the DMV to The Secretary of State's office and the counties will then have the ability to search and download their respective county's DMV transmission whenever they prefer. This should alleviate many of the problems the Secretary of State's office has incurred in having to "drop" the information into the county file. It further requires that the DMV enter into an agreement with the Social Security Administration to help with the match of those numbers.

***How the State will use the requirements payments to meet the requirements of Title III relating to the statewide voter registration list.***

Act 995 of 2003 implements the requirements of the new uniform, centralized statewide voter registration system as defined by HAVA. The State will both extend and revise the current software and hardware contract agreements to implement these changes, or enter into a new agreement with a voter registration system provider to affect the necessary changes noted above.

*V. FIRST TIME VOTERS WHO REGISTER BY MAIL*

A large percentage of Arkansas voters register to vote by mail. HAVA requires an individual who is voting in person at a polling site for the first time after registering by mail to present a photo id or other, specified identification. If a first-time voter casts an absentee ballot by mail for the first time, the voter must include a copy of such identification with the absentee ballot application. A voter who fails to provide such identification may vote a provisional ballot.

A voter is exempt from the identification requirement stated above if the voter provided a copy of the identification with the voter's registration application, or if the voter listed on the application the voter's drivers license number or last four digits of the voter's Social Security number.

County Clerks must be prepared to accept and retain copies of the voter's identification papers or applicable numbers beginning January 1, 2003.

***How the State will use the requirements payments to meet the requirements of Title III relating to first time voters who register by mail.***

Acts 994 and 995 of 2003 implement this HAVA requirement. Arkansas will use requirements payments to provide information and training to voters and election officials regarding this requirement.

*VI. VOTER REGISTRATION FORM*

HAVA requires that by January 1, 2004, the voter registration form for those voters who register by mail shall include the following:

1. The question, "Are you a citizen of the United States of America?";
2. The question, "Will you be 18 years of age on or before Election Day?";

3. A statement that if the individual is submitting the form by mail and is registering for the first time, the identification requirements set out above must be submitted with the application in order to avoid additional identification requirements upon voting the first time.

HAVA also requires the county clerk to notify the applicant if any of this information is omitted and allow the applicant time to complete the application in a timely manner.

***How the State will use the requirements payments to meet the requirements of Title III relating to the voter registration form.***

Act 995 of 2003 implements this HAVA requirement. Arkansas will use requirements payments to provide information and training to voters and election officials regarding this requirement, and, if funds are available, to print new forms.

## Distribution & Monitoring of Requirements Payments

*(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;*

*(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.*

If sufficient funds are appropriated to allow the purchase of a uniform voting system (DRE), and if legislation is enacted to require the counties to use such a system, the State will use its purchasing power to enter into a contract with a vendor (or vendors) to purchase the equipment necessary to implement a system. The counties will then purchase the equipment through the State contract with requirement payment funds and any state and/or local funds available.

If it is determined that sufficient funds are not available, or if there is no legislation passed by the Arkansas General Assembly to implement a uniform system, then the State, through The Secretary of State's office, will implement a program to purchase other types of voting equipment, or provide voter education, as described in paragraph 1 so as to comply with the requirements of Title III.

The counties' access to requirements payments funding would be by grant application based on one, some or all of the following factors:

1. The amount of federal funds available;
2. The amount of state funds appropriated for such purchases
3. The number of ballot styles;
4. The number of registered voters;
5. Voter turnout;
6. The number of polling places;
7. Other demographic and geographic factors.

Other factors may also be considered. The exact formula for distribution cannot be known until the total amount of federal funding is determined. The Secretary of State will compile data and present a recommended funding formula to the committee as soon as possible after the relevant facts are known.

If sufficient funds are available, The Secretary of State's office may also implement a grant program to assist the counties in election official training, voter education, election day posting and other activities related to Title III compliance. If any funds are available after compliance is assured, The Secretary of State's office will invest in Geographical

Information Systems (GIS) programs and other programs to improve the administration of elections in the various counties.

Requirements payments are paid into the election fund and the funds therein are appropriated to The Secretary of State's office. The Division of Legislative Audit (**www.legaudit.state.ar.us**) audits the expenditure of funds appropriated by the State and will audit expenditures made by the counties with respect to any grants to the counties of requirement payments. The Secretary of State's office will also employ four election coordinators whose responsibilities will include the monitoring of these expenditures. Each election coordinator will monitor and assist the counties of each of the state's four congressional districts. The Secretary of State's office will make periodic reports to this committee regarding local expenditures of requirements payments.

The accounting software utilized by The Secretary of State's office allows for tracking and monitoring of program expenses incurred by the State under HAVA. The Secretary of State's office shall provide these accounting records for audit purposes.

## Voter Education and Training

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

The Secretary of State's Office, in the past, has published several voter education guides and produced a video/symposium called Talkback...Vote. Currently, all voter registration materials are being updated and new voter education and outreach programs are being developed. These new programs are targeted toward the following stakeholders:

A. All Arkansas citizens;
B. Arkansas citizens who are registered to vote;
C. Arkansas citizens who are or will become eligible to vote;
D. First time voters.

The Secretary of State's office is designing bilingual informational materials to be utilized in voting seminars, by public and private organizations, in high school and college symposiums and that will also be available on The Secretary of State's website. This information will include the following:

A. Voting Instructions (bilingual)
   1) How to register to vote;
   2) How to vote;
   3) How to use the new voting equipment;
   4) How a provisional ballot may be cast and confirmed;
   5) Polling site locations;
   6) Voting Rights.
B. Interactive Website
   1) Polling Site lookup;
   2) Registration verification;
   3) Election Official and Poll Worker Training via PowerPoint presentation.
C. Public Service Announcements.
D. Participation in the National Student/Parent Mock Election Program. Arkansas has participated in this event since 1996 and will continue to enhance this program. This event is scheduled for October 2004.

The Secretary of State's office will update its publications and programs to provide information relevant to the requirements of HAVA.

The State Board of Election Commissioners office provides election and poll worker training as mandated in Arkansas Code Annotated 7-4-107(b)(1)(b). Each county election commission must designate one poll worker per polling site who has attended training coordinated by the State Board. *See Arkansas Code Annotated 7-4-109(f)(1).*

Election official training programs will be enhanced by the addition of the four election coordinators and other personnel in the Secretary of State's office who will assist the State Board in broadening its educational program and increase the use of all forms of media to educate and inform the citizens of Arkansas.

## Voting System Requirements

*E. How the State will adopt voting system guidelines and processes, which are consistent with the requirements of section 301.*

Title III compliant DRE's will be purchased and deployed to each polling site to ensure that there is at least one accessible voting system at each poll. Additionally, The Secretary of State's office will develop a formula to ensure that requirements payment funds will be made available only for the purchase and implementation of election systems that meet Title III requirements. Guidelines will be developed by the State Board of Election Commissioners office in the form of rules and regulations to ensure voting system guidelines and processes that are consistent with the requirements of section 301. Any legislation introduced regarding the implementation of voting systems will include the requirement that the requirements of section 301 be followed. The Secretary of State and State Board of Election Commissioners offices will continue to survey the counties and review polling sites to ensure access. Any legislation that mandates a uniform statewide voting system should define that system as consistent with the voting system guidelines required by HAVA.

The State Board of Election Commissioners office has established procedures for what constitutes a vote on each of the systems currently employed in Arkansas, and will continue to do so for any future system introduced.

## Establishment of Election Fund

Section 254

***(a)(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.***

The Arkansas Secretary of State's office has established an election fund that will track all of the accounting activity pertaining to Public Law 107-252, in accordance with Title IX requirements. The accounting software utilized for budgetary management allows The Secretary of State's office to keep records with respect to the payments and expenditures related to HAVA that are consistent with sound accounting principles. Cost centers within the established fund allow the capability to track accounting activity within specific categories of the election fund, including the production of records which fully disclose the amount and disposition by the recipient of the HAVA funds, the total or partial costs of related projects, and such other records as will facilitate an effective audit.

The Secretary of State's office will manage the election fund and provide accessibility to records for auditing purposes. Both federal and state monies will be deposited into the election fund to satisfy the requirements of Public Law 107-252 with regard to expenditures of federal monies and the 5% state match on those expenses. Expenditures made from any cost center within the election fund shall be used solely for the purposes of implementing the Help America Vote Act. No expenditures may be made without an appropriation, which the state has secured contingent upon receipt of grants and payments specified under the act.

## Budget

*(6) The State's proposed budget for activities under this part, based on the State's best estimates of the cost 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;*
- *c. The portion of the requirements payment, which will be used to carry out other activities.*

The Help America Vote Act initially authorized $3.8 billion dollars for implementation of election improvement mandates. The final appropriation for fiscal year 2003 stood at $667 million below authorization levels. The President's budget for fiscal year 2004 also represents half of the $1 billion originally authorized. Arkansas, like other states, stands to receive just over half of the Title III requirements payments estimated for 2003.

Given the uncertainty of the budget situation and forthcoming requirements payments over the next three years, the proposed budget for HAVA depends largely on variable factors. For example, the state's goal is to pursue a uniform, electronic voting system for all 75 counties. However, should appropriations continue to fall short of levels authorized under the act, the state may choose to provide a voter education program in lieu of purchasing electronic equipment.

The table below lists funding scenarios for Arkansas under Title III of HAVA.

| *Fiscal Year* | *Authorized Versus Appropriated/Proposed* | *Arkansas's Share* |
|---|---|---|
| ***2003*** | $1.5 B vs. $833 M | $7.9-$14.2 M |
| ***2004*** | $1 B vs. $500 M | $4.7-$9.5 M |
| ***2005*** | $600 M | $5.7 |
| ***Total*** | | $18.3-$29.4 |

The following budget represents a range of funding levels. The first level represents the spending contingent on full funding of HAVA; the second level represents mandated spending, supplemented by state and local government, should HAVA fail to receive 100% of the authorized funding level.

| *Cost Estimate Level A* | *Cost Estimate Level B* | *Federal Share* | *State Match* | *Percentage of Requirements Payments Needed* |
|---|---|---|---|---|
| ***Installation of Uniform Electronic Voting System—All voters have access to DRE system. Cost: $20 Million (After Title 1 Early Out)*** | Replacement of Punch Card & Lever Machines, One DRE Per Poll, and Voter Education Program for other jurisdictions Cost: $12 Million (After Title 1 Early Out) | Level A $19 M Level B $11.4 | Level A $1 M Level B $600 K | 65.5-63.3% |
| ***Statewide Voter Registration List—HAVA Compliant with Improved Connectivity for local users and Improved Addressing System Cost: $5M (After Title 1)*** | Statewide Voter Registration List—HAVA Compliant Cost: $3 M (After Title 1) | Level A $4.7 M Level B $2.85 M | Level A $250 K Level B $150 K | 16.4-15.8% |
| ***Provisional Voting—Education Program, Support to Counties, Free Access by Phone, Mail or Internet*** | Provisional Voting—Free Access System with local jurisdictions administering | Level A $47.5 K Level B $23.7 K | Level A $2500 Level B $1250 | Less than 1% |
| ***Training & Education for all poll workers & volunteers.*** | Training & Education for Election Officials Only. | Level A $3.32 M Level B $2.37 M | Level A $175 K Level B $125 K | 11.5-13.2% |
| ***Administrative Complaint Procedures*** | No Option. | Level A $76 K Level B $38 K | Level A $4 K Level B $2 K | Less than 1% |
| ***Voting Information to be published in consistent format-- coordinated and provided by State.*** | Basic voting information provided by State with format, publication, and distribution responsibility of local jurisdictions. | Level A $47.5 Level B $28.5 | Level A $2500 Level B $1500 | Less than 1% |
| ***Program Management & Support, including research projects to improve data quality, connectivity, budgetary management, and performance measurement.*** | Program Management by State, with some involvement by partnering agencies/research institutions. | Level A $1.52 M Level B $1.23 M | Level A $80 K Level B $65 K | 5.2-6.9% |

## Maintenance of Effort

Section 254

***(a)(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.***

Both the State of Arkansas and local jurisdictions bear fiscal responsibility for the administration of elections in the state. Public Law 107-252 designates federal funds for the use of improving the administration of elections, not to supplant activities already budgeted for the administration of elections. The State will continue to fund the administration of elections at an amount not less than the aggregate of those expenditures during the fiscal year 2000.

## Performance Goals & Measures

*(8) How the State will adopt performance goals and measures that will be used by the State to determine its success 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.*

***Overview***

HAVA requires the various states to adopt performance goals and measures that will gauge the effectiveness of any programs or policies funded by federal dollars. Election improvement mandates outlined in the Act span an enforcement timeline of three years. In addition to any other reporting required by HAVA with regard to use of federal payments, the state will also provide a complete performance evaluation report during 2006.

***Process Used to Develop Performance Measurement Criteria***

The Secretary of State and the Secretary of State's advisory committee, made up of local election officials, will define these performance goals and measures for programs implemented at both state and local levels. Generally, these goals and measures shall be defined to the local election officials charged with administering HAVA programs, and the local election officials shall share responsibility for monitoring and evaluating the success of the elements of the plan in their jurisdictions. The State will partner, if necessary, with research institutions in the state with proven experience in performance evaluation of governmental entities to ensure consistent format and instructions for reporting.

Suggested performance goals and measures outlined within the state plan may be revised to include more specific instruments of measurement as the implementation of HAVA continues in the State.

| *State Plan Element (Performance Goal)* | *Implementation Timetable* | *Suggested Criteria For Measuring Performance* | *Official Responsible* |
|---|---|---|---|
| ***Replacement of Punch Card & Lever Voting Systems*** | May, 2004 | Number of jurisdictions converting to electronic systems. | Secretary of State & County Election Commissions. |
| ***Installation of one DRE per polling site for individuals with disabilities*** | November 2004-January 2006 | Number of polling sites compliant. | Secretary of State & County Election Commissions. |
| ***Statewide Voting System compliant with §301*** | January 1, 2006 | Number of jurisdictions compliant. Other factors included in evaluating performance of all voting system elements to include training programs, voter education, tabulation/reporting time, voter satisfaction. | Secretary of State & County Election Commissions. |
| ***Provisional Voting*** | January 1, 2004 | Number of provisional ballots cast and operation of free access system. | Secretary of State & County Election Commissions. |
| ***Voting Information*** | January 1, 2004 | Quality, quantity, effectiveness of information posted. | Secretary of State & County Clerks. |
| ***Statewide Voter Registration List*** | January 1, 2004 (or January 1, 2006 in event of a waiver). | Conversion from a uniform, locally maintained system to a centralized statewide system shared in 75 jurisdictions. Effectiveness of data-sharing with partnering state agencies and accuracy of data and reports. | Secretary of State & County Clerks. |
| ***Voter Education & Training*** | Immediate & Ongoing | Success of voter education programs, turnout, number of complaints, surveys. | Secretary of State, County Clerks, and County Election Commissions. |
| ***Poll Worker Training*** | January 2004-ongoing | Number and type of training programs provided, number of poll workers trained. | Secretary of State and State Board of Election Commissioners. |
| ***Administrative Complaint Process*** | July 15, 2003 | Number of complaints received, processed, and resolved. | State Board of Election Commissioners. |
| ***Accessibility of Polling Sites*** | January 1, 2004—January 2006 | Number of polling sites ADA compliant, number improved by modification, number out of compliance. | Secretary of State and State Board of Election Commissioners. |

## Administrative Complaint Procedures

Section 254
***(a)(9) A description of the uniform, non-discriminatory state-based administrative complaint procedures in effect under section 402.***

The Arkansas State Board of Election Commissioners is statutorily charged with the review, and if necessary the investigation, of all citizen complaints regarding violations of election and voter registration laws under Arkansas Code 7-4-101. In Act 994 of 2003, the Arkansas General Assembly added the following language requiring the State Board of Election Commissioners to:

*(10)(A) Formulate, adopt, and promulgate all necessary rules and regulations to establish uniform and nondiscriminatory administrative complaint procedures consistent with the requirements of Title IV of the federal Help America Vote Act.*
*(B) The cost of compliance with Title IV of the federal Help America Vote Act shall be paid from the fund established to comply with the federal Help America Vote Act.*

The proposed regulations provide that complaints regarding violations of any of the provisions set forth in Title III of Public Law 107-252 shall be filed with the State Board of Election Commissioners office. Complaints shall be written, notarized, signed and sworn by the person filing the complaint. The Board shall provide a hearing upon request by the complainant, and shall complete its investigation no later than 90 days after the filing of the complaint. If the Board cannot resolve the complaint within 90 days of the filing, the complaint shall be referred to an arbitration panel composed of three persons selected by the Board and the complainant, with the third member selected by the two designated members.

## Description of Early-Out Payments

Section 254
***(a)(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.***

The Early-Out payments described in Title I, Section 101 are targeted specifically for election administration improvements and replacement of punch card and lever voting equipment. It is the intent of the Office of the Secretary of State to utilize the fund provided under this section for these two areas of activity.

*Section 101*

Under Title I, Section 101 Arkansas expects to receive $3,920,108.62 based on the formula presented.

Section 101 designates the allocation of funds for improvement in the overall administration of elections in Arkansas. In general, payments made under this title may be used for any of the following purposes:

1) Complying with Title III requirements;
2) Improving the administration of elections for federal office;
3) Educating voters concerning voting procedures, rights, and technology;
4) Training election officials, poll workers, and volunteers;
5) Developing the state plan for implementation of Public Law 107-252;
6) Improving, acquiring, leasing, modifying, or replacing voting systems consistent with Title III;
7) Improving the accessibility and quantity of polling places;
8) Establishing a toll-free hotline for voter information.

| Budget for Section 101 HAVA funds | | |
|---|---|---|
| ***Total Section 101 Available*** | $3,900,000 | |
| ***Title III Requirements (Voter Registration List)*** | $1,950,000 | 50% |
| ***Voter Education & Training*** | $585,000 | 15% |
| ***R&D for State Plan--Administrative Costs*** | $292,500 | 7.5% |
| ***Voting System Replacement*** | $975,000 | 25% |
| ***Polling Site Accessibility*** | $97,500 | 2.5% |

Each of the above election administration goals represents a series of activities intended to institute assistance and education for Arkansas's electorate, ensure compliance with voting system technology standards, and improve the state's voter registration list.

*Section 102*

Title I, Section 102 targets the replacement of punch card and lever voting machines. In Arkansas, fifteen counties were eligible for payments under Section 102.

| *County* | *Type of System* | *Maximum Payment* |
|---|---|---|
| ***Arkansas*** | **Punch Card** | **$64,000** |
| ***Baxter*** | **Punch Card** | **$164,000** |
| ***Benton*** | **Punch Card** | **$332,000** |
| ***Hot Spring*** | **Punch Card** | **$132,000** |

| | | |
|---|---|---|
| *Mississippi* | Punch Card | $288,000 |
| *Saline* | Punch Card | $276,000 |
| *White* | Punch Card | $356,000 |
| *Boone* | Lever | $108,000 |
| *Desha* | Lever | $84,000 |
| *Faulkner* | Lever | $188,000 |
| *Jefferson* | Lever | $804,000 |
| *Marion* | Lever | $64,000 |
| *Searcy* | Lever | $76,000 |
| **Columbia* | Lever | $72,000 |
| **Union* | Lever | $212,000 |
| *Total* | | $3,220,000 |

*Columbia and Union counties currently employ DRE voting equipment, but used lever machines during the November 2000 General Election. These counties qualify for payment under Section 102 for reimbursement.

In compliance with Section 102, Arkansas will commit to 100% replacement of punch card and lever machine voting systems in the state. Installation of a uniform voting system statewide will begin with full deployment of compliant voting system technology as required by HAVA in the thirteen jurisdictions listed above. The state's contract with a provider of certified voting systems will include a minimum payment equal to Section 102 monies received. Supplemental funding for this phase of implementation is anticipated. These additional monies may be sought from Section 101 funds, Title III requirements payments, the participating jurisdictions, or any combination thereof. These monies will be utilized to implement Phase I of improving, acquiring, and replacing voting systems and technology for casting and counting votes in Arkansas.

The expenditure and the application of Section 101 and Section 102 funds will include the strict adherence to the following laws:

A. The Voting Rights Act of 1965;
B. The Voting Accessibility for the Elderly and Handicapped Act;
C. The Uniformed and Overseas Citizens Absentee Voting Act;
D. The National Voter Registration Act of 1993;
E. The Americans with Disabilities Act of 1990;
F. The Rehabilitation Act of 1973;
G. The Help America Vote Act of 2002.

## Ongoing Plan Management

*(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;*
*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 state will provide ongoing management of all elements of the plan. No material changes in the plan shall be made unless the state complies with the requirements listed in subsections a, b, and c above.

## Yearly Changes in Plan

*(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 and of how the State succeeded in carrying out the State plan for such previous fiscal year.*

This is the first year in which the State of Arkansas is submitting an implementation plan for HAVA. Subsequent plans will note any changes in this plan, as well as describe the success of the state in implementation efforts.

## Description of the Committee

Section 254
***(a)(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 Secretary of State appointed the Help America Vote Act (HAVA) Strategic Planning Committee in April of 2003. The committee, comprised of the chief election officials from Arkansas's two most populous counties and other stakeholders and citizens, met as required by Public Law 107-252 to provide review and comment on the state plan. Members of the committee and the constituencies represented are as follows:

| First Name | Last Name | Organization |
|---|---|---|
| *Leta* | *Anthony-Carthan* | AR. Institute. On African-American. Affairs |
| *Helen* | *Bradley* | Jefferson County Clerk |
| *John Logan* | *Burrow* | Washington Co. Election Commissioner |
| *Carolyn* | *Cook* | Drew County Clerk |

| | | |
|---|---|---|
| *Vivian* | *Flowers* | Arkansas Legislative Black Caucus |
| *Jonathan* | *Greer* | Association of AR Counties |
| *Patti* | *Hill* | Crawford County Clerk |
| *Jim* | *Hudson* | DHS Division of Blind Services |
| *Susan* | *Inman* | Pulaski County Election Coordinator |
| *Stephanie* | *Johnson* | League of Women Voters |
| *Willie L.* | *Jones* | Public Member, Mississippi County |
| *Randy* | *Martin* | Public Member, Pulaski County |
| *Donna* | *Massey* | ACORN |
| *Vincent* | *McKinney* | Disability Rights Center |
| *Melinda* | *Mulford* | Boone County Clerk |
| *Mike* | *Munns* | DFA Office of Driver Services |
| *Lucretia* | *Norris* | Office of the Governor |
| *Ron* | *Oliver* | Chairman, Democratic Party of Arkansas |
| *Ann Burton-* | *Portis* | Mississippi County Election Commissioner |
| *Karen* | *Prichard* | Washington County Clerk |
| *Marty* | *Ryall* | Chairman, Republican Party of Arkansas |
| *Jesus* | *Sanchez* | AFL-CIO & Hispanic Arkansans |
| *Ron* | *Sheffield* | Attorney, Public Member, Pulaski County |
| *Mary Lou* | *Slinkard* | Benton County Clerk |
| *Carolyn* | *Staley* | Pulaski County Clerk |
| *Susie* | *Stormes* | Director, State Board of Election Commissioners |
| *Doris* | *Tate* | Sebastian County Clerk |
| *Janet* | *Tweedle* | Monroe County Clerk |
| *Brit* | *Williford* | Ouachita County Clerk |
| *John C.* | *Wyvil* | AR. Rehabilitation Services |

[i] Percentage of federal dollars needed represents data based on cost *estimates* for implementing the various HAVA mandates. These estimates assume the 5% state match.

[ii] Performance measures listed in the plan should be considered as examples for shaping the performance measurement process in Arkansas. More specific goals and measures will be defined as the state receives information on variable factors such as funding and participating local jurisdictions.

# My Vote Counts

California's Plan for Voting in the 21st Century

Voter rights

Accessibility

Diversity

Modernization

Secretary of State KEVIN SHELLEY

www.myvotecounts.org
HAVA: Help America Vote Act

My Vote Counts:
California's Plan for Voting in the 21st Century

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**EXECUTIVE SUMMARY**
September 2003

Democracy in America is at a crossroads. Voter confidence in the voting process was shattered by the Florida experience in November 2000. Voter participation in the November 2002 General Election nationally was estimated to be a disappointing 39.9 percent. [1] (See Endnotes) So many citizens today feel disconnected from the voting process.

In response to the crises in voter confidence and participation, the Congress passed and the President signed the Help America Vote Act of 2002 ("HAVA") in October of 2002. This federal law borrows much from California's steps to restore voter confidence and facilitate participation, including modernizing voting equipment. California led this effort with the Shelley-Hertzberg Voting Modernization Bond Act of 2002, Proposition 41, adopted by the voters in March of 2002.

California, however, has its own electoral crisis, as evidenced by the shockingly-low turnout of some 36 percent of our eligible citizens at the polls last November. As Secretary of State, I have no higher priorities than restoring voter confidence in the integrity of the voting process and increasing the participation of informed voters. To further these objectives, I appointed a 24-member Advisory Committee, made up of a diverse, cross-section of Californians, to assist me in drafting a plan for voting in the 21st Century.

The Committee held five public hearings — in Los Angeles, San Diego, San Francisco, Fresno and Sacramento. We heard from more than 250 Californians who shared their ideas with us about how to make the voting process more user-friendly and more secure and how best to implement the provisions of HAVA given the unique characteristics of our state in terms of size and diversity.

On June 17, 2003, I made available for public inspection and comment my Preliminary Plan, publishing notice to that effect. Thereafter, I issued a news release requesting inspection and comment, posted a copy of the Preliminary Plan in English and in Spanish on my official website and sent copies to interested individuals and organizations. The Preliminary Plan remained on public display until after July 17, 2003. I received 53 written comments regarding the Preliminary Plan.

The public testimony and input from the members of the Advisory Committee were very helpful in drafting my Preliminary Plan. In preparing my Final Plan, I have carefully considered the public testimony and the input from the members of the Advisory Committee and I have considered the additional comments of the public and the members of the Advisory Committee in response to my Preliminary Plan. The Final Plan[2] reflects this input and comments.



"My Vote Counts" is a comprehensive road map to restoring voter confidence, a prerequisite to increased participation. "My Vote Counts" details how California will implement HAVA as part of our continuing challenge to make our voting process fairer, more accessible and more secure. Every eligible citizen must be able to say "My Vote Counts" and know it's true. My plan calls for:

Modernizing voting equipment. Punch card voting machines will be replaced.

- Making all polling places accessible to individuals with disabilities or with alternative language needs. Every polling place will have at least one touch screen voting device.
- Enhancing California's provisional voting process. Provisional voters will be able to determine whether their votes were counted.
- Augmenting the information provided to voters. Voters will receive more information at their polling places and elsewhere.
- Improving California's statewide voter registration database.
- Expanding California's efforts to inform eligible citizens about the voting process. A greater effort will be made to reach eligible citizens, including young people, about voting.
- Increasing the education and training of elections officials and poll workers. Elections officials, including poll workers, will receive more education and training.
- Improving California's complaint procedure. California's existing complaint procedure regarding alleged elections law violations will be formalized and made more accessible.

Funding for the plan is based on funds authorized by HAVA and Proposition 41. At this point, the exact cost of implementation is impossible to pinpoint. Variables include the amount of money appropriated by Congress in subsequent years and the methods of implementation determined to be the most cost-effective. All expenditures will be subject to tough state and federal audit procedures.

I am determined to make "My Vote Counts" the defining phrase that captures the essence of voting in California.

KEVIN SHELLEY
Secretary of State

**INTRODUCTION**

California is defined by its superlatives, first among the states in population, economic energy and rich cultural, ethnic and language diversity. For generations it has been a magnet, attracting adventurers, risk takers and dreamers from around the world who have come to its valleys, mountains and seashores in search of a better life for themselves and for their children. And for many, the state's motto, Eureka — "I found it" — says it all. Indeed, many have found and continue to find California to be the land of opportunity.

California's electoral system reflects the state's unique size and diversity. It boasts a voting age population of some 21,588,461,[2] giving California 53 seats in the House of Representatives and more than 10 percent of the seats in the Electoral College. Federal elections are conducted by the state's 58 counties under the direction of the California Secretary of State, who serves as the state's Chief Elections Officer.[3] California's most populous county, Los Angeles, is the country's largest voting jurisdiction with a voting age population of 5,541,908 while its smallest county, Alpine, contains only 919 of voting age.[4]

The task of conducting error-free elections in California is staggering, made particularly challenging because of an array of circumstances that characterize California and reforms designed to further the opportunity for citizen participation in the political process. These include:

**Precinct Numbers**

- California has some 25,000 precincts. Staffing these polling places for statewide elections requires more than reliable, trained poll workers in conveniently-located, disability-accessible sites.

- Recruiting and training sufficient poll workers, and locating appropriate polling places are continuing challenges for California elections officials.

**Elections Materials**

For each statewide federal election, California sends each household containing a registered voter a California Ballot Pamphlet with information regarding state ballot measures, statewide candidates, qualified political parties and other matters. In addition, each voter receives from local elections officials a sample ballot, a local ballot pamphlet, and other information. Additional elections materials are available on election official websites and at polling places. The tasks of preparing and providing the materials are staggering and reviewing the materials can be overwhelming to some voters.

**Ballot Complexity**

California is known for its ballot complexity. California ballots are often long, due to the numerous ballot measures and candidate races presented to voters, as well as the large



number of political parties qualified to participate in California elections. The complexity of the ballot has a direct impact on voter turnout, complicating efforts to encourage citizen participation at the polls.

**Thousands of Different Ballot Types**

In statewide primary elections, California elections officials must configure more than 60,000 different ballot types. Accordingly, the risks of providing the incorrect ballot type to a voter are high.

**Geography**

California has some of the most urban and most rural areas in the country. Densely populated areas such as San Francisco bear little resemblance to the wide open expanses of Modoc County or the forests of Trinity County or the deserts of San Bernardino County, the largest county geographically in the country. Election processes reflect that geographic diversity, challenging elections officials and voters alike.

**Voting Systems**

As of December 24, 2002, there were 19 companies whose 23 voting systems were certified for use in California. These included three basic categories of systems: Optical Scan, DRE/Touchscreen, and Punch Card. A county is free to use any certified system, leading to widespread diversity among counties and even within counties, which often use one system in polling places and another to count absentee ballots. The array of available systems complicates the training of poll workers, makes educating voters and the media difficult and often con-fuses voters who move from one county to another.

**Early Voting**

Californians may start voting by mail and in person at various elections offices 29 days before an election. This early voting reduces the timeframe elections officials have to prepare for an election, has a direct impact on campaign strategy and creates additional choices for voters in terms of the timing of their voting.

**Political Parties**

Currently, California has seven political parties qualified to participate in primary elections. California's closed primary means that party-specific ballots must be prepared in primary elections for the voters registered with each party. Voters who have declined to affiliate with a political party have the option to vote in primary elections only for measures and non-partisan candidates, or to request a ballot to participate in the nomination process for a particular political party.

**Provisional Ballots**

Since the 1980's, California law has permitted a voter whose eligibility to vote cannot be immediately established at a polling place to cast a provisional ballot. At the 2002 General Election, some provisional ballots were cast. It is estimated that only 60 percent of those ballots were ultimately counted. Provisional voting permits the

handling of disputes after Election Day but it also increases the need for additional training of poll workers, greater education of voters with respect to the provisional voting process, and may delay reporting the outcome of elections.

**Vote-by-Mail**

Increasingly voters are casting their ballots by mail rather than voting in person. At the November 2002 General Election, more than 27 percent of voters cast ballots by mail, compared to less than three percent of the voters in 1962. A recent law[5] allowing voters to become "permanent absentee voters" means that more and more voters are choosing to permanently vote from home. Voting by mail advances the timeline for elections officials to prepare for an election, often requires a different vote tabulating system from that used to tabulate votes cast in person, and sometimes delays announcing the outcome of elections since many vote-by-mail ballots are processed after election day. These issues especially affect overseas and military voters who, under California law, are entitled to special absentee voter status and can initiate a request for a ballot 60 days before an election.

**Language Diversity**

In order to ensure that all citizens can participate in the electoral process and pursuant to Federal law, election materials are produced and oral assistance is provided in a variety of languages. For example, Los Angeles County provides ballots, sample ballots, and other materials, as well as oral assistance in seven languages: English, Chinese, Japanese, Korean, Spanish, Tagalog and Vietnamese. Some jurisdictions, in response to local need, provide written and oral assistance in other languages. This adds to the challenges of conducting an error-free election.

> *"HAVA can and should and will be implemented in California as a continuing step in making the electoral process fairer, more accessible, and more secure so that every eligible citizen can say 'My Vote Counts' and know it to be true."*
>
> *— California Secretary of State Kevin Shelley*

With challenges, however, come opportunities. California has been a leader in reforming the electoral system. In fact, many of the provisions in the federal Help America Vote Act of 2002 — HAVA[6] — are already a matter of law, regulation or procedure in California. For example:

- California provided for registration-by-mail in 1975 and vote-by-mail on demand in 1978;
- California provided for permanent absentee balloting in 2000;
- Californians adopted Proposition 41 in the March 2002 Primary Election, designed to partially fund the replacement of prescored punch card voting machines in California;



- California has a statewide voter registration database, known as Calvoter;
- California permits ballots to be corrected or replaced before being cast;
- Provisional ballots have been used in California since the 198os;
- A statewide complaint procedure for making allegations about violations of elections laws is in place, including a toll-free telephone number, 1-800-345-VOTE, for making complaints;
- Extensive efforts are made to accommodate citizens from the disability and minority language communities.

And yet, much more needs to be done, as revealed by the turnout of voting age population of less than 37 percent at the last statewide election in November 2002. Restoring confidence in the integrity of the electoral system is critical if we are to bring voters back to the polls. Properly implemented, HAVA can be a cornerstone of California's efforts to reconnect citizens to the electoral process. On the other hand, as one prominent commentator pointed out during a recent public hearing on election reform, we must not let HAVA become the Hurt America Vote Act.

Indeed, HAVA can and should and will be implemented in California as a continuing step in making the electoral process fairer, more accessible, and more secure so that every eligible citizen can say "My Vote Counts" and know it to be true.

Properly implemented, HAVA can further efforts to reform the way elections are held in California and bring us one step closer to the day when:

- Every eligible citizen, including those with physical disabilities and limited or no comfort with the English language, can vote privately, securely and independently at the polls, at home, at shopping malls and other public places on or before Election Day;
- Every election official and poll worker is thoroughly trained and committed to ensuring that every eligible citizen is treated with respect and courtesy, and can vote easily and securely;
- Every eligible voter receives written and oral information about candidates, measures and the voting process in simple, accurate terms and in languages they can under-stand;
- Voters are informed of their rights prior to voting, when they vote and after they vote;
- Voter registration is available on-line;

- Voting machines are easy to use and flawlessly capture and report voter intent;
- Young voters are engaged in the electoral process as voters, poll workers, and interested citizens, with education regarding the voting process beginning at an early age;
- Any eligible voter can cast a properly-formatted ballot in any precinct anywhere in the state or other appropriate jurisdiction on Election Day;
- Overseas and military voters can vote conveniently and safely wherever they might be;
- No eligible citizen is turned away at a polling place on Election Day without being able to vote an actual or provisional ballot;
- Election Day registration is available to those who do not register prior to the election;
- Internet and/or telephone voting becomes safe and routine.

HAVA, properly implemented, is an opportunity for instituting further reform in California. It is time to seize the moment — and California will, leveraging HAVA not only to restore confidence in the integrity of the voting process, but also to increase voter participation. "My Vote Counts" must be more than a slogan. It must be a defining phrase that captures the very essence of voting in California.

**OVERVIEW**

The California State Plan was developed by the California State Plan Advisory Committee ("Committee"), a diverse, twenty-four member body appointed by Secretary of State Kevin Shelley, in accordance with Section 255(a) of HAVA. Brief biographies of the members of the California State Plan Advisory Committee begin on page 37.

The Committee held public hearings in Monterey Park (Los Angeles County), San Diego, San Francisco, Fresno and Sacramento. The hearings were publicized in advance by mailing notices to nearly 4,000 interested persons and organizations, by publishing notice in the Los Angeles Times, San Diego Union-Tribune, San Francisco Chronicle, Sacramento Bee, Fresno Bee, and La Opinion — in Spanish, by posting notices in seven different languages on the Secretary of State's website, and by telephoning and e-mailing interested persons.

The hearings were transcribed, videotaped, audio-recorded, and documented by minutes and synopses. At one or more hearings interpreters were available in Chinese (Mandarin and Cantonese), Japanese, Korean, Tagalog, Spanish and Vietnamese. At one or more hearings, audio headsets were avail-able for the hearing and/or visually impaired. All public proceedings were signed in American Sign Language. All hearings were held in facilities in compliance with the Americans with Disabilities Act.



More than 250 oral or written comments were received by the Members of the Committee regarding election reform and HAVA implementation at the public hearings or by mail, fax, e-mail or hand delivery. (Members of the public were able to provide input by sending e-mail to hava@ss.ca.gov.) The comments received were taken into account by the Members of the Committee.[7] The Members, thereafter, met in Sacramento on May 27, 2003, and discussed the implementation of HAVA in California. At that meeting, and subsequent to that meeting, the Members of the Committee made recommendations to the Secretary of State regarding the content of the State Plan. These recommendations were considered in drafting the Preliminary California State Plan.

On June 17, 2003, the Preliminary State Plan was made available for public inspection at the Secretary of State's office in Sacramento and a notice was published to that effect. Thereafter, it was made available for public inspection at Regional Offices of the Secretary of State located in Fresno, Los Angeles, San Diego and San Francisco. A news release was issued announcing that the Preliminary Plan was available for public inspection and comment until July 17, 2003. Copies were posted in English and Spanish on the Secretary of State's official website (www.ss.ca.gov). Copies of the Preliminary State Plan were sent to interested persons and organizations. Comments regarding the Preliminary State Plan were received by mail, hand delivery, fax, and e-mail.[8] All comments were considered. Revisions of the Preliminary Plan were made in response to the comments. The Secretary of State hereby submits the California State Plan for publication in the Federal Register for 45 days.

Section 254(a) requires the State Plan to include a description of each of thirteen elements. Each of the thirteen elements is treated as a "section" of the California State Plan, as set forth in the following pages

**SECTION ONE: COMPLIANCE WITH REQUIREMENTS OF TITLE III**

Section 254(a)(1), page 72[9]

How the state will use the requirements payment to meet the requirements of Title III[10], and, if applicable under Section 251(a)(2), to carry out other activities to improve the administration of elections.

Title III, commencing with Section 301 (page 96), sets forth "Uniform and Non-Discriminatory Election Technology and Administration Requirements."

Below is a summary of the requirements of Title III of HAVA and how California will use the requirements payment to comply with that federal law. It should be noted that, pursuant to Section 305 (page 124), the specific choices on the methods of complying with the requirements of Title III are left to the discretion of the State.

**A. Voting Systems Standards**
Section 301(a), pages 96-102
**Federal Law**
HAVA requires that each voting system used in a federal election on or after January 1, 2006, meet each of the following requirements.

**Balloting errors**
The voting system must permit the voter to verify privately and independently the votes selected before casting a ballot and must permit the voter privately and independently to change or correct a ballot before it is cast, including receiving a replacement ballot.

Note that the requirement that a voting system permit the voter to verify the votes selected before casting a ballot may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the new requirements of HAVA.

**Voter notice on overvoting and correction**
The voting system must:

- Notify the voter of an overvote (casting votes for more candidates than allowed);
- Notify the voter of the effect of overvoting (i.e. the vote for that office will not be counted);
- Provide the voter with the opportunity to correct the ballot, if he or she has overvoted.

**Paper-based voting systems compliance**
Paper-based voting systems, including absentee balloting systems, may meet the above requirements with:

- Voting-system specific voter education programs notifying the voter of the effect of overvoting;
- Instructions on how to correct a ballot before it is cast, including instructions on obtaining a replacement ballot; and
- System designs that preserve voter confidentiality.

**Voting system audit requirements (pages 98-99)**
The voting system must:

- Produce a record with an audit capacity. The paper record produced shall be available as an official record for purposes of a recount;
- Produce a permanent paper record with a manual audit capacity;
- Allow the voter to correct any error before the permanent paper record is produced.



**Accessibility for individuals with disabilities (page 99)**
The voting system must be accessible to voters with disabilities, including voters with visual impairment, in a manner that pro-vides the same opportunity for access and participation, including privacy and independence, as for other voters.

The above requirement is met by providing at least one DRE voting unit, or other voting system equipped for individuals with disabilities at each polling place.

All voting systems purchased with Title II funding after January 1, 2007, shall comply with these requirements.

**Alternative language accessibility (page 99)**
The voting system must meet all requirements of alternative language access of Section 203 of the Voting Rights Act of 1965 (42 USC 1973aa-1a).

**Error rates (page 100)**
The voting system must meet FEC guidelines (Section for voting system error rates — errors attributable only to system errors, and not an act of the voter — in effect at the time of HAVA's enactment (October 29, 2002).

**Definition of vote (page 100)**
Each state shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.

**HAVA Compliance With Voting Systems Standards**
In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory, legislative, voting system certification and decerification processes, or otherwise, comply with HAVA, including the replacement of voting systems that do not comply. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,[11] will, in conjunction with the consultation referred to above, in part:

- Support, promote and encourage the use of direct recording electronic (DRE/touchscreen) voting systems, at polling places in California, and optical scan systems that are used for tabulating vote-by-mail ballots, that are compatible with alternative voting methods such as ranked ballot and cumulative voting;
- Expeditiously certify new DRE voting systems that are compliant with state and federal laws;

- Through the existing Voting Systems Panel, which makes recommendations to the Secretary on certification and decertification of voting systems, develop voting system standards and system audit requirements as required in HAVA and institute an ongoing process to manage changes to these standards and ensure uniform application of the standards for each voting system;

- Develop and distribute voter education materials as appropriate to meet the requirements of Section 301(a)(1)(B) of HAVA;

- With the assistance of an advisory committee constituted for such purposes by the Secretary of State, ensure compliance with the accessibility and privacy requirements for individuals with disabilities, including ensuring that at least one DRE/touchscreen voting system is used in each California polling place pursuant to Section 301(a)(3)(B) and, with respect to in-person voting, that the voting system itself be located in a polling place that is accessible to voters with disabilities. Compliance efforts shall include monitoring polling places to determine accessibility and education of elections officials, poll workers, and voters with respect to the rights of all voters, including voters with disabilities. The Secretary of State shall consider, through established processes, decertifying paper-based systems, with respect to in-person voting, that are difficult to operate, which are prone to error with respect to voters with disabilities, or which do not provide equal access to the ballot. The Secretary of State shall consider, in consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, establishing a deadline for requiring that all in-person voting systems be accessible notwithstanding Section 301(a)(3)(B) (permitting compliance with accessibility requirements with only one DRE voting system at each polling place);

- Continue to ensure that all voting systems provide alternative language accessibility pursuant to the requirements of the Voting Rights Act of 1965. The Secretary of State shall consider, through established processes, decertifying paper-based systems, with respect to in-person voting, that are difficult to operate, which are prone to error with respect to voters with language assistance needs, or which do not provide equal access to the ballot;

- Consider, through established processes, decertifying systems and refusing to certify systems that cannot accommodate alternative voting systems, such as ranked bal-lots and cumulative voting systems, in a manner in which voters can easily understand;

- Regularly evaluate voting systems to assess error rates, reliability and accuracy factors, accessibility to voters with disabilities, language assistance needs and literacy needs, and ability to accommodate alternative voting systems; work with local elections officials to share information and make improvements;



- Develop, by regulation and/or by statute, a uniform and nondiscriminatory definition of what constitutes a vote and what will be counted for each voting system.

**B. Provisional Voting**
Section 302, pages 102-104
**Federal Law**
Section 302(a) (page 102) requires that "provisional voting" be permitted in federal elections on or after January 1, 2004. Under HAVA, if a voter's name does not appear on the official list, or the elections official asserts the voter is ineligible, the voter is entitled to cast a provisional ballot as follows:

- Elections officials at polling place notify voters of the pro-visional ballot option;

- Voter executes written affirmation stating that he or she is a registered voter in the jurisdiction and that he or she is eligible to vote;

- The voted ballot or written affirmation information is promptly transmitted to appropriate state or local elections official for verification;

- If the information is verified, the ballot shall be counted;

- At the time the voter casts the ballot, the voter shall be provided with information about the existence of a free access system (e.g. secure, confidential telephonic or Internet-based system) that restricts access to information on individual ballots, so that only the voter who casts the ballot may determine her or his individual ballot status;

- State or local officials shall establish the free access system.

HAVA also requires (Section 302(c), page 106) that voters who cast ballots after the normal poll closing as a result of a Federal or state order, vote by provisional ballot that is segregated from regular provisional ballots.

**HAVA Compliance With Provisional Ballot Requirements**
In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA, including its provisional ballot requirements. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,[12] will, in conjunction with the consultation referred to above, in part:

- Develop uniform information and procedures on provisional voting, and voting generally, as required by HAVA, and take steps to ensure that elections officials, poll workers and voters thoroughly understand provisional ballot rights and procedures;
- Ensure that the provisional voting system is designed so that individuals with disabilities can participate in the process as independently as possible;
- To the extent permitted by law, develop procedures allowing voters to cast a provisional ballot at the polling place upon signing a statement affirming the required information, without providing additional identifying documents;
- To the extent permitted by law, develop procedures whereby the information obtained to acquire a provisional ballot is sufficient to register the applicant to vote, if otherwise eligible, in future elections should it be determined that the person is not eligible to vote in the precinct for which the provisional ballot is sought or cast;
- Develop procedures whereby a provisional ballot is counted provided that there is compliance with the verification procedures set forth in California Elections Code section 14310, or other applicable section or sections of State law;
- Explore alternative methods of signature comparisons for establishing voter identity where signature change, physical disability or other circumstances prevent the signature from being used appropriately for verification;
- Consider sponsoring legislation amending California Elections Code section 14310, or other appropriate section or sections, to comply with the written affirmation procedures set forth in HAVA section 302(a);
- Consider sponsoring legislation amending California Elections Code section 14310(c)(4), or other appropriate sections, whereby a person's provisional ballot is counted with respect to those candidates and measures for which the person is entitled to vote even if the provisional ballot is cast in the incorrect precinct or using the incorrect ballot type for that person;
- Consider sponsoring legislation changing the name of "provisional ballot" to a less pejorative terminology;
- Create, or oversee the creation of, in conjunction with local elections officials, a secure and confidential free access system for a provisional voter to determine if his or her vote was counted, and, if it was not counted, the reason it was not counted or develop procedures whereby every person who casts a provisional ballot is notified as to the status of that ballot in terms of whether it was counted or not counted, and if not counted, why it was not counted.
- Develop procedures for complying with the requirements that ballots cast after the close of the polls pursuant to a court order be provisional and be segregated;
- Ensure compliance with Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-1a).

**C. Voter Information Requirements**
Section 302(b), pages 104-106
**Federal law**
Section 302(b) (pages 104-105) requires that, with respect to federal elections held on or after January 1, 2004, elections officials post specified voting information at each polling place on Election Day, including:

- A sample ballot for that election;
- The election date and polling place hours;
- Voting instructions, including provisional voting instructions;
- Mail-in registrant and first-time voter instructions;
- General voting rights information, including the right to cast a provisional ballot and instructions on how to contact appropriate officials regarding allegations of violations;
- General information on legal prohibitions on fraud and misrepresentation.

**HAVA Compliance With Voting Information Requirements**
In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer[13] will, in conjunction with the consultation referred to above, in part, consider developing voting information in appropriate languages for posting at polling places and other appropriate places, and for printing in appropriate community-based and other publications, including specific information, such as the right:

- To replace a spoiled ballot;
- Not to show identification in those circumstances where identification is not required as a matter of law;
- To receive assistance from others in specified circumstances;

- To bring a minor child into the voting booth in specified circumstances;
- To turn in an absentee ballot into any polling place in the county;
- To take time off from work without loss of pay in certain circumstances;
- To vote a provisional ballot in certain circumstances, and to find out whether the vote was counted and, if not, why not;
- To have sensitive personal information protected from illegal access and use.

The State will also, in part, ensure that the information posted at polling places by local elections officials includes all of the information required to be posted by HAVA and ensure that all information provided at polling places be accessible to the widest possible audience, including persons with disabilities, language assistance needs, and limited literacy skills.

**D. Statewide Voter Registration Database Requirements**
Section 303, pages 106-111
**Federal law**
Section 303 (page 106) requires that the Secretary of State, as Chief Elections Officer, implement, in a uniform and nondiscriminatory manner, by January 1, 2004,[14] a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each such voter. The computerized list shall:

- Be the official voter registration list for federal elections;
- Serve as the single system for storing and managing the official list;
- Contain the name and registration information of every registered voter;
- Contain a unique identifier (DL number, partial SS number, or assigned number) for each voter;
- Be coordinated with other state databases (Corrections, Health Services, DMV, other state social service agencies and Social Security);
- Provide immediate, electronic access by any elections official in the state;
- Allow for electronically entering data by any local elections official on an expedited basis;
- Be supported by the State.



Maintenance of the official list shall be performed on a regular basis as follows:

- Voters names shall be removed in accordance with NVRA (42 U.S.C. § 1973gg, Section 8, (a)(4), (c)(2), (d) and (e);
- Ineligible voters shall be removed in accordance with NVRA for felony status (42 U.S.C. § 1973gg, 6(a)(3)(B)); for death (6(a)(4)(A)); or in accordance with state law;
- Each registered voter's name shall appear on the list;
- Only ineligible voters or voters not registered shall be removed from the list;
- Duplicate names shall be removed from the list;
- Other reasonable efforts to remove ineligible voters, consistent with the NVRA (42 U.S.C. § 1973gg, et. seq.) that ensure eligible voters are not removed in error, including removing registrants who have not responded to a notice and who have not voted in two consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant shall be removed solely by reason of failure to vote.

**HAVA Compliance With Statewide Database Requirements**
In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,[15] will, in conjunction with the consultation referred to above, in part, as soon as is reasonably possible, either modify California's current state-wide database (Calvoter) so that it complies with HAVA or establish a new statewide database that complies with HAVA, but in either case, shall:

- Develop, operate, and implement a process to continuously support and improve a secure statewide voter registration database that is a single, uniform, centralized, interactive system that is defined, maintained, and administered at the state level;
- Develop a database system that will interface with the State Department of Corrections to coordinate records on felony status of voters; with the State Department of Health Services to coordinate records on the death of voters; with the State Department of Motor Vehicles to verify driver's license, California identification card and social security number information; and, when practical,

with other appropriate databases such as those involving the disability, public assistance, student and other communities;

- Develop a database system that will provide local elections officials with immediate access to the voter registration information;
- Develop to the extent possible a database system designed so that state employees and others with visual disabilities can use it with as much ease and accuracy as possible and which is tested by individuals with visual disabilities as early as possible in the development process;
- Develop a database system that will serve as the official voter registration list for federal elections;
- Develop a database system that provides for the removal of individuals who are clearly ineligible to vote, in accordance with all state and federal laws, while ensuring that eligible voters are not erroneously removed from the registration list;
- Develop guidelines and procedures to ensure that the matching of information about individuals in the data-bases used to verify voter information is conducted in a uniform manner, as carefully and as accurately as possible, particularly in cases where it may initially appear that a voter appears to be ineligible;
- Develop guidelines and procedures addressing all federal and state requirements regarding the notification of voters whom the State is considering removing from the list of eligible voters;
- Develop a program for training the personnel responsible for the maintenance of the statewide voter registration database which incorporates the following procedures and emphasizes: (1) the need for accuracy in the verification of voter information before voters are removed as eligible voters from the registration list, and (2) the importance of complying with federal and state notification requirements;
- Consider sponsoring legislation for a comprehensive mechanism to notify an individual with respect to changes in status or failure in registration, or proposed purging of the individual from the database as an eligible voter and affording the individual a reasonable opportunity to present clarifying or correcting information;
- Provide ongoing technical assistance to local elections officials regarding the statewide database;
- Ensure that the database and the information contained therein are not subject to improper use;



- Institute uniform safeguards for the protection of the confidentiality and privacy of information obtained about voters in the database system and those databases with which the voter registration database interfaces;
- Ensure compliance with Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-1a).

**E. Requirements For Verification of Voter Registration Information**
Section 303, pages 111-117
**Federal Law**

Section 303(a)(5) (page 111), beginning January 1, 2004, or January 1, 2006, 16 mandates specific requirements with respect to an application for voter registration for a federal election.

Such application may not be accepted or processed unless it includes the driver's license number of an applicant who has been issued a current, valid driver's license; or, if a valid driver's license has not been issued the last four digits of an applicant's social security number.

However, if an applicant has not been issued a current, valid driver's license or a social security number, then the State shall issue a unique identifying number.

To the extent the State has a computerized list, this unique identifying number shall be the number assigned to the applicant for purposes of the computerized list.

The State shall determine whether the information pro-vided by the applicant — driver's license number or partial social security number (the last four digits) — is sufficient to meet the requirements of HAVA.

The Secretary of State shall enter into a cooperative agreement with the Department of Motor Vehicles, and the Department of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security, to verify the accuracy of the information provided by the voter registration applicant, specifically:

- The applicant's name — first name and forename or surname;
- The applicant's date of birth;
- The applicant's social security number;
- Whether such records show the applicant is deceased.

Nothing shall be construed to require provision of applicable information under exceptional circumstances, e.g. personal safety or interference with an investigation.

**HAVA Compliance With Requirements for Verification of Voter Registration Information**

In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,[17] will, in con-junction with the consultation referred to above, ensure that the State complies with HAVA's requirements with respect to the requirements for verification of voter registration information with respect to federal elections. In complying with these requirements, the Secretary of State will, in part:

- Deem an applicant's state identification card number issued by the California Department of Motor Vehicles to meet the requirements of a driver's license number;
- To the extent permitted by law, establish a procedure for and rules requiring local elections officials to provide any person whose voter registration application is not accepted with written notice and an opportunity to correct errors or provide missing information;
- Clarify, in legislation or otherwise, to local elections officials and voters how to appropriately complete the voter registration forms.

**F. Special Requirements for Certain Voters**

Who Register By Mail

Section 303, pages 117-124

**Federal law**

Beginning January 1, 2004 (page 124), the State shall, in a uniform and nondiscriminatory manner, require proof of residence from a registered voter for purposes of casting a ballot in a federal election, if the voter registered to vote in a jurisdiction by mail on or after January 1, 2003, and has not previously voted in an election for federal office in the State, or has not voted in an election for federal office in the jurisdiction and the jurisdiction is located in a State that does not have a HAVA-compliant statewide voter registration computerized list.

If the voter meets these conditions, and he or she votes in person at a polling location, the voter shall, in order to vote, present to the appropriate elections official a current and valid photo identification or a copy of one of the following that shows the name and address of the voter:

- A current utility bill;
- A bank statement;



- A government check;
- A government paycheck;
- A government document.

If the voter meets these conditions and he or she votes by mail — absentee ballot — the voter shall, in order to vote, submit with his or her ballot to the appropriate elections official a copy of a copy of one of the following that shows the name and address of the voter:

- A current utility bill;
- A bank statement;
- A government check;
- A government paycheck;
- A government document.

Any voter subject to these requirements who votes in person and who does not provide proof of residence as required shall be provided a provisional ballot.

Any voter subject to these requirements who votes by mail — absentee ballot — and who does not provide proof of residence as required shall have their ballot treated as a provisional ballot.

**Exceptions**

Section 303(b)(3), page 119

The requirements for first-time voters to provide proof of residence shall not apply when any of the following apply:

1. The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) and submits as part of the voter registration a copy of a current and valid photo identification or a copy of one of the following showing the name and address of the voter:
    a. A current utility bill;
    b. A bank statement;
    c. A government check;
    d. A government paycheck;
    e. A government document.

2. The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) and submits as part of the registration (subject to state verification of the information, including the applicant's name and birth date) a driver's license number, or at least the last four digits of their social security number.

3. The voter is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff—1 et seq.).

4. The voter is entitled to vote other than in person by Section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee—1).

5. The voter is entitled under federal law to vote other than in person.

**HAVA Compliance With Special Requirements For Certain Voters Who Register By Mail**

In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,[18] will, in conjunction with the consultation referred to above, comply with HAVA's requirements with respect to special requirements for certain voters who register by mail. In implementing these provisions, California will, in part:

- Ensure that elections officials, poll workers and voters understand clearly which voters are subject to the identification requirements; understand the procedures for soliciting, reviewing and processing identification, and advise individuals of their right to cast a provisional ballot when appropriate;

- Apply the identification requirements only to those who meet the specific criteria set forth in Section 303(b)(1), namely those who register by mail on or after January 1, 2003, and who have not previously voted in an election for federal office in the jurisdiction;[19]

- Define "register by mail" for purposes of Section 303 of HAVA to mean a voter registration card received by an elections official with a postmark indicating that it has been mailed by the registrant to the elections official;

- As soon as possible, whether or not the Commission has promulgated voluntary guidelines, clarify for voters, local elections official, and poll workers, in a uniform and nondiscriminatory way, which forms of identification are acceptable to be used as valid identification as permitted under Section 303(b)(2)(A), construing



such provisions of law broadly to permit the use of the identification to satisfy the requirements of HAVA, such clarification being incorporated herein by reference as if set forth in detail;

- Monitor the application of the identification provisions, including utilization of a hotline for the reporting of alleged illegal application of identification requirements;

- Ensure compliance with Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-1a).

**G. Mail-in Registration Form Requirements**

Section 303(b)(4), pages 121-122

**Federal law**

The voter registration form developed under Section 6 of the NVRA (42 U.S.C. § 1973gg-4) must include:

- The questions are you a citizen of the United States of America and will you be 18 years of age on or before election day;

- The statement: "If you checked 'no' in response to either of these questions, do not complete this form;"

- A statement informing the applicant that if the form is submitted by mail and the voter is registering for the first time, that additional information (a copy of documents for proof of residence; or a driver's license number or partial social security number) must be provided to avoid additional proof of residence requirements at the time of voting.

If an applicant fails to answer the question: "Are you a citizen of the United States of America?" the registrar shall notify the applicant of the failure to complete the form and provide an opportunity to the applicant to complete the form in a timely manner.

**HAVA Compliance With Mail-in Registration Form Requirements**

In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,[20] will, in conjunction with the consultation referred to above, develop uniform and nondiscriminatory procedures to meet the requirements of Section 303(b)(4) of HAVA.

**H. Use of Requirements Payment for Other Than Complying With Title III**
Section 251(b) (pages 65-66) permits the use of requirements payments only for complying with Title III, except that a State may use a requirements payment to carry out other activities to improve the administration of elections, if the state certifies that it has implemented the requirements of Title III or the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under Section 252(c), page 68 (one-half of one percent of the total amount appropriated for requirements payments for the year).

**HAVA Compliance With Use of Requirements**
Payment for Other Than Complying With Title III
In consultation with local elections officials and other interested parties, including an advisory committee constituted for those purposes by the Secretary of State, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, California will, through the regulatory or legislative processes, or otherwise, comply with HAVA. In order to help restore the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the State, under the direction of the Secretary of State, as Chief Elections Officer,[21] will, in conjunction with the consultation referred to above, determine how any funds available pursuant to Section 251(b) (pages 65-66) should be spent in order to improve the administration of elections for federal office in California.

**SECTION TWO: DISTRIBUTION OF REQUIREMENTS PAYMENT**
Section 254(a)(2), pages 72-73
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 element (section) number one, including a description of: the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and 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 element (section) number eight.

The requirements payment available under HAVA shall be used for the purposes described in Section 1 above, including as provided in Section 251(b)(2), or as otherwise authorized by HAVA.

The Secretary of State, as Chief Elections Officer, will, in consultation with local elections officials and other interested parties, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, establish a procedure for distributing and monitoring payments to local governments and other entities. To assist in this regard, the Secretary of State will appoint an Advisory Committee, com-posed of local elections officials and other individuals and representatives of organizations, to advise and make recommendations regarding the distribution of funds. After considering the advice and recommendations of the Advisory Committee, the Secretary of State shall:

- Establish the procedure, including an application forms and process, for receiving funds;
- Establish criteria for the distribution of funds, including identification of the types of individuals and entities eligible to receive funds;
- Establish specific performance goals and measures to monitor the use of those funds, requiring periodic reports and accounting to the Secretary of State to ensure the funds are being spent in accordance with Title III and the application for funds, and to ensure that programs are meeting the performance goals and measures adopted by the Secretary of State;
- By general press release, by posting on the Internet, by communication to interested parties, and other appropriate methods, make the application for funds, the performance goals and measures, and other information regarding the procedure for the distribution of funds, publicly available.

**SECTION THREE: VOTER EDUCATION, ELECTION OFFICIAL TRAINING, AND POLL WORKER TRAINING**
Section 254(a)(3), page 73
How the state will provide for programs for voter education, elections official education and training, and poll worker training which will assist the state in meeting the requirements of Title III.

The Secretary of State, as Chief Elections Officer, in consultation with local elections officials and other interested par-ties, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, shall:

1. Establish an outreach and education program in the Office of the Secretary of State to educate local elections officials and voters, and to do the following:
    a. To assist in meeting the goals and requirements of Title III;
    b. To serve as a "clearinghouse" for the coordination of voter education;
    c. To work with and to encourage elections officials to work with community-based, employee-based, cam-pus-based and similar organizations to educate elections officials and voters;
    d. To produce and place public service announcements relative to poll worker recruitment and voter education, including announcements targeted to and accessible to individuals with disabilities;

e. To produce and distribute, and arrange for the distribution of, materials appropriate for older voters, voters with disabilities, language assistance needs, and low literacy, regarding the mechanics of participating in the voting process;

f. To design, post and distribute websites, and website templates, regarding the voting process, taking steps to ensure that they are accessible to individuals with disabilities;

g. To target younger voters and those not yet old enough to vote regarding the importance of and the mechanics of participating in the voting process;

h. To educate all eligible citizens, including those no longer in prison or on parole for the conviction of a felony, as to the procedures relative to voting;

i. To work with federal, state and local governmental agencies, including the California Department of Motor Vehicles, to streamline the procedures to facilitate voter registration and voter participation;

j. To develop procedures for informing individuals whose attempted efforts to register to vote or to vote are defective, and to provide for the correction of such deficiencies;

k. To solicit private funding for outreach and education purposes;

l. To explore ways to minimize the changing of polling place locations that confuse voters;

m. To explore proposals that may facilitate the opportunity to participate in the voting process, including Election Day registration, weekend voting, and Election Day Holiday voting;

n. To consider promoting early voting and neighborhood voting centers;

o. To take all other appropriate action to educate elections officials and voters regarding the voting process;

2. Through the process for distribution of funds, provide funds to county elections officials and other entities, including community-based, employee-based, campus-based, and similar organizations, to assist in voter education, elections official education and training, and poll worker training;

3. Consider establishing, in conjunction with local elections officials, an "Election Academy" or similar institution to provide training, education and certification to elections officials and poll workers;



4. Consider establishing, in conjunction with local elections officials, an on-line, interactive training seminar to train, educate and certify elections officials and poll workers while ensuring that such seminar is accessible to the widest possible audience, including bilingual poll workers and poll workers with disabilities;

5. Consider producing and distributing, in conjunction with local elections officials and community-based, employee-based, campus-based, and similar organizations, in appropriate languages, printed materials, websites, website templates, and video on DVD or other appropriate media, providing training to elections officials and poll workers and educating voters on how to participate in the elections process, including, but not limited to, voter guides targeted to older voters and voters with disabilities, including low literacy, and minority language voters;

6. Consider enhancing the existing toll-free telephone number and Secretary of State website to provide additional information to citizens on how to participate in the elections process and ensure that there are sufficient staff and resources to make the toll-free number and the website easily accessible to persons with disabilities and persons with language assistance needs;

7. Work with local elections officials to establish community-based, employee-based, campus-based or similar programs to train and educate poll workers concerning voting equipment and other election procedures that will be included in funding distributed for outreach and education purposes. The criteria to qualify for these grants shall include demonstrated expertise in voter training and education, and poll worker recruitment activities;

8. Establish procedures and criteria for individuals and organizations to apply for grants to assist in training and education activities, including identification and recruitment of minority language poll workers and poll workers with disabilities. The criteria to qualify for these grants must include demonstrated expertise and experience in voter training and education, and poll worker recruitment activities. The grant program must also include evaluation measures to assess the effectiveness of funded programs;

9. Develop for posting in polling places, on the Internet, and elsewhere, materials in appropriate languages containing useful information regarding the election process and how to participate in it. The Secretary of State shall ensure that such materials are accessible to the widest possible audience, including persons with disabilities, language assistance needs, and limited literacy skills;

10. Ensure that any training provided to poll workers cover at least the following topics:

a. The proper operation and maintenance of voting systems and technology;

b. The rights of voters to cast provisional ballots, the proper processing and counting of those ballots, and how provisional voters can determine whether their votes were counted and, if not, why not;

c. The non-discriminatory application of HAVA's identification requirements for certain voters who register by mail;

d. Identifying and assisting voters with disabilities, including psychiatric disabilities, in order that such voters can participate fully in the voting process independently and privately;

e. The rights of minority language voters in jurisdictions covered under Section 203 of the Voting Rights Act of 1965 to receive language assistance at the polling place;

11. Encourage voter education efforts conducted in connection with the foregoing activities to cover at least the following topics:

a. Information on how to register to vote;

b. Information on how voters can determine the location of their polling places and hours of voting;

c. Information on alternative voting on Election Day, such as absentee ballots and early voting;

d. The proper use of voting systems and technology;

e. The rights of voters to cast provisional ballots and how provisional voters can determine whether their votes were counted and, if not, why not;

f. The rights of minority language voters in jurisdictions covered under Section 203 of the Voting Rights Act of 1965 to receive language assistance at the polling place;

g. The availability of the complaint procedure and toll-free numbers described in this State Plan;

12. Form an advisory committee with a diverse member-ship, including individuals with disabilities, to assess the Secretary of State's existing outreach programs, including but not limited to: the College Guide, Voter Registration Week's Education Day, Vote America, the C.I.VI.C.S. program, the Shake the State website, and Student/Parents Mock Elections. The advisory commit-tee shall determine the effectiveness of these programs in encouraging young people to register to vote



and participate in elections. The advisory committee should also suggest modifications to existing programs and articulate any need for new programs. The Secretary of State shall direct sufficient resources towards strengthening existing effective programs and establishing ones that will be the most effective in addressing the low participation rates amongst people ages 18-24.

**SECTION FOUR: VOTING SYSTEMS GUIDELINES AND PROCESSES**
Section 254(a)(4), page 73
How the state will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.

The Secretary of State, under existing state law, certifies voting systems and equipment, and the procedures for their use, through a Voting Systems Panel. The Secretary of State also decertifies voting systems and equipment, and the procedures for their use. No voting system may be used for any election without being certified.

The Secretary of State, through existing processes, after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, will certify and decertify voting systems, and the procedures for their use, to ensure that all voting systems and the procedures for their use comply with the requirements of Section 301 and other provisions of HAVA.

**SECTION FIVE: HAVA FUND MANAGEMENT**
Section 254(a)(5), page 73
How the state will establish a fund described in Section (b) for purposes of administering the state's activities under this Part, including information on fund management.

The Secretary of State has administratively established three separate Election Funds within its statutorily-established Federal Trust Fund, including the procedures for its management. Each sub account within the Federal Trust Fund will serve as the repository for Title I-Section 101, Title I-Section 102 and Title II funds.

The Secretary of State's fiscal, accounting, and budgeting offices will have overall responsibility, under the direction of the Secretary of State, for the administration of this fund.

The administration of the fund will meet all requirements of federal and state law for fiscal management.

**SECTION SIX: BUDGET**
Section 254(a)(6), pages 73-74
The state's proposed budget for activities under this Part (Part 1 of Subtitle D of Title II), 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:

- The costs of the activities required to be carried out to meet the requirements of Title III;
- The portion of the requirements payment which will be used to carry out activities to meet such requirements; and
- The portion of the requirements payment which will be used to carry out other activities.

Budgetary issues cannot be resolved until the amount of funds available is determined, the voluntary guidelines (Subtitle B of Title III, page 125 et seq.) promulgated by the Commission can be considered, and the costs of actual implementation are ascertained. When the amount of funds is determined, the guidelines are promulgated, and the implementation costs can be ascertained, the detailed budget will be configured by the Secretary of State, in conjunction with local elections, other public officials and interested individuals and organizations. Certain dynamics and parameters for the budget, however, are set forth below.

**Proposed Budget**
The Secretary of State, as the Chief Elections Officer of California as described in Section 253(e), will adopt policies and procedures to ensure that all funds received, including interest earned on those funds, with the exception of funds identified in Sections 251(b)(2)(A) and (B) from Title II allocations, will be used to accomplish the requirements of Title III.

The Secretary of State will identify its "maintenance of effort" level for each of the requirements in Title III and will not use HAVA funds to supplant activities already funded.

The State has authorized $200 million in general obligation bonds to finance the modernizing of voting equipment. The counties can use these funds for the purchase and installation of accessible voting equipment. These funds satisfy the matching fund requirement of Section 253(b)(5).

No funds received pursuant to Title II will be used for purposes of litigation or payment of judgment.

The Secretary of State, as the Chief Elections Officer of California as defined in Section 253(e), will administer the Election Fund described in Section 254(b) of the Act.

**Specific Budget Components Relative To Title III**
The Secretary of State, in administering the Election Fund, will provide funding for the following specific requirements of Title III:



**Voting Systems Standards**
The Secretary of State will allocate funds to meet the requirements of Section 301. This may include allocation of funds to local administrators, according to allocation criteria developed by the Secretary of State.

The level of funds required to meet these requirements depends on several variables that must be determined by research and analysis.

As one example, there is significant potential variability in cost of voting systems. This variability depends on the technology selected (DRE versus optical scan, precinct-based versus centralized systems, etc.) and this selection is at the option of local election officials. In addition, the cost depends on the functional requirements of those systems, and local decisions as to whether to purchase one DRE per polling place or to convert all voting equipment to DREs. As a third example, the number of polling places required to be equipped with new voting equipment won't be known with precision until further communication with local elections officials.

If federal standards or state standards are adopted that require retrofitting of existing equipment, funds may also be necessary for this purpose.

The Secretary of State shall establish a procedure to determine which local election jurisdictions require or request funds to meet the requirement of Section 301(a)(3) for at least one accessible voting system in each polling place. There are approximately 25,000 precincts in the State of California.

The Secretary of State shall ensure that all voting equipment meets the provisions of Section 301, including, but not necessarily limited to: (1) permitting voters to verify and correct their ballots prior to casting the ballot; (2) providing notice of the fact and effect of overvotes and permitting voters an opportunity to correct an overvote before the ballot is cast; (3) producing a permanent paper record with a manual audit capacity; (4) providing a uniform definition of a vote cast on any voting systems; (5) ensuring accessibility to persons with disabilities; (6) ensuring accessibility for language minorities as required by the Voting Rights Act of 1965, as amended; and (7) meeting the "error rate" guidelines adopted by the Federal Election Commission.

Preliminarily, the cost of this component is estimated to be between $42.6 million and $70 million but actual costs may be less than or more than these parameters. In any case, this component shall be the priority in allocating funds.

**Provisional Voting**
California law specifies procedures for provisional voting that generally comply with the requirements of Section 302. However, funds will be disbursed by the Secretary of State from the Election Fund to ensure that all notices required by HAVA are developed and included at each polling place. In addition, the Secretary of State will, in cooperation with local elections officials, define a "free access" system (or systems) to permit voters

to determine if their provisional ballots were counted and if not, why not. Alternatively, the state may take a proactive approach and advise provisional voters of the status of their ballots and, if they were not counted, why not. The funds necessary for this "free access" system or a proactive program will depend on the design of the system (Internet, telephone, etc.), who operates and manages the system (one state system, or 58 local systems), and the volume of inquiries made by voters for the required information or the volume of notices provided to provisional voters.

Preliminarily, the cost of this component is estimated to be between $1 million and $3 million but actual costs may be less or more than these parameters, with continuing ongoing costs.

**Voting Information**
HAVA requires that certain information be provided to voters at the polling place. This information shall include a sample ballot, the date and hours of voting, how to vote, how to vote a provisional ballot, procedures for first-time registrants required to provide identification in order to vote, a listing of the rights of voters, and general information on other laws and protections for voters.

The Secretary of State will ensure that the necessary materials are developed, distributed, and provided at all polling places.

Preliminarily, the cost of this component is estimated to be between $100,000 and $300,000 but actual costs may be less or more than these parameters.

**Statewide Database**
The Secretary of State shall develop a single, uniform, official, centralized, and interactive database of registered voters that is defined, maintained, and administered at the state level. The database shall be the official list of voters for federal elections.

The development of this system will likely require, to be consistent with state law, the initiation of a feasibility study and analysis to determine the functional requirements of the statewide database. This analysis will determine the amount of funds to be allocated to this requirement.

This analysis will include a determination of the costs and issues related to providing the "immediate electronic access" to elections officials required by Section 303(a)(1)(A)(v).

The analysis will also provide information on potential costs for other state agencies to meet the requirement of HAVA. This will include, but not be limited to: (1) establishing a connection with the Department of Motor Vehicles to facilitate the verification of driver's license number and social security number; (2) establishing a connection with the Department of Corrections to determine felony status; and (3) establishing a connection with the Department of Health to obtain information regarding per-sons who have deceased.



In addition, once the system is defined, the Secretary of State will determine the ongoing maintenance, support, security requirements, and the costs associated with these requirements, to comply with appropriate sections of HAVA, including Sections 303(a)(1)(A), 303(a)(1)(A)(vii), and 303(a)(3).

Preliminarily, the cost of the statewide database is estimated to be between $8 million and $40 million but actual costs may be less or more than these parameters, with substantial ongoing costs.

**Requirements for Voters Who Register by Mail**
The Secretary of State will develop procedures for the uniform implementation of the requirements of Section 303(b).

Preliminarily, the cost of this component is estimated to be between $100,000 and $300,000 but actual costs may be less or more than these parameters.

**Voter Education**
Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate voters to assist in meeting the requirements of Title III. The changes and new procedures required by HAVA represent the most significant change in voting in a lifetime, and communicating these changes to voters will be critical to the success of the reforms in the election process.

The Secretary of State will allocate substantial funds to the education of voters concerning voter registration, voting, new voting equipment, voter rights, and other appropriate subjects.

These funds will provide for educational efforts in the minority language and disability communities. The Secretary of State will make a special effort to inform and educate young voters as they begin their careers as voters.

In addition to funds expended by the Secretary of State, funds may be allocated to elections officials, individuals, organizations, and others for educational purposes. Funding allocation will be in accordance with criteria established by the Secretary of State.

Outreach methods may include: printed materials, radio and television announcements, mailings, newsletters, door-to-door canvassing, organizing community groups and utilizing their networks to extend into the community, or other means to effectively reach the target audience.

Preliminarily, the cost of this component is estimated to be between $15 million and $45 million but actual costs may be less or more than these parameters.

**Elections Official Education**
Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate elections officials. Elections officials are the administrators of the HAVA reforms and their expertise and ongoing education are critical to successful elections.

The Secretary of State will develop a plan for an Election Academy to train prospective elections officials and to provide ongoing training of current officials. The funding required for this Election Academy will depend on the curriculum and pro-gram design.

Preliminarily, the cost of this component is estimated to be between $15 million and $45 million but actual costs may be less or more than these parameters, with continued ongoing costs.

**Poll Worker Education**
Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate poll workers. Poll workers are on the front line of elections.

The Secretary of State will expend and allocate funds to assist local elections officials in programs to train poll workers. These programs will include, among other topics, instruction on the proper operation of voting equipment, applicable federal and state laws, the specific needs of minority language and disabled voters, voting provisionally in accordance with the HAVA, procedures for voters who register for the first time by mail, and the rights of voters.

Preliminarily, the cost of this component is estimated to be between $15 million and $45 million but actual costs may be less or more than these parameters, with continued ongoing costs.

**The Portion of the Requirements Payment That Will Be Used To Carry Out Other Activities**
**Complaint Procedure**
Title IV, Section 402, pages 126-128
The Secretary of State has established a complaint procedure that meets the requirements of Section 402. The funds necessary for administering this procedure will depend on the type and the number of complaints received and processed. Funding for administering the procedure is likely to come from the requirements payment.

Preliminarily, the cost of this component is estimated to be between $100,000 and $300,000 but actual costs may be less or more than these parameters, with continued ongoing costs.

**Voting Rights Of Military And Overseas Citizens**
Title VII, Section 702, pages 145-146
HAVA amends Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act



(42 U.S.C. 1973ff-1) to add a requirement that each State designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to Federal elections. Reports are required after regularly-scheduled general elections for Federal office

Preliminarily, the cost of this component is estimated to be between $100,000 and $300,000 but actual costs may be less than or more than these parameters.

**Summary of Costs and Portions Used to Carry Out Activities**
Based on an estimated requirements payment for California of $97.1 million for FY 2003, 22 the best estimate of the distribution is shown on the chart below.*

| HAVA MANDATE | COST ESTIMATE | PORTION OF PAYMENT |
|---|---|---|
| Voting System Standards – Title III, Section 301(a) | $42.6 million – $70 million | 43.87% |
| Provisional Voting – Title III, Section 302(a) | $1 million – $3 million | 1.03% |
| Voter Information Posting – Title III, Section 302(b) | $100,000 - $300,000 | .1% |
| Statewide Database – Title III, Section 303(a) | $8 million – $40 million | 8.24% |
| Verification of Voter Registration Information – Title III, Section 303(a)(5) | $100,000 - $300,000 | .1% |
| Requirements for Certain Voters Who Register by Mail – Title III, Section 303(b) | $100,000 - $300,000 | .1% |
| Mail-In Registration Form Requirements – Title III, Section 303(b)(4) | $0 | 0% |
| Voter Education – Title III | $15 million – $45 million | 15.45% |
| Elections Official Education – Title III | $15 million – $45 million | 15.45% |
| Poll Worker Education – Title III | $15 million – $45 million | 15.45% |
| Complaint Procedure (Other Activities) – Title IV, Section 402 | $100,000 - $300,000 | .1% |
| Voting Rights of Military and Overseas Citizens (Other Activities) – Title VII, Section 702 | $100,000 - $300,000 | .1% |
| **TOTAL** | **$97,100,000 – $249,500,000** | **100% of $97,100,000** |

*Note that continued ongoing costs are not included and that the costs and portions indicated are subject to change based on the variables indicated earlier. Such anticipated changes, unknown at this time, are deemed to be included in this Plan as if set forth in detail. Note, also, that the "Portion of Payment" indicated above is based on the minimum "Cost Estimate" which may not be the true cost as ultimately determined.

**SECTION SEVEN: MAINTENANCE OF EFFORT**
Section 254(a)(7), page 74
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.

The Secretary of State, through the state's budgetary processes and the distributions of the requirements payment, will ensure that the expenditures of the state for activities funded by the payment will be maintained at a level that is not less than the level of such expenditures maintained by the state for the 1999-2000 Fiscal Year.

**SECTION EIGHT: PERFORMANCE GOALS AND MEASURES**
Section 254(a)(8), page 74
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 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.

The Secretary of State, as Chief Elections Officer, in consultation with local elections officials and other interested par-ties, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, shall:

- Develop performance goals and measures, with timetables, descriptions of criteria, the process used to develop the criteria, and identification of accountable officials, to determine the effectiveness of all programs and efforts receiving HAVA funds;
- Monitor, through consultations with local elections officials and interested individuals and organizations, the performance of the state, units of local government and other entities with respect to reaching goals and each and every provision of HAVA.

**SECTION NINE: STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES**
Section 254(a)(9), page 74
A description of the uniform, nondiscriminatory state-based administrative complaint procedures in effect under Section 402.

Section 402 (pages 126-128) requires the state to establish and maintain a state-based administrative com-plaint procedure that:

- Is uniform and nondiscriminatory;
- Allows any person who believes that there is a violation of any provision of Title III to file a complaint;
- Requires that the complaint be in writing and be notarized;
- Permits consolidation of complaints;



- Requires that there be a hearing on the record if the complainant requests such;
- Requires an appropriate remedy be provided if the State determines that there is a violation of Title III;
- Provides that the complaint be dismissed and that the results be published if it is determined that there is no violation;
- Requires a final determination be made within 90 days from the date the complaint is filed unless the complainant consents to a longer period for making such a determination;
- Provides that alternative dispute resolution procedures be established for resolving the complaint within 60 days if the State fails to meet the 90 day deadline set forth above.

Under existing procedures, any person may complain to the Secretary of State, as Chief Elections Officer, that elections laws or procedures have been violated, are being violated or are about to occur. A toll-free telephone number for this purpose is provided and is widely disseminated. Complaints may also be submitted to the Secretary of State in writing. All credible allegations are investigated by one or more units of the Office of the Secretary of State, often in conjunction with local elections officials and other state officials.

The Secretary of State, after consulting with local elections officials and interested individuals and organizations, has established a uniform, nondiscriminatory state-based administrative complaint procedure in compliance with Section 402 of HAVA. The procedure provides individuals with a meaningful, expedited means of voicing a complaint concerning the implementation of Title III of HAVA and an appropriate remedy if a violation has occurred. The procedure addresses the accessibility needs of minority language voters and individuals with disabilities.

The complaint procedure in effect authorizes any individual residing in the State of California to file a written complaint with the Secretary of State alleging that Title III has been violated, is being violated or is about to be violated. Pursuant to HAVA, the complaint must be notarized. (The Complainant must sign the complaint after being sworn by a notary public.) The complaint may be filed on a form prescribed and made available by the Secretary of State or on any other form that meets the specified requirements. Forms prescribed by the Secretary of State are required to be translated into appropriate languages. The Secretary of State will seek the assistance of an advisory committee to make the complaint procedure accessible to individuals with disabilities. The complaint may be filed in person at any office of the Secretary of State or mailed to Secretary of State, Elections Division, HAVA Complaint, 1500 11th Street, Sacramento, CA 95814. The complaint must be filed within 60 days after the occurrence of the alleged violation or within 90 days after the Complainant becomes aware of the

alleged violation, whichever is later. The Secretary of State may consolidate complaints when appropriate. The Complainant may request a hearing on the record. The Secretary of State determines whether the hearing is oral or is based on written testimony. A final determination must be made within 90 days of filing the complaint. An appropriate remedy must be provided if a violation is found. In any case, the determination shall be in writing and must be posted on the Secretary of State's website, unless such posting might compromise a criminal investigation or other enforcement action. If a determination is not made within 90 days, then the complaint is referred to a neutral Hearing Officer who must make a determination within 60 days of the initial 90-day deadline. The determination must be posted on the Secretary of State's website, unless such posting might com-promise a criminal investigation or other enforcement action.

**SECTION TEN: EFFECT OF TITLE 1 PAYMENTS**
Section 254(a)(10), page 75
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.

A total of $84 million has been received, pursuant to HAVA Title I. Payments received pursuant to HAVA Section 101 have been used or will be used in accordance with HAVA Section 101(b)(1) (A)-(H) and Section 101(c). Funds received pursuant to HAVA Section 102 will be used, in accordance with Section 102(a)(2) to replace punch card voting systems in counties that used such systems in the 2000 General Election. The Title I funds, therefore, will supplement the requirements payment received pursuant to Title II.

**SECTION ELEVEN: HAVA STATE PLAN MANAGEMENT**
Section 254(a)(11), page 75
How the state will conduct ongoing management of the plan, except that a state may not make any material change in the administration of the plan unless the plan is appropriately noticed and published in the Federal Register.

The Secretary of State, as Chief Elections Officer, shall provide ongoing monitoring and oversight of compliance with the requirements of HAVA. To facilitate such, the Secretary of State shall require that:

- Any official or other entity receiving any funds under HAVA will be required to make ongoing reports on progress of implementation;
- Funds be awarded on a schedule or other basis that requires proof of satisfactory completion of one phase of a project before funds for the next phase are distributed;



- Local elections officials and interested individuals and organizations, including the Members of the California State Plan Advisory Committee involved in the development of this Plan, be consulted on a continuing basis with respect to management of the State Plan and any perceived problems with its implementation and/or the need for material change;
- No material change be made in the administration of the State Plan prior to appropriate notice and publication in the Federal Register.

**SECTION TWELVE: CHANGES TO STATE PLAN FROM PREVIOUS FISCAL YEAR**
Section 254(a)(12), page 75
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.
(Not applicable. This is the first year of the California State Plan.)

**SECTION THIRTEEN: STATE PLAN DEVELOPMENT COMMITTEE**
Section 254(a)(13), page 76
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.

As discussed above in the Overview, this Plan was developed through a committee of twenty-four individuals representing a cross-section of Californians. As required by Section 255(a), the individuals included the chief elections officials of the two most populous jurisdictions conducting federal elections in California (Los Angeles and Orange Counties), other local elections officials, stake holders, including representatives of groups of individuals with disabilities, and other persons. The list of the members and biographical information begins on page 37.

The Committee, as discussed in the Overview, held five public hearings inviting and receiving comment from the public. The Committee thereafter met in Sacramento and the Members made recommendations to the Secretary of State with respect to the content of the Preliminary State Plan. Those recommendations, as well as the comments received from the public, were considered by the Secretary of State in drafting the Preliminary State Plan.

After the Preliminary Plan was made available for inspection and comment, additional comments were submitted by members of the public and by members of the Advisory Committee. These comments were carefully considered by the Secretary of State in preparing the California State Plan.

For a discussion of the procedures followed by the Committee in developing the State Plan, see the Overview on page 6.

**COMMITTEE MEMBERS**

**Rob McKay, Chair**
**McKay Foundation**
Mr. McKay is the President of the McKay Foundation, a family foundation that awards grants to community groups working for social and economic justice. He is also the managing partner of the McKay Investment Group, which provides venture capital for early-stage technology and consumer product companies. He is well-known in California for his work in promoting participation in the voting process. He was the proponent of Proposition 52 on the November 2002 ballot, a bi-partisan measure to establish Election Day Voter Registration in California.

**R. Michael Alvarez**
**Professor of Political Science, Caltech**
**Caltech/MIT Voting Technology Project**
R. Michael Alvarez has taught political science at Caltech since December 1992. He received his B.A. in political science in 1986 from Carleton College; he received his M.A. and Ph.D. from Duke University in 1990 and 1992, respectively. He has focused most of his research and teaching on the study of electoral politics in the United States. Professor Alvarez is co-director of the Caltech/MIT Voting Technology Project, researching technological solutions to electoral problems. He is a Principal Investigator for the Secure Electronic Registration and Voting Experiment (SERVE), which is studying Internet voting for overseas civilians and military personnel through a contract with the Department of Defense. Alvarez has just completed a new book project with Thad Hall on the feasibility of Internet voting called "Point, Click and Vote."

**Harley Augustino**
**Coalition for a Living Wage**
Harley Augustino is the Field Organizer for the Coalition for a Living Wage, a labor-community coalition in Santa Barbara that advocates for economic justice policies while building the power and leadership of low-income residents. A graduate of UCSB, he has led several campus and community-based voter registration and participation efforts. He co-founded the Isla Vista Tenants' Union in 1998, and was elected to a four-year term as a Director of the Isla Vista Recreation and Park District in 2000.

**Robert Balgenorth**
**State Building and Construction Trades Council**
Robert Balgenorth is President of the State Building and Construction Trades Council of California, AFL-CIO since 1993. The Council, which represents more than 200 building trades local unions and regional councils, works to improve the economic condition, health and job safety of approximately 400,000 working men and women in the state's construction industry. In 1999, he was appointed to the Governor's Commission on Building for the 21st Century of which he serves as co-chair for the Facilities and Finance Committees. In 2002, he was appointed to the Workforce Investment Board and to the California Transportation Commission where he serves as Vice-Chair.



**Ardis Bazyn**
**California Council of the Blind**
Ardis Bazyn is currently Treasurer of the American Council of the Blind based in Washington, D.C.; Secretary for the California Council of the Blind; First Vice President of Independent Visually Impaired Entrepreneurs and Board Member of Randolph Sheppard Vendors of America. She is a motivational speaker, coach and writer with Bazyn Communications. She has published numerous articles and Books. In 2001, she compiled a booklet for Blind Students of California, "A Guide to a Successful College Experience." She has owned several businesses and has been active in a variety of business and consumer organizations.

**Miguel Contreras**
**Los Angeles County Federation of Labor AFL-CIO**
Miguel Contreras is the Executive Secretary-Treasurer of the Los Angeles County Federation of Labor, AFL-CIO. He is the first Latino elected leader of the 107-year-old Federation of 350 affiliated unions representing more than 750,000 members. He serves on the Boards of the L.A. Convention and Visitors Bureau, United Way of Los Angeles, Los Angeles Airport Commission, and the California Narcotic Addicts Evaluation Authority. He has been listed in Hispanic Business Magazine's "100 Most Influential Hispanics" for the past three years.

**Francisco Estrada**
**Mexican American Legal Defense and Educational Fund (MALDEF)**
Francisco Estrada is a Senior Policy Analyst in the Sacramento office of the Mexican American Legal Defense and Educational Fund (MALDEF) working on educational and land use issues. He represents MALDEF on the Steering Committee of the California Futures Network. Before his employment at MALDEF, he was a long-time staff member to Congressman Bob Filner. At the local and federal government level, he has worked on a number of issues including water, wastewater, transportation infrastructure projects, immigration, energy, and environmental protection.

**Kathay Feng**
**Asian Pacific American Legal Center (APALC)**
Kathay Feng is the Program Director of the Voting Rights Unit at the Asian Pacific American Legal Center. She has worked in a variety of civil rights areas including voting rights and redistricting, hate crimes, police accountability, and anti-discrimination. She is currently involved in APALC's efforts to build a statewide network of advocates on key policy issues such as voting rights, language rights and consumer rights. Ms. Feng serves, or has served, on the Asian Pacific Policy & Planning Council, the California Secretary of State's Advisory Committee on Voter Participation and Out-reach, LA County Human Relations Commission, LAPD Police Chief's API Forum, the Asian Pacific American Police Advisory Council, Organization of Chinese Americans, and the National Asian Pacific American Women's Forum's Los Angeles Board.

**Rosalind Gold**
**National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund**
Rosalind Gold serves as Senior Director of Policy, Research and Advocacy with the NALEO Educational Fund, where she has worked for over a decade on policy analysis and research for the naturalization and Latino political empowerment efforts of the organization. Her areas of expertise include election reform, the decennial Census and the restructuring of the nation's immigration bureaucracy. She received her J.D. from Harvard Law School and her B.A. from Pomona College in Claremont, California.

**Margaret Jakobson**
**Protection & Advocacy, Inc. (PAI)**
Margaret Jakobson has worked for California Protection and Advocacy, Inc. (PAI) for six-teen years. She was a staff attorney serving clients with developmental disabilities for six years and then an attorney serving clients with physical, mental and sensory disabilities. Her specialties include special education issues, developmental disabilities service system eligibility, and Americans with Disabilities Act litigation, including public transit litigation. She became the managing attorney in the Oakland regional office in 1999 and held that position until her move to San Diego in 2001. In San Diego she set up a new PAI regional office, is the managing attorney of that office, and specializes in special education, Americans with Disabilities Act litigation, transportation law, voting rights and other service and civil rights advocacy for people with disabilities.

**Cyndi Jones**
**Exploding Myths, Inc.**
Cyndi Jones is President of Exploding Myths, Inc. She draws on over 40 years of experience as an advocate for disability rights. As publisher, she promoted the growth of MAINSTREAM Magazine from a four page local newsletter to an award-winning glossy national magazine serving people with disabilities. She has served on many national panels on media and disability issues, including the New Directions for News conference at the Freedom Forum on underrepresented groups in the media in 1993.

**Laura Kerr**
**California State Student Association**
Laura Kerr is the Director of Governmental Relations for the California State Student Association. She has been actively involved in statewide student advocacy and higher education policy since 1998. She is the registered lobbyist for the association and closely monitors the public policy developments, personalities, and institutions that affect CSU students and shape higher education politics in California. In this capacity, she coordinates the association's voter registration, voter education and get-out-the-vote campaigns and is the staff liaison to the California Youth Vote Coalition. She graduated from Humboldt State University in 2001.



**Geoffrey Kors**
**Equality California (EQCA)**
Geoffrey Kors is the Executive Director of Equality California (EQCA), California's lesbian, gay, bisexual and transgender lobbying organization. Equality California was formerly known as California Alliance for Pride and Equality (CAPE). Mr. Kors is a graduate of Stanford Law School and has been active in the LGBT community for twenty years. Prior to joining EQCA, he was a partner in the law firm Wotman, Kors & Clouiter, LLP where he primarily handled gay rights matters. He has served as Director of both the Gay and Lesbian Rights and AIDS and Civil Liberties Projects of the ACLU of Illinois and as Chief of Staff to San Francisco Supervisor Leslie Katz. Mr. Kors originated San Francisco's Equal Benefits Ordinance which is now the basis of AB 17, a bill in the California Assembly.

**Cynthia McClain-Hill**
**National Association of Women Business Owners (NAWBO)**
Cynthia McClain-Hill is founder and principal of the law firm McClain-Hill Associates in Los Angeles. The law firm specializes in Land Use, Planning and Environmental Law, Public and Administrative Law and public policy development and advocacy. She currently serves on the Board of Directors of the National Health Foundation, is President Elect of the National Association of Women Business Owners-Los Angeles, a member of the UCLA Foundation Board of Councilors, and supports a host of charitable organizations aimed at enhancing opportunities for women and minorities. Ms. McClain-Hill has previously served the State of California as a member of the California Fair Political Practices Commission and now serves as the Governor of California's appointee to the California Coastal Commission.

**Conny McCormack**
**Los Angeles County Registrar-Recorder/County Clerk**
Conny McCormack is the Registrar-Recorder/County Clerk of Los Angeles County. As Registrar of Voters, she is responsible for conducting elections for the largest electoral jurisdiction in the U.S., with over 4 million registered voters and 5,000 voting precincts. She conducts federal, state and county elections and, via contract, conducts or supports local elections for 88 cities, 100 school districts and 149 special districts. Prior to becoming Registrar of Voters in Los Angeles, she served as Registrar of Voters for San Diego County from 1987 to 1994 and was Elections Administrator in Dallas County, Texas, from 1981-1987. Additionally, she has served as an international elections consultant in five countries.

**Eliseo Medina**
**Organization of Los Angeles Workers (OLAW)**
Eliseo Medina is International Executive Vice President of Service Employees International Union (SEIU) based in Los Angeles. He has helped to make SEIU the fastest-growing union on the West Coast and the largest union in California and the nation. In 1996, he made history when he was elected as the first Mexican-American to

a top leadership post at the million member SEIU. He has helped strengthen ties between the Catholic Church and the labor movement to work on common concerns such as immigrant worker rights and access to health care.

**Vigo G. (Chip) Nielsen, Jr.**
**Nielsen, Merksamer, Parrinelo, Mueller & Naylor, LLP**
Chip Nielsen is a prominent specialist in federal and California campaign, initiative, lobbying, conflict of interest and non-profit laws. His firm represents clients in campaign, lobbying and gift laws in all 50 states. He is Co-chair and Co-editor of Practicing Law Institute's annual seminar and case book on "Corporate Political Activities," (1978-Present). He serves on the Advisory Board, Institute of Governmental Studies, University of California, Berkeley, (1993-Present). He has served as Legal Counsel to Governor Pete Wilson Committee (1989-1999); Senator Pete Wilson Committee (1981-1991); Art Agnos for San Francisco Mayor (1987-1991); George Moscone for San Francisco Mayor (1975-1978).

**Art Pulaski**
**California Labor Federation, AFL-CIO**
Art Pulaski is the Executive Secretary Treasurer of the California Labor Federation, AFL-CIO. During his tenure in office, the rank and file members in the Federation have doubled. As President of "We Do the Work," he helped craft the successful, nationally televised PBS series. He serves on the boards of the Council for Economic and Environmental Balance, the Labor Project for Working Families, State Workforce Investment Board, Governor's Commission on Building for the 21st Century and Potomac Board of Governors.

**Ann Reed**
**President, California Association of Clerks and Elections Officials and the Shasta County Registrar of Voters**
Ann Reed is currently President of the California Association of Clerks and Elections Officials. She is the elected Shasta County Clerk/Registrar of Voters, having first been elected in 1982. Prior to her election, she had been the Assistant County Clerk/Recorder of Voters since 1978, and had worked in the office since 1963.

**Steve Rodermund**
**Orange County Registrar of Voters**
Steve Rodermund is the Orange County Registrar of Voters. Orange County is California's second most populous county with million registered voters, requiring language support in English, Chinese, Korean, Spanish, and Vietnamese. Orange County is currently replacing its punch card voting system with the Hart DRE system, with countywide implementation in March 2004. Mr. Rodermund retired from the military in 1992. Since then he has served in various positions with the Orange County Transportation Authority and in Orange County's County Executive Office.



**Arturo Rodriguez**
**United Farm Workers of America, AFL-CIO**
Arturo Rodriguez is the President of United Farm Workers of America, AFL-CIO. As President, he is carrying on the work of the union founded by Cesar Chavez, who died in 1993. Mr. Rodriguez succeeded Mr. Chavez to the presidency. He has been active with the union and its mission since 1969. In 1995, he was elected to the AFL-CIO's governing Executive Council.

**Marion Taylor**
**League of Women Voters of California**
Marion Taylor is Government Director for the League of Women Voters of California. A member of the League of Women Voters since 1968, she has been active in the League's Voters Service work, particularly making presentations on pros and cons of statewide ballot measures and moderating candidate forums. She contributes information to Smart Voter, the League's online guide which provides access to a ballot customized for a particular address and integrates information from elections officials, candidates, newspapers, and nonpartisan websites. She was a librarian at the University of California at Santa Cruz for 25 years.

**Ted Wang**
**Chinese for Affirmative Action (CAA)**
Ted Wang is the Policy Director for Chinese for Affirmative Action (CAA), where he overseas advocacy on civil rights issues affecting Asian Americans and supervises job training for low-wage workers. Mr. Wang has drafted a number of immigrant and civil rights laws and policies at both the state and local levels in California, litigated cases under the federal Voting Rights Act and National Voter Registration Act, and helped develop local plans to implement the language assistance requirements of Section 203 of the VRA, as well as procedures for allowing eligible prisoners to vote in San Francisco county jails. Prior to joining CAA, Mr. Wang was staff attorney with the Lawyers' Committee for Civil Rights of the San Francisco Bay Area.

**Dr. Geraldine Washington**
**National Association for the Advancement of Colored People (NAACP)**
Dr. Geraldine Washington is President of the Los Angeles NAACP. She has served as NAACP Branch President and Vice President, President and Vice President for Women In NAACP and Win Coordinator for Region I, which consists of nine western states, Japan, Germany and Korea. She serves on the Los Angeles County EEOC Advisory Council, Media Image Coalition (Human Relations Sub-Committee), and African American Jewish Leadership Connection.

ENDNOTES

[1] Voting-eligible turnout estimate by Dr. Michael P. McDonald, George Mason University, see http://elections.gmu.edu/voter_turnout.htm.

[2] Report of Registration, Secretary of State, February 10, 2003.

[3] Elections Code § 10, Government Code § 12172.5.

[4] Report of Registration, Secretary of State, February 10, 2003.

[5] Stats.2001, c. 922 (AB 1520-Shelley)

[6] Public Law 107-252.

[7] All comments received, as well as all documents and other materials produced in connection with the hearings, are avail-able for review in the Office of the California Secretary of State, Elections Division, 1500 11th Street, 5th Floor, Sacramento, California 95814.

[8] All comments received, as well as all documents and other materials produced in connection with the State Plan, are available for review in the Office of the California Secretary of State, Elections Division, 1500 11th Street, 5th Floor, Sacramento, California 95814.

[9] Page references are to the pages of the final version of HAVA, as posted on the California Secretary of State's website at www.ss.ca.gov.

[10] Unless otherwise noted, all Title references are to HAVA.

[11] Elections Code Section 10 and Government Code Section 12172.5.

[12] Elections Code Section 10 and Government Code Section 12172.5.

[13] Elections Code Section 10 and Government Code Section 12172.5.

[14] Under specified circumstances, the State can seek a waiver of the requirement until January 1, 2006. The deadline for seeking a waiver is January 1, 2004.

[15] Elections Code Section 10 and Government Code Section 12172.5.

[16] The effective date depends on the application of Section 303(d)(1)(A) or (B).

[17] Elections Code Section 10 and Government Code Section 12172.5.

[18] Elections Code Section 10 and Government Code Section 12172.5.

[19] This assumes that California does not have a HAVA-compliant statewide voter registration database in place.



[20] Elections Code Section 10 and Government Code Section 12172.5.

[21] Elections Code Section 10 and Government Code Section 12172.5.

[22] This assumes a total appropriation of $830 million rather than the $billion authorized for FY 2003 by HAVA Section 257(a)(1). No assumption is made with respect to appropriations in subsequent years.

# State of Colorado

## Help America Vote
## State Plan

**In Accordance with Public Law 107-252, §253(b)**

"This Help America Vote State Plan is the exciting beginning of Colorado's voting future. As the State's election process evolves into the 21st century, HAVA 2002 will be the first among many stepping-stones to a future that melds integrity with accessibility, self-determination and independence." --- Secretary of State Donetta Davidson

Submitted July 15, 2003

***The mission of the Department of State is to serve the public by performing constitutional and statutory duties of collecting, securing, and communicating information, ensuring the integrity of elections, and enhancing commerce.***

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**STATE OF COLORADO**
**Department of State**
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1560 Broadway, Suite 200
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***Donetta Davidson***
**Secretary of State**


*May 29, 2003*

*My Fellow Coloradoans,*

*Colorado is pleased to report on its implementation of the Help America Vote Act of 2002. Not since the Voting Rights Act of 1965 has there been such sweeping change in federal election law. It is both a challenge and a privilege to be involved in the implementation of a project of this magnitude. We look on this report as a living document that, once drafted, will evolve into a working plan of action. Through its implementation, this plan will empower Colorado voters to voice their electoral preference in an environment that ensures the independence and integrity of their vote.*

*Through the Help America Vote Act of 2002, Congress provided State Election Officials with a planning formula, responsibility, authority and funding for the implementation of that act. The success of this formula requires cooperation and support from our General Assembly and the active participation of community stakeholders in the planning process. Our General Assembly recognized the immediate impact of the Help America Vote Act of 2002 and passed our enabling legislation before they adjourned the 2003 legislative session. We are grateful to our 90 stakeholders who have met diligently and regularly to assist us with the creation of this plan and our implementation strategy.*

*The following pages are just the beginning of Colorado's voting future. As Colorado's election process evolves into the 21st century, the Help America Vote Act of 2002 will be a first among many stepping-stones to a future that melds integrity with accessibility and self-determination.*

*Donetta Davidson*

## Executive Summary

Colorado is fortunate to have over 90 citizens participating in shaping its electoral future. These participants serve on various subcommittees that provide input to the State Planning Committee. The State Planning Committee serves in an advisory capacity to the Secretary of State. The subcommittees are designed to cover specific requirements of the Help America Vote Act of 2002[1] (HAVA 2002) initiative.

Colorado is currently in a strong position to honor many of the HAVA requirements. Provisional voting was adopted by the State in 2000. In 2002, Colorado expanded the voting rights of active military personnel serving overseas. In 2003, Colorado expanded the law further to extend to all absent uniformed services electors, their spouses and children, and all overseas citizens, their spouses and children. Finally, in 2003, Colorado passed H.B. 03-1356, also known as the Colorado Help America Vote Act. This bill addressed the remaining HAVA requirements that Colorado needed to address.

Colorado will use the requirements payments to address the requirements identified under Title III. These requirements include, but not limited to:

- Voting standards, including auditing, accessibility, error rates and uniform definitions.
- Provisional voting and voting information
- Statewide voter registration system, including mail registration
- Other activities to improve the administration of elections

The Secretary of State will centrally manage activities funded by requirements payments. The Secretary of State will be accountable for all expenditures, funding levels, program controls and outcomes. In order to ensure a uniform and non-discriminatory approach, all affected stakeholders must have input into the process. The Secretary of State will work with local election officials to create a needs assessment instrument and determine the appropriate level of support for local activities.

The Secretary of State will reach out to its electorate, election staff and local election officials with an effective program of election education and outreach. Through a curriculum of election law, process and Election Day administration the Office of the Secretary of State will provide local election officials and their staff members with a certification program that can be completed within a two-year period. In addition, marketing techniques currently under review include not only more effective ways of recruiting judges from the political parties but also investigating ways to engage the private sector, higher education, community groups, Ad Councils and service organizations.

With regard to voting guidelines and processes, all voting systems in Colorado either already meet or will meet the error rate standards established under Section 3.2.1 of the Voting Systems Standards issued by the Federal Elections Commission. Colorado will also ensure that at least one Direct Recording Electronic voting system that meets the standards for accessibility for voters with special needs is in each polling place in the State. In addition, Colorado will require each county to have its integrated voting system tested and certified as meeting the requirements of HAVA 2002 and state election code.

In addressing fund management, H.B. 03-1356 established the "Federal Elections Assistance Fund". All federal funds received by the State pursuant to HAVA 2002 will be deposited into this Fund, along with state and county monies appropriated for the purpose of meeting the State's 5% match requirement. The Fund will be administered by the Secretary of State in accordance with the financial controls and accounting standards required by Colorado and federal law.

The Office of the Secretary of State estimates that Colorado may receive between $43 million and $53 million of federal funding over the next three years. Currently, Colorado estimates costs to address all the requirements of HAVA 2002 to range from $48 million to $67 million.

The State will maintain state expenditures for activities funded by the requirements payment at a level at or above the expenditure level that existed prior to the receipt of federal funds. Colorado's HAVA enabling legislation establishes requirements that exceed the maintenance of effort required by HAVA 2002.

Colorado understands that accurate measurement and tracking of performance goals is paramount in achieving a successful implementation of P.L. 107-252. Performance goals provide a high-level view of a project's direction. The State's goal is to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in Section 8 of the State Plan.

Uniform and nondiscriminatory complaint procedures are an important aspect of HAVA 2002. The Secretary of State will develop a unified statewide complaint system process for tracking and managing suspected violations of Title III of P.L. 107-252. The State will address the complaint procedures by breaking down the tasks into the following sections:

- Submission Process
- Review Process
- Alternative Dispute Resolution
- Forms
- Manuals
- Resolution Process
- HAVA Timelines

In addressing Title I of HAVA 2002, Colorado estimates receipt of approximately $7.1 million. These funds will be split between activities listed in §101, totaling $4.9 million, and §102, totaling $2.2 million.

Colorado will use the State Plan as the basis for managing the activities necessary for the implementation of HAVA requirements. The Secretary of State, with guidance from the HAVA Steering Committee, will be responsible for the management and implementation of the State Plan. In addition, Colorado will conduct plan management at four levels: Secretary of State, State HAVA Steering Committee, State HAVA Committee and Project Managers. The implementation schedule of this plan ranges from January 1st, 2003 to January 1st, 2006.

[1] Public Law 107-252 (2002), 42 U.S.C. §§15301-15545.

**Administrative Complaint Procedures Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections staff, the Colorado Civil Rights Commission, the Colorado General Assembly, the political parties, the State Attorney General's Office and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Setting Up the Submission Process;
- Setting Up the Review Process;
- Alternative Dispute Resolution;
- Forms;
- Manuals;
- Resolution Process; and
- HAVA Timelines.

**Military and Overseas Citizens Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections and I.T. staff, the United States Armed Forces, the Office of the Governor, the Colorado General Assembly, the State Department of Military Affairs, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Effective Communication Lines Between the Armed Forces and Election Officials
  - State
  - Local;
- Address Changes;
- Education Materials;
- Use of Media in Process;
- Registration and Absentee Application;
- Different Methods of Voting
  - Blank Ballot
  - Fax
  - Absentee; and
- Working With Federal Voter Assistance Program When Possible.

**Voting Accessibility and Outreach Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections staff, County Commissioners, the Colorado General Assembly, the Hispanic/Latino community, public interest groups, the minor political parties, the National Federation for the Blind, the Colorado Cross-Disability Coalition and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Accessibility in the Polling Place
  - Permanent
  - Temporary;
- Polling Place Accessibility Survey;
- One Direct Recording Electronic (DRE) for Each Polling Location;
- Multi-State Compact
  - How to Handle Training and Support for Small Counties; and
- Bilingual Issues
  - Training Materials
  - Communications.

**Computer/Systems Training Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections and I.T. staff, the State Department of Revenue, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Training of Staff
  - Clerical
  - Technical
  - Driver's License
  - Social Service;
- Training Materials/Format; and
- Training on Computer
  - Needs Analysis Survey.

**Equipment Needs Assessment Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections and I.T. staff, the Colorado General Assembly, and the Office of the Secretary of State.

The overall goals and topics for discussion for this subcommittee are as follows:

- Survey and Forms;
- Space;
- Type of Equipment; and
- Branches.

**Equipment Service Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections and I.T. staff, County Commissioners, the Colorado General Assembly, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Needs of State;
- Survey of Resources – In the Field
  - Local Entities
  - State Vendors; and
- Maintenance.

## Current Elections Environment in Colorado

Prior to the adoption of P.L. No. 107-252, also known as the Help America Vote Act of 2002, Colorado had in place many of the provisions required by the Act. Provisional voting was adopted by the State of Colorado in 2001, prior to the 2002 General Election. Since the adoption of the federal act, Colorado passed several bills bringing the state into compliance with the requirements of the federal act.

In 2002, Colorado adopted H.B. 02-1307, also known as the Blue Ribbon Election Bill. This act provided for provisional ballots for any voter who claimed to be properly registered but whose qualification to vote could not be immediately established. This act also allowed individuals who applied for an absentee ballot to vote a provisional ballot at the polling place if they chose not to vote the absentee ballot. In 2003, Colorado adopted H.B. 03-1006 that removed the option to vote a provisional ballot for those electors who had applied for an absentee ballot. It also required each county clerk and recorder and designated election official to create a system to allow voters of provisional ballots to determine whether their ballots were counted.

In 2002, Colorado expanded the voting rights of active military personnel serving overseas by allowing a ballot to be faxed to the active military voter and the voted ballot faxed back to the designated election official. In 2003, Colorado expanded the law further to extend this voting option to all absent uniformed services electors, their spouses and children, and all overseas citizens, their spouses and children with the adoption of H.B. 03-1271. This bill also does the following:

- Designates the Office of the Secretary of State as the designated office responsible for providing information on voter registration and absentee ballot procedures to be used by absent uniformed services electors, nonresident overseas electors, and resident overseas electors who wish to register to vote or vote in any jurisdiction in Colorado;
- Directs the Secretary of State to cooperate with the voting assistance officer of any unit of the armed forces to assist with voter registration and absentee ballot applications; and
- Prohibits a designated or coordinated election official from refusing to accept or process any otherwise valid absentee ballot submitted by an absent uniformed services elector during a year on the grounds that the elector submitted the application before the first date on which the designated or coordinated election official otherwise accepts or processes such applications for that year.

In 2003, Colorado adopted H.B. 03-1356, also known as the Colorado Help America Vote Act. This bill designated the Secretary of State as the chief state election officer within the meaning of HAVA 2002 and granted to the secretary the power of coordinating the responsibilities of the State of Colorado under HAVA 2002. The act authorizes the secretary to establish a uniform administrative complaint procedure to remedy grievances arising under Title III of HAVA 2002. It created a federal elections assistance fund in the state treasury and specifies that the Secretary of State administer the fund. The act creates a permanent funding mechanism that specifies the sources and types of moneys to be deposited into the fund, and requires that any moneys received by the state from the federal government pursuant to HAVA 2002 to be used by the state only for the purposes specified by the provisions of HAVA 2002. In addition, the act provides for a continuous appropriation of all moneys in the fund.

## State Planning Committees

*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 255 and section 256.*
*-- HAVA §254 (a)(13)*

Colorado is fortunate to have a very active group of over 90 citizens interested in shaping its electoral future including both members of the U.S. Senate. Members of the election, legislative, information technology (I.T.), political, legal, minority, accessibility and military communities met both the Secretary of State and Elections Director calls to action with enthusiasm. They were also fortunate to enlist members from the media and educational communities. Stakeholders from within state government are also present at the planning table to assure a smooth transition for the implementation of the statewide voter registration system.

The State HAVA Committee serves in an advisory capacity to the Secretary of State. Each member of the main committee serves on a working subcommittee. Each subcommittee is chaired by county election officials, which provide the group with invaluable experience and expertise with election statutes and processes.

The State HAVA Committee began its work on March 28, 2003. This committee has met monthly to discuss and review general implementation issues as they relate to their communities. Members spent two days in April at facilitated workshops to acquaint themselves with the details and work in groups to discuss funding, grants and "worst case scenario" issues relating to federal and state budgets and mandated procedures.

The goals of the State HAVA Committee reach far beyond making recommendations for the initial development of the State Plan. The Office of the Secretary of State and the members of the State HAVA Committee realize that the HAVA State Plan is a "living document" that will evolve as time passes. With that in mind, the State Committee will continue to meet on a regular basis to evaluate the progress in implementing the plan and discuss new ideas for future plans.

### *State Planning Subcommittees*

The work of the subcommittees may extend over a period of two or three years as the implementation unfolds. Just as the HAVA State Plan is an evolving report, the implementation of HAVA will grow and evolve. As they are implemented, procedures and processes will be reviewed and revised for maximum efficiency.

There are nine subcommittees that have been divided into three major categories: Education and Outreach, Community Outreach, and Technology Needs Analysis. Each subcommittee has a suggested list of goals from the Secretary of State to guide them. Some of the subcommittees have found that once into the subject, additional goals suggest themselves. The following is a list of the subcommittees with a description and goals for each.

**Poll Workers/Junior Judges/Colleges Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, high school education, College/University level education, adult education, the Colorado General Assembly, public interest groups, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Outreach to students;
- Recruitment of election judges in high schools and colleges;
- Development of training manuals and materials
  - For students
  - For election judges;
- Format of training materials; and
- Advertising Council/Literacy Council Advisory.

**Voters/Public/Media Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, County Commissioners, public interest groups, the League of Women Voters, the local news media, the Hispanic/Latino community, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Outreach to Public;
- Outreach to Voters;
- Outreach to Media; and
- Use of Media-Multiple formats
  - Print
  - Broadcast
  - Internet.

**County Clerk/Elections Staff Training Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections staff, County Commissioners, political parties, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- How Often to Train;
- Accredited for Hours;
- Format of Training;
- Training Materials;
- Consistency of Training; and
- Teaching old dogs new tricks.

The Colorado Help America Vote Act also provides for the following:

- Authorizes the secretary to direct that moneys in the secretary of state cash fund be appropriated for carrying out the activities for which federal payments are being made in an amount equal to 5% of the total amount to be spent for such activities;
- Requires each eligible elector to be asked for his or her driver's license number in addition to the last 4 digits of the elector's social security number. If an individual has not been issued a current and valid driver's license or a social security number, the state will assign the applicant a unique identification number to serve as identification of the applicant for voter registration purposes; and
- Requires the secretary to implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive, computerized statewide voter registration system, defined, maintained and administered at the state level. Like most states, Colorado has a centralized voter registration master list; however, it is currently maintained and administered at the county level. The act also authorizes the secretary to electronically cancel the registration of deceased persons and persons convicted of a felony. Colorado does not require the formal restoration of voting rights of felons who have served their sentence as a prerequisite to register to vote; those rights are automatically restored at that time, thus allowing such an individual to register to vote.

In 2002, Colorado adopted H.B. 02-1307, as stated previously, which provided for the sharing of information between the State and Department of Revenue in the collection of information on residence addresses and signatures, including the driver's license database, motor vehicle registration database, motorists insurance database and the state income tax information systems. The adoption of H.B. 03-1356 in 2003 also addresses the following:

- Requires the secretary and the executive director of the Department of Revenue to match information in the database of the centralized statewide registration system with information in the database of the motor vehicle business group to the extent required to enable each department to verify the accuracy of the information provided on applications for voter registration in conformity with the requirements of HAVA 2002;
- Requires the executive director of the department of revenue to enter into an agreement with the federal commissioner of social security for the purpose of verifying applicable information in accordance with the requirements of HAVA 2002. It further requires the secretary to implement adequate technological security measures to prevent the unauthorized access to the computerized statewide voter registration list;
- Requires the questions: "Are you a citizen of the United States?" and "Will you be 18 years or older on Election Day?" with boxes for the applicant to indicate his or her responses to these questions on the voter registration form. It also requires the form to include a statement informing the applicant that, if the form is submitted by mail and the applicant is registering to vote for the first time, the appropriate information required is to be submitted with the mail-in registration form to avoid the additional identification requirements for applicants voting for the first time. If the applicant fails to answer on the mail registration form the question relating to American citizenship, the election official is to notify the applicant of the failure. In addition, the election official is to provide the applicant with an opportunity to complete the form in a timely manner to allow for completion of the registration form prior to the next election for federal office; and
- Allows any new voter who desires to cast his or her ballot in person, by absentee ballot, or mail ballot, but does not satisfy these identification requirements to cast a provisional ballot. In addition, it also requires the designated election official to include with a mail or an absentee ballot written instructions to enable a first-time voter to comply with the requirements for new voters intending to cast a mail or absentee ballot. Finally, the bill directs state and local election officials to implement the requirements applicable to new voters in a uniform and nondiscriminatory manner.

Colorado has created a Colorado Help America Vote Act Committee. The make-up of this committee will be outlined elsewhere in this State Plan. The state has also created subcommittees that are responsible for assessment and inventory matters relating to the statewide voter registration system and accessibility of our polling places:

- The Computer/Systems Training subcommittee will conduct an assessment of our county clerk offices to determine basic computer training issues with county election personnel.
- The Equipment Needs Assessment subcommittee will conduct an assessment survey to see what computer and related equipment is currently in the county clerk election divisions.
- The Equipment and Service Subcommittee will conduct a survey of Colorado counties to see what relationship the county clerks' offices will have with the Secretary of State in terms of ownership, maintenance and service of hardware related to the statewide voter registration system.
- The Accessibility/Outreach subcommittee has devised an accessibility survey for each of the polling places in Colorado for accessibility for voters with special needs including physical and language needs.

Prior to the adoption of P.L. 107-252, Colorado was on the forefront of states allowing provisional ballots, extending of voting opportunities for military personnel and overseas citizens, and providing for the exchange of information between the Office of the Secretary of State and the Department of revenue on driver's license address and signature information. With the adoption of H.B. 03-1006, H.B. 03-1356 and H.B. 03-1271, Colorado's election laws remain some of the most progressive in the United States. Furthermore, these acts bring the state into compliance with the requirements of the federal act.

## Section 1 - Use of Requirements Payments for Title III

*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. --HAVA §254 (a)(1)*

Colorado plans to use the requirements payments to address the following requirements identified under Title III:

- §301 Voting Systems Standards
- §302 Provisional Voting and Voting Information Requirements
- §303 Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail
- §304 Minimum Requirements
- §305 Methods of Implementation Left to Discretion of State
- §311 Adoption of Voluntary Guidance by Commission
- §312 Process for Adoption
- §251(b) (2) – Other Activities

### *§301 Voting Systems Standards*

*Deadline for compliance: 01/01/06*

#### Audit Capacity

All integrated voting systems in the State of Colorado will be required to go through a re-certification process by the State. All such integrated systems shall meet the manual audit requirements set out in Section 301(2), including a permanent paper record with a manual audit capacity, an opportunity for the voter to change the ballot or correct any error before the permanent paper record is produced and the availability of the paper record as an official record for any recount conducted with respect to any election in which the integrated system is used.

#### Accessibility

In an effort to improve voter accessibility in the State of Colorado, the Secretary of State has established the Voting Accessibility and Outreach Subcommittee. This subcommittee meets frequently to assess Colorado's current accessibility issues and recommend improvements to the Secretary of State's Planning Committee. This subcommittee is working hard with the Secretary of State to ensure that every requirement of the Help America Vote Act of 2002 is met and every polling place in the State of Colorado is fully accessible to voters with disabilities, the elderly, and voters with language or literacy barriers.

The Voting Accessibility and Outreach Subcommittee has developed the following mission statement that outlines both principles and goals of voting accessibility in the State of Colorado:

***All voters are entitled to the right of full participation in elections and the political process and to the privilege of casting their votes privately and independently.***

***Polling places and the voting process will be accessible to all voters, including voters with physical or mental disabilities and voters with language and literacy barriers. People with such disabilities or barriers who are knowledgeable about accessibility issues should be included in determining the accessibility of polling places, access to the voting process, and training and procedures for accessibility. No eligible voter will be denied the right to vote because he or she has a physical or mental disability or because he or she has a language or literacy barrier. A combination of technology and creative problem solving should work together to ensure private and independent access to the electoral process for all voters.***

***Election judges will receive training in voting accessibility including common courtesies and procedures for accommodating the needs for all voters.***

***State and local election officials should implement outreach programs to inform voters about the availability of accessible polling places and voting equipment, and should provide individuals with information in an accessible format to inform voters about the use of accessible equipment.***

***Information provided about candidates or other election matters that is made available to the general public in print, electronically, or by other means should be provided in alternative formats accessible to people with disabilities and to people with language or literacy barriers. Voter registration shall be conducted in a uniform and non-discriminatory manner.***

The first step in this process has been the development of Colorado's new polling place accessibility survey. The Accessibility and Outreach Subcommittee has developed a survey to be used by local election officials to assess each and every polling place within their respective jurisdiction.

The Secretary of State and the Colorado Association of County Clerk and Recorders will coordinate with the Colorado Cross-Disability Coalition and other disability advocacy groups to have disabled voters assist with the accessibility surveys in each polling place. This will ensure that an accessible polling place is defined by the people it affects and not just by able-bodied county employees. Once the surveys have been conducted, county clerks can evaluate their current polling places for possible improvements and search out new polling places that are also accessible.

To satisfy the requirements payments under Title 3 of the Help America Vote Act, the Voting Accessibility and Outreach Subcommittee is also focusing on four distinct categories:

- The placement of at least one DRE voting machine per polling place.
- The development and posting of signs in each polling place to assist voters with special needs.

- The development and distribution of forms to assist all voters and election judges in the voting process.

**DRE Voting Equipment**

The State of Colorado will ensure that there is at least one DRE in every polling place by the required deadline. The voting system standards outlined in Section 4 of this State Plan will be used in the assessment and selection of the DREs. Members of the disability community, senior citizens, and voters with language or literacy barriers will be asked to assist in the testing and state certification of these machines.

**Signs for Visually Impaired Voters**

As recommended by the Voting Accessibility and Outreach subcommittee, all polling place signs required by Section 302 (b) of HAVA 2002 will be also presented in large font for those voters with special visual needs.

**Forms to Assist All Voters and Election Judges**

The Accessibility and Outreach Subcommittee is also working with the Secretary of State to develop forms that will assist voters in the polling place, and assist the election judges as well. All forms used in the polling place will be designed and approved by the Office of the Secretary of State to ensure that the voting experience is uniform and consistent throughout the state. The Voting Accessibility and Outreach subcommittee is also working with the Pollworker Education and Junior Judge and Student Recruitment Subcommittee to develop forms and signs to be posted in the polling place, as well as new training techniques for the election judges to educate them on accessibility issues.

**Alternative Language Accessibility**

All of the forms produced by the Office of the Secretary of State will be printed in English and Spanish and distributed to every county. In addition, the State of Colorado has several counties containing large populations of Native American citizens. These citizens speak the native languages, which are not written languages. The Office of the Secretary of State will work with Native American citizens to record audiotapes that will contain the same information as any posted signs, forms, and ballot styles. Audiotapes may also be used to assist voters with literacy barriers. The Accessibility and Outreach Subcommittee is currently developing plans for the implementation of these audio materials.

**Error Rates**

Colorado will require each integrated voting system to be re-certified by the state. The re-certification will ensure that all integrated systems meet the error rates standards established under Section 3.2.1 of the Voting Systems Standards issued by the Federal Election Commission.

**Uniform Definition of What Constitutes a Vote**

In August 2002, the State of Colorado formally adopted Rule 27, Rules Concerning Uniform Ballot Counting Standards. These rules outline those criteria that constitute a vote for each type of voting system in use in the State of Colorado. For a detailed description, please refer to Section 4 - Voting System Guidelines and Processes.

***§302 Provisional Voting and Voting Information Requirements***

*Deadline for compliance: 01/01/04*

HAVA 2002 requires provisional voting procedures in all states to ensure that no voter, who desires to vote, is disenfranchised. Provisional ballots were put into use by the State of Colorado prior to the passage of HAVA 2002. In 2002, the State of Colorado addressed this important issue—the Colorado General Assembly enacted provisional voting legislation (codified at §1-9-301, et seq., Colorado Revised Statutes). In response to the passage of HAVA 2002, the General Assembly of Colorado passed conforming legislation in 2003. The State will meet the requirements by January 1, 2004. The following table (Table-1.1) provides information on provisional voting in Colorado.

**Table-1.1**

| PROVISIONAL VOTING REQUIREMENTS | CURRENTLY MET | CHANGE REQUIRED | COMMENTS |
|---|---|---|---|
| (1) Notify individuals they may cast a provisional ballot. | X | | §1-9-301, C.R.S. |
| (2) Permitted to cast a provisional ballot upon the execution of a written affirmation stating the individual is— | X | | §1-9-304.5, C.R.S. |
| (A) A registered voter in the jurisdiction | | | |
| (B) Eligible to vote in that election. | | | |
| (3) An election official shall transmit a ballot to an appropriate official for verification. | X | | §1-9-303, C.R.S. |
| (4) If the election official determines the individual is eligible the provisional ballot shall be counted. | X | | §1-9-303, C.R.S. |
| (5) Individual who cast a provisional ballot will be able to ascertain | X | | §1-9-306, C.R.S., State will implement by January 1, 2004. |
| (A) Whether the vote was counted, or | | | |
| (B) The reason the vote was not counted. | | | |
| (6) Establish a free access system that allows | | | §1-9-306, C.R.S. State will implement by January 1, 2004. |
| (A) Individuals who cast a provisional ballot to discover whether the ballot was counted. | X | | |
| (B) If the vote was not counted, the reason the vote was not counted. | | | |
| (C) Access to the information shall be restricted to the individual. | | | |
| (7) Voters who vote after the polls close (after the scheduled voting time) | | | §1-1.5-104, C.R.S. No statutory provision; however, the Secretary of State is statutorily authorized to exercise |
| (A) As a result of a Federal or State court order or any other order extending the time for established | | | |

| PROVISIONAL VOTING REQUIREMENTS | CURRENTLY MET | CHANGE REQUIRED | COMMENTS |
|---|---|---|---|
| for closing the polls in effect 10 days before the date of that election (B) Vote only by casting a provisional vote. | X | | such powers and perform such duties as reasonably necessary to ensure that the State is compliant with all requirements of HAVA 2002. State will implement by January 1, 2004. |

### *§303 Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail*

*Deadline for compliance: 01/01/04, waiver to 01/01/06 available*

Currently, Colorado does not have a uniform statewide voter registration system. Prior to the adoption of H.B. 03-1356, each county was allowed by statute to purchase and maintain its own voter registration system. Each county, on a monthly basis, provides the Secretary of State with a master list of voters for the county. The master lists of all sixty-four (64) counties are then combined to create a statewide master voter registration list. With the passage of H.B. 03-1356, a uniform, official, centralized, interactive, computerized statewide voter registration system that is defined, maintained and administered at the state level will be implemented by the mandated deadline.

In compliance with HAVA 2002, Colorado will use the Requirements Payments from Title III to launch a focused initiative to implement a statewide voter registration system. This project will reside in the Office of the Secretary of State. The Project Manager will report directly to the Secretary of State. A Project Management Office (PMO) will be created to ensure disciplined oversight of all aspects of the project. Experienced resources with technical skills, leadership skills and subject matter experts will staff the PMO.

A detailed master project work plan will be developed to manage and track tasks, milestones, timeframes and resources throughout the entire life cycle of the project.

Through an extensive analysis, needs assessment, and requirements definition, Colorado will determine the best strategy to implement this system. The baseline HAVA requirements, from Section 303, are listed below in Table-1.2, along with the status of each as it applies to Colorado. Requirements Payments will be used to address all of these requirements, in addition to requirements that are identified throughout the process.

Table-1.2

| P.L. 107-252 SECTION | REQUIREMENT |
|---|---|
| IMPLEMENTATION | |
| § 303 (a)(1)(B)(i) | The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State |
| § 303 (a)(1)(B)(ii) | The computerized list contains the name and registration information of every legally registered voter in the State |
| § 303 (a)(1)(B)(iii) | Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. |
| § 303 (a)(1)(B)(iv) | The computerized list shall be coordinated with other agency databases within the State. |
| § 303 (a)(1)(B)(v) | Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. *For Colorado, "Local election official" means county election official.* |
| § 303 (a)(1)(B)(vi) | All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. |
| § 303 (a)(1)(B)(vii) | The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). |
| § 303 (a)(1)(B)(viii) | The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. |
| COMPUTERIZED LIST MAINTENANCE | |
| § 303 (a)(2)(A)(i) | If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg–6). |
| § 303 (a)(2)(A)(ii) | For purposes of removing names of ineligible voters from the official list of eligible voters— (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg–6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg–6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death. |
| § 303 (a)(2)(A)(iii) | Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. |
| § 303 (a)(2)(B)(i) | the name of each registered voter appears in the computerized list |
| § 303 (a)(2)(B)(ii) | only voters who are not registered or who are not eligible to vote are removed from the computerized list |
| § 303 (a)(2)(B)(iii) | duplicate names are eliminated from the computerized list |
| TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST | |
| § 303 (a)(3) | The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. |
| MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS | |

| P.L. 107-252 SECTION | REQUIREMENT |
|---|---|
| § 303 (a)(4)(A) | A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. |
| § 303 (a)(4)(B) | Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. |
| VERIFICATION OF VOTER REGISTRATION INFORMATION | |
| § 303 (a)(5)(A)(i) | Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes—<br>(I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or<br>(II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. |
| § 303 (a)(5)(A)(ii) | If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number, which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. |
| § 303 (a)(5)(A)(iii) | The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. |
| § 303 (a)(5)(B)(i) | The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. |
| § 303 (a)(5)(B)(ii) | The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). |
| § 303 (a)(5)(C)(i) | The Commissioner of Social Security shall, upon the request of the official responsible for a State driver's license agency pursuant to the Help America Vote Act of 2002—<br>"(i) enter into an agreement with such official for the purpose of verifying applicable information, so long as the requirements of subparagraphs (A) and (B) of paragraph (3) are met; and<br>"(ii) include in such agreement safeguards to assure the maintenance of the confidentiality of any applicable information disclosed and procedures to permit such agency to use the applicable information for the purpose of maintaining its records.<br>"(B) Information provided pursuant to an agreement under this paragraph shall be provided at such time, in such place, and in such manner as the Commissioner determines appropriate.<br>"(C) The Commissioner shall develop methods to verify the accuracy of information provided by the agency with respect to applications for voter registration, for whom the last 4 digits of a social security number are provided instead of a driver's license number. |
| OTHER REQUIREMENTS BEYOND HAVA 2002 | |
| N/A | Establish a county user group to help derive the registration management requirements for the new system |
| N/A | Conversion strategy / design from current county systems to new statewide system |

The overall estimated timeframe to implement this system is presented in Table-1.3.

**Table-1.3**

| MILESTONE | ESTIMATED TIME FRAME |
|---|---|
| Assessment and Inventory | 07/01/03 – 09/30/03 |
| Analysis | 07/01/03 – 10/31/03 |
| Request for Information (RFI) | 07/01/03 – 09/01/03 |
| Requirements Definition | 07/01/03 – 10/31/03 |
| Request for Proposal (RFP) / Request for Bid (RFB) (as applicable) | 10/15/03 – 11/30/03 |
| Award | 12/01/03 – 12/31/03 |
| Design | 01/01/04 – 03/31/04 |
| Develop / Customize | 03/01/04 – 12/31/04 |
| Test | 07/01/04 – 02/28/05 |
| Implement | 03/01/05 – 04/30/05 |
| Statewide Rollout | 04/15/05 – 08/01/05 |
| Post Implement Review | 05/01/05 – 12/31/05 |
| Operations and Maintenance | 03/01/05 - ongoing |

## Mail Registration System

With the adoption of H.B. 03-1356, Colorado statutes now mirror the requirements for voters who register by mail found in P.L. 107-252. Counties began tracking registrants on January 1, 2003 who registered by mail. Information will be forwarded to these registrants informing them of the need to provide a driver's license number, or the identification number issued by the Department of Revenue, and the last 4 digits of the social security number. Because Colorado did not have a computerized statewide voter registration system at the time of passage of HAVA

2002, first time voters who register by mail will be required to present (where voting in person) or submitting with the ballot (where voting by mail) a current and valid photo identification as defined by §1-1-104 (19.5), Colorado Revised Statutes, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

Voter registration forms have been revised to reflect the new requirements regarding the citizenship of the applicant and the age of the applicant. An extensive voter education campaign will be conducted through a cooperative effort between the state and the counties to inform voters that if they did not provide this information when registering, the information will be required when they go to vote or when they return their absentee or mail ballot. Colorado has met the January 1, 2003 deadline for tracking and will meet the January 1, 2004 deadline for notifying individuals who registered to vote on or after January 1, 2003 of the new identification requirements.

### *§304 Minimum Requirements*

Section 304 of HAVA 2002 mandates that the requirements of Title III are minimum standards and that the state may establish election technology and administration requirements that are more strict than HAVA 2002 as long as the state requirements are not inconsistent with federal law. The laws and rules of the state of Colorado will fully comply with all HAVA requirements and with the relevant laws listed in HAVA 2002 §906.

### *§305 Methods of Implementation Left to Discretion of State*

The State understands that the choice of methods used to comply with HAVA 2002 is left to the discretion of the State. Colorado recognizes this responsibility and will impose disciplined practices to ensure a successful program

### *§311 Adoption of Voluntary Guidance by Commission*

Once the federal Election Assistance Commission (EAC) has issued its voluntary recommendations with respect to Title III, the State will consider that guidance in updating the State Plan. The State will incorporate those recommendations deemed appropriate into subsequent versions of the State Plan.

### *§312 Process for Adoption*

The State will be vigilant of the progress of the EAC on developing the Title III recommendations. If appropriate, the State will provide feedback during the public comment period after the recommendations are published in the Federal Register and participate in public hearings regarding the recommendations.

### *§251(b) (2) – Other Activities*

Pending fund availability and all Title III requirements having been met, the State intends to use requirements payments to fund other activities to improve the administration of elections, including, but not limited to:

- establishing a polling place accessibility program to ensure that all polling places in the state are and continue to be Americans with Disabilities Act (ADA) compliant;
- providing necessary assistance to persons with limited proficiency in the English language;
- engaging in a variety of voter education and outreach activities including public service announcements, voting machine demonstrations, mass mailings and other related media avenues;
- providing election official and election judge training initiatives; and
- establishing election judge recruitment programs.

The State currently does not have the personnel, resources and technical capacity required to fully achieve HAVA 2002 compliance. Ongoing operations and maintenance of the new requirements cannot be supported within current State and local technical infrastructure and resources. The State anticipates the need for additional technology and elections personnel in the Office of the Secretary of State to ensure continued compliance with HAVA 2002. The State may use requirements payments to fund these positions.

Once Colorado has addressed all of the Title III requirements, an analysis will be performed to identify the best use of remaining funds to improve the administration of elections for Federal office.

## Section 2 – Distribution and Monitoring of Requirements Payments

*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).*

*-- HAVA §254 (a)(2)*

The Secretary of State will centrally manage activities funded by requirements payments. The Secretary of State will be accountable for all expenditures, funding levels, program controls and outcomes. The Colorado Help America Vote Act [2] grants broad authority to the Secretary of State. The Secretary may exercise such powers and perform such duties as reasonably necessary to ensure that the state is compliant with all requirements pursuant to HAVA 2002 to be eligible on a timely basis for all federal funds made available to the state under HAVA 2002, including, without limitation, the power and duty to:

- develop and require education and training programs and related services for state, county, and local election officials involved in the conduct of elections[3]; and
- promulgate rules in accordance with the state administrative procedures act as the Secretary finds necessary for the proper administration, implementation, and enforcement of HAVA 2002 and of the state HAVA laws.[4]

Implementation of a comprehensive overhaul of the election process requires consensus building from the residence of the voter to the polling place to the statehouse. Seamless implementation of federal HAVA requirements at the local polling place and integration into the statutory election guidelines and timelines requires teamwork with stakeholders—state and local partners in government and in the voter outreach programs. In order to ensure a uniform and non-discriminatory approach, all affected stakeholders must have input into the process. It vests ownership and buy-in to the process. That is why the Secretary of State of Colorado has created the State HAVA Committee, made up of elected official, local election administrators, representatives from the counties and municipalities, and voter outreach programs. The State HAVA Committee has assigned subcommittees different tasks that promote not only education of the requirements of HAVA 2002, but also an environment of openness that allows the affected parties to arrive at their own solutions. The tapping of these resources assists with the collection of data and the assessment of needs of the local election officials and their private partners in the voting process. In addition, this data is critical in the buyout of election equipment and the needs for DREs.

The Secretary of State will work with local election officials to create a needs assessment instrument and determine the appropriate level of support for local activities. Monitoring and systems audits are the performance measurements of both the monetary requirements and functionality of the HAVA implementation. To that end the Office of the Secretary of State plans to include members of the election community, local governing bodies and state and local auditors in both the financial and data systems analysis in a review panel to ensure not only financial compliance but also system compatibility. The criteria for evaluation and determination of eligibility will include, but will not be limited to the following:

- a detailed written narrative that includes problem statement and data, goal statement, provision of HAVA 2002 for which funding for compliance is sought, project activities and objectives, timelines for implementation, and an itemized request for funding;
- the expenditure of funds falls within the parameters of HAVA 2002 (purpose/goals and methodology);
- the priority of the project as it relates to the requirements and timelines established by HAVA 2002;
- whether the recipient of the funds is in compliance (or the extent of compliance) with Title III of HAVA 2002 and other state and federal statutes or the extent to which the recipient is in compliance;
- the recipient's efforts in maintenance of current funding levels for its ongoing election efforts;
- the availability of local funds, or other funding sources, for purposes of local funding matches (e.g., criteria for local matching funds may include but are not limited to education, certification and training expenses for local election officials and staff and/or traveling and lodging expenses for state conducted HAVA training. Also included in this match criterion will be any equipment contributions made by local election officials. The equipment will be subject to HAVA certification requirements as part of ensuring the integrity of the election or registration system as a whole.);
- the level of cooperation in the implementation and maintenance of the statewide voter registration list and the implementation of timely voter registration list purging activities and other requirements imposed by rule or regulation by the Secretary of State;
- the actual need for the payment of funds for compliance with HAVA 2002;
- the acknowledgement and contractual obligation by the recipient that, should the recipient fail to meet the deadlines or duties imposed by HAVA 2002 or the Secretary of State, that the recipient will fully reimburse the Secretary of State;
- the acknowledgement and contractual obligation by the recipient that, should the funds be diverted to uses other than approved by the Secretary of State, that the recipient will reimburse the Secretary of State;
- the execution and attachment of certifications required by state and federal law;
- the development of a comprehensive evaluation tool to measure the attainment of goals and timelines;
- the development of comprehensive accounting and audit plans in accordance with state and federal guidelines so that the federal funds can be separately identified and tracked; and
- the requirement that the recipient prepare and submit comprehensive monthly reports to the Secretary of State detailing the expenditures and their relationship to complying with Title III of HAVA 2002.

These criteria will be agreed to in writing in advance by the local government entity receiving the payment and the Secretary of State.

[2] H.B. 03-1356, enacted at the First Regular Session of the Sixty-fourth General Assembly, State of Colorado.
[3] Section 1-1.5-104 (1) (a), Colorado Revised Statutes.
[4] Section 1-1.5-104 (1) (c), Colorado Revised Statutes.

In addition to these safeguards, the Secretary of State will independently monitor the compliance and performance of activities on a case-by-case basis. The Secretary of State will implement financial controls that establish financial reporting methods and will develop performance indicators on a case-by-case basis for all activities funded. Monitoring and systems audits will assess the performance measurements of both the monetary and functionality of the HAVA implementation. To that end the Secretary of State plans to include members of the election community, local governing bodies, state information and technology systems experts, and state and local auditors in both the financial and data systems analysis in a review panel to ensure not only financial compliance but also system compatibility.

## Section 3 – Education and Training

*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.*
*-- HAVA §254(a) (3)*

The human component of voting, filling out that ballot and casting that vote is the sum total of a centuries old Constitutional right of self-determination. Election Day is the result of months of training and preparation. While technology has enhanced this process with safeguards to protect the secrecy and integrity of the process, whether by polling place, absentee ballot or mail ballot, an election still requires state and local teamwork to accomplish that one important goal, a seemingly effortless election. As a result of HAVA direction and funding, the Secretary of State will reach out to its electorate, election staff and local election officials with an effective program of election education and outreach.

Through a curriculum of election law, process and Election Day administration the Office of the Secretary of State will provide local election officials and their staff members with a certification program that can be completed within a two-year period. In a broad partnership, the Secretary of State will integrate staff, guest speakers, peers in the election process and consultants into the curriculum. Technology has provided many forms of media that can be employed not only in the presentation of this training but the mobility of it as well. Electronic formats will allow for the internal use of these programs within the local entity offices as resources for training staff as well as review. Programs will be divided into regional training seminars utilizing local accommodations or educational facilities when possible. Certification of local election officials and their staff members will require completion of course work and testing. Funds spent by local election officials will be considered as criteria for local matching funds for HAVA purposes.

The greatest challenge in Election Day administration can be the hiring and training of Election Day judges. Colorado is fortunate to have had in place for the last two general elections the Junior Judges Program, which allows high school students to work as election judges alongside their senior counterparts on Election Day. The partnership has been a great success in providing the seasoned judge with the technical aptitude of a younger generation who has literally grown up with computers. The student judges are equally pleased for the chance to participate in the election process, be paid for their time and hear the war stories of past elections. Local election officials have utilized this program to bring students into the electoral process by serving as election judges.

The State recognizes the need for additional recruitment tools for encouraging participation in the election process. Marketing techniques currently under review include not only more effective ways of recruiting judges from the political parties but also investigating ways to engage the private sector, higher education, community groups, Ad Councils and service organizations.

Once recruited, the Secretary of State regards the training of these Election Day workers as a critical issue. HAVA subcommittees are currently reviewing election judge training programs nationwide. The Secretary of State and the subcommittees intend to incorporate a combination of training methods and performance measures to determine the most effective method of training.

Voter outreach is a critical part of the implementation of this particular phase of HAVA 2002. HAVA 2002 is much more than a new variation of an old theme. Centralized election administration, voter registration, complaint processes, provisional ballots and accessibility give Colorado voters' greater autonomy and responsibility. It also provides the Secretary of State the challenge of relating these changes in formats that reach potential voters with divergent educational, language and accessibility issues. While Colorado utilized provisional ballots in the 2002 election, HAVA 2002 and state legislation[5] in the 2003 legislative session have affected changes to the process. In order to inform the voters effectively, community stakeholders in the Help America Vote Committee have agreed to work with the Secretary of State to utilize their networking resources to educate electors.

Part of the outreach program includes our stakeholders working with media and personally with "talking" groups that travel to within the community groups, political organizations, the press, schools etc. to communicate these changes. The Secretary of State will utilize a multitude of media options in the method of voter education.

[5] H.B. 03-1006, enacted in the First Regular Session of the Sixty-fourth General Assembly, State of Colorado

## Section 4 – Voting System Guidelines and Processes

*How the State will adopt voting system guidelines and processes, which are consistent with the requirements of section 301.*
*-- HAVA §254 (a) (4)*

Since June 1, 1991, the State of Colorado has required all voting systems, voting machines, electronic voting devices, punch cards and non-punch card electronic voting systems to meet the standards promulgated by the Federal Election Commission. Recognized independent testing authorities have the statutory authority to test, approve and qualify electronic voting systems for sale and use in the State of Colorado if certain criteria are met.

Those criteria include the following:

- Any independent testing authority will be recognized and granted the authority to qualify electronic voting systems for use in Colorado only when it has met all of the obligations and ongoing requirements necessary to gain certification as an independent testing authority from the National Association of State Election Directors (NASED) of other national authority recognized by the Federal Election Commission (FEC) for the purpose of certifying independent testing authorities.
- The independent testing authority conducts any and all tests required by NASED or other national authority recognized by the FEC for granting certification to independent testing authorities to verify the integrity of the electronic voting systems to be used in Colorado.
- Prior to the use of any electronic voting devices or electronic voting systems in any public election in Colorado, such devices must be certified by the Secretary of State following a successful qualification testing conducted by a recognized independent testing authority.

With the passage of the HAVA 2002, NASED and the Federal Election Commission will no longer offer certification of independent testing authorities, as this function will be taken over by the National Institute of Standards and Technology (NIST). However, Colorado will still require successful testing of all new voting systems by both a certified independent testing authority as well as the State of Colorado, through the Office of the Secretary of State.

Section 231(a)(2) of the HAVA 2002 allows the states the option to provide for the testing, certification, de-certification or re-certification of its voting system hardware and software by the laboratories accredited by the Election Assistance Commission. Colorado will require certification of all integrated voting systems in use in the State of Colorado. Historically, Colorado has certified individual voting systems. However, with the definition of "system" found in HAVA 2002, the integration of all systems in each county in the State of Colorado will also have to be tested. Therefore, Colorado will require each county to have its integrated voting system tested and certified as meeting the requirements of HAVA 2002 and state election code.

Existing voting systems in the State of Colorado will be required to meet the standards set out in Section 301 of the Help America Vote Act of 2002. The voting system standards include the following:

- Permits the voter to verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast and counted;
- Provides the voter with the opportunity, in a private and independent manner, to change the ballot or correct any error before the ballot is cast and counted; and
- Notification to the voter of any over votes, the effect of the over vote and the opportunity to correct. In central count optical scan counties, this will be achieved through extensive voter education of the standards, including instructions to the voter at the polling place.

All voting systems in Colorado either already meet or will meet the error rate standards established under Section 3.2.1 of the Voting Systems Standards issued by the FEC, a manual audit capacity, a permanent paper record for recount purposes, and the opportunity for the voter to change the ballot or correct any error before the permanent paper record is produced. Colorado will also ensure that at least 1 DRE voting system that meets the standards for accessibility for voters with special needs is in each polling place in the State by the January 1, 2006 deadline.

In August 2002, the State of Colorado formally adopted Rule 27, Rules Concerning Uniform Ballot Counting Standards. These rules outline those criteria that constitute a vote for each type of voting system in use in the State of Colorado. These rules were formulated with the assistance of voting system vendors, county clerks and recorders acting as the chief local election officials, their staffs, the Secretary of State, and the Elections Division staff of the Office of the Secretary of State. A copy is attached as *Appendix A - Rule 27: Rules Concerning Uniform Ballot Counting Standards*. These rules define terms and outline what constitutes a vote for paper ballots, central count optical scan, precinct count optical scan, and punch card voting systems. It should be noted that only one county continues to utilize a punch card system in Colorado, and it is anticipated that the county will opt for another voting system. Criteria for what constitutes a vote for DREs would not be applicable.

## Section 5 – Fund Management

*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.*
*-- HAVA §254 (a) (5)*

Prior to the enactment of state enabling legislation, a separate fund was first established administratively by the Secretary of State and the State Controller. The State's initial payment of Title I monies was then deposited into this fund.

Subsequently, a fund was established statutorily by the State HAVA enabling legislation (House Bill 03-1356), which establishes the fund as the "Federal Elections Assistance Fund".[6]

Pursuant to the new legislation, all federal funds received by the State pursuant to HAVA 2002 are deposited into the Fund, along with state and county monies appropriated for the purpose of meeting the State's 5% match requirement. In addition, net interest earned by the State Treasurer from the investment of Fund monies will be credited to the Fund.

All monies in the Fund are statutorily appropriated to the Secretary of State "for the proper administration, implementation, and enforcement of HAVA".[7] The statute also expressly requires that, "Any moneys received by the state from the federal government pursuant to HAVA shall be used by the state only for the purposes specified by the provisions of HAVA under which the moneys were provided."[8]

The Fund will be administered by the Secretary of State in accordance with the financial controls and accounting standards required by Colorado and federal law. Such controls and standards involve legal responsibilities carried out by the State Controller, the State Treasurer, and the State Auditor. (See, for example, sections 2-3-103, 24-22-107, and 24-30-201, Colorado Revised Statutes.)

[6] Section 1-1.5-106, Colorado Revised Statutes.
[7] Section 1-1.5-106 (2) (b), Colorado Revised Statutes.
[8] Section 1-1.5-106 (2) (a), Colorado Revised Statutes.

## Section 6 - Budget

*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.*

*-- HAVA §254 (a)(6)*

The Office of the Secretary of State originally estimated that Colorado may receive as much as $52.3 million dollars of federal funding over the next three years. The budget in Table-6.3 is based on one broad estimate of costs and activities necessary to meet the mandates of HAVA 2002. If HAVA activities are less than fully funded by the U.S. Congress, Colorado's State Plan and the planned budget will likely be modified to more fully reflect the funds – federal, state and local – that are available. Based on the risk and variability of the federal funding, the budget will be modified as the federal funds are appropriated.

Table-6.1 shows anticipated HAVA funding based on current federal funds appropriated for FY 2002-03. Federal funding for future years is included in this table in the amounts authorized by the Act. Actual figures may differ from the estimates, depending on the level of appropriation actually provided by the federal government.

**Table-6.1**

***Anticipated Federal, State & Local HAVA Funding for Colorado - Current FY 2002-03 Appropriation***

| | HAVA 101 | HAVA 102 | HAVA 252 & 257 | Total Federal Funding | State & Local Matching Funds | **TOTAL FUNDING by Fiscal Year** |
|---|---|---|---|---|---|---|
| FY 2002-03 - based on Appropriated Federal Funds | 4,860,301 | 2,177,094 | 12,527,135 | 19,564,530 | 626,357 | **20,190,887** |
| FY 2003-04 Estimate - assuming Full Federal Appropriation | - | - | 15,092,933 | 15,092,933 | 754,647 | **15,847,580** |
| FY 2004-05 Estimate - assuming Full Federal Appropriation | - | - | 9,055,760 | 9,055,760 | 452,788 | **9,508,548** |
| **TOTAL Funding by Category** | **4,860,301** | **2,177,094** | **36,675,828** | **43,713,223** | **1,833,791** | **45,547,014** |

Table-6.2 provides funding estimates based on the full federal funding authorized by the Act for comparison with the actual appropriation for FY 2002-03. As indicated above, federal funding for future years is in the amounts authorized by the Act, and may change based on the actual appropriation.

**Table-6.2**

***Anticipated Federal, State & Local HAVA Funding for Colorado - Full Appropriation***

| | HAVA 101 | HAVA 102 | HAVA 252 & 257 | Total Federal Funding | State & Local Matching Funds | **TOTAL FUNDING by Fiscal Year** |
|---|---|---|---|---|---|---|
| FY 2002-03 - based on Full Appropriation of Authorized Federal Funding | 4,860,301 | 2,177,094 | 21,130,107 | 28,167,502 | 1,056,505 | **29,224,007** |
| FY 2003-04 Estimate - assuming Full Federal Appropriation | - | - | 15,092,933 | 15,092,933 | 754,647 | **15,847,580** |
| FY 2004-05 Estimate - assuming Full Federal Appropriation | - | - | 9,055,760 | 9,055,760 | 452,788 | **9,508,548** |
| **TOTAL Funding by Category** | **4,860,301** | **2,177,094** | **45,278,800** | **52,316,195** | **2,263,940** | **54,580,135** |

Table-6.3 shows Colorado's estimated budget for HAVA activities. Over the next three fiscal years, the Secretary of State estimates that Colorado is eligible for up to $45.3 million in requirements payments authorized by Title II. At the time of submission of this Plan, full funding for FY 2003 was not appropriated and it is impossible to know how much will be appropriated in future years.

HAVA 2002 will change the landscape of elections across the nation. It requires that election officials take steps to increase voter awareness, provide a voice for those who may have been aggrieved, provide access to polling places for persons with special needs, and maintain centralized, more accurate information on voters and voter participation. Maintaining compliance with HAVA 2002 in future years will require continuing operational funding for those activities. Any funds remaining in the state's Election Fund when federal funding ceases will be used to defray the operational costs of the state's HAVA activities.

Table-6.3

| HAVA Budget Funding ($ in thousands) | | | | |
|---|---|---|---|---|
| | Estimated Initial Cost | Estimated Ongoing Cost (Annual Cost) | Cost (Initial + One Year Annual Costs) | Duration |
| ***Title III Requirements*** | | | | |
| **Section 301** | | | | |
| *Voting Systems - Punchcard Replacement* | $ 2,287 | - | $ 2,287 | Jan 2003 - Jan 2004 |
| *Voting Systems - Accessible Equipment (DRE's)* | $ 7,852 | - | $ 7,852 | Jan 2004 - Jan 2006 |
| **Subtotal** | **$ 10,139** | - | **$ 10,139** | |
| **Section 302 - Provisional Voting and Voter Information Requirements** | **$ 4,000** | **$ 800** | **$ 4,800** | Jan 2003 - Jan 2006 |
| **Section 303 - Centralized Voter Registration System, including support for special district and precinct locater functions** | **$ 12,000 to $ 24,000** | **$ 2,400 to $ 4,800** | **$ 14,400 to $ 28,800** | Jul 2003 - Jan 2006 |
| ***Other Election Reform Activities*** | | | | |
| *Network Infrastructure Costs for Centralized Voter Registration System* | $ 2,025 | $ 1,800 | $ 3,825 | Jan 2005 - Jan 2006 |
| *Requirements for first time voters who register by mail* | $ 1,000 | $ 200 | $ 1,200 | Jan 2003 - Jan 2005 |
| *Voter Education, Election Official Training* | $ 6,000 to $ 10,000 | $ 1,200 to $ 2,000 | $ 7,200 to $ 12,000 | Jul 2003 - Jul 2005 |
| *Establishment of and Training on Complaint Procedures* | $ 1,000 | $ 200 | $ 1,200 | Jul 2003 - Jul 2005 |
| *State Budget and Fiscal Controls* | $ 1,000 | $ 200 | $ 1,200 | Jan 2003 - Jan 2006 |
| *Election Reform Program Management* | $ 3,000 | $ 1,000 | $ 4,000 | Jan 2003 - Jan 2006 |
| **Subtotal** | **$ 14,025 to $ 18,025** | **$ 4,600 to $ 5,400** | **$ 18,625 to $ 23,425** | |
| **TOTALS** | **$ 40,164 to $ 56,164** | **$ 7,800 to $ 11,000** | **$ 47,964 to $ 67,164** | |
| *** Any unspent Federal Funds will be set aside in the state's Election Fund for payment of long-term costs of complying with HAVA* | | | | |

## Section 7 – Maintenance of Effort

*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.*
*-- HAVA §254 (a)(7)*

The State will maintain state expenditures for activities funded by the requirements payment at a level at or above the expenditure level that existed prior to the receipt of federal funds. No federal funds for requirements payments will be used to supplement the state budget for operation and administration of the Office of the Secretary of State, or to supplant funding historically received from state sources for election-related purposes.

Colorado's HAVA enabling legislation (H.B. 03-1356) contains a number of provisions that, taken together, require maintenance of effort that meets and exceeds the requirements of HAVA 2002. These provisions include the following:

- Federal monies may only be used for the purposes specified by HAVA 2002[9].
- Monies in the State Fund are statutorily appropriated only for "the proper administration, implementation, and enforcement of HAVA", and such monies may not be transferred to any other fund.[10]
- Every year that the State receives federal funds, the General Assembly is required to make annual appropriations for "election-related purposes that is not less than the level of expenditures for such purposes maintained by the state for the 2001-02 fiscal year".[11]
- Every year that the State receives federal funds, the Secretary of State is required to maintain expenditures to support the statewide voter registration system from nonfederal monies at a level at or above the level for the 2001-02 fiscal year.[12]
- Every county fiscal year that the State receives federal funds, each county is required to maintain the same level of expenditures on activities arising under Title III of HAVA 2002 that it expended in fiscal year ending prior to November 2002.[13]

As can be seen, these state requirements exceed the maintenance of effort required by HAVA 2002. First, the State legislation requires maintenance of all election-related funding at previous levels, but HAVA 2002 only requires maintenance of those election expenditures that are related to Title III activities.

Second, HAVA 2002 only requires maintaining state expenditures at the level of State Fiscal Year 99-00 level (the first fiscal year ending prior to November 2000). The State legislation uses a later and higher base year, FY 2001-02.

Third, the State's legislation imposes an additional maintenance-of-effort requirement on counties that is not required by HAVA 2002. Under section 1-1.5-106 (6), above, "each county shall maintain not less than the same amount of expenditures on activities arising under Title III

[9] Section 1-1.5-106 (2) (a), Colorado Revised Statutes.
[10] Section 1-1.5-106 (2) (b), Colorado Revised Statutes
[11] Section 1-1.5-106 (4), Colorado Revised Statutes
[12] Section 1-1.5-106 (5), Colorado Revised Statutes
[13] Section 1-1.5-106 (6), Colorado Revised Statutes.

of HAVA 2002 that it expended on such activities for its fiscal year ending prior to November 2002".

## Section 8 – Performance Goals and Measures

*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.*
*-- HAVA §254 (a)(8)*

Colorado understands that accurate measurement and tracking of performance goals is paramount in achieving a successful implementation of P.L. 107-252. Performance goals provide a high-level view of a project's direction. The State's goal is to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in the State Plan. Below, in Table-8.1, details are provided of each performance goal, desired outcome, timeline and responsible parties for ensuring that each goal is met.

Subsequent plans will include the detailed metrics and criteria for which these measures will be baselined and measured.

**Table-8.1**

| PROGRAM PERFORMANCE GOAL | DESIRED OUTCOME | TIMELINE FOR MEETING OUTCOME | RESPONSIBLE PARTIES |
|---|---|---|---|
| Eliminate punch card machines in polling places | Elimination of punchcard machines in any polling place in Colorado | April 2004 | Secretary of State and Local Election Officials |
| Implement a centralized statewide voter registration system | Assimilation of accurate voter registration information from various county election systems into a centralized system; assimilation and continuation of voter registration and election management functionality from local election systems | Commence deployment no later than April of 2005 | Secretary of State and Local Election Officials |
| Decrease the time lag between a registered elector updating or changing their voter registration information | A consistent reduction in the number of provisional ballots cast for lack of updated voter registration information | Continual; baseline derived from November 2002 election | Secretary of State and Local Election Officials |
| Increase the accessibility of polling places to persons with special access needs | A dwindling number of polling place accessibility complaints found to have a basis in fact | Continual | Local Election Officials |
| Increase the timeliness of resolution of grievances | Quick resolution of grievances filed under the state's complaint process | Baseline will be derived after the first election in which the state's grievance process is in place | Secretary of State |

| PROGRAM PERFORMANCE GOAL | DESIRED OUTCOME | TIMELINE FOR MEETING OUTCOME | RESPONSIBLE PARTIES |
|---|---|---|---|
| Increase the timeliness of removing a deceased voter from the voter registration rolls | Maintain an accurate voter registration system with respect to deceased persons | Continual – will commence with the deployment of the centralized voter registration system | Secretary of State and the Colorado Department of Health, Vital Records Division |
| Increase the timeliness of removing convicted felons from the voter registration rolls | Maintain an accurate voter registration system with respect to persons losing the right to vote based on a criminal conviction | Continual – will commence with the deployment of the centralized voter registration system | Secretary of State, the Colorado Department of Corrections, and the U.S. Department of Justice |
| Eliminate duplicate voter registrations across counties within Colorado | Quick update of the centralized voter registration system based on apparent duplicate registration within Colorado | Continual – baseline derived after the November 2003 election | Secretary of State and Local Election Officials |

## Section 9 – Complaint Procedures

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.*
*-- HAVA §254 (a)(9)*
*Deadline for Compliance: Prior to certification of State Plan, but no later than January 1, 2004; no waiver permitted.*

The Secretary of State will develop a unified statewide complaint system process for tracking and managing suspected violations of Title III of P.L. 107-252. This process must meet the following requirements:

- The procedures are uniform and nondiscriminatory.
- Any person who believes there is a violation of Title III may file a complaint.
- Complaints shall be in writing and notarized, signed and sworn by the person filing the complaint.
- The state may consolidate complaints.
- At complainant's request, there shall be a hearing on the record.
- The state shall provide an appropriate remedy if it finds a violation has occurred.
- If no violation is found, the complaint shall be dismissed and the results published.
- Complaints shall have a final resolution within 90 days of the complaint being filed, unless the complainant consents to a longer period.
- If the complaint cannot be resolved within that period, an alternative dispute resolution procedure must be provided.

The Secretary of State has formed a subcommittee to address this HAVA requirement effectively. This subcommittee is comprised of various stakeholders representing:

- County Clerk and Recorders
- County elections staff
- Colorado Civil Rights Commission
- Colorado General Assembly
- Political parties
- State Attorney General's Office
- Office of the Secretary of State.

This subcommittee has developed guiding principles for the complaint process to the requirements listed above. The complaint process:

- must follow federal and state law;
- should not be complicated for the aggrieved party;
- should be easily accessible for the disabled;
- should be public within the parameters of state and federal law;
- should be easily tracked by all interested parties;
- should allow for local filing and resolution;
- should allow for timely resolution within HAVA timelines; and
- should address alternate language needs as required by law.

The subcommittee has agreed to address the complaint procedures by breaking down the tasks into the following sections:

- Submission Process
- Review Process
- Alternative Dispute Resolution
- Forms
- Manuals
- Resolution Process
- HAVA Timelines

### *Submission Process*

The Submission Process[14] will allow for the local receipt of complaints or filing directly with the Secretary of State. Upon receipt of a HAVA 2002 Title III complaint, the local election official will forward the complaint within one business day to the Secretary of State who will receive and track all HAVA complaints.

In accordance with state and federal law, the complaint must be in writing and notarized, signed and sworn by the person filing the complaint, involve a HAVA 2002 Title III alleged violation, and filed within one year from the date of the alleged violation or the election, whichever is later. A form will be developed to aid the complainant in providing the required information. The complainant has the option of utilizing the form or filing a letter with required information.

Complaints filed with the local election official will be faxed to the Secretary of State within one business day of receipt. The original will be mailed and a copy retained for the local file. Conversely, complaints filed with the Secretary of State will be faxed to the local election official within one business day of receipt. A copy will be mailed and the Secretary of State will retain the original.

Upon receipt at the Office of the Secretary of State, the complaint will be date stamped, logged in, and assigned a state ID number for tracking. A receipted copy will be faxed to the local election official.

The complaint form or letter will be checked for required information, and an acknowledgement of receipt will be sent to the complainant. The acknowledgement shall indicate the tracking number and general instructions for tracking the complaint.

### *Review Process*

The Colorado Help America Vote Act, exempts the HAVA Administrative Complaint Procedures from the Administrative Procedure Act in C.R.S. 1-1.5-105(3)(b).

[14] §1-1.5-105, Colorado Revised Statutes.

Under the Review Process, the Secretary of State will have several options available;

- Local Resolution
- Resolution/Remedy without a hearing
- Dismissal
- Consolidation
- Extension
- Hearing
- Determination

The Code of Colorado Regulations, 8CCR 1505-3, Rule 1, Declaratory Orders, shall be modified and drafted into rules for the HAVA Administrative Complaint Procedure.

### *Alternative Dispute Resolution*

The Alternative Dispute Resolution (ADR) procedure is required if the Secretary of State does not issue a final determination concerning the complaint within 90 days of filing.

An agreement will be drafted between the Colorado Judicial Office of Dispute Resolution and the Secretary of State to address the ADR requirements for the HAVA Administrative Complaint Procedure. Modifications in the process may be required to adapt the current procedure to the Help America Vote Act.

### *Forms*

A form for the filing of a complaint has been drafted to aid the complainant in providing the required information. The complainant will not be required to utilize the form, but will be required by rules to provide certain information in a written, notarized complaint.

### *Manuals*

Instructions to aid the complainant in filing and tracking a complaint will be drafted and updated as modifications are made to the process. The instructions will be posted on the Secretary of State website and available in alternative languages in counties as required by law.

An instruction sheet for local election officials will provide uniformity in handling the complaints statewide.

### *Resolution Process*

A brief outline of the resolution process includes the following basic elements:

- Filing
- Tracking
- Review (with or without hearing)
- Consolidation and Extension
- Determination, which may include dismissal
- Alternative Dispute Resolution (if no determination within 90 day timeframe)

- Court Appeal (if complainant is not satisfied with final determination or ADR is unsuccessful)

### *HAVA Timelines*

The timelines for filing a complaint under the HAVA Colorado Administrative Complaint Procedure and disposition/resolution of the complaint are clearly outlined in federal and state law:

WITHIN ONE BUSINESS DAY the local election official shall transmit a Title III HAVA complaint filed with the local official to the Secretary of State.

WITHIN ONE YEAR of the occurrence of the alleged violation or of the election giving rise to the complaint, whichever, is later; the complaint must be filed with the Secretary of State. [C.R.S. 1-1.5-105(2)(d)]

WITHIN 90 DAYS of the date the complaint is filed, the Secretary of State must issue a decision on the complaint [C.R.S. 1-1.5-105(2)(i)], unless the complainant consents to a longer period for making such determination. [HAVA Section 402(a)(2)(H)]

WITHIN 60 DAYS following the 90-day time frame, if the Secretary of State fails to issue a final decision on the complaint, the complaint shall be resolved under the Alternative Dispute Resolution Procedure established by the Secretary of State. [C.R.S. 1-1.5-105(2)(j) and HAVA Section 402(a)(2)(I)]

WITHIN 30 DAYS following the final determination by the Secretary of State, an aggrieved party may appeal the Secretary's determination to the District Court in and for the City and County of Denver. [C.R.S. 1-1.5-105(4)]

## Section 10 – Effect of Title I Payments

*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.*
*-- HAVA §254 (a)(10)*

It is estimated that Colorado will receive approximately $7.1 million under Title I of P.L. 107-252. These funds will be split between activities listed in §101 and §102.

### *§101 – Payments to states for activities to improve administration of elections*

It is estimated that Colorado will receive approximately $4.9 million to improve the administration of elections. This is the amount of funds remaining after the calculation of §102 funding.

It is predicted that Colorado will use these funds to address the following activities:

- Comply with Title III requirements
- Improve administration of elections for Federal office
- Educate Voters
- Training Elections Officials, election judges and volunteers
- Developing the State Plan for requirements payments
- Replacing voting systems and technology for casting and counting votes
- Improving accessibility and quantity of polling places

### *§102 – Replacement of punch card or lever voting machines*

It is estimated that Colorado will receive approximately $2.2 million for replacement of voting machines. This is calculated by multiplying the number of qualifying precincts (682) by $3,192 as currently estimated.

Table-10.1 lists the Colorado precincts for equipment buy-out:

**Table-10.1**

| COUNTY | PRECINCTS | DESCRIPTION |
|---|---|---|
| Boulder* | 249 | Includes 4 early voting sites with 6-12 machines per site |
| Jefferson** | 322 | Includes 8 early voting sites (total of 10 punch card machines for early voting) |
| Mesa** | 71 | Includes 1 absentee precinct and 4 early voting precincts |
| Montrose | 22 | Includes 1 absentee precinct |
| Pitkin*** | 18 | Includes 1 absentee precinct and 1 early voting precinct |
| **Total** | **682** | |

** Boulder is in the process of replacing punchcard systems with DREs*
*** Jefferson and Mesa County have already replaced their punch-card systems and qualify for reimbursement under HAVA 2002.*
**** Pitkin County leases its optical scan system that replaced a punch card system used in the November 2000 election.*

## Section 11 – State Plan Management

*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).*

*-- HAVA §254 (a)(11)*

Colorado will use the State Plan as the basis for managing the activities necessary for the implementation of HAVA requirements. The Secretary of State, with guidance from the HAVA Steering Committee, will be responsible for the management and implementation of the State Plan.

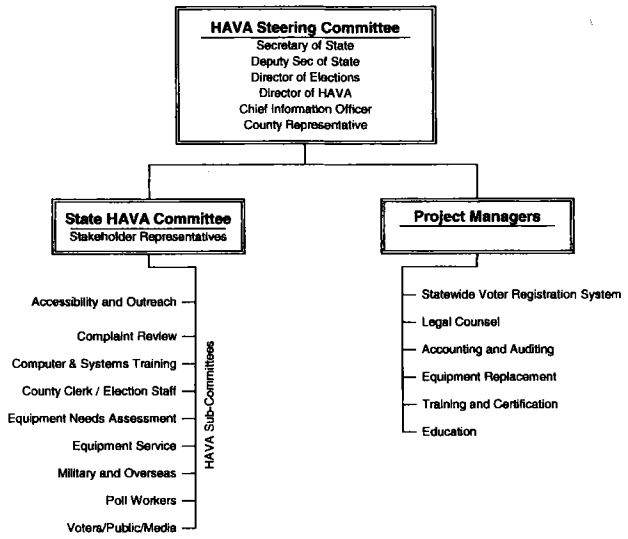
Title II of the Help America Vote Act requires each state to describe how it will manage the implementation of its proposed HAVA plan. This description must include who is responsible for implementation and monitoring, the process for changing the state plan, implementation timelines, and reporting requirements for counties and projects. Colorado will conduct plan management at four levels:

**Secretary of State** – In Colorado, the Chief State Election Official is the Secretary of State. Accordingly, the Secretary of State has the ultimate responsibility for the implementation of HAVA requirements. As a result, the Secretary of State will possess the final authority in decision-making and management of the HAVA program.

**State HAVA Steering Committee** – The primary responsibility of the Steering Committee is to provide overall guidance, leadership and direction to all HAVA activities. This committee will meet on a regular basis to address the needs of the HAVA activities in a timely manner.

**State HAVA Committee / HAVA Subcommittees** – These committees are comprised of various volunteers at the state and county levels that represent a cross section of interests. They are responsible for research, analysis, and development of select HAVA needs. All HAVA projects will rely on this resource pool to accomplish their respective objectives.

**Project Managers** – Individual leaders will have responsibility for the day-to-day coordination and implementation of distinct projects within the HAVA plan. These project managers may be State HAVA Steering Committee members, Elections Division staff, Contractors, or county representatives. These individuals are responsible for reporting project activities, progress, and resource needs/expenditures to the State HAVA Steering Committee. Project managers and project/task leaders will determine appropriate reporting based upon the needs, requirements, complexity, and risk factors of each project.




The State of Colorado will comply with HAVA requirements related to ongoing management of the State Plan. Material changes in the administration of the State Plan will not be made unless the change is developed and published in the Federal Register in accordance with HAVA §255, is subject to public notice and comment in accordance with HAVA §256, and takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

**Preliminary Implementation Schedule**

| Task | Start Date | Finish Date |
|---|---|---|
| **TITLE III Requirements - Preliminary Schedule** | **01/01/03** | **01/01/06** |
| Section 301 - Voting System Standards | 07/03/03 | 01/01/06 |
| Section 302 - Provisional Voting | 01/01/03 | 12/31/03 |
| Section 302 - Voting Requirements | 03/01/03 | 12/31/03 |
| Section 303 - Statewide Voter Registration System | 07/02/03 | 12/31/05 |
| Section 303 - Register by Mail Requirements | 01/01/03 | 01/01/04 |

## Section 12 – Changes to State Plan from Prior Year

*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.*
*-- HAVA §254 (a) (12)*

This State Plan is the initial submission of the plan as required under P.L. 197-252. This section will be updated in subsequent fiscal years, reflecting changes to the plan, as well as a summary of the successes from the prior fiscal year.

## Section 13 – Colorado HAVA Team

This vision of elections to come in Colorado is a direct result of the dedicated teamwork of community stakeholders who have donated their time and talent to this long-term project. Ensuring integrity, independence and self-determination is an exciting challenge that the Help America Vote Act Committee and Subcommittees have embraced enthusiastically.

For further information on the committee members and meeting minutes and the implementation of the Help America Vote Act of 2002 please visit our website at:

**www.sos.state.co.us**

**In the "Election Center"**

**Under**

**"Help America Vote"**

### Colorado HAVA Steering Committee

Colorado Secretary of State.....Donetta Davidson
Deputy Secretary of State.....William A. Hobbs
Director of Elections.....William C. Compton
Director of HAVA.....Drew T. Durham
Chief Information Officer.....Brian Balay
County Representative.....Russ Ragsdale

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## Glossary

| TERM | DEFINITION |
|---|---|
| ADA | Americans with Disabilities Act |
| ADR | Alternative Dispute Resolution |
| C.R.S. | Colorado Revised Statutes |
| DRE | Direct Recording Electronic |
| FEC | Federal Elections Commission |
| H.B. | House Bill |
| HAVA | Help America Vote Act |
| IT | Information Technology |
| NASED | National Association of State Election Directors |
| NIST | National Institute of Standards and Technology |
| P.L. | Public Law |
| PMO | Project Management Office |
| RFB | Request for Bid |
| RFI | Request for Information |
| RFP | Request for Proposal |

## APPENDIX A – Rule 27: Rules Concerning Uniform Ballot Counting Standards

27.1 Definitions

27.1.1 Blank Ballot. A blank ballot is one on which the voter has made no marks in any voting position, or has been marked with an unreadable marker, or is one which has been consistently marked outside of the "read" area of the scanner.

27.1.1 Chad. Chad is the small piece of paper or cardboard produced from a punch card ballot when a voter pierces a hole in a perforated, designated position on the ballot with a marking device to record the voter's candidate, question, or issue choice.

27.1.2 Damaged Ballot. A damaged ballot is one that has been torn, bent, or otherwise mutilated or rendered unreadable, so that it cannot be processed by the optical scanner ballot reader.

27.1.3 Duplicated Ballot. A duplicated ballot is one for which a true copy is made in order to be properly processed and counted due to damage, improper marking or some other reason which would prevent a ballot tabulating machine from accurately counting the ballot.

27.1.4 Punch Card Ballot. A punch card ballot is a ballot card that contains small perforated design positions that a marking device must pierce to form a hole that records a voter's candidate, question, or issue choice.

27.1.5 Over vote. An over vote is a race, question or issue which contains votes for more than the maximum number of candidates or responses for a ballot question or issue allowed.

27.1.6 Under vote. An under vote occurs when the voter does not vote for a candidate, question, or issue, or when more than one person in a race is available, the voter does not vote for the maximum number of votes allowed.

27.1.7 Vote in Optical Scan Ballots. A correctly voted optical scan ballot occurs when a voter, using a readable marker, fills in or connects the minimum number of ovals/arrows per race, question, or issue, not to exceed the maximum allowable votes per race, question or issue, without extending the vote mark beyond the parameters of the instructions.

27.1.8 Write-In Vote. A vote on a ballot on which the voter physically writes in the name of a legally qualified write-in candidate in the space reserved on the ballot for write-in votes and properly marks the oval or connects the arrow on optical scan ballots according to the directions provided to the voter. C.R.S. 1-7-304

27.2 Uniform Counting Standards for Paper Ballots

27.2.1 Judges counting ballots on Election Day shall take into consideration the intent of the voter.

27.2.1 If a ballot contains markings for more than the maximum votes allowed in a candidate race or for a ballot issue or question, no vote shall count for that race, question, or issue. Judges shall take into consideration any notation by the voter that would clearly indicate the choice of the voter.

27.2.2 If an issue, question or candidate race contains no markings by the voter, no tally will be made for that race, question, or issue, but all other candidate races, issues, or questions properly marked by the voter on the ballot shall be counted.

27.2.3 A ballot which has no markings for any candidate races, issues or questions shall be tallied as a blank ballot, but the voter shall be given credit for voting.

27.2.4 If the intent of the voter is clear on a write-in vote, the write-in vote shall be counted for a legally qualified candidate.

27.3 27.3.1 Testing of Optical Scan Equipment

(a) Optical scan equipment must be set to consistent and uniform sensitivity standards for each system type.

(b) Pre-election testing should be performed by the designated election official in accordance with C.R.S. 1-7-506(1) and Rule 11.4.

(c) Election Day count machine settings should sort blank ballots, over votes, and write-in votes for the resolution board.

27.3.2 Precinct Optical Scan Procedures

(a) Voters whose ballots are rejected or sorted by the precinct counter as a blank or over voted ballot shall be given the opportunity to correct their ballot.

(b) Ballots sorted to a write-in bin shall be tallied at the conclusion of the voting and delivered to the central county center in a secure container.

27.3.3 Central Count Optical Scan Procedures

(a) A resolution board, consisting of a team(s) of one (1) Republican and one (1) Democrat for partisan elections or two (2) qualified election judges for nonpartisan elections, shall resolve all ballots sorted by the central count optical scan equipment.

(1) The board shall be observed by two (2) witnesses, who in any partisan election shall be representatives of each major political party, who may not handle or process ballots.

(2) All persons engaged in the counting and processing of ballots shall be deputized or take an oath to faithfully perform their duties.

(3) The resolution board shall maintain a log for each step of verification, duplication, and counting according to Rule 11.5.58.

(b) Sequence of Resolution Procedures

(1) Testing of the optical scanner shall begin immediately prior to counting official ballots.

(2) A zero tape shall be run indicating no votes cast or counted before the counting begins.

(3) Official ballots shall be processed through the optical scanner, with sorted over votes, blank ballots, and write-in ballots viewed and resolved by the resolution board. If there are no legally qualified write-in candidates, the write-in sort option shall not be utilized. The number of each duplicated or clarified ballot shall be entered on the resolution board log sheet.

(4) All ballots which are sorted by the optical scanner and resolved by the resolution board either by duplication or clarification are to be indicated as such and kept separate from the standard run ballots for the precinct.

(5) The precinct judge's ballot return form is compared to the number of scanned ballots for the precinct.

(6) After the final precinct has been tallied, the total write-in votes shall be indicated on the final summary along with the seal numbers for each sealed box of scanned ballots.

(7) The optical scanner shall be tested again by tabulating the test deck at the conclusion of the count.

(c) Resolution of optical scan ballots

(1) Damaged or defective ballots shall be repaired, if possible, to be accepted by the optical scan equipment. If the ballot is damaged beyond repair, the ballot shall be duplicated utilizing the ballot duplication procedures.

(2) Blank ballots shall be examined by the resolution board to determine if the ballot is a true blank ballot or one that has been marked with a non-detectable device. The resolution board may clarify a non-detectable mark in such a manner that the original voter mark is preserved, such as making a detectable line through the non-detectable mark, placing a removable label over the non-detectable mark and marking with the proper device, or placing cellophane tape over the mark and a marked removable label to properly reflect the voter's intent. Resolution board members must initial the clarification in a non-readable area on the ballot next to the clarification. The election official may also choose to make a duplicate copy of the ballot utilizing the ballot duplication procedures. If a ballot is truly blank it shall be sent back for the resolution pass through the scanner, and the ballot tabulated with no races, issues or questions voted.

(3) Over voted ballots shall be inspected by the resolution board. Any marks that are clearly identified as unintentional but register an over vote on the scanner may be clarified by the resolution board by the placement of a removable adhesive sticker over the unintentional mark. The two members of the resolution board must initial next to the clarification in a non-readable portion of the ballot. The election official may also choose to make a true duplicate copy of the ballot utilizing the procedures for duplication of ballots.

(4) Write-in votes sorted by the optical scan equipment on Election Day shall be delivered to the assigned write-in board for hand counting. In order to be counted, the oval must be darkened or the arrow connected according to the appropriate voting instructions. Only votes for legally qualified write-in candidates shall be counted.

(5) The resolution board shall duplicate ballots by clearly labeling the new duplicate ballot as a "DUPLICATE" and assign a serial number which shall be recorded on both the original and duplicate ballot. For example, the first ballot in Precinct # 1 to be duplicated could be labeled as #1/001 with the duplicate labeled D#1/001. Original ballots shall be separated from the duplicate ballots and placed in an envelope clearly marked "ORIGINAL BALLOTS." The duplicate ballots shall be counted in lieu of the original ballots.

(d) Recount Procedures for Optical Scan

(1) Optical scan equipment must be set to consistent sensitivity standards for each system type, must be tested prior to the recount, and shall be programmed to sort under votes for the individual race(s), issue(s) or question(s) being recounted.

(2) Recounts will include a visual inspection of all ballots cast for write-in candidates in the contested race(s) to determine voter intent.

27.4 Uniform Counting Standards – Punch Card Voting Systems[15] C.R.S. 1-7-503

27.4.1 Inspection of Ballots. Prior to the counting of the ballots by automatic tabulating equipment, at least one team of election personnel, which except in non-partisan elections shall consist of one member from each political party, shall inspect the ballots for loose chad, ballot damage, including holes that are too large, a ballot that is torn in the mail, etc., written instructions and corrections, and write-in votes. The purpose of the inspection shall be to insure that all ballots are machine-readable and that the voter's intent will be recorded correctly and accurately. In some instances, duplication of the ballot may be necessary in order to count the ballot.

(a) All loose chad shall be removed to ensure that all of the voter's choices on the ballot are correctly and accurately reflected in the count.

(1) A chad that is unattached on two or more corners represents a vote and shall be removed.

(2) If a chad is attached to a punch card ballot by three or four corners, no vote shall be recorded for that candidate, issue or question choice at that particular ballot position, and the chad shall not be removed.

(b) Dimpled mark or puncture on the attached chad.

(1) If a ballot has been punched according to instructions, but there exists a random dimpled mark or puncture located wholly on the non-removed chad, that mark or puncture shall be considered a random mark or puncture.

(2) If the ballot has nowhere been punched according to instructions, but consists of a series of dimpled marks or punctures located wholly on the attached chad, those marks or punctures shall represent the voter's intent to vote for that designated position, and the ballot shall be duplicated accordingly.

(3) If a dimpled mark or puncture appears on the ballot anywhere other than completely on the chad, voter intent cannot be determined, and the ballot shall be duplicated without that dimple mark or puncture.

(c) Damaged ballots. If the ballot has damage or defects that would cause problems in tallying, such as a ballot being torn in the mail, the ballot shall be duplicated to the extent possible, evidencing the voter's intent. If the voter's intent cannot be determined for a specific office, issue or question on the damaged ballot, that position shall be left blank on the duplicate ballot.

[15] Rule 27.4 providing for uniform counting standards for punch card voting systems will remain in effect pending the replacement of these voting systems pursuant to HAVA.

(d) Voter instructions. If other material is included with the ballot or is attached to the secrecy envelope, the material shall be inspected to determine if it has a bearing on the voter's intent. If the material has a bearing on the voter's intent, the original ballot shall be duplicated as necessary and the original ballot, along with the material, shall be placed in an envelope marked "Duplicate Ballot." If the material has no bearing on the voter's intent, it shall be discarded.

(e) Write-In Votes.

(1) Write-in votes shall be recorded on the secrecy envelope.

(2) Only votes cast for legally qualified write-in candidates shall be considered valid and counted. Any write-in votes for candidates who are not legally qualified shall be disregarded and not counted.

(3) On the punch card secrecy envelope, the voter must indicate both the name of the candidate being written in the office for which the candidate is running. If either candidate's name or the office for which the candidate is running is left off the secrecy envelope, then the intent of the voter cannot be determined and the vote shall not be counted. If the write-in vote is disregarded, any vote for that office on the punch card ballot itself shall be tabulated and counted.

(4) If both the office name and the candidate's name are included in the write-in option on the secrecy envelope, the punch card ballot must be checked for any other votes for that office. If the write-in vote does not result in an over vote for that office, then all votes shall be tabulated and counted. If the write-in vote creates an over vote for that office, then neither vote shall be counted, and the punch card ballot shall be duplicated to reflect an over vote.

(5) If the write-in line contains a name that is the same as the one that is printed on the ballot for that office, regardless of whether the ballot position for that candidate is punched out or not, then the write-in vote shall be disregarded, and the ballot shall be duplicated, if necessary, so that the tabulating machine will count the vote as a vote for the selected candidate.

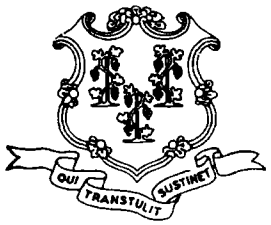
27.4.2 Duplication of Ballots.

(a) Using the damaged ballot as the guide, a blank ballot shall be marked by a duplicating team, so that the votes recorded are identical to those indicated on the damaged ballot, and shall be proofed to insure that is marked properly and accurately.

(b) A unique number shall be assigned to both the original and duplicated ballot. This will reference the two ballots together and provide an audit trail. (Example: the ballots may be marked XX-NNN, where XX is the precinct number and NNN are consecutive numbers starting with the number one.)

(c) The duplicate ballot shall be placed with all other ballots to be counted.

(d) The damaged or unreadable original ballot shall be marked "DUPLICATED" to indicate that the ballot has been duplicated and the duplication is completed. All duplicated original ballots for a precinct along with any applicable printed material shall be placed in an envelope and clearly marked "BALLOTS THAT HAVE BEEN DUPLICATED."




# State of Connecticut

# State Plan

As required by the Help America Vote Act

Public Law 107-252, Section 253(b)

July 23, 2003

**Secretary of the State Susan Bysiewicz**
**State Capitol**
**210 Capitol Avenue**
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**Hartford, CT 06106**



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## INTRODUCTION

As the Chief Election Official for the State of Connecticut I am proud to present the Connecticut State Plan. Development of a state plan is required by Section 253(b) of the Help America Vote Act of 2002, Public Law 107-252 (hereinafter "HAVA") to detail the implementation of the Act in Connecticut. HAVA is one of the most significant and influential election reform bills passed in recent years. Although some provisions of HAVA will require reform of Connecticut's election laws, I am proud to say that Connecticut stands at the forefront of states with regard to many of the provisions. With the appropriate amount of federal financial support, the State of Connecticut will have the opportunity to build upon our effective administration of elections when implementing the provisions of HAVA.

This State Plan, developed in conjunction with the Connecticut State Planning Committee, establishes a solid outline for compliance with the provisions of HAVA. The committee is comprised of a vast array of participants and stakeholders each representing an important aspect of our community.

In addition, this State Plan was developed mindful of pending legislation in the State of Connecticut, H.B. 6592, An Act Concerning Implementation and Administration of the Help America Vote Act. This document recognizes that the proposed legislation will result in an effective implementation of all of the provisions of the HAVA.

Although each of our 169 municipalities will remain responsible for the administration of our elections at the local level and any additional requirements prescribed by HAVA, the Office of the Secretary of the State will seek to provide them with the tools and financial support necessary to fulfill their expanded duties under HAVA.

The State of Connecticut will continue to encourage accessibility for individuals with disabilities and work toward the common goal of allowing all citizens in the state the opportunity to vote in private. We will work hard to remain at the very forefront of implementing a uniform statewide voter registration system and will continue to investigate all aspects of voting systems to identify which systems will most benefit all electors in our state.

Connecticut will continue to update and refine the State Plan as necessary to reflect changes and progress in election reform. I am confident that the State of Connecticut will become a model for other states as we work toward compliance with HAVA.

Susan Bysiewicz
Secretary of the State



*Secretary of the State of Connecticut*
*Preliminary State Plan*

## STATE PLAN APPROACH

The State of Connecticut administers elections through a two-tiered system. The Secretary of the State is the Chief Election Official and through the Secretary's agency administers and supervises the electoral process at the state level. Each of the 169 towns in Connecticut have a town clerk who is either elected or appointed and two registrars of voters who are elected for two or four year terms. These officials work in cooperation to effectively administer successful elections at the local level. The Secretary of the State, as an advisor, the town clerks, and registrars of voters must work together to serve all political candidates and the nearly 2 million registered voters in Connecticut.

Status of State of Connecticut's HAVA implementation:

The State of Connecticut is near completion of a centralized voter registration system that will connect all 169 towns to a central database of all registered voters in the State. Currently, the State of Connecticut has 149 towns out of 169 towns connected to the centralized voter registration system. An additional 10 towns have committed to joining the system before the Federally mandated deadline and have sent in the appropriate information to the State of Connecticut to enable them to join. Upon completion, the centralized voter registration system will allow registrars of voters to effectively monitor their official registry list, to keep track of those electors who may have moved in or out of their municipalities, and to more effectively prevent voter fraud and duplicate registration.

Considerable efforts are necessary for the State to meet all of the other HAVA requirements. The State of Connecticut will need to complete the centralized voter registration system by adding the remaining towns to the system (in accordance with recent State legislation passed, Connecticut Public Act 03-117, An Act Concerning the State-Wide Centralized Voter Registration System, requiring all towns to participate on the centralized voter registration system by September 1, 2003), redesign the election administration processes, establish a provisional ballot system, revamp training, and investigate voting system alternatives (through passage of H.B. 6592, An Act Concerning Implementation and Administration of the Help America Vote Act). The State of Connecticut's ability to provide ongoing operations as well as maintenance of new and required capabilities is dependent on adequate resources and funding from the Federal level.

State of Connecticut's Future Approach:

This State Plan is organized as specified in HAVA §254. Each section of this document corresponds to a subsection of §254 and addresses a State Plan requirement specified in HAVA. The plan outlines HAVA requirements and the State's current status in regard to those requirements, and defines the actions planned to help the State meet those requirements.

## STATE PLAN REQUIRED ELEMENTS

### A. TITLE III REQUIREMENTS AND OTHER ACTIVITIES

*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. (HAVA §254(a)(3)).*

**1) §301(a) Voting System Standards Requirements**
Deadline for Compliance: January 1, 2006

The State currently uses two voting systems in its 169 towns, lever voting systems, and optical scan voting systems. Before the enactment of HAVA, the State of Connecticut began investigating other voting technologies. In the 2001 and 2002 legislative and special sessions there was proposed legislation that would have allowed at least three municipalities to participate in a voting demonstration project using electronic voting technology. This legislation was not passed. In the 2003 legislative session, the Secretary of the State again proposed legislation that would allow at least three municipalities to participate in a voting demonstration project using electronic voting technology. On April 29, 2003, Governor John Rowland signed Connecticut Public Act 03-7, An Act Concerning a Demonstration Project for the use of Electronic Equipment for the Casting and Counting of Ballots and Prohibiting the use of Punch-Card Voting Machines, that allows the State of Connecticut to test electronic voting technologies in different municipalities. After the demonstration, a full report will be issued to the legislative committee having cognizance over this matter detailing the success and failures of the different voting technologies along with individual voter feedback. This report will be useful as the State of Connecticut begins the process of moving toward electronic voting systems.

Three of Connecticut's 169 municipalities currently use optical scan voting systems to tabulate the results of the full election ballot. Several of the State's 169 municipalities use optical scan voting systems for absentee balloting. The remaining municipalities use lever voting systems. Pursuant to Connecticut General Statutes §9-238, one lever voting machine is required for each nine-hundred or fraction of nine-hundred electors whose names appear on the last completed registry list of the municipality. This results in approximately 3,308 lever voting systems used throughout the entire State. Research with regard to the electronic voting systems capacity as to how many voters the electronic systems can accommodate during an election must be continued. The electronic voting systems will be closely monitored during the demonstration project to determine the actual number of voters each electronic voting system can accommodate during Election Day.

It is expected that the State of Connecticut will incur significant costs to train poll workers and election officials and to conduct voter outreach on the use of the new electronic voting equipment. Adequate federal funding is vital to ensure the State of





Connecticut's compliance with this provision of HAVA. If the electronic voting equipment available can accommodate 900-1000 voters per Election Day, it would require Connecticut to purchase 3,308 electronic voting systems. Implementation of these systems would cost approximately $16 million for hardware (3,308 x $5000 / per machine).

In addition, the State of Connecticut is actively reviewing whether the current lever machines used in the municipalities would be compliant with HAVA if they were "retro-fitted" with a "print-o-matic" function. This function would allow election officials to make a carbon copy of the official counters located inside the machine by use of a special device that makes an imprint on the carbon paper. This method would produce a paper record of the machine results for audit purposes. It remains unclear whether the paper audit record required by HAVA is a paper audit record for the machine or a paper audit record for each vote. The State of Connecticut understands that several of the electronic voting systems available comply with both the disability and audit requirements provided in HAVA.

The ultimate goal of the Secretary of the State was to replace all lever voting systems within the State. However, with the rejection of the State of Connecticut's HAVA §102 application, which would have provided additional funds and authority to replace all lever voting systems in the State, this ultimate goal may be delayed. Therefore, to fully comply with the provisions of HAVA regarding accessibility for individuals with disabilities, the State of Connecticut will purchase one electronic voting system for each polling location in Connecticut (currently 746 statewide) for use by individuals with disabilities. In addition, the State of Connecticut is now working with all municipalities on a "Phase-In" plan (described below) for replacement of lever voting systems.

Finally, §301(a) of HAVA requires states to define what constitutes a legal vote for each type of voting system used in the State. Connecticut already complies with this provision. For each voting system in current use, the Secretary of the State produces a manual defining what constitutes a legal vote in the case of a canvass or recanvass. The State will continue to define a legal vote in a uniform manner for each voting system used in the State.

Implementation of Connecticut's Voting System Compliance will progress as follows:

a) Planning - Connecticut will conduct a demonstration project using electronic voting technology pursuant to Connecticut Public Act 03-7. Such demonstration project will require a full written report of the results of such project. The report will then be used as a reference when Connecticut proceeds with final certification of electronic voting equipment.
b) Implementation – The State of Connecticut will place one electronic voting system in each polling location in Connecticut. After such initial step, Connecticut will require each municipality to assess the overall condition of their voting equipment and submit a plan to the Secretary of the State

indicating whether the municipality will seek to replace all lever voting systems; only a portion of the lever voting systems; or continue to rely solely on such systems for all elections in the municipality. Such plan will also detail the municipality's plan of implementation if lever voting systems are to be replaced. Upon receipt of such plan, Connecticut will review procurement options for the electronic voting systems and create schedules, work plans and trainings to effectively replace all noncompliant voting systems in the State.

A more detailed explanation of Connecticut's compliance with Section 301, Voting System Standards, can be found in *Appendix A.*

**2) §302, Provisional Voting and Voting Information Requirements**
Deadline for Compliance: January 1, 2004

HAVA addresses the process of provisional voting to ensure that no individual who appears at the polls intending to cast a ballot is turned away without having the opportunity to do so. Currently, Connecticut General Statutes §9-232 allows an elector to cast a challenge ballot if the elector's name appears on the last completed registry list but the elector is challenged on the grounds of want of identity, disfranchisement or lack of bona fide residence.

In reaction to the passage of HAVA, the Office of the Secretary of the State assessed the State's current challenge ballot procedures to determine those elements needing modification in order to fully comply with HAVA. The Secretary of the State determined that the HAVA requirements on provisional ballots differ greatly from the current challenge ballot procedures in state statute. Therefore, the Secretary of the State drafted new legislation, H.B. 6502, An Act Concerning Implementation and Administration of the "Help America Vote Act", currently before the General Assembly, that creates a provisional ballot procedure compliant with the procedures set forth in HAVA.

In addition to provisional voting requirements, HAVA mandates that states publicly post specific information at the polls on Election Day. Connecticut currently displays certain voting information at each polling place, however, the Secretary of the State must adjust and include some content to these postings in order to comply with HAVA.

HAVA further provides that voters who vote (pursuant to a court or other order), during extended hours after the normal close of a polling place, cast provisional ballots. These ballots must be kept separate from other provisional ballots. As with other provisional ballot requirements, the State of Connecticut does not currently have this provision in state statute. Therefore, H.B. 6592 creates a procedure for this circumstance.

Implementation of Connecticut's Provisional Voting Procedures will progress as follows:

a) Impact Assessment - The Secretary of the State assessed the requirements of HAVA §302 and reviewed and compared existing State law with HAVA.





b) Implementing Revisions - The Secretary of the State developed revisions and additions to State law and will facilitate passage of such law in the State legislature. Once such legislation has passed, the Secretary of the State will place the new law into operation with revised procedures, training, and outreach.

Details on the current status of provisional voting and Election Day postings can be found in *Appendix B.*

**3) §303 Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail**
Deadline for Compliance: January 1, 2004.

Currently, 159 of Connecticut's 169 municipalities participate or have agreed to participate on the State of Connecticut's Centralized Voter Registration System ("CVRS"). Each user who participates on CVRS has access to the information stored on the mainframe through individual computers located within their offices. Persons desiring to register to vote either present their qualifications in person at the registrars of voters or Town Clerk's office or mail their application to such office. Once received, an applicant's qualifications are reviewed and the applicant is either accepted or rejected as a qualified elector. If accepted, the registrars of voters enter the applicant's registration information into CVRS at the local level where such entry automatically updates the central mainframe. CVRS is not only used for voter registration purposes but it is also used to create and print the official registry list used in all elections, primaries and referenda in the municipalities. The central database that houses all voter information is located at the State of Connecticut's Department of Information Technology on the same mainframe as the Connecticut State Police. This location was chosen because of the high security associated with such location and because the location is regularly audited by the Federal government for security purposes. Because of the central location, the Secretary of the State is able to review the database on a regular basis to identify potential duplicate voters and forward such findings to the local registrars of voters for additional review. Finally, the Secretary of the State has already established a procedure with the Department of Corrections to identify those persons who have lost their voting privileges because of a felony conviction. The State of Connecticut is currently reviewing similar arrangements with the Department of Motor Vehicles and the Department of Public Health to satisfy the additional provisions of HAVA.

As explained above, the State's CVRS is a "single, uniform, official, centralized, interactive, computerized statewide voter registration list" as required by HAVA. Moreover, the State's CVRS already has many of the specific requirements of HAVA such as a field for driver's license numbers. In the 2003 legislative session the General Assembly passed Connecticut Public Act 03-117, An Act Concerning the State-Wide Centralized Voter Registration System, requiring all remaining towns to participate on CVRS by September 1, 2003.

In addition, the Office of the Secretary of the State has already redesigned the State's mail-in voter registration application as required by HAVA and proposed legislation to modify the verification of identification provided by first-time voters who register by mail.

Implementation of Connecticut's Centralized Voter Registration System will progress as follows:

a) Planning - The Secretary of the State has reviewed HAVA §303 to determine any additional requirements needed for CVRS and any necessary changes in procedures and/or state law. In addition, the Secretary of the State has determine options for development of data integration between the Department of Motor Vehicles and the Department of Public Health modeling such agreement after the one already in place between the Secretary of the State and the Department of Corrections.
b) Implementing - The Secretary of the State will implement the necessary changes to procedures and state law necessary to comply with the provisions of HAVA. In addition, the Secretary of the State will design, test and deploy any additions or upgrades to CVRS as required by HAVA and develop and deliver appropriate training and outreach to ensure successful implementation of CVRS to the remaining towns not already participating on CVRS.
c) Operating and Maintaining - The Secretary of the State will continually maintain and improve the software used in CVRS and maintain a technical infrastructure necessary for all users of CVRS.

Details on the current status of Connecticut's Centralized Voter Registration System and Identification Provisions can be found in *Appendix C.*





**4) §304, Minimum Requirements**

The State of Connecticut understands that the requirements outlined in Title III of HAVA are the minimum requirements required to be implemented by law and that the State may establish different election technology and administration requirements. Any different requirement that the State imposes will comply with all Title III requirements, as well as the laws described in HAVA §906.

**5) §305, Methods of Implementation Left to Discretion of State**

The State may choose various means to comply with the requirements of HAVA. Specific details on the implementation methodology chosen can be found in prior sections of this plan.

**6) §311, Adoption of Voluntary Guidance by Commission**

Once the federal Election Assistance Commission has issued its voluntary recommendation with respect to Title III, the State will consider that guidance in updating the State Plan. The State will incorporate those recommendations deemed appropriate into subsequent versions of the State Plan.

**7) §312, Process for Adoption**

The State will monitor the progress of the Election Assistance Commission on developing the Title III recommendations. If appropriate, the State will provide feedback on the new recommendations issued by the Election Assistance Commission during the public comment period.

**8) HAVA §251(b)(2) – Other Activities**

The State proposes to establish a solid foundation to build and sustain the people, processes, and technology necessary to maintain the new capabilities.

**B. CONNECTICUT'S DISTRIBUTION OF REQUIREMENTS PAYMENT**

*How the State will distribute and monitor the distribution of the requirements payments 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). (HAVA §254(a)(2)).*

**1) Eligibility of local units to receive the payment**

The Secretary of the State will centrally manage initiatives funded by requirements payments. The Secretary of the State will be responsible to account for all expenditures, funding levels, program controls, and outcomes. The Secretary of the State will follow applicable Connecticut law regarding the expenditure of federal funds. The Secretary of the State will provide such support as is feasible and appropriate to the municipalities and other organizations within the State if they seek HAVA grants outside the scope of requirements payments.

**2) Performance measures for local units**

The Secretary of the State will centrally manage the funds as described in Subsection 1 of this Section and the Secretary of the State will monitor the initiatives for which those funds are authorized.

The Secretary of the State will monitor the performance of each initiative that is funded by requirements payments in three areas; financial controls, compliance with standards, and program results.

Financial Controls: The Secretary of the State will develop and use standard financial reporting, as outlined by state and federal law, for all initiatives funded by requirements payments.

Compliance with Standards: The Secretary of the State will develop and use standard program management reporting for all initiatives that are funded by requirements payments to ensure that any program funded by requirements payments comply with the provisions of HAVA.

Program Results: The Secretary of the State will develop key performance indicators for each expenditure of requirements payments. Specific performance goals and measures are detailed in Section "H" of this report.





**C) VOTER EDUCATION, ELECTION OFFICIAL EDUCATION AND TRAINING, AND POLL WORKER TRAINING**

*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. (HAVA §254(a)(3)).*

Education and training programs are critical to a successful program of election reform in Connecticut. The proposed milestones in this document will require change management to ensure that all stakeholders (poll workers, election officials, voters, etc.) are comfortable with the new policies/laws and supporting technologies that HAVA requires.

Currently, training programs in the State are predominantly localized and, in some cases, informal. The Secretary of the State distributes policies and procedures to each registrar of voters and town clerk, and the registrar of voters and town clerks are then responsible as local election officials for how the messages are delivered to staff members, poll workers, and the public. Often, knowledge is distributed in meetings and at conferences, rather than in formal training sessions.

In general, voter outreach programs within the State are limited. Voters can obtain voting information through the Secretary of the State's website and other State websites, as well as through public service announcements. However, when new voting systems or laws directly affect the voter, outreach increases exponentially. For example, in the recent implementation of a new felon restoration law, the Secretary of the State worked with the Department of Corrections, local registrars of voters, town clerks and various civic organizations to inform the public of the recent change in the law. The Secretary of the State also updated the agency website, voter registration cards, informational pamphlets and conducted several media and public service announcements on the subject.

It is important to develop the training and outreach program with the participation of the registrars of voters and town clerks as they are a critical component to the current and future process. Also, the program must account for the changing poll worker and election official workforce, so that training is effective for a group with diverse skills. Finally, HAVA brings increased accessibility to elections. Training programs and subsequent training materials must address the needs of persons with disabilities and individuals with alternative language considerations. In collaboration with the registrars of voters and town clerks, uniform training utilizing technology as a method of outreach will help provide for smooth implementation of the State Plan.

To ensure the success of election reform programs, the HAVA State Planning Committee continues to review all aspects of training. One of the most important points to recognize is that training must be uniform and provided to the Registrars of Voters in writing so that they can continue to train poll workers, moderators, machine mechanics and the general public.

**D) VOTING SYSTEM GUIDELINES AND PROCESSES**

*How the State will adopt voting system guidelines and processes, which are consistent with the requirements of section 301. ( HAVA §254 (a) (4)).*

Currently, Connecticut does not require uniform voting systems for polling place and absentee voting. With the assistance of the HAVA State Planning Committee, the Secretary of the State will review the possibility of recommending to the Connecticut State Legislature uniform standards to be set in place by 2006. Any system mandated by the State will meet the requirements of HAVA §301. As the implementation of the new voting systems continue, the Secretary of the State will maintain and create any new guidelines and processes as necessary to complete such implementation as provided by HAVA. New processes at the Secretary of the State can take the form of internal procedures, regulations, or State legislation. The Secretary of the State will determine the appropriate method to publicize any new voting system guidelines and processes.

In addition, as discussed in "Section A", subsection 1 "§301(a) Voting System Standards Requirements", Connecticut will require each of the municipalities to submit a plan to the Secretary of the State indicating the method of implementation and compliance that the municipality will use with regard to voting systems. Each municipality will be required to assess their existing voting systems and determine if they will replace some or all lever voting systems with electronic voting systems. If a municipality chooses not to replace all of their lever voting systems, each municipality will be required to submit a plan indicating that they will comply with the provisions of the HAVA. The Secretary of the State will purchase and place one electronic voting system in each polling location within the State in compliance with §301 of HAVA.

**E) CONNECTICUT'S HAVA FUND MANAGEMENT**

*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. ( HAVA §254 (a) (5)).*

Connecticut H.B. 6592 An Act Concerning Implementation and Administration of the "Help America Vote Act" will establish a new fund for election reform that is kept separate and distinct from all other funds within the general fund. This fund will contain both federal and state funds. The federal portion of the fund will represent the federal funds provided to the State and expend by the State. The state portion of the fund will represent the funds contributed or spent by the State that represent the 5% match required under HAVA.

The Secretary of the State's Office will work with the State Comptroller, Treasurer and the State Auditors to follow and enforce all mandated fiscal controls and policies.





**F) Connecticut's HAVA Budget**

*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. ( HAVA §254 (a)(6)).*

At the time of the writing of this plan, HAVA appropriations were less than amounts authorized within the Act. The following table outlines the assumptions regarding federal funding that the State used in creating its budget for HAVA activities.

**Federal Funding Assumptions for Connecticut (in Millions)**

| Federal Fiscal Year | Total Federal Funds | Connecticut Share | 5% State Match Requirement** |
|---|---|---|---|
| **Early Payments** | $650 (Appropriated) | $5.00 | N/A |
| **2003** | $833 (Appropriated) | $9.88 | $0.52 |
| **2004** | $500 (President's Budget; authorized at $1,000) | $5.83 | $0.31 |
| **2005** | $600 (Authorized) | $7.14 | $0.38 |
| **Total** | **$2,583** | **$27.8** | **$1.2** |

**5% State Match Requirement is calculated as 5% of the total of the State Match portion plus the federal requirements payment portion of cost. To determine the 5% State Match based on federal requirements payment amount, use .0526 as the multiplier. Example from Connecticut FY 2003: $9.88M x 0.0526 = $0.52M

Based on these funding levels, the State HAVA budget is representative of the activities to implement and conduct operations and maintenance through calendar year 2005 for the HAVA Title III requirements and "other" activities. The budget will continue to be revised based on the most current information available regarding federal funding.

The State made the following additional assumptions in preparing the budget:

- The State is planning to implement new electronic voting systems.
- The cost for the centralized voter registration system (§303(a)) is presented as an average, because the State will upgrade its current system to meet HAVA requirements. Minimal compliance changes will result in a cost that will be lower while substantive changes will result in a cost that will be higher.
- The cost for education, training, and outreach (§254 (3)) is presented as an average due to the variety of educational options available to the State. Additionally, the State anticipates concurrent initiatives to implement the voting system and centralized voter registration system. The State will need to develop a core curriculum to respond to increased demands on resources.

The State's budget to carry out activities to meet HAVA requirements is provided in the following table:





**Connecticut's budget for HAVA Activities**

| HAVA Requirements and Activities | Federal Funds | State Funds | Local Funds | Interest Earned | Other Sources | Total | Planned Start Date | Planned Completion Date |
|---|---|---|---|---|---|---|---|---|
| §301 Voting systems | $20.5 | - | - | $19.42 | $1.08 | - | 2002-2006 | Thru 2005 |
| §302 Provisional voting and voting information requirements | $0.5 | $0.16 | - | $0.32 | $0.02 | - | 2002-2003 | Thru 2005 |
| §303 Centralized voter registration system and requirements for voters who register by mail | $2.0 | - | - | $1.89 | $0.11 | - | 2002-2004 | Thru 2005 |
| | | | | | | | | |
| §254(3) Voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of title III | $2.5 | $2.5 | - | - | - | - | 2002-2005 | Thru 2005 |
| §402 Establishment of State-based administrative complaint procedures to remedy grievances | $0.05 | $0.05 | - | - | - | - | 2003 | Thru 2005 |
| State Plan – Budget and Fiscal Controls | $0.49 | $0.49 | - | - | - | - | 2003 | Thru 2005 |
| State Plan – Technical Infrastructure Strategy | $0.5 | $0.5 | - | - | - | - | 2003 | Thru 2005 |
| State Plan- Election Administration Process Redesign | $0.8 | $0.8 | - | - | - | - | 2003 | Thru 2005 |
| State Plan – Election Reform Program Management | $0.5 | $0.5 | - | - | - | - | 2003 | Thru 2005 |
| Total | $27.8 | $5.00 | - | $21.7 | $1.21 | - | | |

**Notes:**

1. State's portion of HAVA funding is estimated based on the funding assumptions outlined above and will be comprised of funds contributed by the State as well as funds already expended to the extent allowable by HAVA. Source for the State's portion of these funds is the Congressional Research Service, *Funds Allocations to States Based on P.L. 107-252: the Help America Vote Act of 2002* (November 15, 2002).
2. Funding source options: State funding other than 5% match, local jurisdiction funding, and/or additional federal funding.
3. Duration for each budget activity is through calendar year 2005.

## G) MAINTENANCE OF EFFORT

*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 2002- (HAVA §254(a)(7)).*

Consistent with HAVA §254(a)(7), in using any requirements payment, Connecticut will maintain expenditures of the State for activities funded by the payment at a level equal to or greater than the level of such expenditures in State FY2000.

As in many states, however, this level of funding represents only a small portion of the statewide aggregate operating budget expenditures needed to sustain elections in a given fiscal year, election administration resources have historically been allocated to the municipalities as well. Connecticut's 169 municipality office budgets typically support year-round core staff and operating expenses for continuous functions such as voter registration and IT support. In addition, the registrars of voters and town clerks require an increase in funding for each specific election for poll workers, office staff, ballot production, mailings and Election Day support.

It is therefore important to note that the projected HAVA budget set forth above is based on the assumption that the municipalities will maintain their election operating expenses at existing levels. As a safeguard for this assumption, the State will require proof from each municipality that they have budgeted for future elections at a level not less then the prior years budget for an election of the same type. Without this safeguard in place, the short-term infusion of funds HAVA provides would not be sufficient to maintain the new State election environment in the long term.

## H) HAVA PERFORMANCE GOALS AND MEASURES

*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. ( HAVA §254 (a)(8)).*

The Secretary of the State will establish performance goals and will institute a process to measure progress toward the achievement of these goals. This process will provide the registrars of voters and town clerks with structure and continued measurable targets for accomplishment. The performance goals and measures will align with the requirements of HAVA.

The Secretary of the State will establish a procedure to oversee continuous management of the State Plan. This procedure will monitor and ensure a uniform performance evaluation process.





Performance Goals

Performance goals provide a high-level view of a project's direction and progress. The State's goal is to achieve election reform compliance with HAVA requirements through the successful implementation of the programs outlined in the State Plan. Below is a detailed chart that will provide the title of the official who is responsible for ensuring that each plan element is met, and the timeline for meeting each of the elements of the Plan.

| Plan Elements | State Office | Time frame |
|---|---|---|
| **Voting Systems:**<br>-- §301 | Secretary of the State | To be implemented by January 1, 2006 |
| **Provisional Voting:**<br>-- §302 | Secretary of the State | To be implemented by January 1, 2004 |
| **Voter Registration:**<br>-- §303(a)<br>-- §303(b) | Secretary of the State | §303(a) to be implemented by January 1, 2004<br>§303(b) to be implemented by January 1, 2004 |
| **Other Activities**<br>-- §101 (b)(1), §251(b)(2) | Secretary of the State | |
| Technical Infrastructure | Secretary of the State | TBD |
| End to End Process Redesign | Secretary of the State | TBD |
| Election Reform Program Management | Secretary of the State | TBD |
| **Education and Training:**<br>-- §254 (a)(3) | Initially, Secretary of the State<br>Local – Registrar of Voters | TBD |
| **Budget and Fiscal Controls:**<br>-- §254 (a)(6)<br>-- §254 (a)(2)<br>-- §254 (a)(7)<br>-- §254 (a)(10) | Secretary of the State | TBD |
| **Complaint Procedures:**<br>--Title II, §254 (a)(9)<br>--Title IV, §402 | State Elections Enforcement Commission | TBD |
| | | |

Performance Measures

The State will measure the following five critical areas of each project: scope, schedule, resource, quality, and risk. The Office of the Secretary of the State will develop detailed metrics to collect data to report on performance. The measures will provide the State with the ability to understand, predict, and improve overall performance and communication expectations at the State and local levels.

a) scope - measures internal and external events that may affect cost, implementation schedule, or quality;
b) schedule - measures target start and stop dates, actual start and stop dates, percent complete and overall progress toward a goal;
c) resources - measures estimated and actual cost, estimated and actual project resource needs;
d) quality - measures effectiveness of project to ensure that it meets expectations (error rates, deliverable quality, value to client); and
e) risk - measures impact of events on operations and overall goal.

**I) STATE BASED AMINISTRATIVE COMPLAINT PROCEDURES**

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. (HAVA §254 (a)(9)).*

Deadline for Compliance: Prior to certification of State Plan, not later than January 1, 2004

The State of Connecticut has two agencies that are involved in the electoral process. The Secretary of the State is responsible for the administration of elections and the State Elections Enforcement Commission is responsible for the investigation and enforcement of alleged violations of the election laws. The State Elections Enforcement Commission is designed to handle complaints and alleged violations of election laws. Therefore, the State Elections Enforcement Commission will be the agency charged with the implementation of the administration complaint procedure.

The Secretary of the State has submitted legislation (H.B. 6592 An Act Concerning Implementation and Administration of the "Help America Vote Act") that authorizes the State Elections Enforcement Commission to administer the administrative complaint procedure according to the provisions set forth in HAVA.





**J) EFFECT OF TITLE I PAYMENTS**

*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. (HAVA §254 (a)(10)).*

To date, the State of Connecticut has received $5.0M in Title I payments.

§101. Payments to States for activities to improve administration of elections.

Connecticut has received the minimum payment available ($5.0M) under §101. These funds will be used for activities to meet the following requirements:

| | |
|---|---|
| §302 Provisional Ballots | $0.16M |
| §254 Voter Education | $2.5M |
| §402 Administrative Complaint Procedure | $0.05M |
| State Plan – Budget Administration | $0.49M |
| State Plan – Technical Infrastructure | $0.5M |
| State Plan – Election Administration Redesign | $0.8M |
| State Plan – Election Reform Management | $0.5M |
| **Total** | **$5.00M** |

§102. Replacement of punch card or lever voting machines.

Connecticut was eligible for an additional $1.6M under §102, as calculated in the following chart. However, the State of Connecticut's initial submission of the certification required pursuant to such section was rejected by the GSA pursuant to a request by the Honorable John G. Rowland, Governor of Connecticut. Therefore, the State of Connecticut is not eligible for the additional payment available pursuant to §102. (Table below illustrates the full calculation of Title I and Title II payments available to the State of Connecticut).

| Number of Districts | | Maximum Payment Amount ($4,000 per District) |
|---|---|---|
| 734 | | $3,136,000 |
| §101 Calculated Payments | | $3,490,000 |
| | | |
| **Subtotal** | | **$6,626,000** |
| | | |
| §101 Minimum Payment | | ($5,000,000) |
| | | |
| **Total §102 Additional Payment Available** | | **$1,626,000** |

## K) CONNECTICUT'S HAVA STATE PLAN MANAGEMENT

*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). (HAVA §254 (a)(11)).*

The State intends to use the State Plan as the foundation for its future strategic direction. Consequently, sound and responsible management of the State Plan will be an essential component of the State election community's future success. The State will develop a procedure to administer and oversee ongoing management of the State Plan to ensure all required elements of HAVA are fully implemented.

The State understands and agrees to comply with HAVA requirements related to ongoing management of the State Plan. More specifically, the State agrees that it may not make any material change in the administration of the State Plan unless the change:

(A) is developed and published in the Federal Register in accordance with HAVA §255 in the same manner as the State Plan;

(B) is subject to public notice and comment in accordance with HAVA §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).

## L) CHANGES TO STATE PLAN FROM PREVIOUS FISCAL YEAR

*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. (HAVA §254 (a) (12)).*

This FY 2003 Plan is the State's inaugural plan under HAVA. This section will be updated in the FY 2004 Plan, reflecting changes to the Plan, as well as a summary of 2003 successes.





## M) STATE PLAN DEVELOPMENT AND COMMITTEE

*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 255 and section 256. ( HAVA §254 (a)(13)).*

The Chief State Election Official, Susan Bysiewicz, Secretary of the State invited the following diverse group of stakeholders to participate on the State Planning Committee. As part of the State Plan development, the committee members were divided into three separate subcommittees: 1) Voter Education, 2) Voter Registration, and 3) Voting Systems Standards. These subcommittees met separately from the full committee and reported back advice and ideas to the Planning Committee as a whole.

Members of the State Plan Committee, and the primary qualification of each for being a committee member, are as follows: *Note: If the initial invitee appointed a representative to serve in their place, such individual is noted in parenthesis after the invitee.*

- The Honorable John G. Rowland, Governor (Melinda Decker);
- The Honorable Susan Bysiewicz, Secretary of the State;
- The Honorable Richard Blumenthal, Attorney General (Richard Kehoe);
- The Honorable Nancy Wyman, Comptroller (Andrea Jackson-Brooks)
- The Honorable Denise Nappier, Treasurer (Linda Hershman)
- Senator Donald DeFronzo, Chair, Government Administration and Elections Committee;
- Representative James O'Rourke, Chair, Government Administration and Elections Committee;
- Senator Andrew Roraback, Ranking Member, Government Administration and Elections Committee;
- Representative Livvy Floren, Ranking Member, Government Administration and Elections Committee;
- Maria M. Greenslade, Deputy Secretary of the State;
- Thomas H. Ferguson, Director of Elections, Secretary of the State;
- Theodore E. Bromley, Staff Attorney, Elections, Secretary of the State;
- O. Pearl Williams, Elections Officer, Secretary of the State;
- Marisa Morello, Legislative Program Director, Secretary of the State;
- Jeffrey Garfield, Executive Director and General Counsel, State Elections Enforcement Commission;
- Andy Sauer, Executive Director, Common Cause of Connecticut;
- George H. Comer, Registrar of Voters; City of Bridgeport;
- Americo Santiago, Policy and Program Director, Democracy Works;
- Sandra Hutton, President, Connecticut Town Clerks Association
- Michael Cordero, Board of Education and Services for the Blind;
- David Denvir; Council of Small Towns, 1st Selectman Killingworth;
- Fernando Betancourt, Executive Director, Latino and Puerto Rican Affairs Commission;

- Bettye Jo Pakulis, Northeast Regional Director, Center for Policy Alternatives;
- Edna N. Negroñ Rosario, Connecticut and Rhode Island Regional Director, Puerto Rico Federal Affairs Administration;
- Enid Oresman, President of the League of Women Voters of Connecticut;
- Sal Bramante, Deputy Registrar of Voters, City of Hartford;
- Wesley Johnson, Mayor, Ledyard, Connecticut Conference of Municipalities;
- Daniel Carey, Hartford City Clerk, City of Hartford;
- James McGaughey, Executive Director, Office of Protection and Advocacy for Persons with Disabilities;
- Olga Aviles, Registrar of Voters, City of Hartford;
- James Griffin, President, Connecticut Conference of NAACP Branches;
- Chris Kuell, National Federation for the Blind;
- Judith Beaudreau, Registrar of Voters Association of Connecticut;
- Leslie Brett, Permanent Commission on the Status of Women;
- Lori Pelletier, Connecticut AFL-CIO;
- Vanessa Burns, African America Affairs Commission;
- Hector Diaz, Bridgeport Town Clerk;
- Lisa Parziale, Bridgeport Registrar of Voters

Based on an objective analysis of the State's current status, this State Plan highlights necessary adjustments and potential next steps in Connecticut's election reform process.

The State Plan Committee will comply with the requirements of §255 and §256 of HAVA.





# APPENDIX

# A

| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 301. VOTING SYSTEMS STANDARDS** | | |
| (a) REQUIREMENTS- Each voting system used in an election for Federal office shall meet the following requirements | | |
| (1) IN GENERAL- | | |
| (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall | | |
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | Does Not Meet. | The State of Connecticut will meet this provision after implementation of the Voting System Standards plan set forth above. |
| (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | Does Not Meet. | The State of Connecticut will meet this provision after implementation of the Voting System Standards plan set forth above. |
| (iii) if the voter selects votes for more than one candidate for a single office-- (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | Meets. | No action needed. |
| (B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by | | |





| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Meets. | No action needed. |
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error) | Meets. | No action needed. |
| (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | Meets | No action needed. |
| (2) AUDIT CAPACITY- | | |
| (A) IN GENERAL- The voting system shall produce a record with an audit capacity for such system. | Partially Meets.<br>• A portion of lever machines used by municipalities have a "print-o-matic" function.<br>• The remaining lever machines do not have the "print-o-matic" function but maybe capable of being retro-fitted with such a function. | The State of Connecticut needs to further investigate the issue of whether lever voting machines with "print-o-matic" functions comply with the audit capacity provisions of HAVA. |
| (B) MANUAL AUDIT CAPACITY- | | |
| (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | Does Not Meet.<br>• Lever machines that have a "print-o-matic" function are capable of producing a permanent paper record of the total votes cast on the system.<br>• CT will continue to research whether the paper audit trail required by HAVA is a record of the voting system or of each vote cast. | If lever machines with a "print-o-matic" function do comply with the provisions of HAVA all lever machines would need to be retro-fitted with that function. If lever machines with a "print-o-matic" function do not comply with the provisions of HAVA new voting systems will have to be implemented statewide as explained above. |

| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | Meets. | No action needed. |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | Meets. | No action needed. |
| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES- The voting system shall- | | |
| (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | Does not meet | The State will meet this requirement upon implementation of the State voting systems program described above. |
| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Does not meet. | The State will meet this requirement upon implementation of the State voting systems program described above. |
| (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph). | N/A | The State will meet this requirement upon implementation of the State voting systems program described above. |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY- The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | Partially Meets. | The State will continue to educate the local election officials regarding their duties pursuant to this requirement. |





| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (5) ERROR RATES- The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | Meets. | No action needed. |
| (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE- Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | Meets. | The State will continue to develop procedure manuals that define what constitutes a vote for each system used in the State. |

# APPENDIX B





| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.** | | |
| (a) PROVISIONAL VOTING REQUIREMENTS- If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows: | | |
| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | Does not meet. | The State will meet this requirement upon implementation of the provisional voting legislation described above. |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is-- | | |
| (A) a registered voter in the jurisdiction in which the individual desires to vote; and | Does not meet. | The State will meet this requirement upon implementation of the provisional voting legislation described above. |
| (B) eligible to vote in that election. | Does not meet. | The State will meet this requirement upon implementation of the provisional voting legislation described above. |

| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4). | Does not meet. | The State will meet this requirement upon implementation of the provisional voting legislation described above. |
| (4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | Does not meet. | The State will meet this requirement upon implementation of the provisional voting legislation described above. |
| (5)(A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet. | The State will meet this requirement upon implementation of the provisional voting legislation described above. |
| (B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet. | The State will meet this requirement upon implementation of the provisional voting legislation described above.. |





| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| States described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot. | N/A | Connecticut is not a state described in §4(b) of the NVRA. |
| (b) VOTING INFORMATION REQUIREMENTS- | | |
| (1) PUBLIC POSTING ON ELECTION DAY- The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office. | Meets. | The State complies in terms of posting information, but actual details posted will be adjusted. See below for further detail. |
| (2) VOTING INFORMATION DEFINED- In this section, the term 'voting information' means-- | | |
| (A) a sample version of the ballot that will be used for that election; | Meets. | No action needed |
| (B) information regarding the date of the election and the hours during which polling places will be open; | Meets. | No action needed |
| (C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; | Partially Meets.<br>• Needs update to reach full compliance | The State will meet this requirement upon implementation of the provisional voting legislation described above. |
| (D) instructions for mail-in registrants and first-time voters under section 303(b); | Does Not Meet.<br>• Information not included in current posting | The State will meet this requirement upon implementation of the provisional voting legislation described above.. |

| Requirement | | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| | (E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and | Partially Meets.<br>• Need more detail for full compliance | The State will meet this requirement upon implementation of the provisional voting legislation described above. |
| | (F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | Does Not Meet.<br>• Information not included in current posting | The State will meet this requirement upon implementation of the provisional voting legislation described above. |
| (c) VOTERS WHO VOTE AFTER THE POLLS CLOSE- Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order. | | Does Not Meet.<br>• No procedures exist currently for this requirement | The State will meet this requirement upon implementation of the provisional voting legislation described above.. |





# APPENDIX C

| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.** | | |
| (a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS- | | |
| (1) IMPLEMENTATION- | | |
| (A) IN GENERAL- Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the computerized list), and includes the following: | Partially Meets.<br>• The State has developed and implemented a single uniform official centralized interactive computerized statewide voter registration list.<br>• Not all 169 municipalities participate on CVRS. | The State will meet this requirement upon complete implementation of CVRS. |
| (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State. | Partially Meets.<br>• For those municipalities that currently participate on CVRS, the system is the sole system used to produce the official registry list.<br>• Those municipalities that do not participate on CVRS use a local system to produce the official registry list. | The State will meet this requirement upon complete implementation of CVRS. |
| (ii) The computerized list contains the name and registration information of every legally registered voter in the State. | Partially Meets.<br>• For those municipalities that currently participate on CVRS, the system does contain the name and registration information of every legally registered voter in the State.<br>• Those municipalities that do not participate on CVRS use a local system | The State will meet this requirement upon complete implementation of CVRS. |





| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| | which contains such information. | |
| (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | Partially Meets.<br>• CVRS does provide unique identification numbers for each legally registered voter.<br>• The systems used by those municipalities that do not participate on CVRS may not assign such numbers. | The State will meet this requirement upon complete implementation of CVRS. |
| (iv) The computerized list shall be coordinated with other agency databases within the State. | Partially Meets.<br>• Currently some coordination with Department of Corrections (receive text file from them monthly).<br>• Need to establish agreements with Department of Motor Vehicles and Department of Health. | Secretary of the State will work to the extent possible with other State agencies to meet this requirement. |
| (v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | Partially Meets.<br>• Local election officials (town clerks and registrars of voters) have access to CVRS or if not participating on CVRS to their local system.<br>• State election officials have access to CVRS only. | The State will meet this requirement upon complete implementation of CVRS. |
| (vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | Partially Meets.<br>• Upon receiving a voter registration card, such information is entered at the local level directly onto the CVRS mainframe by the registrars of voters.<br>• Municipalities not participating on CVRS do not have this capability. | The State will meet this requirement upon complete implementation of CVRS. |
| (vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). | Partially Meets.<br>• The Secretary of the State provides technical support to those municipalities participating on CVRS. | The State will meet this requirement upon complete implementation of CVRS. |

| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| | • Towns not participating on CVRS doe not receive support from the State of Connecticut. | |
| (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | Partially Meets.<br>• CVRS creates the official registry list for those municipalities currently participating on the system.<br>• Towns not participating on CVRS produce official registry lists from local systems only. | The State will meet this requirement upon complete implementation of CVRS. |
| (B) EXCEPTION- The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office. | | |
| (2) COMPUTERIZED LIST MAINTENANCE- | | |
| (A) IN GENERAL- The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows: | | |
| (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6). | Meets. | No action needed. |
| (ii) For purposes of removing names of ineligible voters from the official list of eligible voters-- (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death | Partially Meets.<br>• Convictions sent to State in text file, local election officials process against voter registration rolls | The Secretary of the State will work to the extent possible with other State agencies to meet this requirement. |





| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. | N/A | Connecticut is not a state described in 4(b) of the NVRA. |
| (B) CONDUCT- The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that-- | | |
| (i) the name of each registered voter appears in the computerized list; | Meets. | No action needed. |
| (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | Meets. | No action needed. |
| (iii) duplicate names are eliminated from the computerized list. | Partially Meets.<br>• The Secretary of the State generates a list of possible duplicate voters for those towns who participate on CVRS.<br>• Towns not participating on CVRS do not receive a list of possible duplicate voters. | The State will meet this requirement upon complete implementation of CVRS. |
| (3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST- The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | Meets.<br>• CVRS is housed at the State of Connecticut's Department of Information Technology on the same mainframe as the Connecticut State Police. | No action needed. |
| (4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS- The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following: | | |

| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | Partially Meets.<br>• Voters who have remained on the inactive list for 4 consecutive years are removed from the official registry list. | The State will meet this requirement by submitting legislation that includes voters who have not voted in 2 consecutive general elections for Federal office. |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | Meets. | No action needed. |
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION- | | |
| (A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS- | | |
| (i) IN GENERAL- Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes-- (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | Does Not Meet.<br>• No procedures for this currently<br>• System stores driver's license number<br>• Storage of last four digits of social security number planned. | The State will meet this requirement upon complete implementation of CVRS. |
| (ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER- If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | Meets. | No action needed. |





| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED- The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | N/A | The State will consider what verification of voter identification information is necessary and develop appropriate standards. |
| (B) REQUIREMENTS FOR STATE OFFICIALS- | | |
| (i) SHARING INFORMATION IN DATABASES- The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | Does Not Meet.<br>• No current agreement in place between Department of Motor Vehicles and Secretary of the State. | The Secretary of the State will work to the extent possible with DMV to meet this requirement. |
| (ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY- The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). | Meets.<br>• Agreement between the two parties. | No action needed. |
| (b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL- | | |
| (1) IN GENERAL- Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if-- | | |
| (A) the individual registered to vote in a jurisdiction by mail; and | | |
| (B)(i) the individual has not previously voted in an election for Federal office in the State; or | | |
| (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | | |
| (2) REQUIREMENTS- | | |
| (A) IN GENERAL- An individual meets the requirements of this paragraph if the individual-- | | |

| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (i) in the case of an individual who votes in person-- (I) presents to the appropriate State or local election official a current and valid photo identification; or (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; | Does Not Meet.<br>• Current voter registration and polling place voter identification procedures do not meet this requirement | The State will meet this requirement upon complete implementation of the legislation explained above. |
| (ii) in the case of an individual who votes by mail, submits with the ballot-- (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter | Does Not Meet.<br>• Current voter registration and absentee voting procedures do not meet this requirement | The State will meet this requirement upon complete implementation of the legislation explained above. |
| (B) FAIL-SAFE VOTING- | | |
| (i) IN PERSON- An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a). | Does Not Meet.<br>• No procedures exist for this requirement | The State will meet this requirement upon implementation of a Provisional Voting Program. |
| (ii) BY MAIL- An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | Does Not Meet.<br>• No procedures exist for this requirement | The State will meet this requirement upon implementation of a Provisional Voting Program. |
| (3) INAPPLICABILITY- Paragraph (1) shall not apply in the case of a person- | | |
| (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either-- | | |
| (i) a copy of a current and valid photo identification; or | Partially Meets.<br>• Registrars of voters are now prepared to accept identification information if voluntarily provided<br>• Voter registration procedures being updated to advise mail-in registrants of HAVA requirements | The State will meet this requirement upon complete implementation of the legislation explained above. |





| Requirement | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | Partially Meets.<br>• Registrars of voters are now prepared to accept identification information if voluntarily provided<br>• Voter registration procedures being updated to advise mail-in registrants of HAVA requirements | The State will meet this requirement upon complete implementation of the legislation explained above. |
| (B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either-- (I) a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and | Does Not Meet.<br>• Voter registration forms and procedures being updated to collect the appropriate numbers | The State will meet this requirement upon complete implementation of legislation explained above. |
| (ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | Does Not Meet.<br>• Voter registration forms and procedures being updated to require the matching of records | The State will meet this requirement upon complete implementation of CVRS. |
| (C) who is-- | | |
| (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | N/A | The State procedure will recognize this exemption. |
| (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or | N/A | The State procedure will recognize this exemption. |
| (iii) entitled to vote otherwise than in person under any other Federal law. | N/A | The State procedure will recognize this exemption. |
| (4) CONTENTS OF MAIL-IN REGISTRATION FORM- | | |
| (A) IN GENERAL- The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: | | |
| (i) The question `Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | Meets. | No action planned. |

| Requirement | | State of Connecticut's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| | (ii) The question 'Will you be 18 years of age on or before Election Day?' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on Election Day. | Does Not Meet.<br>• Voter registration forms and procedures being updated to require this information. | The State will meet this requirement upon complete implementation of the legislation explained above. |
| | (iii) The statement 'If you checked 'no' in response to either of these questions, do not complete this form.' | Partially Meets.<br>• Question of citizenship is asked; question of age to be added in 2003 | The State will meet this requirement upon complete implementation of the legislation explained above. |
| | (iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | Does Not Meet.<br>• Voter registration forms and procedures being updated to provide this information. | The State will meet this requirement upon complete implementation of the legislation explained above. |
| | (B) INCOMPLETE FORMS- If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | Partially Meets.<br>• Registrars of voters obtain information missing on the form. | The State will meet this requirement upon complete implementation of the legislation explained above. |

**STATE OF DELAWARE**

# STATE PLAN
## Help America Vote Act

Required by Public Law 107-252

Frank B. Calio
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The Help America Vote Act of 2002 (HAVA) is federal legislation that directs all states to implement several mandates as a means of improving the administration of elections for federal office. This legislation establishes standards for voting equipment, provides for Provisional Voting, requires that states have a centralized voter registration list, and other changes. The legislation authorizes federal funding to assist the states in complying with the mandates. If fully funded by the federal government, Delaware would receive $20 million for implementing the mandates and improving the administration of elections. Delaware is obligated to provide a 5% match for up to $15,000,000.00 of the federal funds.

Delaware is one of six states in the nation that has replaced punch card or lever machines. Delaware purchased Direct Recording Electronic (DRE) machines in 1996 as replacements for the state's lever machines that had been used since the mid-1950s. We have had a statewide voter registration system since the early 1990s using standard procedures to collect information from the Departments of Election in each county and that data is housed under one central authority.

The state, in order to receive federal funds to implement the Help America Vote Act mandates, must publish a State Plan describing how the state will meet the requirements. I established a task force comprised of government, advocacy and private sector stakeholders to develop this plan. Members of the task force were appointed from various government and private sector stakeholders whose comments were considered in the writing of the state plan. The spirit of the comments will also help guide us in the implementation of the plan.

Delaware's elections community views the Help America Vote Act as an opportunity to build on Delaware's previous successes as well as further enhance the accessibility of the electoral system to all citizens. We in elections consider HAVA another step in the continuing process to achieve excellence. We are improving physical accessibility, voter education programs, access to the voting process, and election administration technology standards, and election staff training.

I look forward to the challenges HAVA brings to Delaware.

Frank B. Calio,
Delaware Commissioner of Elections

## INTRODUCTION

The Help America Vote Act of 2002 (HAVA) requires and helps states to upgrade elements of their electoral processes and to achieve uniform and non-discriminatory administration of elections. Delaware has already made a substantial investment in the State's election system. It replaced lever voting machines in 1996 and created a statewide election management system in the early 1990's. Having purchased new voting equipment and having created a computerized statewide voter file, the State already complies with many HAVA mandates. Delaware welcomes the opportunity to further enhance its electoral system.

The administration of elections in Delaware is a state responsibility. Four state agencies are involved: the Commissioner of Elections and the Departments of Elections for each of Delaware's three counties. The Commissioner of Elections is a gubernatorial appointee who has responsibility for ensuring uniformity in the conduct of elections, among other duties. The Departments of Elections for each county report to respective Boards of Election that are appointed by the Governor. The Departments conduct elections in accordance with the Delaware Code and with standards and operating procedures developed by the Commissioner in collaboration with the Departments.

To plan the implementation of the Help America Vote Act (HAVA), the Commissioner appointed the HAVA Committee, whose membership is listed in Section 13 of this report, and established a state HAVA website to receive comments as the plan evolved. To facilitate work on the plan, the Commissioner's Office analyzed HAVA requirements noting where the State was already in compliance and where changes were needed. That analysis is included as Appendix A to this report. Implementation of HAVA requires several changes to state law which have been passed by Delaware's General Assembly prior to their adjournment. The statute is included in Appendix B.

Because Delaware is a small state, the Commissioner's Office and the Departments of Elections for the counties have been able to coordinate the uniform application of law, standards, and procedures affecting the essential elements of the electoral process while recognizing that the counties have distinct histories and needs. To formalize this coordination, the Commissioner, in collaboration with the Departments of Elections for the counties, will produce a manual covering the application of all HAVA requirements and other aspects of the election system where statewide uniformity is necessary. The goal is that everything directly affecting the voter and the determination of how votes are counted will be uniform throughout the State.

To accomplish our current goals and those of HAVA, the State will implement critical programs and to begin training election staff and citizens. Adequate resources and funding, and their management, are essential for small state agencies to complete this project by 2006. Cost effectiveness and continuing maintenance administration are integral parts of the planning process.

## STATE PLAN REQUIRED ELEMENTS

## TITLE III REQUIREMENTS AND OTHER ACTIVITIES

**SEC. 254 (1) TITLE III REQUIREMENTS AND 251 (A)(2).**

*(a) IN GENERAL - The state plan shall contain a description of each of the following:*

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

Delaware is currently planning to devote its FY 03 requirements payment entirely to meeting the Title III requirements. The allocation of future requirements payments will depend upon both the amount of the payments and the as-yet-unknown cost of meeting the section 301 voting system requirements.

### A. SEC. 301 (a) REQUIREMENTS VOTING SYSTEM STANDARDS

All primary, general and special elections conducted in accordance with Delaware Code, Title 15, are conducted using Danaher Controls *ELECT*ronic 1242 (model 6T) full-face ballot Direct Recording Electronic (DRE) voting machines. The machines are stored, maintained, programmed and prepared by the Departments of Elections for the counties. The Departments also certify and secure the machines for each election. These voting machines meet the requirements of section 301 except for 301(a)(3), accessibility for individuals with disabilities.

The State has identified three options for meeting the Section 301 mandates: (1) upgrade some or all of the existing equipment to meet the accessibility requirement; (2) purchase one new and fully accessible DRE system for each polling place; and (3) purchase all new voting equipment. The State will determine whether option 1 is viable by evaluating a promised upgrade later in 2003. Information from that evaluation will provide information that the State will use in determining which option to pursue. That decision, in turn, will influence the budget for other requirements since the voting system is the most expensive item in the budget.

Delaying the voting system decision will also increase the probability of gaining additional information about future federal funding. The budget presented in section 6 of this plan is based only on the federal funds that are already appropriated plus the State's match. This is not necessarily an optimal allocation. For example, the upgrading of existing equipment may not be a viable option or, if additional funds are available, the State might prefer to purchase new DREs in order to better accommodate language minorities, even though no jurisdiction is required to do so at this time. If possible, the State will defer a final decision on voting systems until federal HAVA appropriations for the next fiscal year are known. Full funding of the remaining HAVA authorization would allow Delaware to revise its current plan for a better long-term approach.

Delaware uses paper ballots for absentee voting. To comply with section 301, the State will create an education program and provide instructions as required by section 301(a)(1)(B). Under existing provisions of the Delaware Code, the Commissioner prepares the instructions based upon input from the Departments of Elections for the counties. The Attorney General reviews and approves them.

Delaware must also define what constitutes a vote for each voting system in use. Legislation to accomplish this task was signed into law in July 2003 and is included in Appendix B. While the new rules are very similar to the rules that they replaced, modifications to existing Election Officer training and instructional manuals will be necessary to ensure uniform application of the new counting rules.

Requirements payments will be used to:

- Upgrade, supplement, and/or replace voting machines;
- Train poll workers on new or modified voting equipment;
- Purchase additional voting machines as necessary, to make sure that there are sufficient voting machines for hands-on training of poll workers.

### B. SEC. 302 PROVISIONAL VOTING AND VOTING INFORMATION

Recently enacted legislation included authorizes provisional voting. Poll workers will be trained to offer provisional ballots under the conditions set forth in Section 302 of HAVA. As a transition measure, the state intends to hire additional poll workers so that provisional voters will not be discouraged by long waits to cast their ballots. The ballots will be cast on paper and sealed using a double envelope system similar to that used for absentee ballots. Each completed ballot will be assigned a tracking number. The Departments of Elections for each of the counties will meet the day following the election to determine the eligibility of provisional voters in accordance with Delaware law. The Commissioner of Elections will create and maintain a "free access" system so that provisional voters can determine whether their ballots were counted and, if not, the reason why.

The Department of Elections in each county will post voting information on Election Day at each polling place as follows:

- A sample of the election day ballot;
- The election date and polling place hours;
- Instructions on how to vote and how to vote by provisional ballot;
- Instructions about mail-in registrants and information for first- time voters;
- General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated;
- General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

Standards adopted by the Commissioner of Elections in collaboration with the Departments of Elections for the counties will ensure statewide uniformity of essential information.

These changes will require funds for:

- Printing instructions and ballots for Provisional Voting;
- Preparing and printing HAVA-unique training materials for poll workers;
- Hiring additional poll workers to handle Provisional Voting;
- Creating a web- and telephone-based free access system;
- Programming to integrate provisional votes into the Vote Tally system;
- Preparing and printing information required by HAVA for posting on Election Day.

### C. SEC. 303 COMPUTERIZED STATEWIDE VOTER REGISTRATION REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL

Delaware currently has a statewide, computerized voter registration database. It is administered, maintained, and evaluated by the Commissioner of Elections in collaboration with the Departments of Elections for the counties. The Departments of Elections for the counties register voters from applications collected by the Department, forwarded from the Division of Motor Vehicles and other state agencies as required by the National Voter Registration Act, and from voter registration drives. Voters register on paper forms. The Departments of Elections for the counties verify the information before registering applicants and entering their names into the system. All election officials have immediate access to the data once it is entered. The file is already coordinated with state agencies.

Delaware will have to make several changes to implement HAVA. At present, the State requests, but does not require, the Social Security Number on the voter registration form. The forms will have to be revised to ask for the driver's license number. The State assigns a unique identifier to persons who do not provide a driver's license or Social Security number. The State has an on-going file maintenance program. Legislation has been enacted to comply with the mandates regarding identification for persons who register by mail after January 1, 2003. The State's Division of Motor Vehicles has to complete an agreement with the Social Security Administration to match information as required by section 303(a)(5)(B).

Implementing these changes will require:

- Programming to enhance the computerized statewide database;
- The redesign and reprinting of registration forms;
- Training for agency and election office personnel who take and process registration applications;
- Training for poll workers to know when to ask for voter identification and what forms of identification are acceptable;
- General education for voters.

**SEC. 254 (2) DISTRIBUTION OF REQUIREMENTS PAYMENTS**

*(2) How the State will distribute and monitor the distribution of the requirements payment to units of local government and 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).*

**A. ELIGIBILITY CRITERIA - LOCAL GOVERNMENT UNITS AND OTHER ENTITIES**

There are no local government units involved. The three Departments of Elections for the counties are state agencies, each with its own budget appropriated by the General Assembly. They do, however, serve counties and they will receive resources to carry out HAVA mandates. These distributions will be on a formula basis.

Additional voting machines and upgrades to existing voting machines will be purchased by the State. Additional machines shall be distributed to the Departments of Elections for the counties in accordance with existing formula (based on registered voters) plus a spare factor. Upgrades will be installed in all voting machines.

If the State decides to put one new fully accessible DRE in each polling place, distribution would be based on the number of polling places plus additional machines for growth and as spares. The State would place, at a minimum, one additional Election Officer in each Polling Place to operate the new DRE.

**B. MONITORING PERFORMANCE OF LOCAL UNITS**

Any funds received by the Departments of Elections for the counties will be maintained in separate lines so that HAVA expenditures can be identified and tracked. The State will audit all HAVA expenditures through its normal audit procedures. The three county Departments of Elections will report to the Commissioner of Elections on how the expenditures contribute to the appropriate performance measures that will be adopted as described in section 8.

**SEC. 254 (3) EDUCATIONAL PROGRAMS FOR VOTERS, ELECTION OFFICIALS AND POLL WORKERS**

*(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.*

Currently the Departments of Elections for the counties train the poll workers in their respective counties. The Commissioner of Elections provides training for state agencies, like the Department of Motor Vehicles, and registrars for organized voter registration drives. To implement HAVA, the Commissioner, in collaboration with the Departments of Elections for the counties, will:

- Develop statewide standards for training Election Officers;
- Hold an annual seminar for elections for elections officials;
- Create an enhanced program or programs to educate the public, candidates, elected officials and other stakeholders in the electoral process and methods of voting;
- Disseminate instructions on voter identification requirements and provide other training as appropriate to organized groups involved in mail registration campaigns;
- Research innovative models and technologies for training delivery.

The Departments of Elections for the counties will train poll workers in a manner that meets statewide standards.

**SEC. 254 (4) VOTING SYSTEM GUIDELINES**

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

The State purchases voting equipment in Delaware. Legislation enacted in July 2003 requires that all voting systems purchased in the future be certified by the National Association of State Election Directors and/or the Election Assistance Commission. The DRE equipment now in use throughout the State is HAVA compliant except for disabled access. A proposed upgrade to make the system totally compliant will be evaluated later in 2003. The Commissioner will appoint a committee representing the Departments of Elections for the counties, the disability community, and representatives from the Delaware Technology and Information Department to take part in the evaluation and make recommendations. If the upgrade is not acceptable, the state will purchase at least one advanced DRE that is fully compliant for each Election District.

**SEC. 254 (5) STATE ELECTION FUND**

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

The State has established an election fund with the Mellon Financial Corporation (State of Delaware-General Collection Account). The Commissioner of Elections, as the chief state election official, is the single managing authority for the administration of the election fund.

The management of the election fund will be consistent with current Delaware financial management practices. The State understands that it must provide periodic reports on the use of the Election Fund to the Election Assistance Commission and that the Election Fund is subject to audit by various federal and state entities. The Commissioner of Elections will report the status of the fund at least annually to the State Plan Task Force Committee.

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| Table 1 – Budget for Requirements Payments | Requirements Payments + Match | Title I Funds |
|---|---|---|
| 301 Voting systems | | |
| a. Upgrades for existing voting systems | $1,901,900 | |
| b. Additional voting systems, basic units being purchased with Title I funds and upgrades purchased with Title II funds. | 209,000 | $500,000 |
| c. Additional voting systems for demonstrations | 180,000 | |
| d. Programming | 2,600 | |
| e. Educational program for absentee voters using paper ballots | 20,000 | |
| 302 Provisional ballots and voting information | | |
| a. Programming | 250,000 | |
| b. Transitional poll workers | 354,750 | |
| c. Supplies and printing | 150,000 | |
| 303. Computerized statewide voter registration list | 800,000 | |
| 402. Complaint procedure | 100,000 | |
| General | | |
| a. Education and training programs | 250,000 | |
| b. Standards manual | 10,000 | |
| c. Requirements administration | 42,903 | |
| | | |
| **Totals** | $4,271,153 | $,500,000 |

301a. Delaware currently deploys 910 voting machines. The estimated cost of upgrades is $2,090 per machine, including warrantees and site licenses for three years.

301b. Delaware law bases the number of voting machines on the number of registered voters per polling place. Under the existing formula, the State will need to acquire additional machines. The funds listed under Title II are for the upgrades to make this equipment HAVA compliant.

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**SEC. 254 (6) DELAWARE'S PROPOSED BUDGET**

*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.*

Delaware is faced with two major uncertainties: whether the proposed upgrade to the existing voting systems will be satisfactory and how much of the authorized requirements payments for FY '04 and FY '05 will be appropriated. Table 1, below, is based upon known funding ( the FY '03 requirements payments from Title I and Title II plus Delaware's match) and the assumption that the proposed voting system upgrade will be acceptable. If the upgrade is not acceptable, Delaware will have to reconsider this budget in order to meet the requirements. Once the amount of new federal funding is known, Delaware may consider purchasing new DRE equipment instead of upgrading its existing equipment. The current budget, however, projects the following:

(A) The cost of Title III requirements - $4,297,350;
(B) The portion of the requirements payment used to carry out these activities – 100%;
(C) The portion of the requirements payment used to carry out other activities – 0%.

*See Table on page 14.*



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**SEC. 254 (7) MAINTENANCE LEVEL OF STATE FUNDING**

*(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.*

The state will fund the Commissioner's Office and the Departments of Elections for the counties for expenditures at or above 2000 levels for activities consistent with HAVA. The total appropriation prior to 2000 was $3,264,102.73. Currently the State exceeds this expenditure level.





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301c The State will purchase sufficient voting machines to ensure that there are voting machines to provide hands-on training for poll workers and demonstrations for voters while the required number of voting machines are being prepared for use in the election.

301d This cost is programming to integrate the upgrades or new equipment with existing software.

301e. This is to fulfill the education program and instruction requirement in section 301(a)(1)(B) of HAVA.

302a. Programming is required to (1) integrate the results of the provisional ballots into the vote totals, and (2) provide a secure means of tracking provisional ballots so that voters can determine their disposition.

302b. Delaware will hire one additional poll worker per polling place for the three years of HAVA implementation to facilitate the transition to provisional balloting.

302c. The printing costs are for provisional ballots and the instructions required by section 302(b) of HAVA.

303a. Delaware has a computerized central voter file. These expenditures are to enhance it and make it fully HAVA compliant.

402. This is for the development and printing of forms and instructions, as well as programming to integrate the system into the election management system.

General

a. Education and training programs for voters, election officials, and poll workers as required by HAVA section 254(a)(3).

b. The Commissioner, in collaboration with the Departments of Elections for the counties will produce a manual of standards and procedures.

c. The estimated cost of administering HAVA requirements.

**SEC. 254 (8) STATE PERFORMANCE MEASURES AND GOALS**

*(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.*

Implementation requires two types of measures: 1. "Milestones" are steps toward the achievement of a definite goal, such as the implementation of the voter identification requirement, together with an assignment of responsibilities and timelines; 2. Delaware uses the term, "performance measure," for indicators of how well a system is working. For example, the percentage of first-time mail registrants who fail to provide the required identification either when they register or at the polling place is an indicator of how effective the voter information component of the mail registration system is. The Commissioner, in collaboration with the Departments of Elections for the counties, will develop milestones and performance measures for HAVA implementation as part of the FY '05 budget preparation process, which concludes in October of 2003.





**SEC. 254 (9) ADMINISTRATIVE COMPLAINT PROCEDURES**

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

The process is described in the legislation that was enacted in July, 2003. A copy is of the Act is in Appendix B.

**SEC. 254 (10) EFFECT OF TITLE I PAYMENTS**

*(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.*

The only effect of Title I payments is indirect. Delaware plans to spend $500,000 on new voting systems. This is a state need, not a HAVA requirement. However, this equipment must be upgraded to meet the HAVA accessibility requirement. The upgrades are to be funded from Title II monies. Thus, the effect of the Title I expenditure is indirect.

**SEC. 254 (11) STATE PLAN MANAGEMENT**

*(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 Commissioner of Elections will manage the plan in collaboration with the Departments of Elections for the counties. Standards and procedures for essential elements of HAVA administration will be embodied in a state manual to ensure uniformity of application.

The Commissioner of Elections will conduct annual meetings with the HAVA Task Force to review reports from the Departments of Elections for the counties and the Commissioner's Office on achievement of implementation milestones and any changes in expected costs or federal appropriations. The Task Force may recommend changes to the plan. If the Commissioner of Elections determines the State Plan requires material change, he will conduct public hearings and resubmit those changes according to procedures in the original State Plan. Because of the uncertainties affecting the development of the initial plan, Delaware is prepared to make significant changes or publish new plans as necessary.

**SEC. 254 (12) STATE PLAN EFFECTS FROM PREVIOUS FISCAL YEAR**

*(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.*

This State Plan is the initial State Plan required under the Help America Vote Act of 2002 (HAVA). There was no plan in effect during the previous fiscal year.







**SEC 254. (13) DESCRIPTION OF HAVA COMMITTEE**

*(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.*

Pursuant to Section 255, the chief state election official, Frank B. Calio, Commissioner of Elections, appointed an advisory committee composed of citizens, elections officials, the Governor's Office, and state officials to help in the development of the State Plan in March of 2003.

To plan the implementation of the Help America Vote Act (HAVA), the Commissioner appointed the HAVA Committee, whose membership is listed below, and established a state HAVA website to receive comments as the plan evolved. To facilitate work on the plan, the Commissioner's Office analyzed HAVA requirements noting where the State was already in compliance and where changes were needed. That analysis is included as Appendix A to this report.

The task force met for the first time on March 13, 2003, in Dover, Delaware. The membership formed subject matter committees during the April 3, 2003 meeting at the Silver Lake Conference Center. These groups scheduled meetings to draft sections of the State Plan. The draft sections were consolidated into one state plan. The plan was published on May 16, 2003 on the State's HAVA website. The website was established to provide public information and notice. It also served as an on-line work area for committee members to make suggestions and share information electronically. It enabled the public to transmit comments electronically, as well as, to view or download information about the State Plan for Delaware. The Task Force met again on June 16 to review comments and approve a plan. Dr. Robert Montjoy, of Auburn University, participated in the meeting. The committee agreed to make a number of changes, especially in the language describing the roles of the different elections offices, the budget for meeting Title III requirements, and the manner in which sections of the plan covered by pending legislation are presented.

| MEMBER NAME | | REPRESENTING |
|---|---|---|
| Bob | Goodhart | Division for the Visually Impaired |
| Michelle | Wright | Delaware Technology and Information |
| Lisa | Wragg | Office of the Commissioner |
| Virginia | Lane | Office of the Commissioner |
| Deborah | Grier | Office of the Commissioner |
| Elaine | Manlove | Department of Elections for New Castle County |
| Howard | Sholl | Department of Elections for New Castle County |
| Joyce | Wright | Department of Elections for Kent County |
| Diana | Robertson | Department of Elections for Kent County |
| Ken | McDowell | Department of Elections for Sussex County |

**APPENDIX A**: A COMPARISON OF DELAWARE'S EXISTING ELECTION SYSTEM WITH THE REQUIREMENTS OF HAVA AS OF JUNE 1, 2003.

| GAP ANALYSIS | | |
|---|---|---|
| **VOTING SYSTEM STANDARDS** | **REQUIREMENT STATUS** | **ACTION REQUIRED** |
| **SEC. 301. VOTING SYSTEMS STANDARDS.** | | |
| (a) Requirements.--Each voting system used in an election for Federal office shall meet the following requirements: | | |
| **(1) In general.--** (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall-- | | |
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | MEETS | NONE |
| (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | MEETS | NONE |
| (iii) if the voter selects votes for more than one candidate for a single office-- | | |
| (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; | MEETS (The equipment used in polling places prevents over-votes.) | NONE |
| (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and | MEETS (The equipment used in polling places prevents over-votes.) | NONE |



| | | |
|---|---|---|
| Jean | Turner | Department of Elections for Sussex County |
| Frank | Calio | Commissioner of Elections |
| Nancy | Bastidas | Governor's Council on Hispanic Affairs |
| Andrew | DalNogare | State House of Representatives |
| Lefty | Diswood | League of Women Voters |
| Charles | Brittingham | NAACP- State Conference |
| Robert | Scoglietti | Office of the Budget |
| Matt | Denn | Office of the Governor |
| Jack | Markell | Office of the Treasurer |
| Dick | Carter | State Senate |
| John | Frazer | Controller General's Office |
| Kyle | Hodges | State Council for Persons with Disabilities |



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| GAP ANALYSIS | | |
|---|---|---|
| **VOTING SYSTEM STANDARDS** | **REQUIREMENT STATUS** | **ACTION REQUIRED** |
| (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | MEETS | NONE |
| (B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by-- (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error). | DOES NOT MEET | The State will create an education program for absentee voters who use paper ballots. |
| (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | MEETS | NONE. |
| (2) **Audit capacity.--** | | |
| (A) In general.--The voting system shall produce a record with an audit capacity for such system. | MEETS | NONE |
| (B) Manual audit capacity.-- | | |
| (I) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | MEETS | NONE |

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| GAP ANALYSIS | | |
|---|---|---|
| **VOTING SYSTEM STANDARDS** | **REQUIREMENT STATUS** | **ACTION REQUIRED** |
| (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is record is produced. | MEETS | NONE |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | MEETS | NONE |
| (3) Accessibility for individuals with disabilities.-- The voting system shall-- | | |
| (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | DOES NOT MEET | The State will meet this element by modifying existing equipment or purchasing new equipment. |
| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | DOES NOT MEET | The State will meet this element by modifying existing equipment or purchasing new equipment. |
| (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph). | NA | NONE |
| **(4) Alternative language accessibility. —** **The voting system** shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | NA | NONE |

## HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

| GAP ANALYSIS | | |
|---|---|---|
| **VOTING SYSTEM STANDARDS** | **REQUIREMENT STATUS** | **ACTION REQUIRED** |
| **(5) Error rates. —** The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | MEETS | NONE |
| **(6) Uniform definition of what constitutes a vote. —** Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | DOES NOT MEET | The State will legislatively meet this requirement. |
| (d) Effective Date.--Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2006. | DOES NOT MEET | The State will meet this requirement |
| (a) Provisional Voting Requirements.–If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows: | | |
| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | DOES NOT MEET | The State will legislatively meet this requirement. |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is– | DOES NOT MEET | The State will legislatively meet this requirement. |
| (A) a registered voter in the jurisdiction in which the individual desires to vote; and | DOES NOT MEET | The State will legislatively meet this requirement. |
| (B) Eligible to vote in that election. | DOES NOT MEET | The State will legislatively meet this requirement. |

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| GAP ANALYSIS | | |
|---|---|---|
| **PROVISIONAL VOTING** | **CURRENT STATE STATUS** | **ACTION REQUIRED** |
| **SEC. 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.** | | |
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4). | DOES NOT MEET | The State will legislatively meet this requirement. |
| (4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under Paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | DOES NOT MEET | The State will legislatively meet this requirement. |
| (5)(A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted the reason that the vote was not counted. | DOES NOT MEET | The State will legislatively meet this requirement. |
| (B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | DOES NOT MEET | The State will legislatively meet this requirement. |

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| GAP ANALYSIS | | |
|---|---|---|
| **PROVISIONAL VOTING** | **CURRENT STATE STATUS** | **ACTION REQUIRED** |
| States described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot. | NA | Delaware is not described in this section. |
| (b) Voting Information Requirements.-- | | |
| (1) Public posting on election day.--The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office. | PARTIALLY Informational changes required | The State will meet this requirement. |
| (2) Voting information defined.--In this section, the term ``voting information'' means-- | | |
| (A) a sample version of the ballot that will be used for that election; | DOES NOT MEET | The State will meet this requirement. |
| (B) information regarding the date of the election and the hours during which polling places will be open; | DOES NOT MEET | The State will meet this requirement. |
| (C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; | PARTIALLY | The State will meet this requirement. |
| (D) instructions for mail-in registrants and first- time voters Under section 303(b); | DOES NOT MEET | The State will meet this requirement. |
| (E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and | PARTIALLY | The State will meet this requirement. |

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| GAP ANALYSIS | | |
|---|---|---|
| **PROVISIONAL VOTING** | **CURRENT STATE STATUS** | **ACTION REQUIRED** |
| (F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | DOES NOT MEET | The State will meet this requirement. |
| (c) Voters Who Vote After the Polls Close.--Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order. | DOES NOT MEET | The State will legislatively meet this requirement. |

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| GAP ANALYSIS | | |
|---|---|---|
| **COMPUTERIZED VOTER REGISTRATION** | **CURRENT STATE STATUS** | **ACTION REQUIRED** |
| (a) Computerized Statewide Voter Registration List Requirements.– | | |
| (1) Implementation.– | | |
| (A) In general.--Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the ``computerized list''), and includes the following: | MEETS | NONE |
| (I)The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State. | MEETS | NONE |
| (ii) The computerized list contains the name and registration information of every legally registered voter in the State. | MEETS | NONE |
| (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | MEETS | NONE |
| (iv) The computerized list shall be coordinated with other agency databases within the State. | MEETS | The State will make enhancements to the system and pursue automating interaction with agencies that now have a manual interface. |
| (v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | MEETS | NONE |

HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

| GAP ANALYSIS | | |
|---|---|---|
| **COMPUTERIZED VOTER REGISTRATION** | **CURRENT STATE STATUS** | **ACTION REQUIRED** |
| (vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | MEETS | NONE |
| (vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). | MEETS | NONE |
| (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | MEETS | NONE |
| (B) Exception.--The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office. | NA | NA |
| (2) Computerized list maintenance.-- | | |
| (A) In general.--The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows: | | |
| (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6). | MEETS | NONE |

**HELP AMERICA VOTE ACT - DELAWARE STATE PLAN**

| GAP ANALYSIS | | |
|---|---|---|
| **COMPUTERIZED VOTER REGISTRATION** | **CURRENT STATE STATUS** | **ACTION REQUIRED** |
| (ii) For purposes of removing names of ineligible voters from the official list of eligible voters--(I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death. | MEETS | NONE |
| (iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. | MEETS | NONE |
| (A) Conduct.--The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that-- | | |
| (i) the name of each registered voter appears in the computerized list; | MEETS | NONE |
| (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | MEETS | NONE |
| (iii) duplicate names are eliminated from the computerized list. | MEETS | NONE |
| (3) Technological security of computerized list.--The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | MEETS | NONE |

**HELP AMERICA VOTE ACT - DELAWARE STATE PLAN**

| GAP ANALYSIS | | |
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| **COMPUTERIZED VOTER REGISTRATION** | **CURRENT STATE STATUS** | **ACTION REQUIRED** |
| (4) Minimum standard for accuracy of state voter registration records.-- The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following: | MEETS | NONE |
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of registered voters. Under such a system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of registered voters, except that no registrant may be removed solely by reason of failure to vote. | MEETS | NONE |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | MEETS | NONE |
| (5) Verification of voter registration information.-- (A) Requiring provision of certain information by applicants.-- | | |
| (i) In general.--Except as provided in clause (ii), withstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes—in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or in the case of any other applicant (other than an applicant to whom this clause (ii) applies), the last 4 digits of the applicant's social security number. | DOES NOT MEET | The State will meet this requirement. |

## HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

| GAP ANALYSIS | | |
|---|---|---|
| **COMPUTERIZED VOTER REGISTRATION** | **CURRENT STATE STATUS** | **ACTION REQUIRED** |
| (ii) Special rule for applicants without driver's license or social security number.--If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | MEETS | NONE |
| (iii) Determination of validity of numbers provided.--The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | MEETS | NONE |
| (B) Requirements for state officials.-- | | |
| (i) Sharing information in databases.--The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | PARTIALLY | The State will meet this requirement |
| (ii) Agreements with commissioner of social security.--The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). | DOES NOT MEET | The DMV is awaiting a response from the Social Security Administration. |

## HELP AMERICA VOTE ACT - DELAWARE STATE PLAN

| GAP ANALYSIS | | |
|---|---|---|
| **COMPUTERIZED VOTER REGISTRATION** | **CURRENT STATE STATUS** | **ACTION REQUIRED** |
| (b) Requirements for Voters Who Register by Mail.-- (1) In general.--Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if-- | | |
| (A) the individual registered to vote in a jurisdiction by mail; and | | |
| (B)(i) the individual has not previously voted in an election for Federal office in the State; or | | |
| (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | | |
| (2) Requirements.-- (A) In general.--An individual meets the requirements of this paragraph if the individual-- | | |
| (i) in the case of an individual who votes in person— (I) presents to the appropriate State or local election official a current and valid photo identification; or (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or | DOES NOT MEET | The State will meet this requirement. |
| (ii) in the case of an individual who votes by mail, submits with the ballot--(I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. | DOES NOT MEET | The State will meet this requirement. |
| (B) Provisional Voting.-- | | |
| (i) In person.--An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a). | DOES NOT MEET | The State will meet this requirement. |

**HELP AMERICA VOTE ACT - DELAWARE STATE PLAN**

| GAP ANALYSIS | | |
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| **COMPUTERIZED VOTER REGISTRATION** | **CURRENT STATE STATUS** | **ACTION REQUIRED** |
| (ii) By mail.--An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | DOES NOT MEET | The State will meet this requirement. |
| (3) Inapplicability.--Paragraph (1) shall not apply in the case of a person-- | | |
| (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either-- | | |
| (i) a copy of a current and valid photo identification; or | MEETS | NONE |
| (B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either--(I) a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and | MEETS | NONE |
| (ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | MEETS | NONE. |
| (iii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | MEETS | NONE |
| (C) who is-- | | |
| (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | MEETS | NONE |
| (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-(b)(2)(B)(ii)); or | MEETS | NONE |
| (iii) entitled to vote otherwise than in person under any other Federal law. | MEETS | NONE |

**HELP AMERICA VOTE ACT - DELAWARE STATE PLAN**

| GAP ANALYSIS | | |
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| **COMPUTERIZED VOTER REGISTRATION** | **CURRENT STATE STATUS** | **ACTION REQUIRED** |
| (4) Contents of mail registration form.-- (A) In general.--The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: | | |
| (i) The question ``Are you a citizen of the United States of America?'' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | NA | |
| (ii) The question ``Will you be 18 years of age on or before election day?'' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day. | NA | |
| (ii) The statement ``If you checked `no' in response to either of these questions, do not complete this form.''. | NA | |
| (iv) A statement informing the individual that the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | NA | |
| (B) Incomplete forms.--If an applicant for voter registration fails to answer the question included on the voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | MEETS | NONE |

**APPENDIX B** – HAVA LEGISLATION

**STATE SENATE**

**142nd GENERAL ASSEMBLY**

**SENATE BILL NO. 153**

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

WHEREAS, the Help America Vote Act of 2002 imposes several mandates upon the state; and

WHEREAS, it is necessary to implement the Help America Vote Act of 2002;

NOW, THEREFORE BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Delaware Code, Title 15, §1302 by striking the aforesaid section in its entirety and substituting in lieu thereof:

§ 1302 Voter registration application.

(a) The Commissioner of Elections, in consultation with the Departments of Elections for the counties, shall promulgate the voter registration application and shall set the effective date of each new version. The application shall be updated as necessary to comply with state and federal law and/or to facilitate administration of the State's voter registration program. The application shall be uniform throughout the state and shall be used for all voter registration transactions within the state.

(b) The application shall be in two parts. The Departments of Elections for the counties shall send the original part of each application that was accepted and processed to the Commissioner of Elections office. The Departments of Elections for the counties shall maintain the second copy in the County Master Record. The records contained in the County Master Record shall remain in the office of each department and not be removed for any reason except as provided by law.

(c) The voter registration application shall include a question asking whether or not the applicant is a citizen of the United States. The Departments of Elections for the counties shall reject the applications of new registrants who indicate that they are not citizens of the United States or who fail to answer the question. The departments shall notify such persons by first-class mail that their application has been rejected and the reason(s) thereto. Persons already registered to vote who indicate that they are not citizens of the United States shall be notified by first-class mail that their voter registration shall be





cancelled at the expiration of 15 days if they do not affirm in writing that they are citizens of the United States. The departments shall cancel the voter registration of any person who fails to affirm in writing that they are United States citizens after the expiration of the aforesaid 15-day period. Persons who subsequently affirm in writing to a department that they are United States citizens shall be reinstated by the department as a registered voter.

(d) The voter registration application shall include a place for the applicant's home telephone number; provided, however, that the provision of a telephone number shall be annotated on the form as being optional, and no application shall be rejected for lack thereof. Any registered voter may have his/her telephone number removed from the electronic voter registration files by making a request of the department of elections for the county in which they are registered either by telephone or in writing.

(e) The applicant's signature may be a digitized signature obtained by a state agency as part of a process that includes registering a person to vote or updating his/her voter registration information.

(f) The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, may examine methods to streamline the voter registration process through the application of technology. The Commissioner of Elections, in consultation with the Departments of Elections for the counties, may adopt and implement such technology. In the event that the process adopted conflicts with subsection "(b)" above, that subsection shall be considered null and void. These innovations may include adoption of a paperless or semi-paperless registration process.

(g) The Commissioner of Elections shall make the State's Voter Registration Application available on the Internet by January 1, 2006.

Section 2. Amend Delaware Code, Title 15 by inserting as § 2015 the following:

§ 2015. Late registration procedures for military and overseas citizens.

An individual who has been discharged or separated from the Uniformed Services, the merchant marine, or from employment outside of the territorial limits of the United States too late to register to vote for a primary or general election but within 60 days of the date of a primary or general election, shall be entitled to register to vote for the purpose of voting in that and ensuing primary or general elections after presenting documentation of his/her discharge, separation, or termination of employment to the Department of Elections for the county in which he/she resides. This exception includes any accompanying family members who are otherwise eligible to register to vote.

Section 3. Amend Delaware Code, Title 15 by inserting as § 2016 the following:

§ 2016. Enfranchisement of citizens who have never resided in the United States.

If a United States citizen outside of the United States who has never lived in the United States has a parent who is a qualified elector of the State, then that person is eligible to register and vote where his/her parent is a qualified elector.

Section 4. Amend Delaware Code, Title 15 by inserting as § 2033 the following:

§ 2033. Special procedures for persons who register to vote by mail and have not voted in the State in an election for federal office.

a. A person who registers to vote by mail on or after January 1, 2003 shall submit with his/her application a copy of a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Should the person not include a copy of the required identification with the voter registration application, the voter shall provide a valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter prior to voting for the first time at a polling place in the State. If the person fails to show required identification at the polling place, he/she shall be permitted to vote by Provisional Ballot. The poll lists and signature cards for each polling place shall identify those persons who must show proper identification before being permitted to vote.

b. A registrant may satisfy the requirement to submit identification by subsequently submitting a voter registration application through a source not subject to the provisions of this section (e.g. through the Division of Motor Vehicles).

c. A person who votes by absentee ballot and who registered to vote for the first time by mail and did not submit a copy of any of the required identification documents shall submit a copy of one or more of the documents listed in subsection "a" above showing the person's name and address with the Absentee Ballot. The Absentee Ballot from a person who is required to submit identification, and who does not, shall not be counted.

d. This section does not apply to persons listed in § 5502 (1) and § 5502 (2) of this title or to persons identified in subsection "a" above who submitted their driver's license number (includes State ID card number) or Social Security Number that the Department of Elections for a county is able to use to verify an existing State Identification record bearing the same number, the name and date of birth as provided by the applicant.

Section 5. Amend Delaware Code, Title 15, Chapter 49, by inserting as subchapter IV the following:

*Subchapter IV. Administrative Complaint Procedure*

*§ 4990. Applicability.*

The Administrative Complaint Process shall only apply to alleged violations of Title III of the Help America Vote Act of 2002 to include an alleged violation that has occurred, is occurring or is about to occur.





§ 4991. Process.

The person making a complaint shall submit the complaint to the Commissioner of Elections or any of the Departments of Elections for the counties. The complaint shall be in writing, notarized, and signed and sworn to by the person making the complaint.

If one of the Departments for the counties receives such a complaint, the Department shall forward it to the Commissioner of Elections on the same business day that it is received.

The Commissioner of Elections shall notify the complainant(s) of receipt of the complaint and provide the complainant(s) a description of the complaint resolution process.

The Commissioner of Elections may consolidate similar complaints.

If requested by the complainant(s), there shall be a hearing for the record.

The Commissioner of Elections shall appoint a person or persons to examine the complaint, gather information about the circumstances and then determine whether or not there was a violation of Title III.

If the person handling the complaint determines that a violation has occurred, he/she shall recommend a suitable remedy to the Commissioner of Elections. The Commissioner may accept, reject or modify any proposed remedy.

If the person handling the complaint determines that a violation did not occur, the complaint shall be dismissed.

The Commissioner of Elections shall publish the results of the resolution of each complaint as he/she sees fit.

A final determination shall be made on each complaint as quickly as possible, but no later than 90 days following the date that the complaint was filed unless the complainant consents to a longer period for resolving the complaint.

If the complaint is not resolved within 90 days and the complainant has not agreed to a longer period, the Commissioner of Elections shall take such steps as necessary to resolve the complaint within the next 60 days. The original complaint and all information developed in the previous attempt(s) to resolve the issue(s) shall be made available to the person(s) subsequently charged with resolving the complaint.

The Commissioner of Elections shall develop a system for tracking complaints alleging Title III violations.

Section 6. Amend Delaware Code, Title 15, § 4910 (a) by striking said subsection in its entirety and substituting in lieu thereof:

(a) The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, shall design poster(s) that will be uniform throughout the State. The poster(s) shall be publicly displayed in each polling place on the day of the election. The poster(s) shall contain the following information:

Information stating the date and hours during which the polling place will be open;

Instructions on how to vote, including how to cast a vote and how to cast a Provisional Ballot;

Instructions for mail-in registrants who are first-time voters under Section 303(b) of the Help America Vote Act of 2002;

General information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and

General information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

Section 7. Amend Subchapter II, Chapter 49, Title 15 of the Delaware Code by inserting as § 4948 the following:

§ 4948. Provisional Ballots.

(a) Provisional ballots shall be used in primary and general elections conducted under the provisions of this title. Provisional ballots shall not be used in public school elections or municipal elections unless specifically authorized in Title 14, Title 15 and/or the respective town or city charter.

(b) A person claiming to be properly registered in an Election District, but whose eligibility to vote at that Election District cannot be determined, shall be entitled to vote a Provisional Ballot. Election officers shall inform a person who is not being permitted to vote for whatever reason that he/she may cast a provisional ballot in that election. The Inspector shall return all voted Provisional Ballots to the Department of Elections for the county responsible for the Election District on the night of the election.

*(c)* Persons voting a Provisional Ballot shall present proof of identity and address to the Election Officers. The type of ID shown by the voter shall be annotated on the Provisional Ballot Envelope. If the person does not show proof of identity or address, the person shall be permitted to vote by Provisional Ballot and the fact that he/she did not show proof of identity and/or address shall be annotated on the Provisional Ballot Envelope.





(d) If Superior Court or another court of competent jurisdiction orders that some or all polling places in a county of the state be kept open beyond the normal time for closing, all persons who arrive to vote at the polling place(s) ordered to be kept open after the normal time for closing shall vote by Provisional Ballot. The Election Officers shall keep such ballots separate and return them to the Department of Elections for the county responsible for the Election District on the night of the election.

(e) Provisional Ballots shall be as much as possible in the same form as Absentee Ballots except that only federal offices shall be listed and they shall be labeled as Provisional Ballots. The Departments of Elections for the counties shall provide to each Election District Provisional Ballots for 6% of the registered voters in the Election District as of 45 days prior to the date of the election. Regardless of the number of ballots required by this subsection, the Departments of Elections for the counties shall provide a minimum of 15 Provisional Ballots to each Election District. Each Department of Elections for the counties shall deliver additional Provisional Ballots, envelopes, instructions or voter information sheets to the polling place for an Election District when notified by an Election Officer from the district that the supply of some or all of the Provisional Ballot materials is very low.

(f) Election Officers shall give whatever assistance is requested by a voter who is voting by Provisional Ballot. When that assistance includes marking or assisting in marking the person's ballot, two Election Officers with different political party affiliations shall provide that assistance.

(g) A voter who spoils his or her ballot shall, upon request, be given a replacement ballot after surrendering the spoiled ballot.

(h) Tallying Provisional Ballots.

1) At 12 noon the day following an election in which Provisional Ballots were used, the Department of Elections for each county shall meet to examine the Provisional Ballots, determine which of the ballots should be tallied in accordance with the rules stated below, and then tally those ballots.

2) The Attorney General shall appoint a Deputy Attorney General to advise each of the Departments of Elections for the counties as requested during the Provisional Ballot tallying process.

3) The county chairperson of each political party with a candidate on a Provisional Ballot within the county may appoint in writing one observer to be in the room where Provisional Ballots are being reviewed and tallied.

4) The Departments of Elections for each county shall sit until the disposition of every Provisional Ballot has been determined. Each county Department of Elections shall establish an appropriate schedule of breaks, meals and rest periods.

*5)* Where the Provisional Ballot affidavit is incomplete, the ballot shall be set aside, not opened and the votes not tallied. An incomplete affidavit shall be defined as one that does not include all of the following information: full name, complete address, political party affiliation (Primary Elections only), and date of birth.

*6)* Where the person who voted by Provisional Ballot did not show suitable identification at the polling place, the ballot shall be set aside, not opened and the votes not tallied.

7) Provisional Ballots cast by persons who are not registered to vote in the state or who are not registered to vote in the Election District in which they were cast shall be set aside, not opened and the votes not tallied.

8) A Provisional Ballot cast by a person who is registered to vote and who has moved into the Election District shall be counted if the person voted at the correct polling place for his/her new address.

9) Each Department of Elections for a county shall tally the Provisional Ballots that meet the above criteria. After all of the Provisional Ballots determined as meeting the above criteria have been tallied, the Department of Elections for the county shall deliver one copy of the Provisional Ballot Tally Sheet for each Election District, all the Provisional Ballots cast in the election, and all affidavits, envelopes and supporting documentation to the Prothonotary.

(i) Post election processing and notification.

10) As soon as practical, but not later than 30 days following an election in which Provisional Ballots were used, the Department of Elections for each county shall enter the appropriate data into a free access system so that a person who voted by Provisional Ballot may determine whether or not his/her ballot was counted, and if it was not counted, the reason(s) for which it was not counted.

11) The respective Department of Elections for a county shall use the Provisional Ballot affidavit as authority to register a person to vote who voted by Provisional Ballot in an election and who is not already registered to vote providing that the minimum information required to register a person to vote is provided. The Provisional Ballot envelope shall be used to transfer a registered voter's address and/or update his/her name when the address and/or name is different than the information on the person's voter registration record.

Section 8. Amend Delaware Code, Title 15, § 4972, by striking the aforesaid section in its entirety and substituting in lieu thereof the following.

§ 4972. Rules regarding what constitutes a legal vote.

a. Votes cast on a direct recording electronic voting machine shall be considered legal votes once the voter has taken the necessary action(s) to cast his/her ballot. A





voter who has cast his/her ballot on a direct recording electronic voting machine shall not be permitted to cast a second ballot under any circumstances.

b. Votes cast at any election on paper ballots shall be counted for whom they are intended as far as can be ascertained by the marks on the ballot. The following rules shall be observed in determining those votes on paper ballots that shall be counted:

1) The voter shall mark the ballot for his/her selections by placing a distinct mark in the box at the right of the name of the candidate and or response to a question for which he/she wants to vote;

2) Where a voter indicates his/her selections in a manner not in accordance with paragraph "1" above, the Election Officers shall attempt to determine from the marks on the ballot the candidate or response that the voter intended to select;

3) If it is not possible to determine a voter's choice for an office or response to a question, the ballot shall not be counted for that office or question but shall be counted for all other offices and questions on the ballot where the voter's intention can be determined;

4) A voter may only vote for two or more choices for any office or question when specifically instructed on the ballot that it is allowable;

5) Where a voter is permitted to make more than one choice for candidates and or responses to a question, he/she may make fewer than the allowable number of choices;

6) If a ballot is marked for more names or responses than are permitted, it shall not be counted for that office or question, but it shall be counted for all other offices or questions on the ballot in accordance with these rules; and

7) If a ballot has been defaced or torn so that it is impossible to determine the voter's choice for one or more offices or questions, it shall not be counted for such offices or questions but shall be counted for all other offices and questions where the voter's choice(s) can be determined.

Section 9. Amend Delaware Code, Title 15, § 5001A (a) by inserting as subsections (12) and (13) the following:

(12) It shall permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted.

(13) It shall provide the voter the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and corrected (including

(14) the opportunity to correct the error through the issuance of a replacement ballot before the voter has cast his/her ballot if the voter was otherwise unable to change the ballot or correct any error).

Section 10. Amend Delaware Code, Title 15, § 5001A (b) by striking the second sentence in its entirety and substituting in lieu thereof the following:

All voting devices used in any election shall provide the voter the opportunity to make his/her selections and cast his/her ballot in secrecy through placement of the devices in the polling place or through the use of curtains or other devices.

Section 11. Amend Delaware Code, Title 15, § 5001A by adding the following as subsection (d):

(d) Any voting device, machine or system purchased by the State shall be certified by the National Association of State Election Directors or the Election Assistance Commission as meeting or exceeding the Voluntary Voting Systems Standards or Guidelines as promulgated by the Federal Election Commission or the Election Assistance Commission prior to delivery to and acceptance by the State.

Section 12. Amend Delaware Code, Title 15, § 5004A by inserting the following at the end of the section:

The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, shall gather information from other jurisdictions using the same or similar systems and then establish an appropriate registered voter to voting device ratio for voting systems purchased after July 1, 2003.

Section 13. Amend Delaware Code, Title 15, § 5005A by adding the following as subsection (d):

(d) Nothing in this section shall preclude the use of an electronic device where the ballot is electronically generated and displayed or which has the capability to generate and display multiple ballots.

Section 14. Amend Delaware Code, Title 15, § 5503 (d) by adding the following as the second sentence:

Additionally, the Departments of Elections for the counties shall accept facsimile transmissions of affidavits for absentee ballots.

Section 15. Amend Delaware Code, Title 15, § 5523 by inserting the following as subsection (d):

(e) An FPCA submitted by a person who qualifies under any of the reasons set forth in § 5502(1) or §5502(2) of this chapter shall be valid for the next two general elections.





Section 16. Amend Delaware Code, Title 15, by inserting as § 5526 the following:

§ 5526. Emergency Authority for the Commissioner of Elections.

In the event that a national or local emergency makes substantial compliance with the provisions of this title and/or the Uniformed and Overseas Citizens Absentee Voting Act impossible or unreasonable for some of all of the citizens covered under § 5502(1) or § 5502(2) of this title, the Commissioner of Elections may direct the use of special procedures to facilitate absentee voting for those citizens directly affected who are eligible to vote in the State. Such an emergency may be a natural and/or humanitarian disaster; and/or armed conflict involving United States Armed Forces to include mobilized State National Guard and/or Reserve components.

The Commissioner of Elections shall consult with the Governor and the Federal Voting Assistance Program or its successor prior to directing the use of the special procedures cited in subsection "a" above.

The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, shall promulgate special procedures to be followed in the event that such a national or local emergency occurs.

**SYNOPSIS**

This legislation if enacted will implement the Help America Vote Act of 2002 (HAVA), implement some recommendations regarding voting and registration of military and overseas and make other changes. Specifically, it provides that the Commissioner of Elections shall promulgate the voter registration application and deletes the list of items required in order to provide flexibility in quickly dealing with changes in federal law. It directs that a question dealing with citizenship be added and that a digitized signature obtained by a state agency in a process that includes voter registration be acceptable as an applicant's signature. It authorizes the Departments of Elections for the counties to accept facsimile transmissions of Affidavits for Absentee Ballots from all citizens. It adds the following provisions to comply with HAVA: establishes procedures for dealing with persons who registered by mail and have not voted in an election for federal office, establishes an Administrative Complaints Procedure for handling violations of HAVA's Title III mandate, provides for posting additional information in the polling place, authorizes Provisional Voting, defines what constitutes a legal vote, and modifies the standards for electronic voting systems, devices and/or machines. It, also, provides that military and overseas citizens who return to the United States within 60 days of an election and establish residence in Delaware can register to vote after the normal deadline, that citizens born abroad who have never lived in the State can register and vote if one of their parents is a qualified elector, and gives the Commissioner of Elections authority to direct the use of special procedures in handling the delivery and transmission of ballots to military and overseas citizens in the event of a national or local emergency.

**District of Columbia Board of Elections and Ethics**

# MOVING ELECTIONS FORWARD IN THE DISTRICT OF COLUMBIA

*A Plan*
*for Implementing the Help America Vote Act*
*in the District of Columbia*

AUGUST 2003

**District of Columbia Board of Elections and Ethics**

## A PLAN FOR IMPLEMENTING THE HELP AMERICA VOTE ACT IN THE DISTRICT OF COLUMBIA

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## INTRODUCTION

In 2002, Congress passed the Help America Vote Act ("HAVA"), Public Law No. 107-252, 116 Stat. 1666 (2002), landmark legislation to improve the administration of elections in the United States. According to the authors of this legislation, the purpose of HAVA is to ensure that all eligible voters are able to cast a vote and have that vote counted. The District of Columbia Board of Elections and Ethics is proud to say the District of Columbia is already substantially in compliance with the new federal standards – much to the credit of citizen advocates, previous and current Board members and staff.

When it passed HAVA, Congress also authorized federal funds to assist states and localities to meet these new standards. To receive these funds, states – including, as in this case, a federal district – are required to solicit public advice and recommendations in developing a plan for meeting the new standards. In March of 2003, the Board of Elections and Ethics ("the Board") established the District of Columbia State Planning Committee and charged the committee with producing a roadmap for the future of elections in the District of Columbia (see Appendix A for a list of the Planning Committee members).

The Plan that follows builds on the recommendations of the Planning Committee. Following publication of the Preliminary Plan in the *District of Columbia Register*, the Board solicited and received public comments both in writing and at a public hearing held on July 5th. The Preliminary Plan was also posted on the Board's website. Following the one-month comment period, the Board reviewed all comments and incorporated suggested changes. A final version of the Plan will be published in the *Federal Register*, as required in § 256 of HAVA.

The Board is grateful to the members of the Planning Committee for the energy, time and expertise they devoted to this effort. All voters in the District of Columbia will benefit from the hard work of this committee.

After a review of the current election system, the Planning Committee agreed that HAVA funds should go to modernizing the existing statewide computerized registration system, improving pollworker recruitment and training, expanding voter education, promoting barrier-free voting for persons with disabilities, and strengthening the infrastructure of the elections process over the long term.

The 2000 Presidential Election shone a spotlight on weaknesses in the nation's election system, and in particular on problems with antiquated voting equipment. Prior to this election, the Board had already acted to modernize its election system and ensure that every eligible voter is able to cast a vote and have that vote counted. Under this initiative, the Board made the decision to replace its aging punch card voting system with voting systems that reduced the likelihood of voter error and allowed for second-chance voting.

In September of 2001, five District of Columbia voters, the Disability Rights Council and the American Association for People with Disabilities, filed suit against the District of Columbia claiming that inaccessible voting systems and polling places were violations of the Americans with Disabilities Act. The suit was eventually settled pursuant to an agreement that requires the city to purchase at least one accessible voting system for every polling place by the 2004 primary and sets a goal that "best efforts" will be made to ensure that all polling sites will be accessible by the same date. The Board expects these voting machines to be in place for the Presidential Primary in 2004, bringing the city into full compliance with the new federal voting systems standards prior to the November 2006 deadline specified in HAVA.

District of Columbia voters are already given the protection of provisional ballots now required by HAVA; only minor changes are necessary to comply with the process set forth in the federal law. Actions to comply with the new requirement to post voter information at the polling place will be one component in a larger program of vigorous voter outreach and education.

Ten years prior to the National Voter Registration Act ("NVRA")[1] in 1993, the Board created a computerized registration list. Consequently, the District of Columbia already complies with one of the most significant changes mandated by the new federal law – the requirement that every state have a single, statewide, computerized voter registration list. Budget constraints have prevented the Board from updating this system and taking advantage of changes in information technology that can make it more efficient, more accurate and more secure.

The Board is drafting legislation and rules to modify current registration processes to conform to new federal requirements. In the process, the Board will strive to design procedures that keep the voter list accurate, verify eligibility and secure voter information without placing an undue burden on the voter or increasing the possibility of erroneously removing eligible voters.

The new funds appropriated under HAVA will allow the Board to update its registration system by creating interactive links with other agencies, giving pollworkers access to the list at the polling place on Election Day, and improving security.

Elections depend on technology, but they also depend on the army of temporary workers brought in on Election Day to manage the polls. Up-to-date technology and voting systems cannot compensate for weaknesses in the polling place operations. Accordingly, the Board will use HAVA funds to address vulnerabilities in the current system of pollworker recruitment and training. The Board will also use funds to increase voter

[1] 42 U.S.C. § 1973gg et seq.

education and facilitate broader participation in the election, particularly among voters with low English proficiency.

Finally, the Board plans to use HAVA funds to make improvements in the infrastructure of the elections system that will reap long-term benefits for District of Columbia voters.

Sound elections require public confidence. The Board puts a high premium on openness and accountability to the public. In addition to bringing election laws and procedures into compliance with HAVA, the Board will institute procedures to enhance accountability and transparency. As required by HAVA, the Board is creating an administrative dispute resolution process for handling voter complaints relative to HAVA compliance. The expenditure of HAVA funds will adhere to federal and city reporting and accounting requirements.

## I. Unique Characteristics of the District of Columbia

In title III, "Uniform and Non-Discriminatory Voting Technology and Election Administration Requirements," HAVA sets forth important new federal requirements for voting systems, for polling place operations and for voter registration. States are required in their plans to provide an account of how they will use the new federal funds to meet these requirements. Several provisions within the new requirements, however, do not apply to the District of Columbia as they are intended to shift accountability for elections from localities to the state and promote more centralized administration. The District of Columbia is a single jurisdiction with only one election authority, the District of Columbia Board of Elections and Ethics. Accountability for elections in the District of Columbia resides with the Board. This section enumerates and explains both those components of the plan required under § 254 (a) of HAVA that do not apply to the District of Columbia and those components that must be redefined in order to apply to the characteristics of this unique jurisdiction.

According to HAVA, the state's plan must discuss "how the State will monitor distribution of the requirements payment to units of local government"[2]. There are no applicable units of local government in the District of Columbia; the Board will be the sole government agency to receive funds under HAVA and the sole agency with authority to spend HAVA funds. The Plan includes a detailed description of how the Board will work to ensure the highest standards of public accountability in the use of these funds.

[2] *See* Help America Vote Act of 2002, Public Law No. 107-252, § 254 (a)(2) (2002) (advising that state plans must describe "[h]ow the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State....").



HAVA requires states to describe how they will "provide for programs for election official education and training"[3]. Again, the District of Columbia is a single entity with only one election authority; the Board's only responsibility is to train its staff and pollworkers. As described elsewhere in this Plan, the Board will train relevant staff and poll workers on election administration requirements.

HAVA also requires that states adopt performance goals and measures to "determine the success of local government in carrying out the plan."[4]. For the purposes of this provision, the District of Columbia must function in effect as both a state and local entity. In other words, applied to the District, the Board is required to devise the goals and measures by which the Board itself will be judged. To ensure the evaluation is objective and has the confidence of the public, the Board will ensure it is a public and independent process.

Finally, § 702 of HAVA requires states to create a single office within the state for carrying out responsibilities under the Uniformed and Overseas Citizens Absentee Voter Act. The Board, the sole agency responsible for administering these requirements, already complies with this new requirement.

While provisions in HAVA seek to address a problem that the District of Columbia does not experience, namely, centralizing authority at the state level, the Board, like every other state election authority, faces a challenge in ensuring uniform application of the law. Within the context of elections in the District of Columbia, uniformity of election administration will be defined as uniformity across the jurisdiction. The Board will seek to ensure the new requirements are applied uniformly in every polling place.

## II. A Plan for Meeting New Requirements of the Help America Vote Act in the District of Columbia

The heart of the Help America Vote Act lies in the "Uniform and Nondiscriminatory Election Technology and Administration Requirements" set forth under title III. These requirements establish minimum standards for voting systems, polling place procedures, and voter registration. The following outlines how the Board will meet – and surpass – these new requirements.

[3] *See* Help America Vote Act of 2002, Public Law No. 107-252, §§ 254 (a)(3) (2002) (advising that state plans must describe "[h]ow the State will provide for programs for ... election official education and training ... which will assist the State in meeting the requirements of title III").
[4] *See* HAVA, Public Law No. 107-252, § 254(a)(8) (2002) (advising that the plan include a description of "[h]ow 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....").

***Meeting New Voting System Requirements under HAVA***[5]

In passing HAVA, Congress established a set of minimum standards for all voting systems used in federal elections. The standards, set out in § 301, require voting systems to do the following: notify voters of errors, including over-voting; provide voters with the opportunity to review their ballot and correct errors; provide a paper record for audit purposes; provide voters with disabilities the opportunity to cast a private ballot independently; provide ballots in multiple languages; and not exceed the machine error rate set by the Federal Election Commission. States are also required to provide a definition of what constitutes a vote for each type of system used.

Prior to the 2000 Presidential Election, the District of Columbia had already begun an overhaul of its voting systems consistent with the goals outlined in the federal bill. By the 2002 elections, the punch card voting system had been replaced with the Optech Eagle P III optical scan voting system. This system allows voters to review their ballots, notifies the voter of an over-vote and allows voters to correct the ballot in case of an error. The city will continue and expand its efforts to educate voters on the use of the optical scan system for its upcoming elections. In addition, by 2004 the Board will have added one machine per precinct that is accessible to persons who are visually and mobility impaired – the Sequoia Edge Direct Recording Equipment ("DRE") machine – in all of the city's 142 precincts. The optical scan and the DRE system meet the federal standards for auditibility and acceptable machine error rate required under § 301.

The Board has drafted legislation requiring voting systems in the District of Columbia to meet the standards specified in § 301 of HAVA. These requirements are minimum standards and will not prevent the Board from procuring systems that offer additional features and safeguards. In addition to purchasing systems that meet the new requirements, the Board will, consistent with its former practice, abide by the voluntary standards issued by the Election Assistance Commission.

As explained more fully below, the Board expects to be in full compliance with the new HAVA voting system standards by the Presidential Primary in 2004. The Board plans to use HAVA funding to take additional steps that will ensure the transition to new voting systems is completed successfully.

*Over-vote notification, ballot review and ballot correction*
With its purchase of new optical scan systems and DREs, the Board significantly improved the process by which voters in the District of Columbia cast ballots. Both systems have safeguards to ensure the voter is able to express his or her intent accurately. The optical scan systems accomplish this goal by means of an in-precinct scanner. Voters insert their ballots into the scanner, which rejects ballots with errors, including over-votes, thus confirming for the voter that he or she has produced a ballot that can be

[5] *See* Help America Vote Act of 2002, Pub. L. No. 107-252, §§ 254 (a)(1), 254(a)(4) (2002) (advising that state plans must indicate "[h]ow the state will use the requirements payment to meet the requirements of title III," and [h]ow the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.").



machine-read. The touch-screen DRE systems prevent voters from making errors and provide an automatic review of the ballot prior to its being cast.

Since the cost of these new technologies has proved prohibitive in the past, the Board phased in improvements gradually. After the 2000 election, the Board replaced its punch card voting system with the optical scan system. The Optech Eagle optical scan system now in use in every precinct permits voters casting their ballot in person to review their ballots. The system also allows for private and independent correction, as well as replacement of damaged or over-voted ballots. The Board will develop instructions for all voters, including absentee voters, explaining the effect of an over-vote and procedures for obtaining a replacement ballot – including procedures for replacing absentee ballots.

The Sequoia Edge DREs purchased by the Board (described more fully below) for use in 2004 are in full compliance with this provision of § 301 of HAVA. They do not permit over-voting; they provide automatic ballot review; and they notify the voter of errors and how to correct those errors.

*Accessibility to persons with disabilities*
Prior to passage of the HAVA, five District of Columbia voters, the American Association of People With Disabilities, and the Disability Rights Council of Greater Washington filed suit in the U.S. District Court claiming that the purchase of the new optical scan voting system, which is not accessible to voters with disabilities, violated the Americans with Disabilities Act of 1990.

In settling the case, the District of Columbia government and the Board agreed to provide at least one accessible DRE voting machine in every polling place in the city by the May Presidential Primary election. During the September 2002 primary election, the Sequoia Edge DREs were on display at 70 polling places. For a blind voter, the machines produce an audio reading of the ballot to which a voter listens using headphones. The voter moves through the ballot using arrow keys and pushes the "select" button for his or her choice. Each button has a distinctive shape, such as an "up" arrow, and is identified in Braille. People who cannot use their hands to hold a pencil can use the touch screen feature of the machine. The voter sees the ballot on the screen and touches the screen with any part of the hand or a wand held in the mouth. All voters can also use the machines to write in a candidate by spelling the candidate's name either on a keyboard on the touch-screen or by selecting letters recited orally.

The Board anticipates having all of the machines ready for use in polling places by the 2004 Presidential Primary.

*Auditability*
The Board places a high premium on an open vote-casting and tabulation process that merits the trust and confidence of the voters. The voting systems procured by the Board have already been tested and certified by the Independent Testing Authority under the auspices of the National Association of State Election Directors. All ITA-certified

systems meet established federal standards for auditability and security. The Board provides additional safeguards to ensure the integrity of these systems:

The DRE Edge is capable of providing a paper audit trail that can serve as an official record in the event of a recount. The system requests the voter to review his or her choices prior to submitting the ballot, at which time the system creates the permanent record.

The Optech Eagle uses paper ballots that can be used as an official record in the event of a recount.

*Alternative Language Accessibility*
The District of Columbia is home to an increasingly diverse population. Although the District of Columbia was not included on the Bureau of the Census list of jurisdictions required to provide multi-lingual ballots under the Voting Rights Act of 1965 ("VRA")[6], certain wards certainly meet the threshold percentage of voters with low English proficiency. The Board is therefore providing ballots and election materials in Spanish at every precinct in the 2004 elections.

The Sequoia Edge DREs can be programmed to produce ballots in multiple languages and are therefore compliant with this provision.

*Error rates*
HAVA requires that no voting systems exceed the acceptable machine error rate established in the Federal Election Commission's voluntary Voting System Standards. As a matter of practice, the Board only purchases voting systems that meet these federal standards. Systems now in use – both the Optech Eagle and the Sequoia Edge DRE – have been tested and qualified by the Independent Testing Authority under the auspices of the National Association of State Election Directors.

*Standards for what constitutes a vote*
The Board's administrative regulations, set forth in § 809 of title 3 of the District of Columbia Municipal Regulations contain clear guidelines on what constitutes a vote on the optical scan ballots. These standards are applied only in the event of a recount. The DRE systems define what constitutes a vote as part of the interface with the voter and so require no such guidelines.

In addition to the steps outlined above, the Board plans to adopt the following measures to facilitate a smooth transition to new voting systems in the 2004 Presidential Primary and general election:

- Review and modify polling place signage, materials and procedures to ensure that both pollworkers and voters understand the process for casting a ballot that accurately reflects the voter's intent and that will be counted. At a minimum, the Board will: (1) post an easily legible sign near the scanners instructing voters to review their ballots carefully to ensure they have clearly voted in pencil for the candidate(s) of their choice, that there are no stray marks on the ballot, and that they have not over-voted; and (2) instruct voters to watch the completed ballot being fed into the scanner.

- Conduct an educational campaign in cooperation with political parties, civic organizations and groups representing voters with disabilities using a wide range of media to familiarize the public with new voting systems, as well as new procedures. At the polling place, an additional pollworker will be dedicated to providing information to voters. Instructions on how to cast a ballot will be included with sample ballots.

- Develop instructional video and audio programs in English and Spanish on the use of the optical scan and DRE voting systems, and develop an outreach plan for educating District of Columbia voters, including voters with disabilities.

- To assure private and independent voting on the optical scan system, the Board will, cost permitting, replace the old punch card stations with new, simpler and more flexible privacy areas.

- Make DREs available in at least two locations during the in-person absentee voting period for voters with disabilities or voters who may need extra time for assistance in voting.

| **Table 1 – Compliance with § 301 Voting System Requirements** | **Compliant** | **Not Compliant** | **Actions Needed for Compliance** |
|---|---|---|---|
| (a) (1)(A) The voting system shall permit private and independent voter verification before the ballot is cast and counted; shall provide the voter with the opportunity (in a private and independent manner) to correct the ballot; and shall notify the voter in the case of an over-vote and allow the voter to correct the ballot. | X | | |
| (a)(1)(B) A State or jurisdiction that uses a paper ballot voting system (including mail-in absentee ballots and mail-in ballots), may meet these requirements by establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office and providing the voter with instructions on how to correct and replace the ballot. | | X | The Board is developing a program and materials to educate absentee and other voters on the use of optical scan system. |
| (a) (1)(C) The voting system shall ensure that any notification required under this | | | |

[6] 42 U.S.C. § 1971 (1965).

| Table 1 – Compliance with § 301 Voting System Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | X | | |
| (a)(2) The voting system shall produce a record with an audit capacity. The voting system shall produce a permanent paper record with a manual audit capacity. The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. The paper record shall be available as an official record for any recount conducted with respect to any election in which the system is used. | X | | |
| (a)(3) The voting system shall be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. The voting system shall satisfy this requirement through the use of at least 1 direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place. | | X | The District of Columbia is contracting with Sequoia for the purchase of a sufficient number of DREs to meet this requirement. |
| (a)(4) The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | X | | |
| (a)(5) The error rate of the voting system in counting ballots (taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 | X | | |



| Table 1 – Compliance with § 301 Voting System Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| of the voting systems standards issued by the Federal Election Commission. | | | |
| (a)(6) Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | X | | |
| (b) The term ``voting system'' means--<br>(1) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used--<br>(A) to define ballots;<br>(B) to cast and count votes;<br>(C) to report or display election results; and<br>(D) to maintain and produce any audit trail information; and<br>(2) the practices and associated documentation used--<br>(A) to identify system components and versions of such components;<br>(B) to test the system during its development and maintenance;<br>(C) to maintain records of system errors and defects;<br>(D) to determine specific system changes to be made to a system after the initial qualification of the system; and<br>(E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots). | | X | Legislation is pending to adopt this definition. |

***Implementing the New Polling Place Procedures***

In addition to establishing new standards for voting systems, HAVA also institutes new safeguards for voters on Election Day. In § 302, the law requires that voters whose eligibility is questioned be allowed to cast a ballot that will be counted if the election officials later determine the voter is eligible. In HAVA, this contingent ballot is called a

"provisional ballot." The law also requires that following the election voters have the means, using a free-access system, to find out if their ballot was counted, further stipulating that only the voter who cast the ballot shall have access to that information.

The new polling place procedures also include posting at every polling place the following information: a sample ballot; the polling place hours of operation; instructions for first-time, mail-in registrants; instructions for casting a provisional ballot; information on the voter's rights under federal and state law; and the penalties for voter fraud.

Finally, § 302 requires that should a polling place be kept open past the established closing time, all voters casting ballots during the extended period will cast provisional ballots that will be segregated from other provisional ballots.

*Provisional voting*
Under current law in the District of Columbia, voters whose names do not appear in the precinct register may vote a provisional or, as it is termed in the District of Columbia Official Code, a "special ballot." Voters whose names do not appear because they may have moved fill out an Election Day Change of Address form and vote a provisional ballot. In practice, the special ballot process ensures that every person desiring to vote on Election Day and claiming to be registered may cast a ballot. All such voters are instructed verbally and in writing about how to find out if their vote will be counted. After Election Day, the Board investigates the eligibility of the voters and makes a preliminary determination. A list of voters whose ballots are not deemed valid is made public. Voters and challengers may request a public hearing to appeal the preliminary decision.

Changes needed to bring the polling place administration of special ballots into compliance with HAVA are minimal. The Board has drafted legislation specifying the new uses of special ballots: (1) as a fail-safe mechanism for first-time mail-in registrants whose eligibility has not been verified prior to voting, and (2) the required method for voters casting their ballots after regular voting hours in the event of a court order to keep the polls open.

As noted above, the new DRE system will be programmed to segregate special ballots so that voters with disabilities may cast provisional ballots on accessible machines.

Because the Board interprets HAVA to include challenged ballots within § 302 of HAVA, the current procedures for publishing the results of challenges must be revised to restrict access to information about the disposition of special ballots to the voter who cast the ballot. The Board is drafting legislation to make the necessary revisions. The Board will set up a toll-free telephone number that will allow voters to access information on the disposition of their special ballots. In addition, the Board is adding safeguards so that only the voter who cast the ballot has access to the information.

The Board will take the following additional steps to assure effective implementation of special ballot process:



- Since voters casting special ballots in the District of Columbia are required to cast these ballots in their assigned precinct, the Board will act to inform all voters of their assigned precinct in an election mailing prior to Election Day. As in the past, a trained pollworker will be designated to help a voter determine his or her assigned precinct and direct them to the appropriate polling place.
- DREs will be programmed to allow for segregating special ballots.
- The Board will work to devise administrative procedures that are simple and straightforward, and will conduct training to ensure pollworkers understand the new process.

*Posting of voter information*
The Board currently posts at the polling place the following information: qualifications for voting, a sample ballot, instructions for casting a special ballot, and the penalty for perjury. The Board has drafted legislation and regulations to bring the District of Columbia into compliance with this provision by adding a requirement to post the following:

- information regarding the date of the election and the hours during which polling places will be open;
- instructions for mail-in registrants and first-time voters under § 303(b);
- information on voting rights under applicable Federal and District laws (the District of Columbia Voter's Rights Notice), including information on the right of an individual to cast a provisional (special) ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
- general information on Federal and District laws regarding prohibitions on acts of fraud and misrepresentation.

*Voters voting after the polls close*
HAVA requires that voters casting their ballots after regular voting hours in the event of a court order to keep the polls open cast a special ballot. The law further requires that such ballots be kept separate from other provisional ballots.

The Board has drafted legislation specifying the use of special ballots in this circumstance. The Board will modify its procedures to accommodate this new use of special ballots and to allow these ballots to be segregated prior to a determination of their validity.

| Table 2 – Compliance with § 302 Provisional Voting and Voting Information Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (a) **Provisional voting requirements**. If an individual declares that he or she is a registered voter in the jurisdiction and that he or she is eligible to vote in a Federal election, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows | X | | |
| (a)(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | X | | |
| (a) (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is-- (A) a registered voter in the jurisdiction in which the individual desires to vote; and (B) eligible to vote in that election. | X | | |
| (a)(3) An election official at the polling place shall transmit the ballot cast by the individual to an appropriate election official for prompt verification. | X | | |
| (a)(4) If the election official to whom the ballot or voter information is transmitted determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | X | | |
| (a)(5)(A) At the time that an individual casts a provisional ballot, the appropriate | X | | |



| Table 2 – Compliance with § 302 Provisional Voting and Voting Information Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted. | | | |
| (a) (5)(B) The appropriate election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | | X | Legislation and proposed rulemaking are pending to meet this requirement. |
| (a) ...The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot. | | X | Legislation and proposed rulemaking are pending to meet this requirement. |
| (b) **Voting information requirements**. The appropriate election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office. | | X | Legislation and proposed rulemaking are pending to meet this requirement. |
| (b)(2)(A) a sample version of the ballot that will be used for that election; | X | | |
| (b)(2) (B) information regarding the date of the election and the hours during which polling places will be open; | | X | Legislation and proposed rulemaking are pending to meet |

| Table 2 – Compliance with § 302 Provisional Voting and Voting Information Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| | | | this requirement. |
| (b)(2)(C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; | | X | Legislation and proposed rulemaking are pending to meet this requirement. |
| (b)(2)(D) instructions for mail-in registrants and first-time voters whose identity has not been verified prior to Election Day; | | X | Legislation and proposed rulemaking are pending to meet this requirement. |
| (b)(2)(E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; | | X | Legislation and proposed rulemaking are pending to meet this requirement. |
| (b)(2)(F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | | X | Legislation and proposed rulemaking are pending to meet this requirement. |
| (c) **Voters who vote after the polls close.** Any individual who votes in a Federal election as a result of a court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot. Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order. | | X | Legislation and proposed rulemaking are pending to meet this requirement. |

***Meeting New Registration Requirements***





For all voters, applying to register is the first contact with the Board and the elections process. The District of Columbia has been energetic in its outreach to voters, offering registration opportunities at six city agencies and working in partnership with civic organizations, political campaigns, and media outlets to increase the number of registered voters. These efforts have been successful: 78.7 percent of the city's voting age population is registered to vote. New funds available under HAVA for improving and modernizing the registration process will allow the Board to increase the efficiency of the registration system.

The authors of HAVA understood that standards regulating the voter registration process are just as important as standards regulating the voting process; accordingly, in §303 HAVA establishes new requirements not only for the voter registration process but also for how election officials will verify and manage voter registration information.

Most significantly, the law requires that every state maintain a single, uniform, centralized, computerized statewide voter registration list and in so doing shifts responsibility for voter registration from localities to states. The District of Columbia administers a single, computerized voter registration list that is, as noted earlier, already in compliance with this requirement.

Many of the list-cleaning provisions set forth in § 303 of HAVA serve to reinforce those established ten years ago in the National Voter Registration Act (NVRA); HAVA authorizes the resources necessary to meet these requirements. In a departure from the NVRA, which merely recommended that registration agencies coordinate and share information with other agencies to increase accuracy, HAVA mandates election officials to match voter records against the records of driver's license agencies and the Social Security Administration. To this end, HAVA requires that voters provide their driver's license number, if they have one, or the last four digits of their Social Security number (SSN) in order for their application to be processed. If the voter has neither a driver's license nor an SSN, the voter will be assigned a unique identifier. At the same time, the law mandates safeguards to protect the privacy of this information.

The law also spells out new procedures for handling voters registering for the first-time who register by mail. If the election authority is unable to match the records of these voters against other records prior to Election Day, these voters will be required to present ID at the polling place or send copies of ID with their absentee ballot. If the voter lacks the forms of identification called for under this provision, the vote will be considered a special ballot and counted according to state law.

*Computerized voter registration list*

The District of Columbia is in the enviable position of being in full compliance with § 303 (a)(1) of HAVA. The Board currently administers a single, uniform, computerized list that is used as the official list in all precincts. As the District of Columbia is a single jurisdiction, the requirements pertaining to the transmission of data and voter information from the county to the state do not apply.

The Board currently complies with all HAVA list maintenance requirements, as well as with all requirements in the NVRA. Records from the U.S. District and D.C. Superior Courts and the Department of Vital Statistics are matched against Board records to identify incarcerated felony convicts, deceased voters and other individuals who are no longer eligible to vote.

The Board also matches its computerized list against records received from the National Change of Address biannually. Information indicating that a voter has moved prompts a mailing to the voter for confirmation. Consistent with procedures established in the NVRA, the Board conducts a citywide canvass and removes those voters whose mail is returned as undeliverable and who have not voted in two federal elections. The District of Columbia regulations stipulate that the Board must confirm that a voter is ineligible before removing the record from the rolls. These procedures will not change under HAVA; rather, the money appropriated under HAVA will allow the Board to make improvements and reduce the administrative burden of such list-cleaning measures.

HAVA requires that the official list used in the conduct of elections contain the names of all legally registered voters. Since inactive voters, that is, voters who have moved within the District and who have not responded to a mailing, are legally registered, Board will include the names of inactive voters on the list used at the precinct on Election Day.

The Board's Chief Technology Officer has responsibility for maintaining the integrity and security of the list of registered voters. Under the current system, access to voter registration information requires both a user ID and a password. The chief technology officer will strengthen the security of the list by creating a hierarchy of access to data.

Although compliant with all HAVA requirements, the voter registration database system does not take full advantage of contemporary information technology. Currently, all voter registration applications filled out at voter registration sites other than that of the Board office are transmitted in paper form. The Board intends to move to a system of electronic transmission between agencies. The Board plans to make the following improvements to reduce the administrative burden in managing the system (which will reduce costs over the long term) and ensure that the voter registration list is current, accurate, secure and reliable:

- secure agreements with voter registration agencies, including the Medical Assistance Administration, the Office on Aging, Income Maintenance Administration, Mental Retardation and Developmental Disabilities Administration, Recreation and Parks Senior Citizens' Branch, Rehabilitation Services Administration and the Supplemental Program for Women, Infants and Children to create interactive links that allow for the electronic transmission of voter information and registration applications;

- facilitate access to the entire registration list at each polling place; and



- establish new security measures to ensure that voter information remains private and protected.

*Verification of registration information*

The Board has designed its registration process on the principle that registration should not be a barrier to voting – indeed, by maintaining an accurate list of registered voters, the registration process allows the communication with voters vital to fostering healthy and full participation in elections. To ensure registration does not inhibit participation, procedures to verify voter information should be as transparent to the voter as possible.

Currently, the Board requests but does not require applicants to provide their SSNs. The voters are assigned a unique identifier that is random and specific to the Board's list (this system requires no modification). To comply with the new requirement under HAVA, the Board is revising registration forms to include a request for the applicant's driver's license number or the last four digits of the Social Security Number and modifying the database to store the new information.

The Board currently does not regularly match voter information with Department of Motor Vehicles ("DMV") records. As required by HAVA, the Chief Election Official will work with the appropriate official at the DMV to enter into an agreement authorizing the sharing of information between the two agencies. The Board will develop mechanisms for sharing data that will allow for verification of voter information. (Prior to linking the two systems, this match will be accomplished through file downloads from the DMV to the Board.) The Board will simultaneously institute safeguards to ensure that voters are not denied registration because of erroneous or out-of-date information contained on either database.

*Requirements for first-time, mail-in registrants*

Under HAVA, citizens registering to vote for the first time in the District of Columbia who submit their registration application by mail – specifically, applications sent to the Board via the United States Postal Service – are required to present at the polling place documents verifying identity. The acceptable forms of documentation specified in HAVA are: a copy of a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. If such voters vote absentee, they are required to submit copies of ID or the other verifying documents with their absentee ballot. The Board has drafted legislation that will bring the District of Columbia into compliance with this requirement and is modifying the voter registration system to track such voters.

The Board is concerned, however, that instituting special procedures at the polling place for certain voters may lead to the perception that some voters are being treated differently. In addition, special procedures inevitably add to possible confusion at the polling place. For this reason, the Board plans to incorporate procedures into the new registration process for verifying the voter's eligibility prior to their voting and thereby reduce the burden on both pollworkers and voters.

The Board will take the following additional steps to ensure effective implementation of new registration and first-time voter requirements:

- In designing the new registration applications, the Board will consult a literacy expert to ensure that each request for information on the voter registration form is readily understandable and can be satisfied with a concise answer or mark.
- In processing registration applications received by mail, the Board will make every effort to obtain missing registration information prior to the next election. This provision may require the Board to send multiple mailings to the registrant.
- The Board will work with city agencies that issue identification and encourage them to include both name and address on all government-issued ID.
- Develop training, including an instructional video, on the new requirements of HAVA for citizens and other community groups who conduct voter registration drives and register other citizens.

| **Table 3 – Compliance with § 303 Computerized Voter Registration List Requirements and Requirements for Voters Who Register by Mail** | **Compliant** | **Not Compliant** | **Actions Needed for Compliance** |
|---|---|---|---|
| (a) (1)(A) **Computerized statewide registration list requirements.** Each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive, computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State (in this subsection referred to as the computerized list), and includes the following: | X | | |
| (a)(1)(A)(i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the state. | X | | |
| (a)(1)(A)(ii) The list contains the name and registration information of every legally registered voter in the State. | | X | The Board will merge active and inactive voters on the official list. |



| **Table 3 – Compliance with § 303 Computerized Voter Registration List Requirements and Requirements for Voters Who Register by Mail** | **Compliant** | **Not Compliant** | **Actions Needed for Compliance** |
|---|---|---|---|
| | | | |
| (a)(1)(A)(iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | X | | |
| (a)(1)(A)(iv) The computerized list shall be coordinated with other agency databases in the State. | X | | |
| (a)(1)(A)(v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | N/A | | |
| (a)(1)(A)(vi) All voter information obtained by any local election official shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | N/A | | |
| (a)(1)(A)(vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information. | N/A | | |
| (a)(1)(A)(viii)The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | X | | |
| (a)(2) **Computerized list maintenance.** The appropriate election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:<br>(a)(2)(A)(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter | X | | |

| Table 3 – Compliance with § 303 Computerized Voter Registration List Requirements and Requirements for Voters Who Register by Mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| Registration Act of 1993 (42 U.S.C 1973gg et seq.). | | | |
| (a)(2)(A)(ii) For purposes of removing names of ineligible voters, from the official list of eligible voters –<br>(I) under section 8(a)(3)(B) of such Act (42 U.S.C 1973gg-6(a)(3)(B)), the State shall coordinate with State agency records on felony status; and<br>(II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death. | X | | |
| (a)(2)(B) The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that –<br>(i) the name of each registered voter appears in the computerized list; | X | | |
| (a)(2)(B) (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | X | | |
| (a)(2)(B)(iii) duplicate names are eliminated from the computerized list. | X | | |
| (a)(3) Technological security. The appropriate official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | X | | |
| (a)(4) Minimum standard of accuracy for state records. – The State election system shall include provisions to ensure that voter | X | | |



| Table 3 – Compliance with § 303 Computerized Voter Registration List Requirements and Requirements for Voters Who Register by Mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| registration records in the State are accurate and are updated regularly, including the following:<br>(a)(4)(A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | | | |
| (a)(4)(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | X | | |
| (a)(5) Verification of voter registration information.<br>(a)(5)(A)(i) Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed unless the application includes—<br>(I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or<br>(II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | | X | Legislation and proposed rulemaking to meet this requirement are pending. Application form and computerized registration list are being revised to accommodate this requirement. |
| (a)(5)(A)(ii) Special rule for applicants without driver's license or Social Security Numbers. If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration | | X | Legislation and proposed rulemaking are pending to meet this requirement. |

| Table 3 – Compliance with § 303 Computerized Voter Registration List Requirements and Requirements for Voters Who Register by Mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | | | |
| (a)(5)(A) (iii) The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | X | | |
| (a)(5)(B) Requirements for state officials.—<br>(i) The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | | X | The chief election official is working with appropriate officials at the DMV to reach an agreement on sharing information. |
| (b) **Requirements for voters who register by mail.**—<br>(b)(1) Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if—<br>(A) the individual registered to vote in a jurisdiction by mail; and<br>(B)(i) the individual has not previously voted in an election for Federal office in the State; or (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the | | X | Legislation and proposed rulemaking to meet this requirement are pending. |



| Table 3 – Compliance with § 303 Computerized Voter Registration List Requirements and Requirements for Voters Who Register by Mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| requirements of subsection (a). | | | |
| (b)(2) Requirements --<br>(b)(2)(A) An individual meets the requirements of this paragraph if the individual--<br>(b)(2)(A)(i) in the case of an individual who votes in person--<br>(I) presents to the appropriate State or local election official a current and valid photo identification; or<br>(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or | | X | Legislation and proposed rulemaking to meet this requirement are pending. |
| (b)(2)(A)(ii) in the case of an individual who votes by mail, submits with the ballot--<br>(I) a copy of a current and valid photo identification; or<br>(II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. | | X | Legislation and proposed rulemaking to meet this requirement are pending. |
| (b)(2)(B) Fail-Safe Voting<br>(b)(2)(B)(i) An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a). | | X | Legislation and proposed rulemaking to meet this requirement are pending. |
| (b)(2)(B)(ii) An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | | X | Legislation and proposed rulemaking to meet this requirement are pending. |
| (b)(3) Inapplicability<br>Paragraph (1) shall not apply in the case of a person – | | X | Legislation and proposed rulemaking to |

| Table 3 – Compliance with § 303 Computerized Voter Registration List Requirements and Requirements for Voters Who Register by Mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (b)(3)(A) --who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either—<br>(i) a copy of a current and valid photo identification; or<br>(ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | | | meet this requirement are pending. |
| (b)(3)(B)(i) – who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either—<br>(I) a driver's license number; or<br>(II) at least the last 4 digits of the individual's social security number; and<br>(b)(3)(B)(ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | | X | Legislation and proposed rulemaking to meet this requirement are pending. |
| (b)(3)(C) who is--(i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.);(ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or (iii) entitled to vote otherwise than in person under any other Federal law. | | X | Legislation and proposed rulemaking to meet this requirement are pending. |
| (b)(4) Contents of mail-in registration form. | | X | Legislation and proposed |



| Table 3 – Compliance with § 303 Computerized Voter Registration List Requirements and Requirements for Voters Who Register by Mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (b)(4)(A) The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: (i) The question ``Are you a citizen of the United States of America?'' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | | | rulemaking to meet this requirement are pending. Mail-in registration form is under revision. |
| (b)(4)(A)(ii) The question ``Will you be 18 years of age on or before election day?'' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day. | | X | Legislation and proposed rulemaking to meet this requirement are pending. Mail-in registration form is under revision. |
| (b)(4)(A)(iii) The statement ``If you checked `no' in response to either of these questions, do not complete this form.''. | | X | Legislation and proposed rulemaking to meet this requirement are pending. Mail-in registration form is under revision. |
| (b)(4)(A)(iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | | X | Legislation and proposed rulemaking to meet this requirement are pending. Mail-in registration form is under revision. |
| (b)(4)(B) Incomplete forms.--If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph | | X | Legislation is pending and administrative procedures are being revised to |

| Table 3 – Compliance with § 303 Computerized Voter Registration List Requirements and Requirements for Voters Who Register by Mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | | | meet this requirement. |

***Activities To Enhance Implementation of the District of Columbia Plan***

In addition to the steps outlined above, the Board will use funds appropriated under HAVA to do the following:

*Expand the Capacity of the District of Columbia Board of Elections and Ethics*

In order to ensure smooth implementation of the new requirements, the Board must expand its administrative and physical capacity. The Board will conduct an organizational review and, based on that review, implement changes in staffing and equipment necessary to meeting the legislative requirements and carrying out the Plan within the specified timeframe. As part of the organizational review, the Board will introduce measures to ensure accountability for each component of the Plan.

In addition, to augment the skills of elections staff and promote increased professionalism, the Board will institute a training and certification program for current and future staff. The Board will work cooperatively with The Election Center and other organizations to provide substantive training on federal and District election laws, voting systems, registration systems and administration, among other topics. Beyond the certification program, the Board will also expand professional development opportunities for staff. The Board will also institute a certification program to increase accountability of Board staff and assure full compliance with all Federal and District election laws.

*Strengthen pollworker training and recruitment*[7]

Pollworkers are critically important to ensure smooth and successful elections. Pollworker outreach is important to ensure a sufficient number of pollworkers to assist in election preparations and to adequately staff each polling place on Election Day. Pollworker training is also important to ensure that each pollworker possesses sufficient

[7] *See* HAVA, Public Law No. 107-252, § 254 (a)(3) (2002), advising that the plan must describe "[h]ow the state will provide for programs for . . . poll worker training which will assist the State in meeting the requirements of title III."



experience and knowledge to reliably carry out the duties of conducting a fair election and safeguard every eligible voter's right to cast a ballot.

As part of its effort to conduct effective pollworker outreach, the Board will seek to match pollworker stipends in the District of Columbia with the national average for urban election districts.

The Board will also hire a professional recruiter in order to expand the number of pollworkers available on Election Day. The recruiter's scope of services will include the following:

- develop and implement a comprehensive recruitment program that reaches civic and service organizations, public and private high schools and colleges, major employers and local businesses operating in the District of Columbia;
- develop and place recruiting announcements in print media and electronic media, including radio and television.

In an election that will feature both new voting systems and new procedures – as will be the case in 2004 – the importance of quality pollworker training cannot be overstated. To ensure pollworkers in the District of Columbia are well prepared for the challenges of implementing HAVA at the polling place, the Board will undertake the following:

- hire a professional trainer to develop and conduct a comprehensive pollworker training program, to include specific education on the District of Columbia Voters' Rights Notice;
- develop and produce updated training materials that will give pollworkers access to training off-site, for example, web-based training, CD-ROMs, and videos; and
- produce training materials specifically covering the operation of the optical scan and DRE voting systems.

To ensure the polling place workforce can meet the demands in 2004 and after, the Board will review the organization of the polling place and research models for effective staffing. At a minimum, the following changes will be made:

- Beginning in 2004, each voting precinct will have 3 additional pollworkers, one of whom will be dedicated to assisting voters using the DRE voting machine.
- Develop and implement a pilot program at one or more voter precincts providing multiple work shifts for certain pollworker positions on Election Day in order to reduce the time commitment necessary to serve as a pollworker.

*Expand voter education*[8]
The Board is required to expand its voter education program in two ways: (1) it must educate voters in the proper use of optical scan ballots, and (2) it must post the information listed under § 302(b) of HAVA at the polling place. These efforts are described in the relevant sections above. More is needed. Ensuring that every eligible voter is able to cast his or her vote and have that vote counted requires a vigorous voter education campaign beyond the minimum standards outlined in HAVA. To this end, the Board plans to conduct an aggressive public education campaign that will include the steps listed below. All appropriate components of this expanded voter education program will be produced in Spanish as well as English.

- HAVA requires that information regarding voters' rights under federal and state law be posted at each polling place. The Board will develop and adopt "The District of Columbia Voters' Rights Notice," a compilation of all relevant federal and District laws. The Board will disseminate the Notice and post a copy on the Board's website.

- Upgrade the Board website to ensure it matches the quality of the best state and local election websites across the country and that it is timely, attractive, user and maintenance-friendly, and information rich. The website should be accessible to blind voters. All information required to be posted at the polling place will also be posted on the Board's website.

- Produce and send a voter education mailer that includes basic information about elections in the District of Columbia, a copy of the District of Columbia Voter's Rights Notice, and the voter registration card to every registered voter. The design of the mailer and the material it is printed on shall encourage voters to keep the mailer for future reference. This mailer/brochure will include all information required to be posted at the polling place. The Board shall also produce an audio version of this publication for distribution to visually impaired voters.

- Send mailers prior to primary and general elections to qualified voters that include sample ballots and nonpartisan information on candidates and ballot measures. This mailer will be modeled on similar materials produced by states that regularly provide nonpartisan information on candidates and ballot measures to voters prior to elections.

- Produce and secure air time for radio and television public service announcements about participation in the elections process.

- Continue and expand outreach to students through the Board's "Youth at the Booth" program.

[8] *See* HAVA, Public Law No. 107-252, § 254 (a)(3) (2002), advising that the plan must describe "[h]ow the state will provide for programs for voter education . . . which will assist the State in meeting the requirements of title III."



## III. The Future of Elections in the District of Columbia[9]

HAVA makes clear that the minimum requirements for voting systems are just that: a minimum. Voters in the District of Columbia deserve an election system that sets the standard for the rest of the country. Accordingly, looking to the long term, the Board will work to achieve the following goals.

*Goal: A fully interactive, electronic voter registration system*
The Board will use HAVA funds to develop a voter registration system that takes full advantage of contemporary database technology.

- The system will be fully interactive, with electronic links to all other city agencies that provide voter registration opportunities. Under this system, new registrations and changes of address conducted at other agencies will be electronically transmitted to the Board for acceptance and processing. The Board will develop procedures to protect voters from problems arising from out-of-date or erroneous information on other databases.

- The system will allow pollworkers to view the database remotely from the polling place.

- The system will feature an improved mechanism for assigning voters to correct precincts and make the information on precinct and polling place more accessible to the voter.

Other changes contemplated for voter registration include:

- Identifying voters with special needs such as alternative language ballots or accessible equipment as part of the registration process.

- Instituting Election Day registration in the District. This process would allow voters to cast a regular ballot on confirming their eligibility at the polling place. The District of Columbia already allows voters to conduct an Election Day Change of Address.

- Purchasing electronic pollbooks at the polling place. This innovation would reduce the cost and effort involved in printing the precinct register and would

[9] *See* HAVA, Public Law No. 107-252, § 254(a)(1) (2002) advising that the plan describe "[h]ow the State will use the requirements payment ... if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections."

speed up the production of the voter history. With proper training, the electronic pollbooks would also speed up voter intake at the polling place on Election Day.

- Identifying and registering felons who are no longer incarcerated. The Board will request that the Parole Board, Court Services and Offender Supervision Agency, halfway houses, and other agencies who handle outreach to ex-convicts make voter registration part of their de-briefing process. In addition, the Board will work with civic organizations to conduct registration and voter outreach to eligible citizens who are incarcerated.

- Encouraging every business that provides services to the citizens of the District to foster voter registration and voter education and encourage their employees to serve as pollworkers.

*Goal: Improved accessibility to in-person voting for voters with disabilities*
While HAVA establishes a requirement for voting systems that are accessible to voters with disabilities, the removal of barriers to the polling place is not included in the new requirements. However, the law does require states to affirm their compliance with other federal laws that address this issue directly. Under the provisions of the "Voting Accessibility for the Elderly and Handicapped Act of 1984,"[10] which became effective January 1, 1986, the Board conducted an extensive program to make its polling places accessible. Initially, making polling places accessible involved a major construction program of building ramps, installation of curb ramps, polling place relocations, and use of alternative entrances and voting areas. This effort is not yet complete. Under § 261 of HAVA, Congress authorized new resources through the Department of Health and Human Services for completing this program. The Board submitted an application for funding under this title in July of 2003.

Currently there are 142 voting locations in the District of Columbia, of which 90 are public facilities and 52 are non-District owned properties.

To ensure compliance with the Americans with Disabilities Act (ADA)[11], as required by HAVA, the Board will undertake to do the following:

- Survey all polling places to determine ADA compliance. The survey should cover paths of travel, ramps, doors, elevators, and any other barriers to the voters' access to the polling place. The results of the survey should identify access issues and a cost estimate to make the polling place ADA compliant.

- Secure a contractor, once access issues are identified, to bring the site into compliance with the ADA.

[10] 42 U.S.C. §1973 ee et seq.
[11] 42 U.S.C. § 12101 et seq.



- Determine the feasibility of using certified portable ramps at select polling places. Ramps should be installed and removed by a professional contractor.

- Establish "intra-District support team" that includes intra-agency contacts such as the Office on Aging and others that can assist Board in addressing accessibility issues.

- Develop brochure for the elderly and disabled that informs them of the services available.

- Ensure pollworkers are available to remedy problems that prevent access, such as locked doors and inoperable elevators.

## IV. FUNDING ELECTION REFORM

***Projected Available Funds for Implementation[12]***

*Title I funding*
Under §101 of HAVA, Congress authorized funding to the states that would be available both for planning purposes and for immediate improvements in election administration. The District of Columbia has received $5 million in early funding under this title. Preliminary calculations by the General Services Administration indicated that the District of Columbia would not be eligible to receive additional funding under §102 of HAVA (the funds available for replacing punch card systems) over the $5 million minimum payment. The Board therefore applied only for funds available under §101 of HAVA. Table 7 details how this early money will be spent.

*Title II funding in FY03 and FY04 and FY05*
Title II of HAVA authorizes Requirements Payments to the states. These payments comprise the bulk of the money authorized in HAVA and are intended to assist the states in meeting the requirements of title III. Funding for these grants, however, was significantly reduced in the FY03 congressional appropriation. The President's budget estimates for the next two years likewise fail to fund election reform at the level authorized by Congress in HAVA; whereas HAVA authorized $1.6 billion in FY 04 and FY05, the President's budget included only $500 million for each year. The budget set forth below is based on the amount appropriated for FY 03 and the President's estimated amounts for the two subsequent years.

[12] *See* HAVA, Public Law No. 107-252, § 254(a)(6) (2002) (advising that the plan include "[t]he 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 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").

The actual proportion of title II grant money allocated to the District of Columbia in FY03 can only be estimated at this time. The Election Administration Commission will administer these grants. The final FY03 appropriation included $810 million available for title II grants. According to the formula established in HAVA, the District of Columbia would be eligible to receive a share equal to one half of one percent of the total amount appropriated to the states in § 252, or $4.05 million. Although this money was appropriated in FY03, it is unlikely to be disbursed until FY04. Accordingly, in the table below, this item is listed as FY03 money even though, in effect, it will be available in FY04.

Assuming that funds appropriated in FY04 and FY05 are in line with the President's reduced funding levels, the District of Columbia would receive $2.5 million in each of these two years.

*Funds available under § 261of HAVA*
HAVA also authorizes funding for improving the accessibility of polling places. The District of Columbia has applied for $100,000 under § 261 of title II of HAVA in order to carry out plans to make every polling place across the city barrier-free for voters with disabilities.

*The District of Columbia's matching fund*
HAVA requires that the state appropriate a match totaling five percent of the funding provided under title II and the match itself. The District of Columbia must therefore match funds granted under title II of HAVA at a rate of 5.26 percent (the match is calculated at five percent of the total of both the title II funds and the state's match). The match is $213,000 in FY03 and $131,500 in both FY04 and FY05. The estimates for title II grants outlined above form the basis for this calculation.

***Maintenance of Effort by the District of Columbia***[13]

In order to ensure that funds authorized by HAVA are not used to supplant funding for elections that would otherwise be appropriated by the state or local election authority, HAVA requires that the District of Columbia provide an amount at least equal to what was spent for the conduct of the 2000 elections. In using any requirements payment, the District of Columbia will maintain expenditures of the Board for activities funded by title I and title II payments at a level equal to or greater than the level of such expenditures in the District of Columbia's FY00 budget. In FY00 the Board's budget totaled $3.5 million.

[13] *See* HAVA, Public Law No. 107-252, §254 (a)(7)(2002) (advising that the plan indicate "[h]ow the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the payment is received").



***Use of Title I Funds***[14]

As stated above, the District of Columbia applied only for funds under § 101 of title I of HAVA. The disbursement of early payments under title I will allow the Board to develop an implementation plan and lay the groundwork for changes called for in this Plan. In effect, since title II money under HAVA will not be available in time to pay for changes needed by the 2004 Presidential Primary – which, in the District of Columbia, will take place January 13, 2004 – the early money will also be used to pay for all new administrative procedures and technology that must be in place by the 2004 General Election. A detailed accounting of how title I funds will be used can be found in Table 7 below.

[14] *See* HAVA, Public Law No. 107-252, §254(a)(10)(2002) (advising that "[i]f the State received any payment under title I, [the plan should include] 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").

| Table 5 – Funding Assumptions (FY03 – FY05) | | | |
|---|---|---|---|
| | FY 03 | FY 04 | FY 05 |
| HAVA Title I (101) | $5,000,000 | | |
| HAVA Title II (252) | $4,050,000* | $2,500,000 | $2,500,000 |
| HAVA Title II (261) | $100,000 | | |
| D.C. matching funds | | $344,530* | $131,500 |
| Maintenance of effort | $3,500,000 | $3,500,000 | $3,500,000 |

* Congress appropriated funding for title II grants in FY03; however, these funds may not be disbursed until the establishment of the Election Assistance Commission. In effect, states will likely receive that money in FY04. If this funding is combined with the actual FY04 appropriation under title II, the District of Columbia match would have to match the combined title II funds.





*Projected Expenditures for Meeting HAVA Title III Requirements*

The grant money available under title II will be used both to bring the District of Columbia into full compliance with title III requirements and to enhance the implementation of changes necessary for meeting the new requirements. The activities listed here are more fully described in Section II, "A Plan for Meeting New Requirements of the Help America Vote Act in the District of Columbia." These expenditures cover both one-time costs, such as modifying the computerized voter registration database, and implementation costs associated with each election from 2004 through 2006.

**Voting system requirements**: Title II funding will be used to pay a little over half the cost of the new DRE voting systems ($355, 470). The Board will pay the remaining cost ($344,530). As noted earlier, following the 2000 election, the District decided to replace its punch card voting systems with the Optech Eagle P III optical scan voting system at an approximate cost of $950,000 (the contract has not yet been finalized).

**Provisional voting and voter information requirements**: While the District of Columbia has long had a safeguard in place to protect voters whose eligibility is in doubt on Election Day (the special ballot and challenge ballot processes), the Board will institute a toll-free telephone system for voters to access information on the disposition of their ballots to comply with the exact process described in HAVA. The Board will procure a toll-free automated phone system and will also make the information available on the Internet through the Board website (estimated cost for this requirement is $100,000). To meet the new requirement to post voter information in each polling place, the Board intends to purchase special display systems for posting the information in an accessible location ($90,000). In addition, the Board will produce instructional videos (with a bilingual audio feature) to run at the polling place on Election Day ($40,000).

**Computerized voter registration system and verification requirements**: To enhance and improve the current computerized voter registration system, the Board plans the following modifications: (1) create interactive links with the databases of other government agencies that accept voter registration applications to facilitate the electronic transfer of voter information, and (2) modify the database and the registration forms to accommodate the new identification information and other required voter registration changes ($500,000). In addition, to enhance compliance with the list-cleaning provisions of § 303 of HAVA, the Board will conduct a program to verify the data assignments ($50,000).

**Voter education**: In order to ensure full compliance with the new voting system requirements, the Board will conduct comprehensive voter education to ensure that voters understand how to operate the voting system properly. This program, which will be conducted in addition to the Board's regular outreach to voters, will include sending sample ballots and non-partisan information about the candidates and ballot measures. All registered voters will receive instructions about the process for recording, casting and replacing a ballot on both optical scan and DRE's, and information about their rights

under both local and federal law. This multi-media education effort will include $1,000,000 for production and distribution of special mailers and $500,000 for voter outreach through television and radio. The Board will also upgrade its website to allow for improved access to voter information, web-casting of voter information, and poll worker training ($200,000).

**Poll worker recruitment and training**: Recognizing that pollworker recruitment will be central to the success of election reforms, the Board will significantly increase resources for pollworker recruitment and training. To increase the number of poll workers per polling place, as required by the Plan, the Board will hire a recruiter and conduct an intensive recruitment campaign ($500,000). The Board will also enhance the pollworker training program to ensure that all Election Day workers understand both the new administrative procedures and the new voting systems ($1,000,000). The training will include hiring a trainer and producing a poll worker training video ($40,000). The cost for the additional pollworkers will be paid from title I funds ($90,000).

**HAVA administration**: To guarantee sound and effective implementation of the new rules and to improve all facets of election administration, the Board will institute new training requirements for Board staff. This training will cover voter registration, election administration, as well as the requirements under local and federal election law. In addition, the Board will institute a certification program for Board staff and provide other professional development opportunities ($300,000).

To conduct the programs described in the Plan, many of which are being undertaken for the first time, will require a significant boost in administrative resources. These resources will cover an organizational review, additional education, training, and changes in staffing and equipment. The Board estimates increasing its capacity by 20 percent in order to implement the new law and make changes called for in the Plan within the timeframe specified by law ($700,000).

To ensure accountability to the public, an evaluation committee will conduct an independent review and evaluation of the implementation of HAVA in the District of Columbia. This effort will include the development of a feedback mechanism to gauge voter responses to changes and innovations ($100,000).



**Table 6 – Estimated Expenditures on Title III Requirements (FY03 – FY05)**

| | HAVA 101 | HAVA 252 | HAVA 261 | 5% match | total cost |
|---|---|---|---|---|---|
| **§301 – Voting System Requirements** | | | | | |
| Purchase of Sequoia Edge DREs | | $355,470 | | $344,530 | $700,000 |
| Purchase of Sequoia Optech Eagle | | | | | $950,000* |
| | | | | | |
| **§302 – Provisional Voting and Voter Information** | | | | | |
| Toll-free telephone access system | | $100,000 | | | $100,000** |
| Voter information materials/equipment | | $90,000 | | | $90,000 |
| | | | | | |
| **§303 – Computerized voter registration and verification requirements** | | | | | |
| Modification of database | | $500,000 | | | $500,000 |
| Verification of data assignments | | $50,000 | | | $50,000 |
| | | | | | |
| **Voter Education** | | | | | |
| Website overhaul | $200,000 | | | | $200,000 |
| Mailings (production and mailing costs)*** | $1,000,000 | | | | $1,000,000 |
| Voter outreach campaign | $500,000 | | | | $500,000 |
| | | | | | |
| **Pollworker recruitment and training** | | | | | |
| Recruitment campaign | $500,000 | | | | $500,000 |
| Pollworker training | | $1,000,000 | | | $1,000,000 |
| Pollworker training video | | $40,000 | | | $40,000 |
| Additional pollworkers | $90,000 | | | | $90,000 |
| | | | | | |
| **HAVA administration** | | | | | |
| Staff training and certification | | $300,000 | | | $300,000 |
| Program management and capacity building (including staffing, travel, equipment and supplies) | | $700,000 | | | $700,000 |
| | | | | | |
| **Evaluation** | | $100,000 | | | $100,000 |
| | | | | | |
| **Total** | **$2,290,000** | **$3,235,470** | | **$344,530** | **$5,870,000** |

**Notes on Table 6:**

*Funding for the optical scan voting system was appropriated in FY01; the contract has not yet been finalized so this figure is approximate and included here for informational purposes and not included in the total.

**Creating the toll-free access system will be a modification to the computerized statewide database system; the amount is separated in this chart for informational purposes.

***The amounts for voter education include voter education efforts necessary for compliance with § 301 of HAVA – a targeted education effort to voters voting paper ballots without over-vote protection or ballot review – and discretionary voter education programs.

***Estimated Expenditures for Improved Election Administration***

Over and above implementing new federal requirements, the Board will use funding available under HAVA to modernize and improve key components of the District's election system by implementing the following changes.

**Multi-lingual ballots**: The Board intends to offer ballots in Spanish in every polling place beginning in 2004. The DRE systems will also be programmed to offer Spanish speakers the option of a Spanish-language ballot ($40,000).

**Improved accessibility for voters with disabilities**: The Board will use funds available from the Department of Health and Human Services under §261 of HAVA to (1) improve the accessibility of polling places ($15,000); (2) purchase aids for voters with disabilities ($30,000); (3) produce a training video and manual on the needs of voters with disabilities ($25,000); and (4) produce additional brochures and information for voters with disabilities ($30,000).

**Improvements to polling place operations**: To improve polling place operations and reduce the need for special ballots, the Board will provide access to the entire voter registration list at each polling place ($142,000). In addition, to facilitate the Election Day Change of Address and speedier voter intake, the Board will move to electronic poll books ($600,000).



**Table 7 – Estimated Expenditures for Improved Election Administration (FY03 – FY05)**

| | HAVA 101 | HAVA 252 | HAVA 261 | 5% match | total cost |
|---|---|---|---|---|---|
| **Multilingual Ballots** | | | | | |
| Election materials | $40,000 | | | | $40,000 |
| | | | | | |
| **Polling place accessibility** | | | | | |
| Improving accessibility of the polling place | | | $15,000 | | $15,000 |
| Voting aids for voters with disabilities | | | $30,000 | | $30,000 |
| Video & manual on needs of voters w/ disabilities | | | $25,000 | | $25,000 |
| Information for voters with disabilities | | | $30,000 | | $30,000 |
| | | | | | |
| **Computerized voter registration list** | | | | | |
| Electronic access to entire list at polling place | $142,000 | | | | $142,000 |
| Electronic poll books | | $600,000 | | | $600,000 |
| | | | | | |
| **Total** | **$182,000** | **$600,000** | **$100,000** | | **$882,000** |

***Management of HAVA Funds***[15]

The District of Columbia Board of Elections and Ethics is an independent agency that, historically, receives its funds from local revenue. Upon receiving the $5 million in title I funding, the District of Columbia's Chief Financial Officer ("CFO") established an interest-bearing treasury account for the management of all funds – both the federal funds and the local match – related to implementation of HAVA. This fund will consist of the following amounts:

- amounts appropriated by the District of Columbia for meeting the requirements of HAVA and other activities described in the Plan;
- amounts appropriated to the District of Columbia under title I and title II of HAVA;
- interest earned on the deposits.

These funds will be monitored for programmatic compliance by the CFO through the Office of Finance and Resource Management, which currently serves, by mutual

[15] *See* HAVA, Public Law No. 107-252, § 254(a)(5)(2002) (advising that the plan indicate "[h]ow 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").

agreement, as the Board's budget entity. The fund will be managed on behalf of the Board by the District of Columbia Treasurer. Consistent with the requirements of §902 of HAVA, the Treasurer will maintain records fully disclosing the amount and disposition of funds, the total cost of the project or undertaking supplied by other sources, and other records to facilitate an effective audit.

All requisitions related to activities for meeting the requirements and other activities defined in the Plan will be recorded as such for audit purposes. By regulation, any purchase above $25,000 by the Board will be transacted by the Office of Procurement and Contracts and will require an open bid process; the same limitation will hold for HAVA-related expenditures.

## V. Ensuring Accountability to the Voters

***Performance Goals and Measures***[16]

While the Board is responsible for ensuring the success of HAVA implementation, the voters of the District of Columbia will be the final arbiters of success or failure in implementing the State Plan. Accordingly, the Board will seek the public involvement in an independent committee to evaluate the Board's implementation effort.

Following final adoption of the Plan, the Board will convene selected stakeholders in the District of Columbia elections process to participate in an evaluation committee charged with evaluating implementation of the Plan. As a part of this public process, the Board will develop a feedback mechanism to gauge public reactions to reforms implemented in the 2004 general election.

The evaluation committee, which will be supported by the Board, will develop criteria to evaluate the success in meeting the performance goals based on the requirements of title III that are described below. The evaluation committee will draft a report that will include recommendations for future elections. The evaluation committee will make the draft report publicly available and solicit public comment at a public hearing. This evaluation process will be conducted biennially until implementation of HAVA is complete.

[16] *See* HAVA, Public Law No. 107-252, § 254(a)(8) (2002) (advising that the plan include a description of "[h]ow 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."



To evaluate the uniformity of implementation across the District of Columbia, the Board will develop an Election Day review process. Components of the review are described below.

*Performance Element #1: Transition to HAVA-Compliant Voting Systems*
The District of Columbia initiated the process of modernizing its voting systems prior to the 2002 elections. The 2004 General Presidential Election will inaugurate voting systems that are fully compliant with the voting system requirements in HAVA. Responsible official(s): Election Administration, Data Management.

| | |
|---|---|
| Performance Goals | (1) Implement voter education program on use of the optical scan and DRE voting systems and, (2) ensure a smooth transition for new accessible voting systems. |
| Performance Measures | A feedback mechanism will gauge voter responses to the new voting systems (both the optical scan and the DRE systems) and educational information about their use. The evaluation committee will seek to measure the following:<br>▪ availability and usefulness of voter information on use of the machines; and<br>▪ quality of information on use of the machines. |
| Timeline | Implementation date: 2004 Presidential General Election |

*Performance Element #2: Administration of Special Ballots*
While the District of Columbia already administers a provisional ballot process using special ballots, some of the details must be altered to make the process consistent with the requirement as described in HAVA. The provisional ballot application must be modified and a free-access system developed that will allow voters to access information on the disposition of their ballots. In addition, § 302 of HAVA requires that the Board post voter information detailed in the Plan at each polling place. Responsible official(s): Registrar of Voters; Data Management.

| | |
|---|---|
| Performance Goal | Ensure no qualified voter is turned away without being given the opportunity to cast a ballot. |
| Performance Measures | (1) Develop reporting procedures to measure:<br>▪ number of special ballots cast at each polling place;<br>▪ number of special ballots accepted and rejected;<br>▪ reasons ballots were rejected; |

| | |
|---|---|
| | ▪ number of voters who accessed toll-free information system.<br>(2) An Election Day review will measure consistency and uniformity of administration practice across the jurisdiction. |
| Timeline | Implementation date: 2004 Presidential Primary |

*Performance Element #3: Modification of Voter Registration List and Verification Procedures*
The District of Columbia currently maintains its voter files using a single, official, computerized database system that is updated in accordance with requirements established under the NVRA. The Board will verify all data assignments and the system will be modified to include the information required under § 303 of HAVA. Voter information will be matched against records maintained by the District of Columbia Department of Motor Vehicles prior to the 2004 Presidential Primary. The official list at the polling place will include the names of both inactive and active voters. Responsible official(s): Chief Technology Officer.

| | |
|---|---|
| Performance Goals | Verify all data assignments. Modify registration database to include new required information fields. Match voter records against DMV records. Provide list of all registered voters, active and inactive, at polls on Election Day. |
| Performance Measures | (1) Develop reporting procedures to measure:<br>▪ accuracy of matches between voter list and DMV records;<br>▪ number of inactive voters allowed to vote special ballots.<br>(2) An Election Day review will measure consistency of administrative practice across the jurisdiction. |
| Timetable | Implementation date: 2004 Presidential Primary.<br>(Deadline for implementation of § 303 (a)(5) is January 2003.) |

*Performance Element #4: Verification of First-time Voters Who Register by Mail*
Legislation is pending and administrative procedures are being modified to allow for the verification of the identity of first-time voters who register by mail. Responsible official(s): Registrar of Voters, Chief Technology Officer.



| | |
|---|---|
| Performance Goal | Ensure smooth implementation of new registration and identification requirements. |
| Performance Measure | Develop reporting procedures to measure:<br>▪ the number of first-time, mail-in registrants verified prior to Election Day by matching voter information with other records;<br>▪ the number of such voters required to present ID at the polls;<br>▪ the number of such voters without required ID who cast a special ballot. |
| Timetable | Implementation date: 2004 Presidential Primary |

*Performance Element #5: Creating an Informed Electorate*
Under § 301 of HAVA, the Board is required to educate voters on the use of voting systems. Under § 302 of HAVA, the Board is required to post voter information detailed in the Plan at each polling place. Beyond these minimum requirements for voter education, the Board will undertake multiple discretionary voter education activities outlined in the Plan. Responsible official(s): Election Administration; Public Information; Chief Technology Officer.

| | |
|---|---|
| Performance Goal | Develop educational activities and materials to create an electorate that is better informed on how to participate in the elections process. Provide required information on administrative procedures and new voting systems in a voter-friendly and accessible format at each polling place. |
| Performance Measures | (1) Feedback mechanism will gauge voter responses to voter information and evaluate quality and availability of:<br>▪ pre-election day mailing of voter instructions and non-partisan 'Voter's Guide' on candidates and ballot measures;<br>▪ overhaul of the Board's website;<br>▪ the "How to Vote" instructional video.<br>(2) An Election Day review will measure consistency of administration practice and posting of voter information across the jurisdiction. |

| | |
|---|---|
| Timeline | Implementation date: Mailers produced for both 2004 Presidential Primary and 2004 Presidential General Election; website overhaul and instructional video implemented prior to 2004 Presidential Primary. |

*Performance Element #6: Recruiting and Training Pollworkers*
None of the above requirements that affect the conduct of elections can be carried out successfully without pollworkers who understand the new requirements and are prepared for the unique challenges presented by the 2004 election. Under the Plan, pollworkers will have additional duties. At the same time there will be more pollworkers to handle the new tasks. Responsible official: Election Administration.

| | |
|---|---|
| Performance Goal | Conduct a vigorous campaign to recruit sufficient number of pollworkers. Design and conduct training to educate pollworkers on new voting systems and new administrative procedures. |
| Performance Measures | (1) Number of pollworkers recruited.<br>(2) Beta testing will be used to evaluate training program and materials prior to full implementation.<br>(3) An Election Day review will measure consistency of administrative practices across the jurisdiction.<br>(4) The evaluation committee will review complaints registered on Election Day. |
| Timetable | Implementation date: 2004 Presidential Primary |

*Performance Element #7: Expanding the Capacity of the Board*
The Board will institute new training requirements for Board staff and develop a certification program. This training will cover voter registration, election administration, as well as the requirements under local and federal election law. Responsible official(s): Election Administration; Resource Management.

| | |
|---|---|
| Performance Goal | Develop a certification and training program for Board staff to assure compliance with federal and District law. |
| Performance Measures | (1) Evaluation of Board's financial record-keeping.<br>(2) Evaluation of Board's adherence to procurement regulations and bid process.<br>(3) Evaluation of Board's disclosure of financial records. |



| | |
|---|---|
| Timetable | Implementation date: 2006 General Election |

*Performance Element #8: HAVA Fund Management*
Under HAVA, the Board will be subject to a federal audit of funds received. In addition, the evaluation committee will review the management of the funds received and expended to ensure their use was consistent with the Plan. Responsible official(s): Resource Management; Election Administration.

| | |
|---|---|
| Performance Goal | Manage HAVA election reform fund in a manner consistent with accounting standards. |
| Performance Measures | (1) Evaluation of Board's financial record-keeping.<br>(2) Evaluation of Board's adherence to procurement regulations and bid process.<br>(3) Evaluation of Board's disclosure of financial records. |
| Timetable | Implementation date: April 2003 and continuing until resources are depleted. |

*Performance Element #9: Improving Access for Voters with Disabilities*
The Board has been working with the Disability Rights Council to eliminate barriers to polling places for voters with disabilities. In addition, in the 2004 Presidential Primary, the Board will provide, for the first time, voting systems that are fully accessible to voters with disabilities. Responsible official: Logistical Support; Election Administration.

| | |
|---|---|
| Performance Goal | Guaranteeing access to polling places and voting systems across the District of Columbia. Carrying out all activities described in the application for title II grant monies available under § 261 of HAVA. |
| Performance Measures | (1) Develop feedback mechanism to gauge response of the disability community to the new voting system, accessibility of the polling place, new voter aids, and the availability and quality of information to voters with disabilities.<br>(2) Develop reporting procedures to record complaints from voters with disabilities concerning polling place access. |
| Timetable | Implementation date: 2004 Presidential Primary |

*Performance Element #10: Compliance with provisions under title VII for voters covered by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).*

In title VII, HAVA established new requirements for registering and corresponding with voters covered under UOCAVA. See Appendix B for a detailed listing of these provisions and how the Board plans to meet the new requirements. Responsible official(s): Registrar; Program Specialist, Voter Services.

| | |
|---|---|
| Performance Goal | Tracking absentee ballots transmitted and received by voters after the general election (§703). Extending the absentee ballot application period for UOCAVA voters (§704). Informing overseas voters of reasons the registration application was rejected (§707). |
| Performance Measures | Develop reporting mechanism to track:<br>• Absentee ballots sent to UOCAVA voters;<br>• Mailings to UOCAVA voters. |
| Timetable | Report on overseas absentee ballots will be issued within 90 days after the 2004 Presidential Election; the requirement to extend the period covered by an absentee ballot request under UOCAVA will go into effect for the 2006 General Election; requirement to notify applicant of rejection and reason will be implemented within 20 days following the 2004 Presidential Election. |

***Ongoing Management of the Plan*[17]**

The Plan provides a roadmap for implementation of HAVA in its entirety. The District of Columbia's Chief Election Official (CEO) will have primary responsibility for carrying out the elements of the Plan. This responsibility includes the following:

- meeting the timelines specified in the Plan;
- monitoring all expenditures and ensuring that costs do not exceed available funds;
- adhering to the process for amending the Plan described in § 254(a)(11) of HAVA;
- ensuring a process that is accountable and open to public scrutiny.

In addition, the CEO will implement any recommendations developed in the evaluation process described above.

***Enforcing HAVA*[18]**

In addition to providing an independent public process for evaluating the Board's efforts to implement the Plan, the Board intends to develop procedures for resolving complaints concerning the conduct of elections, the implementation of the new federal law and, in particular, alleged violations of the "Uniform and Non-Discriminatory Requirements" described in title III.

*An Election-Day Hotline for Public Complaints*
Continuing a practice established in previous elections, the Board will develop and staff special phone lines on Election Day to handle – and record – complaints from voters, candidates, party representatives and others concerning the conduct of the election. Reporting procedures will be developed to record complaints specific to implementation of HAVA. A post-Election Day examination of the complaint record will be included in the report of the evaluation committee.

*Public Hearing Process for Alleged Violations of Title III of HAVA*
A proposed rulemaking amends the District of Columbia Municipal Regulations to include the following procedure as required by § 402 of HAVA. Complainants alleging a violation of title III of HAVA by the CEO shall file notarized complaints with the Board. The Board may consolidate complaints if they relate to the same actions or events or raise common questions of law or fact.

At a public hearing, the Board will determine if there is a violation of any provision of title III of HAVA. If the Board determines a violation has occurred, it will provide an appropriate remedy. If the Board determines there is no violation, it will dismiss the complaint and publish the results of the hearing.

The Board is required to render final determinations regarding alleged violations prior to the expiration of the 90-day period that begins on the date the complaint is filed, unless the complainant consents to a longer period. If the Board fails to meet the applicable deadline, the complaint shall be resolved within 60 days by means of the alternative dispute resolution process described below.

[17] *See* HAVA, Public Law No. 107-252, § 254(a)(11) (2002) (advising that the plan describe "[h]ow 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).")

[18] *See* HAVA, Public Law No. 107-252, § 254(a)(9) (2002) (advising that the plan describe "the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.")

*Alternative Dispute Resolution Process*

If the Board fails to resolve an alleged violation of HAVA under title III, the Board's proposed rulemaking establishes alternative dispute resolution procedures as required under § 402 of HAVA. The CEO and the complainant will each select an arbiter who shall jointly agree on a third arbiter. Following a review of the record, the panel of arbiters shall determine an appropriate resolution by a majority vote within 60 days. The final decision will be published on the Board's website and mailed to the complainant.

## Appendix A

D.C. State Planning Committee

In March of 2003, the Board invited citizens and representatives of organizations with a stake in elections in the District of Columbia to become part of the D.C. State Planning Committee. The Planning Committee was charged with producing a roadmap for implementing HAVA and for the future of elections in the District of Columbia.

Subcommittees developed recommendations on voting systems, voter registration, voter education, pollworker recruitment and training, and accessibility to the electoral process by voters with disabilities. These recommendations can be found on the Board's website at http://www.dcboee.org. The subcommittee recommendations form the core of the Plan.

Following publication of the Preliminary Plan in the *District of Columbia Register*, the Board solicited and received public comments both in writing and at a public hearing held on July 5th. The Preliminary Plan was also posted on the Board's website. Following the one-month comment period, the Board reviewed all comments and incorporated suggested changes. A final version of the Plan will be published in the *Federal Register*, as required in § 256 of HAVA.

Fred Allen
Metropolitan Washington Council AFL-CIO

Marc Battle
Councilmember Orange's Office

Linda Black
National Federation for the Blind, D.C. Chapter

Dorothy Brizill
Registered Voter

Alethea Campbell
D.C. Office on Aging

Bobby Coward
Paralyzed Veterans of America

James Dickson
American Association of People with Disabilities

Craig Engle
D.C. Republican Committee



Kathryn Fairley
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Michael Piacsek
D.C. Statehood Green Party

Rahul Randhava
Leadership Conference on Civil Rights

Linda Royster
Disability Rights Council

Sandra Seegars
Registered Voter

Tracy Warren
International Foundation for Election Systems

Daniel Wedderburn
D.C. Democratic State Committee





## Appendix B

### Protecting the Voting Rights of Military Members and Overseas Citizens

In addition to the requirements of title III, title VII of HAVA includes new requirements for the administration of absentee ballots for military and overseas citizens. The following table describes the status of compliance in the District of Columbia with title VII requirements.

| Table 8 – Compliance with Title VII Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| **Section 703. Report on Absentee Ballots Transmitted and Received After General Elections**<br>(a) Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by section 702, is amended by adding at the end the following new subsection:<br>'(c) Report on number of absentee ballots transmitted and received. Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2002) on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such report available to the general public.'. | | X | Legislation is pending to meet this requirement. |

| Table 8 – Compliance with Title VII Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| **Section 704. Extension of Period Covered by Single Absentee Ballot Application**<br>The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 is amended by requiring that such voters remain registered through the next 2 regularly scheduled general elections for Federal office (including any runoff elections which may occur as a result of the outcome of such general elections), and receive ballots for each such subsequent election. | | X | Legislation and proposed rulemaking to meet this requirement are pending. |
| **Section 706. Prohibition of Refusal of Voter Registration and Absentee Ballot Applications on Grounds of Early Submission**<br>(a) The Uniformed and Overseas Citizens Absentee Voting Act as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 is amended by adding at the end the following new subsection:<br>(e) PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION- A State may not refuse to accept or process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the postcard form prescribed under section 101) submitted by an absent uniformed services voter during a year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.'. | X | | |
| **Section 707. Other Requirements to Promote Participation of Overseas and Absent Uniformed Services Voters**<br>The Uniformed and Overseas Citizens Absentee Voting Act, as amended by the preceding provisions of this title, is amended by adding at the end the following new subsection:<br>(d) REGISTRATION NOTIFICATION- With | | X | Legislation and proposed rulemaking to meet this requirement are pending. |



| Table 8 – Compliance with Title VII Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| respect to each absent uniformed services voter and each overseas voter who submits a voter registration application or an absentee ballot request, if the State rejects the application or request, the State shall provide the voter with the reasons for the rejection. | | | |

## Appendix C

## Glossary of Terms

**Chief Election Official (CEO)**: Executive Director of the District of Columbia Board of Elections and Ethics.

**District of Columbia Board of Elections and Ethics ("Board")**: the independent agency charged with administering elections in the District of Columbia.

**District of Columbia State Planning Committee**: the District of Columbia State Planning Committee, a body comprised of stakeholders in District elections (see Appendix A). The Planning Committee was charged with making recommendations for implementation of HAVA in the District of Columbia

**District of Columbia Voters' Rights Notice**: This document, to be produced by the Board, will provide information on voting rights under applicable Federal and District laws (the District of Columbia Voter's Rights Notice), including information on the right of an individual to cast a provisional (special) ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.

**Election Assistance Commission (EAC)**: HAVA establishes a new federal agency to administer the funds authorized and to provide voluntary guidance on the new federal requirements. The bi-partisan Commission is made up of four full-time members appointed by the President.

**Federal Election Commission (FEC)**: Under the National Voter Registration Act, the Federal Election Commission's Office of Election Administration provides guidance on NVRA, administers the voluntary Voting System Standards and the federal mail-in registration form. This office will be transferred to the new Election Assistance Commission once established.

**National Voter Registration Act (42 U.S.C. § 1973gg et seq.)**: The National Voter Registration Act (NVRA), enacted in 1993, sought to expand the opportunity to register by requiring states to allow voters to register at the department of motor vehicles and other social service agencies to accept voter registration applications by mail.

**Provisional voting**: A form of voting in which a voter whose eligibility is in question casts a ballot that is counted once eligibility has been determined. In the District of Columbia, these voters cast "special ballots."

**State Plan**: HAVA requires that states develop, in consultation with the Planning Committee (see above), a plan for how it will achieve compliance with the requirements of HAVA using HAVA-authorized funds.



**Statewide voter registration list**: a single, computerized database for storing and managing the records of all legally registered voters managed and administered at the state level. In the District of Columbia, this list contains the names of all legally registered voters in the District.

**Title I Funds**: Under title I of HAVA, Congress authorized $650 million in money to be administered through the General Services Administration to pay for replacing punch card and lever machines and to make immediate improvements in election administration. Each state was guaranteed a minimum of $5 million under this title.

**Title II Funds**: Under Title II of HAVA, Congress authorized $3 billion to be allocated to the states according to a formula based on voter population. These "requirements payments" are administered by the Election Assistance Commission once established. The funds are to be used to bring states into compliance with the new federal requirements.

**Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.)**: This law established certain requirements to protect the rights of military and overseas voters by allowing them to register and vote absentee.

# STATE OF FLORIDA
# HAVA PLAN

*As required by the*

HELP AMERICA VOTE ACT
OF 2002 (HAVA)

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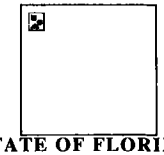

**STATE OF FLORIDA**
**DEPARTMENT OF STATE**

JEB BUSH
*Governor*

GLENDA E. HOOD
*Secretary of State*

July 21,2003

Dear Election Assistance Commission:

As Chief Election Officer of the State, I am pleased to present the State of Florida HAVA Plan developed pursuant to the Help America Vote Act of 2002. This plan represents Florida's long-range plan for implementing the federal Act, which requires all states to significantly reform the way they conduct elections. As the plan indicates, Florida has already met many of the requirements of HAVA.

Florida's plan was developed through the Help America Vote Act Planning Committee, a group of dedicated individuals representing various constituency groups throughout the State. The plan sets forth the goals of achieving compliance with HAVA and for continuing to improve the elections process in the State of Florida. I commend the Committee for its hard work and diligence in producing the Plan.

As part of the Plan, the Committee was tasked with developing a budget based on the projected federal funds that the State would receive. The Committee considered only those funds projected to be received for the 2003 federal fiscal year. I, along with other election officials throughout the State, encourage Congress to continue the necessary funding to fully implement the requirements of HAVA. Both the State and counties have already spent significant funds to replace outdated voting systems. HAVA allows certain reimbursements for these expenditures and I fully support reimbursement to the State and counties where permissible under the Act. We will continue to examine the possibility of further reimbursement to the state as permitted by HAVA.

This plan recognizes that additional resources are required in order for our Supervisors of Elections to provide continuing voter education to the citizens of the State, to recruit qualified poll workers, and to provide the necessary training for those workers. As Chief Election Officer, I am committed to working closely with and supporting our Supervisors as we continue to ensure Florida voters have every confidence that their vote counts.

Florida will revise and update the plan as necessary to reflect the progress made in implementing HAVA and to chart the future goals and plans for elections. We look forward to continuing our election reform efforts to make this state the model for elections reform throughout the nation.

Glenda E. Hood

Glenda E. Hood
Secretary of State

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## Introduction

Since the aftermath of the General Election of 2000, Florida has led the nation in its election reform efforts to ensure that every registered voter should have the opportunity to vote and to ensure that every vote counts.

The goal is perfection. Reaching that goal in an ever changing democracy and within a diverse population is an ongoing task that requires constant experimentation and learning. The people and the leadership of Florida have dedicated themselves to this course of action.

The struggle for improving our election process reveals itself in many ways. Citizens have increased their involvement by serving on local and State election task forces, researching new voting technologies, debating new standards for poll worker training, increasing voter education opportunities, and registering new voters. The people of Florida continue to make election reform a top priority.

The leadership of Florida has also acted decisively. Florida has enacted legislative and local reforms during the last two years that lead the nation. These reforms include cutting-edge voting system standards, millions of dollars for new voting technology, expanded voter education efforts, and thousands of newly trained poll workers. A statewide poll taken the day of the 2002 General Election found that Floridians gave high marks to the election reform changes including a 91% "excellent-good" rating for poll workers and an 88% confidence rating from voters that their votes will count. These results are not "perfect," but Florida is moving in a positive direction to make all facets of the election process better each time an election is held.

With the passage and signing of the Help America Vote Act of 2002 (HAVA) on October 29, 2002, election reform will spread throughout the nation. The new federal law asks States to develop election reform plans that will improve election administration in many areas. Florida embraces the new federal law and hopes that other States will use it as an opportunity to share new election reform ideas and practices with one another.

The people of Florida have learned many things about election reform. Yet, there are enduring principles which are reflected within many recommendations and changes of Florida's election reform efforts. These principles were developed by Florida's first task force in the aftermath of the 2000 General Election:

**Enduring Principles of Elections**

- **Elections are first and foremost acts of millions of individual people: citizens who register and vote; candidates who offer themselves and their platforms for public**

**judgment; poll workers who put in long days at precincts; and election officials who supervise the process. Honest, responsible, intelligent people will make most technology systems work well.**

- **Voting should be a simple, convenient and friendly process that encourages each citizen to express his or her choices.**
- **Voting systems should be designed to determine voter intent, to the extent that is humanly possible.**
- **Voting methods for statewide and national elections should meet uniform standards and national standards for fairness, reliability and equal protection of voting opportunity.**
- **Elections must meet two competing objectives: certainty (making every vote count accurately) and finality (ending elections so that governing can begin).**
- **While voting should be individual and private, procedures for counting and challenging votes should be open, transparent, and easily documented to ensure public confidence in the results.**

Fulfilling the promises of these enduring principles will require continued vigilance and action. With this HAVA Plan, Florida continues its journey to mount an increasingly open and fair system of determining the will of the people.

The Help America Vote Act of 2002 requires all States to develop and implement a statewide plan. Listed below are the thirteen primary elements that must be addressed in the plan.

**Help America Vote Act of 2002 (HAVA)**
Public Law 107-252 – October 29, 2002

SEC. 254. STATE PLAN.
(a) IN GENERAL.—The State plan shall contain a description of each of the following:

**Element 1.**

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

**Element 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).

**Element 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.

**Element 4.**

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

**Element 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.

**Element 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.

**Element 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.

**Element 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.

**Element 9.**

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

**Element 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.

**Element 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).

**Element 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.

**Element 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.



## Element 1. Use Of Title III Requirements Payments:
## A. Voting Systems

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

**Introduction**

Following the 2000 General Election, the people of Florida made a concerted effort to improve all facets of its election procedures, standards and voting systems. The first major changes were the recommendations advanced by the 2001 Governor's Select Task Force on Election Procedures, Standards and Technology followed by the passage of the Florida Election Reform Act of 2001. A central component of Florida's new election law mandated the replacement of punch card voting systems, lever machines, paper ballots and central count optical scanning systems with precinct tabulated Marksense voting systems or the Direct Recording Electronic voting systems. The new voting systems were put into service to reduce voter error, to improve tabulation accuracy, and to restore voter confidence in Florida's elections.

Florida has adopted voting system standards which meet and exceed standards established by the Federal Election Commission. Florida's voting system standards are reviewed every two years to determine whether they are adequate and effective in carrying out fair and impartial elections. The Bureau of Voting Systems Certification within the Department of State has statutory authority to adopt rules which establish minimum standards for voting systems purchased and used in Florida. Florida's 67 counties have authority to purchase and to maintain the appropriate certified voting system for their registered voters. During the last two years, the State of Florida has provided $24 million to assist counties in purchasing new certified voting systems.

Only two types of voting systems are certified for use in Florida's 67 counties— Direct Recording Electronic (DRE or "touchscreen") voting systems and Marksense with precinct-based tabulation.

There are three manufacturers who have certified voting systems for use in Florida: Diebold; Elections Systems and Software, Inc. (ES&S); and Sequoia Voting Systems, Inc. (SP). Members of the HAVA Planning Committee noted that the certified Diebold voting system currently does not allow visually impaired voters to independently or to privately vote and this is addressed later under Section 301(a)(3)(A) and Section 301(a)(3)(B). The following chart details the types of voting systems used in Florida, the respective manufacturer, and the number of counties using the voting systems.

**DRE Voting Systems ("touchscreen")
And Number of Florida Counties in Use
For Precinct Voting**

| DRE VOTING SYSTEM MANUFACTURER | COUNTIES (PRECINCT VOTING) |
|---|---|
| ES&S Voting System Release 3 | 6 |
| ES&S Voting System Release 4.2 | 5 |
| SP AVC Edge Voting System | 4 |
| TOTAL | 15 |

**Marksense Voting Systems ("optical scanning")
And Number of Counties in Use
For Precinct and Absentee Voting**

| MARKSENSE VOTING SYSTEM MANUFACTURER | COUNTIES (PRECINCT VOTING) | COUNTIES (ABSENTEE VOTING) |
|---|---|---|
| Diebold AccuVote ES 2001 B | 30 | 30 |
| ES&S Voting System Release 1.1 | 2 | 2 |
| ES&S Voting System Release 2.1 | 1 | 1 |
| ES&S Voting System Release 3 | 4 | 10 |
| ES&S Voting System Release 3.2 | 1 | 1 |
| ES&S Voting System Revised Release 3.1 | 3 | 3 |
| ES&S Voting System Release 4.2 | 3 | 8 |
| ES&S Optech IIIP Eagle | 2 | 2 |
| ES&S Optech IIIP/Optech IVC | 5 | 5 |
| SP Optech III-P Eagle | 1 | 1 |
| SP AVC Edge Voting System | 0 | 4 |
| TOTAL | 52 | 67 |

The Help America Vote Act of 2002 (HAVA) establishes new minimum requirements for administering federal elections. These new voting system requirements are found in Title III of the federal law. The new requirements shape the performance and the administration of voting systems. Florida is in compliance with many of these new federal directives and these are addressed in the HAVA State Plan.

Section 301(a) of HAVA requires that Florida's voting systems meet the following requirements by January 1, 2006. Florida will be in compliance with all of these requirements by the federal deadline of January 1, 2006.



**Section 301(a) Voting System Standards and Requirements**

**Section 301(a)(1)(A)(i): Do Florida's voting systems permit the voter to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted?**

**Yes, and no further actions are required.**
Section 101.5606(1), *Florida Statutes*, states that no voting system in Florida shall be approved by the Department of State unless it "permits and requires voting in secrecy."

Florida Voting System Standards (April 2002) state that "the voter must be able to review the candidate selections, which he or she has made. Prior to the act of casting a ballot, the voter must be able to change any selection previously made and confirm the new selection." (p. 21)

Florida Voting System Standards (April 2002) state that the voting function standards applicable to all Electronic Voter Interfaces must provide "after the initial instructions, which the system requires election officials to provide to each voter, the voter should be able to independently operate the voter interface through the final step of casting a ballot without assistance." (p. 20)

**Section 301(a)(1)(A)(ii): Do Florida's voting systems provide the voter with the opportunity in a private and independent manner to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct the error)?**

**Yes, and no further actions are required.**
Florida Voting System Standards (April 2002) state that "the voter must be able to review the candidate selections, which he or she has made. Prior to the act of casting a ballot, the voter must be able to change any selection previously made and confirm the new selection." (p. 21)

Section 101.5606(12), *Florida Statutes*, requires that electronic voting systems should "permit each voter to change his or her vote for any candidate or upon any question appearing on the official ballot up to the time that the voter takes the final step to register his or her vote and to have the vote computed."

Section 101.5608(2)(b), *Florida Statutes*, requires that "Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. If the vote tabulation device has rejected the ballot, the ballot shall be considered spoiled and a new ballot shall be provided to the voter unless the voter chooses to cast the rejected ballot. The election official, without examining the original ballot, shall state the possible reasons for the rejection and shall provide

instruction to the voter pursuant to s. 101.5611. A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in the envelope."

Section 101.5611(1), *Florida Statutes*, requires that the "supervisor of elections shall provide instruction on the proper method of casting a ballot for the specific voting system utilized in that jurisdiction. Such instruction shall be provided at a place which voters must pass to reach the official voting booth."

**Section 301(a)(1)(A)(iii): If the voter selects votes for more than one candidate for a single office, do Florida's voting systems: (1) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (2) notify the voter before the ballot is cast and counted of the effect of casting the multiple votes for the office; and (3) provide the voter with the opportunity to correct the ballot before the ballot is cast?**

**Yes, and no further actions are required.**
Section 101.5606(3), *Florida Statutes*, requires voting systems to immediately reject "a ballot where the number of votes for an office or measure exceeds the number which the voter is entitled to cast or where the tabulating equipment reads the ballot as a ballot with no votes cast."

Section 101.5606(4), *Florida Statutes*, requires that systems using paper ballots accept a rejected ballot if the voter chooses to cast the ballot after it has been rejected, but the ballot will record no vote for any office that has been overvoted or undervoted.

Section 101.5608(2)(b), *Florida Statutes*, provides that "Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. If the vote tabulation device has rejected the ballot, a ballot shall be considered spoiled and a new ballot shall be provided to the voter unless the voter chooses to cast the rejected ballot. The election official, without examining the original ballot, shall state the possible reasons for the rejection and shall provide instruction to the voter pursuant to s. 101.5611. A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in an envelope."

Section 101.5611(1), *Florida Statutes*, requires that the "supervisor of elections shall provide instruction on the proper method of casting a ballot for the specific voting system utilized in that jurisdiction. Such instruction shall be provided at a place which voters must pass to reach the official voting booth."

Florida Voting System Standards (April 2002) state that "the system must prevent the voter from over voting any race." In addition, "there must be a clear, identifiable action, which the voter



takes to 'cast' the ballot. The system must make clear to the voter how to take this action, such that the voter has minimal risk of taking the action accidentally, but when the voter intends to cast the ballot, the action can be easily performed." (p. 21)

Florida Voting System Standards (April 2002) state that "Marksense systems shall reject blank ballots and ballots with overvoted races. Electronic voter interfaces shall prevent a voter from overvoting a race, and shall provide a means of indicating, to the voter, any races that may have been undervoted before the last step necessary to cast the ballot." (p. 22)

**Section 301(a)(1)(B): Does Florida's mail-in absentee and mail-in ballot process meet the requirements of subparagraph (A)(iii) by: (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple ballots for an office; and (ii) providing the voter instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error)?**

**Partially meets, and further actions are required.**

The Florida Legislature has amended Section 101.65, *Florida Statutes*, to require the instructions for absentee voters to include the following language:

*Mark only the number of candidates or issue choices for a race as indicated on the ballot. If you are allowed to "Vote for One" candidate and you vote for more than one candidate, your vote in that race will not be counted.*

**Planned action before January 1, 2006:**
In addition, the Division of Elections will update Rule 1S-2.032, *Florida Administrative Code (F.A.C.)*, (Uniform and General Election Ballot Design) which will make it clear to absentee voters how to correct their ballots and how to request a replacement ballot if the voter is unable to change or correct the original ballot.

The HAVA Planning Committee also suggested that absentee voters should be given clear notification that the deadline for submitting absentee ballots is by 7:00 p.m. of election night and that mailing the ballot may not ensure that it will arrive in time to be counted.

**Section 301(a)(1)(C): Does Florida's absentee and mail-in ballot process preserve the privacy of the voter and the confidentiality of the ballot?**

**Yes, and no further actions are required.**
Section 101.65, *Florida Statutes*, requires supervisors of elections to enclose with each absentee ballot a separate printed instruction form, a secrecy envelope, a Voter's Certificate and a mailing envelope. The instructions provide the following guidelines:

- Mark your ballot in secret as instructed on the ballot. You must mark your own ballot unless you are unable to do so because of blindness, disability, or inability to read or write.
- Place your ballot in the enclosed secrecy envelope.
- Insert your secrecy envelope into the enclosed mailing envelope which is addressed to the supervisor.

Section 101.68(2)(d), *Florida Statutes,* contains a detailed policy and procedure instructing the local canvassing boards in the manner of handling absentee ballots to ensure that the confidentiality of the ballot is maintained.

**Section 301(a)(2)(A): Do Florida voting systems produce a record for audits?**

**Section 301(a)(2)(B): Do the voting systems produce a permanent paper record with a manual audit capacity?**

**Section 301(a)(2)(C): Is the paper record produced in subparagraph (A) available as an official record for any recount conducted with respect to any election in which the system is used?**

**Yes, and no further actions are required.**
The HAVA Planning Committee determined through research conducted by staff, through testimony offered by Congressional staff, and through testimony given by staff from the Division of Elections that Florida complies with the HAVA audit requirement. Florida voting system standards require DRE machines to maintain a random sorted file of ballot images for every vote cast, and they also have to maintain detailed logs for each election from the time they are first programmed for an election until the results are copied to archival media. Certified voting systems in Florida are required to print out a paper tape of summary totals in each precinct. The paper record is produced to reconcile the consolidated totals for the county in the event of a recount.

Staff from the Division of Elections testified before the HAVA Planning Committee that Florida's State and local security measures make it highly unlikely any tampering could take place with the voting systems. In addition, staff also testified that Florida's certified voting



systems are tested in public forums for logic and accuracy before the election. There are also thorough procedural and security controls in place at the local level to safeguard against someone tampering with the voting systems. The Division of Elections' staff cited Rule 1S-2.015(5)(m)3.a., *F. A. C.*, relating to minimum election security procedures which requires the "printing of precinct results and results from individual tabulating devices" for every election. In addition, the Florida Legislature has authorized the Department of State to promulgate rules which would require supervisors to check those paper totals against electronic totals during machine recounts. The following statutes and rules lay the groundwork for Florida's ability to comply with the audit requirements of HAVA:

Section 101.015(5)(a), *Florida Statutes*, requires the Department of State to adopt rules which establish standards for voting systems, including audit capabilities.

Section 101.5606(11 & 13), *Florida Statutes*, requires the Department of State to approve only voting systems that are capable of automatically producing precinct totals in printed, marked, or punched form or a combination thereof. The voting systems must be capable of providing records from which the operating system of the voting system may be audited.

Florida Voting System Standards (April 2002) provide general functional requirements of voting systems which "shall include the capability to produce records, generated by the system components, or in some cases, by the system operators from which all operations may be audited. Except for the storage of vote images, which shall be maintained in a random sequence, the records shall be created and maintained in the sequence in which the operations were performed." (pp. 16-17)

Florida Voting System Standards (April 2002) require precinct count systems to provide a means for obtaining a printed report of the votes counted on each voting device, and to provide a means for extracting this information to a transportable memory device or data storage medium. (p. 23)

Florida Voting System Standards (April 2002) require the generation of reports by the system to be performed in a manner which does not erase or destroy any ballot image, parameter, tabulation or audit log data. The system shall provide a means for assuring the maintenance of data integrity and security for a period of at least 22 months after the closing of the polls. (p. 24)

Section 102.166(5)(d), *Florida Statutes*, requires the Department of State to adopt detailed rules prescribing additional manual recount procedures for each certified voting system which shall be uniform to the extent practicable. The rules shall address, at a minimum, the following areas:

- Security of ballots during the recount process
- Time and place of recounts
- Public observance of recounts

- Objections to ballot determinations
- Record of recount proceedings
- Procedures relating to candidate and petitioner representatives

**Section 301(a)(3)(A): Does Florida have certified voting systems for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters?**

**Section 301(a)(3)(B): Does Florida meet the requirement in subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place?**

**Partially meets, and further actions are required.**
In 2001, the Secretary of State appointed a task force to conduct a comprehensive review of Florida's election laws and procedures. The task force recommended legislation to insure that Florida's voters with disabilities could fully exercise their right to a secret ballot, as guaranteed by Florida's Constitution. Many of the recommendations of the task force were passed by the Legislature and signed into law by Governor Bush in 2002 and are found in Chapter 2002-281, *Laws of Florida*. Several sections of the law, including sections setting forth specific standards that voting systems must meet, did not become effective immediately, however. They were made contingent on further appropriations by the Legislature, in expectation of the receipt of federal funding as now provided in HAVA.

Most of Florida's largest populated counties have voluntarily purchased voting systems that comply with the accessibility requirements of HAVA. However, Florida's uniform standards regarding voting system requirements (Section 101.56062, *Florida Statutes*), including one accessible machine per precinct, will be effective only when the Florida Legislature adopts a mechanism for funding this law. As a result, the current practice leaves it up to each county to determine how and where such accessible systems are deployed. This does not comply with the requirements of HAVA. Further, there is no statutory or regulatory requirement, beyond the constitutional mandate referred to above, that requires the other counties to comply with the accessibility standards.

HAVA requires that all voting systems be accessible to persons with disabilities, but does not specifically define what is required to accomplish this. HAVA's definition of what constitutes a voting system, however, found in Section 301(b), is comprehensive. Florida has already done the difficult and time consuming work of defining what makes a Florida voting system accessible for persons with disabilities and these standards are found in Chapter 2002-281, *Laws of Florida*. However, as noted above, many sections are not currently in effect. Some slight additional changes to Florida law will need to be made to include provisional ballots, which HAVA



requires to be accessible, within Florida's accessibility requirements.

Not only has Florida already enacted much of the required accessibility reforms required by HAVA, but the intent of the Legislature to comply fully with Federal requirements is clearly set out in statute. Section 101.56063, *Florida Statutes*, provides that:

> It is the intent of the Legislature that this state be eligible for any funds that are available from the Federal Government to assist states in providing or improving accessibility of voting systems and polling places for persons having a disability. Accordingly, all state laws, rules, standards, and codes governing voting systems and polling place accessibility must be maintained to ensure the state's eligibility to receive federal funds. It is the intent of the Legislature that all state requirements meet or exceed the minimum federal requirements for voting systems and polling place accessibility.

What is left to do in order to comply with HAVA is to make all sections of Chapter 2002-281, *Laws of Florida*, effective. Without making these sections effective, and thus making Florida's voting systems accessible to people with disabilities, Florida will not comply with this requirement of HAVA and will not be able to certify its compliance in order to draw down all available HAVA funds. Making these sections effective requires legislative action. Failure by the Legislature to take action will result in Florida not being able to qualify for all available HAVA funds.

In addition to the above, Florida must take steps now in the certification and system procurement processes to insure that it is able to meet the HAVA requirements in time. HAVA requires that voting systems themselves, not just Florida law, must meet the accessibility requirements by January 1, 2006. The HAVA Planning Committee heard testimony from Division of Elections' staff who cautioned that Florida cannot compel any voting systems vendor to bring equipment to the State for certification. Staff testimony further noted that the lack of available certifiable equipment has been a significant problem in the past that continues to the present. With the proper incentives for vendors and tools for counties to require compliance with accessibility standards, Florida will be able to comply with HAVA requirements by January 1, 2006.

Accordingly, the HAVA Planning Committee recommends that the Division, beginning July 1, 2003, require that all new certified voting systems comply with the requirements of Section 101.56062, *Florida Statutes*. Further, any purchase of a voting system by a governmental entity after July 1, 2003 should be required to include a contract for future upgrades and sufficient equipment to meet the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes*. Finally, all voting systems in use as of January 1, 2006, should be required to be both certified to meet, and be deployed in a configuration that meets, the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes*.

For Florida to comply with HAVA and to be eligible for federal funds pursuant to HAVA, action by the Legislature should include the following specific recommendations of the HAVA Planning Committee:

1. Trigger the disability accessibility standards found in Chapter 2002-281 by either:

A. Enacting specific language in the budget that meets the requirements of Section 22, Chapter 2002-281 and appropriates funds to the Department of State for distribution to the counties for the specific purpose of funding Chapter 2002-281; or

B. Enacting a HAVA Implementation Bill that provides that Sections 4, 5, 6, 8, 9, 10, 11, 14, and 19 Chapter 2002-281, be effective no later than January 1, 2006, and that Section 12 of Chapter 2002-281 is effective on January 1, 2006.

2. Mandating that provisional ballots for voters with disabilities shall be provided to them by a system that meets the requirements of section 101.56062, *Florida Statutes,* by January 1, 2006.

3. Enact a HAVA Implementation Bill requiring:

A. All electronic and electromechanical voting systems certified by the State after July 1, 2003, must meet the requirements of Section 101.56062, *Florida Statutes,* (except subsection (1)(d), which is exempted in the statute);

B. Any purchase of a voting system by any county, municipality or by the State after July 1, 2003 must include a contract for future upgrades and sufficient equipment to meet the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes*; and

C. All electronic and electromechanical voting systems in use on or after January 1, 2006 must be certified to meet and be deployed in a configuration which meets the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes.*

The recommended budget proposed under Element 6 of this plan recommends using a portion of the requirements payments to become compliant with the disability voting system requirements.

**Section 301(a)(3)(C): Will Florida purchase voting systems with funds made available under Title II on or after January 1, 2007, that meet the voting system standards for disability access (as outlined in this paragraph)?**

**Yes, and no further actions are required.**



**Section 301(a)(4): Does Florida have certified voting systems that provide alternative language accessibility pursuant to the requirements of Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a)?**

**Yes, and no further actions are required.**
In order to be certified for use in Florida, DRE voting systems must provide alternative language accessibility for all interfaces in order to meet the requirements of Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa through 1a). Florida Voting System Standards (April 2002) require that all configurations must support all voter interface functions in at least the following languages: English, Spanish, and Haitian Creole. (p. 22)

Counties using Marksense voting systems must meet the requirements of Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa through 1a) by printing ballots in the required languages.

**Section 301(a)(5): Does Florida have certified voting systems that comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Elections Commission which are in effect on the date of the enactment of this Act?**

**Yes, and no further actions are required.**
Florida Voting System Standards (April 2002) contain voting system accuracy standards which exceed the error standards established by the Federal Elections Commission. (pp. 35-36)

**Section 301(a)(6): Has Florida adopted uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting systems used in the State?**

**Yes, and no further actions are required.**
Section 102.166(5)(a), *Florida Statutes*, states that "a vote for a candidate or ballot measure be counted if there is a clear indication on the ballot that the voter has made a definite choice."

Section 102.166(5)(b), *Florida Statutes*, requires the Department of State to "adopt specific rules for each certified voting system prescribing what constitutes a 'clear indication on the ballot that the voter has made a definite choice.' The rules may not:

1. Exclusively provide that the voter must properly mark or designate his or her choice on the ballot; or
2. Contain a catch-all provision that fails to identify specific standards, such as 'any other mark or indication clearly indicating that the voter has made a definite choice.'"

Rule 1S-2.027, *F. A. C.*, entitled "Clear Indication of Voters Choice on a Ballot" provides specific standards for determining votes on optical scan ballots.



## Element 1. Use of Title III Requirements Payments: B. Provisional Voting and Voting Information

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

**Section 302(a) Provisional Voting Requirements**
The Help America Vote Act of 2002 (HAVA) requirements for provisional voting state that if an individual declares that he or she is a registered voter in the jurisdiction in which they are attempting to vote but their name does not appear on the official list of eligible voters, they are to be permitted to cast a provisional ballot.

**Section 302(a)(1) Do Florida's election laws require election officials at the polling place to notify individuals that they may cast a provisional ballot?**

**Yes, and no further actions are required.**
Section 101.031(2), *Florida Statutes*, states that the supervisor of elections in each county shall have posted at each polling place in the county the Voter's Bill of Rights and Responsibilities. Included in the Voter's Bill of Rights is the right of each registered voter to cast a provisional ballot, if his or her registration is in question.

The Division of Elections' Polling Place Procedures Manual instructs pollworkers to read informational signs that appear in print on the walls of the polling place and to offer magnifying sheets for visually impaired voters.

In addition, modifications to Section 101.043(3), *Florida Statutes*, were included in Chapter 2003-415, *Laws of Florida*, which is effective January 1, 2004. This change provided that certain first-time voters would be allowed to vote a provisional ballot.

**Section 302(a)(2) Do Florida's election laws state that any person attempting to vote whose name does not appear on the official list of eligible voters be permitted to cast a provisional ballot at the polling place upon the execution of a written affirmation by the individual that they are: (A) a registered voter in the jurisdiction in which the individual desires to vote; and (B) eligible to vote in that election.**

**Yes, and no further actions are required.**
Section 101.048(1), *Florida Statutes*, states that any voter claiming to be properly registered and eligible to vote, but whose eligibility cannot be determined, will be given a provisional ballot. A Provisional Ballot Voter's Certificate and Affirmation must be completed by the individual

casting a provisional ballot indicating that they are registered to vote and are a qualified voter of the county in which they are attempting to vote, and that they have not previously voted in the election.

**Section 302(a)(3) Do Florida's election laws require a completed provisional ballot be given to an appropriate State or local election official to determine whether the individual is eligible under State law to vote?**

**Yes, and no further actions are required.**
Section 101.048(1), *Florida Statutes*, states that all provisional ballots are placed in a secrecy envelope and then sealed in a provisional ballot envelope. All provisional ballots shall remain sealed in their envelopes for return to the supervisor of elections.

Section 101.048(2)(a), *Florida Statutes*, states the county canvassing board shall examine each provisional ballot envelope to determine if the person voting that ballot was entitled to vote at the precinct where the person cast a vote in the election and that the person had not already cast a ballot in the election.

**Section 302(a)(4) Is the provisional ballot counted if the appropriate State or local election official determines the individual is eligible under State law to vote?**

**Yes, and no further actions are required.**
Section 101.048(2)(b)1., *Florida Statutes*, states that if it is determined that the person was registered and entitled to vote at the precinct where the person cast a ballot, the canvassing board will compare the signature on the provisional ballot envelope with the signature on the voter's registration record and, if it matches, will count the ballot.

**Section 302(a)(5)(A) Are the individuals who cast a provisional ballot given written information that states that any individual who casts a provisional ballot will be able to ascertain whether the vote was counted and, if not, the reason that the vote was not counted?**

**Yes, and no further actions are required.**

Chapter 2003-415, *Laws of Florida*, amends Section 101.048 to provide that each person casting a provisional ballot shall be given written instructions regarding the free access system. The instructions shall contain information on how to access the system along with the information the voter will need to provide in order to obtain information on his or her particular ballot.



**Section 302(a)(5)(B) Has the appropriate State or local election official established a free access system to provide this information to individuals casting provisional ballots?**

**No, and further actions are required.**

**Planned action before January 1, 2004:**
Chapter 2003-415, *Laws of Florida*, requires each supervisor of elections to establish a free access system that allows each person who casts a provisional ballot to determine whether his or her provisional ballot was counted in the final canvass of votes and, if not, the reasons why.

It is recommended that each county, as a minimum, provide to voters who cast provisional ballots written notification by mail informing them of whether their ballot was counted and, if not, why it was not counted. Supervisors of elections are also strongly encouraged to develop a toll-free number or access to this information via the Internet.

Each supervisor of elections will establish the free access system for their county by January 1, 2004.

**Section 302(a)(5)(B) Has the appropriate State or local official established procedures to protect the security, confidentiality and integrity of the personal information collected and stored by the free access system, restricting access to the individual who cast the ballot?**

**Yes, and no further actions are required.**

Chapter 2003-415, *Laws of Florida*, requires the free access system established by the supervisors of elections to restrict access to information regarding an individual ballot to the person who cast the ballot.

**Section 302(b) Voting Information Requirements**
HAVA requirements for voting information state that the appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

**Section 302(b)(2)(A) Is a sample version of the ballot that will be used for that election posted?**

**Yes, and no further actions are required.**
Section 101.20, *Florida Statutes*, states that two sample ballots shall be furnished to each polling place by the officer whose duty it is to provide official ballots. The sample ballots shall be in the form of the official ballot as it will appear at the polling place on election day. Sample ballots shall be open to inspection by all electors in any election.

**Section 302(b)(2)(B) Is information regarding the date of the election and the hours during which polling places will be open posted on election day?**

**Yes, and no further actions are required.**
Information such as the hours of operation of polling places and the date of the election are provided on instructional cards and sample ballots. Section 101.031, *Florida Statutes*, requires the Department of State, or in case of municipal elections the governing body of the municipality, to print, in large type on cards, instructions for the electors to use in voting. Each supervisor of elections shall send a sufficient number of these cards to the precincts prior to an election. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary.

Currently, all cards that are posted in polling places include the hours the polls will be opened.

Section 101.20(1), *Florida Statutes,* states that two sample ballots shall be furnished to each polling place by the officer whose duty it is to provide official ballots. Sample ballots shall be open to inspection by all electors in any election, and a sufficient number of reduced-size ballots may be furnished to election officials so that one may be given to any elector desiring same.

Currently, all sample ballots posted in polling places include the date of the election.

**Section 302(b)(2)(C) Are instructions on how to vote, including how to cast a vote and how to cast a provisional ballot posted on election day?**

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**No, and further actions are required.**
Section 101.031, *Florida Statutes*, states the Department of State, or in case of municipal elections the governing body of the municipality, shall print, in large type on cards, instructions for the electors to use in voting. It shall provide not less than two cards for each voting precinct for each election and furnish such cards to each supervisor upon requisition. Each supervisor of elections shall send a sufficient number of these cards to the precincts prior to an election. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary.

In addition, Section 101.5611, *Florida Statutes*, states the supervisor of elections shall provide instruction at each polling place regarding the manner of voting with the system. The supervisor of elections shall provide instruction on the proper method of casting a ballot for the specific voting system utilized in that jurisdiction.

Many counties have voting instructions in the voting booth and some provide verbal instruction. However, these instructions do not include how to cast a provisional ballot and Florida will have to revise its instructions to meet this requirement.

During the 2002 legislative session, Senate Bill 1350 was passed amending Section 97.026, *Florida Statutes*, and stated that all forms required to be used in chapters 97 through 106 shall be made available upon request, in alternative formats. However, this statute is not in effect during the development of this Plan.

**Planned action before January 1, 2004:**
The Department of State will revise the instructions to electors, which are posted at the polls on election day, to include information regarding how to cast a vote and how to cast a provisional ballot.

**Section 302(b)(2)(D) Are instructions for mail-in registrants and first-time voters under section 303(b) posted on election day?**

**No, and further actions are required.**

**Planned action before January 1, 2004:**
Under Section 101.031(1), *Florida Statutes*, the Department of State is required to print, in large type on cards, instructions for the electors to use in voting. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary. The cards must also include the list of rights and responsibilities afforded to Florida voters.

The cards provided at each polling place, which are posted on election day for inspection by voters, will be modified by the Department of State to include instructions for mail-in registrants and first-time voters.

**Section 302(b)(2)(E) Is general information on voting rights, including information on the right of an individual to cast a provisional ballot posted on election day?**

**Yes, and no further actions are required.**
Section 101.031(2), *Florida Statutes*, requires the supervisor of elections in each county to have posted at each polling place the Voter's Bill of Rights and Responsibilities. The Voter's Bill of Rights states that each registered voter in this State has the right to:

1. Vote and have his or her vote accurately counted.
2. Cast a vote if he or she is in line at the official closing of the polls in that county.
3. Ask for and receive assistance in voting.
4. Receive up to two replacement ballots if he or she makes a mistake prior to the ballot being cast.
5. An explanation if his or her registration is in question.
6. If his or her registration is in question, cast a provisional ballot.
7. Prove his or her identity by signing an affidavit if election officials doubt the voter's identity.
8. Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.
9. Vote free from coercion or intimidation by elections officers or any other person.
10. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

**Section 302(b)(2)(E) Is contact information posted for voters who allege their rights have been violated?**

**No, and further actions are required.**

**Planned action before January 1, 2004:**
Under Section 101.031(1), *Florida Statutes*, the Department of State is required to print, in large type on cards, instructions for the electors to use in voting. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary. The cards must also include the list of rights and responsibilities afforded to Florida voters.

The cards provided at each polling place, which are posted on election day as information for electors, will be modified by the Department of State to include contact information for voters who believe their voting rights have been violated.



**Section 302(b)(2)(F) Is information on laws regarding prohibitions on acts of fraud and misrepresentation posted?**

**Yes, and no further actions are required.**
Section 101.5611(2), *Florida Statutes,* requires the supervisor of elections to have posted at each polling place a notice that reads: "A person who commits or attempts to commit any fraud in connection with voting, votes a fraudulent ballot, or votes more than once in an election can be convicted of a felony of the third degree and fined up to $5,000 and/or imprisoned for up to 5 years."

**Section 302(c) Are individuals who vote in an election as a result of a court order or any other order extending the time established for closing the polls by a State law required to cast a provisional ballot? This provisional ballot must be separated and held apart from other provisional ballots cast by those not affected by the order.**

**Yes, and no further actions are required.**

Chapter 2003-415, *Laws of Florida*, created s. 101.049, *Florida Statutes*, to require any person voting in an election after the regular poll-closing time pursuant to a court or other order extending the statutory polling hours to vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and sealed in a provisional ballot envelope. All such provisional ballots will remain sealed and transmitted to the supervisor of elections separate and apart from all other ballots. The supervisor shall ensure that late-voted provisional ballots are not commingled with other ballots.

**Section 302(d) The effective date for complying with the Provisional Voting and Voting Information requirements is on and after January 1, 2004.**

For each requirement in which Florida does not currently comply, planned action for meeting the requirements will take place by January 1, 2004.

## Element 1. Use of Title III Requirements Payments:
## C. Voter Registration

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

**Introduction**

The Help America Vote Act of 2002 (HAVA) establishes minimum requirements for a single, centralized, computerized statewide voter registration list and for mail registration as a part of establishing and maintaining such a list.

The effective and efficient administration of elections depends in a major way on the completeness and accuracy of voter registration lists that can be checked quickly and reliably by election workers. Section 303(a) of HAVA establishes minimum requirements for a "single, uniform, official, centralized, interactive, computerized, statewide voter registration list which shall be the single system for storing and managing the list of registered voters throughout the state for the conduct of all federal elections."

Because many voters register by mail instead of in person, the procedures used for mail registration are an important component of establishing and maintaining a complete and accurate statewide voter registration list. Section 303(b) of HAVA requires that a state's mail voter registration system be administered in a "uniform and nondiscriminatory manner" and establishes minimum requirements for such a system.

Until recently, Florida's voters have relied primarily on voter registration lists established and maintained by independent supervisors of elections in each of Florida's 67 counties.[1] These lists are governed by Florida law that specifies qualifications to register or vote, a registration oath, a uniform statewide voter registration application form, acceptance of applications by supervisors of elections, closing of registration books, late registration, declinations to register, special registration for electors requiring assistance, registration identification card, disposition of applications and procedures for cancellation, notices of changes of address, and operation of registration offices. See Sections 97.032 through 97.055, 97.0585 through 97.105, 98.015 through 98.095, and 98.101 through 98.491, *Florida Statutes*.

Additional requirements for establishing and maintaining voter registration lists were enacted in the Federal Voting Rights Act of 1965 and the National Voter Registration Act of 1993 ("Motor Voter Law"). Sections 97.057 through 97.0583, *Florida Statutes*, and other provisions of Florida law implemented those Federal laws in the State by providing for registration of voters by the Department of Highway Safety and Motor Vehicles, voter registration agencies,[2] and qualifying educational institutions.

[1] A permanent single voter registration system for each Florida county, used for all public elections in that county, improved on practices in early Florida history of requiring separate registrations for municipal elections and new registrations for each new election. See Section 97.105, *Florida Statutes*.



In 1997, the Florida Legislature established a "central voter file" in the Division of Elections that contained voter registration information from all counties. Section 98.097, *Florida Statutes*.

Following the 2000 General Election, the Florida Legislature enacted the Florida Election Reform Act of 2001 that took additional steps to require complete and accurate voter registration lists in the counties and to establish a statewide voter registration database. Sections 98.0977 through 98.0979, *Florida Statutes*, authorized the Department of State to "...analyze, design, develop, operate, and maintain a statewide, on-line voter registration database and associated website, to be fully operational statewide by June 1, 2002. The database shall contain voter registration information from each of the 67 supervisors of elections in this state and shall be accessible through an Internet website. The system shall provide functionality for ensuring that the database is updated on a daily basis to determine if a registered voter is ineligible to vote for any of the following reasons, including, but not limited to:

(a) The voter is deceased;

(b) The voter has been convicted of a felony and has not had his or her civil rights restored; or

(c) The voter has been adjudicated mentally incompetent and his or her mental capacity with respect to voting has not been restored.

The database shall also allow for duplicate voter registrations to be identified."

This statewide database was established in time for use in the 2002 General Elections. Requirements for pre-clearance by the U.S. Department of Justice (DOJ) and negotiations for settlement of a lawsuit by the NAACP delayed use of parts of the database concerning eligibility of voters identified as potentially ineligible because of a felony conviction or adjudication of mental incapacity. With the receipt of DOJ clearance and settlement of the lawsuit now accomplished, the Division of Elections will begin running matches when all issues related to the settlement agreement have been resolved.

[2] A "voter registration agency" is defined by Section 97.012(37), *Florida Statutes* as "...any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library."

**Section 303(a) Computerized Statewide Voter Registration List Requirements**

**Section 303(a)(1)(A)(i)-(vii) and 303(a)(2): Does Florida's existing statewide database meet requirements for implementing and maintaining a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State and includes information specified in HAVA?**

**No, and further actions are required.**
Florida has made great strides in recent years in establishing a centralized, computerized statewide voter registration database but that database does not meet the requirements of HAVA Section 303(a)(1)(A) for a single statewide voter registration list "...defined, maintained, and administered at the State level...[with] a unique identifier [assigned] to each legally registered voter in the State..." which serves, under HAVA Section 303(a)1)(A)(vii), as "...the official voter registration list for the conduct of all elections for Federal office in the State." HAVA Section 303(a)(1)(A)(i) further defines this requirement by specifying that "The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State." HAVA Section 303(a)(1)(A) also specifies that the chief State election official (in Florida the Secretary of State) shall implement and maintain the single statewide voter registration list.

Florida currently has 67 official voter registration lists, one established and maintained in each county, that are compiled into the statewide voter registration database required by the Florida Election Reform Act of 2001. The 67 county-based lists, not the statewide database, are the official voter registration lists for voters in Florida. The statewide database is intended primarily to assist supervisors of elections to determine if voters are ineligible to vote (deceased, convicted felons who have not had civil rights restored, or adjudicated as mentally incompetent). It also is intended to identify those voters who are listed more than once. It is not intended to serve as "...the single system for storing and managing the official list of registered voters throughout the State..." as required by HAVA. Information in the statewide database is made available to county supervisors of elections who are responsible for making final determinations of a voter's eligibility and for updating voter registration records.

HAVA's requirement for a single computerized statewide voter registration list cannot be fulfilled quickly. In addition to designing and implementing such a single system that is interactive and assigns unique identifiers to each voter, HAVA requires the system to have adequate technological security measures [HAVA Section 303(a)(3)], meet minimum standards of accuracy and currency [HAVA Section 303(a)(4)], provide for verification with other information such as driver's license numbers and Social Security numbers [HAVA Section 303(a)(5)], and meet other standards. Meeting these requirements and standards will take time, expertise and money.



The Legislature has appropriated $1 million and nine staff positions to create a master design, including a business plan and budget, for a single statewide voter registration system by January 2004. This design would permit the 2004 Legislature to take action to authorize the implementation of a new single computerized statewide voter registration list in time for the 2006 elections. This timing assumes that the State of Florida will be granted a waiver under HAVA to have a single statewide voter registration system in place by January 1, 2006, instead of by the existing deadline of January 1, 2004. (The requirement for a waiver is discussed subsequently.)

Chapter 2003-415, *Laws of Florida*, authorizes the State to request the Federal Election Assistance Commission to grant a waiver from the January 1, 2004, HAVA deadline. The 2003 Appropriations bill authorizes the funding and staffing positions requested by the Division of Elections.

In the meantime, the Division of Elections has been meeting with representatives of the Florida State Association of Supervisors of Elections, the Department of Highway Safety and Motor Vehicles, the Department of Law Enforcement, the Board of Executive Clemency, the State Technology Office and health officials to begin to find ways to coordinate databases maintained by those agencies as part of the single centralized statewide voter registration list. Because HAVA Sections 303(a)(5)(A)(i)(I) and (II) require an applicant for voter registration to provide either a current and valid driver's license number or supply the last four digits of the applicant's Social Security number, HAVA Sections 303(a)(5)(B)(i)-(ii) require that the State enter into agreements to share such information with the Department of Highway Safety and Motor Vehicles and with the Social Security Administration.

HAVA's requirements are minimum requirements. Florida may establish technology and administrative requirements that are stricter than the Federal requirements as long as they are not inconsistent with HAVA's requirements and other laws, such as the Motor Voter Act, or in conflict with the privacy provisions of the Florida Constitution. See HAVA Section 304.

**Section 303(d) Deadlines for Computerized Statewide Voter Registration List**

**Section 303(d)(1)(A): Can Florida meet HAVA's requirement to have operational a computerized statewide voter registration list, as defined by HAVA, by January 1, 2004?**

**No, and further actions are required.**
The State practically cannot meet the January 1, 2004, deadline. Substantial professional and technical work must be done to design and establish a computerized statewide voter registration list that meets HAVA's standards. Although design of such a system can be ready by January 2004, implementation of the system will take a year or more beyond that date. Chapter 2003-415, *Laws of Florida*, authorizes the State to seek a waiver from the Federal Election Assistance Commission permitted under HAVA Section 303(d)(1)(B) from January 1, 2004, to January 1,

2006, if the State "...will not meet the deadline...for good cause and includes in the certification the reasons for the failure to meet such deadline...."

**Section 303(b) Requirements for Voters Who Register By Mail**

**Section 303(b)(1) through (4): Does Florida meet HAVA's identification requirements for a voter who registers by mail and has not previously voted in an election for Federal office in the State or registers by mail, has not previously voted in the jurisdiction and is in a State that does not have a computerized statewide voter list that meets HAVA's requirements?**

**Yes, and no further actions are required.**
HAVA requires persons who register by mail and have not voted in an election for federal office to provide identification prior to voting. If the State is able to match the voter's driver's license number or Social Security number against an existing State record bearing the same number, name and date of birth, further identification by the voter is not required.

HAVA Sections 303(b)(2)(i) through (ii) require that a first-time voter who votes in person may be identified by a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. A voter who votes by mail may include with the ballot a copy of a current and valid photo identification or a copy of the other documents listed for the voter who appears in person. An exception is made in HAVA Section 303(b)(3) for mail registrants who provide a copy of required identification at the time of registering, mail registrants whose driver's license number or last 4 digits of the Social Security number are matched with an existing State record, and for those who vote under the Uniformed and Overseas Citizens Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, or under some other provision of Federal law (in which case the specific standards of those acts must be met).

Chapter 2003-415, *Laws of Florida*, amends the following sections of Florida law to conform to HAVA's mail registration and other voter registration requirements:

Section 97.052(3)(g), *Florida Statutes*, to require a statement with the uniform statewide voter registration form that informs the applicant that if the form is submitted by mail and the applicant is registering for the first time, the applicant will be required to provide identification prior to voting for the first time.

Section 97.053(5)(a), *Florida Statutes*, that permits the use of a valid Florida driver's license number or the identification number from a Florida identification card issued under Section 322.051, *Florida Statutes*, for purposes of voter registration.

Section 97.0535, *Florida Statutes*, that specifies at length the requirements for identification that a first-time voter can use and that complies with other HAVA requirements outlined previously.



Section 101.043, *Florida Statutes*, (a transfer and renumbering of Section 98.471, *Florida Statutes*) to permit a voter to submit to a poll worker at the time of voting a current and valid picture identification with a signature.

**Section 303(b)(4): Does Florida meet HAVA's requirement for language in the mail voter registration form under Section 6 of the National Voter Registration Act of 1993?**

**Yes, and no further actions are required.**
HAVA requires that mail voter registration forms under Section 6 the National Voter Registration Act shall include the following:

"(i) The question 'Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(ii) The question 'Will you be 18 years of age on or before election day?' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day.

(iii) The statement 'If you checked 'no' in response to either of these questions, do not complete this form.'

(iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time."

Section 97.052(2)(b) and (r), *Florida Statutes*, requires that the uniform statewide voter registration form must be designed to elicit information from the applicant about the applicant's date of birth and whether the applicant is a citizen of the United States. The form itself, available on the Division of Elections' website at http://election.dos.state.fl.us, asks for date of birth and asks "Are you a U.S. citizen?" It does not use the specific language required by HAVA.

Chapter 2003-415, *Laws of Florida*, amends Section 97.052, *Florida Statutes*, by adding subsection (g) that requires language about the need for appropriate identification for first time mail applications. It does not require the specific HAVA language about age and citizenship.

The Division of Elections has reviewed this matter orally with Federal legislative and executive representatives and has concluded that the requirement applies only to Federal applications under Section 6 of the National Voter Registration Act. It believes that putting such language on State application forms will confuse voters and discourage first-time registrants. The age question, for instance, does not specify the exact election day to which it is referring and assumes that young

voters may be applying to register for a specific election rather than pre-registering as 17 year-olds in order to vote in all elections after they reach the age of 18. The Division notes that the forms used by Florida already elicit the information required by asking for date of birth and citizenship. The forms do not discourage voters by telling them to stop with the application if they must answer "No" to either question. The Division is complying with the substance of HAVA if not with the exact form of the question.



## Element 2. Local Government Payments and Activities

**How the State will distribute and monitor the distribution of the requirements payments 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).**

**Introduction**

The Florida Legislature has broad constitutional authority for appropriating federal and State funds annually through the appropriations bill which is eventually signed by the Governor into law. During the annual appropriations process, the Florida Legislature assesses the needs of the State and makes policy and budget decisions which impact every level of government including local government.

The funding of elections in Florida is primarily a local government responsibility since the constitutional authority for running elections rests with the local supervisor of elections. Funding authority for elections resides with the Boards of County Commissioners. Each of Florida's 67 Boards of County Commissioners receives a budget request from the supervisor of elections and then the Board makes policy and budget decisions based upon county priorities.

There has been one major exception to this election funding scenario. Following the controversial 2000 General Election, the Governor and the citizens of Florida asked the Legislature to enact broad election reforms which included providing State financial assistance to local governments. Over a two-year period, the Legislature provided over $32 million in State funds to supplement local election budgets and to quicken the pace of election reform in Florida. Most of the State funds were appropriated to the Boards of County Commissioners using two different formulas for accomplishing distinct policy goals—to replace voting systems designated to be decertified and to enact comprehensive voter education programs in every county.

The funding formula used to upgrade voting systems had two important policy goals—to provide a minimum voting system standard of precinct-based optical scanning systems throughout Florida and to provide funding assistance to small counties with very small tax bases. The resulting formula achieved that policy goal and was as follows:

- Small Counties (population 75,000 or below) received $7,500/precinct
- Large Counties (population 75,001 and above) received $3,750/precinct

The Legislature used a different formula to provide State funds for voter education and poll worker recruitment and training. This formula was based upon taking available State funds and distributing them on a per registered voter basis per county. The resulting formula was determined by taking approximately $6,000,000 in available State funds and dividing it by the number of registered voters during the 2000 General Election and appropriating that money on a pro-rata basis to each county. The resulting appropriation provided $5,949,375 to counties to fund comprehensive voter education programs and poll worker recruitment and training programs. The combined State and local efforts led to greater voter satisfaction during the 2002 General Election.

Pursuant to the appropriation, the Florida Legislature required each county supervisor of elections to submit a detailed description of the plans to be implemented and also a detailed report on the success of the voter education effort. These reports were sent to the Division of Elections and subsequently compiled by the Division into a report sent to the Governor and Florida Legislature.

While the State funds were widely valued, the counties still provided a majority of funding for election reform efforts. According to the 2002 Governor's Select Task Force on Election Procedures, Standards and Technology, a survey of 33 county governments revealed they spent nearly $110 million toward new voting systems before the 2002 primary and general elections.

**If the Florida Legislature determines that it will provide funding for units of local governments and other entities, then how will the requirements payments be distributed and monitored, including—**

***A.*** **A description of the criteria used to determine the eligibility of such units and entities for receiving payment.**

***B.*** **A description of the methods to be used by Florida to monitor the performance of the units of entities to whom the payments is distributed, consistent with the performance goals and measures adopted under paragraph (8).**

The Help America Vote Act of 2002 (HAVA) Planning Committee clearly recognizes its advisory role in election reform and acknowledges the authority of the Florida Legislature to make funding decisions for Florida. During HAVA Planning Committee discussions, members proposed several recommendations that would provide funding for units of local government. The recommended payments to local government are listed below:



**Replacement and Reimbursement For Punch Card And Lever Machines**
The HAVA Planning Committee recommends that the estimated $11.74 million received pursuant to Section 102 of HAVA be distributed to the State and to the counties on a pro-rated basis for their respective contributions to replace punch cards and lever machines during the 2001-2002 and 2002-2003 fiscal years.[3]

**Accessible Voting Systems for Voters With Disabilities**
The HAVA Planning Committee recommends that HAVA funds should be distributed to counties during the 2004-2005 fiscal year to help them meet Section 301 Title III accessibility requirements by the January 1, 2006 deadline. The estimated amount to comply with this requirement is $11.6 million and the funds would be distributed according to the number of machines accessible for persons with disabilities needed for each county to have one per polling place. The Division of Elections would have the responsibility for determining eligibility of counties receiving HAVA funds.

Secondly, if HAVA funds are available, the HAVA Planning Committee recommends that HAVA funds be distributed as a reimbursement on a pro-rated basis to local governments that purchased accessible voting systems and components during the 2001 and 2002 fiscal years.

**Statewide Voter Education Program**
For the 2003-2004, 2004-2005, and 2005-2006 fiscal years, the HAVA Planning Committee recommends that local governments receive a total of $9 million dollars ($3 million each fiscal year) for comprehensive voter education efforts. HAVA funds for voter education should be distributed using a similar formula as used in 2001. The Division of Elections should be responsible for determining eligibility of any county for the receipt of State or federal funds used in HAVA election reform activities.

The Division of Elections should be responsible for monitoring the use of funds in accordance with established State procedures. Prior to receiving any funds from the Division, each of Florida's 67 supervisors of elections must enter into a contractual agreement with the State. The contract must affirm what the funds are to be used for and it must provide proof that the counties have matching dollars, if required.

The Division of Elections will monitor the performance of the contract agreements entered into between the State and each county. Each county must meet the contractual requirements before payment is approved.

Standard auditing procedures for monitoring the use of federal funds will be used for the receipt and the distribution of HAVA funds. These standard procedures may include random program

[3] The 2003 General Appropriations Act passed by the Legislature required the Department of State to transfer all amounts eligible for reimbursement under Section 102 of HAVA to the State's Working Capital Fund.

audits by the Department of State's Inspector General as well as an annual audit by the Florida Auditor General's office to ensure funds are being expended for the authorized purposes.

To monitor the use of the voter education funds at the local level, the HAVA Planning Committee recommends that the Florida Legislature require each county to establish a fund to be used to deposit funds received from the federal or State governments for election reform activities. If a county match is required, it will also be deposited into this account. The funds will not be commingled with other funds which may be appropriated to the supervisor of elections by the county. Funds in this account will be used for the activities for which the funds were received and, unless otherwise specified in the appropriation, there is no requirement for the funds to be used during a certain time.

Also during the 2003-2004, 2004-2005, and 2005-2006 fiscal years, the Division of Elections recommends that the Department of Highway Safety and Motor Vehicles and the Florida Department of Law Enforcement receive HAVA funding to assist in the development of the new statewide voter registration system. The Division of Elections will enter into a contractual agreement with these other state-level departments and monitor the contracts in accordance with standard auditing procedures for monitoring the use of federal funds.



## Element 3. Voter Education, Election Official Education & Training, Poll Worker Training

**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.**

**Introduction**

A wide array of national and State task force reports have highlighted the need for a more informed electorate. To achieve this goal, voters, election officials, and poll workers must receive better information and training. Florida assigns the primary responsibility for these daunting tasks to the Department of State and the county supervisors of elections. Following election 2000, the Legislature has more clearly delineated the role of each in improving the education of voters, election officials, and poll workers.

The Florida Election Reform Act of 2001 set deadlines, included a wide array of topics to be addressed by State and county election officials, granted rule making authority to the Department of State, and established a procedure for measuring the effectiveness of the programs and making recommendations to the Governor and the State Legislature. Various acts passed during the 2002 legislative session broaden the scope of voter education responsibilities, more definitively spell out voter rights, and ensure that Florida's electoral system conforms to the Americans with Disabilities Act of 1990. Each of these changes has been communicated to election officials at all levels and to the public at-large.

The Election Reform Act of 2001 required all 67 county supervisors of elections to file voter education plans with the Division of Elections in the Department of State in order to qualify for State funds. (The Act appropriated nearly $6 million for voter education in fiscal year 2001-2002 in addition to $24 million for purchase of new voting equipment, fiscal years 2001-2003.) The Department of State, as directed by the Legislature, established minimum standards for nonpartisan voter education to be met by each county.

Voter education plans filed with the Division of Elections in the Secretary of State's office are filled with creative approaches. These outreach mechanisms are designed by the elections supervisors:

(1) to better inform their county's residents about registration and voting; and,
(2) to reduce the levels of voter error and confusion that existed during the 2000 election cycle.

The approaches used by the 67 individual counties vary considerably, reflecting differences in their demographic and socioeconomic composition (e.g., land area, rural-urban location, age, race/ethnicity, education), county funding levels, and media availability.

Significant changes to Florida's election laws and the advent of new voting equipment have made poll worker education a high priority—as recognized in the Florida Election Reform Act of 2001. Florida's counties have restructured their poll worker training programs. State law now requires supervisors of elections to cast their poll worker recruitment nets wider, as the number of poll workers needed escalates in a fast-growing state.

**Section 254(a)(3). How will the State of Florida provide for programs for *voter education* which will assist the State in meeting the requirements of Title III?**

Florida has adopted extensive voter education requirements and funded county voter education programs ($6 million in 2001). The Help America Vote Act of 2002 (HAVA) Planning Committee recommends an additional $3 million in each of the next three fiscal years for local voter education programs.

**Joint Responsibility of Department of State and County Supervisors of Elections**
Section 98.255(1), *Florida Statutes,* directed the Department of State to "adopt rules prescribing minimum standards for nonpartisan voter education" by March 1, 2002. The standards were to address (but were not limited to):

(1) voter education;
(2) balloting procedures for absentee and polling place;
(3) voter rights and responsibilities;
(4) distribution of sample ballots; and,
(5) public service announcements.

In developing the rules, the Department was instructed to "review current voter education programs within each county of the state." The Department of State adopted Rule 1S-2.033, *F. A. C.*, Standards for Nonpartisan Voter Education on May 30, 2002.

Section 98.255(2), *Florida Statutes,* requires each supervisor of elections to "implement the minimum voter education standards" and "to conduct additional nonpartisan education efforts as necessary to ensure that voters have a working knowledge of the voting process."

**Minimum Nonpartisan Voter Education Standards**
The Department of State's "Standards for Nonpartisan Voter Education," Rule 1S-2.033, *F. A. C.*, requires the following voter education practices:

Comprehensive Voter Guide: Contents
Department of State Rule 1S-2.033, *F. A. C.*, Standards for Nonpartisan Voter Education, requires supervisors of elections to create a Voter Guide which shall include: how to register to vote; where voter registration applications are available; how to register by mail; dates for upcoming elections; registration deadlines for the next primary and general election; how voters should update their voter registration information such as changes in name, address or party affiliation; information on how to obtain, vote and return an absentee ballot; voters' rights and responsibilities pursuant to Section 101.031, *Florida Statutes*; polling information including what times the polls are open, what to bring to the polls, list of acceptable IDs, what to expect at the polls; instructions on the county's particular voting system; supervisor contact information; and any other information the supervisor deems important.



Voter Guide: Extensive Distribution
Department of State Rule 1S-2.033(1)(b), *F.A.C.*, requires supervisors of elections to "provide the Voter Guide at as many places as possible within the county including: agencies designated as voter registration sites pursuant to the National Voter Registration Act; the supervisor's office; public libraries; community centers; post offices; centers for independent living; county governmental offices; and at all registration drives conducted by the supervisor of elections."

Voter Guide, Sample Ballot, & Website Consistency Required
Department of State Rule 1S-2.033(2), *F.A.C.*, states that: "If a supervisor has a website, it must take into account all of the information that is required to be included in the Voter Guide. In addition, when a sample ballot is available, the website must provide either information on how to obtain a sample ballot or a direct hyperlink to a sample ballot."

Targeted Voter Education: High School Students
Florida's Department of State Rule 1S-2.033(3), *F.A.C.*, instructs the supervisors of elections to work with county school boards to develop voter education and registration programs for high school students. Specifically, the rule requires that "At least once a year in each public high school in the county, the supervisor shall conduct a high school voter registration/education program. The program must be developed in cooperation with the local school board and be designed for maximum effectiveness in reaching and educating high school students."

Targeted Voter Education: College Students
Florida's Department of State Rule 1S-2.033(4), *F.A.C.*, dictates that "At least once a year on each college campus in the county, the supervisor shall provide a college registration/education program. This program must be designed for maximum effectiveness in reaching and educating college students."

Targeted Voter Education: Senior Citizens and Minority Groups
Department of State Rule 1S-2.033(7), *F.A.C.*, requires supervisors of elections to "conduct demonstrations of the county's voting equipment in community centers, senior citizen residences, and to various community groups, including minority groups." Rule 1S-2.033(8), *F.A.C.*, specifically instructs the supervisors to use minority media outlets to provide more information to voters.

Targeted Voter Education: Individuals and Groups Sponsoring Voter Registration Drives
Department of State Rule 1S-2.033(6), *F.A.C.*, specifically instructs supervisors of elections to "provide, upon reasonable request and notice, voter registration workshops for individuals and organizations sponsoring voter registration drives." Section 98.015(9), *Florida Statutes,* states that "each supervisor must make training in the proper implementation of voter registration procedures available to any individual, group, center for independent living, or public library in the supervisor's county."

Posting of Educational Materials on Voter Rights and Responsibilities
Department of State Rule 1S-2.033(5), *F.A.C.*, requires supervisors of elections to "post the listing of the voters' rights and responsibilities pursuant to Section 101.031, *Florida Statutes*, at the supervisor's office." Section 101.031(2), *Florida Statutes,* spells out the specific format of the Voter's Bill of Rights and Responsibilities to be posted by the supervisor of elections at each polling place. The Department of State, or in case of municipal elections the governing body of the municipality, is required "to print, in large type on cards, instructions for electors to use in voting," including the list of rights and responsibilities and other information about how to vote deemed necessary by the Department of State—Section 101.031(1), *Florida Statutes.* At least two cards shall be provided to each precinct.

Educating Voters About Polling Place and Precinct Changes, Revised Voter Identification Cards
Department of State Rule 1S-2.033, *F.A.C.*, mandates that supervisors of elections "shall provide notice of changes of polling places and precincts to all affected registered voters." "This notice shall include publication in a newspaper of general circulation as well as posting the changes in at least ten conspicuous places in the county. If the supervisor has a website, the supervisor shall post the changes on the website. The supervisors shall also widely distribute a notice that if a voter does not receive a revised voter identification card within 20 days of the election the voter should contact a specific number at the supervisor's office to obtain polling place information."

Voter Education Through the Media
Department of State Rule 1S-2.033(8), *F.A.C.*, requires supervisors of elections to interface with the media to better inform the electorate. Supervisors are to "participate in available radio, television and print programs and interviews, in both general and minority media outlets, to provide voting information."

Voter Education Through the Internet
The Division of Elections' website (http://election.dos.state.fl.us/) offers extensive information regarding registration, elections (dates, district maps, results, Division reports, forms, publications, voter turnout, supervisor of elections' contact information), voter fraud, voting systems, laws/opinions/rules, candidates and committees, the initiative petition process, and other helpful government links.



Voter Education About Fraud
Section 97.012(12), *Florida Statutes,* requires the Secretary of State to "...provide election fraud education to the public."

**Procedures for Constant Analysis of Voter Education Effectiveness**
Section 98.255(3)(a), *Florida Statutes,* requires supervisors of elections to file a report by December 15 of each general election year with the Department of State. This report is "a detailed description of the voter education programs implemented and any other information that may be useful in evaluating the effectiveness of voter education efforts."

Section 98.255(3)(b), *Florida Statutes*, requires the Department of State to review the information submitted by the supervisors and "prepare a public report on the effectiveness of voter education programs" and to "submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31 of each year following a general election."

Further, Section 98.255(3)(c), *Florida Statutes*, instructs the Department of State to use "the findings in the report as a basis for adopting modified [voter education] rules that incorporate successful voter education programs and techniques as necessary."

This procedure was first used in the 2002 election cycle. The Division of Elections requested each supervisor of elections to list in detail the voter education programs conducted during the 2002 election cycle and the approximate cost of each program. The supervisors were asked to rank the effectiveness of each program on a scale of 1 to 5, with 5 being the highest possible rank. On January 31, 2003, the Florida Department of State, Division of Elections, submitted its "Report on Voter Education Programs During the 2002 Election Cycle Pursuant to Section 98.255(3), Florida Statutes." The report concluded that "most supervisors ranked the county voter education programs as 4 or 5 in effectiveness in reaching the target community." (There were ten broad categories of voter education programs: sample ballots; elementary/middle school/high school/university and community college outreach; websites; miscellaneous promotional materials; public appearances/television and movie theatre advertisements; banners and billboards, radio and public transport advertisements; newspapers and mailers; voting system demonstrations; outreach to minority, disabled and senior communities; and voter registration drives.) The Department of State made three recommendations in its post-election 2002 report:

(1) The Legislature should provide funding, contingent upon appropriations from Congress through the Help America Vote Act, to the counties for voter education efforts;
(2) The Legislature should require sample ballots to be mailed to households or voters prior to each Primary and General Election.
(3) The Division of Elections should provide a list of cost-effective voter education programs used by counties so that all counties can benefit from these ideas.

(The 2002 Governor's Select Task Force on Election Procedures, Standards, and Technology report of December 30, 2002 also recommended improving "voter education by requiring all supervisors of elections to mail generic sample ballots to each household with registered voters.")

Section 101.595, *Florida Statutes,* also requires supervisors of elections to submit a report to the Department of State no later than December 15 of each general election year detailing "[t]he total number of overvotes and undervotes in the first race appearing on the ballot pursuant to Section 101.151(2), along with the likely reasons for such overvotes and undervotes and other information as may be useful in evaluating the performance of the voting system and identifying problems with ballot design and instructions which may have contributed to voter confusion." The Department of State must prepare a report analyzing that information and submit it to the Governor, the President of the Senate, and the Speaker of the House by January 31 of the year following a general election. The report is to include recommendations for correcting any problems with ballot design or instructions to voters.

This procedure was first used in the 2002 election cycle. "Analysis and Report of Overvotes and Undervotes for the 2002 General Election Pursuant to Section 101.595, Florida Statutes" found a substantial reduction in the level of overvotes and undervotes in 2002 (compared to 2000) and concluded that new technology and the counties' voter education efforts were major factors contributing to the reduction in voter error. The report's recommendations were:

(1) The Division of Elections should continue to monitor the overvotes and undervotes from each general election.
(2) The Florida Legislature should provide funding, contingent upon appropriations from Congress through the Help America Vote Act, to the counties for voter education efforts.
(3) The Division of Elections should review the recommendations for ballot instructions for incorporation into the uniform ballot rule.
(4) All voting system vendors should continue to improve the design of their voting systems in order to better meet the needs of Florida's voters.

Florida's system for constant evaluation of the effectiveness of voter education by both the county supervisors of elections and the Department of State is in place and operating.

What needs to be done? Educational materials must be updated to provide absentee voters with better instructions on how to mark a ballot and how to correct their ballots and how to request a replacement ballot if the voter is unable to change the original ballot. (This is necessary to meet Section 301(a)(1)(B) HAVA requirements.) This will be done once the amendment to Section 101.65, *Florida Statutes*, becomes law and Department of State rule changes have been adopted. Both are expected to be in effect by January 1, 2004—before the HAVA deadline of January 2006.



Educational materials must be updated giving a voter written notice at the time of casting a provisional ballot that he or she can find out if the ballot was counted, or if not, why, through a free access system, restricted to the individual voter—Section 302(a)(5)(A)&(B) HAVA requirements.

Educational materials available to voters at the polling place must be updated to conform to HAVA voting information requirements—Section 302(b)(2)(A through F) to post: sample ballots at polls; the election date; identification instructions for mail registrants who are first time voters; and information on who to contact if general voting rights under State and federal laws are violated.

Educational materials should be updated as needed to include information on law and rule changes. The procedures for informing Florida voters, election officials, and poll workers of these changes are in place in statutes and rule making authority.

**Section 254(a)(3). How will the State of Florida provide for programs for *election official education and training* which will assist the State in meeting the requirements of Title III?**

The State has assigned responsibility for education and training of election officials to the Secretary of State. The Division of Elections prepares and distributes educational materials for, and conducts the training of, supervisors of elections and their staffs.

The Secretary of State is the State's chief election officer whose responsibilities are spelled out in Section 97.012, *Florida Statutes*. Among those responsibilities are explicit requirements to: "provide technical assistance to the supervisors of elections on voter education and election personnel training services;" "provide technical assistance to the supervisors of elections on voting systems;" "provide training to all affected state agencies on the necessary procedures for proper implementation of [Chapter 97 of the Florida Statutes];" and "coordinate with the United States Department of Defense so that armed forces recruitment offices administer voter education in a manner consistent with the procedures set forth in [Florida election] code for voter registration agencies."

The Division of Elections conducts voter education and election personnel training, issues advisory opinions that provide statewide coordination and direction for interpreting and enforcing election law provisions, provides technical advice on voting systems and equipment and State and federal election laws, certifies voting equipment, and provides written election information to candidates (Office of Policy Analysis and Government Responsibility, *Justification Review*, Report No. 02-55, October 2002).

The Division of Elections oversees and approves training courses for continuing education for supervisors of elections. It coordinates, on an annual basis, two statewide workshops for the

supervisors of elections by reviewing and providing updates on the election laws to ensure uniformity statewide in the interpretation of election laws. These are generally held in conjunction with the Florida State Association of Supervisors of Elections' Conferences held in January and June. The division oversees certification for supervisors of elections through which supervisors obtain credits to maintain job proficiency. The Division may also conduct regional workshops for supervisors and staff, universities, and community colleges, and State agencies. When Select Task Forces are created by the Governor, Secretary of State, or other State officials, the Division provides administrative and technical assistance. (Florida Department of State, Division of Elections, 2001 Annual Report).

All Division of Elections' forms, rules, handbooks, opinions, etc. are available on the Internet via the Division's website—an award-winning site (http://election.dos.state.fl.us/). Section 97.026, *Florida Statutes,* states "It is the intent of the Legislature that all forms required to be used in chapters 97-106 [the election code], shall be made available upon request, in alternative formats" including the Internet (with the exception of absentee ballots).

The HAVA Planning Committee recommends that the Division of Elections also conduct training courses for the continuing education of city election officials in conjunction with meetings of the Florida Association of City Clerks.

**Section 254(a)(3). How will the State of Florida provide for programs for *poll worker training* which will assist the State in meeting the requirements of Title III?**

Florida has adopted extensive poll worker recruitment and training requirements and funded county poll worker training (as part of the $6 million voter education appropriation in 2001). The State has: adopted minimum-hours-of-training requirements; spelled out training content requirements; prepared a uniform polling place procedures manual; and mandated a statewide and uniform program for training poll workers on issues of etiquette and sensitivity with respect to disabled voters.

State law permits inspectors, clerks, and deputy sheriffs attending poll worker training to receive compensation and travel expenses—Section 102.021(2), *Florida Statutes.*

**Joint Responsibility of Department of State and County Supervisors of Elections**
Section 102.014, *Florida Statutes,* assigns responsibility for poll worker training to county supervisors of elections and the Department of State.

Section 102.014(1), *Florida Statutes,* requires supervisors of elections to conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election "for the purpose of instructing such persons in their duties and responsibilities as election officials." Training is mandatory to work at the polls.



Section 102.014(5), *Florida Statutes,* directs the Department of State to "create a uniform polling place procedures manual and adopt the manual by rule" and to revise it "as necessary to address new procedures in law or problems encountered by voters and poll workers at the precincts." Rule 1S-2.034, *F.A.C.,* Polling Place Procedures Manual (Form DS-DE 11; 4/02), was adopted on July 4, 2002. The manual, to be available in either hard copy or electronic form at every precinct on Election Day, must be "indexed by subject, and written in plain, clear, unambiguous language."

Under Section 102.014(7), *Florida Statutes,* the Department is assigned the responsibility for developing "a mandatory, statewide, and uniform program for training poll workers on issues of etiquette and sensitivity with respect to voters having a disability." But county supervisors of elections are responsible for conducting such training. They are required to "contract with a recognized disability-related organization, such as a center for independent living, family network on disabilities, deaf service bureau, or other such organization, to develop and assist with training the trainers in disability sensitivity programs."

Poll Worker Training Content
The content of poll worker training is detailed in State statutes.

Clerks must demonstrate "a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills"—Section 102.014(1), *Florida Statutes.*

The Uniform Polling Place Procedures Manual must include: regulations governing solicitation by individuals and groups at the polling place; procedures to be followed with respect to voters whose names are not on the precinct register; proper operation of the voting system; ballot handling procedures; procedures governing spoiled ballots; procedures to be followed after the polls close; rights of voters at the polls; procedures for handling emergency situations; procedures for dealing with irate voters; the handling and processing of provisional ballots; and security procedures—Section 102.014(5)(a-k), *Florida Statutes.* The manual "shall provide specific examples of common problems encountered at the polls on election day, and detail specific procedures for resolving those problems."

Poll worker training on issues of etiquette and sensitivity for disabled voters "must include actual demonstrations of obstacles confronted by disabled persons during the voting process, including obtaining access to the polling place, traveling through the polling area, and using the voting system"—Section 102.014(7), *Florida Statutes.*

Poll Worker Minimum Hours of Training
Section 102.014(4), *Florida Statutes,* specifies that clerks must have had a minimum of three hours of training prior to each election to be eligible to work at the polls. For inspectors, there is

a minimum of two hours of training. Section 102.014(7), *Florida Statutes*, requires one hour involving training related to etiquette and sensitivity with regard to voters with disabilities.

Poll Worker Recruitment

Supervisors of elections are required to "work with the business and local community to develop public-private programs to ensure the recruitment of skilled inspectors and clerks"—Section 102.014(6), *Florida Statutes*.

What needs to be done? There is no established procedure for evaluating the effectiveness of poll worker training or recruitment as there is for voter education. The 2002 Governor's Select Task Force on Election Procedures, Standards, and Technology report of December 30, 2002, recommended "establishing minimum standards for poll worker performance" and "improving poll worker recruitment and training by launching a statewide "Be a Poll Worker" campaign.

The HAVA Planning Committee recommends that the Division of Elections establish a procedure to evaluate the effectiveness of poll worker recruitment and training in all 67 counties.



## Element 4. Voting System Guidelines and Process

**How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.**

**Introduction**

There are several governmental bodies and agencies that participate in the adoption of voting systems in Florida. The Florida Legislature has great authority to set voting system requirements and does so in Chapter 101, *Florida Statutes*. The legislature also delegates rule making and certification authority to the Bureau of Voting Systems Certification in the Division of Elections under the Secretary of State.

After voting systems are independently tested and certified for use in Florida, Section 101.5604, *Florida Statutes*, provides that the Board of County Commissioners "at any regular or special meeting called for the purpose, may, upon consultation with the supervisor of elections, adopt, purchase or otherwise procure, and provide for the use of any electronic or electromechanical voting system approved by the Department of State in all or a portion of the election precincts of that county."

To keep Florida's voting systems standards up-to-date, Section 101.015, *Florida Statutes*, requires the Department of State to review "the rules governing standards and certification of voting systems to determine the adequacy and effectiveness of such rules in assuring that elections are fair and impartial."

**Section 254(a)(4) How will the State of Florida adopt voting system requirements and processes which are consistent with the requirements of Section 301?**

Florida's laws and regulations for adopting voting systems that are consistent with the requirements of Section 301 are clearly outlined in *Florida Statutes* and the Florida Voting Systems Standards.

Section 101.015, *Florida Statutes*, authorizes the Department of State to adopt rules which establish minimum standards for hardware and software for electronic and electromechanical voting systems.

Section 101.017, *Florida Statutes*, creates the Bureau of Voting Systems Certification which provides technical support to the supervisors of elections and is responsible for voting system standards and certification.

Section 101.5605, *Florida Statutes*, authorizes the Department of State to examine and approve voting systems through a public process to ensure that the voting systems meet the standards

outlined in Section 101.5606, *Florida Statutes,* and similar standards outlined in the Help America Vote Act of 2002 (HAVA) requirements outlined in Section 301 of Title III.

Section 101.5604, *Florida Statutes,* authorizes the Board of County Commissioners to adopt voting systems.

Sections 101.293-101.295, *Florida Statutes,* outline the public bidding process that counties should follow in purchasing voting systems.

Section 101.56062, *Florida Statutes,* exceeds the accessibility standards of HAVA Section 301 "Accessibility for Individuals With Disabilities." The HAVA Planning Committee has recommended that the Florida Legislature take advantage of federal funding and bring Florida into compliance and make Section 101.56062, *Florida Statutes,* effective by January 1, 2006 or one year after general appropriations are made, whichever is earlier.

Section 101.015, *Florida Statutes,* requires the Department of State to review "the rules governing standards and certification of voting systems to determine the adequacy and effectiveness of such rules in assuring that elections are fair and impartial."



## Element 5. Florida's Help America Vote Act of 2002 (HAVA) Election Fund

**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.**

To clarify, Section 254(b) states that a fund described in this subsection with respect to a State is a fund which is established in the treasury of the State government, which is used in accordance with paragraph (2), and which consists of the following amounts:

(A) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment is made to the State under this part.
(B) The requirements payment made to the State under this part.
(C) Such other amounts as may be appropriated under law.
(D) Interest earned on deposits of the fund.

**Section 254(a)(5) How will the State of Florida establish a fund for the purpose of administering the State's activities under this part?**

All HAVA funds will be maintained in a trust fund that has already been established by the Department of State. Within this trust fund, monies received for HAVA Sections 101, 102 and Title II will be set up into four accounts: 101-Election Administration, 102-Replace Punch Card and Lever Voting Systems, 251-Requirements Payment, and 261-Access for Individuals with Disabilities.

**Section 254(a)(5) How will the State of Florida manage this fund?**

Any HAVA funds received by the State will be used exclusively for activities authorized by HAVA. The Division of Elections is responsible for tracking and monitoring the use of funds in accordance with established State procedures.

The Director of the Division of Elections will have final signing authority for HAVA expenditures. Any interest earned on this trust fund will be returned to the principal amount of the trust.

Standard auditing procedures for monitoring the use of federal funds will be used for the receipt and the distribution of HAVA funds. These standard procedures include random program audits by the Department of State Inspector General as well as an annual audit by the Florida Auditor General.

The Governor and Secretary of State will be responsible under HAVA for ensuring compliance with these requirements. The HAVA Planning Committee recommends that the Governor and the Secretary of State maintain contact with the Senate President and the Speaker of the House of Representatives to ensure they remain aware of the strict requirements set in law for the use of HAVA monies placed in this trust fund.



## Element 6 – Florida's Budget for Implementing the Help America Vote Act of 2002 (HAVA)

**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.**

**Introduction**
The HAVA Planning Committee clearly recognizes its advisory role in election reform and acknowledges the authority of the Florida Legislature to make funding decisions for Florida. This budget reflects the HAVA Planning Committee's best efforts to divide the funds that may be available during the three years identified in HAVA. If Florida receives more funds than are included in this budget, the HAVA Planning Committee will revise the budget to reflect this change.

During the HAVA Planning Committee discussions, members determined the following to be priorities for using HAVA funds in Florida:

**Reimbursement for replacement of punch card and lever machines.**
Following the 2000 General Election, the State of Florida assisted counties by investing approximately $24 million to replace outdated voting machines. Under Section 102 of HAVA, the State of Florida is eligible to receive as a reimbursement approximately $11.7 million. The HAVA Planning Committee recommends that HAVA funds be distributed to the State and to each county that replaced outdated punch card and lever voting machines following the 2000 General Election on a pro rata basis.

**Statewide Voter Registration System.**
The HAVA Planning Committee recommends $1 million in HAVA funds be used for Phase One development of the statewide voter registration system required under Title III. These funds will be used for a variety of consulting fees, purchases of hardware and software for system development, expenses incurred by staff in the Division of Elections and travel expenses for advisory board members who assist with design of the project.

For the development and operation of the new statewide voter registration system required under HAVA, the HAVA Planning Committee recommends that the State of Florida create nine new positions.

- Two positions under the Department of Highway Safety and Motor Vehicles
- Two positions under the Department of Law Enforcement
- Five positions under the Department of State

It is anticipated that a significant portion of HAVA funds will be used for the design and implementation of the statewide voter registration database. Research conducted during Phase One of the system development will provide the State of Florida with an estimate of the cost of the new voter registration system. A preliminary estimate of $18.5 million has been included in this budget. However, a more precise figure will be determined during Phase One of the system development process and the HAVA Planning Committee will include this new figure in the next update of the HAVA State Plan, if available.

**Section 301 Accessible Voting Systems**

The HAVA Planning Committee recommends, in order to meet HAVA accessibility for voters with disabilities requirements, the purchase of Direct Recording Equipment (DRE) accessible to persons with disabilities to ensure that each county has one accessible voting system for each polling place. The estimated cost is $11.6 million during the 2004-2005 fiscal year.

In addition, the HAVA Planning Committee recommends reimbursing counties that have already purchased voting systems that meet the HAVA accessibility for voters with disabilities requirements. The estimated cost for this reimbursement is $17 million.

**Voter Education**

The HAVA Planning Committee recommends using HAVA funds for the development and implementation of a comprehensive statewide voter education program. The estimated expenditure is a total of $9 million distributed to the counties and spread over the 2003-2004, 2004-2005 and 2005-2006 fiscal years.

**Poll Worker Training**

The HAVA Planning Committee recommends using HAVA funds in the amount of $250,000 for each fiscal year 2003-2004, 2004-2005 and 2005-2006 for poll worker training. These funds are intended to supplement each county's existing poll worker training budget.



**Statewide Pollworker Recruitment Campaign**

The HAVA Planning Committee recommends that HAVA funds be used to implement, through the Division of Elections, a statewide campaign to help recruit qualified pollworkers. The increase in the complexity of voting systems and procedures has resulted in a need for more computer literate individuals to staff the polling places and help ensure error-free elections. It is estimated that $500,000 in HAVA funds should be expended by the Department of State in the 2003-2004 fiscal year.

**HAVA Oversight and Reporting**

The HAVA Planning Committee recommends that the Department of State create three full time positions to manage HAVA implementation. The estimated cost for HAVA oversight and reporting is $206,079 for the 2003-2004 fiscal year, $196,485 for the 2004-2005 fiscal year and $200,719 for the 2005-2006 fiscal year.

- HAVA administrator
- Grants specialist
- Administrative assistant

**State Management (HAVA Planning Committee)**

The HAVA Planning Committee recommends that the Secretary of State require it to meet twice each year in 2003-2004 and in 2004-2005 to make recommendations and to resubmit the HAVA State Plan to ensure that Florida is meeting the requirements of the Help America Vote Act. This participatory process will convene once in the 2003-2004 fiscal year at an estimated cost of $30,000, twice in the 2004-2005 fiscal year at an estimated cost of $60,000 and once in the 2005-2006 fiscal year at an estimated cost of $30,000.

**Performance Goals and Measures Adoptions**

The HAVA Planning Committee recommends the Secretary of State utilize the HAVA Planning Committee to determine performance goals and measures. The estimated cost is $160,000 to be expended in the 2003-2004 and 2004-2005 fiscal years.

**Election Administration**

The HAVA Planning Committee recommends HAVA funds be used for the design and production of new voter registration forms and publications, and translations for all election administration forms and publications. The estimated cost is $250,000 for each fiscal year 2003-2004, 2004-2005 and 2005-2006.

**Complaint Procedures**

Section 402(a) of HAVA requires each State to establish State-based administrative complaint procedures for any person who believes that there is or will be a violation of any of HAVA's Title III requirements. The HAVA Planning Committee recommends that HAVA funds in the amount of $50,000 per year for the 2004-2005 and 2005-2006 fiscal years be budgeted for the administration of the complaint procedures process.

**Requirement 6**
**(A) Based on the State's best estimates, what are the costs of the activities required to carry out to meet the requirements of Title III?**
**(B) What portion of the requirements payment will be used to carry out activities to meet such requirements?**
**(C) What portion of the requirements payment will be used to carry out other activities?**

This information is displayed in charts on pages 53 and 54.



**HAVA Estimated Budget Funding by Fiscal Year**

| | 2003-2004 | 2004-2005 | 2005-2006 | Total |
|---|---|---|---|---|
| **Title I Requirements** | | | | |
| Reimbursement for replacement of punch card and lever machines. (Section 102 HAVA) | 11,740,000* | | | 11,740,000 |
| | | | | |
| **Title III Requirements** | | | | |
| Sec. 303 Statewide Voter Registration System | | | | |
| Phase One Development –research, planning & design (Section 101 HAVA Funds) | 1,000,000* | | | 1,000,000 |
| 9 full time positions – salaries | 520,000* | 533,000 | 546,325 | 1,599,325 |
| 9 full time positions – expenses | 125,235* | 97,686 | 97,686 | 320,607 |
| Operating capital outlay | 13,500* | TBD | TBD | 13,500 |
| Phase Two - Develop and implement statewide voter registration system (Section 252 Requirements Payment) | | 9,250,000 | 9,250,000 | 18,500,000 |
| | | | | |
| Sec. 301 Voting System Standards (Section 252 Requirements Payment) | | | | |
| Accessibility for voters with disabilities (compliance) | | 11,600,000 | | 11,600,000 |
| Accessibility for voters with disabilities (reimbursement to counties) | | | 17,000,000 | 17,000,000 |
| | | | | |
| **Other Election Reform Activities (Section 101 HAVA funds 2003-2004 activities; Section 101 and Section 252 HAVA fund activities 2004-2005 and beyond)** | | | | |
| Voter Education Programs | 3,000,000* | 3,000,000 | 3,000,000 | 9,000,000 |
| Poll worker Recruitment Statewide campaign | 500,000 | | | 500,000 |
| Poll worker Training | 250,000 | 250,000 | 250,000 | 750,000 |
| HAVA Oversight and Reporting | | | | |
| 3 full time positions – salaries | 165,230* | 169,361 | 173,595 | 508,186 |
| 3 full time positions – expenses | 35,849* | 27,124 | 27,124 | 90,097 |
| Operating capital outlay | 5,000* | TBD | TBD | 5,000 |
| State Management (HAVA Planning Committee) HAVA Planning Committee convenes twice each year ($30k/mtg) | 30,000 | 60,000 | 30,000 | 120,000 |
| HAVA Performance Goals & Measures Adoption HAVA Planning Committee hearings – 4 at $40k/mtg | 80,000 | 80,000 | | 160,000 |
| Election Administration – design and production of new voter registration forms and publications, translations for all election administration forms and publications. | 250,000* | 250,000 | 250,000 | 750,000 |
| Complaint Procedure §402 | | 50,000 | 50,000 | 100,000 |
| **Total** | **17,714,814** | **25,367,171** | **30,674,730** | **73,756,715** |

* These items were included in the 2003-2004 General Appropriations Act as passed by the Legislature and signed by the Governor. All expenditures in 2003-2004 will be from Section 101 and Section 102 HAVA funds.

| | Election Reform Estimated Revenues 2003-2005 Fiscal Years | | | |
|---|---|---|---|---|
| | HAVA 101 | HAVA 102 | HAVA 252 | Total Federal Funds |
| 2003 Estimate | $ 14,720,000 | $ 11,740,000 | $ 47,528,000 | $ 73,988,000 |
| 2004 Estimate | 0 | 0 | TBD | TBD |
| 2005 Estimate | 0 | 0 | TBD | TDB |



## Element 7. Maintenance of Effort

**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.**

**Introduction**

The funding provided under the Help America Vote Act of 2002 (HAVA) is intended to pay for new or enhanced election efforts and is not intended to supplant existing funding at the State or county level. The projected HAVA budget is based on the assumption that the State of Florida and counties will maintain the foundation of election operating expenditures for the fiscal year ending prior to November 2000.

The Florida Division of Elections provides statewide coordination and direction for the interpretation and enforcement of election laws. The Division's budget supports year-round staff that provides election-related assistance to Florida's 67 county supervisors of elections and their staff, municipalities, special districts, county and city attorneys, candidates, political committees, committees of continuous existence, elected officials, media, the public and other election officials throughout the United States.

**Section 254(a)(7) How will the State of Florida 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 determining Florida's maintenance of effort expenditures, the Division of Elections calculated 1999-2000 fiscal year expenditures which included salaries and benefits, operating capital outlay and voter fraud programs for the Division of Elections Director's office and the portion of Bureau of Election Records' expenditures pertaining to election administration. Florida's expenditures for these activities for 1999-2000 fiscal year totaled $3,082,224.

In order to comply with Section 254(a)(7) of HAVA, the Florida Department of State will maintain expenditures on similar activities at a level equal to the 1999-2000 fiscal year budget.

The HAVA Planning Committee recommends that the Secretary of State communicate to the Senate President and the Speaker of the House of Representatives the importance of maintaining this maintenance of effort figure, as a minimum level of expenditures, to ensure the required level of spending is appropriated by the Florida Legislature.

## Element 8. Performance Goals and Measures

**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.**

**Introduction**

Florida has a very decentralized election governance and administrative system. The Secretary of State is appointed by the Governor and is the legal Chief Election Official in Florida. However, the Secretary of State does not supervise the day-to-day operations of the 67 local supervisors of elections and only provides guidance through technical assistance, rules, advisory opinions, voting system certification, and producing standardized election forms.

In Florida, it is the local supervisor of elections that has constitutional authority to conduct elections through State law and rule. The supervisors are elected to 4-year terms by the registered voters of their respective counties (except for Miami-Dade's appointed supervisor) and have broad authority to conduct the day-to-day election operations by appointing local election officials, administering voter registration, preparing ballots, administering absentee voting, conducting poll worker training, and developing voter education programs.

Yet, the new Help America Vote Act of 2002 (HAVA) requires the State and not the local supervisors to adopt performance goals and measures for determining statewide and local election reform success.

It should be noted that Florida already requires certain reports on the performance of voting systems and voter education. By December 15 of each general election year, the Florida Legislature requires local supervisors of elections to report on performance measures such as overvotes and undervotes, ballot designs, and voting instructions (Section 101.595, *Florida Statutes*). Similarly, the Florida Legislature requires local supervisors of elections by December 15 of each year following a general election to prepare a public report on the effectiveness of voter education programs (Section 98.255(3)(a), *Florida Statutes*).

However, neither of these statutes follows the specific format that is required under HAVA. Nor do the statutes or rules outline performance measures for the remaining elements of the HAVA State Plan.

Florida must comply with this HAVA requirement. The most effective and egalitarian way for Florida to define election reform success of HAVA is to carry out a collaborative process similar



to the HAVA Planning Committee. The participatory process will ensure that Florida will clearly define the goals, the success measures, the timetables, and accountable officials through a public forum consisting of State election officials, local election officials, and interested citizens.

**Section 254(a)(12) How will Florida adopt performance goals and measures that will be used by the State to determine its success and the success of local government in carrying out the plan, including—**

- **Timetables for meeting the elements of the plan**
- **Descriptions of the criteria the State will use to measure performance**
- **The process used to develop such criteria**
- **A description of which official is to be held responsible for ensuring that each performance goal is met?**

In the spirit of HAVA and in participatory election reform, the HAVA Planning Committee recommends that the Secretary of State utilize the HAVA Planning Committee for determining its performance measures and goals for successfully carrying out the HAVA State Plan. The composition of the HAVA Planning Committee consists of State and local election officials, along with interested citizens. The overall goals of the HAVA Planning Committee are:

1. To recommend specific success factors, outline timetables, and assign accountability toward meeting the goals of the HAVA State Plan.

2. To continue building public participation and confidence in Florida's election reform process.

The HAVA Planning Committee should begin work as soon as possible and finish its work no later than the end of 2003. It should conduct its business in the same manner as the HAVA State Plan was developed utilizing locations around the State to encourage public participation. The HAVA Planning Committee suggests that the Secretary of State use a qualified facilitator to assist in this process. The funding to develop the performance goals and measures should come from HAVA Section 101 federal funds.

The HAVA Planning Committee should take each element of the HAVA State Plan and provide specific State and local criteria which are measurable and within HAVA deadlines. The HAVA Planning Committee should define the HAVA State Plan elements and prepare specific goals and measurements to determine success. The HAVA Planning Committee should address the following 13 planning elements:

1. Voting Systems—Absentee ballot issues, Accessibility issues (Not in compliance)
2. Provisional Voting and Information (Not in compliance)
3. Voter Registration System (Not in compliance)

4. Voter Education Programs, Election Official Training, and Poll Worker Training (In compliance)
5. Voting System Guidelines and Process (In compliance)
6. State Trust Fund (In compliance)
7. State Budget (In compliance)
8. Maintenance of Effort (In compliance)
9. Administrative Complaint Process (In compliance)
10. Title One Payments and Activities (In compliance)
11. State HAVA Management (In compliance)
12. Changes to HAVA State Plan (In compliance)
13. HAVA Planning Committee and Procedures (In compliance)

The measurable criteria should provide State and local election officials clear information about what stage, how and who is implementing the HAVA State Plan. Listed below is a sample of how the HAVA Planning Committee might outline and define performance goals and measures. Included in this process would be a description of the major elements, the mandated deadline, goals of the planning element, measurable criteria, and the accountable official.

**Sample Performance Measure**

| | |
|---|---|
| Planning Element: | Accessible Voting Systems |
| HAVA Deadline: | January 1, 2006 |
| Goal: | Provide one accessible voting system for every polling place. |
| Measurement: | • Division of Elections certifies eligible voting systems;<br>• Local Supervisors submit recommendations for purchase of certified voting systems;<br>• Legislature or Board of County Commissioners appropriates funds for certified voting systems;<br>• Division of Elections conducts statewide census of one certified machine for persons with disabilities for every polling place;<br>• Local Supervisors certify that one accessible voting system is functioning for every polling place. |
| Timetable: | Begin August 1, 2003<br>End December 1, 2005 |
| Accountable Official: | Chief, Bureau of Voting Systems Certification |



## Element 9. State-Based Administrative Complaint Procedures to Remedy Grievances

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

**Introduction**
To receive any requirements payment pursuant to the Help America Vote Act of 2002 (HAVA), the State of Florida must establish and maintain State-based administrative complaint procedures which meet HAVA's requirements to:

(1) be uniform and nondiscriminatory;
(2 provide that any person who believes that there is or will be a violation of any of HAVA's Title III requirements may file a complaint;
(3) require the complaint to be in writing, sworn and notarized;
(4) permit complaints to be consolidated;
(5) hold a hearing on the record at the request of the complainant;
(6) provide an appropriate remedy if the State determines that there is a violation of any Title III provision;
(7) if the State determines there is no violation, dismiss the complaint and publish the results of procedures;
(8) make a final determination on a complaint within 90 days after filing unless the complainant consents to a longer period; and,
(9) use alternative dispute resolution procedures to resolve the complaint if the State fails to resolve it within 90 days.

**Section 402(a): Has Florida complied with the requirements of HAVA Section 402(a) to establish State-based administrative complaint procedures to remedy grievances?**

**Yes, and no further actions are required.**
Appropriate administrative complaint procedures were included in Chapter 2003-415, *Laws of Florida*. Language in the legislation tracked HAVA's language closely. These procedures are similar to administrative procedures in Section 97.023, *Florida Statutes*, for resolving complaints generated by alleged violations of the National Voter Registration Act of 1993 or a voter registration or removal procedure under the Florida Election Code.

Florida's legislation established a new Section 97.0535, *Florida Statutes*, that, in addition to tracking HAVA's minimum requirements, included the following additional requirements not specified by HAVA:

(1) the Department of State would have sole jurisdiction for these purposes and the procedures would be the sole avenue of redress for alleged Title III violations;
(2) a complaint would have to state the alleged violation and the person or entity responsible for the violation;
(3) the Department of State would be required to inform a complainant in writing if a complaint was legally insufficient;
(4) proceedings would be exempt from Chapter 120, *Florida Statutes,* (Administrative Procedures Act);
(5) a hearing would be held by a hearing officer whether or not a complainant requested a hearing and specific procedures for a hearing were included in the legislation;
(6) the hearing officer would direct an appropriate remedy that then would be enforced by the Department of State;
(7) mediation would be the alternative dispute resolution method used if a final determination on a complaint was not made within 90 days of filing.



## Element 10. Effect of Title I Payments

**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.**

**Introduction**
Title I of the Help America Vote Act of 2002 (HAVA) is an "early out" money program for use in two areas—improving election administration and the replacement of punch card and lever voting systems. Each State is guaranteed to receive a minimum of $5 million under this program. The HAVA Planning Committee recommends using Section 101 HAVA funds for 2003-2004 activities and a combination of Section 101 and Section 252 HAVA funds for activities beginning in the 2004-2005 fiscal year and beyond.

Under Title I, Section 101 funds are to be used to improve election administration. Approved use of funds under this section includes:
(A) Complying with the requirements under Title III.
(B) Improving the administration of elections for Federal office.
(C) Educating voters concerning voting procedures, voting rights, and voting technology.
(D) Training election officials, poll workers, and election volunteers.
(E) Developing the HAVA State Plan for requirements payments.
(F) Improving, acquiring, leasing, modifying, or replacing voting systems.
(G) Improving polling place accessibility for voters with disabilities or with limited English.
(H) Establishing toll-free telephone hotlines for voters to access voting information, report voting fraud, or report voting rights violations.

Under Title I, Section 102 funds are to be used to replace punch card and lever voting systems.

The HAVA Planning Committee clearly recognizes its advisory role in election reform and acknowledges the authority of the Florida Legislature to make funding decisions for Florida. The following recommendations are based on the HAVA Planning Committee meetings held to develop the HAVA State Plan.

**Section 101. How will Title I payments to Florida be used for activities to improve administration of elections?**

The State of Florida will use Title I funds for election reform activities necessary to ensure Florida complies with all HAVA requirements. The following list describes the major areas in which funds may be used.

**(A) Complying with the requirements under Title III**

The Division of Elections will implement a statewide voter registration system to comply with HAVA Title III. The Division of Elections anticipates using $1 million appropriated from Section 101 funds for Phase One development of the new Statewide Voter Registration system. Expenditures for Phase One will include:

- Consulting fees which will be required for conducting a detailed analysis of connectivity infrastructure available in the 67 supervisor of elections' offices and within all affected offices of the departments of State, Law Enforcement and Highway Safety and Motor Vehicles; working with the counties, the three agencies and the advisory board to create minimum and optimum sets of system requirements; assessing infrastructure needs of all stakeholders to serve the system requirements; conducting "gap" analysis; outlining the physical design of the system; estimating costs and implementation plans for each version for the system to be presented to the 2004 Legislature; and developing and publishing the January 2004 report and recommendations for the 2004 Legislature.
- Purchase hardware and software for project management and system development.
- Expenses incurred by Division of Elections' staff.
- Travel expenses which will involve visiting every supervisor of elections' office and local driver license office.

In addition, Section 101 HAVA funds will be used to create nine full time positions necessary for the design, development and implementation of the Statewide Voter Registration system.

**(B) Improving the administration of elections for Federal office.**

Upon receipt of Title I monies, it is recommended that the Division of Elections use $250,000 in fiscal year 2003-2004 from Section 101 funds for expenses that include the design and publication of voter registration forms and other election information, translations for all election administration forms and publications, statewide voter education programs and training workshops.

In addition, funds will be required to establish a State-based complaint procedure for anyone who believes that a violation of Title III of the Help America Vote Act has occurred, is occurring or is about to occur. It is estimated that this process will be established at an estimated cost of $100,000. If no Title I funds are remaining, this activity will be funded from Section 252 HAVA funds.



**(C) Educating voters concerning voting procedures, voting rights, and voting technology.**

Upon receipt of Title I monies, it is recommended that the Florida Division of Elections use approximately $9 million over a three year period for voter education programs.

These funds will be divided among Florida's 67 counties. To determine the amount each county will receive, the Division of Elections shall divide the total amount of funds appropriated by the total number of registered voters in the State of Florida for the 2002 General Election to establish a funding level per individual voter. Each county shall receive an amount equal to the funding level per individual voter multiplied by the number of registered voters in the county, as certified by the Department of State for the 2002 General Election.

**(D) Training election officials, poll workers, and election volunteers.**

The HAVA Planning Committee recommends using HAVA funds in the amount of $250,000 for each fiscal year 2003-2004, 2004-2005 and 2005-2006 for poll worker training. These funds are intended to supplement each county's existing poll worker training budget.

**(E) Developing the HAVA State Plan for requirements payments to be submitted under part 1 of subtitle D of Title II.**

There are no plans to use Title I funds for the development of Florida's HAVA State Plan for 2003-2004 fiscal year. As the State of Florida modifies its plans in future years, HAVA funds may be used.

**(F) Improving, acquiring, leasing, modifying, or replacing voting systems.**

Florida has already replaced its punch card and lever voting systems. It is recommended that Section 102 funds be used to reimburse the State and each eligible county, on a pro rata basis, for punch card and lever machines purchased in 2001-2002 and 2002-2003 fiscal years.

The HAVA Planning Committee also recommends that the State of Florida utilize some HAVA funds to help counties meet the accessibility requirements under Title III by the January 1, 2006 deadline. The estimated amount to comply with this requirement is $11.6 million and the funds would be distributed according to the number of accessible DREs for each county to have one audio ballot per polling

place. The HAVA Planning Committee estimates that these units will be purchased in the 2004-2005 fiscal year and that Section 252 HAVA funds will be used.

In addition, the HAVA Planning Committee recommends reimbursing counties who have already purchased voting systems that meet the HAVA accessibility for voters with disabilities requirements. The estimated cost for this reimbursement is $17 million and it is anticipated that Section 252 HAVA funds will be used.

**(G) Improving polling place accessibility for voters with disabilities or with limited English.**

Under Section 261, HAVA states the Secretary of Health and Human Services shall make a payment to eligible States to be used for making polling places accessible to individuals with disabilities and providing information on this accessibility. The State of Florida has applied for available funds under this grant program. It is recommended that these funds be distributed to each county to ensure that individuals with disabilities are provided the same opportunity for access and participation as for other voters.

**(H)*Establishing toll-free telephone hotlines for voters to access voting information, report voting fraud, or report voting rights violations.***

Currently, there are no plans to use HAVA funds for establishing a free voting information hotline. If this type of voting information system is desired, it will be the responsibility of each county and monitored by the Division of Elections.

The Division of Elections has already established and plans to expand a voter fraud hotline for individuals who believe they may have witnessed election fraud.

**Section 102. How will payments to Florida be used for the replacement of punch card or lever voting machines?**

Under Section 102, the State of Florida is eligible for approximately $11.7 million which it will use as reimbursement to the State and eligible counties for funds previously spent to replace punch card and lever voting systems. Currently, 14 counties have replaced punch card and lever machines with machines that are fully compliant with HAVA.



## Element 11. Help America Vote Act of 2002 (HAVA) State Plan Management

**How the State will conduct ongoing management of the plan, except 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).**

**Introduction**
This element of the HAVA State Plan requires Florida to explain how the State of Florida will manage the implementation of the HAVA State Plan and whether it will utilize the same public notice process if any "material change" is made to the administration of the HAVA State Plan.

**Section 251(a)(11) How will Florida conduct ongoing management of the HAVA State Plan?**

As explained in previous sections of this Plan, the administration of elections in Florida occurs at the State and local levels. The Secretary of State is the Chief Election Officer under Florida law. The Secretary of State as the Chief Election Officer is responsible for the coordination of the State's responsibilities under HAVA Section 253. The Director of the Division of Elections reports to the Secretary of State and will be responsible for the day-to-day monitoring and managing of Florida's HAVA State Plan. Through the approval and implementation of this HAVA State Plan, it is expected that the Director will have three new positions dedicated to HAVA program management. The scope of responsibilities will range from federal reporting and grant compliance to assistance with voter education, election official training and updating the HAVA State Plan.

Also at the State level, the Secretary of State will direct the HAVA Planning Committee to update the HAVA State Plan as required in Section 255. Under Florida's HAVA State Plan, the HAVA Planning Committee will be responsible for conducting its business in an open, public forum and for suggesting revisions and updates to the HAVA State Plan.

At the local level, Florida's 67 supervisors of elections will be encouraged to play an active role in the successful implementation of the HAVA State Plan. The Division of Elections will continue to work on a regular basis with local supervisors of elections to develop performance goals and measures, new voter registration improvements, new voting systems certification upgrades, statewide voter education programs, election official training, and other activities outlined in Florida's HAVA State Plan.

**Section 254(a)(11) If Florida makes any material change in the administration of the HAVA State Plan, will the change—**

**(A) be developed and published in the Federal Register in accordance with Section 255 in the same manner as the HAVA State Plan;**

**(B) be subject to public notice and comment in accordance with Section 256 in the same manner as the HAVA State Plan; and**

**(C) take 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 State of Florida understands and agrees to comply with the HAVA requirements related to ongoing management of the HAVA State Plan. No material changes in the administration of the plan will be made unless:

- the material change is developed and published in the Federal Register in accordance with Section 255 in the same manner as the HAVA State Plan;
- the material change is subject to public notice and comment in accordance with Section 256 in the same manner as the HAVA State Plan; and
- the material change 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).



## Element 12. Changes to State Plan for Previous Fiscal Year

**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.**

**Introduction**
This is the State of Florida's first Help America Vote Act of 2002 (HAVA) State Plan. There are no previous plans to describe changes or successes under the HAVA. The HAVA State Plan will be updated in the next fiscal year and the Secretary of State will utilize the HAVA Planning Committee to fulfill this element of the plan.

**Section 254(a)(12) When Florida has a HAVA State Plan for the previous fiscal year, will the State of Florida provide a description of how the plan reflects changes from the HAVA State Plan for the previous fiscal year and how the State succeeded in carrying out the HAVA State Plan for such previous fiscal year?**

**Yes, and no further actions are required.**

## Element 13. State Plan Development and HAVA Planning Committee

**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.**

**Introduction**
To comply with the requirements of the Help America Vote Act of 2002 (HAVA), the HAVA State Plan must be developed by the chief State election official through a committee of appropriate individuals. After a preliminary plan is developed, it must be published for public inspection and comment. State officials must take public comments into account in preparing the HAVA State Plan submitted to the Federal Elections Commission.

**Section 255: Has Florida complied with the requirements of section 255(a) to have the chief State election official develop the HAVA State Plan through a committee of appropriate individuals?**

**Yes, and no further actions are required.**
Florida's Chief State Election Official, Secretary of State Glenda Hood, has the responsibility under HAVA to develop the HAVA State Plan with the assistance of the statewide HAVA Planning Committee. Section 255(a) of HAVA requires that "The chief State election official shall develop the HAVA State Plan under this subtitle through a committee of appropriate individuals, including the chief election officials of the two most populous jurisdictions within the State, other local election officials, stakeholders (including representatives of groups of individuals with disabilities), and other citizens, appointed for such purpose by the chief State election official."

Members of the HAVA Planning Committee for the State of Florida, appointed by Secretary of State Hood, are as follows:

**Chairman:**
Jim Smith of Leon County, former Secretary of State and former Attorney General

**Chief Election Officials of the Two Most Populous Jurisdictions Within the State:**
Miriam Oliphant, Supervisor of Elections for Broward County
David Leahy, Supervisor of Elections for Miami-Dade County



**Other Local Election Officials:**
Kurt Browning, Supervisor of Elections for Pasco County
Susan Gill, Supervisor of Elections for Citrus County
Shirley Green Knight, Supervisor of Elections for Gadsden County

**Stakeholders/Representatives of Groups of Individuals with Disabilities:**
Dave Evans, State Board Member of the National Federation of the Blind
Jim Kracht, Assistant County Attorney for Miami-Dade County and member of the American Blind Lawyers Association, American Council of the Blind and the Florida Council of the Blind
Richard LaBelle, Secretary of the Florida Coalition on Disability Rights

**Other Stakeholders and Citizens:**
Joe Celestin, Mayor of the City of North Miami
Anna Cowin, State Senator from District 20
Jane Gross, President of the Florida League of Women Voters
Lindsay Harrington, State Representative from District 72
Arthur Hernandez, Vice Chairman of the Jacksonville Mayor's Hispanic American Advisory Board
Percy Luney, Dean and Professor of Law at Florida A&M University
Reggie McGill, Human Relations Director for the City of Orlando
Isis Segarra, private citizen from Hillsborough County
Lori Stelzer, President of the Florida Association of City Clerks and City Clerk for the City of Venice
Raiza Tamayo, Regional Director of the United States Hispanic Chamber of Commerce

This HAVA Planning Committee convened four times in public meetings to accomplish its work – Tallahassee on April 25, West Palm Beach on May 6, Ft. Myers on May 12 and Orlando on May 15. Press releases were sent to members of the press before each meeting and copies of the press releases were available for the audience at each meeting. In addition, all meetings were noticed in the *Florida Administrative Weekly*. Members of the public and press were welcomed at the meetings. The HAVA Planning Committee heard public comment at each meeting. It was assisted by a non-profit, non-partisan organization, the Collins Center for Public Policy, Inc., that was selected in a public bidding process to serve as staff for the HAVA Planning Committee in developing the HAVA State Plan, and by the Division of Elections of the Florida Department of State.

The HAVA Planning Committee operated in an open process with public deliberations, systematic procedures in accordance with *Robert's Rules of Order*, and majority vote of members who were present when votes were taken. Majority quorums were present at all meetings of the HAVA Planning Committee. The Collins Center, as staff, prepared written materials for the meetings, made presentations to focus the HAVA Planning Committee on

**Help America Vote Act of 2002 (HAVA) State Plan Chart**

| Voting Systems--Section 301 Compliance January 1, 2006) | Meets | Partially Meets | Does Not Meet | Described in Plan |
|---|---|---|---|---|
| Verify Ballot | X | | | |
| Change or Correct Ballot | X | | | |
| Prevent Overvotes | X | | | |
| Absentee instructions | | X | | |
| Absentee privacy and confidentiality | X | | | |
| Paper record for audits | X | | | |
| Systems for voters with disabilities | | X | | |
| Future voting systems purchases comply with HAVA | X | | | |
| Alternative language accessibility | X | | | |
| Comply with FEC error rates | X | | | |
| Define what constitutes a vote | X | | | |
| | | | | |
| **Provisional Voting and Voter Information--Section 302 (Compliance January 1, 2004)** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Laws require notification to cast provisional ballot | X | | | |
| Provisional ballots permitted with written affirmation of voter eligibility | X | | | |
| Provisional ballots given to election officials for determination | X | | | |
| Provisional ballots counted if voter is determined to be eligible | X | | | |
| Voters provided information to ascertain if provisional ballot counted | X | | | |
| *"Free access system" provided to ascertain if provisional ballot counted* | | | X | |
| Sample ballots are posted for election | X | | | |
| Date of election and polling place hours are posted | X | | | |
| Voting instructions and provisional voting instructions are posted on election day | | | X | |
| Voting instructions for mail-in registrants and first-time voters on election day | | | X | |
| Voting rights information and provisional ballot information posted | X | | | |
| Contact information posted for voters whose rights have been violated | | | X | |
| Information posted on prohibition of fraud and misrepresentation | X | | | |
| Provisional ballots segregated for those who vote after special extended poll hours | X | | | |



decisions that needed to be made, took notes of all meetings and reported them publicly on its website at www.collinscenter.org. A formal transcript of each meeting also was made and published on the website along with all agendas and other published materials for meetings of the HAVA Planning Committee. The website of the State Division of Elections also included much of this material.

All meetings were held in accessible facilities and were compliant with the Americans with Disabilities Act. Closed captioning service and signers were available at all meetings. Agendas were printed in Braille as well as Spanish and Creole.

**Section 256: Will Florida comply with the requirement of Section 256 to have the HAVA State Plan meet the public notice and comment requirements of HAVA?**

**Yes, and no further actions are required.**

Section 256 of HAVA requires that the HAVA State Plan meet the following public notice and comment requirements:

(1) not later than 30 days prior to the submission of the plan, the State shall make a preliminary version of the plan available for public inspection and comment;
(2) the State shall publish notice that the preliminary version of the plan is so available; and
(3) the State shall take the public comments made regarding the preliminary version of the plan into account in preparing the plan which will be filed with the Federal Elections Commission.

After the final HAVA State Plan is submitted to the Federal Elections Commission, that Commission shall cause the HAVA State Plan to be published in the Federal Register in accordance with Section 255(b).

These tasks were performed the Division of Elections and not by the HAVA Planning Committee or its consultants. The work of the HAVA Planning Committee and its consultants was completed when a preliminary version of the HAVA State Plan was prepared, approved by the HAVA Planning Committee, and submitted to the Secretary of State.

After notice was given in the *Florida Administrative Weekly*, the preliminary version of the HAVA State Plan was posted on the Department of State's and the Governor's websites. A link was available on the Department's website so that public comment could be made electronically. Public comments were also received by U. S. mail. Public comments were received from June 13 through July 13 and those public comments were considered in preparing the final plan.

GLENDA E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA



| Voter Registration List–Section 303 (Compliance January 1, 2004 or extension January 1, 2006) | Meets | Partially Meets | Does Not Meet | Described in Plan |
|---|---|---|---|---|
| Single, uniform, official centralized, interactive computer statewide, voter registration list | | | X | |
| Can Florida meet January 1, 2004 deadline? Need to apply for January 1, 2006 waiver | | | X | |
| HAVA's ID requirements for voters who register by mail and not previously voted | X | | | |
| HAVA's requirement for voter registration language in mail registration forms | X | | | |
| | | | | |
| **Local Government Payments and Activities [Section 254(a)(2)]** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Describe criteria for funding | | | | X |
| Describe methods to monitor performance | | | | X |
| | | | | |
| **Voter Education [Section 254(a)(3)]** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Describe voter education programs to support Title III | | | | X |
| Describe election official education and training to support Title III | | | | X |
| Describe poll worker training to support Title III | | | | X |
| | | | | |
| **Voting System Guidelines and Processes [Section 254(a)(4)]** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Describe Florida's voting system guidelines and processes consistent with Section 301 | | | | X |
| | | | | |
| **HAVA Election Fund [Section 254(a)(5)]** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Describe how Florida will establish a HAVA fund | | | | X |
| Describe how Florida will manage the HAVA fund | | | | X |
| | | | | |
| **Florida's HAVA Budget [Section 254(a)(6)]** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Describe costs of activities to meet Title III | | | | X |
| Describe portion of requirements payment to carry out requirements activities | | | | X |
| Describe portion of requirements payment to carry out other activities | | | | X |

GLENDA E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA



| Florida's Maintenance of Effort [Section 254(a)(7)] | Meets | Partially Meets | Does Not Meet | Described in Plan |
|---|---|---|---|---|
| Describe how Florida will maintain election expenditures at the FY 1999-2000 level | | | | X |
| | | | | |
| **Florida's Performance Goals and Measures [Section 254(a)(8)]** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Describe how Florida will adopt performance goals measures to determine HAVA success | | | | X |
| | | | | |
| **Administrative complaint process [Section 254(a)(9)]** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Established a State-based administrative complaint process to remedy grievances | X | | | |
| | | | | |
| **Effect of Title I Payments [Section 254(a)(10)]** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Describe how Title I payments will affect activities of HAVA plan | | | | X |
| | | | | |
| **HAVA State Plan Management [Section 254(a)(11)]** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Describe how Florida will manage plan and make material changes to plan | | | | X |
| | | | | |
| **HAVA State Plan for Previous Fiscal Year [Section 254(a)(12)]** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Describe how this year's plan changed from the previous fiscal year | | | | X |
| | | | | |
| **HAVA State Plan Development and Planning Committee [Section 254(a)(13)]** | **Meets** | **Partially Meets** | **Does Not Meet** | **Described in Plan** |
| Describe the committee and procedures used to develop the HAVA plan | | | | X |
| | | | | |

HELP AMERICA VOTE ACT OF 2002

STATE PLAN

FOR

THE STATE OF GEORGIA

Election Reform in the State of Georgia

Plan written and submitted by
Cathy Cox
Secretary of State

July 24, 2003



FINAL DRAFT

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FINAL DRAFT

***Chapter 1***
***ELECTION HISTORY IN THE STATE OF GEORGIA***
***Pre-2000 General Election***

In the State of Georgia, much like every state in the nation, the responsibility for conducting elections falls upon county and municipal governments. In each Georgia county, the local governing authority was responsible for the selection and purchase of the county voting system. The local election superintendent was responsible for the maintenance and testing of the voting systems as well as for the printing of election ballots pursuant to state law.

In the November 2000 General Election, 93,991 ballots in the State of Georgia did not register a vote in the Presidential race, because either: (1) the voter accidentally marked more than one vote for the office; (2) the voter attempted to make a choice, but did not mark the ballot correctly; (3) the voting device failed to count the vote cast; or (4) the voter chose not to vote for the President.

In the weeks following the November 2000 General Election, the Secretary of State compiled information from citizen complaints, minutes of public hearings conducted by the NAACP, analyzed concerns submitted by the League of Women Voters, and interviewed dozens of local election superintendents, voter registrars, and political party leaders to evaluate the state of elections in Georgia.

Through this compilation of information, the Secretary of State identified several themes and trends that have historically plagued Georgia's election process as well as election processes throughout the nation. Through this analysis, the Secretary of State identified the following categories that specifically affected Georgia elections:

- Outdated Voting Equipment
- Ballot Problems





- "Lines too long" & other polling place deficiencies
- Shortage of trained poll workers
- Election law violations
- Slow processing of Absentee Ballots
- Growth of "language minorities"
- State mainframe computer system unreliable
- Counties slow to report election results, and
- Voter registration process costly and slow

The Secretary of State also identified that the state was using four different types of voting systems and noted that no uniformity existed among the counties for counting votes. The Secretary of State further noted that each system experienced a significant amount of undervotes.

As noted in the table below, the Secretary of State conducted a statistical analysis on a county-by county basis of the undervotes that occurred on each type of voting system and calculated that in the 2000 General Election, the average percentage of undervotes for each system used in the State for all counties was 3.6%.

| Voting System | Year Invented | Introduced in Georgia | Number of Counties using system | Under vote Percentage | Number of Votes not counted |
|---|---|---|---|---|---|
| Paper ballot | 1889 | 1900 | 2 | 3.3% | 113 |
| Punch card | 1890 | 1964 | 17 | 4.6% | 38,065 |
| Lever machine | 1892 | 1950 | 73 | 4.2% | 16,926 |
| Opti-scan<br>-Central count<br>-Precinct count | 1980 | 1986 | 67 | <br>4.2%<br>4.7% | <br>21,999<br>16,196 |

Based on these findings, the Secretary of State prepared a report to the Governor and the Members of the General Assembly compiling the results of the study and recommending that the State:

(1) Adopt a Statewide Uniform Electronic Voting Initiative - Authorize, fund, and deploy a Statewide Uniform Electronic Voting Initiative (SUEVI) to create a single uniform method of voting consistent in every county in the state;

(2) Implement Early Voting - Enhance polling place convenience and reduce Election Day gridlock;

(3) Overhaul the Voter Registration System - Upgrade the state's voter registration database from the slow, unreliable, inflexible, and expensive mainframe system to a flexible state-of-the-art server-based system;

(4) Pursue Poll Worker & Poll Location Alternatives - Seek new alternatives to assist counties in securing new poll locations and recruiting and training poll workers, both of which are in short supply;

(5) Streamline Polling Place Procedures - Reduce and eliminate burdensome paperwork procedures at the polls and move voters more quickly through the voting process;

(6) Consolidate Authority to Remove Deceased Voters from Voter List - Authorize the Secretary of State to remove deceased voters from the voter rolls to assure a more accurate voter list, (responsibility that previously rested solely with the counties); and

(7) Modernize Voter Information Resources - Utilize new centralized technology solutions to offer citizens quicker, easier means to locate their precinct and verify their voter registration.

The report from the Secretary of State not only recommended that the State adopt a single uniform voting platform, but also initiated a shift in policy – transferring a portion of election responsibilities from the counties and election superintendents to the State for funding and deployment of a new statewide election system.





***Chapter II***
***ELECTION REFORM IN THE STATE OF GEORGIA***
***Post-2000 General Election***

As a result of the report and recommendations submitted by the Secretary of State, the General Assembly enacted bipartisan legislation, Senate Bill 213, (hereinafter "SB 213") which the Governor signed into law on April 18, 2001. *Official Code of Georgia Code Annotated § 21-2-300 (hereinafter O.C.G.A. § 21-2-300).* Provisions of this legislation established the policy and the statutory framework for Georgia to move toward identifying and deploying essential changes to the election system.

Chief among the changes to the election system was the policy directive that the Secretary of State would purchase a uniform voting system for casting and counting votes in county, state and federal elections by the July 2004 General Primary, a system to be used in every election thereafter in every county in the state. Additionally, for the first time ever, the Secretary of State was given authority to deploy to the counties a voting system that met requirements established by the Secretary of State. *O.C.G.A. § 21-2-300 (a).* With adoption of this directive, Georgia became the first state in the nation to set a deadline for the implementation of a modern uniform statewide voting system.

O.C.G.A. § 21-2-300 also authorized the Secretary of State to conduct a pilot project to test and evaluate the use of electronic voting systems during the 2001 municipal elections. It created the 21st Century Voting Commission (hereinafter "Voting Commission") to oversee the pilot project. The statute further authorized the Voting Commission to make recommendations to the General Assembly and the Secretary of State. O.C.G.A. § 21-2-300 earmarked the first step in creating meaningful election reform in the State of Georgia.

***THE 21ST CENTURY VOTING COMMISSION***

The mission of the Voting Commission was very clear -- oversee the electronic voting pilot project to test direct recording electronic (DRE) voting equipment, advise the Secretary of State on the choice of voting equipment to be used statewide in all counties pursuant to Code Section 21-2-300, and report findings to the Governor and the General Assembly by December 31, 2001. The Voting Commission, comprised of balanced partisan representation, included four Democrats, four Republicans, eight Non-Partisan members, one Independent, and one member of the Libertarian Party of Georgia, six local county election officials, the Director of the State Elections Division, as well as five members of the Georgia General Assembly -- three from the House and two from the Senate. The Voting Commission also accepted input from various public interest groups representing minorities, disabled voters and multi-lingual groups.

As its first priority, the Voting Commission began investigating voting systems and establishing standards that a voting system would have to meet in order to be considered for the pilot project and use in the State of Georgia. The standards included:

(1) A convenient and intuitive voter interface;
(2) Features that prohibit duplicate, or overvotes;
(3) Opportunity to correct undervote or overvotes on ballot;
(4) Strong security components to assure that votes cannot be lost or cast without authorization;
(5) The capability to print, if required, a written record of each ballot cast;
(6) The flexibility to store and present thousands of different ballot variations or "styles";
(7) The capability to be fully accessible to blind voters and those with other disabilities and allow disabled voters to cast their ballot independently and without assistance;
(8) The ability to compute final results and generate a variety of election reports very quickly; and
(9) A turnkey system that would allow each county to conduct any election from start to finish without any assistance from the Vendor.





***THE PILOT PROJECT***

Upon establishing the system standards of the voting platform, the Voting Commission began preparing for the November 2001 Pilot Project. In response to an RFP commissioned by the Voting Commission, seven DRE system vendors petitioned to participate in the November 2001 Pilot Project. At a June meeting of the Voting Commission in Atlanta, all seven vendors demonstrated their systems and presented their experience and track record in the industry. The Voting Commission recommended that all seven vendors be allowed to participate in the project, provided that each vendor obtained the necessary national and state certifications in time to adequately prepare for the November 2001 Election.

The Secretary of State entered into contracts with six certified vendors to conduct the Pilot Project. Using a lease agreement, the vendors agreed to provide voting systems for the Pilot Project at a special rate of $600 per voting unit. The contracts required that vendors transport the units to and from the cities, provide training for both election superintendents and poll workers, assist with voter education efforts via public demonstrations, and have staff present in precincts to provide Election Day support.

The Voting Commission held five public hearings and additional sub-committee work sessions across the State of Georgia. In these hearings, the Voting Commission reviewed data on voting error rates, heard presentations from manufacturers of electronic voting equipment and testimony from election officials from Georgia and other states, considered comments from interest groups, stakeholders, and the general public on voting issues, and reviewed the election results from the Pilot Project. Several Voting

Commission delegations also traveled to other states to personally observe elections in which DRE voting equipment was used.

Based on information obtained from the extensive analysis and review of data, public testimony, and observations obtained from the Pilot Project, the Voting Commission made the following system recommendations to the Governor and members of the General Assembly:

1) Georgia's uniform election platform should be a DRE voting system used for Election Day in-precinct voting, for in-person absentee voting, and, if authorized by new legislation, for in-person "advance" or "early" voting. The DRE system selected should have the capability to prevent duplicate, or overvotes, provide voters with a "summary screen" to warn voters of potential undervotes or selection errors, and include a process for voters to correct errors or omissions before a final vote is cast. The system should include on-board battery back up in case of power failure, have the capability to produce an independent and paper audit trail of every ballot cast and should permit a visually impaired voter, and others with disabilities, to cast a ballot independently and without assistance.

2) For absentee voting by mail, the uniform system should include an optical scan component. The optical scan component should integrate seamlessly with the DRE components of the system for ballot preparation and tabulation.

3) The uniform election system should be controlled by an Election Management System or software program that will allow election officials to easily design both DRE and optical scan ballot formats simultaneously, that will integrate all results into a single vote tallying report and that will easily interface with existing and future voter registration systems.

4) The state should seek to maximize the benefits of statewide negotiating and purchasing capacity by securing a statewide software license, as well as favorable pricing for technical support, maintenance and additional or replacement equipment that is made available for the benefit of local governments.

The Voting Commission unanimously adopted these recommendations and submitted them to the Governor and members of the General Assembly in December 2001.





***SYSTEM SELECTION***

Based upon the success of the Pilot Project and the recommendation from the Voting Commission, the Governor authorized and the General Assembly approved a Statewide Uniform Electronic Voting Initiative Fund (SUEVI) and authorized $54 million in bond funds for the purchase of a statewide uniform electronic voting system. The Governor also authorized $3.8 million for the first ever voter education fund and $500,000 for the creation of an Election Center for election official training and support at Kennesaw State University (the Kennesaw State University Center for Election Systems, hereinafter "KSU Center for Election Systems").

Upon establishment of the election fund, the Secretary of State and the Georgia Technology Authority (hereinafter "GTA") initiated a Request for Proposal process ("RFP") in January 2002 and began evaluating proposals from vendors capable of supplying a Direct Recording Electronic Voting System on a statewide basis for 2926 precincts in 159 counties. The RFP required each vendor to submit a proposal that included: voting system specifications, pricing plans, deployment plan and schedule, training plan and schedule for hardware and software training, a service plan -- both short term and long term, and a proposal for voter education efforts.

In response to the RFP, nine vendors submitted bids for the deployment of a statewide voting system and a very intensive proposal and demonstration process began with the assistance of the Georgia Technology Authority. Through multiple evaluations by GTA and the evaluation committee, Diebold Election Systems, Inc. (hereinafter "Diebold") was recommended as the best value for the state.

The State of Georgia entered into a contract with Diebold on May 3, 2002, wherein the State of Georgia and Diebold agreed to deploy a uniform voting system in every county within a 6-month implementation period (186 days prior to the November 5, 2002 election).

***SYSTEM DEPLOYMENT***

The deployment plan included in Diebold's response to the State's RFP included the following phases:

System Testing

- 19,015 touch screen voting stations, 400 absentee ballot systems and 161 voting system servers to be tested a minimum of 4 times throughout deployment at:
  - Manufacturer's warehouse;
  - Central processing warehouse;
  - Acceptance testing at the county location by KSU; and
  - Logic and Accuracy testing conducted by Diebold and County election staff days before the November election;

System Deployment

- Secretary of State created a formula based on DRE units per number of active registered voters per county to determine the number of DRE units each county would receive;
  - Counties were divided into 12 delivery regions;
  - Dates were established for delivery of components of the voting system to the Counties;
  - Site surveys were conducted of polling places for assurances of adequate electrical supply, structural support of the building and security of the building for protection of the voting system;
  - Intergovernmental Agreements were created between the State and each county, to, among other things, specify the storage, protection and use of the voting system.

Voter Education

- Creation of uniform poll worker training video, voter education video and 30-second public service announcement entitled "Touch the Future";
- State, regional and county level "Voter Education Coordinators" to conduct hands-on DRE demonstrations in every county;
- Printed materials to be distributed through U.S. mail and selected community groups;
- Comprehensive voter education website with interactive equipment demonstration;





- DRE unit demonstrations were conducted in a variety of settings;

System Training

- Election official training on the operation of the voting system officials provided by Diebold;
- On-site county training at the request of the county by the KSU Center for Election Systems;
- Regional "refresher" sessions conducted by the State Elections Division;
- Poll worker training (at least 2 per precinct for all 2,926 precincts) provided in the county by Diebold; and
- Additional training on demand conducted by KSU Center for Election Systems and Diebold.

As a result of the detailed deployment plan, which included equipment deployment, voter education, election official training, voter education coordination at the regional and local level, and voter participation and enthusiasm of state election officials and poll workers, the November 2002 General Election in Georgia was an overwhelming success. The undervote rate for the 2002 U.S. Senate Election was a historically low 0.86% (a dramatic reduction, compared to the 2000 Presidential Election undervote rate of 3.5% and the 1998 U.S. Senate Election undervote rate of 4.8%). The State of Georgia successfully completed its first step in achieving meaningful election reform in the State of Georgia and the entire nation.

***CHAPTER III***
***TITLE III REQUIREMENTS OF THE HELP AMERICA VOTE ACT OF 2002***

With the successful completion of the nation's largest ever election using a modern electronic uniform voting system, and a broad based effort by state and local policymakers committed to election reform, Georgia took a giant step toward improving the accuracy and convenience of elections in the State of Georgia.

This success was built upon the proactive steps taken in anticipation of the proposed HAVA legislation by committed Georgia policy makers who embraced election

reform. As reflected in the Status Chart attached as Appendix "A," several requirements under Title III of HAVA were implemented during Georgia's 2002 deployment of its statewide uniform election system. In fact the chart demonstrates that Georgia is approximately 95 to 99% compliant with the mandated requirements of the HAVA.

***ACHIEVING COMPLIANCE UNDER THE HAVA***

To achieve full compliance with Title III HAVA requirements the Georgia General Assembly in its 2003 Legislative Session considered and passed Senate Bill 258 (hereinafter "SB 258"), which was signed by the Governor on June 2, 2003. SB 258 revises the following six election code areas:

- **Definition of a vote** – The Election Code currently provides for the definition of a vote for each election system used in the State of Georgia for federal, state and local elections; SB 258 authorizes the State Election Board to promulgate rules to consolidate and define a vote as required by HAVA.
- **Registration of first-time voters by mail** – SB 258 amends the Election Code to provide that citizens who register for the first time via U. S. Mail are required to include with that registration form an appropriate form of identification depicting their identity. For those who register by mail and who fail to include such documentation, they will be required to present identification at the polling place, and will not have the option to overcome that requirement by attesting to an oath.
- **Military and Overseas Ballots** – SB 258 amends the Election Code to designate the Secretary of State as the office to handle military ballot voting procedures, and provides that UOCAVA applications for absentee ballots for





military and overseas voters shall be valid for two election cycles. It also authorizes the Secretary of State to adopt a new ballot oath created by the Federal Voting Assistance Program.

- **Provisional Ballots** – SB 258 amends the Election Code to provide that ballots cast during an election with federal candidates on the ballot at a polling place during extended polling hours as a result of a court order be treated as provisional ballots. It also requires county election officials to provide notification to the voter regarding how to obtain information on whether the provisional ballot was counted and also requires the creation of a free access system that allows the voter to determine whether the provisional ballot was counted or not;
- **"Overvote" Instructions** - The Georgia DRE voting system precludes a voter from casting an "overvote" at the polling place. SB 258 amends the Election Code to provide that the absentee ballot instructions for optical scan mail in ballots include information about overvotes and explain how to avoid them.
- **State Administrative Complaint Procedures** - SB 258 amends the Election Code to authorize the Secretary of State as the designated Chief Election Official to establish and administer an administrative complaint procedure for processing Title III HAVA related complaints in an expedited manner.

Upon approval of SB 258 by the United States Department of Justice, the State of Georgia will have the statutory framework in place to implement all necessary procedures to bring Georgia into 100% compliance with the Help America Vote Act.

*CHAPTER IV*
*ADMINISTRATIVE REQUIREMENTS UNDER THE HELP AMERICA VOTE ACT*

In addition to implementing the Title III requirements, the State of Georgia has taken steps to meet and implement the administrative requirements of Title I and II of HAVA in the following manner:

*Sec 101*
***Early Money Out***
The State has certified and indicated its participation for receipt of Title I payments through the GSA website;

*Sec 101*
***Toll-Free Access System***
The State will study and evaluate the implementation of a toll-free telephone hotline that voters may use to report possible voting fraud and voting rights violations, to obtain general election information, and to access detailed automated information on their own voter registration status, specific polling place locations, and other relevant information.

*Sec 101*
***Accessibility of polling places for disabled voters***
The State intends to survey and supervise the improvement of accessibility and quantity of polling places providing physical access for individuals with disabilities.

*Sec 102*
***Certify replacement of punch card and lever voting systems***

The State has replaced punch card and lever voting systems and intends to use Section 102 funding to reimburse the State treasury as permitted by HAVA.

*Sec 213*
***Standards Board Representatives***
The State has appointed two Representatives to the Standards Board.

*Sec 253*
***Certification of use of Title II Requirements Payments***
The State intends to certify that it will use the Requirements Payments as required by HAVA.

*Sec 254*
***HAVA State Plan***
The State has prepared its HAVA State Plan.





*Sec 402*
***Administrative Complaint Procedure***
The State intends to implement rules to administer the Administrative Complaint Procedure pursuant to SB 258, which authorizes the Secretary of State to implement a HAVA complaint procedure for resolving Title III complaints within the 60-90 day time frame unless extended by agreement of the complainant.

*Sec 706*
***Military and Overseas Voting Information Office***
The Secretary of State pursuant to SB 258 shall be the Designated Military and Overseas voting Information Office and shall report information to the Election Assistance Commission.

*CHAPTER V*
*CONTINUED COMPLIANCE WITH THE HELP AMERICA VOTE ACT*

*THE HAVA STATE PLAN*

1. ***How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections (sec. 254, a, 1)***

- A portion of the Requirements Payments will be used to retire bonded indebtedness incurred to purchase Georgia's new statewide uniform electronic voting system.
- A portion of the Requirements Payments will be used to upgrade and eventually replace the ten-year old centralized voter registration database currently being used by the State. The new system will allow an easier interface and more efficient system functions.

- Additional expenditures will be made in the following areas:
  - Voter education activities
  - Election official training activities
  - Components of the voting system
  - Any other activities allowed under HAVA

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 (8), 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 (sec. 254, a, 2)***

Distribution of Requirements Payments

As the State's chief election official, the Secretary of State is authorized by O.C.G.A. § 21-2-300 to implement and deploy a statewide uniform voting system for use by local election officials in county, state, and federal elections. As part of that authority the Secretary of State established a formula to determine the number of voting units and training funds to be delivered to each county. The formula considered among other things the following criteria:

- Number of registered voters in each county
- Number of precincts per county
- Number of poll workers per county
- Number of DRE units for every registered voter per county.

The criteria set forth above allowed the Secretary of State to distribute a proportionate number of DRE units along with voter education training funds and poll worker training funds to every county on a fair and equitable basis.

Distribution of the voting system and training funds were facilitated through the following tools:

- Intergovernmental Agreements for use of voting equipment and training funds
- Expense codes for tracking Training funds disbursement
- Allocation Request Forms for Training funds
- Inventory logs for voting equipment
- Reports indicating the status and success of the projects and activities.

Monitoring of Requirements Payments

Under the current statutory structure, the Secretary of State remains charged with facilitating and maintaining the uniform voting system; accordingly, as the State's chief election official, the Secretary of State will be the officer in charge of monitoring and disbursing HAVA funds.

The Secretary of State has designated the Georgia Office of Planning and Budget as the internal accounting office responsible for disbursing and tracking Title I and Title II funds for projects identified by the Secretary of State for implementing enhancements to election administration.

The Office of Planning and Budget using the expense codes created for disbursing the voting system and training funds in 2002 will continue the use of expense codes and allocation request forms to monitor and track HAVA spending. End of year audits conducted by the State of Georgia Department of Audits and Accounts will be used to monitor HAVA expenditures.





Local and county governments that receive disbursements from the State for enhancements to election administration, whether state or federal funds, will be required to submit allocation request forms and agree to the use of the funds for the designated purpose. Each local government will conduct an end-of-year audit and may be required to submit reports to the Secretary of State indicating the status and success of any projects or activities that receive funding through the Secretary of State.

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 (sec. 254, a, 3)***

Voter Education

The Secretary of State created a state level Voter Education Coordinator Program that facilitated statewide educational and training projects, which included regional and local voter education activities.

The Voter Education Coordinator activities included the following initiatives:

- Public relations campaign - New voting system was promoted through extensive print and broadcast media outlets. Training videos, public announcements, and general advertisements were created and distributed statewide.
- U.S. Mail campaign - Voting instructions were mailed to every registered voter in the State. The mailings publicized the new voting system and provided step-by-step voting instructions and procedures.
- Pre-Election Day Demonstrations - Voting units were demonstrated at each precinct on Primary Election Day and throughout the State months and weeks prior to the election.
- Regional Level Voter Education Coordinators - The State was divided into 12 regions and 12 regional coordinators traveled each region conducting scheduled and impromptu DRE demonstrations throughout.
- County Level Voter Education Coordinators - Each County received funding from the State to hire a county level coordinator to conduct DRE demonstrations in coordination with the regional coordinators. Grants of $4,000 and $10,000 were made to each county based on voting age population, so that each county could conduct its own voter education programs in addition to what the State was doing.
- Community Voter Education Coordinators - The State contracted with and provided education funds to the following community interest groups who coordinated and conducted grass roots DRE demonstrations of the voting system:
    - The Organization of Chinese Americans, Ga. Chapter
    - The Georgia Hispanic Chamber of Commerce
    - The Georgia State Office of AARP
    - National Federation of the Blind
    - Georgia NAACP Voter Empowerment
    - League of Women Voters of Georgia Education Fund
    - The Georgia Coalition of the Peoples' Agenda

Education and Training

The Secretary of State partnered with the KSU Center for Election Systems (whose primary responsibility was to train and educate state and local election officials and poll workers on how to conduct an election using the voting system. KSU Center for Election Systems also established a mock election lab for training, and assisted State election officials in developing Election Day polling place procedures for the new voting system.

Continued Education and Training Activities

Current Georgia Election laws require local election superintendents, including municipal election superintendents to attend training on an annual basis. The Election code has been revised through SB 258 to require a certification program administered by KSU Center for Election Systems to provide continued educational training to local election officials and voter registrars including municipal election officials.

The Secretary of State and KSU Center for Election Systems will develop the curriculum for the certification program that may include training on the electronic voting system, local, state and federal election laws, polling place procedures, disability access initiatives, voter education initiatives, voter registration initiatives, new legislation that affects local, state, and federal election laws, and any other topics that may enhance the administration of elections.

Voter education will continue to be a priority of the Secretary of State. The state and regional Voter Education Coordinators will continue to implement new educational and voter outreach initiatives and will continue to canvass the state providing public demonstrations of the DRE units and will assist the local election officials with educational and voter registration efforts.

4. ***How the State will adopt voting system guidelines and processes, which are consistent with the requirements of section 301 (sec. 254,a, 4)***

Voting System Guidelines adopted by the 21st Century Voting Commission and used to select the statewide uniform electronic voting system used in the 2002 General Election were established in 2001 and passed into law by the General Assembly in 2001.

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 (sec. 254, a, 5)***

The Secretary of State's Office of Administration created an Election Fund within the State treasury. The Election Fund has been designated as a federal election fund account that shall only be used for the enhancement and continuation of election administration. Additionally, the Election Fund is maintained in a separate bank account and has been assigned an internal identification code for tracking expenditures made from





the Fund. As mentioned above, the Fund also contains individual expenditure codes for tracking -- Section 101, 102, Title II, and matching fund expenditures.

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 (sec. 254,a, 6)***

Based on figures provided by the Congressional Research Service, the State of Georgia's portion of HAVA funding (assuming full appropriations under Title II of the Act) is approximately $92 million dollars -- $12.5 million under Title I and $79.8 million under Title II. Georgia estimates the 5% match required under section 253 of HAVA to be approximately $3.95 million to be appropriated to the Election Fund over a 3-year period.

As reported earlier the Secretary of State conducted a statewide procurement process wherein the State acquired a uniform statewide electronic voting system for all 159 counties. The funds used in this procurement process were generated from the issuance of general obligation bonds in the amount of $54 million. Additionally the legislature appropriated $4.5 million for voter education and training efforts. The Governor allotted an additional $294,000 to the project to make grants available to counties for poll worker training costs. Upon procurement of the voting system each county received its proportionate number of voting units, educational funding, and training funding based on the criteria identified in section 2 above.

These factors proved to be helpful in allowing the Secretary of State to distribute voting equipment and training funds to each county in an equitable and efficient manner. The Secretary of State intends to continue using those criteria to ensure equitable and fair disbursements in the future.

The following budget table reflects both actual expenses related to 1st year election reform efforts and projected future reform activities designed to implement and meet HAVA requirements. Each category of reform requires implementation and maintenance expenses beyond the 1st year of deployment. Several of the HAVA reforms require additional expenses and continued maintenance of effort at a level beyond the State's general maintenance of effort for election administration.*

**GEORGIA BUDGET FOR HAVA ACTIVITIES**

*Total Estimated HAVA Disbursement: $92,000,000 -- Title I $13,293,000 -- Title II $78,707,000.*

| HAVA Requirements | '02 -'03 Cost of Implementation (State funds expended in FY 02 and FY 03) |
|---|---|
| Voting System Replacement* (Sec. 301) | $53,949,000 |
| Punch card replacement. These costs were a part of Voting System Replacement | $4,980,490 |
| - DRE Purchase* | See above, Voting System Replacement |
| | |
| | |
| | |
| | |
| | |
| Centralized Voter Registration System, other elections administrative and infrastructure improvements | |
| Provisional Voting Access System (S-302) | |
| Voter Outreach (Sec 254) | |
| Election Poll Worker Training (S-254) | |
| Polling Place Disability Access | |
| Establish Administrative Complaint Procedure* | |
| | |
| Voter Outreach (Sec 254) | $4,000,000 |
| | |
| Election Poll Worker Training (S-254) | $500,000 |
| | |
| TOTAL | $58,449,000 |

| A. HAVA Reimbursement & Infrastructure Program Improvement Resources Available | SFY 03-04 Title I Section 101, 102 Funds | SFY 04 Title II Section 251 Funds | SFY 05 Title II Section 251 Funds | SFY 06 Title II Section 251 Funds | TOTAL |
|---|---|---|---|---|---|
| | | Subject to Federal Funding | | | |
| Voting System Replacement* (Sec. 301) | | $23,182,000 | $27,762,500 | $27,762,500 | $78,707,000 |
| Punch card replacement. These costs were a part of Voting System Replacement | $4,740,448 | | | | $4,740,448 |
| | | | | | |
| Grant for Prospective expenses. The state must maintain a current or greater level of appropriated funding for election operations/activities to receive these funds. | $7,816,328 | | | | $7,816,328 |
| Funds eligible to be received by state if the state is in compliance with HAVA provisions | $12,556,776 | $23,182,000 | $27,762,500 | $27,762,500 | $91,263,776 |
| **B. Planned use of HAVA funds** | **Section 101, 102 Funds** | **Section 251 Funds** | **Section 251 Funds** | **Section 251 Funds** | |
| Reimbursement of State for purchasing of voting equipment. | $4,740,448 | $14,493,662 | $17,357,445 | $17,357,445 | $53,949,000 |
| Reimbursement of State for costs incurred in uniform voting equipment deployment and training in 2002 General election | | $1,500,000 | $1,500,000 | $1,500,000 | $4,500,000 |
| | $6,916,328 | $6,338,338 | $7,655,055 | $8,155,055 | $29,064,776 |
| | $200,000 | | | | $200,000 |
| | | $500,000 | $500,000 | $500,000 | $1,500,000 |
| | | $250,000 | $750,000 | $250,000 | $1,250,000 |
| | $700,000 | | | | $700,000 |
| | | $100,000 | | | $100,000 |
| Total HAVA funds expended | $12,556,776 | $23,182,000 | $27,762,500 | $27,762,500 | $91,263,776 |
| **C. State Maintenance of Effort - Note: These funds must be appropriated for Election purposes for the State to be eligible to receive the funds to reimburse prior expenses for voting equipment. Georgia is required to identify a 5% match equaling approximately $1,388,125 dependent upon federal funding., Georgia's match is included in the funds below.** | | | | | |
| Expenses for Elections Division for SFY 2000 as mandated to be the base level of expenses per HAVA Act. | $4,598,813 | $4,598,813 | $4,598,813 | $4,598,813 | $18,395,252 |
| State Match - Must be appropriated as condition of HAVA Funding | | $659,100 | $888,125 | $888,125 | $2,435,350 |
| State Match - Election Poll Worker Training (S-254) | | $500,000 | $500,000 | $500,000 | $1,500,000 |
| Total State maintenance of effort | | $5,757,913 | $5,986,938 | $5,986,938 | $17,731,789 |
| **TOTAL EXPENDED** | | $ 28,939,913 | $ 33,749,438 | $ 33,749,438 | $ 108,995,565 |

- Georgia's portion of HAVA funding is based upon funding assumptions provided by the Congressional Research Services.
- Georgia's projected spending amounts in each category are based upon an assumption of complete funding through HAVA and upon a best estimates spending analysis; these projections are not intended to reflect exact dollar amounts required to meet the actual cost for each category.
- Georgia reserves the right to amend the funding amounts in each category upon obtaining exact implementation costs based upon either a bid analysis or other costs of implementation as they materialize.
- Changes made to the level of spending within an individual category will not be considered a material change to the Plan, unless such changes eliminate all such funding within that category.





A. **Voting System Replacement. Sec 301**

The State of Georgia has budgeted $23,182,000 of HAVA funding under Title II to service the existing State Bonds mentioned above and to reimburse the State Treasury for State expenses related to election reform and HAVA compliance.

**B. Punch Card Replacement. Sec 102**

The State of Georgia has budgeted and expensed an initial disbursement of HAVA funding under Title I section 102 in the amount of $4,740,448 to service the existing State Bonds mentioned above by reimbursing the State Treasury for the purchase of voting units for replacement of punch card and lever machine voting units in 1485 qualified precincts. The voting units used to replace the punch card and lever machine units meet the Title III system requirements.

**C. Direct Recording Voting Equipment (DRE) Purchase. Sec 301**

The acquisition of 19,015 DRE voting units was made in view of the pending passage of the Help America Vote Act. The State of Georgia went beyond the minimum requirements of the Act and acquired a sufficient number of voting units to allow every registered voter in the State of Georgia an equal and fair access to the most reliable and accurate voting platform in the world. The funds used in this procurement process were generated from the issuance of State Bonds in the amount of $53,949,000.

See paragraph "A" above.

**D. Centralized Voter Registration System. Sec 303**

Although the State currently operates a centralized statewide voter registration database system, the system is antiquated and requires heavy maintenance at an exorbitant cost to the state and the counties. To alleviate this burdensome cost, streamline the registration process, and give every county a more reliable and efficient interface with the centralized voter registration system, the State proposes to purchase a new voter registration system. The State has identified several vendors that are capable of replacing the current system with a state -of-the-art system that allows more efficient interface and access at the county level.

The State of Georgia anticipates cost in the range of $4 to $15 million of HAVA funding from both Title I and Title II for the replacement of the current voter registration system, including additional cost for training to prepare county officials to use the new system. Additional election administration enhancements including county election official computer system upgrades, communication infrastructure upgrades, and other administrative enhancement costs are included in this projection.

**E. Provisional Balloting. Sec 302**

The State of Georgia anticipates a cost of $200,000 for the enhancement of its existing provisional balloting voting system, which will include the implementation of a new provisional ballot access system, costs for the creation, maintenance, and support of the enhanced system for tracking provisional ballots cast in 159 counties. This cost also includes printing costs for the forms. These funds may be expensed from Title I or Title II funding.

**F. Voter Education and Outreach**

The Counties and the Secretary of State have historically conducted voter education and outreach. However, as reported earlier in this Plan, as part of the implementation of the statewide uniform electronic voting system, the Secretary of State created a new state level Voter Educational Program designed to facilitate a uniform voter outreach effort. The program was managed by a "Voter Education Coordinator" who supervised 12 newly created state regional employee positions. The regional employees conducted grassroots demonstrations at an unprecedented level for educating and preparing voters to use the new voting system. Additionally, the State disbursed funds to each county based on the formula referenced above to enable the counties to hire a local voter education coordinator to collaborate with the state level coordinators.

Based on the overwhelming success of this program, Georgia citizens will expect and demand no less from the Secretary of State in the coming years. Accordingly, the State of Georgia has included in its budget the expenses associated with the ongoing Voter Education Coordinator efforts along with the grassroots efforts to be conducted by a reduced complement of six state regional voter education coordinators and local level coordinators hired by the counties.

Going forward, the Georgia Secretary of State is reducing the number of regional coordinators from 12 to 6, and these individuals will continue the voter educational outreach efforts year-round along with 1 state wide coordinator.

In light of the continued voter outreach efforts to educate Georgia Citizens on the new voting system, the State of Georgia has budgeted $500,000 for continued voter education efforts on the use of the new voting system and the new HAVA voting requirements. These expenses will be expended from Title II of the Help America Vote Act.

**G. Poll Worker - Election Official Training**

The county election superintendent and the Secretary of State have historically conducted election official training; however poll worker training was solely the responsibility of the county election official. As reported earlier in this Plan, as part of the implementation of the Statewide Uniform Voting System, the Secretary of





State partnered with the KSU Center for Election Systems to provide a state level source of training (in addition to the Vendor training included in the procurement contract) for county election official and poll worker training. The KSU Center for Election Systems operated on a $500,000 annual budget and was charged with conducting state, regional, and county level training for any election official who required additional training. The KSU Center for Election Systems created a training election lab with a mock precinct set-up, conducted regional road shows and traveled to specific counties to provide additional training when necessary.

The State of Georgia plans to continue the partnership with the KSU Center for Election Systems. The KSU Center for Election Systems has created a training curriculum to offer accreditation to election officials and poll workers, which will be required of election officials in coming years.

The KSU Center for Election Systems will also assist the Secretary of State with a new ballot-building program created for the dual purpose of continued training and elections administration. The Office of the Secretary of State and the KSU Center for Election Systems will conduct this program jointly.

In light of the continued training needs for county election officials, poll workers, and ballot building, the Secretary of State has budgeted $750,000 --$500,000 for the operating budget of the KSU Center for Election Systems for 2004-2005 and $250,000 for continual training efforts. These expenditures will be expensed from Title II of the Help America Vote Act.

**H. Physical Accessibility**

HAVA provides for use of federal funding to improve physical accessibility for disabled voters at polling places in each county. A number of polling places in each county are private locations, with a few exceptions, such as county election offices, city halls, public schools and fire stations. Based on this information, the Secretary of State will conduct a survey of all 159 counties requesting information on each precinct in each county to determine the number of precincts that will be eligible for HAVA funding for improved accessibility.

Upon determining the number of precincts in need of improvements, the Secretary of State (pending availability of funds) will provide funds to each county that demonstrates a need to improve physical accessibility for disabled voters and that qualify to receive the funds provided:

- The precincts are qualified
- The county certifies to the Secretary of State the costs incurred to improve physical accessibility
- The Secretary of State has sufficient funds in the state Election Fund to cover the expenses.

The Secretary of State proposes to disburse $700,000 in HAVA funding in addition to the $335,000 received from the Department of Health and Human resources for improving disability access. These funds will be disbursed pursuant to the above criteria.

**I. Administrative Complaint Procedure. Sec 402**

The Administrative complaint system will be implemented and maintained using HAVA Title II funding. The Secretary of State proposes to include $100,000 as the initial cost for implementing and maintaining the complaint system on a yearly basis.

**J. Administrative Costs**

To meet the Title III requirements and other administrative functions required under HAVA, the Secretary of State must coordinate and facilitate the planning, operation, reporting, and maintenance of every program designed to implement and maintain HAVA compliance. The Secretary of State shall develop a formula to calculate indirect costs associated with each activity designed to implement and comply with the Help America Vote Act, and such cost shall be expensed from the Election Fund and will not exceed 5% of the Election Fund.

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 prior to November 2000 (sec. 254,a, 7)***

The State of Georgia will continue to maintain that level of election administration expenditures incurred during the Fiscal Year of 1999 while conducting activities that fall under the Title III requirements of the Help America Vote Act.

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 (sec. 254, a, 8)***

The State of Georgia developed milestones and goals through the 21st Century Voting Commission that measured the effectiveness of the implementation and deployment of the statewide uniform electronic voting system. The milestones included performance goals designed to measure the effectiveness of the deployment of the voting system, which included, but was not limited to

- Voting system delivery and installation dates
- DRE training schedules





- Regional and local voter education training schedules
- Poll worker and election official training schedules
- Pre-election day scheduling deadlines
- Election day performance reports including, DRE error rates (undervote and overvote rates), polling place closing rates, and election result reporting rates.

These milestones and measures where applicable, will be continued and carried forward to

- Measure implementation dates for new projects identified by the Secretary of State and county election officials
- Measure the efficiency of existing procedures
- Measure the efficiency of newly created procedures

Additionally, the Secretary of State periodically convenes a State and County Election Official Task Force charged with reviewing and establishing procedures for enhancing election administration within the State. The Task Force focuses on existing election law issues and develops new procedures for streamlining and creating efficiency in the election process.

9. ***A description of the uniform, nondiscriminatory state-based administrative complaint procedures in effect under section 402 (sec. 254, a, 9)***

The Secretary of State has received statutory authority to implement uniform rules and regulations to create an administrative complaint procedure that will meet the requirements of the Help America Vote Act. This procedure will be created and implemented before the first Federal Election in 2004.

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 (sec. 254, a, 10)***

The State of Georgia will use Title I funds to assist with the development of the State Plan and any other activities authorized by HAVA.

"Early Money Out" and impact on Plan

Section 102 "Early Money Out" will allow the State to service existing bond indebtedness generated to purchase the new statewide uniform electronic voting system that included replacing all punch card and lever voting systems. The State of Georgia went beyond the one DRE unit per precinct requirement by providing one DRE unit per every two hundred registered voters in each county.

The amount of funds used to replace one punch card and lever machine in each qualified precinct far exceeded the $4,893,000 provided under section 102.

Section 101 "Early Money Out" will allow the State to begin the process of acquiring a new voter registration system for the replacement of the current voter registration system.

The estimated cost for implementing this project will exceed the $8.6 million provided under section 101.

11. ***Description of how the State will conduct ongoing management of the Plan (sec. 254, a, 11)***

The Elections Division of the Secretary of State will manage the Plan. The Election Division will oversee the continuation of existing and newly created election projects including system training, voter education, election official training, poll worker training, election support and any other activities that fall under the administration of elections;

"Material Changes" to the Plan may be developed on a periodic basis based on necessary changes to the Plan as a result of achieving milestones and performance measures used to gauge the effectiveness of the Plan.

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 (sec. 254, a, 12)**

The State of Georgia had an implementation plan for the deployment of its statewide uniform voting system in 2002, however that plan was not effective under this subtitle during 2002.

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 (sec. 254, a, 13)***

The "HAVA State Planning Commission" is comprised of state and local election officials and select community interest groups listed below:

- National Federation of the Blind
- Protection and Advocacy Group of Georgia
- League of Women Voters
- American Association of Retired Persons
- NAACP
- Georgia Hispanic Chamber of Commerce
- Organization of Chinese Americans
- Georgia Coalition of Black Women
- Other community interest groups and leaders.





Additionally, the 21st Century Voting Commission, which assisted with the creation and implementation of the deployment plan for the statewide uniform voting system, consisted of multi-partisan representation from state and local level government, including state legislators from each party, local election officials, state election officials and community and civic groups as mentioned above.

## HAVA STATE PLANNING COMMITTEE

**Chief Election Officials (From 2 largest counties):**

DeKalb County: Ms. Linda Latimore, Election Supervisor
DeKalb County Board of Elections and Voter Registration
4380 Memorial Drive
Decatur, GA 30032
Phone: (404) 298-4020
lwlatimo@co.deKalb.ga.us

Fulton County: Ms. Gloria Champion, Election Supervisor
Fulton County, Department of Registration and Elections
141 Pryor Street, SW, Ste. 4075
Atlanta, GA 30303
Phone: (404) 730-7020
Gloria.Champion@co.fulton.ga.us

**Stakeholders (One representative from each group):**

Asian Community: Henry J. Yee
Organization of Chinese Americans, Ga. Chapter
5137 Hampton Lake Drive
Marietta, GA 30068
Phone: (770) 565-6507
hjyee@earthlink.com

Hispanic Community: Ms. Leigh Miller
Georgia Hispanic Chamber of Commerce
1961 North Druid Hills Road, NE – Suite 201B
Atlanta, GA 30329
Phone: (404) 929-9998
lmiller@ghcc.org

League of Women Voters: Beth Nathan
League of Women Voters of Georgia
2543 Flair Knoll Court, N.E.
Atlanta, GA 30345
Phone: (404) 327-7594 or (678) 547-0755
beth@gazebosoftware.com

| | |
|---|---|
| Georgia Coalition of Black Women: | Rita J. Samuels<br>Georgia Coalition of Black Women<br>100 Edgewood Ave., NE, Ste. 1010<br>Atlanta, GA 30303<br>Phone: (404) 584-9605<br>gcbw@bellsouth.net |
| NAACP/GCPA | Helen Butler<br>Georgia NAACP Voter Empowerment<br>PO Box 3093<br>Lilburn, GA 30048<br>Phone: (404) 314-8982<br>hmarjebutler@aol.com |
| AARP: | Kathy Floyd<br>The Georgia State Office of AARP<br>999 Peachtree Street, NE - #1645<br>Atlanta, GA 30309<br>(404) 870-3791<br>kfloyd@aarp.org |
| National Federation of the Blind: | Mr. Anil Lewis<br>3020 Rollingwood Lane<br>Atlanta, GA 30316-4428<br>Phone: (404) 863-8285<br>alconsulting@bellsouth.net |
| Georgia Advocacy Office: | Bruce K. Roberts, Attorney<br>Protection & Advocacy Group<br>100 Crescent Centre Pkwy., Ste. 520<br>Tucker, GA 30084<br>Phone: (404) 885-1234<br>bruce@thegao.org |

**County Election Official Task Force Members:**

| | |
|---|---|
| Baldwin County: | Hon. Todd Blackwell, Judge<br>Baldwin County Probate Court<br>Baldwin County Courthouse – Room 109<br>Milledgeville, GA 31061-3339<br>Phone:(478) 445-4807<br>baldwinprobate@yahoo.com |





| | |
|---|---|
| Chatham County: | Ms. Gail Whitehead, Election Supervisor<br>Chatham County Board of Elections<br>PO Box 10011<br>Savannah, GA 31401<br>(912) 652-7494<br>gswhitehead@chathamcounty.org |
| Cobb County: | Sharon Wingfield, Director<br>Cobb County Board of Elections & Registration<br>47 Waddell St.<br>Marietta, GA 30090-3905<br>Phone: (770) 528-2312<br>swingfield@cobbcounty.org |
| Chattahoochee County: | Hon. Ken Van Horn, Judge<br>Chattahoochee Co. Probate Court<br>PO Box 119<br>Cusseta, GA 31805<br>Phone: (706) 989-3603<br>Kenvanhorn@yahoo.com |
| Columbia County: | Ms. Debbie Marshall, Election Supervisor<br>Columbia County Board of Elections<br>PO Box 919<br>Evans, GA 30809-0919<br>Phone: (706) 868-3355<br>Dmarshall@co.columbia.ga.us |
| Forsyth County: | Mr. Gary Smith, Election Supervisor<br>Forsyth County Board of Elections<br>110 E. Main Street, Suite 200<br>Cumming, GA 30041<br>Phone: (770) 781-2118, ext. 3<br>gjsmith@forsythco.com |
| Gwinnett County: | Ms. Lynn Ledford, Election Supervisor<br>Gwinnett County Board of<br>Voter Registration and Elections<br>75 Langley Drive<br>Lawrenceville, GA 30045-6900<br>Phone: (770) 822-8787<br>ledforly@co.gwinnet.ga.us |

# FINAL DRAFT

Hall County:
Ms. Anne Phillips, Election Supervisor
Hall County Board of Elections and Voter Registration
PO Drawer 1435
Gainesville, GA 30501
Phone: (770) 531-6945
aphillips@hallcounty.org

Morgan County:
Hon. Mike Bracewell, Judge
Morgan County Probate Court
PO Box 857
Madison, GA 30650
Phone: (706) 343-6500
mbracewell@morganga.org

Richmond County:
Ms. Lynn Bailey, Election Supervisor
Richmond County Board of Elections
530 Greene St., Rm. 104
Augusta, GA 30911
Phone: (706) 821-2340
lbailey@co.richmond.ga.us

| GEORGIA STATUS | PROVISION MANDATED BY HAVA | ACTION REQUIRED |
|---|---|---|
| | *√ = Mandate Met ~ = minor administrative adjustment required* | |
| | **VOTING SYSTEM STANDARDS** | |
| √ | • Permit voter to verify votes selected before casting ballot | |
| √ | • Provide voter opportunity to change/correct ballot before casting ballot | |
| √ | • Offer notice if voter selects vote for more than 1 candidate for a single office | |
| √ | • Voting system shall ensure that any notification required preserves voter privacy | |
| √ | • System must produce a record with an audit capacity (satisfied by audit capacity redundant electronic storage) | |
| | **ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES** | |
| √ | • Voting system must be accessible for individuals with disabilities, including visual impairment and must preserve voter privacy and must offer independence in voting | |
| √ | • At least 1 DRE with accessibility for disabled individuals at each polling place | |
| | **ALTERNATIVE LANGUAGE ACCESSIBILITY** | |
| √ | • Voting system shall provide alternative language accessibility (pursuant to Section 203 of Voting Rights Act) | |
| | **ERROR RATES OF SYSTEM** | |
| √ | • Error rates of system shall comply with error rate standards of FEC | |
| | **UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE** | |
| ~ | • State must adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each voting system used in state | State Election Board Rules required |
| | **PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS** | |
| √ | • Must have provisional vote option | |
| √ | • To cast provisional ballot, voter must: (1) affirm in writing that the person is a registered voter in the jurisdiction; (2) is eligible to vote in that election. | |
| ~ | • Provisional voter must be given information as to how to determine if vote was counted, and if not the reason vote was not counted | Authorized by SB 258 |
| ~ | • Provisional voter must be given access to a toll-free number or website that may be used to determine whether vote was counted or not; access may be provided at county level | Authorized by SB 258 |
| | **VOTING INFORMATION REQUIREMENTS** | |
| ~ | • Voting information (sample ballot, date/hours of election, instructions on casting a ballot/provisional ballot, instructions for mail-in registrants who are first time voters, information on federal and state election laws) must be publicly posted at each polling place on each election for federal office | Administrative Action required |
| ~ | • Voters casting ballots after normal hours (i.e. court ordered extension) must vote a provisional ballot kept separate from other provisional ballots | Authorized by SB 258 |

| GEORGIA STATUS | PROVISION MANDATED BY HAVA | ACTION REQUIRED |
|---|---|---|
| | **COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENT** | |
| √ | • Implement a single, uniform, centralized, interactive, computerized statewide voter registration list defined and administered at state level | System Upgrade conducted |
| √ | • Computerized list shall serve as the single system for storing and managing official list of registered voters [1st-time voters must be identified on list] | Authorized by SB 258 |
| √ | • List shall have unique identifier for each registered voter of state | |
| √ | • List shall be coordinated with other state agency databases [Considering opportunities with system upgrade] | Administrative [GA - Optional] |
| √ | • Registration information must be promptly entered into database upon receipt of local election officials | |
| √ | • Electronic list shall serve as official list for federal elections | |
| √ | • Names to be removed from list must follow procedures outlined in NVRA | |
| √ | • List is to be maintained to remove ineligible voters, including:<br>- Convicted felons<br>- Death<br>- Duplicate names | |
| √ | • Appropriate technological security measures shall be provided to protect list | |
| √ | • The election system must be set up for minimum maintenance standards consistent with NVRA | |
| √ | • Upon application for voter registration, applicant must provide a unique identifying number as prescribed by HAVA [NOTE: States using SSN are grandfathered into this provision as unique identifier requirement is met.] | |
| √ | • The chief election official and the state motor vehicle authority should enter into an agreement to match data to the extent required to enable each entity to verify the accuracy of data provided for voter registration | Administrative [GA- Optional] |
| | **REQUIREMENTS FOR FIRST TIME VOTERS WHO REGISTER BY MAIL** | |
| √ | • For individuals that register by mail and have not previously voted within the state:<br>- IF VOTING IN PERSON: (1) presents current and valid photo ID; or (2) presents a copy of a current utility bill, bank statement, government check, paycheck or other government document showing name and address of voter<br>- IF PERSON VOTES BY MAIL: Absentee ballot must contain (1) Copy of current and valid photo ID; or (2) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows name and address of voter | Authorized by SB 258 |
| √ | • FAIL SAFE VOTING: For first-time voters registering by mail that do not provide required identification may be allowed to cast a provisional ballot | Authorized by SB 258 |
| √ | • Registration forms must conform to NVRA and HAVA (including first-time voter information) | Administratively Modify forms |



| GEORGIA STATUS | PROVISION MANDATED BY HAVA | ACTION REQUIRED |
|---|---|---|
| | **MILITARY AND OVERSEAS BALLOT SYSTEM** | |
| √ | • State shall designate office to provide Military and Overseas information for registration and voting | Authorized by SB 258 |
| √ | • State shall compile and report data on combined number of absentee ballots transmitted to uniformed and overseas voters | Authorized by SB 258 |
| √ | • Absentee ballot application for military and overseas voters shall be good for 2 General Election cycles | Authorized by SB 258 |
| √ | • Georgia will adopt Presidential HAVA Designee standard oath for all documents under Title VII relating to military and overseas ballots | Authorized SB 258 |
| √ | • Requirements must be implemented by January 1, 2004 | Authorized by SB 258 |
| | **VOTER EDUCATION - ELECTION OFFICIAL & POLL WORKER TRAINING** | |
| √ | • State must identify in HAVA implementation plan, to conform to requirements of Title III, specific efforts to provide voter education, election official training and poll worker training | Requirements will be met |
| √ | **MAINTENANCE OF EFFORT** | |
| √ | • Pursuant to HAVA, states must identify how the state will maintain the expenditures for activities funded by the payment level of "requirement payments" that is not less than the level of state expenditures in fiscal year ending prior to November 2000 | Requirement will be met |
| | **STATE BASED ADMINISTRATIVE COMPLAINT PROCEDURES** | |
| √ | • State must develop, prior to certification deadline of January 1, 2004, a state-based administrative complaint procedure as prescribed by HAVA, including:<br>(1) Procedures that are uniform and nondiscriminatory<br>(2) Must allow filing of complaint for believed violations of HAVA Title III (including poll accessibility, handicapped accessible voting units, etc.)<br>(3) Complaints must be in writing and notarized, signed and sworn by complainant<br>(4) Complainant may be afforded a hearing upon request<br>(5) If state determines that a Title III violation occurred, state shall provide a remedy<br>(6) Complaints are to be resolved administratively under prescribed timeframes of HAVA, being 90 days (or longer with consent of complainant)<br>(7) State is to provide an alternative dispute resolution process for Title III complaints not resolved through administrative procedures | Requirements will be met |
| | **MATCHING FUND REQUIREMENTS** | |
| √ | • State is required to provide or demonstrate a 5% match in spending of Title II funding provided under Title II of HAVA | Requirements will be met |
| | | |

# Territory of Guam
## State Plan

As required by the Help America Vote Act 2002
Section 253 (b) Public Law 107 – 252 / H.R. 3295

**GUAM ELECTION COMMISSION**
**Kumision Ileksion Guåhan**
P.O. Box BG • Hagåtña, Guam 96932
Tel: (671) 477-9791/3 • Fax: (671) 477-1895

August 8, 2003

Election Assistance Commission
c/o Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Gentlemen,

I am pleased to submit to you the Guam State Plan for the implementation of the Help America Vote Act of 2002 (HAVA), an act to enhance the accessibility and integrity of federal elections in Guam and throughout the country.

HAVA presents the Guam Election Commission (GEC) with an extraordinary opportunity to enhance its federal election process with an unprecedented level of funding. The Guam State Plan outlines Guam's strategy for complying with the federal requirements and refining its federal election process.

Guam has a proud tradition of implementing election laws, procedures and practices to encourage a high level of voter access and participation. Consequently, Guam is well positioned to meet many of the HAVA's requirements, but needs substantial technical and funding assistance from the Election Assistance Commission to comply with all the requirements of HAVA.

I want to take this opportunity to thank the Guam State Plan Development and Coordinating Committee, comprised of a variety of election stakeholders, who worked tirelessly to develop the plan. The successful conduct of elections in Guam is a cooperative effort of all election stakeholders, and the GEC relies completely on the confidence and participation of all Guam voters. The Guam State Plan Development and Coordinating Committee has established a framework for continued cooperation in the election process that is vital in the implementation of HAVA. The Committee worked long hours to create a Guam State Plan that will ensure that every vote counts as intended, and that no voter is excluded from the election process.

The Guam State Plan sets out an extremely ambitious agenda. I am confident, however, that with the continued dedication of the GEC Board of Directors, the Guam State Plan Development and Coordinating Committee, and all other election stakeholders, the Guam Election Commission will meet its goals and improve voter participation and confidence in Guam's election process.

I hope that the Election Assistance Commission will share its thoughts concerning the Guam State Plan, and Guam's election process.

Sincerely,

Gerald A. Taitano
Executive Director

cc: File

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OFFICE OF THE GOVERNOR
HAGÅTÑA, GUAM 96910
U.S.A.

RECEIVED
JUN 10 2003

**EXECUTIVE ORDER NO. 2003- 20**

**RELATIVE TO ESTABLISHING THE GUAM STATE PLAN DEVELOPMENT AND COORDINATING COMMITTEE PURSUANT TO THE HELP AMERICA VOTE ACT (HAVA) OF 2002, P.L. 107-252 / H.R. 3295**

**WHEREAS,** the Help America Vote Act of 2002 (HAVA) invites the Governor to develop a Guam state plan for Federal election improvements; and

**WHEREAS,** the Guam State Plan shall be a self-certified plan developed by government election officials, local officials, and private citizens; and

**WHEREAS,** the Guam State Plan must describe how Guam will improve Federal election administration procedures, provide for voter education, distribute HAVA funds, establish a Guam Federal Election Fund, allocate Federal funds, avoid the supplanting of state funds with Federal funding, adopt performance goals and measures, adopt complaint procedures, manage funds under Title I of HAVA for Federal election administration improvements, manage the state plan, and address state plan changes from prior fiscal years; and

**WHEREAS,** the Executive Director of the Guam Election Commission, as the Chief Guam State Election Official, is tasked to develop the Guam State Plan through a committee of appropriate individuals, including the chief election officials of the two most populous jurisdictions in Guam, other local election officials, stakeholders (including representatives of groups of individuals with disabilities), and other citizens.

**NOW, THEREFORE, I, FELIX P. CAMACHO,** *I Maga'Lahen Gudhan,* Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam and the laws of Guam, hereby order as follows:

Section 1. Guam HAVA State Plan Development and Coordinating Committee; Establishment of.

a. There is established within the Guam Election Commission (GEC), the Guam HAVA State Plan Development and Coordinating Committee, comprised of representatives from the following election stakeholder organizations: Executive Director, Guam Election Commission; Board of Directors, Guam Election Commission; Republican Party of Guam; Democratic Party of Guam; Office of the Guam Delegate to the U.S. House of Representatives; Mayor's Council of Guam; Office of the Mayor of Dededo; Office of the Mayor of Yigo; University of Guam Center for Excellence in Developmental Disabilities Education, Research, and Service (CEDDERS); Department of Integrated Services for Individuals with Disabilities (DISID); Guam Community College; Department of Education; Veteran's Affairs Office; and any such other stakeholder organization or representative that the GEC determines appropriate.



b. The Guam HAVA State Plan Development and Coordinating Committee shall meet at the GEC Executive Director's call. The GEC Executive Director shall prepare the agenda for each meeting, and maintain records of the Committee's proceedings. Membership in the Committee shall be a collateral function without compensation. Accordingly, this Order does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the government of Guam, its departments, agencies or instrumentalities, its officers or employees or any other person.

Section 2. Executive Order, Filing of. Upon the execution of this Executive Order, a copy of it shall be filed by the GEC Executive Director with the Speaker and the Legislative Secretary of the Guam Legislature, the Attorney General and the Compiler of Laws, the Chief Justice of the Supreme Court of Guam, the Presiding Judge of the Superior Court of Guam, Guam's Delegate to the U.S. House of Representatives and the Guam Election Commission.

**SIGNED AND PROMULGATED at Hagåtña, Guam, this 6th day of June 2003.**

**FELIX P. CAMACHO**
***I Maga'Lahen Gudhan***
**Governor of Guam**

**COUNTERSIGNED:**

**KALEO S. MOYLAN**
***Segundo Maga'Lahen Gudhan***
**Lieutenant Governor of Guam**

## GUAM STATE PLAN INTRODUCTION

Section 253(b) of the Help America Vote Act of 2002 (HAVA) provides for Guam to develop a long-range plan to improve the administration of federal elections in Guam; distribute and monitor federal funds provided to improve the administration of federal elections in Guam; provide for voter education, election official education and training, and poll worker training; establish voting system guidelines and processes; establish a Guam Election Fund; develop an appropriate budget; maintain current expenditures; adopt performance goals and measures; establish an administrative procedure; and describe how federal funds will affect the activities set forth in the Guam State Plan.

With the combined support of both the Executive and the Legislative branches of the Government of Guam, and with Federal financial support through HAVA, Guam will have the opportunity to update and improve its current election processes and systems. This Guam State Plan establishes the framework for election reform, and achieves full compliance with the requirements of HAVA.

The Guam State Plan also improves election accessibility for individuals with disabilities, and those with alternative language requirements. Guam has already taken steps to improve polling place accessibility, and is beginning the process of implementing an accessible, uniform voting system. Guam will continue to strive toward full accessibility in all aspects of the elections process.

Guam will update and refine the Guam State Plan as necessary over time, to reflect election reform progress, improvements, and future plans. The Guam Election Commission welcomes the challenges of HAVA, and the financial support from the Federal government to continue its efforts to update and improve Guam's elections.

HAVA increases the election administration responsibilities of the Guam Election Commission (GEC), who is responsible for the conduct of elections. The Executive Director of the Guam Election Commission (GEC) administers the election laws of Guam, and performs and discharges all of the powers, duties, purposes, functions and jurisdiction therein. All actions of the Executive Director are subject to the supervision and approval of a seven-member GEC Board of Directors, who appoints the Executive Director. Six of the board members are appointed by the Governor of Guam from recommendations submitted by the recognized political parties in Guam. The six appointed members appoint the seventh member, and the Board elects a Chairperson and Vice Chairperson. All board members serve two-year terms.

The Executive Director is responsible for implementing, planning, and conducting all island-wide, municipal, and federal elections in Guam, as well as all voter registration activities and maintenance of Guam's voter registration database.

The GEC has five functional sections, i.e., Election Management and Administration, Budget and Personnel, Voter Registration, Public Official Reporting and Disclosure, Campaign Contributions and Expenditures, and the Decolonization Registry. The Executive Director is responsible for voter registration and election management activities for Guam.



The GEC maintains an island-wide electronic voter registration database, referred to as the Voter Registration System (VRS). The VRS is domiciled at the University of Guam Computer Center. The GEC office has real-time access to VRS for viewing and updating voter information. The Voter Registration Supervisor processes all voter registration applications in VRS and assigns each applicant a unique voter registration number. Immediately upon entering information in the system, any member of the public can view the information processed. Although the GEC has an island-wide voter registration database at the UOG Computer Center, the mainframe system is antiquated, costly to maintain, and needs to be replaced. Further, it is consistent with the requirements of HAVA that the database be domiciled at the GEC, and that access to the database be provided to all nineteen municipalities in Guam.

Guam has approximately 53,000 registered voters. The voting age population is approximately 100,000. Voter registration is available in the GEC office, and, 30 days prior to an election, at all nineteen municipal offices throughout the island. The Executive Director appoints as voter registration clerks all qualified applicants from political parties, candidate organizations, municipal clerks, and various advocacy groups that provide services to individuals with disabilities. The GEC is currently developing a web site that will include a voter registration process.

Individuals may register to vote in person, or by mail. Voters must be registered to vote at least 30 days prior to an election. If a voter's registration application is incomplete, the GEC notifies the voter and provides the voter an opportunity to properly complete the application.

Guam has 19 municipal districts, and one Congressional district. Voter turnout for the past several general elections are as follows:

**1996 = 76.32%**
**1998 = 84.98%**
**2000 = 73.26%**
**2002 = 73.75%**

Guam has 19 rural village communities and 72 precincts. Each precinct average 700 or more registered voters.

In 2000, the GEC upgraded its optical-scan voting system to an Election Systems and Software (ES&S) Tabulator Model 550. The optical-scan voting system is used island-wide. Except as directed by the GEC Board of Directors or the Court, the GEC does not hand-count ballots. Guam uses a uniform paper ballot in each precinct. Currently, there are no precincts in Guam utilizing direct recording electronic (DRE) voting systems.

There are several alternative voting methods available to Guam voters who are unable to vote at their assigned polling place. For many homebound voters in Guam the only voting method available is by absentee ballot.

**Absentee By Mail** – any qualified voter in Guam may apply to receive an absentee ballot by mail. Guam statute requires a ballot application to be completed each election year.

**Absentee Voting In Person** – any qualified voter may vote through an absentee ballot beginning 30 days prior to election day at the GEC office.

**Home-bound or Special Needs Voting** – if a voter is unable to vote at his or her assigned polling place due to age, illness, or disability, the voter may request an Election Official to deliver the ballot and other voting material.

**Provisional Voting** – is not available at the present time. The GEC is preparing legislation to provide for provisional voting in Guam. The GEC Provisional Voting Program will be available to any voter who does not have identification, or whose name does not appear on the precinct register at the polling place where the voter is attempting to vote. Provisional ballots will be delivered to the GEC Election Central for verification of eligibility before being counted.

Each ballot cast using one of the alternative voting methods, i.e., absentee, off-island, homebound, and in-office, is sealed inside a secret ballot envelope, which in turn is placed inside an affidavit envelope. The affidavit envelope provides for voter information: name, address, identifier, and signature. The voter's affidavit ballot envelope is reviewed, verified, and cross-checked with the voter signature roster to ensure that the voter has not voted more than once. If approved, the secret ballot envelope is returned to the appropriate precinct official for inclusion with all other ballots.

In addition to conducting the federal election for the Guam Delegate to the U.S. House of Representatives, the GEC is responsible for conducting elections for the Office of the Governor of Guam, the Lieutenant Governor of Guam, the Guam Legislature, Nineteen Mayoral Offices, Five Vice-Mayoral Offices, the Guam Public Auditor, the Attorney General of Guam, the Consolidated Commission on Utilities, the Guam Education Policy Board, the judges of the Superior Court of Guam, the justices of the Supreme Court of Guam, and all public initiative measures. Although the GEC is not responsible for conducting elections outside of Guam, it provides election assistance to the Commonwealth of the Northern Mariana Islands, the Republic of Belau, and the Federated States of Micronesia.

Although Guam already has an island-wide voter registration database, and has replaced all punch-card voting systems, there are several improvements needed to meet the specific requirements of HAVA. Guam needs to retrieve its voter registration database from the University of Guam Computer Center. To accomplish this, the GEC must purchase the necessary hardware and upgrade its voter registration software. Further, the GEC must procure the necessary interface software to implement the use of DRE units.

The Guam State Plan is organized as specified in HAVA, section 254, providing a description of current election procedures used in Guam and outlining how Guam will meet the new requirements mandated by HAVA.



## GUAM STATE PLAN APPROACH

The Guam Election Commission, comprised of the Executive Director as the chief election official, the seven-member Board as the principal authority, and 5 employees, is responsible for administering and supervising elections in Guam. Collaboration between the GEC and stakeholders is essential to the successful conduct of elections. In addition to fulfilling Federal election responsibilities, the GEC and Guam's election stakeholders work cooperatively to serve Guam's local government, approximately sixty thousand registered voters, and a number of political campaigns.

Before the passage of HAVA the GEC began laying the groundwork for a new voter registration system and the introduction of Direct Recording Electronic (DRE) voting machines.

Considerable effort and resources are necessary for Guam to meet HAVA requirements. GEC will need to upgrade systems, redesign processes, and revamp training. GEC's ability to provide ongoing operations and maintenance of new capabilities is dependent on adequate resources and funding. In addition, GEC must address core infrastructure needs to provide a solid foundation to sustain new technology and processes. Additionally, the success of Guam's election reform efforts requires implementation at an appropriate point in the election cycle, so that the GEC may utilize new processes in a timely manner.

The Guam State Plan is organized as specified in HAVA §254. Each section of this document corresponds to a subsection of §254 and addresses a State Plan requirement specified in HAVA. The Guam State Plan outlines program milestones to address system or procedural changes. Matrices are included to outline the detailed requirements of HAVA, Guam's current status in regard to those requirements, and the actions planned to meet those requirements.

## GUAM STATE PLAN REQUIRED ELEMENTS (HAVA §254)

### Section 1. Title III Requirements and Other Activities *"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". -- HAVA §254 (a)(1)*

### 1.a §301(a), Voting Systems Standards Requirements. *Deadline for Compliance: January 1, 2006*

Guam currently uses an optical-scan (ES&S Tabulator System 550) paper-ballot system for all 72 precincts. In a typical election, these optical-scan tabulators are located in a central location, and used to scan and tabulate ballots brought in from all Guam precincts after the polls close. The ballots are optically scanned and votes are tabulated for each race. A significant drawback with this method is that ballots with overvotes are rejected, thus denying the voter with immediate notification and an opportunity to make corrections or changes prior to casting the ballot. The Guam State Plan will correct this deficiency.

Guam's pursuit of voting system improvements now mandated by HAVA has placed it on course to rectify the above and fulfill other HAVA requirements within the statutory timeframes. The GEC is preparing legislation to allow voters with disabilities to vote privately and independently by using a Direct Recording Electronic (DRE) voting system. Last year, Election Systems and Software (ES&S) of Omaha, Nebraska, provided a demonstration of its iVoltronic touch screen DRE voting system. To date, however, Guam has not purchased any DRE voting systems. The GEC plans to dedicate a significant portion of its HAVA entitlement to purchasing at least one DRE voting unit for each of Guam's polling location.

The Guam State Plan provides for an initial purchase of 21 DRE voting units in 2004. The GEC will locate a DRE unit at each of its 21 polling locations for Election 2004. This will test the DRE voting system's compatibility with Guam's current optical-scan voting system, and allow for corrective measures prior to implementing the use of DRE units on a island-wide basis.

Once the GEC is confident that the DRE voting system purchased is able to support the needs of the entire Guam voting community, island-wide implementation will be pursued. The GEC will purchase each DRE unit complete with a combination carrying case/booth. The carrying case/booth will provide a stable voting platform and a secure container, which will adequately handle the stress of transporting the DRE units throughout the island. Implementing the use of DRE units at each precinct will require substantial funding.

An extensive training program will be required for the GEC staff. The vendor who is awarded the contract for the purchase of DRE voting system will be required, as part of the contract, to provide training and technical support.

Public outreach / training will be required to familiarize the disabled community with the new voting system. The public will be informed of the availability of these systems at each precinct and polling location. Additionally, the GEC will need to coordinate with agencies that provide services for the disabled community to ensure that clients are knowledgeable in the use of the new voting system.

Funding is necessary to address the non-compliant issues and to transition to a uniform Guam voting system in order to meet HAVA §301(a) requirements over the next three years.

In addition to numerous voting system requirements, §301(a) also requires states / Guam to define what constitutes a legal vote for each type of voting system used in the state. Guam will need to define what constitutes a legal vote in a uniform manner for each voting system as a regulation.

One aspect of the uniform State / Guam voting systems program will be operations and maintenance:

**Operations**

- 1) Operating & Maintaining a new uniform Guam-wide voting system
- 2) Maintain and improve voting system software
- 3) Maintain technical infrastructure for software

**Maintenance**

- The GEC will have to provide adequate storage facilities for the DRE units. Storage facilities must be environmentally controlled to prevent corrosion. Funding will be required to accommodate the additional storage requirements.
- The GEC will establish a maintenance program to ensure the DRE units receive required maintenance. This will permit the GEC to conduct periodic maintenance and identify potential problems, make necessary adjustments to the unit, or send the unit to the vendor for more extensive maintenance or repair. The maintenance program may require contractual staffing at some levels to ensure all maintenance requirements are met.

The following matrix outlines the HAVA §301(a) requirements, Guam's "Current Status," and the "Action Planned," where applicable.

**Section 301. Voting Systems Standards Requirements**

| HAVA Section 301 Requirement | Current Status | Action Planned |
|---|---|---|
| Section 301. Voting Systems Standards | Partial compliance | Amend 3GCA to implement HAVA |
| (a) REQUIREMENTS. Each voting system used in an election for Federal office shall meet the following requirements: | Partial compliance | Develop specific GEC board policies to implement HAVA |
| (1) IN GENERAL | | |
| (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical | Not Applicable | No action required |

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| scanning voting system, or direct recording electronic system) shall | | |
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | Partial compliance | Convert to DRE system to fully comply w/ HAVA. |
| (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | Partial compliance | Convert to DRE system to fully comply w/ HAVA. |
| (iii) if the voter selects votes for more than one candidate for a single office – (i) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (ii) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (iii) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | Partial compliance | Convert to DRE system to fully comply w/ HAVA. |
| (B) A state of jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by | Partial compliance | Revise mail-in absentee application form to fully comply w/ HAVA |
| (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Full compliance | Revise program to include DRE system. |
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error) | Full compliance | Revise program to include DRE system. |



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| (2) AUDIT CAPACITY | Partial compliance | Coordinate audit requirements with ES&S |
| (A) IN GENERAL – The voting system shall produce a permanent paper record with a manual audit capacity for such system. | Partial compliance | Convert to DRE system to fully comply w/ HAVA |
| (B) MANUAL AUDIT CAPACITY - | Partial compliance | Revise GEC board policy to fully meet HAVA requirements. |
| (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system | Partial compliance | Convert to DRE system to fully comply w/ HAVA. |
| (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | Partial compliance | Convert to DRE system to fully comply w/ HAVA. |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | Partial compliance | Convert to DRE system to fully comply w/ HAVA. |
| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES – The voting system shall - | | |
| (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. | Partial compliance | Convert to DRE system to fully comply w/ HAVA. |

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| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Not in compliance | Convert to DRE system to fully comply w/ HAVA. |
| (c) if purchased with funds made available under title II on or after January 1, 2007, meet with the voting system standards for disability access (as outlined in this paragraph). | Not in compliance | Convert to DRE system to fully comply w/ HAVA. |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY – The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | Partial compliance | Convert to DRE system to fully comply w/ HAVA. |
| (5) ERROR RATES - The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | Partial compliance | Convert to DRE system to fully comply w/ HAVA. |
| (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE – Each state shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the state. | Partial compliance | Amend 3GCA to fully comply w/ HAVA |

**1.b §302, Provisional Voting and Voting Information Requirements** *Deadline for Compliance: January 1, 2004.*

HAVA addresses the process of provisional voting to ensure that no individual who goes to the polls intending to cast a ballot is turned away without having the opportunity to do so.

Guam does not have a provisional voting process established. It is a Guam State Plan objective to request the Guam Legislature to enact a law to establish the Guam Provisional Voting Program. Currently, any voter who reports to an assigned polling location, and whose name does



not appear on the precinct register, is required to report to the Guam Election Commission for voter certification. Once certified as an eligible voter, the voter is issued a Certification of Eligibility to Vote and sent back to his assigned polling location to vote.

In conjunction with the proposed Provisional Voting Program, Guam will implement a free-access telephone system to provide voter information. This free-access telephone system will allow the voter to determine if his or her questioned (provisional) ballot was counted and, if not counted, why the vote or a portion of the vote did not count.

The Guam State Plan will provide for one of the following free-access systems:

a. Guam will provide an interactive toll-free telephone system that will allow voters to determine their assigned polling place based on their current voter registration record. Additionally, voters can determine their party affiliation during the Primary Election. The Guam Election Commission will expand its current telephone system to allow voters to verify if their votes were counted and if not, why the votes did not count. This system will interface with the voter registration and election management system to access the data specific to the voter.

b. Guam will utilize its web site on a limited interactive basis that allows voters to check the status of their absentee ballot application. Guam will continue to improve its fledging web site to allow more interaction and enable voters to log-in and verify if their votes were counted and if not, why the votes did not count. This system will interface with the voter registration and election management system to access the data specific to the voter.

c. Guam will develop informational posters and flyers that inform voters at the polling location when voting a provisional ballot is required and the method established to vote a provisional ballot.

**Provisional Voting Program Milestones**

The GEC is in the process of proposing updates to legislation governing Guam's provisional voting program:

- 1. Conducting an Impact Assessment

  Assess the requirements of HAVA §302 in collaboration with appropriate agencies

  Review and compare existing Guam legislation with HAVA to determine gaps

- 2. Implementing Revisions

  Develop revisions to Guam law with input from key stakeholders

Facilitate passage of law in legislature

Put new law into operation with revised procedures, training, and outreach mechanisms

- 3. Managing

  Track and report on provisional voting

In addition to provisional voting requirements, HAVA §302 mandates that Guam publicly post specific information at the polls on election day. Guam currently displays voting information at each polling place, though the GEC must adjust or add to the content to fully comply with HAVA.

**Voting Information Program Milestones**

The Guam Election Commission provides an official Voter's Information Pamphlet. This pamphlet is made available to each voter prior to every election. Current Guam law requires full public notice of an election. This public notice is achieved through newspaper advertisements and posting notices in all mayoral offices. Other methods of informing voters include radio advertisements, public service announcements, and direct mailings. Additionally, on Election Day, sample ballots, posters, information flyers and voting instructions posted in all polling locations.

To improve voting information, Guam will create new media formats that address voting rights under applicable federal and Guam laws. These formats will provide information on alleged acts of fraud and misrepresentation, as well as specific instructions on what to do should a voter suspect that his or her right to vote has been violated. This is a HAVA requirement.

Guam will modify its voter registration, institute provisional voting, and amend its absentee voting forms, as well as other election materials to meet the requirements of HAVA. This will involve modifying all of the current forms in use, and reprinting new stock. Funding is needed to meet the HAVA requirements.

GEC will comply with HAVA requirements for voting information through the following program:

- 1. Conducting an Impact Assessment

  Assess the requirements of HAVA §302 in cooperation with the stakeholders

  Review and compare existing voting information posted with HAVA to determine gaps



- 2. Implementing Revisions

  Develop revisions to voter information materials posted on election day with input from other key stakeholders

  Put new voting information into operation with revised procedures, election day materials, training, and outreach mechanisms

- 3. Managing

  Track and report on the success of posted voting information

  (Details on the current status of voting information and actions planned are found in the compliance matrix below.)

HAVA §302 further provides that voters who vote (pursuant to a court or other order) during extended hours after the normal close of a polling place, cast provisional ballots. These ballots must be kept separate from other provisional ballots.

**Section 302. Provisional Voting And Voting Information Requirements**

| HAVA Section 302 Requirement | Current Status | Action Planned |
|---|---|---|
| **Section 302. Provisional Voting and Voting Information Requirements** | Not in compliance | Amend 3GCA and develop GEC board policy to allow for provisional voting & voting information requirements. |
| (a) PROVISIONAL VOTING REQUIREMENTS – If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows: | Not in compliance | Amend 3GCA and develop GEC board policy. |

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| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | Not in compliance | Amend Precinct Official's Handbook. |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is -- | Not in compliance | Amend election procedures. |
| (A) a registered voter in the jurisdiction in which the individual desires to vote; and | Not in compliance | Amend election procedures |
| (B) eligible to vote in that election. | Not in compliance | Amend election procedures |
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4). | Not in compliance | Establish GEC board policy and procedures. |
| (4) If the appropriate state or local election official to whom the ballot or voter information is transmitted under paragraph (3) determined that the individual is eligible under state law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with state law. | Not in compliance | Amend election procedures. |
| (5) (A) At the time that an individual casts a provisional ballot the appropriate state or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether tie vote was counted and, if the vote was not counted, the reason that the vote was not counted. | Not in compliance | Amend election procedures. |



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| (B) The appropriate state or local election official shall establish a free access system (such as a toll-free telephone number or an internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | Not in compliance | Establish GEC board policy and procedures to provide for toll-free access. |

**1.c §303, Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail.** *Deadline for Compliance: January 1,2004; State can submit a certification stating "good cause" that will move the deadline for §303(a) compliance to January 1, 2006.*

Currently, official Guam voter registration records are created and maintained at the GEC main office. The voter database and reporting system, however, resides on a mainframe computer located at the University of Guam (UOG) Computer Center. For all practical purposes, the Guam Voter Registration System (VRS) is an antiquated system. It is not a fully interactive system. Further, current Guam law does not provide for the GEC to include the voter's driver's license numbers or partial social security numbers in the voter registration file, as required by HAVA. The GEC staff performs routine data-base maintenance which include, among other processes, routine checks for voter registration duplicates.

The mail-in voter registration process in Guam also currently does not meet HAVA requirements. The mail-in voter registration form requires redesign to accommodate information required by HAVA. Also, the voter registration and polling place voter qualification processes must be modified to allow for the verification of identification provided by first-time voters who register by mail.

A new voter registration and election management system must be implemented to effectively serve the voters of Guam. The new system must meet new technology requirements and allow for better management capabilities. The Guam Election Commission is presently looking at several methods to replace the current system:

a. Assess systems that are currently used in the U.S. mainland to determine if there is a system that meets the needs of Guam.

b. Assess systems that are being developed or modified to determine if there is a system that meets the needs of Guam.

c. Research available database programs to determine if developing a voter registration and election management system would meet the needs of Guam.

Guam will have to maintain the VRS at its current program level. In the months to come, the Guam Election Commission will modify or replace the VRS to track those voters who are initial registrants, registrants by mail, as well the additional voter identifying information required by section 303 of HAVA. Specifically, the Guam Election Commission will develop a procedure to match voter-identifying information provided by a first-time registrant, or by a mail registrant, with information maintained by the Guam Division of Motor Vehicles, the Superior Court of Guam, or other reliable databases. Funding is necessary to permit other Government of Guam databases to interact with the VRS, and provide the required information.

**Guam Centralized Voter Registration System (CVRS) Program Milestones**

GEC's CVRS program will ensure HAVA compliance in both technical and procedural areas of voter registration:

1) Planning HAVA voter registration compliance

- Assess HAVA §303 to determine requirements for system and necessary changes in procedures and regulations/legislation
- Establish a user group of key stakeholders to guide the VRS program through all phases and milestones
- Develop a training plan (refer to Section 3, p 30, Voter Education, Election Official Education and Training, and Poll Worker Training)
- Research and assess CVRS options (upgrade current system, build new system, acquire replacement system, etc.)
- Determine options for development of interfaces and data integration between GEC, DMV, Judicial and other appropriate agencies
- Develop CVRS approach (selection of option, risks, pros and cons, cost benefit analysis, rough order of magnitude, level of effort)

2) Managing the centralized voter registration system effort through a standardized project management framework

- Create a comprehensive resource plan, schedule, and work plan
- Develop reporting structures and performance measures to track progress
- Monitor issues and risks to ensure smooth transition to the new centralized voter registration system

3) Implementing the new centralized voter registration system



- Implement necessary changes to procedures and regulations/legislation
- Select and procure software and services
- Design, build, test, and deploy CVRS
- Develop and deliver appropriate training and outreach to ensure successful CVRS transition

4) Operating and Maintaining the centralized voter registration system

- Maintain and improve the centralized voting system software
- Utilize the user group to assist GEC in maintaining and improving the centralized voting system software
- Maintain technical infrastructure and accessibility for software

Based on review of HAVA §303, the GEC's voter registration system will require technological and procedural upgrades to comply with the Act. The compliance matrices below includes the specific requirements of HAVA §303, as well as the "Current System" related to these requirements. The "Action Required" column includes next steps for GEC.

**Section 303. Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Vote by Mail**

| HAVA Section 303 Requirement | Current Status | Action Planned |
|---|---|---|
| **Section 303. Computerized Statewide Voter Registration List Requirements and Requirements Who Vote by Mail.** | Partial compliance | Amend 3GCA and develop GEC board policy to allow for CVRS and provide for voter by mail requirements. |
| (a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS – | Partial compliance | Establish GEC board policy and procedures. |

| | | |
|---|---|---|
| (1) IMPLEMENTATION - | Partial compliance | Develop GEC timeline for completion. |
| (A) IN GENERAL – Except as provided in subparagraph (B), each state, acting through the chief state election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state (in this subsection referred to as the computerized list), and includes the following: | Partial compliance | Develop GEC board policy to procure CVRS system to implement all HAVA requirements. |
| (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the state. | Partial compliance | Implement CVRS to comply w/ HAVA |
| (ii) The computerized list contains the name and registration information of every legally registered voter in the state. | Partial compliance | Implement CVRS to comply w/ HAVA |
| (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the state. | In full compliance | Review existing VRS Voter Registration No. |
| (iv) The computerized list shall be coordinated with other agency databases within the state. | Not in compliance | Link CVRS w/ DMV, DOC, PHSS, SSN#, Sup. Ct., etc. |
| (v) Any election official in the state, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | Not in compliance | Develop GEC board policy to allow precinct official access to CVRS. |



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| (vi) All voter registration information obtained by any local election official in the state shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | Not in compliance | Develop GEC board policy to allow district registrars administrator access to CVRS. |
| (vii) The chief state election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). | Not in compliance | GEC Exec Dir to dedicate HAVA funds to support off-site voter registration. |
| (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for federal office in the state. | In full compliance | Implement CVRS to fully comply w/ HAVA |
| (B) EXCEPTION – The requirement under subparagraph (A) shall not apply to a state in which, under a state law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the state with respect to elections for federal office | Not applicable | No action required. |
| (2) COMPUTERIZED LIST MAINTENANCE -- | Partial compliance | GEC Exec Dir shall ensure CVRS list maintenance. |
| (A) IN GENERAL – The appropriate state or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows: | Partial compliance | GEC Exec Dir shall ensure CVRS list maintenance. |
| (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a) (4 ), (c) (2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973 gg-6). | Partial compliance | Review 42USC 1973 to determine specific requirements. |

| | | |
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| (ii) For purposes of removing names of ineligible voters from the official list of eligible voters – (I) under section 8(a) (3) (B) of such Act (42 U.S.C. 1973gg-6(a) (3) (B)), the state shall coordinate the computerized list with state agency records on felony status; and (II) by reason of the death of the registrant under section 8(a) (4) (A) of such Act (42 U.S. C. 1973gg-6(a) (4) (A)), the state shall coordinate the computerized list with state agency records on death. | Partial compliance | Ensure CVRS link with DOC, Sup Ct, and PHSS (Vital Statistics). |
| (iii) Notwithstanding the preceding provisions of this subparagraph, if a state is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that state shall remove the names of ineligible voters from the computerized list in accordance with state law. | Partial compliance | Review 42USC1973 to determine specific requirements. |
| (B) CONDUCT – The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that -- | Partial compliance | GEC Exec Dir shall ensure CVRS list maintenance |
| (i) the name of each registered voter appears in the computerized list; | In full compliance | GEC Exec Dir shall ensure CVRS list shows the name of each registered voter. |
| (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | Partial compliance | GEC Exec Dir shall ensure only ineligible voters are removed from the CVRS listing of voters. |
| (iii) duplicate names are eliminated from the computerized list. | Partial compliance | GEC Exec Dir shall ensure that duplicates are eliminated from the CVRS listing of eligible voters. |



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| (3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST – The appropriate state or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | Partial compliance | GEC Exec Dir to coordinate security requirements w/ CVRS vendor. |
| (4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS – The state election system shall include provisions to ensure that voter registration records in the state are accurate and are updated regularly, including the following: | Partial compliance | GEC Exec Dir shall ensure CVRS list is updated regularly. |
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S. C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | Partial compliance | GEC Exec Dir shall ensure CVRS list is purged of nonvoters for 2 consecutive general elections. |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | Partial compliance | GEC Exec Dir shall ensure voters are not removed erroneously. |
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION -- | Partial compliance | GEC Exec Dir shall ensure verification of voter registration information. |
| (A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS – | Partial compliance | GEC Exec Dir to amend voter registration process to implement HAVA. |

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| (i) IN GENERAL -- Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for federal office may not be accepted or processed by a state unless the application includes – (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | Partial compliance | Develop GEC board policy to amend voter registration procedure to require DLN's, and/or last 4 digits of SSN#. |
| (ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER – If an applicant for voter registration for an election for federal office has not been issued a current and valid driver's license or a social security number, the state shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the state has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | Partial compliance | Develop GEC board policy to reference voter registration number as a unique identifier. |
| (iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED -- The state shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with state law. | Partial compliance | Develop GEC board policy to establish identification criteria for voter registration. |
| (B) REQUIREMENTS FOR STATE OFFICIALS -- | Not in compliance | GEC Exec Dir will ensure compliance. |
| (i) sharing information in databases – The chief state election official and the official responsible for the state motor vehicle authority of a state shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle | Not in compliance | GEC Exec Dir will develop agreements with DMV, DOC, Sup Ct, PHSS, and other GovGuam agencies. |



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| authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | | |
| (ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY -- The official responsible for the state motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r) (8) of the Social Security Act (as added by subparagraph (C)). | Not in compliance | GEC Exec Dir will coordinate DMV agreement with Social Security Administration. |
| (b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL– | Partial compliance | GEC Exec Dir to revise existing mail-in voter registration procedure to meet HAVA requirements. |
| (1) IN GENERAL -- Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a state shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if -- | Partial compliance | GEC to review 42USC1973, and ensure compliance w/ HAVA. |
| (A). the individual registered to vote in a jurisdiction by mail; and | Partial compliance | GEC Exec Dir to ensure full compliance w/ HAVA. |
| (B) (i) the individual has not previously voted in an election for federal office in the state; or | Partial compliance. | GEC Exec Dir to amend mail-in registration forms accordingly. |
| (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a state that does not have a computerized list that complies with the requirements of subsection (a). | In full compliance | No action required. |

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| (2) REQUIREMENTS – | Partial compliance | Develop GEC board policy to ensure full compliance with HAVA. |
| (A) IN GENERAL – An individual meets the requirements of this paragraph if the individual: | Partial compliance | Amend election procedures accordingly. |
| (i) in the case of an individual who votes in person – (I) presents to the appropriate state or local election official a current and valid photo identification; or (II) presents to the appropriate state or local election official a copy of a current utility bill, bank statement, government check, pay check or other government document that shows the name and address of the voter; | Partial compliance | Amend election procedures accordingly. |
| (ii) in the case of an individual who votes by mail, submits with the ballot – (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, pay check, or other government document that shows the name and address of the voter. | Partial compliance | Amend election procedures accordingly. |
| (B) FAIL-SAFE VOTING – | Not in compliance | Amend 3GCA and develop GEC board policy to allow for provisional voting. |
| (i) IN PERSON – An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | Partial compliance | Amend election procedures accordingly. |
| (ii) BY MAIL – An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail | Partial compliance | Amend election procedures accordingly. |



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| and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | | |
| (3) INAPPLICABILITY -- Paragraph (1) shall not apply in the case of a person -- | Not in compliance | Amend election procedures accordingly. |
| (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either -- | Partial compliance | Amend election procedures accordingly. |
| (i) a copy of a current and valid photo identification; or | Partial compliance | Amend election procedures accordingly. |
| (ii) a copy of a current utility bill, bank statement, government check, pay check, or government document that shows the name and address of the voter; | Partial compliance | Amend election procedures accordingly. |
| (B) (i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S. C. 1973gg-4) and submits with such registration either – (I) -- a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and | Partial compliance | Review 42USC1973 and amend election procedures accordingly. |
| (ii) with respect to whom a state or local election official matches the information submitted under clause (i) with an existing state identification record bearing the same number, name and date of birth as provided in such registration; or | Partial compliance | Amend election procedures accordingly. |
| (C) who is – | Partial compliance | Include in election procedures. |

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| (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | Partial compliance | Review 42USC1973 and amend election procedures accordingly. |
| (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii); or | Partial compliance | Review 42USC1973 and amend election procedures accordingly. |
| (iii) entitled to vote otherwise than in person under any other federal law. | Partial compliance | Review federal laws and amend election procedures accordingly. |
| (4) CONTENTS OF MAIL-IN REGISTRATION FORM -- | Partial compliance | Amend mail-in registration form to meet full HAVA compliance. |
| (A) IN GENERAL -- The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: | Partial compliance | Review 42USC1973 and amend mail-in registration form accordingly. |
| (i) The question 'Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | Partial compliance | Revise mail-in voter registration form accordingly. |
| (ii) The statement 'If you checked 'no' in response to either of those questions, do not complete this form.' | Not in compliance | Revise mail-in voter registration form. |
| (iii) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate | Partial compliance | Amend mail-in voter registration form accordingly. |



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| information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | | |
| (B) INCOMPLETE FORMS – If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for federal office (subject to state law). | Partial compliance | Amend mail-in voter registration procedures accordingly. |

### 1.d §304, Minimum Requirements

Guam understands that the requirements laid out in HAVA Title III are minimum requirements, and that Guam may establish election technology and administration requirements that are more stringent. Any more stringent requirement that Guam imposes will comply with all Title III requirements, as well as the laws described in HAVA §906.

### 1.e §305, Methods of Implementation Left to Discretion of State

Guam will choose the various means to comply with the requirements of HAVA Title III. Specific details on the implementation methodology chosen can be found in Sections 1.a through 1.c of this Guam State Plan.

### 1.f §311, Adoption of Voluntary Guidance by Commission

Once the federal Election Assistance Commission (EAC) has issued its voluntary recommendations with respect to Title III, Guam will consider that guidance in updating the Guam State Plan. Guam will incorporate those recommendations deemed appropriate into subsequent versions of the Guam State Plan.

### 1.g §312, Process for Adoption

Guam will stay aware of the progress of the EAC on developing the Title III recommendations. If appropriate, Guam will provide feedback during the public comment period after the recommendations are published in the Federal Register and participate in public hearings regarding the recommendations.

### 1.b §251(b) (2) – Other Activities

Guam currently does not have the personnel and technical capacity required to fully achieve HAVA compliance. Ongoing operations and maintenance of the new capabilities required by HAVA cannot be supported with the current technical infrastructure and resources. Guam proposes to establish a solid foundation to build and sustain the people, processes, and technology necessary to maintain the new capabilities. The following activities are thus proposed to improve the election system:

- Conduct an assessment of the current technical infrastructure and establish a strategy to standardize technical infrastructure;
- Conduct process review and redesign if necessary;
- Research the possibility of integration of key election management systems;
- Continue expanding polling place accessibility; and
- Document job descriptions and staff positions with resources qualified to conduct election reform activities.

**Section 2. Distribution of Requirements Payment.** *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). -- HAVA §254 (a)(2)*

### 2.a Eligibility of local units to receive the payment

All elections in Guam are centralized. There are no local units of government for election purposes. Accordingly, the GEC will account for and be accountable for all expenditures, funding levels, program controls, and outcomes. Guam, in conjunction with the GEC Executive Director, will determine the appropriate level of support for special initiatives. Guam will follow applicable local laws regarding the distribution of federal reimbursements.

Guam will provide the necessary support to the GEC should it seek HAVA grants outside the scope of the requirements payments.

### 2.b Performance measures for local units

Funds will be centrally managed as described in Section 2.a, and GEC will monitor the initiatives for which those funds are authorized.



GEC will monitor the performance of each initiative that is funded by requirements payments in three areas: financial controls, compliance with standards, and program results.

Financial Controls: GEC will develop and use standard financial reporting for all initiatives funded by requirements payments.

Compliance with Standards: GEC will develop and use standard program management reporting for all initiatives that are funded by requirements payments.

Program Results: GEC will develop key performance indicators (KPI) for each initiative funded by requirements payments.

**Section 3. Voter Education, Election Official Education and Training, and Poll Worker Training.** *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. -- HAVA §254 (a) (3)*

### Election Official Training

Election officials are critical to an efficient, secure, and reliable election process. In Guam, the Executive Director is responsible for providing a comprehensive training program to election officials in their respective districts prior to an island-wide and/or federal election. Training needs are determined by the Executive Director on a district-level need, and targeted towards the following election officials:

- GEC Board of Directors
- GEC Legal Counsel, Staff, and Management
- State Plan Development and Coordinating Committee Members
- Precinct Officials
- Voter Registration Officials
- Absentee Ballot Officials
- Special Needs Election Officials

Improving and implementing island-wide training resources and procedures is an ongoing process each election year. Working as a team, the Board of Directors, the GEC Executive Director, and the GEC staff develop uniform training materials that are coordinated with Precinct Official Handbooks, and distributed with election day ballots and supplies. All training materials and handbooks are created for a hard copy ballot utilizing an optical scan tabulator. Training sessions are generally presented in a paper-based format. At this time, there is little use of technology in training presentations. However, it is expected that the GEC will begin utilizing higher levels of training technology as it migrates into Direct Recording Electronic (DRE) voting systems for Election 2004, and be primarily paperless by Election 2006.

Election training for candidates, precinct officials, poll watchers, and other election officials is generally conducted between 30 – 45 days prior to the election. A number of handbooks are developed for the various types of officials to facilitate the training. These Handbooks are

developed in such a way that if an election official has not received the training, the election official would be able to clearly understand and implement procedures.

To ensure that all election officials have the training and resources available to allow them to successfully conduct elections, Guam will develop a systematic approach to training that includes:

- Developing an island-wide and community-needs comprehensive training plan. This will include acquiring necessary resources for improving training methods and utilizing training coordinators in an effort to bring all training as close to election day as possible.

- Improving training and election day materials and handbooks so they are flexible to accommodate updates and changes, are effective in the trainee's retention of information, and take into consideration the wide variety of skill levels within the training audience.

- Researching and/or implementing training delivery options such as videos, interactive web-based training, and conference style training.

- Recognizing the differences among the various Native Pacific islanders and coordinating training needs, methods, and approaches with their respective community organizations to obtain input and guidance on delivering training to individuals with diverse cultural backgrounds.

Education and training programs are critical to a successful program of election reform in Guam. The proposed milestones in this document will require change management to ensure that all stakeholders (poll workers, election officials, voters, etc.) are comfortable with the new processes and supporting technologies that HAVA requires.

Currently, training programs are informal. GEC distributes policies and procedures and the GEC Executive Director is responsible for how the messages are delivered to staff members, poll workers, and the public. Often, knowledge is distributed informally, in meetings and at conferences, rather than in formal training sessions. There are no GEC personnel available to take sole responsibility for training. Training conducted is usually organized by each distinct area (voter registration, voting systems, etc.). Formal training is usually presented in a paper-based, person-to-person format; there is little to no use of technology in creating or delivering training.

In general, voter outreach programs are limited. Sample ballots are distributed to each village Mayor's office and a specimen is published in the local paper before each general election. Voters can also obtain voting information through public service announcements such as local news websites. However, when new voting systems or regulations directly affect the voter, outreach will increase exponentially. In the case of implementing a DRE voting system, the outreach associated with this new system will be cost and resource intensive.



A thorough and thoughtful training and outreach program increases the buy-in of all affected stakeholders. It is important to develop the training and outreach program with these stakeholders as they are a critical component to the current and future process and will provide valuable expertise on previous training initiatives. Also the program must account for the changing poll worker and election official workforce, so that training is effective for a group with diverse skills.

Finally, HAVA brings increased accessibility to elections. Training programs must address the needs of the disabled community and individuals with alternative language considerations. In collaboration with the stakeholders, effective training and outreach will help provide for smooth implementation of Guam's Plan.

## Training and Outreach Program Milestones

To ensure the success of election reform programs, GEC needs a standard and centralized approach to training and outreach. To this end, GEC will execute a three-step program:

1. Managing Training and Outreach Program

Establish formal training and outreach programs within GEC. Acquire necessary resources for training and outreach. The current resource levels at GEC cannot support this kind of comprehensive training program. GEC will need to bring on the assistance of vendors responsible for new technologies.

2. Planning Training and Outreach Program

Conduct a training needs assessment based on the actions planned to address HAVA requirements. The assessment will include identifying current stakeholders, and documenting current and desired skill levels for each stakeholder group.

HAVA compliance requires that Guam use a training delivery method that is easily accessed and re-used by trainees, is flexible enough to accommodate updates and changes, and is effective in the trainee's retention of information. This research will help address the best means for adult learning, taking into consideration the wide variety of skill levels within Guam's training audience.

Establish a user group of stakeholders to assess training needs, and develop a training document for election officials and poll workers. This document will establish a standard, yet flexible training approach, which outlines a strategic direction for training over time, addressing both training content and delivery methods. The approach will cover a variety of topics: the identification of organization(s) responsible for developing training; a matrix of the stakeholders receiving training, the content to be delivered, and phases for training delivery; a discussion of training objectives; a description of the delivery methods for training; and an outline of the types of feedback mechanisms that GEC will use to evaluate the effectiveness of training.

Develop a Guam island-wide outreach and communication plan. Outreach actively provides the voter, the end recipient of Guam election services, information regarding new election procedures. Increased awareness (and ultimately ownership and sponsorship) on the part of voters will correspondingly increase the success of election reform programs. An outreach and communication plan will describe the strategy for developing and delivering messages to a variety of stakeholder groups. Specifically, the document will outline the proposed audience, the party responsible for delivery, the expected outcome, the key messages, the medium for delivery, and the timing of the communication event.

3. Implementing Training and Outreach Program

Design, build, test, and implement training delivery method, leveraging previous training experience. This method will vary dependent on the approach determined in the planning phase. Regardless of whether training is instructor-led, online, paper-based, etc., the training must still go through the design and build phases, and be subject to testing to ensure its success before it is delivered to trainees. Implement outreach and communication plan. Those responsible for delivering various communication messages must ensure that events occur on a timely basis.

**Section 4. Voting System Guidelines and Processes.** *How the State will adopt voting system guidelines and processes, which are consistent with the requirements of section 301. -- HAVA §254 (a) (4)*

Guam currently meets most of the voting system requirements required under HAVA. Guam has procedures established for conducting recounts on a district-wide and island-wide level. Guam has a procedure established for system certification. As Guam implements a new voting system, we will maintain the current procedure and create new procedures, guidelines and processes as necessary. New processes and guidelines may take the form of internal procedures, regulations or changes to Guam law.

To attain compliance, Guam must provide DRE units to every polling location and introduce legislation that defines what constitutes a vote.

Guam will adopt legislation mandating uniform voting systems for polling place and absentee voting by 2006. The uniform system mandated by legislation will meet the requirements of HAVA §301. Simultaneously, the GEC will create operational standards for the system. As the implementation of the new voting systems occur, GEC will maintain these and create any new guidelines and processes as necessary. The GEC will determine the appropriate method to publicize any new voting system guidelines and processes.

**Section 5. Guam's HAVA Fund Management.** *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. -- HAVA §254 (a) (5)*

Working with the Office of the Governor, the Treasurer of Guam, the Department of Revenue and Taxation, and the Director of Administration, the GEC will establish an election fund that



shall be kept separate and distinct from all other funds within the GEC. The election fund will contain both federal and general funds. The GEC shall ensure that appropriate accounting structures are in place to ensure federal fund receipts and expenditures are tracked separately from the general funds portion relating to the 5% local match required under HAVA. The election fund will consist of the following amounts:

a. Amounts appropriated or otherwise made available by Guam for carrying out the activities for which the requirements payment is made to the Guam State Plan under HAVA.

b. The requirements payment made to Guam under HAVA.

c. Such other amounts as may be appropriated under law.

d. Interest earned on deposits of the fund.

The Guam Election Commission will work with the Guam Public Auditor, the Department of Administration, and the Director of Revenue and Taxation, to ensure compliance with all mandated fiscal controls and policies.

**Section 6. Guam's HAVA Budget.** *The States 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. -- HAVA §254 (a)(6)*

The following table outlines the assumptions regarding Federal funding that Guam used in creating its budget for HAVA activities.

*Table 6.1* Federal Funding Assumptions for Guam

| Federal Fiscal Year | Total Federal Funds | Guam Share | Estimated Grant Minimum |
|---|---|---|---|
| Early Payments (§101) | $650 Million (appropriated) | $ 650,000 | $1,000,000 |
| FY2003 (§252, 257) | $833 Million (appropriated) | $ 833,000 | $1,400,000 |
| FY2004 (§252, 257) | $500 Million (President's Budget; authorized at $1000 M) | $ 500,000 | $1,000,000 |
| FY2005 (§252, 257) | $600 Million (authorized) | $ 600,000 | $ 600,000 |
| Total | $2,583 Million | $ 2,583,000 | $4,000,000 |

Based on these funding levels, the Guam HAVA budget is representative of the activities to implement and conduct operations and maintenance through calendar year 2005 for the HAVA

Title III requirements and "other" activities. The budget will be revised over time based on the most current information available regarding federal funding.

The duration for the Guam's budget is based on HAVA deadlines and funding. The GEC is concerned, however, that beyond the three years of federal funding, the ongoing costs of operating and maintaining the new voting system and statewide voter registration list will be higher than the Guam's maintenance of effort level (see Section 7 of the Guam State Plan). The operation and maintenance of the new systems will be the financial burden of the GEC when HAVA funding is no longer available.

Guam made the following additional assumptions in preparing the budget:

- Guam is planning to implement a uniform Centralized Voter Registration System apart from its current Voter Registration System. The CVRS will generate a computerized island-wide voter registration list to meet specific HAVA requirements (including requirements for voters who register by mail). Both systems will be utilized in Election 2004.

- The cost for the voter registration list (§303(a)) is estimated at $590,000.

- The cost for education, training, and outreach (§254 (3)) is estimated at $450,000. Guam anticipates concurrent initiatives to implement the voting system and voter registration list. This may overextend GEC's current capacity to provide appropriate voter education, training, and outreach programs. Guam and the GEC will need to develop a core curriculum on all training programs, and the capability to deliver the training programs centrally.

**Section 7. Maintenance of Effort.** *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. -- HAVA §254 (a)(7)*

Consistent with HAVA §254(a)(7), in using any requirements payment, Guam will maintain expenditures for activities funded by the payment at a level equal to or greater than the level of such expenditures in Guam's FY 2000 -- a total of $573,588.

As in many states, however, this level of funding represents only a small portion of the island-wide aggregate operating budget expenditures needed to sustain elections. The Guam Election Office's budget typically supports year-round core staff and operating expenses for continuous functions such as voter registration, information services, and IT support. In addition, increases in funding are associated with each specific election -- for poll workers, temporary office staff, ballot production, mass mailings, election day support (including personnel, equipment, and supplies), etc. For FY2004, the GEC's requested budget for local elections is $846,414.



Table 6.2

| HAVA Requirements | Estimated Cost | Funding Source($101, $103, $252, $257) | | | | Duration | |
|---|---|---|---|---|---|---|---|
| Title III Requirements | | Early Money $1.6M | FY03 $1.4M | FY04 $1.0M | FY05 $.4M | Total $4.0M | Time Frame |
| 301 Voting System Improvements (Conversion to DRE Voting System Computer Hardware, Conversion Software, Voter Data Verification Process, Military & Overseas Voter Access, and Attendant Equipment) | $1,700,000 | $415,300 | $581,420 | $415,300 | $249,180 | $1,661,200 | FY 03 - 06 |
| §302 Provisional voting and voting information requirements | $41,000 | $10,100 | $14,140 | $10,100 | $6,,060 | $40,400 | FY 03 - 04 |
| §303 Computerized statewide voter registration list requirements and requirements for voters who register by mail. | $590,000 | $145,600 | $203,840 | $145,600 | $87,360 | $582,400 | FY 03 - 04 |
| Other Election Reform Activities | | | | | | | |
| §254 (3) Voter education, election official education and training and poll worker training which will assist the State in meeting the requirements of title III | $450,000 | $110,900 | $155,260 | $110,900 | $66,540 | $443,600 | FY 03 - 06 |
| §402 Establishment of state based administrative complaint procedures to remedy grievances. | $10,000 | $2,400 | $3,360 | $2,400 | $1,440 | $9,600 | FY 03 - 04 |
| §704 Improvements to military/off-island absentee voting program. | $ -0- | $ -0- | $ -0- | $ -0- | $ -0- | $ -0- | FY 03 - 06 |
| §101 Management of State Plan | $68,000 | $16,900 | $23,660 | $16,900 | $10,140 | $67,600 | FY 03 - 06 |
| §101 (1.H) State Plan Technology planning/improvements | $ -0- | $ -0- | $ -0- | $ -0- | $ -0- | $ -0- | FY 03 - 06 |
| §101 (1.H) Polling Place Accessibility | $1,200,000 | $298,800 | $418,320 | $298,800 | $179,280 | $1,195,200 | FY 03 - 06 |
| Totals | $4,059,000 | $1,000,000 | $1,400,000 | $1,000,000 | $600,000 | $4,000,000 | |

**Section 8. HAVA Performance Goals and Measures.** *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. – HAVA §254 (a)(8)*

The Guam Election Commission (GEC) will establish performance goals and will institute a process to measure progress toward the achievement of these goals. This process will provide structure and continued measurable targets for accomplishment. GEC will oversee continuous management of the Guam State Plan. GEC will be responsible for developing and monitoring a uniform performance evaluation process. In measuring progress, the GEC will continue to revisit original goals and objectives and make adjustments as appropriate.

GEC Principal Performance Goals. GEC's principal goals are to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in the Guam State Plan. The matrix below details key elements of the Plan and the timeframe for meeting each.

| Plan Elements | Time Frame | Responsibility |
|---|---|---|
| **Voting Systems, Section 301** | To be fully implemented by January 1, 2006 | GEC/DRE Vendor |
| **Provisional Voting, Section 302** | To be implemented by January 1, 2004 | GEC |
| **Voter Registration:** | | |
| **Section 303(a)** | To be fully implemented by January 1, 2006 | GEC |
| **Section 303(b)** | To be fully implemented by January 1, 2004 | GEC |
| **Other Activities** | | |
| **Section 101(b)(1) Election Improvements** | | GEC |
| **Section 251(b)(2), Other Activities** | | GEC |
| **Education and Training** | | |
| **Section 254(a)(3)** | | GEC |
| **Budget and Fiscal Controls** | | |
| **Section 254(a)(2)** | | GEC / Guam Public Auditor |
| **Section 254(a)(6)** | | GEC / Guam Public Auditor |
| **Section 254(a)(7)** | | GEC / Guam Public Auditor |
| **Section 254(a)(10)** | | GEC / Guam Public Auditor |
| **Complaint Procedures** | | |
| **Title II, Section 254(a)(9)** | | GEC |
| **Title IV, Section 402** | | GEC |



Guam's performance goals and completion timelines for HAVA Section 301, Voting Systems Standards Requirements, are set forth in Appendix A. Guam's performance goals, completion timelines, and performance measurement criteria for HAVA Section 301, Voting Systems Standards Requirements, are set forth in Appendix B.

**Section 9. State-Based Administrative Complaint Procedures** *A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. – HAVA §254 (a)(9).*

*Deadline for Compliance: Prior to certification of State Plan, but no later than January 1, 2004*

The Guam Election Commission (GEC) will develop and adopt a procedure, consistent with Guam law, for administrative complaints that meet HAVA requirements. Guam election laws provide for the processing of complaints both at the administrative level and in the superior court of Guam. Future election complaints will follow the administrative complaint procedures to be developed and adopted by GEC.

The GEC Administrative Complaint Procedure will be a unified island-wide administrative complaint system for the tracking, management and conduct of hearings to address complaints revolving around election issues. It is GEC's plan to provide secure online access and phone call center access for complaint processing to the GEC Board of Directors, the GEC Executive Director, and other appropriate election officials. The administrative complaint system will also provide secure online review of the complaint by the complainant. The nature of the complaints contained within the system will be treated as alleged violations of the Help America Vote Act of 2002 (HAVA).

All complaints shall be addressed by the GEC within 90 days of receiving the complaint. If the complaint is not resolved within the 90 days after receipt of the complaint, or extension of the expiration as agreed upon with the complainant, the complainant may seek alternative dispute resolution.

Upon request of alternative dispute resolution, the GEC will refer the complaint to a third party reviewer, who is yet to be determined. The complaint system shall contain at each formal complaint, at minimum, the name and address of the complainant, the date and nature of the complaint, the relevant records and minutes, and the disposition of the complaint.

The matrix below outlines HAVA requirements related to complaint procedures and the corresponding current status for Guam.

**Section 402. Establishment of State-Based Administrative Complaint Procedures to Remedy Grievances**

| Requirement | Current Status | Action Planned |
|---|---|---|
| **Section 402. Establishment of State-Based Administrative Complaint Procedures to Remedy Grievances.** | Not in compliance | Amend 3GCA and develop GEC board policy to establish voter administrative grievance procedure. |
| (a) ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES | Not in compliance | Develop GEC board policy for a voter administrative grievance procedure. |
| (1) ESTABLISHMENT OF PROCEDURES AS CONDITION OF RECEIVING FUNDS –If a state receives any payment under a program under this Act, the state shall be required to establish state-based administrative complaint procedures which meet the requirements of paragraph (2). | Not in compliance | GEC Exec Dir shall establish the required administrative grievance procedure. |
| (2) REQUIREMENTS FOR PROCEDURES – The requirements of this paragraph are as follows: | Not in compliance | GEC Exec Dir shall ensure HAVA requirements are met. |
| (A) The procedures shall be uniform and nondiscriminatory. | Not in compliance | GEC Exec Dir shall ensure procedures are uniform and nondiscriminatory. |
| (B) Under the procedures, any person who believes that there is a violation of any provision of title III (including a violation, which has occurred, is occurring, or is about to occur) may file a complaint. | Not in compliance | GEC Exec Dir shall define grievance criteria pursuant to HAVA. |



| | | |
|---|---|---|
| (C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint. | Not in compliance | GEC Exec Dir shall establish grievance form pursuant to HAVA. |
| (D) The state may consolidate complaints filed under subparagraph (B). | Not in compliance | Develop GEC board criteria for consolidation of complaints. |
| (E) At the request of the complainant, there shall be a hearing on the record. | Not in compliance | Develop GEC board procedure for hearings, and definition of "record." |
| (F) If, under the procedures, the state determines that there is a violation of any provision of title III, the state shall provide the appropriate remedy. | Not in compliance | Develop GEC board policy on appropriate remedy. |
| (G) If, under the state determines that there is no violation, the state shall dismiss the complaint and publish the results of the procedures. | Not in compliance | Develop GEC board policy on dismissal of complaints. |
| (H) The state shall make a final determination with respect to a complaint prior to the expiration of the 90-day period, which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination. | Not in compliance | Develop GEC board policy on a 90-day resolution process for all complaints. |
| (I) If the state fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures. | Not in compliance | Develop GEC board policy on an alternative dispute resolution procedure. |

**Section 10. Effect of Title I Payments.** *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. -- HAVA §254 (a)(10)*

Guam is presently in receipt of $1,000,000, title I "Early Money."

§101. Payments to States for activities to improve administration of elections.

Guam is eligible for approximately $1,000,000 under §101. These funds will be used for activities to meet the following requirements:

| | |
|---|---|
| §301 Voting system | $ 415,300 |
| §302 Provisional Voting | $ 10,100 |
| §303 Voter registration system | $ 145,600 |
| §254 Voter Education | $ 110,900 |
| §402 Complaint Procedure | $ 2,400 |
| §101 State Plan Management | $ 16,900 |
| §101 Accessibility | $ 298,800 |
| **Total** | **$1,000,000** |

**Section 11. Guam's HAVA State Plan Management.** *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). -- HAVA §254 (a)(11)*

Guam intends to use the Guam State Plan as the foundation for its future strategic direction. Consequently, sound and responsible management of the Guam State Plan will be an essential component of the Guam election community's future success.

Due to the complexity of HAVA and the potential variety of projects it encompasses, GEC will conduct ongoing management of the Guam State Plan, including project planning (for all HAVA-related and other election reform projects) and establishing and implementing program management standards (i.e. performance measures, review and approval processes, issue/risk management, etc.). The GEC will also be responsible for other election functions, including: budget and fiscal, personnel, and office support functions.

Guam understands and agrees to comply with HAVA requirements related to ongoing management of the Guam State Plan. More specifically, Guam agrees that it may not make any material change in the administration of the Guam State Plan unless the change: (A) is developed and published in the Federal Register in accordance with HAVA §255 in the same manner as the Guam State Plan; (B) is subject to public notice and comment in accordance with HAVA §256 in the same manner as the Guam 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).



**Section 12. Changes to State Plan from Previous Fiscal Year.** *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. -- HAVA §254 (a)(12)*

This FY 2003 Plan is Guam's inaugural plan under HAVA. This section will be updated in the FY 2004 Guam State Plan, reflecting changes to the Guam State Plan, as well as a summary of 2003 successes.

**Section 13. State Plan Development and Coordinating Committee.**

Section 255(a) of HAVA requires the chief State election official to develop the State plan through a committee of appropriate individuals, including the chief election officials of the two most populous jurisdictions within the States, other local election officials, stakeholders (including representatives of groups of individuals with disabilities), and other citizens, appointed for such purpose by the chief State election official. Accordingly, the Governor of Guam, on June 6, 2003, issued Executive Order 2003-20 relative to establishing the Guam State Plan Development and Coordinating Committee pursuant to the Help America Vote Act (HAVA) of 2002, P.L. 107-252 / H.R. 3295, and appoints the following representatives:

Mr. Gerald A. Taitano, Executive Director, Guam Election Commission / Chief State Election Official
Mr. Frederick J. Horecky, Esq., Chairman, Board of Directors, Guam Election Commission
Mrs. Mary C. Torres, Vice Chairperson, Board of Directors, Guam Election Commission
Mr. Ignacio C. Aguigui, Esq., Member, Board of Directors, Guam Election Commission
Mr. Florencio T. Ramirez, Jr., Member, Board of Directors, Guam Election Commission
Dr. Gregorio C. San Nicolas, Member, Board of Directors, Guam Election Commission
Ms. Rossana D. San Miguel, Member, Board of Directors, Guam Election Commission
Mr. John P. Taitano, Member, Board of Directors, Guam Election Commission
Mr. David J. Sablan, Chairman, Republican Party of Guam
Mr. Joe T. San Agustin, Chairman, Democratic Party of Guam
Mr. Joaquin Perez, District Representative, Guam Delegate to the U.S. House of Representatives
Mr. John Blas, Executive Director, Mayor's Council of Guam
Hon. Scott Duenas, Mayor of Dededo
Hon. Bob Lizama, Mayor of Yigo
Mr. James Underwood, Director, Department of Integrated Services for Individuals

with Disabilities
Ms. Brenda Leon Guerrero, Administrator, University of Guam Center for Excellence in Developmental Disabilities Education, Research, and Service
Maj. Benjamin Guerrero, USMC, Ret., Director, Guam Veteran's Office
Mr. Gary Hartz, Student Development Administrator, Guam Community College
Mr. Daniel Camacho, Program Coordinator (Curriculum and Instructions), Department of Education

Other stakeholder representatives are as follows:

Mrs. Pat Botten, Individuals with Disabilities (Mobility)
Mr. Cesar C. Cabot, Esq., Legal Counsel, Guam Election Commission
Ms. Jackie Cabrera, Individuals with Disabilities (Visual Impaired)
Mr. Francisco N. Lizama, Democratic Party of Guam
Ms. Christine Payne, Guam Legal Services Disability Law Center (Guam Protection and Advocacy)
Mrs. Amber Sanchez, Private Citizen
Mr. Michael Terlaje, Director, University of Guam System for Assistive Technology



# APPENDIX A

## Performance Goals and Completion Timeline For Section 301. Voting Systems Standards Requirements

**Performance Goals and Completion Timeline for Section 301. Voting Systems Standards Requirements**

| Performance Goal | Responsible Official and Est. Date of Completion | Completion Timetable |
|---|---|---|
| Goal #1. Amend 3GCA to implement the HAVA Section 301 requirement for acceptable voting systems standards. | GEC Executive Director, Legal Counsel, and Board of Directors / Dec 31, 2003 | 1-1. ExecDir to draft Bill by 9/30/03.<br>1-2. Legal Counsel review by 10/15/03.<br>1-3. Board / Gov review by 10/31/03.<br>1-4. ExecDir to fwd to Legislature by 11/30/03. |
| Goal #2. Develop GEC board policy to require the DRE voting system to meet HAVA standards. | GEC Executive Director, Legal Counsel, and Board of Directors / Dec 31, 2003 | 2-1. ExecDir to draft board policy by 10/31/03.<br>2-2. Legal Counsel review by 11/15/03.<br>2-3. Board review by 11/30/03.<br>2-4. ExecDir to include policy requirements on RFP for DRE voting system by 11/30/03. |
| Goal #3. Ensure that the DRE voting system permits the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted. | GEC Executive Director, Legal Counsel, and Board of Directors / Aug 31, 2004 | 3-1. ExecDir to develop preliminary voter verification proposal by 9/30/03.<br>3-2. ExecDir to consult w/ CEDDERS & GSAT by 10/15/03.<br>3-3. Board approval by 11/30/03.<br>3-4. ExecDir to include verification requirement in RFP for DRE voting system by 12/31/03.<br>3-5. GEC/CEDDERS/GSAT review bids by 3/31/04 to validate voter verification process.<br>3-6. Select DRE provider by 6/30/04. |
| Goal #4. Ensure that the DRE voting system provides the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error). | GEC Executive Director, Legal Counsel, and Board of Directors / Aug 31, 2004 | 4-1. ExecDir to develop provisions for the voter to correct errors / replace ballot by 9/30/03.<br>4-2. ExecDir to consult w/ CEDDERS & GSAT by 10/15/03.<br>4-3. Board approval by 11/30/03.<br>4-4. ExecDir to include voter correction / replacement provisions in RFP for DRE voting system by 12/31/03.<br>4-5. GEC/CEDDERS/GSAT review bids by 3/31/04 to validate voter correction / ballot replacement process.<br>4-6. Select DRE provider by 6/30/04. |
| Goal #5. Ensure that if the voter selects votes for more than one candidate for a single office – (i) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (ii) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (iii) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | GEC Executive Director, Legal Counsel, and Board of Directors / Aug 31, 2004 | 5-1. ExecDir to develop provisions to preclude the voter from overvoting by 9/30/03.<br>5-2. ExecDir to consult w/ CEDDERS & GSAT by 10/15/03.<br>5-3. Board approval by 11/30/03.<br>5-4. ExecDir to include specific provisions precluding overvotes in the RFP for DRE voting system by 12/31/03.<br>5-5. GEC/CEDDERS/GSAT review bids by 3/31/04 to validate preclusion of overvotes in responses.<br>5-6. Select DRE provider by 6/30/04. |
| Goal #6. For Election 2004, continue to use the current optical-scan ballot tabulation system, in addition to the introductory use of a DRE voting system. | GEC Executive Director, Legal Counsel, and Board of Directors / Aug 31, 2004 | 6-1. ExecDir to propose revisions to the current election process to include introduction of DRE voting systems by 12/31/03.<br>6-2. Board approval by 1/31/04. |

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| | | 6-3. ExecDir to introduce the DRE voting system in all election publications by 6/30/03. |

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| Goal #7. Revise the GEC voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office. | GEC Executive Director, Legal Counsel, and Board of Directors / July 31, 2004 | 7-1. ExecDir to recommend revisions to the voter education program to notify voter of the effect of overvotes by 12/31/03.<br>7-2. Board approval by 1/31/04.<br>7-3. ExecDir to include the effect of overvotes in all voter education programs by 6/30/04. |
| Goal #8. Provide the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error) | GEC Executive Director, Legal Counsel, and Board of Directors / Aug 31, 2004 | 8-1. ExecDir to recommend revisions to the Voter Information Pamphlet and other election publications on how to correct the ballot before it is cast and counted by 12/31/03.<br>8-2. Board approval by 1/31/04.<br>8-3. ExecDir to include ballot correction and replacement instructions in all election training programs by 6/30/04 |
| Goal #9. Implement GEC audit capacity for HAVA funds. | GEC Executive Director, Legal Counsel, and Board of Directors / Dec 31, 2003 | 9-1. ExecDir to consult with Guam Public Auditor on appropriate audit procedures by 8/31/03; Include audit capacity in draft Legis. Bill to implement HAVA by 8/8/03.<br>9-2. Legal Counsel review of audit procedures and Legis. bill by 8/15/03.<br>9-3. Board review of audit procedures and Legis. bill by 8/22/03; Gov. review of Legis. bill by 8/31/03.<br>9-4. ExecDir to fwd Legis. bill to Legislature by 11/30/03. |

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| **Goal #10.** Ensure that the DRE voting system produces a permanent paper record with a manual audit capacity. | GEC Executive Director, Legal Counsel, and Board of Directors / July 31, 2003 | 10-1. ExecDir to review DRE manual audit capacity requirements by 9/30/03.<br>10-2. ExecDir to consult w/ Legal Counsel on manual audit requirements by 10/15/03.<br>10-3. Board approval by 11/30/03.<br>10-4. ExecDir to include manual audit requirements in RFP for DRE voting system by 12/31/03.<br>10-5. GEC/Legal Counsel review bids by 3/31/04 to validate manual audit capacity.<br>10-6. Select DRE provider by 6/30/04. |
| **Goal #11.** Ensure that the DRE voting system provides the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | GEC Executive Director, Legal Counsel, and Board of Directors / July 31, 2004 | 11-1. ExecDir to review DRE capacity to correct errors/ replace ballot by 9//30/03.<br>11-2. ExecDir to consult w/ Legal Counsel on ballot change / replacement requirements by 11/15/03.<br>11-3. Board approval by 11/30/03.<br>11-4. ExecDir to include ballot change / replacement requirements in RFP for DRE voting system by 12/31/03.<br>11-5. GEC/Legal Counsel review bids by 3/31/04 to validate ballot change / replacement capacity.<br>11-6. Select DRE provider by 6/30/04. |
| **Goal #12.** Ensure that the paper record is available as an official record for any recount conducted with respect to any election in which the DRE voting system is used. | GEC Executive Director, Legal Counsel, and Board of Directors / July 31, 2004 | 12-1. ExecDir to review DRE paper record capacity requirements by 9/30/03.<br>12-2. ExecDir to consult w/ Legal Counsel on DRE paper record requirements by 10/15/03.<br>12-3. Board approval by 11/30/03.<br>12-4. ExecDir to include paper record requirements in RFP by 12/31/03.<br>12-5. GEC/Legal Counsel review bids by 3/31/04 to validate paper record capacity.<br>12-6. Select DRE provider by 6/30/04. |

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| **Goal #13.** Ensure that the DRE voting system is accessible for individuals with disabilities. | GEC Executive Director, Legal Counsel, and Board of Directors / July 31, 2004 | 13-1. ExecDir w/ GSAT will determine DRE accessibility requirement for all individuals w/ disabilities and at all prospective poll facilities by 9/5.<br>13-2. ExecDir to consult w/ Legal Counsel on DRE accessibility requirements by 10/15/03.<br>13-3. Board approval by 11/30/03.<br>13-4. ExecDir to include handicap accessibility requirements in RFP for DRE voting system by 12/31/03.<br>13-5. GEC/Legal Counsel review bids by 3/31/04 to validate handicap accessibility.<br>13-6. Select DRE provider by 6/30/04. |
| **Goal #14.** Ensure voting accessibility for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. | GEC Executive Director, Legal Counsel, and Board of Directors / Jul 31, 2004 | 14-1. ExecDir w/ GSAT will determine DRE voter privacy and independence requirements for all individuals w/ disabilities and at all prospective poll facilities by 9/5<br>14-2. ExecDir to consult w/ Legal Counsel on DRE voter privacy and independence requirements by 10/15/03.<br>14-3. Board approval by 11/30/03.<br>14-4. ExecDir to include DRE voter privacy and independence requirements in RFP for DRE voting system by 12/31/03.<br>14-5. GEC/Legal Counsel review bids by 3/31/04 to validate DRE voter privacy and independence provisions.<br>14-6. Select DRE provider by 6/30/04. |
| **Goal #15.** Satisfy the accessibility requirement by locating at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place. | GEC Executive Director, Legal Counsel, and Board of Directors / Jul 31, 2004 | 15-1. ExecDir will assess HAVA funds availability for purchase of at least one DRE unit for each polling place by 12/31/03.<br>15-2. 15-3. Board approval by 1/31/04.<br>15-4. ExecDir to procure DRE's by 7/31/2004. |

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| | | 16-4. ExecDir to procure DRE's by 7/31/2004. |
| Goal #17. Ensure that the DRE voting system provides alternative language accessibility pursuant to HAVA requirements. | GEC Executive Director, Legal Counsel, and Board of Directors / Dec 31, 2003 | 17-1. ExecDir w/ GSAT will determine DRE alternative language capacity by 9/5<br>17-2. ExecDir to consult w/ Legal Counsel on DRE alternative language capacity by 10/15/03.<br>17-3. Board approval by 11/30/03.<br>17-4. ExecDir to include DRE alternative language requirements in RFP for DRE voting system by 12/31/03.<br>17-5. GEC/Legal Counsel review bids by 3/31/04 to validate DRE alternative language capacity provisions.<br>17-6. Select DRE provider by 6/30/04. |
| Goal #18. Ensure that the DRE voting system error rate in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) is in compliance with the error rate standards established by the Federal Election Commission. | GEC Executive Director, Legal Counsel, and Board of Directors / Dec 31, 2003 | 18-1. ExecDir to determine acceptable FEC error rate by 9/5<br>18-2. ExecDir to consult w/ Legal Counsel on FEC/DRE error rate by 10/15/03.<br>18-3. Board approval by 11/30/03.<br>18-4. ExecDir to include DRE error rate requirements in RFP for DRE voting system by 12/31/03.<br>18-5. GEC/Legal Counsel review bids by 3/31/04 to validate DRE error rate.<br>18-6. Select DRE provider by 6/30/04 |

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| Goal #19. Adopt a uniform and nondiscriminatory standard to define what constitutes a vote, and what will be counted as a vote for each category of voting system used. | GEC Executive Director, Legal Counsel, and Board of Directors / Dec 31, 2003 | 19-1. ExecDir to draft uniform vote definition in Legis. bill form by 9/30/03.<br>19-2. Legal Counsel review by 10/15/03.<br>19-3. Board / Gov review by 10/31/03.<br>19-4. ExecDir to fwd to Legislature by 11/30/03. |

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**Performance Goals and Completion Timeline for**
**Section 302. Provisional Voting And Voting Information Requirements**

| Performance Goal | Responsible Official and Est. Date of Completion | Completion Timetable |
|---|---|---|
| **Goal #20.** Amend 3GCA to implement HAVA Section 302 requirement for provisional voting and voting information requirements. | GEC Executive Director, Legal Counsel, and Board of Directors / May 31, 2004 | 20-1. ExecDir to draft Bill by 9/30/03.<br>20-2. Legal Counsel review by 10/15/03.<br>20-3. Board / Gov review by 10/31/03.<br>20-4. ExecDir to fwd to Legislature by 11/30/03 |
| **Goal #21.** Develop GEC board policy and amend current election procedures to allow for an individual who declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot. | GEC Executive Director, Legal Counsel, and Board of Directors / May 31, 2004 | 21-1. ExecDir to draft board policy by 10/31/03.<br>21-2. Legal Counsel review by 11/15/03.<br>21-3. Board review by 11/30/03.<br>21-4. ExecDir to implement GEC provisional voting policy and procedures by 11/30/03.<br>21-5.ExecDir to include provisional voting guidelines in Precinct Official's Handbook and other election guidelines by 5/31/04. |
| **Goal #22.** Provide for an election official at the polling place to notify the individual that the individual may cast a provisional ballot in that election. | GEC Executive Director, Legal Counsel, and Board of Directors / May 31, 2004 | 22-1. ExecDir to revise Precinct Official's Handbook by 5/31/04 to designate Precinct Inspector as provisional ballot official.<br>22-2. Include provisional ballot voting in precinct official seminar.<br>22-3. Develop and print provisional ballot information pamphlet by 7/31/04 for Election 2004. |

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| **Goal #23.** Ensure that the individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is –<br><br>(A) a registered voter in the jurisdiction in which the individual desires to vote; and<br><br>(B) eligible to vote in that election. | GEC Executive Director, Legal Counsel, and Board of Directors / July 31, 2004. | 23-1. ExecDir to revise Precinct Official's Handbook by 5/31/04 to permit an individual to cast a provisional ballot official based on a written affirmation.<br>23-2. Include written affirmation requirement for provisional ballot voting in precinct official seminar.<br>23-3. Develop and print appropriate written affirmation form to vote by provisional ballot by 7/31/04 for Election 2004. |
| **Goal #24.** Ensure that an election official at the polling place transmits the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual to an appropriate election official for prompt verification. | GEC Executive Director, Legal Counsel, and Board of Directors / July 31, 2004 | 24-1. ExecDir to revise Precinct Official's Handbook by 5/31/04 to require all provisional ballots to transmit voter information to Election Central for verification.<br>24-2. Include timely transmittal of voter information requirement in precinct official seminar.<br>24-3. Ensure that a communications network is established, e.g., telephone, fax, internet, etc., at all polling sites for the transmittal of voter information by 7/31/04 for Election 2004. |
| **Goal #25.** Establish procedures so that if the election official to whom the ballot or voter information is transmitted determined that the individual is eligible to vote, the individual's provisional ballot shall be counted as a vote in that election. | GEC Executive Director, Legal Counsel, and Board of Directors / May 31, 2004 | 25-1. ExecDir to revise Precinct Official's Handbook and GEC election procedures by 5/31/04 to allow GEC board to determine eligibility to vote, and whether or not the provisional ballot shall be counted.<br>25-2. Include above procedures in precinct official seminar. |

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| | | 25-3. Ensure that a communications network is established, e.g., telephone, fax, internet, etc., at all polling sites for the return transmittal of GEC board determination on voter eligibility and whether or not the provisional ballot will be counted by 7/31/04 for Election 2004. |
| Goal #26. Ensure that at the time that an individual casts a provisional ballot the appropriate election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain whether the vote was counted and, if the vote was not counted, the reason that the vote was not counted. | GEC Executive Director, Legal Counsel, and Board of Directors / May 31, 2004 | 26-1. ExecDir to revise Precinct Official's Handbook and GEC election procedures by 5/31/04 to allow for a written determination on the right to vote a provisional ballot, and if the the provisional ballot was counted.<br>26-2. Include above written determination procedures in precinct official seminar.<br>26-3. Ensure that a written determination forms are available for Election 2004. |
| Goal #27. Ensure that the appropriate election official establishes a free access system (such as a toll-free telephone number or an internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | GEC Executive Director, Legal Counsel, and Board of Directors / July 31, 2004 | 27-1. ExecDir to revise Precinct Official's Handbook and GEC election procedures by 5/31/04 to provide for a free access system.<br>27-2. Include above procedures in precinct official seminar.<br>27-3. Ensure that a free access communications system is established, e.g., telephone, fax, internet, etc., at all polling sites for provisional vote verification by 7/31/04 for Election 2004. |

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**Performance Goals and Completion Timeline for**
**Section 303. Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Vote by Mail**

| Performance Goal | Responsible Official and Est. Date of Completion | Completion Timetable |
|---|---|---|
| Goal #28. Ensure that the Guam Election Commission implements, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized island-wide voter registration list defined, maintained, and administered at the GEC level that contains the name and registration information of every legally registered voter in Guam and assigns a unique identifier to each legally registered voter in Guam (in this subsection referred to as the computerized list), and includes the following:<br><br>(i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout Guam.<br><br>(ii) The computerized list contains the name and registration information of every legally registered voter in Guam.<br><br>(iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in Guam.<br><br>(iv) The computerized list shall be coordinated with other agency databases within Guam.<br><br>(v) Any election official in Guam, including any precinct official, may obtain immediate electronic access to the information contained in the computerized list. | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 28-1. ExecDir to review HAVA CVRS requirements by 9/30/03.<br>28-2. Meet w/ UOG VRS database managers and determine CVRS interface requirements by 10/31/03.<br>28-3. Legal Counsel and GEC board review by 11/30/03.<br>28-4. ExecDir to include CVRS requirements in RFP by 12/31/03.<br>28-5. Select CVRS provider by 1/31/04.<br>28-6. Begin data transfer from VRS to CVRS by 2/28/04.<br>28-7. Test CVRS database and report generation capabilities.<br>28-8. Run both VRS and CVRS in Election 2004, compare performance, and consider eliminating VRS for Election 2006.<br><br>Note: Continue current VRS Voter Registration No. as unique identifier.<br><br>Note: Coordinate with DMV, DOC, PHSS, SSN#, Sup. Ct., etc.<br><br>Note: Develop access capacity at all polling places and mayor's offices. |

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| (vi) All voter registration information obtained by any election official in Guam shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the official.<br><br>(vii) The GEC Executive Director shall provide such support as may be required so that local election officials are able to enter information as described above.<br><br>(viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for federal office in Guam. | | Note: Ensure on-line capacity.<br><br>Note: Ensure election officials are certified in the data entry process, and all data entry equipment are in working order.<br><br>Note: Ensure designation is made in statute and GEC board policy. |
| **Goal #29.** Ensure that the appropriate election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:<br>(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a) (4 ), (c) (2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973 gg-6).<br>(ii) For purposes of removing names of ineligible voters from the official list of eligible voters – (I) under section 8(a) (3) (B) of such Act (42 U.S.C. 1973gg-6(a) (3) (B)), the GEC shall coordinate the computerized list with DOC/SupCt records on felony status; and (II) by reason of the death of the registrant under section 8(a) (4) (A) of such Act (42 U.S. C. 1973gg-6(a) (4) (A)), the GEC shall coordinate the computerized list with DPHSS records on death.<br>(iii) Notwithstanding the preceding provisions of this subparagraph, if a state is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that the GEC shall remove the names of ineligible voters from the computerized list in accordance with Guam law. | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 29-1. GEC provides continuing list maintenance on the existing VRS database. A continuing list maintenance program will be developed for the anticipated CVRS database.<br><br>Note: Review 42USC1973 to determine specific requirements.<br><br>Note: Review 42USC1973 to determine specific requirements. Ensure CVRS link with DOC, Sup Ct, and PHSS (Vital Statistics).<br><br>Note: Review 42USC1973 to determine specific requirements. Ensure ineligible voters are removed from the computerized list in accordance with Guam law. |

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| **Goal #30.** Ensure that the list maintenance performed is conducted in a manner that ensures that --<br><br>(i) the name of each registered voter appears in the computerized list;<br><br>(ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and<br><br>(iii) duplicate names are eliminated from the computerized list. | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 30-1. GEC provides continuing list maintenance on the existing VRS database. A continuing list maintenance program will be developed for the anticipated CVRS database.<br><br>Note: GEC ~~Exec Dir~~ shall ensure that the CVRS list maintenance program reflects the name of each registered voter, that only ineligible voters are removed from the CVRS listing of voters, and that duplicates are eliminated from the CVRS listing of eligible voters. |
| **Goal #31.** Ensure that the GEC Executive Director provides the adequate technological security measures to prevent the unauthorized access to the computerized list. | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 31-1. ExecDir to determine acceptable security measures to prevent unauthorized access by 9/5<br>31-2. ExecDir to consult w/ Legal Counsel on security measures by 10/15/03.<br>31-3. Board approval by 11/30/03.<br>31-4. ExecDir to include CVRS security requirements in RFP by 12/31/03.<br>31-5. Select CVRS provider by 1/31/04.<br>31-6. Test CVRS security measures.<br>31-8. Run both VRS and CVRS in Election 2004, compare performance, and consider eliminating VRS for Election 2006. |

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| Goal #32. Establish procedures to ensure that voter registration records in Guam are accurate and are updated regularly, including the following:<br><br>(A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S. C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.<br><br>(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 32-1. GEC provides continuing list maintenance on the existing VRS database. A continuing list maintenance program will be developed for the anticipated CVRS database to ensure that the voter registration records in Guam are accurate ~~and are~~ updated regularly.<br><br>Note: GEC Exec Dir shall ensure CVRS list is purged of nonvoters for 2 consecutive general elections. RFP on CVRS will require "Year Last Voted."<br><br>Note: GEC Exec Dir shall provide independent review of purged records to ensure voters are not removed erroneously. |
| Goal #33. Establish procedures to ensure that an application for voter registration for an election for federal office is not accepted or processed by a state unless the application includes – (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 33-1. GEC Exec Dir shall provide independent review of new Affidavit of Voter Registrations prior to acceptance or processing. Further, the GEC Exec Dir will ensure verification of voter registration information; amend voter registration process to implement HAVA; and develop GEC board policy to amend voter registration procedure to require DLN's, and/or last 4 digits of SN#. |
| Goal #34. Establish procedures for an applicant who has not been issued a current and valid driver's license or a social security number, to be assigned a number that will serve to identify the applicant for voter registration purposes. To the extent that Guam has a computerized list in effect and the list assigns unique identifying numbers to registrants, the number assigned shall be the unique identifying number assigned under the list. | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 34-1. GEC currently provides each new voter with a Voter Registration Number, a unique identifier generated by the UOG Computer Center. GEC will seek to utilize the VRN as a unique numerical number to identify all new voter applicants. |

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| Goal #35. Establish procedures to determine whether the information provided by an individual is sufficient to meet the requirements of HAVA, in accordance with Guam law. | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 35-1. GEC currently reviews all voter information against Guam law. The GEC Exec Dir will include a review process of all new voter information against HAVA and other applicable Federal statutes, in addition to Guam law.<br><br>Note: GEC Exec Dir will develop a GEC board policy to establish identification criteria for voter registration. |
| Goal #36. Ensure that the GEC Executive Director and the official responsible for the state motor vehicle authority enter into an agreement to match information in the database of the island-wide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 36-1. ExecDir to review CVRS intra-agency verification requirements by 9/30/03.<br>36-2. GEC Exec Dir will develop agreements with DMV, DOC, Sup Ct, PHSS, and other GovGuam agencies by 10/31/03.<br>36-3. Legal Counsel and GEC board review by 11/30/03.<br>36-4. Sign agency MOU's by 12/31/03.<br>36-5. Select CVRS provider by 1/31/04.<br>36-6. Begin intra-agency data verification by 2/28/04. |
| Goal #37. Ensure that the official responsible for the Guam motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r) (8) of the Social Security Act (as added by subparagraph (C)). | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 37-1. GEC Exec Dir will coordinate DMV agreement with Social Security Administration by 12/31/03. |
| Goal #38. Establish policy and procedures to ensure that, notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), Guam shall, in a uniform and nondiscriminatory manner, require an individual to meet the above requirements if – | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 38-1. GEC Exec Dir to revise existing mail-in voter registration procedure to meet HAVA requirements by 12/31/03. Further, to review 42USC1973, and ensure compliance w/ HAVA. |

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| (A) the individual registered to vote in a jurisdiction by mail; and<br><br>(B) (i) the individual has not previously voted in an election for federal office in Guam; or<br><br>(ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a state that does not have a computerized list that complies with the requirements of subsection (a). | | Note: GEC Exec Dir to amend mail-in registration forms accordingly. |
| Goal #39. Establish policy and procedures to reflect that an individual meets the above requirements if the individual:<br><br>(i) in the case of an individual who votes in person – (I) presents to the appropriate Guam election official a current and valid photo identification; or (II) presents to the appropriate Guam election official a copy of a current utility bill, bank statement, government check, pay check or other government document that shows the name and address of the voter;<br><br>(ii) in the case of an individual who votes by mail, submits with the ballot – (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, pay check, or other government document that shows the name and address of the voter. | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 39-1. GEC Exec Dir to revise existing in-person and mail-in voter registration procedures to meet HAVA requirements by 12/31/03. |
| Goal #40. Ensure Fail-Safe voting should an individual votes as follows:<br><br>(i) IN PERSON – An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 40-1. GEC Exec Dir to establish a HAVA Fail-Safe voting process by 12/31/03. Further, to integrate the Fail-Safe voting process with the Provisional Voting Program for both in-person and mail-in registrants who fail to meet documentary proof of eligibility to vote. |

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| (ii) BY MAIL – An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | | |
| Goal #41. Include in the voting procedures provisions that show that the above requirements shall not apply in the case of a person –<br><br>(A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either --<br><br>(i) a copy of a current and valid photo identification; or<br><br>(ii) a copy of a current utility bill, bank statement, government check, pay check, or government document that shows the name and address of the voter;<br><br>(B) (i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S. C. 1973gg-4) and submits with such registration either – (I) -- a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and<br><br>(ii) with respect to whom an election official matches the information submitted with an existing Guam or state identification record bearing the same number, name and date of birth as provided in such registration; or<br><br>(C) who is –<br><br>(i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 41-1. GEC Exec Dir to amend existing voting procedures by 12/31/03 to show that the Fail-Safe voting process does not apply to an in-person or mail-in registrants who meet the documentary requirements of Federal and Guam laws. |

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| (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii): or<br><br>(iii) entitled to vote otherwise than in person under any other federal law. | | (Cont.) 41-1. GEC Exec Dir to amend existing voting procedures by 12/31/03 to show that the Fail-Safe voting process does not apply to an in-person or mail-in registrants who meet the documentary requirements of Federal and Guam laws. |
| Goal #42. Ensure that the mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following:<br>(i) The question 'Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.<br>(ii) The statement 'If you checked 'no' in response to either of those questions, do not complete this form.'<br>(iii) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 42-1. GEC Exec Dir to amend existing voting registration form by 12/31/03 to reflect the three questions required by HAVA. Further, to review 42USC1973 and amend the mail-in voter registration form accordingly. |
| Goal #43. Ensure that if an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for federal office (subject to Guam law). | 'GEC Executive Director, Legal Counsel, and Board of Directors / Feb 28, 2004 | 43-1. GEC Exec Dir to amend existing mail-in voting registration form by 12/31/03. Further, to require the GEC to notify the applicant who fails to answer the question included on the mail voter registration form to notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner. This should allow for the completion of the registration form prior to the next election for federal office (subject to Guam law). |

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**Performance Goals and Completion Timeline for**
**Section 402. Establishment of State-Based Administrative Complaint Procedures to Remedy Grievances**

| Performance Goal | Responsible Official and Est. Date of Completion | Completion Timetable |
|---|---|---|
| Goal #44. Establish the GEC island-wide administrative complaint procedure to remedy grievances. | GEC Executive Director, Legal Counsel, and Board of Directors / Dec 31, 2003 | 44-1. ExecDir to draft Bill to establish an island-wide administrative complaint procedure to remedy election grievances by 9/30/03.<br>44-2. Legal Counsel review by 10/15/03.<br>44-3. Board / Gov review by 10/31/03.<br>44-4. ExecDir to fwd to Legislature by 11/30/03<br>44-5. ExecDir to draft election grievance procedure for GEC board by 10/31/03.<br>44-6. Legal Counsel review by 11/15/03.<br>44-7. Board review by 11/30/03.<br>44-8. ExecDir to implement GEC Election Grievance Policy and Procedures by 12/31/03.<br>44-9.ExecDir to include GEC Election Grievance Policy and Procedures in Precinct Official's Handbook and other election guidelines by 5/31/04. |

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| **Goal #45.** Ensure that the administrative complaint procedures meet the following requirements:<br><br>(A) The procedures shall be uniform and nondiscriminatory.<br><br>(B) Under the procedures, any person who believes that there is a violation of any provision of title III (including a violation, which has occurred, is occurring, or is about to occur) may file a complaint.<br><br>(C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint.<br><br>(D) The GEC may consolidate complaints.<br><br>(E) At the request of the complainant, there shall be a hearing on the record.<br><br>(F) If, under the procedures, the GEC determines that there is a violation of any provision of title III, the GEC shall provide the appropriate remedy.<br><br>(G) If, the GEC determines that there is no violation, the GEC shall dismiss the complaint and publish the results of the procedures.<br><br>(H) The GEC shall make a final determination with respect to a complaint prior to the expiration of the 90-day period, which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination.<br><br>(I) If the GEC fails to meet the deadline, the complaint shall be resolved within 60 days under alternative dispute resolution procedures. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures. | GEC Executive Director, Legal Counsel, and Board of Directors / Dec 31, 2003 | 45-1. ExecDir to implement GEC Election Grievance Policy and Procedures by 12/31/03.<br>45-2. ExecDir to include GEC Election Grievance Policy and Procedures in Precinct Official's Handbook and other election guidelines by 5/31/04.<br><br>Note: GEC Exec Dir to ensure that the GEC Election Grievance Policy and Procedures are uniform and nondiscriminatory.<br><br>Note: GEC Exec Dir shall define grievance criteria and filing requirements pursuant to HAVA; ensure that all grievances are in writing, signed and sworn by the person filing the complaint; and provide the GEC board criteria for consolidation of complaints.<br><br>Note: GEC Exec Dir shall develop the GEC board procedure for hearings, and an appropriate definition of "record."<br><br>Note: GEC Exec Dir shall develop a GEC board policy on appropriate remedy.<br><br>Note: GEC Exec Dir shall develop a GEC board policy on dismissal of complaints.<br><br>Note: GEC Exec Dir shall develop GEC board policy on a 90-day resolution process for all complaints.<br><br>Note: GEC Exec Dir shall develop a GEC board policy on an alternative dispute resolution procedure. |

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## APPENDIX B

## Performance Goals, Completion Timelines, and Performance Measurement Criteria For Section 301. Voting Systems Standards Requirements

**Performance Goals, Completion Timelines, and Performance Measurement Criteria for Section 301. Voting Systems Standards Requirements**

| Performance Goal | Completion Timetable | Performance Measurement Criteria |
|---|---|---|
| **Goal #1.** Amend 3GCA to implement the HAVA Section 301 requirements for acceptable voting systems standards. | 1-1. ExecDir to draft Bill by 9/30/03.<br>1-2. Legal Counsel review by 10/15/03.<br>1-3. Board / Gov review by 10/31/03.<br>1-4. ExecDir to fwd to Legislature by 11/30/03. | By 12/31/03, 3GCA is amended to implement HAVA Section 301 requirements for acceptable voting system standards. |
| **Goal #2.** Develop GEC board policy to require the DRE voting system to meet HAVA standards. | 2-1. ExecDir to draft board policy by 10/31/03.<br>2-2. Legal Counsel review by 11/15/03.<br>2-3. Board review by 11/30/03.<br>2-4. ExecDir to include policy requirements on RFP for DRE voting system by 11/30/03. | By 12/31/03, a GEC board policy is established to require the DRE voting system to meet HAVA standards. |
| **Goal #3.** Ensure that the DRE voting system permits the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted. | 3-1. ExecDir to develop preliminary voter verification proposal by 9/30/03.<br>3-2. ExecDir to consult w/ CEDDERS & GSAT by 10/15/03.<br>3-3. Board approval by 11/30/03.<br>3-4. ExecDir to include verification requirement in RFP for DRE voting system by 12/31/03.<br>3-5. GEC/CEDDERS/GSAT review bids by 3/31/04 to validate voter verification process.<br>3-6. Select DRE provider by 6/30/04. | Starting with Election 2004, the Precinct Inspector will certify that the DRE voting system permitted the voter to verify (in a private and independent manner) the votes selected before the ballot is cast and counted. |

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| **Goal #4.** Ensure that the DRE voting system provides the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error). | 4-1. ExecDir to develop provisions for the voter to correct errors / replace ballot by 9/30/03.<br>4-2. ExecDir to consult w/ CEDDERS & GSAT by 10/15/03.<br>4-3. Board approval by 11/30/03.<br>4-4. ExecDir to include voter correction / replacement provisions in RFP for DRE voting system by 12/31/03.<br>4-5. GEC/CEDDERS/GSAT review bids by 3/31/04 to validate voter correction / ballot replacement process.<br>4-6. Select DRE provider by 6/30/04. | Starting with Election 2004, the Precinct Inspector will certify that the DRE voting system provided the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error). |
| **Goal #5.** Ensure that if the voter selects votes for more than one candidate for a single office – (i) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (ii) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (iii) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | 5-1. ExecDir to develop provisions to preclude the voter from overvoting by 9/30/03.<br>5-2. ExecDir to consult w/ CEDDERS & GSAT by 10/15/03.<br>5-3. Board approval by 11/30/03.<br>5-4. ExecDir to include specific provisions precluding overvotes in the RFP for DRE voting system by 12/31/03.<br>5-5. GEC/CEDDERS/GSAT review bids by 3/31/04 to validate preclusion of overvotes in responses.<br>5-6. Select DRE provider by 6/30/04. | Starting with Election 2004, the Precinct Inspector will certify that if the voter selected votes for more than one candidate for a single office – (i) the voter was notified that the voter has selected more than one candidate for a single office on the ballot; (ii) the voter was notified, before the ballot was cast and counted, of the effect of casting multiple votes for the office; and (iii) the voter was provided with the opportunity to correct the ballot before the ballot was cast and counted. |

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| **Goal #6.** For Election 2004, continue to use the current optical-scan ballot tabulation system, in addition to the introductory use of a DRE voting system. | 6-1. ExecDir to propose revisions to the current election process to include introduction of DRE voting systems by 12/31/03.<br>6-2. Board approval by 1/31/04.<br>6-3. ExecDir to introduce the DRE voting system in all election publications by 6/30/03. | Starting with Election 2004, the GEC Executive Director will certify the continued use of the current optical-scan ballot tabulation system, in addition to the introductory use of a DRE voting system. |
| **Goal #7.** Revise the GEC voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office. | 7-1. ExecDir to recommend revisions to the voter education program to notify voter of the effect of overvotes by 12/31/03.<br>7-2. Board approval by 1/31/04.<br>7-3. ExecDir to include the effect of overvotes in all voter education programs by 6/30/04. | Starting with Election 2004, the GEC Executive Director will certify the revision of the GEC voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office. |
| **Goal #8.** Provide the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error). | 8-1. ExecDir to recommend revisions to the Voter Information Pamphlet and other election publications on how to correct the ballot before it is cast and counted by 12/31/03.<br>8-2. Board approval by 1/31/04.<br>8-3. ExecDir to include ballot correction and replacement instructions in all election training programs by 6/30/04 | Starting with Election 2004, the Precinct Inspector will certify that voters were provided with instructions on how to correct the ballot before it is cast and counted. This certification will describe the instructions given to voters on how to correct the error through the issuance of a replacement ballot if the voter was unable to change the ballot or correct any error. |

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| **Goal #9.** Implement GEC audit capacity for HAVA funds. | 9-1. ExecDir to consult with Guam Public Auditor on appropriate audit procedures by 8/31/03; Include audit capacity in draft Legis. Bill to implement HAVA by 8/8/03.<br>9-2. Legal Counsel review of audit procedures and Legis. bill by 8/15/03.<br>9-3. Board review of audit procedures and Legis. bill by 8/22/03; Gov. review of Legis. bill by 8/31/03.<br>9-4. ExecDir to fwd Legis. bill to Legislature by 11/30/03. | By 12/31/03, the GEC will have developed a GEC audit program for HAVA funds, and will have designated an internal auditor. The GEC Executive Director will certify the ~~development~~ and implementation of a GEC audit capacity for HAVA funds. |
| **Goal #10.** Ensure that the DRE voting system produces a permanent paper record with a manual audit capacity. | 10-1. ExecDir to review DRE manual audit capacity requirements by 9/30/03.<br>10-2. ExecDir to consult w/ Legal Counsel on manual audit requirements by 10/15/03.<br>10-3. Board approval by 11/30/03.<br>10-4. ExecDir to include manual audit requirements in RFP for DRE voting system by 12/31/03.<br>10-5. GEC/Legal Counsel review bids by 3/31/04 to validate manual audit capacity.<br>10-6. Select DRE provider by 6/30/04. | Starting with Election 2004, the Precinct Inspector will certify that the DRE voting system produced a permanent paper record with a manual audit capacity. |
| **Goal #11.** Ensure that the DRE voting system provides the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | 11-1. ExecDir to review DRE capacity to correct errors/ replace ballot by 9//30/03.<br>11-2. ExecDir to consult w/ Legal Counsel on ballot change / replacement requirements by 11/15/03.<br>11-3. Board approval by 11/30/03.<br>11-4. ExecDir to include ballot change / replacement requirements in RFP for DRE voting system by 12/31/03.<br>11-5. GEC/Legal Counsel review bids by 3/31/04 to validate ballot change / replacement capacity.<br>11-6. Select DRE provider by 6/30/04. | Starting with Election 2004, the Precinct Inspector will certify that the DRE voting system provided the voter with an opportunity to change the ballot or correct any error before the permanent paper record was produced. |

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| Goal #12. Ensure that the paper record is available as an official record for any recount conducted with respect to any election in which the DRE voting system is used. | 12-1. ExecDir to review DRE paper record capacity requirements by 9/30/03.<br>12-2. ExecDir to consult w/ Legal Counsel on DRE paper record requirements by 10/15/03.<br>12-3. Board approval by 11/30/03.<br>12-4. ExecDir to include paper record requirements in RFP by 12/31/03.<br>12-5. GEC/Legal Counsel review bids by 3/31/04 to validate paper record capacity.<br>12-6. Select DRE provider by 6/30/04. | Starting with Election 2004, the GEC Executive Director will certify that the paper record is available as an official record for any recount conducted with respect to any election in which the DRE voting system is used. |
| Goal #13. Ensure that the DRE voting system is accessible for individuals with disabilities. | 13-1. ExecDir w/ GSAT will determine DRE accessibility requirement for all individuals w/ disabilities and at all prospective poll facilities by 9/5.<br>13-2. ExecDir to consult w/ Legal Counsel on DRE accessibility requirements by 10/15/03.<br>13-3. Board approval by 11/30/03.<br>13-4. ExecDir to include handicap accessibility requirements in RFP for DRE voting system by 12/31/03.<br>13-5. GEC/Legal Counsel review bids by 3/31/04 to validate handicap accessibility.<br>13-6. Select DRE provider by 6/30/04. | Starting with Election 2004, the Precinct Inspector and/or Homebound Election Official will certify that the DRE voting system was accessible for individuals with disabilities. |
| Goal #14. Ensure voting accessibility for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. | 14-1. ExecDir w/ GSAT will determine DRE voter privacy and independence requirements for all individuals w/ disabilities and at all prospective poll facilities by 9/5<br>14-2. ExecDir to consult w/ Legal Counsel on DRE voter privacy and independence requirements by 10/15/03.<br>14-3. Board approval by 11/30/03. | Starting with Election 2004, the Precinct Official and/or Homebound Election Official will certify voting accessibility for individuals with disabilities. The certification will include nonvisual accessibility for the blind and visually impaired in a manner that provided the same opportunity for access and participation (including privacy and independence) as for other voters. |

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| | 14-4. ExecDir to include DRE voter privacy and independence requirements in RFP for DRE voting system by 12/31/03.<br>14-5. GEC/Legal Counsel review bids by 3/31/04 to validate DRE voter privacy and independence provisions.<br>14-6. Select DRE provider by 6/30/04. | |
| Goal #15. Satisfy the accessibility requirement by locating at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place. | 15-1. ExecDir will assess HAVA funds availability for purchase of at least one DRE unit for each polling place by 12/31/03.<br>15-2. 15-3. Board approval by 1/31/04.<br>15-4. ExecDir to procure DRE's by 7/31/2004. | Starting with Election 2004, the Precinct Inspector will certify that at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities was available at each polling place. |
| Goal #16. Utilize HAVA title II funds to purchase DRE units for polling places, and meet the HAVA standards for disability access. | 16-1. ExecDir will assess HAVA funds availability for purchase of DRE units and ensure HAVA disability access standards are met by 12/31/03.<br>16-2. 15-3. Board approval by 1/31/04.<br>16-4. ExecDir to procure DRE's by 7/31/2004. | The GEC Executive Director will certify that HAVA title II funds were used to purchase DRE units for polling places. Additionally, that the DRE units meet the HAVA standards for disability access. |
| Goal #17. Ensure that the DRE voting system provides alternative language accessibility pursuant to HAVA requirements. | 17-1. ExecDir w/ GSAT will determine DRE alternative language capacity by 9/5<br>17-2. ExecDir to consult w/ Legal Counsel on DRE alternative language capacity by 10/15/03.<br>17-3. Board approval by 11/30/03.<br>17-4. ExecDir to include DRE alternative language requirements in RFP for DRE voting system by 12/31/03.<br>17-5. GEC/Legal Counsel review bids by 3/31/04 to validate DRE alternative language capacity provisions.<br>17-6. Select DRE provider by 6/30/04. | Starting with Election 2004, the Precinct Inspector will certify that the DRE voting system provided alternative language accessibility pursuant to HAVA requirements. |

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| **Goal #18.** Ensure that the DRE voting system error rate in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) is in compliance with the error rate standards established by the Federal Election Commission. | 18-1. ExecDir to determine acceptable FEC error rate by 9/5<br>18-2. ExecDir to consult w/ Legal Counsel on FEC/DRE error rate by 10/15/03.<br>18-3. Board approval by 11/30/03.<br>18-4. ExecDir to include DRE error rate requirements in RFP for DRE voting system by 12/31/03.<br>18-5. GEC/Legal Counsel review bids by 3/31/04 to validate DRE error rate.<br>18-6. Select DRE provider by 6/30/04 | By 6/30/04, the successful DRE provider will certify that the DRE voting system error rate in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) is in compliance with the error rate standards established by the Federal Election Commission. |
| **Goal #19.** Adopt a uniform and nondiscriminatory standard to define what constitutes a vote, and what will be counted as a vote for each category of voting system used. | 19-1. ExecDir to draft uniform vote definition in Legis. bill form by 9/30/03.<br>19-2. Legal Counsel review by 10/15/03.<br>19-3. Board / Gov review by 10/31/03.<br>19-4. ExecDir to fwd to Legislature by 11/30/03. | By 12/31/03, 3GCA is amended to define what constitutes a vote, and what will be counted as a vote for each category of voting system used. |

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**Performance Goals, Completion Timelines, and Performance Measurement Criteria for Section 302. Provisional Voting And Voting Information Requirements**

| Performance Goal | Completion Timetable | Performance Measurement Criteria |
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| **Goal #20.** Amend 3GCA to implement HAVA Section 302 requirement for provisional voting and voting information requirements. | 20-1. ExecDir to draft Bill by 9/30/03.<br>20-2. Legal Counsel review by 10/15/03.<br>20-3. Board / Gov review by 10/31/03.<br>20-4. ExecDir to fwd to Legislature by 11/30/03 | By 12/31/03, 3GCA is amended to implement the HAVA Section 302 requirement for provisional voting and voting information requirements. |
| **Goal #21.** Develop GEC board policy and amend current election procedures to allow for an individual who declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot. | 21-1. ExecDir to draft board policy by 10/31/03.<br>21-2. Legal Counsel review by 11/15/03.<br>21-3. Board review by 11/30/03.<br>21-4. ExecDir to implement GEC provisional voting policy and procedures by 11/30/03.<br>21-5.ExecDir to include provisional voting guidelines in Precinct Official's Handbook and other election guidelines by 5/31/04. | By 12/31/03, a GEC board policy is established and the current election procedures are amended to allow for an individual who declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot. |
| **Goal #22.** Provide for an election official at the polling place to notify the individual that the individual may cast a provisional ballot in that election. | 22-1. ExecDir to revise Precinct Official's Handbook by 5/31/04 to designate Precinct Inspector as provisional ballot official.<br>22-2. Include provisional ballot voting in precinct official seminar.<br>22-3. Develop and print provisional ballot information pamphlet by 7/31/04 for Election 2004. | Starting with Election 2004, the Precinct Inspector will certify that notification was provided to the individual that the individual may cast a provisional ballot. |

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| **Goal #23.** Ensure that the individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is –<br>(A) a registered voter in the jurisdiction in which the individual desires to vote; and<br>(B) eligible to vote in that election. | 23-1. ExecDir to revise Precinct Official's Handbook by 5/31/04 to permit an individual to cast a provisional ballot official based on a written affirmation.<br>23-2. Include written affirmation requirement for provisional ballot voting in precinct official seminar.<br>23-3. Develop and print appropriate written affirmation form to vote by provisional ballot by 7/31/04 for Election 2004. | Starting with Election 2004, the Precinct Inspector will certify that the individual was permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is: (A) a registered voter in the jurisdiction in which the individual desires to vote; and (B) eligible to vote in that election. |
| **Goal #24.** Ensure that an election official at the polling place transmits the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual to an appropriate election official for prompt verification. | 24-1. ExecDir to revise Precinct Official's Handbook by 5/31/04 to require all provisional ballots to transmit voter information to Election Central for verification.<br>24-2. Include timely transmittal of voter information requirement in precinct official seminar.<br>24-3. Ensure that a communications network is established, e.g., telephone, fax, internet, etc., at all polling sites for the transmittal of voter information by 7/31/04 for Election 2004. | Starting with Election 2004, the Precinct Inspector will certify that an election official at the polling place transmitted the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual, to an appropriate election official (Election Central) for prompt verification. |

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| **Goal #25.** Establish procedures so that if the election official to whom the ballot or voter information is transmitted determined that the individual is eligible to vote, the individual's provisional ballot shall be counted as a vote in that election. | 25-1. ExecDir to revise Precinct Official's Handbook and GEC election procedures by 5/31/04 to allow GEC board to determine eligibility to vote, and whether or not the provisional ballot shall be counted.<br>25-2. Include above procedures in precinct official seminar.<br>25-3. Ensure that a communications network is established, e.g., telephone, fax, internet, etc., at all polling sites for the return transmittal of GEC board determination on voter eligibility and whether or not the provisional ballot will be counted by 7/31/04 for Election 2004. | Starting with Election 2004, the Precinct Inspector will certify that procedures are established so that if the election official (Election Central) to whom the ballot or voter information is transmitted determined that the individual is eligible to vote, the individual's provisional ballot shall be counted as a vote in that election. |
| **Goal #26.** Ensure that at the time that an individual casts a provisional ballot the appropriate election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain whether the vote was counted and, if the vote was not counted, the reason that the vote was not counted. | 26-1. ExecDir to revise Precinct Official's Handbook and GEC election procedures by 5/31/04 to allow for a written determination on the right to vote a provisional ballot, and if the the provisional ballot was counted.<br>26-2. Include above written determination procedures in precinct official seminar.<br>26-3. Ensure that a written determination forms are available for Election 2004. | Beginning with Election 2004, the Precinct Inspector will certify that at the time that an individual casts a provisional ballot the Precinct Inspector gave the individual written information that states that the individual who casts a provisional ballot was able to ascertain whether the vote was counted and, if the vote was not counted, the reason that the vote was not counted. |
| **Goal #27.** Ensure that the appropriate election official establishes a free access system (such as a toll-free telephone number or an internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | 27-1. ExecDir to revise Precinct Official's Handbook and GEC election procedures by 5/31/04 to provide for a free access system.<br>27-2. Include above procedures in precinct official seminar.<br>27-3. Ensure that a free access communications system is established, e.g., telephone, fax, internet, etc., at all polling sites for provisional vote verification by 7/31/04 for Election 2004. | Starting with Election 2004, the Precinct Inspector will certify that a free access system (such as a toll-free telephone number or an internet website) was established so that any individual who casts a provisional ballot has access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. |

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**Performance Goals, Completion Timelines, and Performance Measurement Criteria for Section 303. Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Vote by Mail**

| Performance Goal | Completion Timetable | Performance Measurement Criteria |
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| **Goal #28.** Ensure that the Guam Election Commission implements, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized island-wide voter registration list defined, maintained, and administered at the GEC level that contains the name and registration information of every legally registered voter in Guam and assigns a unique identifier to each legally registered voter in Guam (in this subsection referred to as the computerized list), and includes the following:<br><br>(i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout Guam.<br><br>(ii) The computerized list contains the name and registration information of every legally registered voter in Guam.<br><br>(iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in Guam.<br><br>(iv) The computerized list shall be coordinated with other agency databases within Guam.<br><br>(v) Any election official in Guam, including any precinct official, may obtain immediate electronic access to the information contained in the computerized list. | 28-1. ExecDir to review HAVA CVRS requirements by 9/30/03.<br>28-2. Meet w/ UOG VRS database managers and determine CVRS interface requirements by 10/31/03.<br>28-3. Legal Counsel and GEC board review by 11/30/03.<br>28-4. ExecDir to include CVRS requirements in RFP by 12/31/03.<br>28-5. Select CVRS provider by 1/31/04.<br>28-6. Begin data transfer from VRS to CVRS by 2/28/04.<br>28-7. Test CVRS database and report generation capabilities.<br>28-8. Run both VRS and CVRS in Election 2004, compare performance, and consider eliminating VRS for Election 2006.<br><br>Note: Continue current VRS Voter Registration No. as unique identifier.<br><br>Note: Coordinate with DMV, DOC, PHSS, SSN#, Sup. Ct., etc.<br><br>Note: Develop access capacity at all polling places and mayor's offices. | By 12/31/03, the GEC Executive Director will certify that the Guam Election Commission has implemented, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized island-wide voter registration list defined, maintained, and administered at the GEC level that contains the name and registration information of every legally registered voter in Guam and assigns a unique identifier to each legally registered voter in Guam (in this subsection referred to as the computerized list), and includes the following: (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout Guam; (ii) The computerized list contains the name and registration information of every legally registered voter in Guam; (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in Guam; (iv) The computerized list shall be coordinated with other agency databases within Guam; (v) Any election official in Guam, including any precinct official, may obtain immediate electronic access to the information contained in the computerized list; (vi) All voter registration information obtained by any election official in Guam shall be electronically entered into the | B-11 |
| (vi) All voter registration information obtained by any election official in Guam shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the official.<br><br>(vii) The GEC Executive Director shall provide such support as may be required so that local election officials are able to enter information as described above.<br><br>(viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for federal office in Guam. | Note: Ensure on-line capacity.<br><br>Note: Ensure election officials are certified in the data entry process, and all data entry equipment are in working order.<br><br>Note: Ensure designation is made in statute and GEC board policy. | computerized list on an expedited basis at the time the information is provided to the official; (vii) The GEC Executive Director shall provide such support as may be required so that local election officials are able to enter information as described above; and (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for federal office in Guam. | |
| **Goal #29.** Ensure that the appropriate election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:<br>(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a) (4 ), (c) (2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973 gg-6).<br>(ii) For purposes of removing names of ineligible voters from the official list of eligible voters – (I) under section 8(a) (3) (B) of such Act (42 U.S.C. 1973gg-6(a) (3) (B)), the GEC shall coordinate the computerized list with DOC/SupCt records on felony status; and (II) by reason of the death of the registrant under section 8(a) (4) (A) of such Act (42 U.S. C. 1973gg-6(a) (4) (A)), the GEC shall coordinate the computerized list with DPHSS records on death.<br>(iii) Notwithstanding the preceding provisions of this subparagraph, if a state is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that the GEC shall remove the names of ineligible voters from the computerized list in accordance with Guam law. | 29-1. GEC provides continuing list maintenance on the existing VRS database. A continuing list maintenance program will be developed for the anticipated CVRS database.<br><br>Note: Review 42USC1973 to determine specific requirements.<br><br>Note: Review 42USC1973 to determine specific requirements. Ensure CVRS link with DOC, Sup Ct, and PHSS (Vital Statistics).<br><br>Note: Review 42USC1973 to determine specific requirements. Ensure ineligible voters are removed from the computerized list in accordance with Guam law | By 12/31/03, the GEC Executive Director will certify that the Guam Election Commission performs list maintenance with respect to the computerized list on a regular basis as follows: (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a) (4 ), (c) (2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973 gg-6); (ii) For purposes of removing names of ineligible voters from the official list of eligible voters – (I) under section 8(a) (3) (B) of such Act (42 U.S.C. 1973gg-6(a) (3) (B)), the GEC shall coordinate the computerized list with DOC/SupCt records on felony status; and (II) by reason of the death of the registrant under section 8(a) (4) (A) of such Act (42 U.S. C. 1973gg-6(a) (4) (A)), the GEC shall coordinate the computerized list with DPHSS records on death; (iii) Notwithstanding the preceding provisions of this subparagraph, if a state is described in section 4(b) of the National Voter Registration Act of 1993 (42 | B-12 |

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| | | U.S.C. 1973gg-2(b)), that the GEC shall remove the names of ineligible voters from the computerized list in accordance with Guam law. |
| Goal #30. Ensure that the list maintenance performed is conducted in a manner that ensures that --<br><br>(i) the name of each registered voter appears in the computerized list;<br><br>(ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and<br><br>(iii) duplicate names are eliminated from the computerized list. | 30-1. GEC provides continuing list maintenance on the existing VRS database. A continuing list maintenance program will be developed for the anticipated CVRS database.<br><br>Note: GEC Exec Dir shall ensure that the CVRS list maintenance program reflects the name of each registered voter, that only ineligible voters are removed from the CVRS listing of voters, and that duplicates are eliminated from the CVRS listing of eligible voters. | By 12/31/03, the GEC Executive Director will certify that the list maintenance performed is conducted in a manner that ensures that –<br><br>(i) the name of each registered voter appears in the computerized list;<br><br>(ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and<br><br>(iii) duplicate names are eliminated from the computerized list. |
| Goal #31. Ensure that the GEC Executive Director provides the adequate technological security measures to prevent the unauthorized access to the computerized list. | 31-1. ExecDir to determine acceptable security measures to prevent unauthorized access by 9/5<br>31-2. ExecDir to consult w/ Legal Counsel on security measures by 10/15/03.<br>31-3. Board approval by 11/30/03.<br>31-4. ExecDir to include CVRS security requirements in RFP by 12/31/03.<br>31-5. Select CVRS provider by 1/31/04.<br>31-6. Test CVRS security measures.<br>31-7. Run both VRS and CVRS in Election 2004, compare performance, and consider eliminating VRS for Election 2006. | The GEC Executive Director and the CVRS provider will certify that the CVRS provides the adequate technological security measures to prevent the unauthorized access to the computerized list. |

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| Goal #32. Establish procedures to ensure that voter registration records in Guam are accurate and are updated regularly, including the following:<br><br>(A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S. C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.<br><br>(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | 32-1. GEC provides continuing list maintenance on the existing VRS database. A continuing list maintenance program will be developed for the anticipated CVRS database to ensure that the voter registration records in Guam are accurate and are updated regularly.<br><br>Note: GEC Exec Dir shall ensure CVRS list is purged of nonvoters for 2 consecutive general elections. RFP on CVRS will require "Year Last Voted."<br><br>Note: GEC Exec Dir shall provide independent review of purged records to ensure voters are not removed erroneously. | By 12/31/03, the GEC Executive Director will certify the establishment of procedures to ensure that voter registration records in Guam are accurate and are updated regularly, including the following: (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S. C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote; and (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. |
| Goal #33. Establish procedures to ensure that an application for voter registration for an election for federal office is not accepted or processed by a state unless the application includes – (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | 33-1. GEC Exec Dir shall provide independent review of new Affidavit of Voter Registrations prior to acceptance or processing. Further, the GEC Exec Dir will ensure verification of voter registration information; amend voter registration process to implement HAVA; and develop GEC board policy to amend voter registration procedure to require DLN's, and/or last 4 digits of SN#. | By 12/31/03, the GEC Executive Director will certify the establishment of procedures to ensure that an application for voter registration for an election for federal office is not accepted or processed by a state unless the application includes – (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. |

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| Goal #34. Establish procedures for an applicant who has not been issued a current and valid driver's license or a social security number, to be assigned a number that will serve to identify the applicant for voter registration purposes. To the extent that Guam has a computerized list in effect and the list assigns unique identifying numbers to registrants, the number assigned shall be the unique identifying number assigned under the list. | 34-1. GEC currently provides each new voter with a Voter Registration Number, a unique identifier generated by the UOG Computer Center. GEC will seek to utilize the VRN as a unique numerical number to identify all new voter applicants. | By 12/31/03, the GEC Executive Director will certify the establishment of procedures for an applicant who has not been issued a current and valid driver's license or a social security number, to be assigned a number that will serve to identify the applicant for voter registration purposes. To the extent that Guam has a computerized list in effect and the list assigns unique identifying numbers to registrants, the number assigned shall be the unique identifying number assigned under the list. |
| Goal #35. Establish procedures to determine whether the information provided by an individual is sufficient to meet the requirements of HAVA, in accordance with Guam law. | 35-1. GEC currently reviews all voter information against Guam law. The GEC Exec Dir will include a review process of all new voter information against HAVA and other applicable Federal statutes, in addition to Guam law.<br><br>Note: GEC Exec Dir will develop a GEC board policy to establish identification criteria for voter registration. | By 12/31/03, the GEC Executive Director will certify the establishment of procedures to determine whether the information provided by an individual is sufficient to meet the requirements of HAVA, in accordance with Guam law. |
| Goal #36. Ensure that the GEC Executive Director and the official responsible for the state motor vehicle authority enter into an agreement to match information in the database of the island-wide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | 36-1. ExecDir to review CVRS intra-agency verification requirements by 9/30/03.<br>36-2. GEC Exec Dir will develop agreements with DMV, DOC, Sup Ct, PHSS, and other GovGuam agencies by 10/31/03.<br>36-3. Legal Counsel and GEC board review by 11/30/03.<br>36-4. Sign agency MOU's by 12/31/03.<br>36-5. Select CVRS provider by 1/31/04.<br>36-6. Begin intra-agency data verification by 2/28/04. | By 12/31/03, the GEC Executive Director and the Director of the Department of Revenue and Taxation will sign an agreement or memorandum of understanding to match information in the database of the island-wide voter registration system with information in the database of the division of motor vehicles to the extent required to enable the GEC to verify the accuracy of the information provided on applications for voter registration. |

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| Goal #37. Ensure that the official responsible for the Guam motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r) (8) of the Social Security Act (as added by subparagraph (C)). | 37-1. GEC Exec Dir will coordinate DMV agreement with Social Security Administration by 12/31/03. | By 12/31/03, the GEC Executive Director will certify that the Director of the Department of Revenue and Taxation has entered into an agreement with the Commissioner of Social Security to allow the verification of the last 4 digits of the voter's social security number provided on applications for voter registration. |
| Goal #38. Establish policy and procedures to ensure that, notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), Guam shall, in a uniform and nondiscriminatory manner, require an individual to meet the above requirements if –<br><br>(A) the individual registered to vote in a jurisdiction by mail; and<br><br>(B) (i) the individual has not previously voted in an election for federal office in Guam; or<br><br>(ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a state that does not have a computerized list that complies with the requirements of subsection (a). | 38-1. GEC Exec Dir to revise existing mail-in voter registration procedure to meet HAVA requirements by 12/31/03. Further, to review 42USC1973, and ensure compliance w/ HAVA.<br><br>Note: GEC Exec Dir to amend mail-in registration forms accordingly. | By 12/31/03, the GEC Executive Director will certify the establishment of appropriate policies and procedures to ensure that an individual is required, in a uniform and nondiscriminatory manner, to meet the above requirements if (A) the individual registered to vote in Guam by mail; and (B) (i) the individual has not previously voted in an election for federal office in Guam. |
| Goal #39. Establish policy and procedures to reflect that an individual meets the above requirements if the individual:<br><br>(i) in the case of an individual who votes in person – (I) presents to the appropriate Guam election official a current and valid photo identification; or (II) presents to the appropriate Guam election official a copy of a current utility bill, bank statement, government check, pay check or other government document that shows the name and address of the voter; | 39-1. GEC Exec Dir to revise existing in-person and mail-in voter registration procedures to meet HAVA requirements by 12/31/03. | By 12/31/03, the GEC Executive Director will certify the establishment of policies and procedures to reflect that an individual meets the above requirements if the individual (i) in the case of an individual who votes in person – (I) presents to the appropriate Guam election official a current and valid photo identification; or (II) presents to the appropriate Guam election official a copy of a |

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| (ii) in the case of an individual who votes by mail, submits with the ballot – (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, pay check, or other government document that shows the name and address of the voter. | | current utility bill, bank statement, government check, pay check or other government document that shows the name and address of the voter; (ii) in the case of an individual who votes by mail, submits with the ballot – (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, pay check, or other government document that shows the name and address of the voter. |
| Goal #40. Ensure Fail-Safe voting should an individual votes as follows:<br><br>(i) IN PERSON – An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a).<br><br>(ii) BY MAIL – An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | 40-1. GEC Exec Dir to establish a HAVA Fail-Safe voting process by 12/31/03. Further, to integrate the Fail-Safe voting process with the Provisional Voting Program for both in-person and mail-in registrants who fail to meet documentary proof of eligibility to vote. | By 12/31/03, the GEC Executive Director will certify the establishment of a Fail-Safe voting procedure to allow (i) an individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a); or (ii) an individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). |
| Goal #41. Include in the voting procedures provisions that show that the above requirements shall not apply in the case of a person –<br><br>(A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either –<br><br>(i) a copy of a current and valid photo identification; or | 41-1. GEC Exec Dir to amend existing voting procedures by 12/31/03 to show that the Fail-Safe voting process does not apply to an in-person or mail-in registrants who meet the documentary requirements of Federal and Guam laws. | By 12/31/03, the GEC Executive Director will certify the establishment of voting procedures to include in the voting procedures provisions that show that the above requirements shall not apply in the case of a person who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either a copy of a current and valid photo identification; or a copy of a |

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| | | |
|---|---|---|
| (ii) a copy of a current utility bill, bank statement, government check, pay check, or government document that shows the name and address of the voter;<br><br>(B) (i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S. C. 1973gg-4) and submits with such registration either – (I) -- a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and<br><br>(ii) with respect to whom an election official matches the information submitted with an existing Guam or state identification record bearing the same number, name and date of birth as provided in such registration; or<br><br>(C) who is –<br><br>(i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.);<br><br>(ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii); or<br><br>(iii) entitled to vote otherwise than in person under any other federal law. | (Cont.) 41-1. GEC Exec Dir to amend existing voting procedures by 12/31/03 to show that the Fail-Safe voting process does not apply to an in-person or mail-in registrants who meet the documentary requirements of Federal and Guam laws. | current utility bill, bank statement, government check, pay check, or government document that shows the name and address of the voter.<br><br>Further, that the voting procedures include provisions that show that the same requirements shall not apply to a person who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S. C. 1973gg-4) and submits with such registration either a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and with respect to whom an election official matches the information submitted with an existing Guam or state identification record bearing the same number, name and date of birth as provided in such registration.<br><br>Still further, that the same requirements shall not apply to a person who is (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii); or (iii) entitled to vote otherwise than in person under any other federal law. |
| Goal #42. Ensure that the mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following:<br>(i) The question 'Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | 42-1. GEC Exec Dir to amend existing voting registration form by 12/31/03 to reflect the three questions required by HAVA. Further, to review 42USC1973 and amend the mail-in voter registration form accordingly. | By 12/31/03, the GEC Executive Director will certify that the mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) includes (i) the question 'Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate |

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| | | |
|---|---|---|
| (ii) The statement 'If you checked 'no' in response to either of those questions, do not complete this form.'<br>(iii) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | | whether the applicant is or is not a citizen of the United States; (ii) the statement 'If you checked 'no' in response to either of those questions, do not complete this form'; and (iii) a statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. |
| **Goal #43.** Ensure that if an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for federal office (subject to Guam law). | 43-1. GEC Exec Dir to amend existing mail-in voting registration form by 12/31/03. Further, to require the GEC to notify the applicant who fails to answer the question included on the mail voter registration form to notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner. This should allow for the completion of the registration form prior to the next election for federal office (subject to Guam law). | By 12/31/03, the GEC Executive Director will certify that the GEC's voter registration procedures include procedures to ensure that if an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the GEC registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for federal office (subject to Guam law). |

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**Performance Goals, Completion Timelines, and Performance Measurement Criteria for Section 402. Establishment of State-Based Administrative Complaint Procedures to Remedy Grievances**

| Performance Goal | Completion Timetable | Performance Measurement Criteria |
|---|---|---|
| **Goal #44.** Establish the GEC island-wide administrative complaint procedure to remedy grievances. | 44-1. ExecDir to draft Bill to establish an island-wide administrative complaint procedure to remedy election grievances by 9/30/03.<br>44-2. Legal Counsel review by 10/15/03.<br>44-3. Board / Gov review by 10/31/03.<br>44-4. ExecDir to fwd to Legislature by 11/30/03<br>44-5. ExecDir to draft election grievance procedure for GEC board by 10/31/03.<br>44-6. Legal Counsel review by 11/15/03.<br>44-7. Board review by 11/30/03.<br>44-8. ExecDir to implement GEC Election Grievance Policy and Procedures by 12/31/03.<br>44-9.ExecDir to include GEC Election Grievance Policy and Procedures in Precinct Official's Handbook and other election guidelines by 5/31/04. | By 12/31/03, the GEC Executive Director will certify the establish of a GEC island-wide administrative complaint procedure to remedy grievances. |

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| | | |
|---|---|---|
| Goal #45. Ensure that the administrative complaint procedures meet the following requirements:<br><br>(A) The procedures shall be uniform and nondiscriminatory.<br><br>(B) Under the procedures, any person who believes that there is a violation of any provision of title III (including a violation, which has occurred, is occurring, or is about to occur) may file a complaint.<br><br>(C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint.<br><br>(D) The GEC may consolidate complaints.<br><br>(E) At the request of the complainant, there shall be a hearing on the record.<br><br>(F) If, under the procedures, the GEC determines that there is a violation of any provision of title III, the GEC shall provide the appropriate remedy.<br><br>(G) If, the GEC determines that there is no violation, the GEC shall dismiss the complaint and publish the results of the procedures.<br><br>(H) The GEC shall make a final determination with respect to a complaint prior to the expiration of the 90-day period, which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination.<br><br>(I) If the GEC fails to meet the deadline, the complaint shall be resolved within 60 days under alternative dispute resolution procedures. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures. | 45-1. ExecDir to implement GEC Election Grievance Policy and Procedures by 12/31/03.<br>45-2. ExecDir to include GEC Election Grievance Policy and Procedures in Precinct Official's Handbook and other election guidelines by 5/31/04.<br><br>Note: GEC Exec Dir to ensure that the GEC Election Grievance Policy and Procedures are uniform and nondiscriminatory.<br><br>Note: GEC Exec Dir shall define grievance criteria and filing requirements pursuant to HAVA; ensure that all grievances are in writing, signed and sworn by the person filing the complaint; and provide the GEC board criteria for consolidation of complaints.<br><br>Note: GEC Exec Dir shall develop the GEC board procedure for hearings, and an appropriate definition of "record."<br><br>Note: GEC Exec Dir shall develop a GEC board policy on appropriate remedy.<br><br>Note: GEC Exec Dir shall develop a GEC board policy on dismissal of complaints.<br><br>Note: GEC Exec Dir shall develop GEC board policy on a 90-day resolution process for all complaints.<br><br>Note: GEC Exec Dir shall develop a GEC board policy on an alternative dispute resolution procedure. | By 12/31/03, the GEC Executive Director will certify that the GEC administrative complaint procedures meet the following requirements: (A) the procedures are uniform and nondiscriminatory; ~~under the~~ procedures, any person who believes that there is a violation of any provision of title III (including a violation, which has occurred, is occurring, or is about to occur) may file a complaint; (C) any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint; (D) the GEC may consolidate complaints; (E) at the request of the complainant, there shall be a hearing on the record; (F) if, under the procedures, the GEC determines that there is a violation of any provision of title III, the GEC shall provide the appropriate remedy; (G) if the GEC determines that there is no violation, the GEC shall dismiss the complaint and publish the results of the procedures; (H) the GEC shall make a final determination with respect to a complaint prior to the expiration of the 90-day period, which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination; (I) if the GEC fails to meet the deadline, the complaint shall be resolved within 60 days under alternative dispute resolution procedures. Further, that the record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures. |

# STATE OF HAWAII

State Plan

As required by Public Law 107-252,
Help America Vote Act 2002, Section 253 (b)

Dwayne D. Yoshina
Chief Election Officer
802 Lehua Avenue
Honolulu, Hawaii 96782

March 2, 2004



## INTRODUCTION BY THE CHIEF ELECTION OFFICER

We are pleased to offer the Hawaii Preliminary State Plan. Section 253(b) of the Help America Vote Act of 2002 (HAVA) requires each State to develop a long-range plan for implementing this Act. HAVA also requires the State and the various counties to work together to significantly reform the election process.

On behalf of Hawaii's elections community, we are proud to say that we began election reform before the enactment of HAVA. With the appropriate federal financial funding, the State of Hawaii will have the opportunity to build upon our strong foundation of election reform and accomplishments.

The Preliminary State Plan establishes a framework for continuing progress in election reform, the continuing improvement of our election services, and achieving compliance with HAVA.

Although HAVA increases responsibility for election administrations at the State level in order to establish consistency across jurisdictions, the county clerks in the State of Hawaii (responsible for voter registration and absentee voting) are integrally involved in the administration of all regularly scheduled elections. It is with this in mind, that the Office of Elections continues to work closely with the various county clerks and their communities to assure that our election services are uniform and nondiscriminatory.

We will update and refine the State Plan to reflect election reform progress and needs which may arise from the citizenry. We welcome the challenges of HAVA and the financial support from the federal government in our continuing efforts to provide secure, accessible, and convenient election services to all citizens statewide.

Dwayne D. Yoshina
Chief Election Officer

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State of Hawaii
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## I. INTRODUCTION

President Bush signed the Help America Vote Act (HAVA) into law on October 29, 2002. HAVA requires each State to develop a comprehensive plan for implementing mandates aimed at improving the conduct of elections.

Each plan must address the following:

- Provide for ADA voters the opportunity to vote independently through the use of at least one (1) Direct Recording Electronic (DRE) voting system in each polling place.
- Implement a system of provisional voting.
- Provide a complaints process where voters are entitled to a public hearing after filing a valid notarized complaint.
- Establish a statewide voter registration system.
- Establish a toll free number for voters to call to receive pertinent voting information.

The following State Plan for the State of Hawaii, was developed in accordance with Section 254 of HAVA and under the direction of the Chief Election Officer. Hawaii's plan establishes a framework for the State to continue progress that has already been made in election reform and to achieve compliance with HAVA.

Because HAVA will have a profound impact on all aspects of the voting process in our State, we anticipate that this plan will require updating and refining over the upcoming years to address changes and developing requirements.

## II. BACKDROP FOR HAWAII'S STATE PLAN

The mission of the Office of Elections is to provide secure, accessible, and convenient election services to all citizens statewide through:

- Conducting efficient and honest elections;
- Protecting voter's rights (the franchise);
- Encouraging participation in the electoral process; and
- Promoting elections.





Pursuant to Hawaii Revised Statutes, the Chief Election Officer is responsible for the supervision of all state elections. The State of Hawaii has had and continues to have a statewide, uniform, and standardized election system, something HAVA mandates each State to have. All services are provided in a uniform and nondiscriminatory manner.

The State of Hawaii uses an optical scan voting and vote counting system, statewide. This includes the use of precinct counters in every polling place as well as at the absentee walk sites (early voting sites). The processing and tabulation of the absentee mail ballots are accomplished using central counters in four county counting centers. The consolidation and distribution of election results are carried out at the county counting center for county results and state central counting center for statewide results.

### A. Overview

The State of Hawaii consists of an archipelago of islands stretching approximately 2,000 miles. There are four (4) counties within the State: the City & County of Honolulu, the County of Hawaii, the County of Maui, and the County of Kauai. The population within each county (based on the *2001 State of Hawaii Data Book* Table 1.06) is as follows:

| County | Population |
|---|---|
| City & County of Honolulu | 881,295 |
| County of Hawaii | 152,083 |
| County of Maui | 131,797 |
| County of Kauai | 59,223 |

The County of Maui includes the County of Kalawao (Kalaupapa Settlement). The County of Kalawao had 144 inhabitants in 1980, 130 in 1990, and 74 in 2002.

### B. Election Contests

The following election contests are concurrently held state (including federal election contests) and county elections. These elections are held in even numbered years.

**Federal Contests:**

U.S. President (1 seat)
U.S. Vice President (1 seat)
U.S. Senators (2 seats)
U.S. Representatives (2 seats)

**State Contests:**

Governor (1 seat)
Lieutenant Governor (1 seat)
State Senators (25 seats)
State Representatives (51 seats)
Board of Education members (13 seats)*
Office of Hawaiian Affairs Trustees (9 seats)*

**City and County of Honolulu Contests:**

Mayor (1 seat)*
Prosecuting Attorney (1 seat)*
Councilmembers (9 seats)*

**County of Hawaii Contests:**

Mayor (1 seat)*
Prosecuting Attorney (1 seat)*
Councilmembers (9 seats)*

**County of Maui Contests:**

Mayor (1 seat)*
Councilmembers (9 seats)*

**County of Kauai Contests:**

Mayor (1 seat)*
Prosecuting Attorney (1 seat)*
Councilmembers (7 seats)*

*** Nonpartisan Contests**

Ballot measures (questions) include amendments to the State Constitution, amendments to the City and County Charters, the City and County initiative questions, and the City and County referendum questions.

## C. Voter Registration

Voter Registration by county from 1992 to 2002 were (numbers based on General Elections):





| | 1992 | 1994 | 1996 | 1998 | 2000[1] | 2002 |
|---|---|---|---|---|---|---|
| Honolulu | 328,463 | 349,457 | 386,546 | 423,875 | 444,945 | 470,327 |
| Hawaii | 62,023 | 63,677 | 71,270 | 77,726 | 84,421 | 89,478 |
| Maui | 47,238 | 48,036 | 57,091 | 66,740 | 73,331 | 79,045 |
| Kauai | 26,771 | 27,719 | 30,009 | 33,063 | 34,652 | 37,392 |
| Statewide | 464,495 | 488,889 | 544,916 | 601,404 | 637,349 | 676,242 |

## D. Voter Turnout

Voter turnout numbers by county from 1992 to 2002 were (numbers based on General Elections):

| TOTAL TURNOUT | 1992 | 1994 | 1996 | 1998 | 2000 | 2002 |
|---|---|---|---|---|---|---|
| Honolulu | 272,081 | 269,121 | 261,781 | 291,114 | 257,795 | 270,071 |
| Hawaii | 52,529 | 48,907 | 50,464 | 53,658 | 51,368 | 50,368 |
| Maui | 38,408 | 36,589 | 36,169 | 43,382 | 39,665 | 41,554 |
| Kauai | 19,864 | 22,394 | 21,816 | 24,366 | 22,205 | 23,464 |
| Statewide | 382,882 | 377,011 | 370,230 | 412,520 | 371,033 | 385,457 |

| PRECINCT TURNOUT | 1992 | 1994 | 1996 | 1998 | 2000 | 2002 |
|---|---|---|---|---|---|---|
| Honolulu | 245,464 | 233,995 | 225,221 | 246,048 | 208,195 | 194,415 |
| Hawaii | 45,444 | 40,188 | 39,555 | 41,978 | 40,241 | 35,511 |
| Maui | 34,456 | 31,291 | 31,746 | 36,557 | 33,193 | 29,956 |
| Kauai | 16,979 | 17,694 | 17,176 | 17,592 | 16,334 | 15,526 |
| Statewide | 342,343 | 323,168 | 313,698 | 342,175 | 297,963 | 275,408 |

| ABSENTEE TURNOUT | 1992 | 1994 | 1996 | 1998 | 2000 | 2002 |
|---|---|---|---|---|---|---|
| Honolulu | 26,617 | 35,126 | 36,560 | 45,066 | 49,600 | 75,656 |
| Hawaii | 7,085 | 8,719 | 10,909 | 11,680 | 11,127 | 14,857 |
| Maui | 3,952 | 5,298 | 4,423 | 6,825 | 6,472 | 11,598 |
| Kauai | 2,885 | 4,700 | 4,640 | 6,774 | 5,871 | 7,938 |
| Statewide | 40,539 | 53,843 | 56,532 | 70,345 | 73,070 | 110,049 |

[1] Since the 2000 Election the State of Hawaii has included the National Voter Registration Act's (NVRA) section 8(d)(2) voters in its registration counts.

### E. Precincts

In 2002, there were 351 precincts statewide. In 2004, there is estimated to be approximately 356 precincts statewide. The breakdown by county is as follows:

| County | 2002 | 2004 |
|---|---|---|
| City & County of Honolulu | 219 | 221 |
| County of Hawaii | 67 | 69 |
| County of Maui | 44 | 45 |
| County of Kauai | 21 | 21 |

The number of registered voters assigned to a precinct in 2002 ranged from 74 to 4,850.

### F. Vote Counting

The State of Hawaii has had and continues to have a uniform, standard, and statewide election system, something HAVA mandates each State to have.

The State of Hawaii uses an optical scan voting and vote counting system, statewide. This includes the use of precinct counters in every polling place and at absentee walk sites (early voting sites) as well as the use of central counters at county counting centers to process absentee mail ballots.

Counting Centers are established in each of the four counties to process, tabulate, and disseminate election results on election nights in an accurate and timely manner, statewide.

### G. Absentee Walk-In Voting Sites (Early Voting)

In 2002, there were 12 absentee walk-in voting (early voting) sites statewide.

| County | AB Sites |
|---|---|
| City & County of Honolulu | 4 |
| County of Hawaii | 5 |
| County of Maui | 2 |
| County of Kauai | 1 |





### H. Precinct Officials

Statewide training of approximately 3,500 precinct officials begins in July and continues through November of an election year. The State, with the cooperation of county election staff, conducts all training sessions. Currently, approximately 100 separate training sessions are conducted within the five (5) month period.

Hawaii's State Plan as presented herein is limited to the extent state appropriations are made available and based on the assumption that adequate federal funding will be appropriated. The State intends to fully comply with HAVA, however, if adequate federal funding is not made available, the manner in which the funds are disbursed or dedicated may be altered from the information contained in this State Plan.

## III. STATE PLAN REQUIRED ELEMENTS (HAVA §254)

From start to finish, Hawaii's election system is built around the standards of accuracy, transparency, professionalism, security, accountability, integrity, and replicability. These standards serve as the bases for the development and implementation of the state plan.

### A. Title III Requirements and Other Activities

*Section 254(a)(1) requires a description of 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. Title III requires the establishment of certain voting system standards, provisional voting, public posting of voting information, a computerized statewide voter registration list, and voter registration application modifications.*

#### 1. §301(a), Voting System Standards Requirements

*Section 301(a) establishes several voting system standards which must be met by January 1, 2006. Under this section, no waiver of the requirements is permitted.*

HAVA requires each voting system to:

- Permit voters to verify whom they have voted for and make changes to their vote in a private, secret, and independent manner;

- Notify voters if they have overvoted, what happens in instances of an overvote, and provide the opportunity to correct the ballot;
- Ensure that any notification to the voter maintains the privacy, secrecy, and independence of the voter's ballot;
- Produce a permanent paper record with manual audit capacity;
- Be accessible for people with disabilities through the use of at least one (1) Direct Recording Electronic (DRE) voting system placed at each polling place;
- Provide alternative language accessibility pursuant to Section 203 of the Voting Rights Act of 1965;
- Comply with error rates in effect by the Federal Elections Commission (FEC); and
- Have a definition of what constitutes a vote and what will be counted.

The State currently uses a single, uniform, statewide voting system in each of its counties. Presently, there are Election Systems & Software (ES&S) Model 100 precinct counters in every polling place as well as all early voting sites. In addition, the State uses the ES&S Model 550 central counter to process, count, and tabulate results from its absentee mail ballots.

Since the early 1970's the State has had uniform and standard procedures statewide. Pursuant to the Hawaii Revised Statutes the State is responsible for the operations of the polling places and counting centers. The State, and the various counties, collegially develops and implements these procedures statewide. These procedures address all operational areas of elections.

In 1998 the State migrated from DATAVOTE to an optical scan vote and vote counting system. The present system allows a voter to view and correct errors prior to casting a ballot. The system notifies a voter of overvotes, completely blank ballot, and multiparty votes (Hawaii conducts single party primary elections).

For the 2004 and all subsequent elections, the State plans to place at least one DRE machine in each polling place. The State intends to meet HAVA requirements, "so that any voter may have the





opportunity to vote independently." This DRE will meet the requirements of voting system accessibility, language accessibility, and confirmation of votes by voters, enunciated in HAVA. Each DRE shall be equipped with an audio feature to allow the visually impaired the opportunity to vote independently.

The State has scheduled demonstrations with DRE vendors to receive comments and concerns from people with disabilities. To this date Hart Intercivic and Election Systems & Software has demonstrated and the state has received comments, statewide, from people with disabilities.

Also, the State plans to install modems in each precinct counter to aid in the administration of elections. Installing modems in each precinct counter will allow the results to be electronically transmitted into each counting center, rather than being driven to the counting center by a delivery/collection team. It is anticipated that such actions should aid in the efficiency and security of our administration of elections.

Additionally, the State of Hawaii will conduct voter education to educate individuals on how to vote on the new voting system.

Requirements payment will also be used for maintaining, modifying, and improving the voting and vote counting system in the State of Hawaii to ensure compliance with HAVA Section 301(a) standards.

**2. Provisional Voting and Voting Information Requirements**

*Section 302 requires the establishment of provisional voting and the posting of voting information at polling places by January 1, 2004. Under this section, no waiver is permitted.*

HAVA identifies voters who may vote using a provisional ballot. They are as follows: 1) a voter who declares that he or she is a registered voter in the jurisdiction in which that person decided to vote and is eligible to vote in an election for Federal office, but whose name does not appear on the official list of eligible voters at the polling place; and a voter who the election official assert is not eligible to vote; a voter who registered by mail and is a first-time voter in the jurisdiction who appears at the polling place without proper identification; and 2) a voter who votes in an election for federal office pursuant to a federal or state court order or any other order extending the time established for closing the polls.

While, there is no state law that permits provisional voting, the State has, for many years, used Control Centers and Voter Assistance Officials (statewide) to ensure that registered voters who appear at the polling place but are not in the register of voters may resolve their voter registration problems. Voter Assistance Officials are provided telephones and assigned an operator at Control Center who searches the statewide voter registration database and related documents to determine if an individual is registered to vote. Any voter who is not found in the statewide voter registration system may at their discretion cast a "Challenged" ballot. Determination reached in this process may be appealed to a Board of Registration and ultimately the Hawaii Supreme Court.

The State of Hawaii will comply with the requirements of HAVA as outlined in Section 302. Voters will be notified by polling officials that they may vote a provisional ballot. Voters will complete a self-subscribing affidavit in which the individuals affirm under penalty of perjury that they are registered in the jurisdiction in which the individual desires to vote and is eligible to vote in that election.

Voters will be provided "free access", in the form of a toll free telephone number, to learn if their ballots have been counted. In addition, any voter whose ballot is not counted will be provided a reason for that action. All responses to provisional voters will be confidential.

In addition to provisional voting requirements, Section 302 of HAVA mandates that a sample ballot and other voting information be posted at the polling place on Election Day. The State, in consultation with the County Clerks, will design the materials to be posted. Requirements payment will be used to develop, print, and post this information.

**3. Computerized Statewide Voter Registration List and Requirements for Voters Who Register by Mail**

*Section 303 requires the establishment of a computerized statewide voter registration list, first time voters who register by mail to provide identification when they cast their ballots, and changes to be made to the voter registration application by January 1, 2004. A waiver is permitted to extend compliance with Section 303(a) to January 1, 2006.*

Presently, the guidelines for voter registration (process, context and parameters) are set forth in Hawaii Revised Statutes (HRS). All counties must comply with the state laws, given there are no county





ordinances governing this activity. Procedures and policies are set cooperatively and collegially between the state and the counties.

The State of Hawaii's existing voter registration system is a "single, uniform, centralized, interactive, and uniform computerized statewide voter register" as required by HAVA. The present system is integrated with the statewide driver license database and the City & County of Honolulu property records. If Hawaii's neighbor island (Maui, Hawaii, Kauai) property databases are reintegrated with the City & County of Honolulu's real property system, the possibility also exists for simultaneous integration with the voter registration system as well.

The existing system features instantaneous real time updates to the master voter registration file with crosschecking against all driver license and property records. The crosscheck feature has been in existence for over eighteen years. In a separate effort, Hawaii's statewide driver license database is also presently being enhanced to allow online checks against the Social Security Administration. The State of Hawaii seeks to improve upon the current voter registration system through either enhancements to the existing system or migrating to another voter registration system while maintaining existing functionality.

Currently, Hawaii's voter registration records (source documents) are maintained at the local jurisdiction level under the custody of the County Clerks. In a unique arrangement, the largest county (City & County of Honolulu) maintains the statewide voter registration system and also maintains the statewide drivers license database on behalf of the four counties and State. The State of Hawaii believes its existing system satisfies the requirements of HAVA and desires to continue this system administration arrangement while retaining the legal oversight of the statewide voter registration database. This arrangement optimizes database integration with these and other statewide systems. However, as a condition of federal funding, the State will continue to require online and electronic access to voter registration data generated by each of the counties for administering its combined Federal, State, and County Elections.

Hawaii's mail-in voter registration form also requires redesign to accommodate new information required by HAVA. The form will also be redesigned in anticipation that imaging and intelligent character recognition technology can be incorporated into the voter registration system to further enhance the administration of elections.

**4. Minimum Requirements**

The State understands that the requirements in HAVA Title III are minimum requirements and that the State may establish election technology and administration requirements that are more stringent. Any more stringent requirement that the State imposes will comply with all Title III requirements, as well as the laws described in HAVA Section 906.

**5. Methods of Implementation Left to the Discretion of the State of Hawaii**

The State chose various means to comply with the requirements of HAVA, Title III. Specific details on the implementation methodology chosen can be found in Section 1 through 3 of this State Plan.

**6. Adoption of Voluntary Guidance by Commission**

Once the federal Election Assistance Commission (EAC) has issued its voluntary recommendations with respect to Title III, the State will consider that guidance in updating the State Plan. The State will incorporate those recommendations deemed appropriate into subsequent versions of the State Plan.

**7. Process for Adoption**

The State will stay aware of the progress of the EAC on developing the Title III recommendations. If appropriate, the State will provide feedback during the public comment period after the recommendations are published in the Federal Register and participate in public hearings regarding the recommendations.

**8. Other Activities to Improve the Administration of Elections (Section 251(b)(2))**

**a) Development of Staff**

Staff at the Office of Elections does not readily have access to continuing professional education and contact with other election administrators on the mainland. The State of Hawaii would be well served by encouraging their professional development through continuing professional education.

Requirements payments will be used to support training and professional certification.





**b) Section 261 Payments to States and Units of Local Government to Assure access for individuals with Disabilities**

The Office of Elections with assistance from the Disability and Communications Access Board (DCAB), has applied for a grant pursuant to Section 261 of HAVA. The plan calls for the following:

- Ensure that all polling places are accessible.
- Provide statewide training to voters with full range of disabilities, utilizing trainers with disabilities, to embrace privacy and independence in the voting process.
- Develop and implement training curricula and educational materials for election officials, precinct officials, and election volunteers.
- Provide individuals with the full range of disabilities with information about the accessibility of the polling places.

It is proposed that requirements payments will be used to provide a project coordinator for program development, implementation, and statewide coordination of this project.

Requirements payments will also be used for equipment, materials, and supplies to assure accessibility to the polling place for individuals with disabilities.

**B. Distribution of Requirements Payments & Eligibility for Distribution**

*Section 254(a)(2) of the act requires a description of 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 Section 254(a)(1), including a description of:*

*(A) the criteria to be used to determine the eligibility of such units or entities for receiving 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 Section 254(a)(8).*

The Office of Elections will manage activities funded by requirements payments and will monitor the performance of each initiative funded. The Office will be accountable for all expenditures, funding levels, program controls, and outcomes.

The State will follow applicable Hawaii and procurement laws regarding the distribution of the federal requirements payments.

**C. Voter Education, Election Official and Poll Worker Training**

*Section 254(a)(3) of the Act requires a description of 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.*

The State of Hawaii has always believed that voter education is essential to the development and fostering of a healthy and robust democracy. However, over the past ten years the legislature has reduced the Office's voter education budget. The impacts of these reductions are beginning to manifest themselves in increases of voter registration questions that arise on election day. For example, more and more voters are showing up at the wrong polling place or not keeping their voter registration current. This leads to voter inconveniences, longer lines, and voter frustration at the polling places.

The Office of Elections intends to improve on its existing voter education program. Currently, the voter education program consists of passive information in the form of FACTSHEETS (hard copy and electronically on the website), brochures, public demonstrations/presentations, and public service announcements (PSA) provide to voters. The goal of the voter education program is to provide voters with the information they need to register to vote, vote with confidence, and cast a vote that accurately reflects their intentions. At minimum, a voter education program should include components that inform citizens:

- How to register to vote and confirm their registration status;
- Where and when to vote;
- How to cast a valid ballot; and
- Their rights as voters.





Traditionally, voter education referred to providing voters with substantive information about the candidates and the issues, in the form of flyers and brochures. Voters need this information, but they also need information on the process of registration and voting. Information given at the polls represents the very last step in an education process that begins with civic education in the schools.

First citizens need to know the mechanics of the process, starting with registration. Registration is a prerequisite to voting and voters have the responsibility of keeping their registration current. Voters also need to know that it is their responsibility to confirm their registration and what to do if they discover they are not properly registered. In turn, it is the responsibility of the election administrators to let voters know where and when to vote. This would be accomplished through an outreach program targeted at ethnic groups, political parties, organizations, and other groups identified as need outreach.

Voters must also understand their rights in the polling place. All voters minimally should know the following:

- Not to be intimidated or denied the right to vote, and how to proceed if their rights have been violated.
- How they are able to correct a mistake.
- That special assistance, ranging from translated voting instructions, instructions in alternative formats and a translator or assistant of their choice are available on request.
- An expectation that all votes will be counted in the same manner as other votes across the state.

The Office of Elections will embark on a more active outreach program, but still retain the FACTSHEETS and brochures. The Office of Elections will use the following groups to educate the voters:

- Civic and advocacy groups, community organizations, political parties, candidates, and the media; and
- State and county election officials.

Requirements payment will be used for the purposes of materials development and outreach activities.

**D. Voting System Guidelines and Process**

*Section 254(a)(4) requires a description of how the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.*

Section 301 requires each voting system to:

- Permit voters to verify whom they voted for and make changes to their vote in a private, secret, and independent matter;
- Notify voters if they have overvoted, what happens in instances of an overvote, and provide for the opportunity to correct the ballot;
- Ensure that any notification to the voter maintains the privacy, secrecy and independence of the voter's ballot;
- Produce a permanent paper record with manual audit capacity;
- Be accessible for people with disabilities through the use of at least one (1) DRE voting system placed at each polling place;
- Provide alternative language accessibility pursuant to Section 203 of the Voting Rights Act of 1965;
- Comply with error rates in effect by the FEC; and
- Have a definition of what constitutes a vote and what will be counted.

Although the Hawaii Revised Statutes does not require the State of Hawaii to certify its voting and vote counting systems, the state uses the Federal Elections Commission (FEC) guidelines as its system standards. Any voting and vote counting system must meet these standards as well as the Hawaii specific requirements in order to qualify for selection.

**E. Hawaii's HAVA Fund Management**

*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. -- HAVA §254 (a) (5)*

Working with the legislature, the State of Hawaii will establish a new program for election reform that is kept separate and distinct from all other programs within the agency. This program will contain both federal and general funds. The federal fund portion will be used to maintain federal fund receipts and to expend federal funds. The general fund portion will be





used to budget and expend general funds representing the 5% match required under HAVA.

The Office of Elections will work with the Department of Accounting and General Services and Department of Budget and Finance to follow and enforce all mandated fiscal controls and policies.

Unspent federal funds will be set aside in the state Election Fund for payment of long-term costs of complying with HAVA.

**F. Hawaii's HAVA Budget**

*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. -- HAVA §254 (a)(6)*

At the time of writing this plan, HAVA appropriations were significantly less than amounts authorized. The following table outlines the assumptions regarding federal funding that the State used in creating its budget for HAVA activities.

(See Attachment B)

**G. Maintenance of Effort**

*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. -- HAVA §254 (a)(7)*

Consistent with HAVA §254(a)(7), in using any requirements payment, Hawaii will maintain expenditures of the State for activities funded by the payment at a level equal to or greater than the level of such expenditures in State FY 2000 -- a total of $2,299,552.

**H. HAVA Performance Goals and Measures**

*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. -- HAVA §254 (a)(8)*

The State, in collaboration with various counties, will establish performance goals and will institute a process to measure progress toward the achievement of these goals. This process will provide the various counties with the structure and continued measurable targets for accomplishment.

As detailed in Section K of this document, the State will establish an Election Reform Program Management Office (PMO) to oversee continuous management of the State Plan. This PMO, in coordination with the State and various counties personnel, will be responsible for developing and monitoring a uniform performance evaluation process. In measuring progress, the PMO will continue to revisit original goals and objectives and make adjustments as appropriate.

**I. State-Based Administrative Complaint Procedures**

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. -- HAVA §254 (a)(9) Deadline for Compliance: Prior to certification of State Plan, but no later than January 1, 2004; no waiver permitted.*





The State will develop and establish a State based administrative complaints program. The program will include provisions for alternative dispute resolution and appropriate remedy. Appropriate remedy must be in conformance with state elections law and will not include financial payments to complainants or civil penalties for election officials, even if it is determined that a violation of Title III has occurred. Remedies may include written findings that a violation of Title III has occurred, strategies for insuring that that the violation does not re-occur, and if it appears that the complaint is systemic, possible actions by the Office of Elections to eliminate or prevent future incidences.

Requirements funding will be used for the hearings requirement of this section.

**J. Effect of Title I Payments**

*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. -- HAVA §254 (a)(10)*

To date, the State of Hawaii has received $6,339,192.30 In Title I payments.

**1. §101. Payments to States for activities to improve administration of elections.**

Hawaii is eligible for approximately $5,000,000.00 under section 101. These funds will be used for activities to meet the following requirements:

- The State of Hawaii will establish a fund for the maintenance and repair of the voting and vote counting system.
- The State will also establish a fund to supplement the State's voter education efforts.
- Unspent federal funds will be set aside in the state Election Fund for payment of long-term costs of complying with HAVA.

**2. §102. Replacement of punch card or lever voting machines.**

Hawaii is eligible for approximately $1,339,192.30 under section 102, as calculated in the following chart. The State understands that there will be a pro rata reduction to the maximum payment

amount based on the total national participation under this section. State legislation makes local jurisdictions eligible to receive 50% of any federal funds "received for improvements in voting systems and equipment" under certain circumstances.

**K. Hawaii's HAVA State Plan Management**

*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). -- HAVA §254 (a)(11)*

Sound and responsible management of the State Plan will be an essential component of the State election community's future success.

Due to the complexity of HAVA and the potential variety of projects it encompasses, State of Hawaii will establish an Election Reform Program Management Officer (PMO). The Election Reform PMO will conduct ongoing management of the State Plan, including project planning (for all HAVA-related and other election reform projects) and establishing and implementing program management standards (i.e. performance measures, review and approval processes, issue/risk management, etc.). The PMO will also be responsible for other election functions, including: budget and fiscal, personnel, and office support functions. In addition to a PMO, there will be established a position of an accounts clerk to assist the PMO with HAVA accounting requirements.

**L. Changes to State Plan from Previous Fiscal Year**

*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. -- HAVA §254 (a) (12)*





This FY 2003 Plan is the State's inaugural plan under HAVA. This section will be updated in the FY 2004 Plan, reflecting changes to the Plan, as well as a summary of 2003 successes.

**M. State Plan Development and Committee**

*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 255 and section 256. -- HAVA §254 (a)(13)*

The Plan development Committee consists of the Official Observers. On Election Day the Official Observers serve as the "eyes and ears" of the public to ensure the sanctity and integrity of the election process. The Official Observers have been an integral part of the election process for over 30 years. They represent the various political parties and various community organizations that have a interest in the integrity and fairness of the election process, i.e. Chamber Commerce of Hawaii, Alu Like, League of Women Voters, Common Cause, Hawaii State Bar Association, Hawaii State Teachers Association (HSTA), etc.

Additionally, this plan was drafted with input from the various County Clerks and their staff.

Phase I of the State Plan includes actions which will bring the state into compliance with Title III of HAVA.

Phase II of the State plan includes distribution of the preliminary state plan to the citizens of the State of Hawaii to receive input and feedback. The statements received will be used to develop program plans to address the following HAVA foci:

- Comply with federal election requirements under Title III of the act;
- Improve elections for federal offices;
- Develop a state plan for election improvements as provided in the act;
- Train election officials and poll workers;
- Improve the voting system;
- Increase voter participation;

Attachment A

Title 1 Matrix

| Act Requirements | | | | | |
|---|---|---|---|---|---|
| **SEC. 101. Payments to States for Election Administration *improvements and replacement of punch card and lever voting machines*** | | | | | |
| | (a) IN GENERAL- No later than 45 days after the date of the enactment of this ACT, the Administrator of General Services Administration *shall establish a program* under the "Administrator" shall make payment to each State election official, notifies the Administrator not later than 6 months after the date of this Act that the State | | | **Refer to Hawaii Preliminary Plan** | |
| | (b) USE OF PAYMENT | | | **Refer to Hawaii Preliminary Plan** | |
| | | (1) *IN GENERAL*- A State shall use the funds provided under this section to carry out 1 or more of the following activities: | | **Refer to Hawaii Preliminary Plan** | |
| | | | (A) Complying with the requirements under Title III | **Refer to Hawaii Preliminary Plan** | |
| | | | (B) Improving the administration of elections for Federal office | **Refer to Hawaii Preliminary Plan** | |
| | | | (C) Educating voters concerning voting procedures, voting rights, and voting technology. | **Refer to Hawaii Preliminary Plan** | |
| | | | (D) Training election officials, poll workers and election volunteers. | **Refer to Hawaii Preliminary Plan** | |
| | | | (E) Develop the State plan for requirements payments to be submitted under part 1 of subtitle D of title II. | **Refer to Hawaii Preliminary Plan** | |
| | | | (F) Improving, acquiring, leasing, modifying, or replacing voting systems and technology and methods for casting and counting votes. | **Refer to Hawaii Preliminary Plan** | |
| | | | (G) *Improving* the accessibility and quality of polling places, including providing physical access for individuals with disabilities, provide nonvisual access for individuals with visual impairments, and providing assistance to Native Americans, Alaska Native citizens, and to individuals with limited proficiency in the English language | **Refer to Hawaii Preliminary Plan** | |
| | | | (H) Establishing toll-free telephone hot-lines that voters may use to report possible voting fraud and voting rights violations, to obtain general election information, and to access detailed automated information on their own voter registration status, specific polling place locations, and other relevant information. | **Refer to Hawaii Preliminary Plan** | |

State of Hawaii
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- Improve accessibility of polling places, including providing access for peoples with disabilities; and
- Improve voter fraud investigation.

Phase II is purposely left open ended to address changes and oversight in phase I compliance activities. Phase II also provides a mechanism to update the state plan and meet new needs.

The Office of Elections is committed to including all citizens in the voting process. To this end, all programs and services provided by this office will be accessible to individuals with disabilities. All advertisements for toll-free numbers, training and printed materials will include a contact number or statement that auxiliary aids and services will be provided for equal access. In addition, our web site will be designed in compliance with Section 508 of the Rehabilitation Act of 1973, as amended, so that information is available and accessible for everyone.

| | | | | |
|---|---|---|---|---|
| (2) LIMITATIONS - A State may not use the funds provided under a payment made under this section- | | | **Refer to Hawaii Preliminary Plan** | |
| | (A) to pay costs associated with any litigation, except to the extent that such costs otherwise constitute permitted uses of a payment under this section; or | | **Refer to Hawaii Preliminary Plan** | |
| | (B) for the payment of any judgment. | | **Refer to Hawaii Preliminary Plan** | |
| | (C) Use of Funds to be Consistent with Other Laws and Requirements.- In order to receive a payment under this section, the State shall provide the Administrator with certifications that- | | **Refer to Hawaii Preliminary Plan** | |
| | | (i) the State will use the funds provided under the payment in a manner that is consistent with each of the laws described in section 906, as such laws relate to the provisions of this Act; and | **Refer to Hawaii Preliminary Plan** | |
| | | (ii)the proposed uses of the funds are not inconsistent with the requirements of title III | **Refer to Hawaii Preliminary Plan** | |

Title 1 Matrix

| | | | | Act Requirements | |
|---|---|---|---|---|---|
| **SEC. 102.REPLACEMENT OF PUNCH CARD OR LEVER VOTING MACHINES.** | | | | | |
| | (a) ESTABLISHMENT OF PROGRAM | | | | |
| | | (1) IN GENERAL- Not later than 45 days after the date of the enactment of this Act, the Administrator shall establish a program under which the Administrator shall make a payment to each State eligible under subsection (b) in which a precinct within that State used a punch card voting system to administer the regularly scheduled general election for Federal office held in November 2000 (in this section referred to as a "qualifying precinct"). | | **Refer to Hawaii Preliminary Plan** | |
| | | (2) USE OF FUNDS- A State shall use the funds provided under a payment under this section(either directly or as an reimbursement , including as reimbursement for costs incurred on or after January1, 2001, under multi-year contracts) to replace punch card voting systems or lever systems (as the case may be) in qualifying precincts within that State with a voting system (by purchase, lease, or such other arrangement as may be appropriate) that- | | **Refer to Hawaii Preliminary Plan** | |
| | | | (A) does not use punch cards | **Refer to Hawaii Preliminary Plan** | |
| | | | (B) is not inconsistent with the requirements of the laws described in section 906; and | **Refer to Hawaii Preliminary Plan** | |
| | | | (C) meets the requirements of section 301. | **Refer to Hawaii Preliminary Plan** | |

| | | | | | |
|---|---|---|---|---|---|
| | | (3) DEADLINE- | | | |
| | | | (A) In General – Except as provided in subparagraph (B), a State receiving a payment under the program under this section shall ensure that all of the punch card voting system or lever voting system in the qualifying precincts within that State have been replaced in time for the regularly scheduled general election of Federal office were to be held in November 2004. | Refer to Hawaii Preliminary Plan | |
| | | | (B) WAIVER-If a State certifies to the Administrator not later than January 1, 2004, that the State will not meet the deadline described in subparagraph (A) for good cause and includes in the certification the reasons for the failure to meet such deadline, the State shall ensure that all of the punch card voting systems or lever voting systems in the qualifying precincts within that State will be replaced in time for the first election for Federal office held after January 1, 2006. | Refer to Hawaii Preliminary Plan | |
| | (b) ELIGIBILITY- | | | | |
| | | (1) In General- A State is eligible to receive a payment under the program under this section if it submits to the Administrator a notice not later than the date that is 6 months after the date of the enactment of this Act (in such form as the Administrator may require) that contains- | | Refer to Hawaii Preliminary Plan | |
| | | | (A) certifications that the State will use the payment ( ether directly or as reimbursement, including as reimbursement for costs incurred on or after January 1, 2001, under multiyear contracts) to replace punch card voting systems (as the case may be) in the qualifying precincts within the State by the deadline described in subsection (a) (3); | Refer to Hawaii Preliminary Plan | |
| | | | (B) certifications that the State will continue to comply with the laws described in subsection906 | Refer to Hawaii Preliminary Plan | |
| | | | (C) certifications that the replacement voting systems will meet the requirements of section 301; and | Refer to Hawaii Preliminary Plan | |
| | | | (D) such other information and certifications as the Administrator may require which are necessary for the administration of the program | Refer to Hawaii Preliminary Plan | |

Voting Systems Matrix Section 301

| ** SEC. 301. VOTING SYSTEMS STANDARDS<br>** Depart of Justice Enforcement Authority | | | | | Act Requirements | Plan Action |
|---|---|---|---|---|---|---|
| | (a) REQUIREMENTS- Each voting system used in an election for Federal office shall meet the following requirements | | | | | |
| | | (1) IN GENERAL- | | | Act Requirements | Plan Action |
| | | | (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall | | | |
| | | | | (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | Meets. | No action needed. |
| | | | | (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | Meets. | No action needed. |
| | | | | (iii) if the voter selects votes for more than one candidate for a single office-- (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | Meets. | No actions needed. |
| | | | (B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by | | | |

| | | | | |
|---|---|---|---|---|
| | | (I) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Meets. | No action needed. |
| | | (II) providing the voter with instructions on how to correct the ballot before it is cast and counted (*including instructions* on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error) | Meets. | No action needed. |
| | (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | | Meets. | No action needed. |
| (2) AUDIT CAPACITY- | | | **Act Requirements** | **Plan Action** |
| | (A) IN GENERAL- The voting system shall produce a record with *an* audit capacity for such system. | | Meets. | No action needed. |
| | (B) MANUAL AUDIT CAPACITY- | | **Act Requirements** | **Plan Action** |
| | | (I) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | Meets. | No action needed. |
| | | (II) The voting system shall provide the voter with *an opportunity* to change the ballot or correct any error before the permanent paper record is produced. | Meets. | No action needed. |
| | | (III) The paper record produced under subparagraph (A) shall be available as an official *record for* any recount conducted with respect to any election in which the system is used. | Meets. | No action needed. |

| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES- The voting system shall- | | **Act Requirements** | **Plan Action** |
|---|---|---|---|
| | (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | Partially meets. | The State will meet this *requirement* by providing for an ADA compliant Direct Recording Electronic (DRE) *in* each polling place. |
| | (B) satisfy the requirement of subparagraph (A) through the use of at least *one direct recording* electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Does not meet. | *The State will meet this* requirement by providing for an ADA compliant Direct Recording Electronic (DRE) in each polling place. |
| | (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined *in this paragraph).* | N/A | |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY-The voting system shall provide alternative language accessibility pursuant to the requirements of *section 203 of* the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | | Meets. | No action needed. |
| (5) ERROR RATES- The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | | Meets. | No action needed. |
| (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE- Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | | Meets. | No action needed. |

| **SEC. 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.<br>**Department of Justice Enforcement Authority | Act Requirements | Plan Action |
|---|---|---|
| (a) PROVISIONAL VOTING REQUIREMENTS- If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows: | | |
| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | Partially Meets.<br>__Individual may cast challenged ballot | The State will meet this requirement upon implementation of the provisional voting program described above. |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is-- | | |
| (A) a registered voter in the jurisdiction in which the individual desires to vote; and | Partially Meets.<br>__On Election day voter may appeal to Board of Registration.<br>__Voter may appeal decision of the Board of Registration.<br>__Voter votes a challenged ballot and appeals Board of Registration decision to the Hawaii State Supreme Court. | The State will meet this requirement upon implementation of the provisional voting program described above. |
| (B) eligible to vote in that election. | Partially Meets.<br>__Written proceedings from Board of Registration submitted to Hawaii State Supreme Court. | The State will meet this requirement upon implementation of the provisional voting program described above. |
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4). | Meets. | No action needed. |
| (4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | Meets. | No action needed. |

| | | |
|---|---|---|
| (5)(A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted. | Meets. | No action needed. |
| (B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | Partially Meets.<br>__Hawaii State Supreme Court determines whether a challenged ballot is counted or not counted.<br>__Voter is provided the Court's decision | The State will meet this requirement upon implementation of the provisional voting program described above. |

| | | |
|---|---|---|
| States described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot. | N/A | Hawaii is not a state described in §4(b) of the NVRA. |
| (b) VOTING INFORMATION REQUIREMENTS- | **Act Requirements** | **Plan Action** |
| (1) PUBLIC POSTING ON ELECTION DAY- The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office. | Meets. | The State complies in terms of posting information, but actual details posted will be adjusted. See below for further detail. |
| (2) VOTING INFORMATION DEFINED- In this section, the term 'voting information' means-- | | |
| (A) a sample version of the ballot that will be used for that election; | Meets. | No action needed |
| (B) information regarding the date of the election and the hours during which polling places will be open; | Meets. | No action needed |
| (C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; | Partially Meets. __Needs update to reach full compliance | The State will meet this requirement upon implementation of the voting information program described above. |
| (D) instructions for mail-in registrants and first-time voters under section 303(b); | N/A | The State collects social security numbers for voter registrations. |
| (E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and | Partially Meets. __Need more detail for full compliance | The State will meet this requirement upon implementation of the voting information program described above. |
| (F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | Does Not Meet. __Information not included in current posting | The State will meet this requirement upon implementation of the voting information program described above. |
| (c) VOTERS WHO VOTE AFTER THE POLLS CLOSE- Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order. | Does Not Meet. __ No procedures exist currently for this requirement | The State will meet this requirement upon implementation of the provisional voting program described above. |

| **SEC. 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.** | | | | | **Act Requirements** | **Plan Action** |
|---|---|---|---|---|---|---|
| (a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS- | | | | | | |
| (1) IMPLEMENTATION- | | | | | | |
| | | | (A) IN GENERAL- Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the computerized list), and includes the following: | | Hawaii's Statewide Voter Registration meets all of HAVA's technological requirements, but not the legal requirement that it be administered at the State level. Official voter registration records are maintained at the local level and the statewide system is administered by the largest county on behalf of other counties and the State of Hawaii. A similar situation exists for Hawaii's motor vehicle system that is also administered by the largest county and is networked with the voter registration system. | The State will meet this requirement either via memorandum of understanding with the City and County of Honolulu or development of a parallel system or both. |
| | | | | (I) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State. | See 1A. Meets. | |
| | | | | (II) The computerized list contains the name and registration information of every legally registered voter in the State. | Meets. | No action needed. |
| | | | | (III) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | Meets. Hawaii is allowed an exemption under the Privacy Act and collects social security numbers that serves as a unique record identifier. Hawaii also encrypts this SSN for voter privacy concerns when using the number in more public forums. | No action needed. |

| | | | |
|---|---|---|---|
| | (iv) The computerized list shall be coordinated with other agency databases within the State. | Meets. The SVRS is connected online to the DMV. Each record is cross-checked with DMV records upon data entry and against the Building Department's parcel numbering file in C&C Honolulu. | Will work to the extent possible with other State agencies to meet this requirement. |
| | (v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | Local election officials have read/write access to the SVRS. All records are maintained in real time fashion. | No action needed. |
| | (vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | Meets. | No action needed. |
| | (vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). | Meets. Note: Technical support is provided by the City and County of Honolulu to all local users. | No action needed. |
| | (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | Meets. The SVRS serves as the official list for all federal, state, and local elections that are administered together. | No action need. |
| (B) EXCEPTION- The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office. | | Does not apply. | Does not apply. |

| (2) COMPUTERIZED LIST MAINTENANCE- | | | Act Requirements | Plan Action |
|---|---|---|---|---|
| | (A) IN GENERAL- The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows: | | | |
| | | (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6). | Meets. | No action needed. |
| | | (ii) For purposes of removing names of ineligible voters from the official list of eligible voters– (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death | Meets. Convictions information is sent via hard copy and is processed against voter registration rolls Death information records are handled similarly. | No action needed. Computerized transfer is not practicable in light of numerous errors contained in outside agency records (i.e. records not maintained by election offices). |
| | | (iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. | N/A | Hawaii is not a state described in 4(b) of the NVRA. |
| | (B) CONDUCT- The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that– | | | |
| | | (i) the name of each registered voter appears in the computerized list; | Meets. | No action needed. |
| | | (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | Meets. | No action needed. |
| | | (iii) duplicate names are eliminated from the computerized list. | Meets. Due to use of SSN, possible duplicate records are identified immediately upon data entry. Duplicates are removed immediately on case by case basis as identified. | No action needed. |

| | | |
|---|---|---|
| (3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST- The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | Meets. The City and County of Honolulu has security protocols and procedures. Each county establishes further protocols for its own security administration | No action needed |

| Requirement | Act Requirements | Plan Action |
|---|---|---|
| (4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS- The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following: | | |
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | Meets. | No action needed. |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | Meets. Paper and electronic backups of deleted voters are maintained indefinitely on microfilm. | No action needed. |
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION- | Act Requirements | Plan Action |
| (A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS- | | |
| (i) IN GENERAL- Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes-- (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant (other than an applicant to whom clause (II) applies), the last 4 digits of the applicant's social security number. | Meets. Hawaii statutorily requires the applicant's entire social security number. | No action needed. |
| (ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER- If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | Meets. Applicants that do not possess a social security number are issued a voter number. | No action needed. |
| (iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED- The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | N/A | No action needed. |

| Requirement | Act Requirements | Plan Action |
|---|---|---|
| (B) REQUIREMENTS FOR STATE OFFICIALS- | Act Requirements | Plan Action |
| (i) SHARING INFORMATION IN DATABASES- The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | Meets. Hawaii's statewide voter registration system was connected to the statewide DMV. Each record is immediately crosschecked against DMV records upon entry. | No action needed. NOTE: Since Hawaii requires an SSN for voter registration, it is exempt from this requirement pursuant to 303(a)(5)(D) |
| (ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY- The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). | Partially meets. | No action needed. See NOTE above. However, Hawaii's DMV administrator has informed election offices of their intent to verify DMV records online with the SSA records. |
| (b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL- | Act Requirements | Plan Action |
| (1) IN GENERAL- Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if-- | N/A | |
| (A) the individual registered to vote in a jurisdiction by mail; and | Act Requirements | Plan Action |

| Requirement | Act Requirements | Plan Action |
|---|---|---|
| (B)(i) the individual has not previously voted in an election for Federal office in the State; or | | |
| (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | N/A. Hawaii has a computerized list and is exempt because it requires an SSN from all registrants. | |
| (2) REQUIREMENTS- | Act Requirements | Plan Action |
| (A) IN GENERAL- An individual meets the requirements of this paragraph if the individual-- | N/A | |
| (i) in the case of an individual who votes in person--(I) presents to the appropriate State or local election official a current and valid photo identification; or (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; | Meets. | Further training of precinct officials and voters is needed to inform of additional forms of ID that are not acceptable. |
| (ii) in the case of an individual who votes by mail, submits with the ballot-- (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter | N/A. | Applicability to vote by mail states only. |
| (B) FAIL-SAFE VOTING- | | |

| | | | | |
|---|---|---|---|---|
| | | (i) IN PERSON- An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a). | Partially meets. Hawaii has a challenged ballot process that can be adapted to conform to the provisional ballot requirement. | Further training of precinct officials and voters is needed to inform of additional forms of ID that are not acceptable. |
| | | (ii) BY MAIL- An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | N/A | Applicability to vote by mail states only. |
| (3) INAPPLICABILITY- Paragraph (1) shall not apply in the case of a person– | | | Hawaii claims inapplicability of Paragraph 1 under section (B)(2) below because it requires the entire SSN from all registrants. | |
| | (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either– | | | |
| | | (i) a copy of a current and valid photo identification; or | N/A | No action needed |
| | | (ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | N/A | No action needed |
| | (B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either– (I) a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and | | Meets | No action needed |
| | | (ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | Meets | No action needed |

| | | | | |
|---|---|---|---|---|
| (C) who is– | | | | **Plan Action** |
| | | (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | N/A | Hawaii's procedures will recognize this exemption. |
| | | (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or | N/A | Hawaii's procedures will recognize this exemption. |
| | | (iii) entitled to vote otherwise than in person under any other Federal law. | N/A | Hawaii's procedures will recognize this exemption. |
| (4) CONTENTS OF MAIL-IN REGISTRATION FORM- | | | **Act Requirements** | **Plan Action** |
| | (A) IN GENERAL- The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: | | | Hawaii will recognize any amendments made to the National form. |
| | | (i) The question 'Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | Meets. | NOTE: Exact verbatim language is not present on form. However, Hawaii's form requires a yes no affirmation of a statement (i.e. I am a citizen of the U.S., I am at least...). |
| | | (ii) The question 'Will you be 18 years of age on or before Election Day?' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on Election Day. | Meets | See NOTE above. |
| | | (iii) The statement 'If you checked 'no' in response to either of these questions, do not complete this form.' | Exceeds. | Hawaii would collect forms from persons that do not meet the requirements and inform them of rejection via letter. |
| | | (iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | Meets. | Hawaii is exempt under previous. |

| | | | |
|---|---|---|---|
| | (B) INCOMPLETE FORMS- If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | Meets. | No action needed. |

Section 402

| | | | | Act Requirements | Plan Action |
|---|---|---|---|---|---|
| SEC. 402. ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES | | | | Does Not Meet. | Hawaii will institute a grievance process to reflect the federal requirements. |
| | (a) ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES | | | | |
| | | (1) ESTABLISHMENT OF PROCEDURES AS CONDITION OF RECEIVING FUNDS- If a State receives any payment under a program under this Act, the State shall be required to establish and maintain State-based administrative complaint procedures which meet the requirements of paragraph (2) | | Does Not Meet. | Hawaii will institute a grievance process to reflect the federal requirements. |
| | | (2) REQUIREMENTS FOR PROCEDURES- The requirements of this paragraph are as follows: | | | |
| | | | (A) The procedures shall be uniform and nondiscriminatory. | Does Not Meet. | Hawaii will institute a grievance process to reflect the federal requirements. |
| | | | (B) Under the procedures, any person who believes that there is a violation of any provision of title III (including a violation, which has occurred, is occurring, or is about to occur) may file a complaint. | Does Not Meet. | Hawaii will institute a grievance process to reflect the federal requirements. |
| | | | (C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint. | Does Not Meet. | Hawaii will institute a grievance process to reflect the federal requirements. |
| | | | (D) The State may consolidate complaints filed under subparagraph (B). | Does Not Meet. | Hawaii will institute a grievance process to reflect the federal requirements. |
| | | | (E) At the request of the complainant, there shall be a hearing on the record. | Does Not Meet. | Hawaii will institute a grievance process to reflect the federal requirements. |

Attachment B

**HAVA Estimated Budget Funding by Fiscal Year**

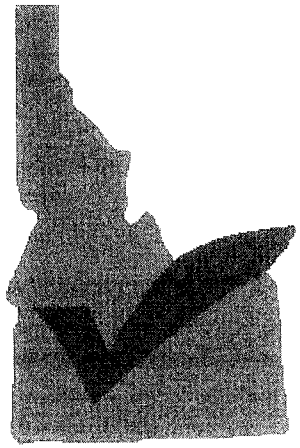
| | 2003-2004 | 2004-2005 | 2005-2006 | Total |
|---|---|---|---|---|
| **Title I Requirements** | | | | |
| Election Administration (Section 101 HAVA) | | | | |
| Establish Voter Education Services fund | | | | |
| Establish voting machine repair and maintenance fund | 5,000,000 | 0 | 0 | 5,000,000 |
| Reimbursement for replacement of punch card and lever machines. (Section 102 HAVA) | 1,339,192 | 0 | 0 | 1,339,192 |
| Sub Total | 6,339,192 | 0 | 0 | 6,339,192 |
| **Title III Requirements** | | | | |
| Sec. 301 Voting System Standards (Section 252 Requirements Payment) | 1,824,401 | 1,954,401 | 2,454,398 | 6,333,200 |
| Accessibility for voters with disabilities (compliance) | | | | |
| Accessibility for voters with disabilities (reimbursement to counties) | 100,000 | 100,000 | 100,000 | 300,000 |
| | | | | |
| Sec. 303 Statewide Voter Registration System | | | | |
| Phase One Development --research, planning & design (Section 101 HAVA Funds) | 50,000 | 20,000 | 20,000 | 90,000 |
| Phase Two - Develop and implement statewide voter registration system (Section 252 Requirements Payment) | 1,500,000 | 1,500,000 | 1,000,000 | 4,000,000 |
| Sub Total | 3,574,401 | 3,574,401 | 3,574,398 | 10,723,200 |
| **Other Election Reform Activities (Section 101 HAVA funds 2003-2004 activities; Section 101 and Section 252 HAVA fund activities 2004-2005 and beyond)** | | | | |
| Voter Education Programs | 500,000 | 500,000 | 500,000 | 1,500,000 |
| Poll worker Recruitment Statewide campaign | 250,000 | 250,000 | 250,000 | 750,000 |
| Poll worker Training | 250,000 | 250,000 | 250,000 | 750,000 |
| HAVA Oversight and Reporting | | | | |
| Operating capital outlay | 52,266 | 52,266 | 52,268 | 156,800 |
| State Management (HAVA Planning Committee) | | | | |
| HAVA Planning Committee convenes twice each year | 10,000 | 10,000 | 10,000 | 30,000 |
| HAVA Performance Goals & Measures Adoption HAVA Planning Committee hearings | 60,000 | 60,000 | 60,000 | 180,000 |
| Election Administration | | | | |
| Staff professional development program | | | | |
| Design and production of new voter registration forms and publications, translations for all election administration forms and publications. | 250,000 | 250,000 | 250,000 | 750,000 |
| Complaint Procedure §402 | 53,333 | 53,333 | 53,334 | 160,000 |
| **Total** | 5,000,000 | 5,000,000 | 5,000,000 | 15,000,000 |

| | | |
|---|---|---|
| (F) If, under the procedures, the State determines that there is a violation of any provision of title III, the State shall provide the appropriate remedy. | Does Not Meet. | Hawaii will institute a grievance process to reflect the federal requirements. |
| (G) If, under the procedures, the State determines that there is no violation, the State shall dismiss the complaint and publish the results of the procedures. | Does Not Meet. | Hawaii will institute a grievance process to reflect the federal requirements. |
| (H) The State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period, which begins on the date, the complaint is filed, unless the complainant consents to a longer period for making such a determination. | Does Not Meet. | Hawaii will institute a grievance process to reflect the federal requirements. |
| (I) If the State fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures. | Does Not Meet. | Hawaii will institute a grievance process to reflect the federal requirements. |

# STATE OF IDAHO

# STATE PLAN

As required by Public Law 107-252,
Help America Vote Act 2002, Section 253 (b)



**Idaho Votes**
**Every Vote Counts**

**Ben Ysursa**
**Secretary of State**
**700 West Jefferson**
**PO Box 83720**
**Boise, Idaho 83720-0080**
**(208) 334-2852**

**July 24, 2003**





## Introduction

The Help America Vote Act (HAVA) was enacted into law on October 29, 2002. Congress passed HAVA to make sweeping reforms in the federal voting process. The Act addresses improvements to voting systems and voter access that were identified following the 2000 Presidential election. HAVA includes requirements for a centralized voter registration database, privacy and independence in the voting process, access for people with disabilities, and voter outreach and education. As a condition of receiving federal funding, each state is required to submit a plan that meets the requirements of the Act.

## Background

Before the Help American Vote Act became the law of the land for election reform, several of the mandates were already addressed by Idaho Statutes.

In 1994 an Election Day Registration bill proposed by the Secretary of State in conjunction with the Governor's office was passed by Idaho's legislature with only one dissenting vote. Election Day Registration was in effect for the 1994 general election and exempted Idaho from the National Voter Registration Act. Exemption from the NVRA allowed Idaho to continue to remove electors who had not voted in an election over a four-year period from registration rolls. Idaho has been able to maintain cleaner registration lists and at the same time provide an individual with the ability to register at the polls on election day or at their absentee polling place. Although exempt from the NVRA, Idaho also adopted mail registration procedures and accepts the NVRA registration application. Idaho's accessible registration through Election Day Registration has eliminated the need for provisional ballots under HAVA. Every properly cast ballot on election day will be counted on election day.

Idaho formed an Election Task Force after the 2000 November election. Some of the initiatives were as follows:

- H.B. 206 authorized the use of direct electronic voting devices and provided that voting machine or vote tally system to be certified in Idaho must meet the federal election commission standards and be approved for use by an independent testing authority sanctioned by the national association of state election directors. (Ch. 272, 2001 S.L.)
- H.B. 212 was passed changing absentee voting deadline for mail requests (Ch. 236, 2002 S.L.)
- Anticipating federal election reform legislation, H.B. 213 was passed in 2002 to establish a Democracy Fund to receive federal moneys that may become available for improving Idaho's election system. (Ch. 237, 2002 S.L.) In 2003 H.B. 162 was passed specifically designating the Democracy Fund for funding and carrying out the activities mandated under the federal Help America Vote Act.

The Secretary of State requested and was given carry-over money in the 2001 Legislative Session for the purpose of voter education and election official training. To date the Secretary of State has used the money to fund the following:

- In cooperation with the county clerks, implemented a statewide integrity check of the voter registration files. (Less than 1% duplications were found statewide.)
- Produced election worker training videos for the various types of voting systems used in Idaho.
- Updated election worker procedure manuals and introduced new instructional flip charts for each pollworker position. Manuals and flip charts reflect the procedures to be followed for each type of voting system.
- Held a two-day election workshop for county clerks, election deputies and voting equipment vendors.
- Revised absentee voting instructions with diagrams to accompany absentee ballots.
- Revised voting instructions with diagrams to be placed in each voting booth at the polls. (12x18 on card stock)
- Certified four types of direct electronic voting equipment systems.



- Printed general election Voters' Guide with registration, voting and elections information for the Idaho citizen. This Guide was also available in Spanish.

The "Manual for Judges and Clerks" instructs sample ballots be posted at the polling place. Instructions on how to vote, including how to obtain a replacement ballot, and a "Card of Instructions – Crimes Against Elective Franchise" are statutorily required to be posted at the polling place. New placards with instructions for mail-in registrants and first-time voters, information regarding the date of the election and the hours during which polling places will be open, voter's rights, and an expanded "Card of Instructions – Crimes Against Elective Franchise" have been sent to the printers.

Statutory audit trails of absentee ballots are required for both F.P.C.A. applicants and the general population. The issuing officer shall keep as part of the records of his office a list of names and precinct numbers of electors making applications, the manner and time of delivery or mailing to and receipt of returned ballot, if the ballot was delivered in person, the name and address of the person delivering the same. If an absent elector's ballot is not returned or if it be rejected and not counted, such fact shall be noted on the record. These requirements already statutorily required will merely require the County Clerk to submit a report to Secretary of State on absentee voters as required by HAVA.

Idaho utilizes four types of voting systems; paper, punch card, oval ballot optical scan and arrow ballot optical scan. (See Appendix A) These voting systems meet the private and independent provision for verifying votes, enables voters to change their ballot or correct any errors, providing a paper audit trail and, through voter education, meeting HAVA requirements. Statutory requirements of assistance to voters includes curbside voting, assistance from the person of the elector's choice, no fault absentee voting, absentee ballots mailed within the county, polling place accessibility standards and physical arrangements of the polling place shall be sufficient to guarantee all voters the right to cast a secret ballot. Except for the visually impaired, the privacy of the voter and confidentiality of the ballot is preserved. Each polling place will be equipped with one voting system that shall be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired by 2006.

In 2003 H.B. 162 (See Appendix B) was enacted requiring a driver's license number or last four digits of social security number and providing for a statewide voter registration list. Voter registration forms with identification and warning requirements of HAVA have been in use since March of 2003. Mail-registrants are notified of identification documentation requirements.

Idaho's biggest challenge will be converting Idaho's 44 separate voter registration files into a uniform statewide registration file. A demanding RFP has been issued for the development, installation, operation, management and maintenance of a system meeting state and HAVA requirements.

The State of Idaho, with limited funding, statutory authorization, state and local cooperation, has been aggressive in providing voters access to registration and voting. The Help America Vote Act affords Idaho the opportunity to improve all facets of the election process.

**The Planning Process**

HAVA and companion federal funding provides the opportunity to make enhancements to Idaho's election system that will support improved voter access and strengthen the overall integrity of the elections process.

Under the direction of Secretary of State Ben Ysursa the HAVA State Planning Committee was organized and held its first meeting on February 13, 2003. After several subsequent meetings and subcommittee meetings, the Committee has completed its initial state planning process recommendations.

Secretary Ysursa stated that it was his office's goal, in a partnership with the counties, to provide long term funding to improve the election process. Although the money is for federal elections the changes would obviously improve the election process for all elections. Secretary Ysursa emphasized that HAVA did not require an immediate change of any voting system currently being used. Any purchase of a new system must meet the standards specified in the act but the



option to purchase new systems is still the subject of ongoing discussion between the Secretary of State's Office and the Idaho Association of County Recorders and Clerks (IACRC).

Idaho is in a good position to implement the HAVA requirements. Many of the election reforms required by the Act are already addressed in Idaho state laws. Idaho has a positive track record of election reform and moved quickly to prepare for the much anticipated changes in the federal election laws. It established the Democracy Fund with legislation passed by the 2002 legislature to accept HAVA funds and passed legislation in 2003 to implement HAVA in the form of House Bill 162. The bill, which was signed into law on March 13, 2003, more clearly defined the role of the Secretary of State in administering federal elections, provided for a statewide registered voter list or database, directed the Secretary of State to adopt rules or directives outlining an election grievance procedure and the definition of what constitutes a valid vote for each type of voting system being used in the state, and more clearly defined the operations of the Democracy Fund to handle funds authorized by the Help America Vote Act of 2002.

This state plan produced by the HAVA State Planning Committee identifies the priorities and specific steps that the state and counties will take to meet the mandates of HAVA. It also discusses what additional improvements may be undertaken if there is remaining or additional federal funding after all requirements have been met. It is the Committee's goal to have greater uniformity in our state and to ensure that all individuals have access to the election process. Idaho is working to ensure that our statewide voter registration database is a single, centralized, real-time database. Voter outreach and education have been top priorities and will continue to be. The Secretary of State's office conducts workshops for county clerks and voter education programs that include election worker training videos, revised voting instructions, new instructional flip-charts and updated manuals for each poll worker position. Idaho recognizes that voter participation is disproportionately low in some demographic groups, including young people and citizens with limited English language proficiency. Idaho is committed to ensure that these and all other qualified voters are afforded the opportunity to participate in the election process.

It is anticipated that this document will be revised several times to reflect the state's progress in implementing HAVA. Effective implementation of many of the items included in the plan is based on the assumption that the Help America Vote Act will be fully funded by Congress over the next 3 years. If this does not happen, parts of the state plan may not be implemented.

As Idaho moves forward in carrying out this plan, the Secretary of State will continue to encourage coordination, cooperation, and collaboration between local and state officials on the innovations and technology that will be developed in response to HAVA. The Secretary of State will also involve the political parties and civic groups working on voter participation issues.

## STATE PLAN REQUIRED ELEMENTS (HAVA Section 254)

### 1. Title III Requirements and Other Activities

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

The first five million dollars of "early out" or Title I money will be used to: (1) develop and administer a statewide voter registration system; (2) provide every polling place with a voting device accessible to those with disabilities (which would take approximately 2.5 million dollars); and (3) use any remaining money for education and training of voters, election officials and poll workers.

If fully funded, the fifteen million dollar requirement payments would be deposited into the Democracy Fund and made available for: (1) counties who want to upgrade their voting systems through a grant program and (2) ongoing maintenance of the statewide voter registration system.

The funding is over a three-year period of time. There is no fiscal limitation on spending any of these funds as long as the State Plan is in place, reviewed regularly, and updated as needed.

Idaho will not mandate a punch card buyout. HAVA does not require replacing any voting system that was used in the year 2000 but the system has to be able to be modified by 2006 to meet the requirements of HAVA. The Committee will give input on how current systems can be modified to meet those requirements. The Committee does, however, recommend that the Idaho Association of County Recorders and Clerks (IACRC) and the Idaho Association of Commissioners and Clerks discuss the feasibility of a single direct electronic recording (DRE) voting system from a single vendor by all of the counties in the State. If a single statewide



system is to be used, the state would determine the type of DRE to be purchased when a county makes the decision to change from their current system.

HAVA requires the Secretary of State to define what constitutes a vote and what will be counted for each of the voting systems currently in use in the state. The definitions along with instructions to local election officials will be put in the form of directives and will instruct officials on what should and should not be counted in the vote tabulation process.

All materials that are required by federal law to be displayed in the polling places will be reviewed by the Secretary of State and IACRC and will be used beginning with the primary election in 2004. These materials include: a notice of the date and time the polls will be open, instructions on how to cast a vote, instructions for mail-in registrants and first-time voters, general information on voting rights, instructions on how to contact the appropriate individual to report a violation and information about the prohibition on acts of fraud and misrepresentations. Preparation of the required sample ballot to be posted will be the responsibility of the local election officials.

Section 303 of HAVA requires states to implement a "single, uniform, official, centralized, interactive, computerized statewide voter registration list" that is defined, maintained and administered at the state level. Idaho's registration system will be changed from its current county based voter registration system to a single, centralized state-wide database. It will be developed by the Secretary of State's office in coordination with county clerks. Because of the time needed to develop the computer software and the data conversion from the various counties, it is the recommendation of this Committee that the State seek an extension to January 1, 2006, for implementation of the state-wide system.

Idaho has redesigned and provided each county with forms that meet the federal requirements for the voter registration and identification. These changes were required by passage of HB 162 during the 2003 legislative session.

### 2. Idaho's Distribution of Requirements Payment

*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 payments; 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). – HAVA Section 254 (a) (2)*

The HAVA State Planning Committee will meet twice each calendar year to review the payments from the fund and the general administration of the Democracy Fund. A grant program will be established to allocate funds from in the Democracy Fund to assist the counties in implementing the requirements of HAVA at the local level. The actual details and complexity of the administration of the grant program will depend upon whether or not the state purchases a statewide system or opts to allow each county to make that determination. As to the criteria for the distribution of these moneys, the Committee is considering several formula elements including: (1) ballot style; (2) number of registered voters; and (3) demonstrated need.

There is concern about funding, should there be a requirement that all counties utilize a statewide uniform voting system when there is no guarantee of federal funding. Regardless of the level of funding provided by the federal government, there will not be sufficient money available to replace all machines. Counties will have to participate and a formula will need to be developed to determine the local matching amount.

The State Planning Committee will monitor payments to local governments. Subject to federal funding of the program and in consultation with IACRC, the State will adopt a matching grant program based upon a county by county determination to participate in a statewide voting system. The voting system priorities will be established through the Secretary of State's interpretation of HAVA.

Current law leaves the purchasing decision for voting equipment to the county commissioners of the individual counties. If, through discussions with counties, a single voting system is to be established, legislation will be required authorizing the purchase of a single statewide system.

### 3. Voter Education, Election Official Education and Training and Poll Worker Training

*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 Title III. – HAVA Section 254 (a) (3)*

Education and training programs are critical to a successful implementation of election reform in Idaho. The following proposed activities will help insure that all stakeholders are comfortable with the new processes and supporting technologies that HAVA requires. The proposed activities are:

A. Design public service announcements on how to register and cast a vote and what to bring to the polls as a first time voter in Idaho.



B. Work with public schools (Jr. High through High School) to improve election education with possible mock elections. Encourage high school students to serve as poll workers.

C. IACRC to review and analyze current poll worker training tools.

D. Conduct voter seminars.

E. Form outreach partnerships with public and private organizations.

F. Develop uniform Voter information card.

G. Design a Voter Guide – possibly web-based

H. Provide bilingual voter information and recruit bilingual poll workers

I. Explore the use of a single uniform voting system statewide.

J. Develop a comprehensive schedule, planning the training and education through election day.

K. Provide voter information programs for those persons with disabilities.

L. Develop a "best practices" training program for election officials.

### 4. Voting System Guidelines and Processes

*How the State will adopt voting system guidelines and processes, which are consistent with the requirement of section 301. – HAVA Section 254 (a) (4)*

Voting system standards and processes consistent with the Voting Systems Standards identified in Section 301 will be adopted. Many voting system guidelines are in place. Some of the recommended steps include the following:

A. HAVA requires voting systems to be accessible to voters with disabilities who need special assistance in a manner that provides the same opportunity for access, participation, privacy, and independence as other voters. This requirement may be met by providing at least one DRE voting system at each polling place. A DRE voting system records votes by means of a ballot display with mechanical or electro-optional components that can be activated by the voter, such as a touch screen and audio prompts.

B. Allow for the creation of all-absentee or mail-in ballot precincts. This option would require legislation before it could be utilized. To accommodate election day registration in all-absentee ballot precincts, residents could register and vote the day of election at the office of the county clerk.

C. The Secretary of State's office and the county clerks will work with groups representing people with disabilities to attain accessibility of polling places and to assist in informing voters with disabilities about the resources available.

D. The Secretary of State will conduct a survey asking counties, with the assistance of those knowledgeable in the requirements for disability access, to review their facilities to ensure access to polling places for people with disabilities.

E. The Secretary of State will apply for a polling place accessibility grant from the U.S. Secretary of Health and Human Services (HHS) under section 261 of HAVA. These funds will be utilized to develop disability access training and education materials and to assist the counties in making their polling places more accessible.

F. Seek a more detailed definition of what is accessible for the blind and the visually impaired.

G. All voting systems currently used in Idaho have a verifiable audit trail and all newly certified voting systems must provide a verifiable audit trail as required by HAVA.

Provisional Voting (Section 302). The State is not required to implement a provisional voting system because Idaho, like 5 other states, enacted election day registration several years ago and is exempt National Voter Registration Act.

Voting Information Requirements.(Section 302) Idaho currently publishes and posts voting information in many places throughout the state – county election offices, in the statewide voters' pamphlet, on state and county elections websites. Detailed voting instructions for each separate type of voting system, including absentee, were updated in 2002. Regarding future voting information activities: (1) The Secretary of State will work with Caxton Printers to incorporate required posted information into materals supplied to the precinct i.e., date of the election and the hours during which polling places will be open, voters' rights, instructions for mail-in registrants and first-time voters, general information on Federal and state laws and how to contact the appropriate officials if these rights are alleged to have been violated. (2) The Counties would be responsible for their respective sample ballot(s). Sample ballots posted in the polling place should reflect only the candidates appearing on the ballot(s) for that particular polling place.

Computerized Statewide Voter Registration List
Section 303 of HAVA requires states to implement "a single, uniform, official, centralized, interactive, computerized statewide voter registration list" that is defined, maintained and administered at the state level. The State Planning Committee has created a technical committee to address statewide voter registration. The technical committee and the Secretary of State are



working to determine the various levels of automation currently in place in the counties, the types of systems being used, utilization of registration lists, etc., and how these local needs can be accommodated as the statewide voter registration system is developed and implemented. Currently there is no system utilized by any of the counties, which would meet all of the HAVA requirements.

Requirements for Voters Who Register By Mail.
HAVA Section 303 includes new identification requirements for voters who register by mail and who have not previously voted in an election for federal office. These requirements took effect January 1, 2003.

The Planning Committee and the office of the Secretary of State have developed and will continue to develop mechanisms (press releases, county election officials' communications, etc.) to inform the mail-in registrants and first-time voters of this new requirement prior to their going to the polls or voting absentee.

### 5. Idaho's HAVA Fund Management

*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. – HAVA Section 254 (a) (5)*

The State of Idaho created the "Democracy Fund" in 2002 separate and distinct from the State General Fund. The Committee recommends continued use of this fund to comply with HAVA. The Fund will contain federal, state and local money. State and local funds will be used to meet the requirements of the 5 percent match under HAVA.

The Secretary of State will work with the Controllers Office to follow and enforce all mandated fiscal controls and policies.

### 6. Idaho's HAVA Budget

*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. – HAVA Section 254 (a) (6)*

Section 101 money deposited into the Democracy Fund should be used in the following order of priority:

1. Statewide voter registration list
2. Accessibility – DRE in every precinct
3. Voter Information and Education
4. Poll Worker Training
5. Voting System Replacement

Grants available from U.S. Health and Human Services for polling place accessibility will be applied for by the Secretary of State to develop training materials and to assist counties in meeting their accessibility needs.

Title II money received will be used to purchase equipment that meets the requirements of Title III and will be deposited in the Democracy Fund to be made available to the various counties to upgrade or replace their voting systems. Funds will also be maintained in the Democracy Fund to provide ongoing support for the statewide voter registration system.

### 7. Maintenance of Effort

*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. – HAVA Section 254 (a) (7)*

The intent of funding provided under HAVA is to pay for new and enhanced efforts, not to supplant existing funding at the state and county level. In compliance with HAVA, Idaho will maintain expenditures of the State for election administration activities at or above $144,000, which is the amount expended in the fiscal year ended June 30, 2000.

### 8. How the State will adopt performance goals and measures.

*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. – HAVA Section 254 (a) (8)*

The Committee along with the Secretary of State's Office will develop measurable outcomes in its performance goals and monitor the success in meeting each of the following performance



goals. Each county will also have a substantial responsibility in meeting performance goals. The counties will monitor performance measures and will report to the state on a biennial basis. The Committee's goal is to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in this Plan. The following is a partial listing of areas that will be examined and for which measurable outcomes will be developed to determine the level of success the State is experiencing in the implementation of the Plan.

A. Conduct and maintain over a period of years, an exit survey of voters on the voting process.
B. Conduct surveys on non-voter participation
C. Measure the efficiency of polling places and new voting systems, i.e., wait time.
D. Utilize suggestion boxes at each precinct.
E. Gather and analyze comments from the public and political parties on use of statewide voter registration lists.
F. In the statewide grievance system – number of complaints received, resolved and unresolved.
G. Conduct a comparative analysis of voter turnout data.
H. Track the number of voter education and outreach initiatives, including: description, estimated costs, and participation.
I. The number of poll workers and election officials who are trained.

### 9. State-Based Administrative Complaint Procedures

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. – HAVA Section 254 (a) (9) – Deadline for Compliance: Prior to certification of State Plan, but no later than January 1, 2004; no waiver permitted.*

Section 402 of HAVA requires the State to create a state-based administrative complaint procedure to assure compliance with Title III of HAVA. The offices of the Secretary of State and Attorney General will develop administrative rules that will allow any person who believes there is, has been, or is about to be a violation of HAVA Title III to file a complaint. The complaint must be in writing, sworn and notarized. At the complainant's request, there will be a hearing on the record. If the State finds a violation, it will provide an appropriate remedy. If there is no violation, the complaint will be dismissed and the results will be published. The State will make a final determination on a complaint within 90 days, or if the State cannot meet this 90-day deadline, will provide under an alternative dispute resolution procedure. All procedures will be administered in a uniform and nondiscriminatory manner. (Appendix C contains a draft of the rules dealing with the complaint process.)

### 10. Effect of Title I Payments

*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. – HAVA Section 254 (a) (10)*

Section 101. Payments to States for activities to improve administration of elections.

Idaho is eligible for approximately $5 million under Section 101. These funds will be used for activities to meet the following requirements:

| | |
|---|---|
| 1. Statewide voter registration list | $1,500,000 |
| 2. Accessibility – DRE in every precinct | $2,800,000 |
| 3. Voter Education | $ 300,000 |
| 4. Poll Worker Training | $ 300,000 |
| 5. Plan development and administration | $ 100,000 |
| TOTAL | $5,000,000 |

## 11. Idaho HAVA State Plan Management

*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). – HAVA Section 254 (a) (11)*

Continuous responsible management of the plan is essential to successful implementation and accomplishment of its purposes. Due to the complexity of HAVA and the statutory charge given to the Secretary of State to be the "chief election officer" with the "responsibility to obtain and maintain uniformity in the application, operation and interpretation of the election laws," the Office of the Secretary of State will be responsible for the ongoing management and implementation of the plan. The involvement of the counties in accomplishing various projects is essential and the Secretary of State will coordinate many activities outlined in the plan with them.

The State Planning Committee is charged with monitoring HAVA activities and making recommendations on needed changes to the state plan. Initially, the Secretary of State will call the committee together at least semi-annually to report on the various activities undertaken and receive input on any change in direction the plan should take.



The state understands and agrees to comply with HAVA requirements relating to ongoing management of the State Plan. More specifically, the state agrees that it may not make any material changes in the administration of the State Plan unless the change:

- is developed and published in the Federal Register in accordance with HAVA section 255 in the same manner as the original state plan,
- is subject to public notice and comment in accordance with HAVA section 256 ; and
- takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

## 12. State Plan Development and Committee

*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 255 and section 256. – HAVA Section 254 (a) (13)*

The HAVA State Planning Committee consists of individuals representing a cross-section of election stakeholders. The Committee was selected by Secretary of State Ben Ysursa.

Members of the State Planning Committee are as follows:

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**APPENDIX A – Voting Systems in Idaho**

| | | Registered Voters | | |
|---|---|---|---|---|
| **County** | ***Precincts** | **Paper Ballot** | **Optical Scan** | **Punch Card** |
| Ada | 125 | | | 170,696 |
| Adams | 6 | 2,389 | | |
| Bannock | 52 | | 44,080 | |
| Bear Lake | 14 | 3,449 | | |
| Benewah | 11 | 4,746 | | |
| Bingham | 22 | | | 19,579 |
| Blaine | 14 | | | 10,244 |
| Boise | 6 | 4,357 | | |
| Bonner | 34 | | 19,769 | |
| Bonneville | 52 | | | 43,255 |
| Boundary | 7 | 5,270 | | |
| Butte | 4 | 2,021 | | |
| Camas | 2 | 724 | | |
| Canyon | 53 | | | 60,831 |
| Caribou | 9 | 4,250 | | |
| Cassia | 25 | | | 9,671 |
| Clark | 3 | 427 | | |
| Clearwater | 14 | | | 5,120 |
| Custer | 10 | 2,855 | | |
| Elmore | 18 | | 9,196 | |
| Franklin | 17 | | | 5,349 |
| Fremont | 14 | | 6,466 | |
| Gem | 13 | | 8,354 | |
| Gooding | 7 | | 6,557 | |
| Idaho | 26 | 9,553 | | |
| Jefferson | 17 | | | 9,775 |
| Jerome | 12 | | 8,403 | |
| Kootenai | 71 | | 58,182 | |
| Latah | 32 | | | 22,004 |
| Lemhi | 13 | | 4,835 | |
| Lewis | 8 | 2,190 | | |
| Lincoln | 6 | 1,882 | | |
| Madison | 19 | | 12,230 | |
| Minidoka | 11 | | | 8,693 |
| Nez Perce | 37 | | | 20,944 |
| Oneida | 6 | | 2,223 | |
| Owyhee | 12 | 4,363 | | |
| Payette | 10 | | | 9,399 |
| Power | 6 | | 3,586 | |
| Shoshone | 18 | | | 7,838 |
| Teton | 3 | 3,890 | | |
| Twin Falls | 45 | | 29,605 | |
| Valley | 8 | | 5,298 | |
| Washington | 11 | 4,987 | | |
| **Total** | 903 | 57,353 | 218,784 | 403,398 |
| **Per Cent** | | 9% | 32% | 59% |
| **Total Jurisdictions by Voting System** | | 16 | 14 | 14 |

*Does not include absentee precincts

**APPENDIX B – House Bill 162**

IN THE HOUSE OF REPRESENTATIVES HOUSE BILL NO. 162
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-201, IDAHO CODE, TO PROVIDE FURTHER DUTIES OF THE SECRETARY OF STATE REGARDING ELECTIONS; AMENDING CHAPTER 2, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-216, IDAHO CODE, TO PROVIDE FOR GRIEVANCE PROCEDURES; AMENDING SECTION 34-303, IDAHO CODE, TO DELETE LANGUAGE STATING THAT NO ELECTION BOARD FOR A PRECINCT SHALL EXCEED TEN MEMBERS; AMENDING SECTION 34-410, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS FOR MAIL REGISTRATION; AMENDING SECTION 34-411, IDAHO CODE, TO REVISE THE CONTENTS OF AN APPLICATION FOR REGISTRATION; AMENDING SECTION 34-416, IDAHO CODE, TO DELETE LANGUAGE REQUIRING THE OFFICIAL WHO PERSONALLY REGISTERS THE ELECTOR TO SIGN HIS NAME AND TITLE IN ATTESTATION ON THE COMPLETED CARD; AMENDING SECTION 34-437, IDAHO CODE, TO REVISE REQUIREMENTS AND RESTRICTIONS FOR FURNISHING LISTS OF REGISTERED ELECTORS; AMENDING SECTION 34-437A, IDAHO CODE, TO REQUIRE THE SECRETARY OF STATE IN CONJUNCTION WITH COUNTY CLERKS TO DEVELOP AND IMPLEMENT A SINGLE, UNIFORM OFFICIAL LIST OF REGISTERED ELECTORS AND TO PROVIDE REQUIREMENTS; REPEALING SECTION 34-438, IDAHO CODE; AMENDING SECTION 34-704, IDAHO CODE, TO REVISE DECLARATION OF CANDIDACY REQUIREMENTS; AMENDING SECTION 34-1002, IDAHO CODE, TO REVISE APPLICATION FOR ABSENTEE BALLOT REQUIREMENTS; AMENDING SECTION 34-1203, IDAHO CODE, TO PROVIDE THAT THE SECRETARY OF STATE SHALL ISSUE DIRECTIVES OR PROMULGATE ADMINISTRATIVE RULES ADOPTING STANDARDS THAT DEFINE WHAT CONSTITUTES A VOTE AND WHAT WILL BE COUNTED AS A VOTE FOR EACH CATEGORY OF VOTING SYSTEM USED IN THIS STATE; AMENDING SECTION 34-1402, IDAHO CODE, TO REVISE REQUIREMENTS FOR REGISTRATION; AMENDING SECTION 34-2401, IDAHO CODE, TO REVISE THE DEFINITION OF "BALLOT"; AMENDING SECTION 67-916, IDAHO CODE, TO REVISE THE PROCEDURES, PURPOSES AND SPENDING AUTHORITY OF THE DEMOCRACY FUND; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 34-201, Idaho Code, be, and the same is hereby amended to read as follows:

34-201. SECRETARY OF STATE CHIEF ELECTION OFFICER. The secretary of state is the chief election officer of this state, and it is his responsibility to obtain and maintain uniformity in the application, operation and interpretation of the election laws.



**The secretary of state is responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed service voters and overseas voters with respect to elections for federal office as required by section 102 of the uniformed and overseas citizens absentee voting act (42 U.S.C. section 1973 et seq.). If a national or local emergency or other situation arises which makes substantial compliance with the provisions of the uniformed and overseas citizens absentee voting act impossible or unreasonable, such as a natural disaster or an armed conflict involving United States armed forces, mobilization of those forces, including state national guard and reserve components of this state, the secretary of state may prescribe, by directive, such special procedures or requirements as may be necessary to facilitate absentee voting by those citizens directly affected who otherwise are eligible to vote in this state.**

SECTION 2. That Chapter 2, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a **NEW SECTION**, to be known and designated as Section 34-216, Idaho Code, and to read as follows

34-216. GRIEVANCE PROCEDURES. The secretary of state shall promulgate rules in compliance with chapter 52, title 67, Idaho Code, establishing a state-based administrative complaint procedure as required by the Help America Vote Act (P.L. 107-252).

SECTION 3. That Section 34-303, Idaho Code, be, and the same is hereby amended to read as follows:

34-303. APPOINTMENT OF ELECTION JUDGES BY COUNTY CLERK. The county clerk shall appoint two (2) or more election judges, one (1) of whom shall be designated chief judge, and the number of clerks deemed necessary by him for each polling place. In the event a single polling place is designated for two (2) or more precincts, an individual may serve simultaneously on the election board for two (2) or more precincts thus served by a single polling place. ~~*No election board for a precinct shall exceed ten (10) members.*~~ The precinct committeemen shall recommend persons for the position in their respective precincts to the county clerk in writing at least ten (10) days prior to the date on which any appointment shall be made and the county clerk shall appoint the judges from such lists if the persons recommended are qualified.

The chief election judge shall be responsible for the conduct of the proceedings in the polling place. Compensation for all election personnel shall be determined by the board of county commissioners, and not less than the minimum wage as prescribed by the laws of the state of Idaho.

Each election board shall contain personnel representing all existing political parties if a list of applicants has been provided to the county clerk by the precinct committeemen of the precincts at least sixty (60) days prior to the primary election.

SECTION 4. That Section 34-410, Idaho Code, be, and the same is hereby amended to read as follows:

34-410. MAIL REGISTRATION. Any elector may register by mail for any election. Any mail registration application must be received by the county clerk prior to the close of registration as provided in section 34-408, Idaho Code, provided that any mail registration application postmarked not later than twenty-five (25) days prior to an election shall be deemed timely.

The secretary of state shall prescribe the form for the mail registration application. This mail application form shall be available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

Any federal mail registration form adopted pursuant to the provisions of the national voter registration act of 1993 (P.L. 103-31) shall also be accepted as a valid registration, if such form is postmarked not later than twenty-five (25) days prior to an election. The county clerk shall prepare and issue by first class nonforwardable mail to each elector registering by mail a verification of registration containing the name and residence of the elector and the name or number of the precinct in which the elector resides.

A verification returned undeliverable shall cause the county clerk to remove the elector's card from the register of electors.

**As required by the help America vote act of 2002 (P.L. 107-252), a copy of proper identification will be required prior to issuance of a ballot to anyone who has registered by mail and has not previously voted in an election for federal office in the state. Proper identification consists of:**

**(1) A current and valid photo identification; or**

**(2) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.**

SECTION 5. That Section 34-411, Idaho Code, be, and the same is hereby amended to read as follows:

34-411. APPLICATION FOR REGISTRATION -- CONTENTS. (1) Each elector who requests registration shall supply the following information under oath or affirmation:

(a) His full name and sex.

(b) His mailing address, his residence address or any other necessary information definitely locating his residence.

(c) The period of time preceding the date of registration during which he has resided in the state.

(d) Whether or not he is a citizen.

(e) That he is under no legal disqualifications to vote

(f) The county and state where he was previously registered, if any.

(g) Date of birth.

**(h) Current driver's license number or, in the absence of an Idaho driver's license, the last four (4) digits of the elector's social security number.**

(2) Any elector who shall supply any information under subsection (1) of this section, knowing it to be false, is guilty of perjury.

(3) Each elector who requests registration may, at the elector's option, supply the ~~*following information:*~~



~~*(a) Social security number; and*~~

~~*(b) Home*~~ **the elector's** telephone number. If the ~~*home*~~ telephone number is supplied by the elector, the ~~*home*~~ telephone number shall be available to the public.

SECTION 6. That Section 34-416, Idaho Code, be, and the same is hereby amended to read as follows:

34-416. REGISTRATION CARDS. (1) The registration card shall contain the following warning:

WARNING: Any elector who supplies any information, knowing it to be false, is guilty of perjury.

(2) The elector shall read the warning set forth in subsection (1) of this section and shall sign his name in an appropriate place on the completed card. ~~*The official who personally registers the elector shall sign his name and title in attestation in an appropriate place on the completed card.*~~

(3) The registration card completed and signed as provided in this section constitutes the official registration card of the elector. The county clerk shall keep and file all such cards in a convenient manner in his office. Such cards constitute the register of electors.

SECTION 7. That Section 34-437, Idaho Code, be, and the same is hereby amended to read as follows:

34-437. FURNISHING LISTS OF REGISTERED ELECTORS -- RESTRICTIONS. (1) Each of the county clerks, upon receiving a request ~~*therefor not later than the thirtieth day before a general, special or primary election,*~~ shall supply to any individual, a current list of the registered electors of the county and their addresses, arranged in groups according to election precincts. The county clerks shall prepare an original of the above list **from the state voter registration system** at county expense. Any person desiring a copy of the original list shall be furnished the same, and the county clerk shall assess the individual an amount which will compensate the county for the cost of reproducing such copy.

(2) ~~*The county clerk may, in his sole discretion, waive the deadline provided in subsection (1) of this section; provided that the clerk shall not discriminate against any political party, candidate or individual in waiving said deadline.*~~

~~*(3)*~~ No person to whom a list of registered electors is made available or supplied under subsection (1) of this section and no person who acquires a list of registered electors prepared from such list shall use any information contained therein for ~~*commercial purposes*~~ **the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. Provided however, that any such list and label may be used for any political purpose**.

SECTION 8. That Section 34-437A, Idaho Code, be, and the same is hereby amended to read as follows:

34-437A. ~~*SECRETARY OF STATE REQUIRING*~~ **STATEWIDE** LISTS OF REGISTERED ELECTORS. **(1)** The secretary of state, ~~*may require each county clerk to submit to him, for use in compiling a statewide list of registered electors, the current list of registered electors as described in section 34-437, Idaho Code*~~ **in conjunction with county clerks, shall develop and implement a single, uniform official, centralized, interactive, computerized statewide voter registration system as required by the help America vote act of 2002 (P.L. 107-252).**

**(2) The statewide system shall contain the name and registration information of every legally registered voter in the state and assign a unique identifier to each legally registered voter in the state, and include the following:**

**(a) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the state.**

**(b) The computerized list shall contain the name and registration information of every legally registered voter in the state.**

**(c) Under the computerized list, a unique identifier shall be assigned to each legally registered voter in the state.**

**(d) The computerized list shall be coordinated with other agency databases within the state.**

**(e) Any election official in the state, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.**

**(f) All voter registration information obtained by any local election official in the state shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.**

**(g) The secretary of state shall provide such support as may be required so that local election officials are able to enter information as described in subsection (2)(f) of this section.**

**(h) The computerized list shall serve as the official voter registration list for the conduct of all elections for federal office in the state.**

**(3)** Any person desiring a copy of the statewide list of registered electors shall be furnished the same, and the secretary of state shall assess the individual an amount which will compensate the state for the cost of reproducing such copy.

No person to whom a list of statewide electors is furnished and no person who acquires a list of statewide electors prepared from such list shall use any information contained therein for ~~*commercial purposes*~~ **the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. Provided however, that any such list and label may be used for any political purpose**.

SECTION 9. That Section 34-438, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 34-704, Idaho Code, be, and the same is hereby amended to read as follows:

34-704. DECLARATION OF CANDIDACY. Any person legally qualified to hold such office is entitled to become a candidate and file his declaration of candidacy. Each political party



candidate for precinct, state, district or county office shall file his declaration of candidacy in the proper office between 8 a.m., on the ~~*tenth*~~ **twelfth** Monday preceding the primary election and 5 p.m., on the ~~*eighth*~~ **tenth** Friday preceding the primary election. All political party candidates shall declare their party affiliation in their declaration of candidacy, except candidates for nonpartisan office

Candidates who file a declaration of candidacy under a party name and are not nominated at the primary election shall not be allowed to appear on the general election ballot under any other political party name, nor as an independent candidate.

Independent candidates shall file their declaration of candidacy in the manner provided in section 34-708, Idaho Code.

SECTION 11. That Section 34-1002, Idaho Code, be, and the same is hereby amended to read as follows:

34-1002. APPLICATION FOR ABSENTEE BALLOT. Any registered elector may make written application to the county clerk, or other proper officer charged by law with the duty of issuing official ballots for such election, for an official ballot or ballots of the kind or kinds to be voted at the election. The application shall contain the name of the elector, his home address, county, and address to which such ballot shall be forwarded.

The application for an absent elector's ballot shall be signed personally by the applicant. The application for a mail-in absentee ballot shall be received by the county clerk not later than 5:00 p.m. on the sixth day before the election. An application for in person absentee voting at the absent elector's polling place described in section 34-1006, Idaho Code, shall be received by the county clerk not later than 5:00 p.m. on the day before the election. Application for an absentee ballot may be made by using a facsimile machine. In the event a registered elector is unable to vote in person at his designated polling place on the day of election because of an emergency situation which rendered him physically unable, he may nevertheless apply for an absent elector's ballot on the day of election by notifying the county clerk. No person, may, however, be entitled to vote under an emergency situation unless the situation claimed rendered him physically unable to vote at his designated polling place within forty-eight (48) hours prior to the closing of the polls.

A person may make application for an absent elector's ballot by use of a properly executed federal postcard application as provided for in the laws of the United States known as Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA, 42 U.S.C. 1973 ff, et seq.). A properly executed federal postcard application (F.P.C.A.) ~~*, if received prior to the primary election*~~, shall be considered as a request for an absent elector's ballot ~~*for both the primary and general election*~~ **through the next two (2) regularly scheduled general elections for federal office following receipt of the application**. The issuing officer shall keep as a part of the records of his office a list of all applications so received and of the manner and time of delivery or mailing to and receipt of returned ballot.

**The county clerk shall, not later than seventy-five (75) days after the date of each general election, submit a report to the secretary of state containing information concerning absentee voters as required by federal law.**

SECTION 12. That Section 34-1203, Idaho Code, be, and the same is hereby amended to read as follows:

34-1203. COUNTING OF BALLOTS -- CERTIFICATES OF JUDGES. The ballots and polls lists agreeing, the election personnel shall then proceed to tally the votes cast. Under each office title the number of votes for each candidate and such other information required by the secretary of state shall be entered in the tally books together with the total of the above figures in the manner prescribed by the secretary of state. Any ballot or part of a ballot from which it is impossible to determine the elector's choice, shall be void and shall not be counted. When a ballot is sufficiently plain to determine therefrom a part of the voter's intention, it shall be the duty of the judges to count such part.

Following the counting, the judges must post a correct copy of such results at the polling place and a copy transmitted to the county clerk.

In no event shall the results of any count be released to the public until all voting places in the state have closed on election day.

**The secretary of state shall issue directives or promulgate administrative rules adopting standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in this state.**

SECTION 13. That Section 34-1402, Idaho Code, be, and the same is hereby amended to read as follows:

34-1402. REGISTRATION. All electors must register with the county clerk before being able to vote in any primary, general, special or any other election conducted in this state. The county clerk shall determine, for each registered elector, the elections for which he is eligible to vote by a determination of the applicable code areas. ~~*The register of electors shall be maintained by the clerk in a manner which will make this information readily available to the electors and to the election officials of the various political subdivisions.*~~ The determination of tax code area shall be made for all political subdivisions including those otherwise exempt from the provisions of this chapter.

The county clerk shall conform to the provisions of chapter 4, title 34, Idaho Code, in the administration of registration for all political subdivisions within the county. The county clerk shall appoint each city clerk for any city within the county and each election official designated by a political subdivision, as an at-large registrar as provided in section 34-406, Idaho Code, except that no compensation shall be paid by the county clerk for electors registered by these special registrars.

SECTION 14. That Section 34-2401, Idaho Code, be, and the same is hereby amended to read as follows:

34-2401. DEFINITIONS. As used in this chapter:

(1) "Ballot" means any material used **or the voting surface of a direct recording electronic system** on which votes are cast for offices, ~~*and*~~ candidates and measures, ~~*which do not appear on ballot labels or a ballot which is used to record votes which are cast for offices and candidates and measures in a voting system which does not use ballot cards.*~~



(2) "Ballot card" means the tabulating card or cards of any size upon which the voter records his vote.

(3) "Ballot label" means the cards, papers, booklet or other material containing the names of offices and candidates and measures to be voted on.

(4) "Election" means all state, county, city, district and other political subdivision elections including bond issue elections.

(5) "Governing body" means the board of county commissioners of any county or the governing body of any city, district or other political subdivision elections including bond issue elections.

(6) "Measure" means a proposed law, act or part of an act of the legislative assembly or amendment to the constitution of the state of Idaho to be submitted to the people for their approval or rejection at an election. "Measure" also means other propositions which can be submitted to the voters at any election by counties, cities, districts or other political subdivisions.

(7) "Model" means a mechanically operated model of a portion of the face of the machine illustrating the means of voting.

(8) "Precinct" includes all election districts.

(9) "Voting machine" means:

(a) Any mechanical or electronic device which will record every vote cast by any voter on candidates and measures and which will either internally or externally total all votes cast on that device;

(b) Any device into which a ballot card may be inserted and which is so designed and constructed that the vote for any candidate or measure may be indicated by punching or marking the ballot card.

(10) "Vote tally system" means one (1) or more pieces of machinery or equipment necessary to examine and tally automatically paper ballots having marks placed thereon by a written mark or by a marking stamp. The examination shall be accomplished by either mark sensing or optical scanning.

SECTION 15. That Section 67-916, Idaho Code, be, and the same is hereby amended to read as follows:

67-916. DEMOCRACY FUND. (1) There is hereby created in the state treasury in the office of the secretary of state the "Democracy Fund." The purpose of the democracy fund is to provide funding for ~~*improving the election systems for the benefit of Idaho's voters*~~ **carrying out the activities for which payments are made to the state under the federal Help America Vote Act of 2002 (P.L. 107-252)** including, but not limited to:

(a) Establishing and maintaining accurate lists of eligible voters;

(b) Encouraging eligible voters to vote;

(c) Improving verification and identification of voters at the polling 8 place;

(d) Improving equipment and methods for casting and counting votes;

(e) Recruiting and training election officials and poll workers;

(f) Improving the quantity and quality of available polling places;

(g) Educating voters about their rights and responsibilities;

(h) Assuring access for voters with physical disabilities;

(i) Carrying out other activities to improve the administration of elections in the state.

(2) The democracy fund shall consist of all moneys appropriated by the legislature, federal moneys that may be available for the purpose of improving Idaho's election system, **county matching funds** and funds from any other source.

(3) ~~*Moneys in the democracy fund may be expended pursuant to appropriation and a*~~All interest earned on the investment of idle moneys in the fund by the state treasurer shall be returned to the fund.

**(4) Moneys deposited in, or remitted to, the democracy fund are continuously appropriated to the secretary of state for the purpose of paying the expenses of carrying out the activities for which payments are made to this state under the federal help America vote act of 2002 (P.L. 107-252).**

SECTION 16. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.



**APPENDIX C – Rules Governing Complaint Process**

**IDAPA 34**

**TITLE 02**

**CHAPTER 02**

34.02.02- RULES GOVERNING COMPLAINT PROCESS UNDER THE HELP AMERICA VOTE ACT

**000. Legal Authority.** This chapter is promulgated pursuant to Idaho Code § 34-216 and 42 U.S.C. § 15512. Federal law requires the Secretary of State to establish an administrative complaint procedure to remedy grievances under the Help America Vote Act, 42 U.S.C. § 15481, et seq.

**001. Title and Scope.** The rules in this Chapter shall be known as the Complaint Process Under the Help America Vote Act, and may be cited as IDAPA 34.02.02. This chapter provides a uniform, nondiscriminatory procedure for the resolution of any complaint alleging a violation of any provision of Title III of the Help America Vote Act of 2002, 42 United States Code §§ 15481, et seq., including a violation that has occurred, is occurring, or is about to occur. The procedure set out in this chapter does not apply to an election recount under Idaho Code §§ 34-2301 et seq., or to an election contest under Idaho Code §§ 34-2001 et seq., and 34-2101 et seq. A Complainant who wishes to challenge the validity of any primary, general or special election, or to determine the validity of any ballot or vote must seek relief as otherwise provided by law.

**002. Written Interpretations.**

Written Interpretations of this Chapter are available by mail from the Idaho Secretary of State.

**003. Contact Information.**

Office of Secretary of State, 8:00 a.m.–5:00 p.m. Monday through Friday, 700 W. Jefferson, Rm. 203, Boise, Idaho. The mailing address is P.O. Box 83720, Boise, ID 83720-0080. The Election Division telephone number is (208) 334-2852 and the facsimile machine is (208) 334-2282.

**004. Public Records Act Compliance.**

This Chapter and its contents are subject to the Idaho Public Records Law.

**005. Administrative Appeals.**

Administrative appeals are not available within the Secretary of State's Office.

**006. Incorporation by Reference.**

No documents have been incorporated by reference into this Chapter.

**007.-009. RESERVED.**

**010. Definitions.**

In this chapter, the following terms have the meanings indicated.

(1) "Complainant" means the person who files a complaint with the Secretary of State under this subtitle;

(2) "Respondent" means any State or County election official whose actions are asserted, in a complaint under this subtitle, to be in violation of Title III;

(3) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code §§ 15481-15485.

**011. Who May File.** Any person who believes that there is a violation of any provision of Title III may file a complaint.

**012. Form of Complaint.**

(a) Writing and Notarization. A complaint shall be in writing and notarized, signed and sworn under oath by the Complainant. The complaint must identify the Complainant by name and mailing address. The complaint must identify the section of Title III for which a violation is alleged. The complaint must set out a clear and concise description of the claimed violation that is sufficiently detailed to apprise both the Respondent and the hearing officer or arbitrator of the claimed violation. The complaint procedure is limited to allegations of violations of Title III in a federal election.

(b) Prescribed or Other Form. The Complainant may use:

(1) the form prescribed by the Idaho Secretary of State, which is available from the Idaho Secretary of State Election Division, or which may be downloaded from the Idaho Secretary of State Election Division's website found at www.idsos.state.id.us/elect/eleindex.htm; or

(2) any other form satisfying the requirements of subsection (a) of this regulation.



**013. Place and Time for Filing; Copy for Respondent.**

(a) Place for Filing. A complaint shall be filed with the Election Division, along with adequate proof of mailing or delivery of a copy of the complaint to each Respondent.

(b) Time for Filing. A complaint shall be filed within 30 days after the occurrence of the actions or events that form the basis for the complaint, including the actions or events that form the basis for the Complainant's belief that a violation is about to occur, or, if later, within 30 days after the Complainant knew, or with the exercise of reasonable diligence, should have known of those actions or events.

(c) Copy for Respondent. The Complainant shall mail or deliver a copy of the complaint to each Respondent.

(d) The Election Division shall examine each complaint, and may reject it for filing if:

(1) it is not signed and notarized under oath;

(2) it does not identify the Complainant or include an adequate mailing address;

(3) does not, on its face, allege a violation of Title III with regard to a federal election; or

(4) more than 90 days have elapsed since the final certification of the federal election at issue.

**014. Processing of Complaint.**

(a) Consolidation. The Secretary of State may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.

(b) The Secretary of State shall take all necessary steps to prepare the complaint for determination under these regulations. In the course of preparing the complaint for determination, the Secretary of State shall allow a party to proceed with the assistance of an English language interpreter if the Complainant is unable to proceed without assistance of an interpreter. It is the responsibility of the party who needs an interpreter to secure the services of the interpreter. The Secretary of State, in coordination with the parties, shall establish a schedule under which the Complainant and Respondent may file written submissions concerning the complaint, and under which the complaint shall be finally determined.

(c) Record.

(1) the Secretary of State shall compile and maintain an official record in connection with each complaint under this subtitle;

(2) the official record shall contain:

(A) a copy of the complaint including any amendments made with the permission of the Secretary of State;

(B) a copy of any written submission by the Complainant;

(C) a copy of any written response by any Respondent or other interested person;

(D) a written report of any investigation conducted by employees of the Secretary of State or Office of Attorney General who may not be directly involved in the actions or events complained of, and may not directly supervise or be directly supervised by any Respondent;

(E) copies of all notices and correspondence to or from the Secretary of State in connection with the complaint;

(F) originals or copies of any tangible evidence produced at any hearing conducted under IDAPA 34.02.02.015;

(G) the original tape recording produced at any hearing conducted under IDAPA 34.02.02.015(g) of this regulation, and a copy of any transcript obtained by any board or other party; and

(H) a copy of any final determination made under IDAPA 34.02.02.016 or 34.02.02.017.

**015. Hearing.**

(a) At the request of the Complainant, the Secretary of State shall conduct a hearing on the record.

(b) The hearing shall be conducted no sooner than 10 days and no later than 30 days after the Secretary of State receives the complaint. The Secretary of State shall give at least 10 business days' advance notice of the date, time, and place of the hearing:

(1) by mail, to the Complainant, each named Respondent, and any other interested person who has asked in writing to be advised of the hearing;

(2) on the Election Division web site; and

(3) by posting in a prominent place, available to the general public, at the offices of the Election Division;

(c) the Secretary of State or his designee shall act as hearing officer.

(d) the Complainant, any Respondent, or any other interested member of the public may appear at the hearing and testify or present tangible evidence in connection with the complaint. Each witness shall be sworn. The hearing officer may limit the testimony, if necessary, to ensure that all interested participants are able to present their views. The hearing officer may recess the hearing and reconvene at a later date, time, and place announced publicly at the hearing.

(e) A Complainant, Respondent, or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.



(f) If a person has already testified or presented evidence at the hearing and wishes to contradict testimony or evidence subsequently presented, that person is not entitled to be heard again, but may make a written presentation to the hearing officer.

(g) The proceedings shall be tape-recorded by and at the expense of the Election Division. The recording shall not be transcribed as a matter of course, but the Election Division, or any party may obtain a transcript at its own expense. If a board or party obtains a transcript, the board or party shall file a copy as part of the record, and any other interested person may examine the record copy.

(h) Any party to the proceedings may file a written brief or memorandum within 5 business days after the conclusion of the hearing. No responsive or reply memoranda will be accepted except with the specific authorization of the hearing officer.

**016. Final Determination.**

(a) If there has been no hearing under IDAPA 34.02.02.015, the Secretary of State or his designee shall review the record and determine whether, under a preponderance of the evidence standard, a violation of Title III has been established.

(b) At the conclusion of any hearing under IDAPA 34.02.02.015, the hearing officer shall determine, under a preponderance of the evidence standard, whether a violation of Title III has been established.

(c) Form of Determination.

(1) If the Secretary of State or his designee, whether acting as hearing officer or otherwise, determines that a violation has occurred, the Secretary of State shall provide the appropriate remedy. The remedy shall be directed to the improvement of processes or procedures governed by Title III. The remedy so provided may include an order to any Respondent, commanding the Respondent to take specified action, or prohibiting the Respondent from taking specified action, with respect to a past or future election; however, the remedy may not include an award of money damages or attorney's fees. The remedy may not include the denial of certification or the invalidation of any primary, general or special election, or a determination of the validity of any ballot or vote. Remedies addressing the certification of an election, the validity of an election, or of any ballot or vote may be obtained only as otherwise provided by law;

(2) If the complaint is not timely or not in proper form, or if the Secretary of State or his designee, whether acting as hearing officer or otherwise, determines that a violation has not occurred, or that there is not sufficient evidence to establish a violation, the Secretary of State shall dismiss the complaint;

(d) The Secretary of State or his designee shall explain in a written decision the reasons for the determination and for any remedy selected.

(e) Except as specified in IDAPA 34.02.02.017, the final determination of the Secretary of State shall be issued within 90 days after the complaint was filed, unless the Complainant consents in writing to an extension. The final determination shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final determination. It shall also be published on the Division's website and made available on request to any interested person.

(f) If the Secretary of State cannot make a final determination within 90 days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be referred for final resolution under IDAPA 34.02.02.017. The record complied under IDAPA 34.02.02.014 of this regulation shall be made available for use under IDAPA 34.02.02.017.

**017. Alternate Dispute Resolution.**

(a) If, for any reason, the Secretary of State or his designee does not render a final determination within 90 days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be resolved under this section.

(b) On or before the 5th business day after a final determination by the Secretary of State was due, the Secretary of State shall designate in writing to the Complainant a list of names of arbitrators who may resolve the complaint. Within 3 business days after the Complainant receives this designation, the Complainant and the Secretary of State shall arrange to choose an arbitrator from this list by striking names from the list until an arbitrator acceptable to both parties is chosen. Within 3 business days after the parties strike names, the Secretary of State shall contact the arbitrator chosen and arrange for the hearing by the arbitrator.

(c) The arbitrator may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence. In exceptional cases, the arbitrator may request that the parties present additional briefs or memoranda.

(d) The arbitrator shall determine the appropriate resolution of the complaint as set out in these regulations.

(e) The arbitrator must issue a written resolution within 60 days after the final determination of the Secretary of State was due under IDAPA 34.02.02.016. This 60-day period may not be extended. The final resolution of the arbitrator shall be transmitted to the Secretary of State and shall be the final resolution of the complaint. The final resolution shall be mailed to the Complainant, each Respondent,



and any other interested person who has asked in writing to be advised of the final resolution. It shall be published on the Election Division website and made available on request to any interested person.

# HELP AMERICA VOTE ACT

## STATE OF ILLINOIS

## STATE PLAN

**Daniel W. White**
**Executive Director**
**Illinois State Board of Elections**

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**Chair, State Planning Committee**

**August 18, 2003**

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The State Board of Elections is an independent constitutional agency responsible for general supervision over the administration of the registration and election laws throughout the State of Illinois. The Board consists of eight members – four Democrat and four Republican. The Board appoints an Executive Director and Assistant Executive Director to oversee the day-to-day activities of the State Board of Elections. The Executive Director serves as the Chief Election Officer for the state.

During its thirty year existence, the legislature has expanded the duties of the State Board of Elections to include many other aspects of the election process. The Board oversees and provides services to 110 election jurisdictions throughout the state. With the passage of The Help America Vote Act of 2002 (HAVA), the Board will be responsible for ensuring the provisions of HAVA are implemented in a proper and timely fashion.

Illinois has three bills pending which pertain to HAVA. These bills address provisional voting, voting systems, voter registration, and the "Help America Vote Act of 2002" fund which will allow Illinois to receive federal monies.

Work was already in progress in Illinois on a statewide voter registration system (and VISTA) when HAVA was merely a thought in Congress. HAVA requires each state to have a computerized statewide voter registration system which shall be interactive between the state and the election jurisdictions. The State Board of Elections is approximately eight months away from finishing the system, provided ample funding is received.

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## INTRODUCTION

The Illinois State Plan, developed by our State Planning Committee, outlines how the state will distribute and monitor the monies received and how the state will meet the requirements of the Act. It is designed to be a flexible document and subject to alteration as conditions might warrant. The majority of the items included in this plan are based on the assumption that HAVA is fully funded by Congress over the next three federal fiscal years.

Even before passage of HAVA, work was already in progress in Illinois in a number of areas which are now required under the Act. For example, construction of a statewide interactive voter registration file is well underway, with completion scheduled for 2004. In addition, legislation was recently passed and is awaiting gubernatorial action to allow for provisional voting, to authorize the use of new accessible voting systems and provide for greater voter education. These and other ongoing initiatives have been melded into our State Plan as a demonstration of the Agency's commitment to fully comply with HAVA.

The preliminary plan which follows is divided into the thirteen sections which are enumerated in Section 254 of the Act.

**Section 1. Title III Requirements Payment**

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

**Section 301 Voting Systems Standards**

(a) REQUIREMENTS: Each voting system used in an election for Federal office shall meet the following requirements:

(1) IN GENERAL

(A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall

| Requirement | Illinois Current Status | Actions Planned |
|---|---|---|
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | Partially meets | Illinois will comply with HAVA requirements. |
| (ii) provide the voter with the opportunity (in a private manner ) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | Meets | No action needed |
| (iii) if the voter selects votes for more than one candidate for a single office – (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II)notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | Partially meets. Approximately 60% precincts in Illinois have systems that utilize voter error notification. | Illinois will comply with this requirement. (with the punch card buyout new systems will have this capability) |



(B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballot), may meet the requirements of subparagraph (A)(iii) by—

| | | |
|---|---|---|
| (i) establishing voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Meets Website education program. Information included with absentee ballot. | No action needed |
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error) | Meets Instructions included with absentee ballot. Required demonstration at polling place for each in-person voter. | No action needed |

(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.

(2) AUDIT CAPACITY—

(A) IN GENERAL the voting system shall produce a record with an audit capacity for such system.

(B) MANUAL AUDIT CAPACITY--

| | | |
|---|---|---|
| (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | Meets. Those systems currently allowed by law in Illinois produce a permanent paper audit trail. | No action needed |
| (ii) The voting system shall provide the voter with an opportunity to change the | Meets. | No action needed |

| | | |
|---|---|---|
| ballot or correct any error before the permanent paper record is produced. | | |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | Meets. | No action needed |

(3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES – The voting system shall

| | | |
|---|---|---|
| (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | Does not meet. | With the passage of SB 428 Illinois will comply with the requirements |
| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Does not meet. | Illinois will comply with this requirement under the deadlines provided by HAVA. |
| (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access as outlined in this paragraph. | | Illinois will comply with this requirement. |

Language was included in SB 428 that allows for the voting system to be fully accessible to permit blind or visually impaired voters as well as physically disabled voters to exercise their right to vote in private and without assistance.

Illinois will also work with election authorities to provide sensitivity and awareness training to judges of election. The State Board of Elections shall produce a manual for judges that includes the rights of voters with disabilities that will be made available to election authorities for their use. Prior to each election, election authorities shall audit



polling places on a regular basis to ascertain if they meet accessibility standards and also publish the polling places that are accessible. Illinois will strive to have all polling places 100% accessible.

Illinois has applied for the Election Assistance for Individuals with Disabilities grant and the State Board of Elections will adhere to its standards.

(4) ALTERNATIVE LANGUAGE ACCESSIBILITY

| | | |
|---|---|---|
| The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa – 1a. | Meets. | No action needed. Under SB 428 language was included for all new voting systems. |

(5) ERROR RATES

| | | |
|---|---|---|
| The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | Meets. FEC Voting Systems Standards were adopted in Illinois. | No action needed |

(6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE

| | | |
|---|---|---|
| Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State, | Partially meets. Current statutes include definition of a vote for paper ballot and central count optical scan only. | Illinois will comply with this requirement. |

Language in SB 428 (10 ILCS 5/24A-22) provides for the definition of a vote using the following three systems: 1) punch cards, 2) for electronic precinct tabulation optical scan system (10 ILCS 5/24B-9.1), and 3) direct recording electronic voting system (10 ILCS 5/24C-10).

**Section 302 Provisional Voting and Voting Information Requirements**

(A) PROVISIONAL VOTING REQUIREMENTS – If an individual declares that such individual is registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows

| | | |
|---|---|---|
| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | Does not meet. | Illinois will comply with this requirement (10 ILCS 5/18A-5(b)(1) new). |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a affirmation by the individual before an election official at the polling place stating that the individual is – | Does not meet. | Illinois will comply with this requirement (10 ILCS 5/18A-5(b)(1) new). |
| (A a registered voter in the jurisdiction in which the individual desires to vote; and | | |
| (B) eligible to vote in that election. | | |
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4). | Does not meet | Illinois will comply with this requirement (10 ILCS 5/18A-10 new). |
| (4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) | Does not meet | Illinois will comply with this requirement (10 ILCS 5/18A-15 new). |



| | | |
|---|---|---|
| determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | | |
| (5)(A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (b) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet | Illinois will comply with this requirement (10 ILCS 5/18A-5(b)(5) new). |
| (B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet | Illinois will comply with this requirement (10 ILCS 5/18A-20 new). |

(b) VOTING INFORMATION REQUIREMENTS -

(1) PUBLIC POSTING ON ELECTION DAY - The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

(2) VOTING INFORMATION DEFINED - In this section, the term "voting information" means-

| | | |
|---|---|---|
| (A) a sample version of the ballot that will be used for that election; | Meets. | No action needed |
| (B) information regarding the date of the election and the | Meets. | No action needed |

| | | |
|---|---|---|
| hours during which polling places will be open; | | |
| (C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; | Partially meets. Currently no provisional balloting allowed. | Illinois will comply with this requirement (10 ILCS 5/18A-2 new). |
| (D) instructions for mail-in registrants and first-time voters under section 303(b); | Does not meet | Illinois will comply with this requirement (10 ILCS 5/1A-16 new). |
| (E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and | Does not meet | Administrative complaint procedure will be adopted. |
| (F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | Meets | Illinois has brochure available on Vote Fraud. |
| (c) VOTERS WHO VOTE AFTER THE POLLS CLOSE.- Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order. | Does not meet. | Illinois will comply with this requirement (10 ILCS 5/18A-5(a)(3) new). |

**Section 303 Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register By Mail.**

(a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS -

(1) IMPLEMENTATION



| | | |
|---|---|---|
| (A) IN GENERAL – Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State (in this subsection referred to as the computerized list), and includes the following: | Partially meets. | Illinois will fully meet this requirement of this section with implementation of up-dated voter registration system. Work is scheduled to be completed in spring of 2004. |
| (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State. | Does not meet. | |
| (ii) The computerized list contains the name and registration information of every legally registered voter in the State. | Does not meet | |
| (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | Does not meet | |
| (iv) The computerized list shall be coordinated with other agency databases within the State. | Does not meet | |
| (v) Any election official in the State, may obtain immediate electronic access to the information contained in the computerized list. | Does not meet | |
| (vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an | Does not meet | |

| | | |
|---|---|---|
| expedited basis at the time the information is provided to the local official. | | |
| (vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). | | |
| (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | Does not meet | |
| (B) EXCEPTION-- The requirement under subparagraph (A) shall not apply to a State in which, under a State enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office. | N/A | |

(2) COMPUTERIZED LIST MAINTENANCE

(A) IN GENERAL--The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:

| | | |
|---|---|---|
| (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.),including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 S.S.C. 1973gg-6). | Meets. Illinois implemented NVRA in 1995. | No action needed |
| (ii) For purposes of removing names of ineligible voters from the official list of eligible voters-- (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B), | Partially meets. Courts are required to inform election authority | Illinois will take appropriate action to fully comply. |



| | | |
|---|---|---|
| the State shall coordinate the computerized list with State agency records on felony status; and | on felony status. We do not receive anything from the State courts. | |
| (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg--6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death. | Does not meet. Currently there is no coordination with Vital Records to receive this information. | Illinois will take appropriate action to fully comply. |
| (iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. | N/A | |

(B)CONDUCT.-- The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that--

| | | |
|---|---|---|
| (i) the name of each registered voter appears in the computerized list; | Meets. | |
| (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; | Meets. | |

| | | |
|---|---|---|
| and<br>(iii) duplicate names are eliminated from the computerized list. | Does not meet.<br>Less than 5% of 6,000,000 registered voters are possible duplicates. | The new system will meet this requirement when implemented in 2004. |

(3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST

| | | |
|---|---|---|
| The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | Meets. | No action needed |

(4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS --The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:

| | | |
|---|---|---|
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote | Meets. | No action necessary |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | Meets. | No action needed |

(5) VERIFICATION OF VOTER REGISTRATION INFORMATION



(A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS -

| | | |
|---|---|---|
| (i) IN GENERAL.--Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes--<br>(I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or<br>(II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | Partially meets.<br>Currently last four digits of social security number is required. | Illinois will comply with this requirement (10 ILCS 5/1A-16 new). |
| (ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER.-- If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrant, | Partially meets.<br>Illinois provides free of charge a photo identification through the Secretary of State's office for anyone not qualifying for a driver's license. | The new voter registration system will provide a unique identifier. |

| | | |
|---|---|---|
| the number assigned under this clause shall be the unique identifying number assigned under the list. | | |
| (iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED.--The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | Partially meets. Currently Illinois law requires 2 forms of identification for voter registration, not currently applicable to mail registrants. | The State Board of Elections will adopt necessary measures to assure validity. |

(B) REQUIREMENTS FOR STATE OFFICIALS --

| | | |
|---|---|---|
| (i) SHARING INFORMATION IN DATABASES.--The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | Partially meets | Chief state election official will make contact as necessary |
| (ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY.--The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph C)). | Does not meet | As required, the Secretary of State will be responsible for this mandate in conjunction with the Office of Social Security under the Social Security Act. |

(b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL -

(1) IN GENERAL.--Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c) and subject to paragraph (3), a



State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if—

| | | |
|---|---|---|
| (A) the individual registered to vote in a jurisdiction by mail; and | | |
| (B) (i) the individual has not previously voted in an election for Federal office in the State; or<br><br>(ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | Does not meet. | Illinois will comply with this requirement (10 ILCS 5/1A-16) new). |

(2) REQUIREMENTS

(A) IN GENERAL --An individual meets the requirements of this paragraph if the individual--

| | | |
|---|---|---|
| (i) in the case of an individual who votes in person-<br>(I) presents to the appropriate State or local election official a current and valid photo identification; or<br>(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or | Does not meet. Current Illinois law requires only that a first-time voter who registers by mail must vote in person. | Illinois will comply with this requirement (10 ILCS 5/1A-16 new). (SB 428 provides that a voter only has to submit ID if he/she doesn't have a driver's license number or social security number.) |
| (ii) in the case of an | Does not meet. | Illinois will comply with this |

| | | | |
|---|---|---|---|
| | individual who votes by mail, submits with the ballot-<br>(I) a copy of a current and valid photo identification; or<br>(II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. | | requirement. |

(B) FAIL-SAFE VOTING -

| | | | |
|---|---|---|---|
| (i) | IN PERSON.- An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(I), may cast a provisional ballot under section 302(a). | Does not meet. Under the provisions of NVRA, Illinois does not permit first-time mail registrants to vote absentee by mail. | This provision is partially met with new provisional voting language (10 ILCS 5/18A-5), and will be more fully addressed in the fall legislative session. |
| (ii) | BY MAIL.- An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail in accordance with section 302(a). | | |

(3) INAPPLICABILITY - Paragraph (1) shall not apply in the case of a person-

| | | | |
|---|---|---|---|
| (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either--<br>(i) a copy of a current and valid photo | | Does not meet. | Illinois will comply with this requirement (10 ILCS 5/1A-16 new). |



| | | | |
|---|---|---|---|
| | identification; or<br>(ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | | |
| (B) (i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either-<br>(I) a driver's license number; or<br>(II) at least the last 4 digits of the individual's social security number; and | | Partially meets. Last 4 digits of social security number is a requirement. | |
| (ii) with respect to whom a State or local election official matches the information submitted under clause (I) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | | No means in place to obtain this information. | Illinois will meet this requirement with the implementation of the new voter registration system. |
| (B) who is-<br>(i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-et seq.);<br>(ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii); or<br>(iii) entitled to vote otherwise than in person under any other Federal law. | | Meets. | |

(4) CONTENTS OF MAIL-IN REGISTRATION FORM

(A) IN GENERAL.- The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following:

| | | | |
|---|---|---|---|
| (i) | The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | Does not meet. | Illinois will comply with this requirement (10 ILCS 5/1A-16 new). Registration forms will be updated and sent through the Joint Committee on Rules for approval after enactment of SB 428 which adds additional information to registration form. |
| (ii) | The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day. | | |
| (iii) | The statement "If you checked 'no' in response to either of these questions, do not complete this form" | | |
| (iv) | A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | | |

(B) INCOMPLETE FORMS.- If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(I), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner



to allow for the completion of the registration form prior to the next election for Federal office (subject to State law).

Deadline for Compliance of Section 303 Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail: January 1, 2004. Deadline may be extended with good cause.

Illinois has maintained a limited statewide voter registration database since 1988. An update and modernization of that system began in 1999 and was in process before the Help America Vote Act was passed.

Currently each election authority maintains a separate database and submits an updated electronic copy of the file five times each year. There is no means of checking for duplicates. A system is in place to notify a previous election authority when a voter registers in a different jurisdiction. Data entry and conversion to current state requirements is not uniform. Two of the 110 jurisdictions do not maintain voter information on electronic media.

The Illinois Data Export Application (IDEA) and the State Board of Elections in-house Voter Information System Technical Application (VISTA) will work together to provide the tools needed by both the state and local jurisdictions to create a current, uniform and accurate voter registration list which will comply with HAVA.

The new system, as originally envisioned, is not fully HAVA compliant. However, it was anticipated when the programs were written that updates would be required and IDEA was designed so that such changes and updates can be implemented with a minimum disruption to the system. The completed voter registration system will be "single, uniform, official, centralized and interactive" as required by HAVA.

Additionally, the SBE is in the process of updating the Illinois mail-in registration form. First-time voters who register by mail, under HAVA, must provide a copy of proof of identity along with the application for registration or be prepared to provide that information at the polling place on election day. The process for identifying first-time voters who register by mail is in current Illinois rules and regulations that require such voters to vote only in person. The mail-in registration application form must be updated as well to include the additional information required by HAVA. The rules will be reviewed and updated as necessary to comply with HAVA.

**Section 402. Establishment of State-based Administrative Complaint Procedures to Remedy Grievances.**

(a) establishment of state-based administrative complaint procedures to remedy grievances --

| | | |
|---|---|---|
| (1) ESTABLISHMENT OF PROCEDURES AS | Does not meet | Such a procedure will be adopted by rule. |

| | | |
|---|---|---|
| CONDITION OF RECEIVING FUNDS.-- If a State receives any payment under a program under this Act, the State shall be required to establish and maintain State-based administrative complaint procedures which meet the requirements of paragraph (2) | | |
| (2) REQUIREMENTS FOR PROCEDURES.-The requirements of this paragraph are as follows:<br>(A) The procedures shall be uniform and nondiscriminatory.<br>(B) Under the procedures, any person who believes that there is a violation of any provision of title III (including a violation which has occurred, is occurring, or is about to occur) may file a complaint.<br>(C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint.<br>(D) The State may consolidate complaints filed under subparagraph (B).<br>(E) At the request of the complainant, there shall be a hearing on the record.<br>(F) If, under the procedures, the State determines that there is a violation of any provision of title III, the State shall provide the | | |



| | | |
|---|---|---|
| appropriate remedy.<br>(G) If, under the procedures, the State determines that there is no violation, the State shall dismiss the complaint and publish the results of the procedures.<br>(H) The State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination.<br>(I) If the State fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures. | | |

**Section 2. Illinois' Distribution of Requirements Payment**

*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).*

The State Board of Elections will retain all responsibility for the requirements payments. It will receive, expend and account for all HAVA monies. The SBE will work with the election authorities to determine needs and spending priorities. Funds will be distributed based on availability and set to the priorities established in this plan.

The State Board of Elections will manage the requirements payments and will account for all receipts and expenditures. Election authorities will either be reimbursed for qualifying expenditures or will be awarded grants depending on individual circumstances. However, election authorities will be responsible for financial needs that exceed the specified requirements.

The State Board of Elections will ensure all payments are accounted for in accordance with the performance goals and measures adopted under Section 8.



**Section 3. Voter Education Programs**

*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.*

**I. Voter Education**

Voter education is essential to any plan for election reform. The purpose of the voter education program must be to increase voter familiarity with the requirements to register to vote, the type of voting equipment utilized and to inform voters of their rights and responsibilities at the polling place. Voter education should also help to increase voter interest in the election, help attract poll workers, and decrease the voter error rate.

The voter education program will address all aspects of the voting public with specific emphasis in reaching senior citizens, young adults, minority voters, and voters with disabilities. It will include both pre-election and election day strategies including how to register to vote, how to locate polling places, how to cast a ballot, and voters rights in the polling place.

Pre-election strategies will include public service announcements in all media formats, electronic forms of voter education, community partnerships with outreach organizations, demonstrations of the voting equipment at venues throughout the election jurisdiction, and programs geared toward use in the classroom. The State Board of Elections will seek participation from other state agencies (mainly the Secretary of State) in pursuing public service announcements. The State Board of Elections will seek assistance from the Department of Rehabilitation Services, Department of Aging and Department of Human Services in providing educational materials to clients of those departments.

Pre-election day strategies will include demonstrations of the voting equipment. Election day strategies will include having informational posters available in polling places, and printed information regarding voting equipment usage provided in the polling place. We encourage election authorities to request vendors to provide to each registered household in that jurisdiction a guide explaining operation of their particular voting equipment. The State Board of Elections will continue to enhance its voter education material already on its website and we encourage election authorities to do the same.

The State Board of Elections will develop voter education programs in partnership with all stakeholders, including local election authorities, community representatives, and advocacy organizations. As the Secretary of State, Division of Motor Vehicles, registers many voters, information should be provided at these sites educating voters as they register.

**II. Election Administrator Training**

The State Board of Elections will establish a program to ensure that there is adequate knowledge of the state election laws and the implementation of these laws at the local level. This may include developing a training and certification program for election administrators throughout the state.

In developing this program, the State Board of Elections will work in conjunction with both the County Clerks Association and the Association of Election Commission Officials who can facilitate this type of education and training program for their members. This program should include a framework for providing practical learning experiences in the administration of elections. It must also include requirements of HAVA to ensure uniform implementation throughout the state.

**III. Poll Worker Training**

The State Board of Elections will establish uniform requirements for poll worker training throughout the state and will oversee the implementation of this training. The local election authority should be responsible for conducting most of the training programs to ensure the unique aspects of the election in each jurisdiction are clearly explained to the poll worker. The compensation for attending election day training should be increased to encourage poll workers to attend this important learning program.

Audio-visual aids will be used for the training program. As part of the training, the program will include a portion on sensitivity for voters with disabilities. In establishing a uniform training program for poll workers, the State Board of Elections will serve as the liaison among all election authorities within the state to ensure participation in the training development and coordination of the information. In implementing this training program, the State Board of Elections will provide a training plan to the local election authority and will assist, where necessary, in the execution of the training. Training manuals will include, but not be limited to, information about the nature of various disabilities, the rights of voters, access to and maneuverability within polling places and the use of machines and ballots.



**Section 4. Voting Systems Guidelines and Processes**

*How the state will adopt voting system guidelines and processes which are consistent with the requirements of section 301.*

Illinois adopted procedures in 1978 that allows no voting system to be used in the state unless approved for use by the State Board of Elections in accordance with rules set forth. The requirements for approval are found in the Illinois Election Code, 10 ILCS 5/24A-16 and 24B-16 as well as in State Board of Elections Rules and Regulations, 26 Illinois Administrative Code, Chapter 1, Section 204.10 - 204.180.

Below is a summary of voting systems currently in use in Illinois.

| System | # of Election Jurisdictions | Current # of Precincts | In-Precinct Counting |
|---|---|---|---|
| Punch Card | 90 | 4,355 | None |
| PBC 2100 (punch card) | 2 | 5,170 | 2 |
| Accu-vote Optical Scan | 10 | 1,225 | 10 |
| Optical Scan M100 | 3 | 717 | 3 |
| Marksense Optech IV-C | 3 | 155 | None |
| Marksense Optech III-PE | 2 | 146 | 2 |

Many of the above systems are non-compliant with respect to HAVA. However, with the punch card buyout Illinois will become compliant as well as pursue a voter education program which would permit jurisdictions to maintain central count systems if desirable.

As required in SB428 the State Board of Elections, in evaluating the feasibility of any new voting system, will accept public comment from persons in the disabled community.

**Section 5. Illinois HAVA Fund**

*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.*

With the passage of SB 428 in the spring 2003 legislative session, the Help Illinois Vote Fund to implement HAVA was established. (The bill is awaiting gubernatorial approval at this writing.) This provides for a special fund within the State Treasury to receive federal funds under the Help America Vote Act of 2002. It authorizes appropriation from the Fund solely to the State Board of Elections for use in accordance with the federal Act. Illinois plans to use interest generated from the Fund to help fund future needs in implementing HAVA.

As part of the SBE's FY04 appropriation, language is included which gives the State Board of Elections spending authority to use the funds in accordance with the Help America Vote Act of 2002.

The SBE Executive Director and Chief Fiscal Officer will work with the State Comptroller and State Treasurer to follow and enforce all mandated fiscal controls and policies.



**Section 6. Illinois Proposed HAVA Budget**

*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.*

It is apparent that the costs of implementing the "Help America Vote Act" will not be fully covered by the monies authorized in the Act. Priorities must be set and basic requirements of the Act must be met. The following chart reflects an assumption of full funding of the monies authorized.

The State Board of Elections and election authorities encourage Congress to fully fund this mandate.

**Illinois Budget for HAVA**

| | Federal Authorization To All States | Federal Appropriation To Illinois | Federal Unfunded | State Match (nothing appropriated to date) |
|---|---|---|---|---|
| **Section 101** | $349,182,262 | $11,129,030 | | |
| Provisional Voting | | | | |
| Computerized voter registration | | | | |
| Education & training | | | | |
| Administrative Complaint Procedure | | | | |
| Accessible systems and Polling places | | | | |
| Technology grants | | | | |
| **Section 102** | $300,317,738 | $33,805,617 | | |
| Punch card buyout - $3,192.22 per precinct | | | | |

| Other | Federal Authorization | Federal Appropriation | Federal Unfunded | |
|---|---|---|---|---|
| Election Assistance Commission | $10,000,000 | $2,000,000 | $8,000,000 | |
| Requirements Payments | $1.4 billion | $830,000,000 | $1,391,700,000 | |
| Access disability grants | $50,000,000 | $13,000,000 | $37,000,000 | |
| Technology grants | $20,000,000 | $0 | $20,000,000 | |
| Pilot Program test grants | $10,000,000 | $0 | $10,000,000 | |



| | | | | |
|---|---|---|---|---|
| Protection & advocacy payments (re: disabled) | $10,000,000 | $2,000,000 | $8,000,000 | |
| Student & Parent Mock Election | $200,000 | $0 | $200,000 | |
| Help America Vote College program | $5,000,000 | $1,500,000 | $3,500,000 | |
| Help America Vote foundation | $5,000,000 | $1,500,000 | $3,500,000 | |

## Section 7. Maintenance of Effort

*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 FY00, Illinois had an appropriation of $550,000 for the uniform registration formatting project (now called the statewide voter registration system project). This amount has been appropriated in the FY04 budget.

The only other qualifying expenditure was for training manuals. The FY00 appropriation for this was $7,800. Monies in the amount of $9,100 have been requested for the FY 04 budget to maintain this level of expenditure.



## Section 8. Performance Goals and Measures

*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.*

A review of applicable State Laws and Administrative Codes will be undertaken to determine any changes necessary to accomplish the goals of the Help America Vote Act and to ensure compliance through reporting by Election Authorities. The State Board of Elections will revise any existing reporting procedures to include measures of performance for requirements under the Act.

| Requirement | Time frame | Goal | Measures |
|---|---|---|---|
| Punch Card Buyout | Jan 1, 2006 (plan on requesting waiver) | Replace systems in 10,590 eligible precincts | SBE maintains a database of voting systems used by each county, which will be expanded to include critical elements. |
| Accessible voting machine | Jan 1, 2006 | Equipment which allows a blind voter to vote unassisted in each polling place | Criteria for accessibility certification will be developed to track compliance. |
| Polling place accessibility | Nov 2006 | Provide accessible polling places for each precinct | Election Authorities report polling place accessibility to SBE through surveys. Survey will be revised to insure compliance. |
| Provisional ballot | Jan 2004 | Develop procedures for voting and processing ballots Develop system to inform voter of outcome | Provisional ballots must be tracked for the purposes of adding to final canvass and reporting to provisional voter. |

| Requirement | Time frame | Goal | Measures |
|---|---|---|---|
| Definition of vote | Jan 2004 | Provide standards for recount procedures | A means of reporting election contests will be developed. |
| State-wide voter registration system | Jan 1, 2006 (plan on requesting waiver) | Provide means for uploading voter information from counties to state-wide database | Ratio of counties with equipment and procedures in place to upload information |
| Grievance procedure | Jan 2006 | Provide a means of receiving, reporting and resolving complaints from voters | Track complaints and resolutions through an annual report. |
| Education and Training | Jan 2004 | Provide voter education and enhanced election judges training. | Report voter education through election authority surveys. Election Authorities currently report the # of Election Judges who have tested for each election. |

The State Board of Elections will assist election authorities to develop standard reports and procedures to measure critical areas of each requirement: scope, schedule, and resources. Reporting requirements will assist SBE in collecting data to report on performance.

- SCOPE: Measure size of project (# of precincts, registered voters, polling places, etc)
- SCHEDULE: Target start and stop dates, actual start stop dates, periodic review of progress (% completed )
- RESOURCES: Measure personnel and existing resources committed to each project as well as financial resources needed to complete the project.



**Section 9. State-Based Administrative Complaint Procedures**

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

Section 402 of HAVA requires the State to create a state-based administrative complaint procedure to assure compliance with Title III of HAVA. The offices of the Illinois State Board of Elections through consultation with the Office of the Illinois Attorney General will develop administrative rules that will allow any person who believes there is, has been, or is about to be a violation of Title III of HAVA to file a complaint.

The complaint must be in writing, sworn and notarized. At the complainant's request, there will be a hearing on the record. If the State finds a violation, it will provide an appropriate remedy. If the State determines a violation has not occurred, the complaint will be dismissed and the results will be published. The State will make a final determination on a complaint within 90 days, unless the complainant consents to a longer period for making such a determination.

The 90-day period begins on the date the complaint is filed. If the State cannot meet this 90-day deadline, the complaint will be resolved within 60 days under an alternative dispute resolution procedure. This 60-day period for resolving a complaint under an alternative dispute resolution process begins after the 90-day period expires. The record and other materials from any proceedings conducted under the complaint procedures shall be made available for use under the alternative dispute resolution procedures. All procedures will be administered in a uniform and nondiscriminatory manner.

**Section 10. Effect of Title I Payments**

*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.*

As of this writing, Illinois has received approximately $44 million, although none is in the special HAVA fund as it has not yet been signed into law.

Title I money (Section 101 – payments to states to improve administration of elections) received will be used will be used to comply with the requirements under Title III including:

1) the completion of a statewide voter registration system as provided in section 303 of the Act;
2) educating voters concerning voting procedures, voting rights, voting technology
3) training of election officials, poll workers and election volunteers
4) preparation of the state plan
5) providing toll free number for election jurisdictions to provide access for provisional voters to determine if their votes were counted or SBE website access for provisional voter to access for determination
6) establishing an administrative complaint procedure to remedy grievances as well as provide for a toll free number for voters to use to report possible voting fraud and voting rights violations
7) improving the accessibility of polling places as well as purchase of accessible voting equipment.

Title I money (Section 102) will be used to replace punch card machines in 10,590 precincts. The punch card buyout task force was assigned to survey the election officials in jurisdictions that used punch card systems for the November 2000 general election. Based on the results the task force found all of these jurisdictions agreed Illinois should participate in the program as established by HAVA. The task force recommends that punch card buyout funds be distributed to each eligible local election jurisdiction based upon the number of precincts in that jurisdiction that used punch cards for the November 2000 election.

It is quite obvious the amount of funding which will be received will not cover the full costs of changing voting systems in each jurisdiction.



**Section 11. Illinois State Plan Management**

*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).*

Illinois will manage the ongoing plan in the manner described in the State Plan. No material changes will be made to the Plan unless the change is adopted in conformance with language found in Section 254 (a) (11) of the Help America Vote Act 2002.

The Chief Election Official will conduct meetings with the HAVA State Planning Committee and its task forces as necessary to discuss the progress and objectives of the State Plan.

The Chief Election Official will comply with the HAVA deadlines for submitting HAVA state plans in future years.

The Chief Election Official will comply with all state planning requirements for implementing new information technology.

**Section 12. Changes to Plan from Previous Fiscal Year**

*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.*

This FY 2003 State plan is Illinois' first plan under HAVA. This will be updated in the FY 2004 plan, reflecting changes to the plan as well as a summary of 2003 progress.



**Section 13. State Planning Committee**

*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.*

Section 255 of HAVA instructs the chief state election official to develop the state plan through a committee of appropriate individuals, including the chief election officials of the two most populous jurisdictions, other election officials, stakeholders (such as representatives of groups of individuals with disabilities) and other citizens.

Pursuant to section 255, the Executive Director of the State Board of Elections selected the committee members based upon a broad spectrum. The Committee held its first meeting March 3, 2003 in Springfield, Illinois. The committee broke into eight task force groups as follows: 1) education and training programs, 2) performance goals and measures, 3) requirements money, 4) administrative complaint procedure, 5) punch card buyout, 6) access for voters with disabilities, 7) what constitutes a vote, and 8) federal funding. At the first meeting, a chairman was assigned to each committee, along with a SBE staff contact person. The task force groups met either in person or by conference call and corresponded amongst themselves. All materials distributed at the first meeting were placed on the SBE website in accessible text files. Draft reports were due May 15 which were then distributed to the full committee for review and response. After receiving comments from the committee by June 6, a full draft report was prepared and presented to the eight member Board for approval on July 1. The draft State plan was available on the Board's website and published for public comment for 30 days. The amended state plan will be submitted to the Board on August 18 for final approval and then eventual submission to the Election Assistance Commission for posting in the Federal Register. The full committee may meet again as necessary.

Daniel W. White, Executive Director, Illinois State Board of Elections,
Ronald D. Michaelson, Chairman of the State Planning Committee

Members of the State Planning Committee are:

Matt Abrahamson, Dept. of Rehabilitation Services
Paul Anderson, Kendall County Clerk
Steve Bean, Macon County Clerk
Tom Benzinger, Access Living
Derek Blaida, City of Chicago
Bill Blessman, Mason County Clerk
Bernice Bloom, Citizen
Tonia Bogener, Office of the Attorney General
Hollister Bundy & Pat Hughes, Inclusion Solutions, Inc.
Alison Burnett, Office of Republican House Leader
Ray Campbell, Illinois Council of the Blind

Cynthia Canary, Illinois Campaign for Political Reform
David Carlin, Illinois Republican Party
Rance Carpenter, Department of Aging
Bruce Clark, Kankakee County Clerk
Linda Crotchett, Jersey County Clerk
Dan Curry, Office of U.S. Senator Peter Fitzgerald
Lisa Danna, Office of the Attorney General
Honorable Vince Demuzio, State Senator
Gwen Gillenwater, Coalition of Citizens with Disabilities in Illinois
Laurie Dittman, Chicago Mayor's Office for People with Disabilities
Bill Dunn, Citizen
Dave Eldridge, Office of the House Speaker Michael Madigan
Krista Erickson, Lake County Center for Independent Living
Veronica Ford, Citizen
Alan Gitelson, Professor of Political Science, Loyola University - Chicago
Lance Gough, Chicago Board of Election Commissioners
Debbie Grant, Springfield Branch NAACP
Barb Gross, Morgan County Clerk
Harvey Grossman, ACLU
Steve Handschu, National Federation of the Blind of Illinois
Tom Hanson, Mercer County Clerk
Carol Anne Harwell, NAACP
Jan Holcomb, Mental Health Assoc. IL
Sharon Holmes, DeKalb County Clerk
Jo Holzer, Council for Disability Rights
Bill Houlihan, Office of Senator Richard Durbin
Roger Huebner, General Counsel, IL Municipal League
Becky Huntley, Ogle County Clerk
John Jackson, Public Policy Institute, Southern Illinois University - Carbondale
Robin Jones, Great Lakes DPTAC
Connie Kaplan, Chicago Board of Election Commissioners
Jan Kralovec, Office of Cook County Clerk
James Lewis, East St. Louis Board of Election Commissioners
Barb Lippai, League of Women Voters
Bill Looby, AFL/CIO
Bill Luking, Attorney
Rene Luna, Access Living
Todd Maisch, IL Chamber of Commerce
Peggy Ann Milton, McLean County Clerk
Saul Morse, Illinois State Medical Society
Peg Mosgers, Office of Senate Republican Leader Frank Watson
Zena Naiditch, Equip for Equality, Inc.
Doreen Nelson, DuPage County Election Commission
Sara Nelson, Office of U.S. Senator Richard Durbin
David Orr, Cook County Clerk
Pat Plotner, former employee of the State Board of Elections
Gail Poundstone, Illinois Coalition on Aging



Kent Redfield, Department of Political Science, University of Illinois - Springfield
Larry Reinhardt, Jackson County Clerk
Randy Reitz, Bond County Clerk
Hugo Rojas, Illinois Executive Director & Midwest Program Rep., Common Cause
Cynthia Rossman, Office of Republican House Leader Representative Tom Cross
Steve Rotello, Office of the Attorney General
Bob Saar, Executive Director, DuPage County Election Commission
Mary Ann Scanlan, Office of the Secretary of State
Kathie Schultz, McHenry County Clerk
Yvonne Smith, former employee of the State Board of Elections
Nancy Strain, Executive Director, Rockford Board of Election Commissioners
Jim Tobin, National Taxpayers United of IL
Jeff Trigg, Executive Director - Libertarian Party of Illinois
Rob Uhe, Illinois Democrat Party
Maria Valdez, MALDEF
Mark Von Nida, Madison County Clerk
Karen Ward, Equip for Equality
Ralph Yaniz, American Association of Retired Persons
Karen Zaiz, IL Network of Centers for Independent Living
Al Zimmer, former State Board of Elections employee
Jill Zwick, Office of Secretary of State

**Conclusion**

We want to thank all parties for their input and comments regarding the Illinois State Plan. All comments were reviewed and the plan was revised accordingly.

There were many comments received regarding cumulative voting and instant runoff capability for voting systems. At this time, Illinois has no current statutory language to require this in our certification process. We have indicated that staff will include on the application for certification a yes/no question for the vendor to indicate if the system has the capability for cumulative voting and instant runoff. Should legislation be passed that would require either, the vendors will be required to revise their equipment.

Many comments were received regarding the education of poll workers as well as the voting public. The State Board of Elections will include language in its training manuals on the education of both. Once SB 428 is signed, the SBE and all election authorities will be required to include a downloadable voter registration form on their websites. The State Board of Elections will continue to enhance its mock election program which is also a requirement in HB 30, the voting by minors act. Illinois will also encourage college students to participate in the election process.

At this time legislation has already been presented to Congress to amend the HAVA language. Obviously this state plan is a work in progress and is not inflexible. It will be ever-changing and updated at least yearly or as often as necessary.

# The Indiana State Plan to Implement th Help America Vote Act of 2002

## *A Blueprint for Indiana Elections*

**Todd Rokita**
*Indiana Secretary of State*

"With this blueprint for Indiana's elections we have set in motion the most comprehensive voting reform s in our state since the Voting Rights Act of 1965. With state of the art voting system s, a statew ide voter registration system , and creative solutions like provisional balloting, Indiana w ill be well positioned to adm inister all elections as fairly and efficiently as possible to preserve the rights of all H oosiers and help ensure that every legitim ate vote is counted accurately."



Dear Indiana citizens:

The Help America Vote Act of 2002 (HAVA) is the most significant federal voting reform measure since the Voting Rights Act of 1965. In Indiana, we have already been working over the last year and a half on many of the reforms now required by HAVA.

In February of 2003, I convened the Vote Indiana Team, a diverse group of 28 Hoosiers, to help create the blueprint for our elections for the next five years and beyond. The Vote Indiana Team members come from across the state and represent three political parties, the state legislature, minority groups, military voters, people with disabilities, county election and voter registration officials, and the media.

The Vote Indiana Team met over a six-month period as a full group and in smaller working groups to address specific issues and draft a comprehensive election reform plan for Indiana that implements the requirements of HAVA. After five meetings of the Vote Indiana Team as a whole and twenty-four singularly focused sub-group meetings, the Indiana State Plan is now available to you and all Hoosiers.

As voters, the changes you'll see at the polls over the next few years will be significant. Indiana will be replacing punch card and lever machine voting systems still in use in 32 counties. An accessible voting machine will be placed in every voting location in Indiana. The creation of a statewide voter registration database will allow election officials in every county to communicate with each other, as well as with officials from the Indiana Bureau of Motor Vehicles and the Departments of Health and Correction. The statewide voter registration system will ensure that every voter is registered at the proper location and only the proper location.

These improvements, along with advances in technology, will help ensure the voting rights of all Hoosiers are protected and will position Indiana as a nationwide model for election success and reliability.

None of these changes would be possible without the cooperation, coordination and continued hard work of Indiana's county clerks, election board members, and voter registration officials. I also want to thank the Vote Indiana Team for their generous time and effort in putting forth these recommendations.

I look forward to continuing to serve you as Indiana's chief election official and as Secretary of State. I am committed to making sure that Indiana's elections are efficient, accurate and fair.

Yours truly,

Todd Rokita
Indiana Secretary of State

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# Executive Summary

Indiana has a population of 6,100,000 (2002 estimate), with a voting age population of 4,448,000 (2000 estimate used for purposes of HAVA). Of this population, 4,008,636 were registered to vote as of the November 2002 general election.

**Election Administration in Indiana**

The Secretary of State serves as Indiana's chief election official. The Indiana Election Division (IED) is established within the Office of the Secretary of State. The Governor appoints the IED's two co-directors from lists of two or more persons submitted by the state's Democratic and Republican parties. The IED assists the Secretary of State and the Indiana Election Commission (IEC) with the administration of elections. Indiana's local government includes election administration and voter registration offices in each of the state's 92 counties. Each county is divided into election precincts, with a total of 5,602 precincts in Indiana. All 92 counties have a circuit court clerk elected by the voters and a county election board, which includes the circuit court clerk, to administer local elections.

In 2000, the Bipartisan Task Force on Election Integrity was convened by Secretary of State Sue Anne Gilroy and Governor Frank O'Bannon. The Task Force was charged with examining the election process in Indiana to ensure that elections were accurate, accessible and secure. After months of study, this bipartisan group reached consensus on several improvements to the election process; much of the work of the task force took the form of recommendations to the Indiana General Assembly. Many of these recommendations were adopted, including provisional balloting, the establishment of a statewide voter registration system, and the phase out of punch card voting systems. Some of these initiatives were sidelined when appropriations were cut.

With the enactment of the Help America Vote Act of 2002 (HAVA) and the promise of federal funding to implement its requirements, Indiana's election reform efforts were revitalized. Secretary of State Todd Rokita convened the Vote Indiana Team in February 2003 to move forward with Indiana's election reforms. The Vote Indiana Team consists of 28 Hoosier voters representing a wide variety of ethnic, geographic and tri-partisan political backgrounds. Members met as a whole and in subgroups to address particular subject areas. At all times, meetings were open to the public and time was set aside for public comment. Furthermore, a 30-day public comment period began June 3, 2003, and ran through July 3, 2003, in accordance with HAVA requirements. The State Plan, all meeting notes, and other Team information can be found at www.sos.IN.gov, under "Vote Indiana Team Information." Please see Section 13 (page 52) of the State Plan to review simple procedures used for registering public comment.

HAVA requires the submission of a state plan detailing how HAVA requirements will be met and how HAVA monies will be utilized. This Executive Summary outlines the major initiatives of the Team and the plan for distributing the associated funding.

**Voting Systems**

A new Quantity Purchase Agreement (QPA) will be issued. All Indiana certified voting system vendors will be eligible to enter into the QPA. HAVA requires each county to acquire one voting system with accessible equipment per polling place. Punch card and lever machines will be replaced. Funding will be distributed as a reimbursement to counties for the costs incurred in purchasing a voting system. Eligibility for reimbursement will be determined after review of an application to the Indiana Election Division, certification of polling place accessibility, and cooperation with a local advisory council to choose accessible polling places. The current funding formula described in the Plan is based on estimates of funding outlined in HAVA. The formula could change as the result of actual funding appropriated by Congress over the next several years. Please refer to Sections 1 (A) and 6 (A) of the State Plan for further information.

**Statewide Voter Registration System**

A consultant and statewide steering committee will assist the Secretary of State and Indiana Election Division in the development and implementation of a statewide voter registration system. A Request For Proposal (RFP) will be issued for the selection of a vendor to create the system. The steering committee will help guide the creation and implementation of the system. The committee will be comprised of Team members and representatives from the clerks' and voter registration officials' associations. The system will also interact with computer systems of the Bureau of Motor Vehicles, Indiana State Department of Health and Department of Correction. Please refer to Sections 1 (B), Section 6 (B), and Section 8 (1) of the State Plan for further information.

**Training and Education**

Training will be geared toward election officials and pollworkers. Voter educational opportunities will also be created. Please see Section 1 (F), Section 3, Section 6 (C), Section 8 (2 a,b,c), and Section 10 of the State Plan for further information.

**Statewide Grievance Procedure**

A statewide grievance procedure will be established to handle complaints that may involve voting system and polling place accessibility, allegations of fraud, and other voting or registration processes. Please see Section 1 (E), Section 6 (E), Section 8 (3), and Section 9 of the State Plan for further information.

**Provisional Balloting**

Provisional balloting will be available as a safety net for the voter who may have erroneously been removed from the voter list and to guard against fraudulent voting practices. A free access system will be available for a provisional voter to check the status of the provisional ballot (e.g. find out whether the ballot was counted). Please see Section 1 (D), Section 6 (D), and Section 8 (4) of the State Plan for further information.



**Accessibility**

A comprehensive polling place accessibility study will be undertaken to guide local jurisdictions in making improvements. The Secretary of State will apply for funding to help counties improve the accessibility of particular polling places. A voter will be able to cast a ballot privately and independently. Please see Section 4, Section 6 (HHS grants and F), Section 8 (5), and Section 10 of the State Plan for further information.

In summary, the efforts of the Vote Indiana Team and the dedication of Indiana's election officials will produce positive changes and set the course for Indiana's election reform efforts for years to come.

# Indiana State Plan Introduction

**What is HAVA?**

In 2002 Congress passed the Help America Vote of 2002 which President George W. Bush signed into law on October 29, 2002. The Help America Vote Act embraces the goals of election reform by expecting all levels of government to provide a democratic process that does the following:

- maintains an accurate list of citizens who are qualified to vote;
- encourages every eligible voter to participate effectively;
- uses equipment that reliably clarifies and registers the voter's choice;
- conducts elections in a foreseeable and fair way;
- operates with equal effectiveness for every citizen and every community; and
- reflects limited but responsible federal participation.

**What are the State's responsibilities under HAVA and purpose of a state plan?**

States who want to receive HAVA requirements funding must submit a self certified state plan outlining specific provisions set forth in the following section. The Secretary of State as Indiana's chief election official shall develop the plan through a committee (Vote Indiana Team) consisting of chief election officials from Indiana's two most populous counties, other local election officials, key stakeholders (including members of the community with disabilities), and other citizens. The preliminary state plan must be available for public inspection and comment for thirty (30) days before submission to the Election Assistance Commission. The Vote Indiana Team shall take into account the public comments before submitting the final plan. The Vote Indiana Team met July 18, 2003 to take into account public comment received to date and to recommend the final plan for submission.

**How is this document organized?**

The State Plan's overview is contained in the Executive Summary. The Executive Summary briefly describes major initiatives contained in the State Plan and refers to the appropriate section in the plan document for further information. HAVA requires the state plan to address the thirteen (13) provisions listed below. A Glossary of Terms and Acronyms is included to define or reference frequently used terminology or acronyms. Appendix 1, Indiana Election Reform History, describes Indiana's election reform efforts beginning prior to statehood through today. Appendix 2 explains the Hoosier Equipment Lease Purchase (HELP) Program. A Table of Contents is also attached to guide the reader through this document.

- How Indiana will use these federal funds to comply with HAVA's requirements concerning voting systems, the statewide voter registration system, and provisional voting.



- How Indiana will distribute (and monitor the distribution of) federal finds to local governments and other fund recipients, including the criteria to determine eligibility and to monitor performance.
- How Indiana will provide voter education, election official, and poll worker training programs.
- How Indiana will adopt voting system standards consistent with HAVA.
- How Indiana will establish a fund for administering these federal payments and how the Indiana fund will be managed.
- Indiana's proposed budget to carry out the activities required to receive these federal funds.
- How Indiana, in using these federal funds, will maintain a level of state expenditures at least equal to Indiana's expenditures for these activities during the July 1, 1999 – June 30, 2000 fiscal year.
- How Indiana will adopt performance measures to determine the success of state and local government in carrying out the plan, including timetables, a description of the criteria to measure performance, and which official is responsible for meeting the requirements.
- A description of the required "uniform nondiscriminatory State grievance procedure" for HAVA-related complaints.
- If Indiana received additional federal money from another source, how this money will be used to carry out activities under the State Plan.
- How Indiana will conduct ongoing management of the HAVA State Plan.
- How the State Plan reflects changes from the State Plan for previous fiscal years.
- A description of the State Plan Committee and the procedures used by the Committee to develop the Plan.

**How did we receive Public Comment?**

Section 13 of the State Plan describes in detail the make up of the Vote Indiana Team and its work to date. Further information about the work of the Team may be found at www.sos.IN.gov. Public comment was submitted to the chair of the Vote Indiana Team in writing to the following address: Todd Rokita, Indiana Secretary of State, 200 West Washington Street, Room 201, Indianapolis, Indiana 46204, and was emailed to VoteIndianaTeam@sos.state.in.us. Public comment on the preliminary state plan was also left at 317-234-VOTE or at the Indiana Election Division toll free in Indiana at 800-622-4941(TDD). Comments were also faxed to 317-233-3283. The Team also received public comment at the annual Clerks' Conference and the Indiana Voter Registration Association meeting.

**This Plan is available in accessible formats upon request. Please call 234-VOTE or email havaadministrator@sos.state.in.us for further information.**

# GLOSSARY OF TERMS AND ACRONYMS

**"Certification of accessibility of polling place"** Part of the application process by a county to receive state money to reimburse the county for purchasing voting equipment. The certification will state that the polling places selected by the county permit voters with disabilities to cast their ballots in the polling place with the same access and privacy provided to other voters.

**"Free access system"** A toll-free telephone number, an Internet web site, or other method that permits a voter who casts a provisional ballot to learn whether or not the voter's ballot was counted, and if not, the reasons why the provisional ballot was not counted.

**"HAVA"** The Help America Vote Act of 2002 (Public Law 107-252). A federal law passed by Congress and signed by President Bush on October 29, 2002. Each state will be passing its own laws as needed to implement HAVA in that state.

**"Maintenance of Effort"** A requirement under the HAVA law that when a state uses "Title III requirement monies," the state pledges to keep spending in the future the same amount of money that the state had spent during 1999 and 2000 for the programs for which the state is using the "Title III requirement monies."

**"National Voter Registration Act of 1993"** A federal law which enacts requirements concerning voter registration for federal elections.

**"Poll worker"** Paid position at polling place on Election Day to assist in operating the election.

**"Provisional Ballot"** A ballot cast by an individual when it is not clear whether the individual is entitled to vote in a precinct. The provisional ballot is kept separate from the other ballots cast by voters in the precinct. After election day, the county election board decides whether the individual is entitled to vote and whether the individual's provisional ballot should be counted or rejected.

**"Provisional Ballot Status"** The decision made by the county election board whether to count a provisional ballot, and if not, the reasons for rejecting the ballot.

**"Purchase"** When discussed in the context of voting system, includes lease and lease-purchase agreements, as specified by Indiana Code 3-11-6.5."

**"Off election year"** The year in each four year election cycle in Indiana in which no regularly scheduled elections are held at either the state or local level. The off-election year occurred in 1997 and 2001 and will occur in 2005.

**"Qualifying precinct"** Defined in HAVA as a precinct where a punch card or lever machine voting system was used in the November 2000 election.

**"Section 101 monies"** Money made available from the federal government to state governments under HAVA to improve the manner in which elections are administered in the state.



**"Section 102 monies"** Money made available from the federal government to state governments under HAVA specifically to replace lever voting machines or punch card voting systems with newer types of voting systems. This money can also be used to reimburse local governments who have already purchased replacement voting systems since November 2000.

**"Title III requirement monies"** Money made available from the federal government to state governments under HAVA to help state and local governments comply with some of the requirements imposed under the HAVA law. These requirements include a statewide voter registration system, making voting equipment upgrades, and voting by provisional ballot.

**"The Team"** (Vote Indiana Team) The committee established under HAVA to develop the State Plan.

**"Video streaming"** Video available on the internet.

**Acronyms**

**"ADA"** – Americans with Disabilities Act

**"BMV"**- Bureau of Motor Vehicles

**"CLE"**- continuing legal education

**"DOC"** – Department of Correction

**"DRE"**- direct recording electronic voting system

**"IDOA"**- Indiana Department of Administration

**"IED"**- Indiana Election Division

**"IVRA"**- Indiana Voter Registration Association

**"GPCPD"**- Governor's Planning Council for People with Disabilities

**"HHS"**- Health and Human Services

**"NCAS"**- cross between a Public Service Announcement and a paid advertisement

**"QPA"**- Quantity Purchase Agreement

**"RFP"**- Request for Proposal

**"SVF"**- Statewide Voter Registration System

**"VIT"** – Vote Indiana Team

# Indiana State Plan

**This Plan is available in accessible formats upon request. Please call 234-VOTE or email havaadministrator@sos.state.in.us for further information.**

## Section 1

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

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

Congress passed the Help America Vote Act of 2002 (HAVA) to provide election reform across the nation and bring uniformity to state elections. Title III of HAVA requires Indiana to do the following:

- Provide accessible machines in every polling place.
- Adopt uniform and nondiscriminatory standards that define what constitutes a vote.
- Provide voting systems that meet enhanced standards, including allowing the voter to verify the vote before the ballot is cast, permitting the voter to change or correct the ballot before it is cast, and notifying a voter of an overvote or establishing a voter education program specific to that voting system that notifies voters of the effects of overvoting.
- Allow individuals to cast provisional ballots and provide a free access system to inform a provisional voter whether the vote was counted, and if not counted, the reason why.
- Implement in a uniform and nondiscriminatory manner a single, interactive, computerized statewide voter registration system that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each.
- Require certain first time "mail in" registrants to provide identification.
- Implement a uniform and nondiscriminatory HAVA grievance procedure.

Prior to the passage of HAVA, Indiana had already laid the groundwork for election reform in the state. Public Law 209-2003 (SEA 268), Public Law 116-2003 (SEA 477) and Public Law 224-2003 (HEA 1001) provide for the implementation of HAVA in Indiana. With the state's initial framework and the passage of recent legislation, Indiana is on track to comply with all of the provisions of HAVA.

One example of Indiana's work to lead the nation in election reform is the Indiana Voter's Bill of Rights. Working from language prepared by the Secretary of State's Election Division, the Indiana Election Commission unanimously approved the text of the Voter's Bill of Rights in March 2003. It is a plain language document about accessibility and accountability; accessibility for legally registered voters and accountability for those who would act to defraud election administrators and in turn other voters. Posters of the Voter's Bill of Rights were printed in both English and Spanish. The Secretary of State's office provided Voter's Bill of Rights posters to every county for display in polling places on Primary Election Day, May 6, 2003 and intends to



keep the Voter's Bill of Rights as a permanent fixture in Indiana polling places and posted to the Secretary of State's website www.sos.IN.gov.

Currently, it is estimated that Indiana will receive $40.4 million in Title III funds (Budget estimates set forth in section 6), and the Secretary of State and the Indiana Election Division intend to use the requirements funding for the following endeavors:

**A. Voting Systems**

**History of Voting Systems Upgrade Programs before HAVA**

In 2001, the Indiana General Assembly enacted legislation to provide for the gradual elimination of punch card voting systems over several years. The legislature also appropriated $4 million dollars to fund the replacement of the punch card systems.

However, this 2001 Indiana legislation had some significant limits:

First, this state money was never available to reimburse counties who had purchased voting systems between January 1, 1998 and July 1, 2001. Instead, state law specified that only money received from the federal government could be used for this purpose.

Second, the $4 million in state money was not appropriated to the new "voting system improvement fund". Instead, this appropriation was made from the Build Indiana Fund. The effect of this distinction became clear in 2002, when the state through an executive order diverted all Build Indiana Fund monies to deal with the state's growing budget deficit.

As of mid-2002, there was no state or federal money available for counties to receive any reimbursement at all for their voting system purchases. Then, in October 2002, the Help America Vote Act was finally passed and sent to the President.

HAVA, and the Indiana legislation enacted in 2003 to implement it, expanded the scope of the voting system upgrades required in Indiana: both lever and punch card must be phased out by December 31, 2005; all counties must also acquire voting systems to enable blind voters and voters with other disabilities to vote without assistance in each polling place.

HAVA (and the 2003 federal budget bill) also provide for limited voting system reimbursement to be passed on to counties. Under these federal laws, a total of more than $9 million will be available to reimburse Indiana counties for voting system upgrades if these counties were using lever or punch card systems at the November 2000 election.

In addition, once the State Plan becomes final, Indiana will qualify to receive an estimated $30 million in additional federal funds over the next two federal fiscal years that can be used to assist with county voting system reimbursements.

In Indiana, even before HAVA passed, the Election Division acted to encourage all counties to submit applications for voting system reimbursement under the 2001 Indiana law. The Election Division advised clerks that while Congress and the state legislature were considering new laws that could change the amount and eligibility requirements for reimbursement, the county should act now to indicate its interest and to protect its eligibility. Some 72 of 92 counties followed that advice, and filed applications by the January 2003 deadline under state law.

In its 2003 session, the General Assembly passed a comprehensive bill to begin implementing HAVA in Indiana (Senate Enrolled Act 268). This new legislation actually gave an option to expand the availability of voting system reimbursement to counties that purchased a new voting system or upgrade between January 1998 and July 2001. However, Indiana law is still subject to the limits placed on its use of the federal money by HAVA.

In 2002, Indiana issued a Quantity Purchase Agreement (QPA) with four voting systems vendors whose optical scan or direct record electronic (DRE) voting systems were previously certified by the Indiana Election Commission. Replacement of punch card and lever machines used in November 2000 by more than half of Indiana's voters (in a total of 2983 precincts) is already under way. To help reduce the costs of any particular system, the Indiana Department of Administration (IDOA) will issue another QPA to facilitate the replacement of the remaining punch card and lever machines and the implementation of one accessible DRE per polling place. All certified voting system vendors will be eligible to enter into the QPA with IDOA. The Team recommends each QPA contain provisions permitting volume discounts for voting system purchases and multi-county purchasing arrangements through intergovernmental agreements or other methods permitted by state law. The team also recommends that the two following specifications be added to the QPA: (1) A vendor can only enter into the QPA if the vendor agrees not to charge a county interest during the period in which the county is waiting for reimbursement from the state, and (2) the vendor shall share the system's training video with the state. The team urges that the procurement process for voting systems adhere to minority business enterprises and women owned business enterprises requirements.

No later than January 1, 2006, assuming a waiver is granted, (Under HAVA, each state shall replace all punch card voting systems or lever voting systems by January 1, 2004 unless a waiver is granted and the State ensures that all punch card voting systems and lever voting systems will be replaced in time for the first election for Federal office held after January 1, 2006. Public Law 209-2003 prohibits the use of lever machines and punch card systems in Indiana elections after December 31, 2005. Like most states, Indiana will seek a waiver see section 6, page 25.) all punch card and lever voting systems will be replaced.

Under the system set up by P.L. 209-2003, funds would be released in the following manner: each county seeking reimbursement applies to the Indiana Election Division, an agency of the executive branch. The Secretary of State and Indiana Election Division personnel review the applications and certifications regarding polling place accessibility. The Secretary of State and Indiana Election Division recommend disbursement of funds to the Budget Committee, a bipartisan body consisting of state legislators and the state budget director. The Budget Committee is statutorily required to review these recommendations. Disbursements will be



made to the counties on the approval of the State Budget Agency, an executive branch agency, after review by the Budget Committee and subject to fund availability.

The elimination of punch card and lever machines, along with the implementation of accessible machines, will require the use of Sections 101, 102, Title III, and state matching funds.

**B. Statewide Voter Registration System**

No later than January 1, 2006, assuming a waiver is granted, (under HAVA, each state shall be required to comply with the statewide voter file requirement by January 1, 2004 unless a State certifies to the Commission that the State will not meet the deadline for good cause; the HAVA reference then becomes January 1, 2006. Like most states, Indiana will seek a waiver see section 6, page 36.) the Indiana statewide voter registration system will be online in all 92 Indiana counties; this will allow the creation and maintenance of a more accurate list of persons legally authorized to vote in Indiana. In addition to using the system for voter registration, Indiana plans to use this single, centrally administered system to assist the Secretary of State in providing all Indiana voters access to a free web-based or phone-based information system that indicates where a voter's polling place is located and confirms a voter's registration record.

A consultant and steering committee, consisting of members of the Team and representatives from the clerks' and voter registration officials' association, will assist in the implementation of the statewide voter registration system. An RFP will be issued for the consultant and the vendor. The team urges that the procurement process for the consultant and the statewide voting registration system adhere to minority business enterprises and women owned business enterprises requirements.

The continuous maintenance of the statewide voter registration system will require a well coordinated interaction between county officials and state officials. Each county voter registration office, the Indiana Election Division, and the Secretary of State will have immediate electronic access to the information contained in the computerized list. The county voter registration office may change only data related to the voters registered in that respective county. Furthermore, the county voter registration office must electronically enter all voter registration information obtained by the county voter registration office into the computerized list on an expedited basis. The county voter registration office shall perform list maintenance with respect to the computerized list on a regular basis. The Indiana Election Division shall coordinate the computerized list with the Indiana Department of Correction records so the county voter registration office can cancel the registration records of disfranchised individuals on an expedited basis. The Indiana Election Division shall also coordinate the computerized list with the Indiana State Department of Health so the county voter registration office can cancel the registration records of deceased individuals on an expedited basis.

The Secretary of State, the Co-Directors of the Indiana Election Division, and the Bureau of Motor Vehicles Commission shall enter into an agreement to match information in the computerized list database with information in the database of the Bureau of Motor Vehicles Commission to enable the Indiana Election Division and the commission to verify the accuracy of the information provided on voter registration applications. This link will also serve as the access point for the Indiana Election Division to obtain and verify certain information from the

Social Security Administration in accordance with HAVA. Indiana statute defines a unique identifier which will be assigned to each individual by the Indiana Election Division; this will assist in maintaining the accuracy of the statewide voter registration system.

**C. First-time Mail-in Registrant Requirements**

HAVA requires certain first-time mail-in registrants to provide identification. The type of identification that shall be provided includes the following: (1) a current and valid photo identification, or (2) a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

Exceptions: Voters exempt from these requirements include those entitled to vote by absentee ballot or other than in person under the Uniformed and Overseas Citizens Absentee Voting Act and the Voting Accessibility for the Elderly and Handicapped Act.

County voter registration offices are required by Public Law 209-2003 to identify the first-time mail-in registrants required to provide this additional documentation, and to mail a notice to these voters no later than March 1, 2004 requesting a copy of these documents. As a result, the county voter registration offices hope to secure the required documentation from as many of these voters as possible before the May 2004 primary.

**D. Provisional Balloting**

A free access system will be established upon the completion of the statewide voter registration system to provide a voter information as to whether a provisional ballot was counted; if the ballot was not counted, information as to the reason will be available. In the meantime, county election boards will make this information available to any voter upon inquiry by the voter. The county election boards shall maintain reasonable procedures to protect the security, confidentiality and personal information relating to a provisional voter.

**E. Statewide Grievance Procedure**

Indiana recently passed legislation to establish a statewide grievance procedure to comply with the HAVA requirement that a state based administrative complaint procedure be in place. Title III funds will be used to establish this process which is explained in detail in section 9 (page 49) of this plan.

**F. Training and Education**

The Secretary of State, through the Indiana Election Division, intends to expand upon the current training and educational opportunities for poll workers and voters, which are explained in detail in Section 3 (page 17) of this plan.

An election official and poll worker certification process will be developed and administered by the IED of the Secretary of State's office to more effectively train local election officials and poll workers; special focus will be on HAVA's requirements of accessible voting systems and polling places, provisional ballots and documentation for first-time mail-in registrants.



## Section 2

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

**(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 measure adopted under paragraph (8)**

The performance measures outlined in Section 8 (page 41) of this document will be used to gauge participation and effectiveness of distributions. Performance measures will be monitored semi-annually by the Indiana Election Division upon the completion and submission of election reports by the county as required by the law. The Indiana Election Division will provide a report to each Vote Indiana Team member summarizing progress under the performance measures.

**A. Voting Systems**

The Indiana Department of Administration will issue a new Quantity Purchase Agreement (QPA) for voting system purchases in order to provide counties with the greatest number of options for voting system purchases and greatest amount of information to use in evaluating voting systems. HAVA funds will be placed in the Election Administration Assistance Fund. Funds will be distributed based on availability and by the priorities set by the Vote Indiana Team and any pertinent statutory requirements. All distributions are subject to federal and state audit standards.

Under the system set up by P.L. 209-2003, funds would be released in the following manner: each county seeking reimbursement applies to the Indiana Election Division, an agency of the executive branch. The Secretary of State and Indiana Election Division personnel review the applications and certifications regarding polling place accessibility. The Secretary of State and Indiana Election Division recommend disbursement of funds to the Budget Committee, a bipartisan body consisting of state legislators and the state budget director. The Budget Committee is statutorily required to review these recommendations. Disbursements will be made to the counties on the approval of the State Budget Agency, an executive branch agency, after review by the Budget Committee and subject to fund availability.

Under a memorandum of understanding or grant provision, failure to comply with any portion of Title III may result in the county being liable for all previously disbursed funds to that county from the state fund.

**B. Statewide Voter Registration System**

The development, conversion, and ongoing maintenance of each county's data in the statewide voter registration system will be defined in a memorandum of understanding. Data will be collected through specialized reports containing information developed by the Indiana Election Division to ensure the county's participation in the overall success of the statewide voter registration system. The continuous maintenance of the statewide voter registration system will require a well coordinated interaction between county officials and state officials.

## Section 3

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

**(3) How the state will provide 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.**

The Indiana Election Division will provide traditional and alternative training tools to local election officials for topics such as poll worker training and voter training regarding voting equipment. The Indiana Election Division will enlist active input from and work with disability advocacy groups in designing poll worker training. The Indiana Election Division will provide continuing education annually for local county election boards, clerks of the circuit court, and voter registration officials; sessions will include information about HAVA's requirements.

Frequently scheduled and regionally located training sites will be used for local registration officials so they will be able to use the statewide voter registration system to its fullest potential. The system will also contain an online help query.

The training efforts proposed by this plan are designed to meet three goals.

1. There will be various methods of training available in order to effectively train poll workers so they are aware of voters' rights, sensitive to voters' needs, and proficient in their jobs; special emphasis will be placed on provisional ballots, voters with disabilities and voter identification needs. This training will include the following:

- video streaming of poll worker training (internet access to training videos)
- agreements with local government television stations to air poll worker training
- a master video on poll worker training for use by county election officials
- training for provisional ballot counters
- written materials and web information on Voter's Bill of Rights, provisional ballots and overvoting
- a "teach the teacher" certification program for individuals who provide instruction on voting machine usage
- products that include interaction with voters with disabilities (physical, sensory and cognitive impairments)



2. There will be on going training of full service voter registration agency employees and county election administrators so each understands the needs of voters with disabilities, voters who do not speak English, media, political party officials and campaign workers. This training will include the following:

- production of written materials and online information
- coordination with local advocacy groups to develop and target delivery of materials
- development of videos (and internet access to these videos)
- production of a video for county commissioners and others charged with selecting polling places

3. There will be efforts to increase voter participation by providing information about the voting process to better educate voters. Included will be information about voting systems, voter rights, accessibility and military/overseas voting. This will include the following:

- development of agreements with local government and public television stations to air voter instructions on use of voting equipment and information about voter rights
- production of a master video on voter education
- arrangement for display of voting equipment in malls and local library systems
- Development/Production of Public Service Announcements and NCAS
- Production of written materials and web information on Voter's Bill of Rights, provisional ballots and overvoting
- Publication of Military/Overseas voter guide with a focus on absentee balloting process including additional information on military/overseas voting on Indiana Election Division website

In the spirit of fully informing local government officials who must carry out activities required under HAVA, the Team fully supports the idea of conducting HAVA workshops targeted to Indiana's local government officials. It is expected that these opportunities may occur during the annual meetings of the Association of Indiana Counties and Indiana Association of Cities and Towns.

The proposed budget set forth in section 6, sets aside $3.9 million to pay for voter education, election official education and training, and poll worker training. The plan calls for $1.4 million of the $3.9 million to be set aside for voter education. The Secretary of State and Indiana Election Division will prepare a training and voter education budget to provide the Vote Indiana Team. However, the Team recognizes that significant training and voter education efforts must occur to prepare for the 2004 election and must proceed before the completion of a final budget under this section.

## Section 4

**Section 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

***(4)* How the state will adopt voting system guidelines and processes which are consistent with the requirements of Title III.**

Indiana Code 3-11-15-13.3 sets forth voting systems guidelines and processes consistent with the Voting Systems Standards set forth in HAVA. A voting system certification expires five years after the date of approval of the system by the Commission.

- Under Indiana law, the Indiana Election Commission must approve any model of voting system before it may be used in an election. Indiana law now requires that a voting system shall meet the Voting Standards adopted by the Federal Election Commission on April 30, 2002 in order to be approved by the Commission for use in Indiana.
- Under Indiana law, the Commission may not approve a voting system for use in Indiana unless the system meets the specifications in the Indiana Code. The specifications include ensuring secrecy and, in the case of a direct recording electronic voting system, preventing a voter from voting for the same candidate or for or against the same public question more than once. In cases where an optical scan ballot card system is used with a precinct tabulator, voters are alerted by the system to any overvote and provided with an opportunity to correct any overvote error. Where paper ballots or optical scan ballot card voting systems without precinct tabulators are used or absentee ballots are mailed out, Indiana law now requires a voter education program to inform voters using these systems of the effect of overvoting.
- Current Indiana law establishes uniform and nondiscriminatory standards to define what constitutes a vote on a paper ballot, optical scan voting system and electronic voting system. As referenced in the landmark United States Supreme Court decision in *Bush v. Gore*, 531 U.S. 98 (2000), Indiana statutes set forth very specific standards for determining what constitutes a vote in each type of voting system that may be used.
- The Indiana Code and election manuals produced by the Indiana Election Division are both very specific on how to accurately count each vote.

New Indiana law also requires that voting systems be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. A county satisfies these requirements if the election board provides at least one electronic voting system or other voting system equipped for individuals with disabilities at each polling place. Indiana also passed legislation in 2003 which requires that each voting system (1) produce a permanent paper record with a manual audit capacity for the system and (2) provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. The paper record produced must be made available as an official record for a recount or contest conducted with respect to any election in which the voting system was used.

The Team recommends the creation of a committee comprised of voters with disabilities to assist in the certification process of voting systems and to evaluate voting systems' accessibility.



## Section 5

**Section 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

**(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.**

The Indiana Voting Systems Improvements Fund, established by legislation in 2001, has been renamed the Election Administration Assistance Fund (hereinafter "the fund") under Public Law 209-2003.

The fund consists of all money allocated to the state by the federal government
(1) under Section 101 of HAVA (improvements to election administration generally),
(2) under Section 102 of HAVA (funds used exclusively for replacement of punch card and lever machines),
(3) under Title II, Subtitle D, Part I of HAVA (funds to meet Title III requirements including funds to bring all voting systems into compliance with HAVA accessibility requirements, statewide voter registration list, provisional balloting, grievance procedure and administration, etc.), and
(4) under any other program for the improvement of election administration.

The fund will also contain money appropriated to the fund by the Indiana General Assembly.

Within the fund, a total of five accounts have been established: an account has been established for each of the first three sources of allocations described above, and two accounts have been established within the fund for state matching funds allocated towards voting system reimbursements and the statewide voter registration system. There are restrictions, based on HAVA requirements, placed on distribution of money from each account.

Under the system set up by P.L. 209-2003, funds would be released in the following manner: each county seeking reimbursement applies to the Indiana Election Division, an agency of the executive branch. The Secretary of State and Indiana Election Division personnel review the applications and certifications regarding polling place accessibility. The Secretary of State and Indiana Election Division recommend disbursement of funds to the Budget Committee, a bipartisan body consisting of state legislators and the state budget director. The Budget Committee is statutorily required to review these recommendations. Disbursements will be made to the counties on the approval of the State Budget Agency, an executive branch agency, after review by the Budget Committee and subject to fund availability.

Indiana's Budget Committee is a unique entity. The State Budget Committee has five members, with four alternate members who each may have voting privileges in the absence of a member. This liaison committee is comprised of the state budget director, two members of the Senate, one Republican and one Democrat, and two members of the House of Representatives, one Republican and one Democrat. The Committee continues to meet even when the General Assembly is not in session.

## Section 6

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

**(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.**

**Budget:**

At the time this plan was drafted, federal appropriations for HAVA were less than the amounts authorized by the legislation. The following table outlines the assumptions regarding federal funding that the State used in creating its budget for HAVA activities. These numbers reflect the following: (1) $15,752,875 in early payments received by Indiana as of June 17, 2003 (consisting of $9,522,394 in Section 102 payments and $6,230,481 in Section 101 payments); and (2) estimates from the Federal Funds Information for States Issue Brief, March 5, 2003.
The total appropriation for Indiana will not be known until Congress passes the FY 05 budget. Unless full funding is received, Indiana may not be able to initiate HAVA mandates described in this State Plan in the time prescribed. Indiana legislation was passed to allow for the required state match (Public Law 224-2003, SECTION 98).

| Federal Fiscal Year | Total Federal funds | Indiana federal funds | 5% match |
|---|---|---|---|
| **Early Payments** | $325,000,000 (Sec. 101)<br>$325,000,000 (Sec. 102)<br>(appropriated) | $15.8 million | N/A |
| **FY 2003** | $810,000,000 (appropriated) | $17.3 million | $865,000 |
| **FY 2004** | $500,000,000 (President's budget)<br>($1 billion authorized) | $10.5 million | $525,000 |
| **FY 2005** | $600,000,000 (authorized) | $12.6 million | $630,000 |
| **Total** | **$2,560,000,000** | **$56.2 million** | **$2,020,000** |



**Additional Funding: Health and Human Services grant**

HAVA also authorizes the United States Secretary of Health and Human Services (HHS) to administer a grant program to do the following: (1) make polling places, including the path of travel, entrances, exits, and voting areas of each polling place more accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence as other voters); and (2) provide individuals with disabilities and other individuals described in (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections.

The federal omnibus budget bill of 2003 and Indiana's Public Law 209-2003 authorize the state (through the Secretary of State, with the consent of the Indiana Election Division Co-Directors) to apply for grant funds. The funds are to be distributed based on each state's voting age population as a percentage of the national voting age population. HHS estimates that Indiana's share of these funds for 2003 will be $251,048.

On July 7, 2003, the Secretary of State applied for these grant funds to be used in accordance with the requirements set forth in the HHS *Federal Register* notice of May 21, 2003, as amended and corrected May 29, 2003. To provide individuals with disabilities with information regarding the accessibility of polling places, the Secretary of State's office plans to conduct a statewide survey utilizing people with disabilities as the survey takers. The Governor's Planning Council for People with Disabilities (GPCPD) will coordinate the survey project and will tabulate the results and provide the information to the counties. GPCPD will also assist local election officials with the formation of local advisory councils consisting of elderly voters, voters with disabilities, and local election officials. The local councils will review the accessibility survey results and make recommendations to the county executive about making accessibility accommodations and/or moving polling places to accessible locations.

The Secretary of State and Indiana Election Division will prepare a budget for use of grant funds received from HHS. The Team estimates up to $60,000 will be necessary to conduct the survey described above.

In 2003, Indiana passed the following standards for polling place accessibility under Public Law 116-2003:

"For purposes of this chapter, a facility is an accessible facility for elderly voters and voters with disabilities only if the following apply:

(1) The facility meets the standards for accessibility for elderly voters and voters with disabilities established under 42 U.S.C. 1973ee-1 through 42 U.S.C. 1973ee-6

(2) All the following are accessible to elderly voters and voters with disabilities in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters:

(A) Parking spaces marked and available to conform with IC 5-16-9

(B) The path to the facility that an individual must travel on the property where

the facility is located
(C) The entrance of the facility to be used by voters
(D) The paths of travel within the facility to the rooms or areas where the voting system is located
(E) The rooms or areas in the facility where the voting systems are located."



**Distribution of Indiana's HAVA funds (This chart is based on the $58.2 million budget.)**

**Total money: $58.2 million**

12 to 19 % on Voter File
which equals **$7-11 million**
from Sec. 101, Title III requirements monies and state matching funds

6.7 % on Training and Education
which equals **$3.9 million** from Sec. 101 and Title III requirement monies.
$1.4 million will be taken from the Sec. 101 funds for Voter Education.

3.4 to 10.3% on Strategic Reserve (to meet any HAVA requirements)
which equals **$2–6 million** (this range is based on the range for the voter file; if less than $11 million is used for the voter file, the remaining amount will be transferred to the Strategic Reserve) from Section 101 and Title III requirement monies

.9% on Administration of Grievance Procedure
which equals **$500,000** from Title III requirement monies

.9% on Administration of HAVA
which equals **$500,000** from Sec. 101 funds
- This will include administrative costs associated with the development and oversight of Title III programs and other administrative costs.

69% on Voting Equipment
which equals **$40.1 million** from Sec. 101, 102, Title III requirement monies and state matching funds
- Tier A = precincts (2983) that used punch card or lever in 2000
- Tier B = all other remaining precincts (2619)

| Account | Amount | Distribution | |
|---|---|---|---|
| **Section 101** | $6,230,481 (received) | Training & Education $1,730,481 Administration $500,000 Voting Equipment $2,000,000 Strategic Reserve $2,000,000 | Not Allocated $ 0 |
| **Section 102** | $9,522,394 (received) | Voting Equipment $9,522,394 | Not Allocated $0 |
| **Title III Requirement Monies** | $40,400,000 (estimated) | Voting Equipment $26,730,481 Voter File $10,900,000 Grievance $500,000 Training and Education 2,169,519 | Not Allocated $100,000 |
| **State Match** | $2,020,000 (estimated) | Voting Equipment $1,886,408 Statewide Voter File $100,000 | Not Allocated $33,592 |
| **Total** | **$58,172,875** | **$58,039,283** | **Not Allocated $133,592** |

**A. Voting Systems**

It will be necessary to use Section 101, Section 102, Title III and state matching fund monies for voting systems reimbursements. Indiana had more than half of its voters using punch card or lever machines in November 2000.

**Waiver Recommendation for Punch Card and Lever Voting Systems**

The Team recommends that the Secretary of State and the Co-Directors of the Election Division certify in accordance with HAVA and Public Law 209-2003 that good cause exists to extend the deadline for replacement of lever voting machines and punch card voting systems until December 31, 2005. The grave risk of voter confusion, the lack of sufficient time for poll worker training, and the inefficient use of limited federal funds that would result from hasty acquisition of replacement voting system to comply with the January 1, 2004 deadline, makes this extension not only desirable, but essential.



**Voting System Certification**

The Team recommends that the Indiana General Assembly enact legislation in its 2004 session to address the issue of voting system certification. Under current Indiana law, a voting system is certified for marketing and use in Indiana elections for a term of five years after the Indiana Election Commission determines that the voting system complies with the Indiana law in effect at the time of certification. Indiana law formerly incorporated the 1990 Federal Election Commission (FEC) standards, and now incorporates the revised 2002 FEC standards.

Former Indiana law also provided that existing punch card voting system certifications would expire in July 2003 if the Indiana Election Commission determined that the voting system improvement fund established under 2001 law had a balance of at least $5 million dollars. However, as noted earlier in this Plan, no monies were allocated by the state to this fund at any time before the fund ceased to exist in May 2003.

Although Public Law 209-2003 provides that lever voting machines and punch card voting systems may continue to be used in Indiana elections until December 31, 2005, the existing certifications for these systems should be revoked before that date so that no additional marketing of the systems can occur. To provide for more detailed scrutiny of applications for voting system certification, the General Assembly may wish to consider providing an up-to-four year term for certification, with all existing applications coming up for renewal during the off election year.

**Tier Structure for Voting System Reimbursement**

Counties will be divided according to the following levels and definitions:

- Tier A = Qualifying Precincts under HAVA (precincts that used punch card or lever machines in the 2000 general election)
- Tier B = all remaining Indiana precincts

The state will set aside $40.1 million to reimburse counties in the following manner:

- All counties will be eligible for reimbursement for up to $50,000 for voting system software to operate the voting systems within the county. This reimbursement will be available in any fiscal year.
- Tier A will be reimbursed up to $8,000 per precinct.
- Tier B will be reimbursed up to $4,000 per precinct.
- Tier A will be reimbursed on a first come, first served basis of federal FY 03 funds.
- Remaining precincts (those in Tier A who have not been reimbursed and Tier B) will be reimbursed on a first come, first served basis of federal FY 2004 and 2005 funds.

The Team recognizes that this Plan proposes a reimbursement level for Tier A counties (up to $8,000) that exceeds HAVA's reimbursement amount for qualifying precincts using Section 102 monies ($3,192). It is the Team's intent to prioritize federal funding to alleviate as much as possible the possibility of an unfunded federal mandate while still being mindful of all of Indiana's reform obligations under HAVA.

**Quantity Purchase Agreement (QPA)**

The Election Division will work with the Indiana Department of Administration to enter into quantity purchase agreements with each vendor of a voting system currently certified for marketing and use in Indiana, with the expectation that the agreement will be entered into by the vendor and the state no later than September 1, 2003.

**Lease or Lease-Purchase of Voting System**

State law (Indiana Code 3-11-6.5-0.7) specifically provides that an agreement to lease or lease-purchase voting system permits a county to qualify for reimbursement. The Team recognizes that this may be a practical option for some counties to pursue due to the lack of suitable year-round climate-controlled storage space for voting systems.

**Application Process for Voting System Reimbursement**

The voting system reimbursement application process will be administered in accordance with the "first come, first served" process described in this subdivision.

Indiana Code 3-11-6.5-4, as amended by Public Law 209-2003, SECTION 123, states that "To receive reimbursement for the purchase of voting systems... a county must file an application with the election division...If a county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application..."

Indiana Code 3-11-6.5-6.1, as added by Public Law 209-2003, SECTION 124, states "When approving applications for reimbursement for voting systems... the budget agency shall give priority to approving applications to replace a punch card voting system or lever voting machine system." The Team understands this statute to require that priority be given to Tier A county applications before Tier B county applications.

"First come, first served" will be determined strictly on the basis of the date and time that an amended application, or first time application from a county, is filed with the Election Division.

**Application for Section 102 funds**

The Election Division will, by August 1, 2003, notify the circuit court clerks of counties with qualifying precincts which submitted an application for voting system reimbursement under Indiana Code 3-11-6.5 before January 31, 2003, that the county must file an *amended* application with the Election Division no later than October 31, 2003 to receive the initial disbursement of Section 102 money under this Plan.

Unless the original application already contains this information, the amended application must:

(1) list the names of the precincts in the county which were qualifying precincts as of November 2000;



(2) list the physical location (and mailing address if available) of the polling places designated in November 2002 to serve the residents of that precinct;

(3) state that the county election board will cooperate with the polling place accessibility survey scheduled for May 2004, subject to any amendments required to state law to permit access to polling places by survey personnel;

(4) subject to the availability of Title III requirement monies to the county before October 1, 2004, certify that the county will make all permanent or temporary improvements to the polling place no later than October 1, 2004 to comply with the accessibility standards set forth in state law (Indiana Code 3-11-8), and to the extent possible, make any additional improvements identified in the May 2004 survey that are not specifically required by state or federal law;

(5) certify that, as of December 31, 2005, the polling place used for the precinct will contain at least one voting system to permit a voter who is blind or visually impaired to vote privately and independently in accordance with Public Law 209-2003;

(6) certify that no later than December 31, 2003, the county will adopt an ordinance to establish a local advisory council comprised of representatives of the disabilities community and elderly voters to provide assistance to the county in choosing accessible polling places;

(7) list the date the county entered into a contract for the purchase, lease, or lease-purchase of voting system. (An executed and attested copy of the contract or adequate evidence of a contract must be attached);

(8) state whether this purchase or lease was entered into under a state quantity purchase agreement with a vendor certified to market voting systems in Indiana;

(9) include a written guarantee signed by the vendor that the voting systems obtained by the county comply with all requirements of Indiana and federal law in effect as of the date of the amended application for Section 102 monies;

(10) include a certification by the county fiscal body that the Section 102 monies received by the county will be used to pay any outstanding obligation incurred by the county for the voting system purchase subject to the reimbursement;

(11) include a certification by the county fiscal body that if these obligations have already been paid in full or in part by the county, that any remaining Section 102 reimbursement funds will be used to improve the administration of elections for federal office in the county.

The Election Division may prescribe that other information be included in the amended application, and shall assist each county in amending the previously filed application.

The Secretary of State with the consent of the Co-Directors of the Election Division will, to the extent possible, review the amended applications as expeditiously as possible upon receipt and no later than November 2003. No later than December 1, 2003, the Secretary of State plans to

submit recommendations to the State Budget Committee regarding these applications. After completion of Budget Committee review and authorization by the Budget Agency, the Secretary of State will work with the Auditor of State and Treasurer of State to ensure the prompt disbursement of the Section 102 funds to these counties.

If a county which contains qualifying precincts did not file an application for voting system reimbursement before January 31, 2003, the Election Division shall promptly notify the county circuit court clerk that the county must file an application no later than October 31, 2003 to receive the initial disbursement of Section 102 money under this Plan. The Election Division shall prescribe the form of the application to be used by the county to request reimbursement. However, the application must contain at least the information contained in the version of the application filed by counties before January 31, 2003, and the information required for amended applications.

The deadline for a county to ensure that a polling place complies with the accessibility requirements set forth in Indiana Code 3-11-8-6 may be extended to March 31, 2006 if it is impossible or impractical for the county to ensure compliance by October 1, 2004.

**Application for Title III Requirement Monies and State Matching Funds**

After the State receives the Title III requirement monies and state matching funds to be disbursed during 2003, the Election Division shall notify all counties that an application may be submitted for reimbursement of voting system purchases. This notice must specify the first and final dates for filing the application and the information required to be submitted as part of the application.

Unless the original application already contains this information, the application for Title III requirement monies and state matching funds must:

(1) list the name of each precinct in the county as of the date of the application;

(2) list the physical location (and mailing address if available) of the polling place designated in November 2002 (or that will be designated in the May 2004 election) to serve the residents of that precinct;

(3) state that the county election board will cooperate with the polling place accessibility survey scheduled for May 2004, subject to any amendments required to state law to permit access to polling places by survey personnel;

(4) certify that the county will make all permanent or temporary improvements to the polling place for the precinct no later than October 1, 2004 to comply with the accessibility standards set forth in state law (Indiana Code 3-11-8), and to the extent possible, make any additional improvements identified in the May 2004 survey that are not specifically required by state or federal law;

(5) certify that, as of December 31, 2005, the polling place used for the precinct will contain at least one voting system to permit a voter who is blind or visually impaired to vote privately and independently in accordance with Public Law 209-2003;



(6) certify that no later than December 31, 2003, the county will adopt an ordinance establishing a local advisory council comprised of representatives of the disabilities community and elderly voters to provide assistance in choosing accessible polling places;

(7) the date the county entered into a contract for the purchase, lease, or lease-purchase of voting system. (An executed and attested copy of the contract or adequate evidence of a contract must be attached);

(8) whether this purchase or lease was entered into under a state quantity purchase agreement with a vendor certified to market voting systems in Indiana;

(9) a written guarantee signed by the vendor that the voting systems obtained by the county comply with all requirements of Indiana and federal law in effect as of the date of the amended application for Title III requirement monies;

(10) include a certification by the county fiscal body that the monies received by the county will be used to pay any outstanding obligation incurred by the county for the voting system purchase subject to the reimbursement;

(11) include a certification by the county fiscal body that if these obligations have already been paid in full or in part by the county, that any remaining funds will be used to improve the administration of elections for federal office in the county.

The Election Division may prescribe that other information be included in the application, and shall assist each county in amending any previously filed application.

In the review of applications for disbursement of Title III requirement monies and state matching funds, the State shall follow the same procedures described in this Plan for the disbursement of Section 102 monies.

Upon receipt of Title III requirement monies and state matching funds after 2003, the same application review process will be used. However, the deadline for a county to ensure that a polling place complies with the accessibility requirements set forth in Indiana Code 3-11-8-6 may be extended to March 31, 2006 if it is impossible or impractical for the county to ensure compliance by October 1, 2004.

**Application for Section 101 funds**

The Team recommends that the Section 101 funds budgeted for voting system reimbursement be expended for reimbursement for the purchase of voting system after January 1, 1998 and before July 1, 2001 if the voting system meets the standards permitting reimbursement under Indiana Code 3-11-6.5. HAVA permits Section 101 funds to be expended for improving the administration of elections for federal office, including replacing voting systems, but does not specify any time limits during which the replacement must be made to qualify for reimbursement from these funds.

Unless the original application already contains this information, the application for Section 101 monies must:

(1) list the name of each precinct in the county as of the date of the application;

(2) list the physical location (and mailing address if available) of the polling place designated in November 2002 (or that will be designated in the May 2004 election) to serve the residents of that precinct;

(3) state that the county election board will cooperate with the polling place accessibility survey scheduled for May 2004, subject to any amendments required to state law to permit access to polling places by survey personnel;

(4) certify that the county will make all permanent or temporary improvements to the polling place for the precinct no later than October 1, 2004 to comply with the accessibility standards set forth in state law (Indiana Code 3-11-8), and to the extent possible, make any additional improvements identified in the May 2004 survey that are not specifically required by state or federal law;

(5) certify that, as of December 31, 2005, the polling place used for the precinct will contain at least one voting system to permit a voter who is blind or visually impaired to vote privately and independently in accordance with Public Law 209-2003;

(6) certify that no later than December 31, 2003, the county will adopt an ordinance establishing a local advisory council comprised of representatives of the disabilities community and elderly voters to provide assistance in choosing accessible polling places;

(7) list the date the county entered into a contract for the purchase, lease, or lease-purchase of voting system. (An executed and attested copy of the contract or adequate evidence of a contract must be attached);

(8) state whether or not this purchase or lease was entered into under a state quantity purchase agreement with a vendor certified to market voting systems in Indiana;

(9) include a written guarantee signed by the vendor that the voting systems obtained by the county comply with all requirements of Indiana law in effect as of the date of the amended application for these monies;

(10) include a certification by the county fiscal body that the monies received by the county will be used to pay any outstanding obligation incurred by the county for the voting system purchase subject to the reimbursement;

(11) include a certification by the county fiscal body that if these obligations have already been paid in full or in part by the county, that any remaining funds will be used to improve the administration of elections for federal office in the county.



The Election Division may prescribe that other information be included in the application, and shall assist each county in amending any previously filed application.

In the review of applications for disbursement of Section 101 monies, the State shall follow the same procedures described in this Plan for the disbursement of Section 102 monies. However, the deadline for a county to ensure that a polling place complies with the accessibility requirements set forth in Indiana Code 3-11-8-6 may be extended to March 31, 2006 if it is impossible or impractical for the county to ensure compliance by October 1, 2004.

**New Precincts**

The Team recognizes that in certain counties, new precincts may be established before December 31, 2005 to accommodate population growth. Although a new precinct would not be a qualifying precinct for which Section 102 monies would be available, the county will be required after that date to provide a fully accessible voting system for voters with disabilities at the polling place designated for the precinct. As a result, the Team recommends that this Plan be reviewed during early 2005 to determine the number of new precincts created or expected to be created before 2006; availability of Title III requirement monies and other HAVA funds to reimburse counties for voting system purchases for these precincts; and whether further legislation is necessary to permit more precincts to use the same polling place, and thereby reduce the number of voting systems that a county must acquire.

**General Procedures for Voting System Application Review**

The Secretary of State and Election Division shall prescribe: (1) the periods during which reimbursement applications may be submitted; and (2) the content of the applications. The Secretary of State and Election Division will strive to provide counties with all available information regarding the schedule for administration of the voting system reimbursement program to enable counties to take the impact of the program into account as part of the county's process for adoption of its annual budget.

The Secretary of State and Election Division may recommend that any application be approved in whole, or in part. The recommendation may provide that action on part of an application be deferred pending further information or availability of funds, or rejected.

All recommendations regarding applications submitted during a specific application cycle may be forwarded to the State Budget Committee at one time. However, it is more likely that each application will be forwarded as soon as the recommendation for that application is complete. Likewise, the Secretary of State will strive to secure the disbursement of funds to a county as soon as possible following approval of the county's application, rather than waiting for all applications in a specific application cycle to be approved or rejected by the State Budget Committee and Budget Agency.

In determining the recommendation regarding an application, the Secretary of State and Election Division must consider whether a precinct currently contains any voters (or contained any voters in 2000). If the precinct does not (or did not), the recommendation must not provide for

reimbursement for that precinct as a qualifying precinct, or for reimbursement from any other HAVA funds.

**Absentee Voting Systems in Central Location**

If an application requests reimbursement for voting equipment used for casting or counting absentee ballots at a central location, or casting ballots at a polling place located at the office of the circuit court clerk or county election board, the Secretary of State and Election Division shall determine whether the equipment or software is used primarily for the casting or counting of votes. If the equipment or software is used primarily for voter registration purposes or other election administration purposes, the recommendation must not provide for reimbursement for the equipment or software.

**Determination of Reasonable Costs**

In reviewing applications for voting system reimbursement, the Secretary of State and Election Division shall determine whether the contract provides for products and services to be provided to the county by a vendor at a cost that is reasonable and in accordance with standard business practices in Indiana. The recommendation may not provide for reimbursement of clearly excessive or unreasonable costs. In making this determination regarding the cost of products, a product which costs no more than the cost provided for in a quantity purchase agreement entered into by the vendor with the State is considered a reasonable cost for the product.

**State and Federal Auditing**

Before the Secretary of State and Election Division recommend the approval of any application for voting system reimbursement, the county fiscal body and county executive must enter into an agreement with the State obligating the county to refund to the State an amount equal to the amount of the grant received by the application if the Secretary of State and Election Division determine on March 1, 2006 that: (1) in the case of Section 102 monies, the county has not replaced lever voting machines or punch card voting systems in each precinct of the county no later than December 31, 2005; (2) in the case of other HAVA funds, the county has not provided a voting system in each polling place that complies with the accessibility requirements for voters described above; and (3) in any case, that the county has not honored one or more of the certifications the county made regarding the polling place accessibility or permitted uses of fund. The agreement must provide that the county will refund the amount no later than May 1, 2006.

The agreement must also require the county to submit a report to the Election Division not later than December 31, 2004, (or if the reimbursement was approved after 2003, not later than December 31, 2005). The report must list the accessibility problems identified in the May 2004 survey of polling places, and whether these problems have been resolved by temporary or permanent improvements, or whether the polling place has been relocated to an accessible facility. If the report indicated that the problems have not yet been resolved, the report must indicate how the county will resolve the problem no later than March 31, 2006. The Election Division may require additional reports from a county until the county reports that the polling place accessibility problems identified in the May 2004 survey have been resolved. A report from a county under this paragraph must be certified as accurate by majority vote of the county



election board, following review and the opportunity by the local advisory council to add written comments to the report.

**Local Advisory Council**

A county's local advisory council may consist of any number of members, but must include at least two (2) representatives of the disability communities or elderly voters. The membership of the council shall be appointed by the county executive, who shall encourage county residents with a variety of backgrounds, partisan affiliations, and perspectives to participate. If county residents are not available to serve on the council, the county executive may partner with the Governor's Planning Council for People with Disabilities to carry out the functions of the council.

**Indiana Bond Bank Services and Multi-County Purchase Agreements**

The Team recommends that the Secretary of State and Election Division encourage reimbursement policies that will result in the most efficient use and widespread impact of the funds available for voting system reimbursement. For example, counties should be encouraged to explore borrowing funds at low rates from the Indiana Bond Bank to reduce financing costs prior to reimbursement and entering into multi-county purchase agreements with other counties to reduce procurement costs though quantity purchasing. *See Appendix 2*

**Cost Savings**

Likewise, subject to the limitations set forth in HAVA, P.L. 209-2003, and federal auditing standards, counties should be encouraged to negotiate purchases for voting system hardware and software at prices below the amount set by the state quantity purchase agreements or the reimbursement schedule set forth in this Plan.

The Team notes that Indiana law specifically provides that applications must be for voting system *reimbursement*, which implies a previous outlay of funds or a contractual obligation to do so in the future. The reimbursement schedule for hardware and software set forth in this Plan is not a "draw down" account with funds available to a county for subsequent purchases outside of the application process.

**Supplemental Application**

However, the Team recommends that if a county purchases software or hardware for an amount less than the amount available for allocation to the county under the reimbursement schedule set forth in this Plan, that the county be permitted to submit a supplemental application for reimbursement in an amount that does not exceed the amount saved by the county in its purchase of software or hardware at a cost below the amount in the Plan's reimbursement schedule. This supplemental application could be submitted at the same time as the county's initial voting system reimbursement application or at any later date.

A supplemental application for reimbursement should only be recommended for approval if the reimbursement would be for an expenditure permitted by HAVA or state law to be made from

the applicable HAVA account and if the SOS and IED determine that the county submitting the supplemental application has complied with all Title III requirements under HAVA or is requesting reimbursement to do so.

**Expenses eligible for reimbursement**

If an application is made for reimbursement of voting system expenses from Title III requirement monies, a supplemental application could request reimbursement for expenditures made by the county to comply with any HAVA Title III requirements. These expenditures would include the purchase of additional voting systems that provides full access to voters with disabilities; training and other materials related to provisional ballots (not the ballots themselves); costs related to the identification of the mail-in registrants required to produce additional documents and mailings to those voters. However, reimbursements for purchasing voting systems before November 2000 would not qualify since these purchases are not covered under the Title III requirement payments.

Operational expenses, legal expenses, paper expenses, and interest expenses may be eligible for reimbursement.

The same restriction would apply to a supplemental application requesting voting system reimbursement from state matching funds, since HAVA Section 253(b)(5) requires that the State appropriate these funds for "carrying out the activities for which the requirements payment is made." As a result, these state matching funds would presumably be subject to the same use restrictions as the federal Title III requirement monies received by the State.

Likewise, if an application is made for reimbursement of voting system expenses from Section 102 monies, a supplemental application could request reimbursement only for purchasing additional voting systems to replace lever machines or punch card voting systems after November 2000.

However, if an application is made for reimbursement of voting system expenses from Section 101 monies, a supplemental application could request reimbursement for purchasing voting systems after January 1, 1998 and before July 1, 2001 if the voting systems meets the standards permitting reimbursement under Indiana Code 3-11-6.5, as amended in 2003. HAVA permits Section 101 funds to be expended for voting system replacement that improves election administration in a state, but does not specify any time period during which the purchase must have been made to qualify for disbursement.

To ensure that the disbursement of these funds comply with HAVA and P.L. 209-2003, the Secretary of State and Election Division must specify the accounts that are the source of each disbursement made for voting system reimbursement. For accounting purposes, this Plan assumes that disbursements will be made from available funds in the following order: Section 102 funds; Title III requirement monies; state matching funds. Disbursements from Section 101 funds for voting system reimbursement will not be made in any year until the Section 102 funds, Title III requirement monies, and state matching funds available in that fiscal year have been disbursed.



**Use of Traditional Paper Ballots**

It is possible that a county may choose not to apply for reimbursements for voting system upgrades or may not qualify for the reimbursement sought by the county's application. In that case, Public Law 209-2003 will require that county to cease using any lever voting machine or punch card voting system currently used by the county no later than December 31, 2005.

If the county has not acquired a voting system by that date which complies with HAVA, the only remaining option for the county under Indiana law is to use traditional paper ballots to conduct the election. In any event, the county must acquire at least one fully accessible voting system for each polling place for use by blind voters or voters with other disabilities. The Team recommends that the Secretary of State and Election Division monitor the situation in counties which currently use lever machines or punch card voting systems to determine whether additional legislation will be necessary in 2004 or 2005 to complete the phase-out of these obsolete voting systems.

**B. Statewide Voter Registration System**

The Secretary of State with consent of the Co-Directors will implement a statewide voter registration system that complies with Title III HAVA requirements. A team of circuit court clerks, voter registration officials from different sized counties, and Statewide Voter File subgroup members will serve in an important advisory role in the selection of a vendor, development of the system, and the conversion of data for the system. The use of an independent consultant disqualified from submitting a response to the Request for Proposal for the statewide voter registration system will assist in providing necessary guidance from an entity with no financial interest in the final product.

**Waiver Recommendation for the Statewide Voter Registration System**

The Team recommends that the Secretary of State and the Co-Directors of the Election Division request the waiver authorized under HAVA and Public Law 209-2003 to extend the deadline for implementation of the statewide voter registration system until January 1, 2006.

**Statewide Voter Registration System Costs**

The development costs of the statewide voter registration system will be assumed by the State, using Title III requirement monies, and to the extent necessary, supplemented by Section 101 funds and State matching funds. The consultant hired to develop the systems requirement document will seek to identify any opportunities for efficiency and savings that may be available from using existing or planned statewide networks to share pipeline space and to conduct coordinated training events with the administrators of those systems. However, any such coordination would be subject to the deadlines set by HAVA and Public Law 209-2003 for the statewide system to become operational and to ensure that the responsibility for system administration remains vested in the Secretary of State and the Election Division, as provided by P.L. 209-2003.

**Replacement and upgrade of voter registration system software**

The "development costs" to be assumed by the State include the hardware and software necessary for the system to perform its functions.

**Voter Registration System Training**

Likewise, training both State and county voter registration administrators will be a significant development cost to the State. The systems requirement document will request potential vendors to propose a comprehensive training program to ensure that county voter registration personnel become familiar with the features of the system before it becomes fully operational.

There will be some incidental or indirect costs associated with the development of the statewide voter registration system which this Plan anticipates will be borne by the county. These costs include county employee compensation and overtime and travel and lodging expenses for attendance at some training and conference events. Nonetheless, the state will seek to cover all necessary and reasonable costs associated with the development of the voter registration system to the extent that funding is available. In addition, if a county chooses to lease or purchase additional hardware or to provide training beyond what the State provides to ensure the maintenance and proper operation of the system, the county would be responsible for those costs.

**Voter Registration Software Upgrades before 2006**

The Team recommends that any county considering the replacement or upgrading of its voter registration software between now and the implementation of the statewide voter registration system during 2005 carefully consider the costs and benefits of that software purchase. If a county voter registration office determines that replacing or upgrading its software is necessary to ensure success in administering the 2004 general elections, then this purchase may be advisable. However, if the replacement or upgrade would result in only marginal improvement at most to the county's voter registration system, then the county may wish to consider deferring the purchase until the statewide voter registration system begins operation. If the county determines that a feature of the proposed software program is very desirable, then the county should communicate its views to the members of the Steering Committee, who can suggest that this feature be included in the systems requirement document for the statewide voter registration system.

The following will be necessary:

- The Secretary of State, with the consent of the Indiana Election Division, shall develop, maintain and support the system.
- The Indiana Election Division shall develop interaction between the voter registration system and the provisional ballot status application.
- The Indiana Election Division will be responsible for continuous training opportunities on the new system.
- The Request for Proposal (RFP) for statewide voter registration system shall offer poll list printing as an option for counties.



- The county clerks and voter registration officials will continue to be responsible for voter list maintenance, creation and production of poll lists, street file management and jurisdictional boundaries, jury lists, petition verification and specialized reports.

The unique identifier for an individual who has not provided a driver's license number will be the birth date (MMDDYYYY), a hyphen, and then the last four digits of the social security number (MMDDYYYY-XXXX). If the social security number is unavailable, the voter will be assigned another unique identifier by the Indiana Election Division (after December 31, 2005). This unique identifier must be the individual's Bureau of Motor Vehicles identification number, or if the individual does not have a BMV ID card, another unique number assigned by the Indiana Election Division.

The monies that will be set aside for the statewide voter registration system is within the range of $7 to 11 million. The state will use a portion of the early payments money (Section 101 funds) to pay a consultant who will work with the Information Technology Oversight Commission to begin developing the Request For Proposal for the statewide voter registration system project because this process will begin before the state receives any Title III funding. However, the Section 101 money will be reimbursed from Title III money once it is received.

**C. Training and Education**

The Indiana Election Division is currently responsible for annually providing election official training to county circuit court clerks, incoming county circuit court clerks and county election board members.

Each county's maintenance of effort includes training for the poll inspector and in some instances the poll judges and clerks. Indiana law requires that inspectors and judges be trained. The law also requires that training must include information related to making polling places and voting system accessible to elderly and disabled voters. Therefore, HAVA monies will be utilized to expand this training to include training opportunities for the poll clerks and judges. There will be additional costs associated with training voters and poll workers on new voting equipment and provisional balloting as well as the printing and posting of the Voter's Bill of Rights. It is expected that many first time poll workers including those from secondary schools and colleges, recruited under a new program authorized by HAVA, will need to be trained.

Opportunities will be sought for coordinating training with other interested parties and advocacy groups. During the annual meetings of the Association of Indiana Counties, Indiana Association of Cities and Towns, and Association of Circuit Court Clerks, sessions will be available regarding local election administration. The Indiana Election Division will develop training aimed at attorneys so they may qualify for continuing legal education credits (CLEs) required by the Indiana Supreme Court. A poll worker certification program will be developed as an incentive and positive reinforcement of the poll workers' efforts.

The state will develop an application process for distribution of training and education funds.

Starting in 2003 and continuing over the next 2 years, IED will conduct additional seminars for clerks and county voter registration officials solely dedicated to new election administration issues and procedures.

Neither the state nor a county has voter education included in their maintenance of effort.

The proposed budget sets aside $3.9 million for Training and Education.

**D. Provisional Ballots**

In the 2001 legislative session, authorization for provisional balloting beginning with the 2004 primary election was provided. However, additional requirements to build a free access system, provide written documentation to provisional voters and protect provisional ballot voters' confidentiality are new under HAVA; these were addressed by additional Indiana legislation enacted in 2003. At the time the document was written, the Secretary of State's office envisions interaction between the systems used for the statewide voter registration system application and a provisional ballot status application. Once the statewide grievance toll-free line is available, the state anticipates using that line for the provisional ballot status notification process.

**E. Grievance Procedure**

HAVA requires the establishment of a state based administrative complaint procedure that will remedy grievances concerning Title III which include but is not limited to (1) voting system accessibility, (2) polling place accessibility, (3) any part of the voting process itself, (4) registration process, or (5) allegation of fraud. The details of this grievance procedure are explained under Section 9 (page 49) of this plan.

The proposed budget sets aside $500,000 for administration of the grievance procedure. A county may apply for grants to assist in the development of the optional county grievance procedure. The Indiana Election Division in consultation with the Secretary of State will establish guidelines to evaluate applications submitted for this purpose.

**F. Accessibility of Polling Place and Materials**

The Secretary of State's office will form a partnership with the Governor's Planning Council for People with Disabilities (GPCPD) to conduct a statewide polling place accessibility study that will establish a baseline of Indiana's current environment as it relates to polling place accessibility. Each county will also form a local advisory council composed in part of voters with disabilities and elderly voters. The GPCPD will supply suggested members for the local advisory councils upon request. This council will advise the local officials on polling place accessibility and site selection. The survey and the establishment of the local council will be a required criteria for counties applying for reimbursement for voting systems.

Information will be provided by the Indiana Election Division to local election officials with suggestions about making their written materials and websites more accessible to voters with disabilities. The information will be created and organized by the GPCPD. Additional outreach will be directed toward military and overseas voters.



Currently, neither the state nor local officials have a maintenance of effort requirement for polling place accessibility or for the updating of materials and websites into accessible formats.

HAVA requires that voting systems provide alternative language accessibility as described in the Voting Rights Act of 1965. Using data from the 2000 United States Census, Indiana's population of non-English speaking residents does not meet the level that requires provision of voting information and materials in other languages. However, as the population of non-English speaking Hoosiers continues to increase, Indiana is taking steps to offer materials related to direct voter communication in the languages that are most prevalent. Currently, the Voter's Bill of Rights and the Application for Voter Registration Form are available in Spanish. As federal funds are available, the Indiana Election Division will translate more documents.

**G. Administration**

The proposed budget sets aside $500,000 for the administration of HAVA requirements.

**H. Strategic Reserve**

The proposed budget sets aside at least $2 million from Section 101 funds as a strategic reserve to be used to meet any HAVA requirement if the initial amount budgeted for meeting that requirement is not sufficient. The amount in this reserve will be increased to a total of $6 million to the extent that the statewide voter registration system costs less than the maximum $11 million budgeted for that project. The Team also recommends that any savings achieved in other projects be reallocated to the strategic reserve to ensure that all HAVA requirements are met and to avoid any required refunding of federal HAVA dollars by the State. If these savings are derived from projects funded with monies other than Section 101 monies, strategic reserve funds may actually be present in more than one account to recognize the use restrictions imposed on each HAVA account.

The Team's future review of Indiana's HAVA compliance may then lead to the reallocation of some funds held in strategic reserve to address requirements that have not been fully met at that time. In addition, the Team recommends that any of the $2 million in Section 101 funds remaining in strategic reserve after the expenses for fulfilling HAVA requirements have been fulfilled be available for voting system reimbursement for counties which are eligible for reimbursement from the Election Administration Assistance Fund (Indiana Code 3-11-6.5), but which are not eligible for reimbursement using Title III requirement monies.

The Team recognizes that in addition to the statewide voter registration file, the HAVA requirement that each polling place be provided with a voting system that is fully accessible to a voter with disabilities may result in significant expenditures by counties to comply with this requirement. The Team views the expenditure of any necessary funds from the strategic reserve to accomplish this purpose and to prevent required refunding of federal HAVA dollars as an appropriate use of funds in the strategic reserve.

## Section 7

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

**(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.**

The Secretary of State will not use the requirements money to maintain the level of expenditures previously incurred by the state for election administration. For fiscal year ending June 30, 2000, the State of Indiana was not expending funds for any tasks required under Title III, including provisional ballots, documentation for first-time mail-in registrants or DREs for the disabled, except as provided below.

In 2000, counties were spending local monies on voter registration maintenance and voting system equipment.

The current duplicate voter registration elimination program will no longer be utilized after 2005 under Public Law 209-2003. However, approximately $225,000 was expended to conduct this program in 1999 - 2000 to compile a statewide voter registration system and will require a maintenance of effort.

## Section 8

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

**(8) How the State will adopt performance goals and measures that will be used by the State to determine its 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**

**Performance Goal 1: Statewide Voter Registration System.**
For compliance with HAVA and in order to receive and use requirements money, Indiana will build a "state of the art" system that will be centrally administered. It will provide the best election tools to the state's local election and registration officials and will incorporate the best features from Indiana county voter registration systems. This system will expand the current relationship between the county and state on operating the duplicate elimination program for list maintenance. It will be necessary to have an interface allowing the system to receive updates from the Bureau of Motor Vehicles, Department of Correction and the Indiana State Department of Health. A steering committee and an independent consultant will be used to guide the process. (see chart on following page)



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| Performance measure 1 | Number of counties online<br>Number of voters per county<br>Percent of data conversion to standard format completed automatically<br>Number of digitized signatures captured<br>Number of voting histories captured<br>Number of ID numbers captured<br>Number of ID numbers matched<br>Number of hits concerning provisional ballot status<br>Number of hits for polling place locator |
| Timetable | Now through January 1, 2006 |
| Description of the criteria used to measure performance | Conversion of county registration records is vital to the base file. Reports should be generated from partner agencies to help evaluate the success of file maintenance. |
| Process used to develop criteria | Success of the system will be dependent upon the capture, migration, and standardization of voter registration information into the central voter registration database. |
| Description of official to be held responsible for ensuring each performance goal is met | The Secretary of State and the Indiana Election Division are responsible for implementing the statewide voter registration system. The Indiana Election Division is also responsible for training, support, and ongoing maintenance of the system. The Indiana Election Division will coordinate with all 92 county voter registration officials, BMV, DOC, and Indiana State Dept. of Health. |

**Performance Goal 2: Training and Education**

All Indiana state and local election and voter registration officials realize the success of HAVA implementation relies heavily on communication among or between the participants in the process. Opportunities for training are present at all levels from year round election officials to poll workers and voters that may only interact with the process one or two times a year.

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| Performance Goal 2.a | The following information will be collected to measure election official training performance:<br>Number of people trained in county election office<br>Total number of employees in county election office<br>Number of people trained in voter registration office<br>Total number of employees in voter registration office<br>Number of people in each county certified for the first time<br>Number of people in each county re-certified<br>Number of training classes/opportunities offered |
| Timetable | December 31, 2003 and annually thereafter with possible exception in off election year (no municipal or federal election) |
| Description of criteria used to measure performance | The Secretary of State will prepare and submit a local election and voter registration official training report containing HAVA related information to be filed on the Secretary of State's web site annually. |
| Process used to develop the criteria | The state already provides training for county election officials. Further steps will be taken to ensure all employees of agencies responsible for "full service" voter registration duties are trained on changes related to HAVA. In addition, election/voter registration certification program will be developed. |
| Description of official to be held responsible for ensuring each performance goal is met. | The Secretary of State through the Indiana Election Division is responsible for election official training. |



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| Performance Goal 2.b | Number of poll worker positions available<br>Number of poll clerks trained by instructors in classroom<br>Number of poll clerks trained by video<br>Number of poll clerks trained on the web<br>Repeat statistics for poll judges and sheriffs<br>Number of high school and college students contacted by county election officials<br>Number of ID documentation information pieces collected<br>Number of provisional ballots cast<br>Number of CLEs earned by attorneys<br>Number of new persons recruited to work polls<br>Number of complaints or grievances filed<br>Whether exit poll questionnaire was executed<br>Percentage of poll workers who attended training |
| Timetable | January 1, 2004 and every election thereafter |
| Description of the criteria used to measure performance | Local election officials will submit this information semi-annually to the Indiana Election Division following an election. |
| Process used to develop criteria | Election officials already conduct some poll worker training. The Indiana Election Division will rely on input from local election officials (and perhaps professional trainers) to develop both the content and evaluation criteria for the program. |
| Description of official to be held responsible for ensuring each performance goal is met | The Indiana Election Division shall establish training guidelines, tools, CLEs and the certification program. Each county will continue to oversee poll worker training. |

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| Performance Goal 2.c | Number of public display sites for voter education<br>Number of NCAS or PSAs (public service announcements)<br>Number of ads, news releases or news stories<br>Number of web hits on video streaming<br>Number of teachers certified to instruct on voting systems<br>Number of videos or power point slide shows distributed<br>Number of speeches given by county election or voter registration officials<br>Number of high schools and colleges contacted<br>Increase in percentage of voter turnout |
| Timetable | January 1, 2004 and every election thereafter |
| Description of the criteria used to measure performance | Local election officials will submit this information semi-annually to the Indiana Election Division following an election. |
| Process used to develop criteria | These steps are being taken to ensure voters receive information on HAVA and related election processes |
| Description of official to be held responsible for ensuring each performance goal is met. | The Indiana Election Division is responsible for developing these training tools. Each county will be responsible for implementation and reporting. |



**Performance Goal 3: Grievance**

HAVA requires the establishment of a state-based grievance procedure.

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| Performance Goal 3 | The following information will be collected to measure the effectiveness of the grievance process:<br>The number of calls received<br>The number and nature of complaints filed<br>The number of complaints dismissed<br>The number of complaints resolved by the Indiana Election Division<br>The number of complaints resolved by the Indiana Election Commission<br>The number of complaints resolved by an Arbitrator<br>The average time for a complaint to be investigated and resolved |
| Timetable | January 1, 2004 and every election thereafter. |
| Description of the criteria used to measure performance | The Secretary of State will review the reports from the Indiana Election Division and the counties. |
| Process used to develop criteria | The Indiana Election Division will also submit a report containing number of complaints received, number of complaints resolved and time required/ used for resolution. |
| Description of official to be held responsible for ensuring each performance goal is met | The Indiana Election Division and Indiana Election Commission are responsible for administering the Statewide grievance procedure. The Protection and Advocacy Commission will assist with administering the grievance procedure as it relates to persons with disabilities. |

**Performance Goal 4: Provisional Ballots**

The following shall be measured regarding provisional ballots: uniform processing, verification and status availability. In the beginning, provisional ballot status reporting will be done by each county until the implementation of the statewide voter registration system. The goal is to have uniform procedures in place in each county for processing and verification of provisional ballots.

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| Performance Goal 4 | Number of provisional ballots cast in each precinct<br>Number of voters casting a ballot in each precinct at that election<br>Number of provisional ballots verified and counted for each precinct<br>Number of provisional ballots not counted in each precinct and reason<br>Number of voters who checked their provisional ballot status<br>Whether uniform procedures were followed |
| Timetable | January 1, 2004 and every election report thereafter |
| Description of the criteria used to measure performance | The election report from each county (until implementation of statewide voter file) will provide the Secretary of State with an indication of what additional tools may be needed for uniformity. The statewide voter registration system will be used to report and track the above figures when the system becomes operational. |
| Process used to develop criteria | The Indiana Election Division will enhance the county election administration manual regarding provisional ballot procedures and information. |
| Description of official to be held responsible for ensuring each performance goal is met | The Indiana Election Division, through its election official training and county administrative manual, will be responsible for uniform guidelines for processing and verifying provisional ballots. County election officials will be responsible for provisional ballot verification, counting and reporting. Status of provisional ballots will become a joint effort between the state and county once the statewide voter registration system becomes operational. |



**Performance Goal 5: Accessibility**

One of HAVA's greatest initiatives is to make the election process more accessible. Indiana will address voting equipment first, with a link to polling place accessibility. Indiana would also like to utilize part of Title III requirement monies remaining after voting system reimbursement to address accessibility issues through training and provide materials and web information in accessible formats.

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| Performance Goal 5 | Number of military/overseas absentee applications<br>Number of military/overseas ballots cast<br>Number of military ballots rejected and reason(s) therefore<br>Number of polling places<br>Number of polling places accessible<br>Number of DREs w/accessible devices<br>Number of DREs w/out accessible devices<br>Number of IED accessibility brochures distributed<br>Number of accessibility complaints received and resolved<br>Whether Indiana Election Division website and materials are available in accessible formats<br>Whether county met with local advisory council |
| Timetable | January 1, 2006 for voting system with accessible equipment and<br>January 1, 2004 and beyond for other goals. |
| Description of the criteria used to measure performance | Local election officials will submit this information semiannually to the Indiana Election Division following an election. |
| Process used to develop criteria | The application for reimbursement of voting systems monies will include certification of polling place accessibility. |
| Description of official to be held responsible for ensuring each performance goal is met | The county will be responsible for certifying polling place accessibility on the application for reimbursement to the Indiana Election Division. The Indiana Election Division will make sure the Election Division website is in an accessible format. Governor's Planning Council for People with Disabilities will help coordinate statewide polling place survey. |

## Section 9

**Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

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

Under HAVA, an individual who believes there is (or has been) a violation of any provision of Title III may file a complaint. Such complaint may include, but is not necessarily limited to the following: (1) voting system accessibility, (2) polling place accessibility, (3) any part of the voting process, (4) registration process, or (5) allegation of fraud. The Secretary of State and local election officials will establish a free access system to begin the grievance process.

Indiana Code 3-6-4.5 establishes the state based administrative complaint procedures to remedy grievances concerning uniform and nondiscriminatory election technology and administrative requirements under Title III. The procedures must be uniform and nondiscriminatory.

An individual who believes there is a violation of any provision of Title III, including a violation that has occurred, is occurring, or is about to occur, may file a complaint with the Indiana Election Division. The complaint must be written, signed, and notarized. The complaint must state the following: (1) name and mailing address of the individual alleged to be committing the violation of Title III described in the complaint, (2) whether the individual filing the complaint has filed a complaint concerning the violation with a county election board, and (3) the nature of the injury suffered (or about to be suffered) by the individual filing the complaint. The complaint form and instructions will be available on the Secretary of State's web site www.sos.IN.gov.

An individual may also file a complaint with the county election board where the violation allegedly occurred. The Indiana Election Division shall not begin enforcement procedures regarding the complaint until the individual files a complaint with the Indiana Election Division. If the complaint alleges that either Co-Director of the Indiana Election Division has committed the violation, the aggrieved person shall file the complaint with the chair of the Indiana Election Commission. The chair shall perform the duties otherwise performed by the Indiana Election Division concerning a complaint. The Indiana Election Division (or commission) may consolidate complaints filed under this chapter.

The Indiana Election Division shall determine whether a complaint filed under this chapter describes a violation of Title III using the assumption that the facts set forth in the complaint are true. If the Indiana Election Division determines that there is no violation of Title III or the individual did not comply with the written requirements stated above, the Indiana Election Division shall dismiss the complaint and publish the order dismissing the matter in the ***Indiana Register***. If the complaint is dismissed, a copy shall be provided to the following: (1) the



individual who filed the notice; (2) the individual alleged to have committed the violation; (3) the members of the Indiana Election Commission, and (4) the Indiana Attorney General.

If the Indiana Election Division determines that the complaint alleges a violation of Title III using the assumption that facts alleged in the complaint are true and that the individual complied with the written requirements, the Indiana Election Division shall conduct an investigation. Upon completion of the investigation, the Indiana Election Division shall submit the results to the Indiana Election Commission which shall then issue a written report. A copy of the report shall be provided to the following: (1) the individual who filed the complaint, (2) the individual alleged to have committed the violation; (3) the members of the Indiana Election Commission; and (4) the Indiana Attorney General. The report must indicate the date that the complaint was received by the Indiana Election Division, recite the findings of facts, and state whether a violation of Title III has occurred or is likely to occur. If a violation has occurred the report must also indicate steps taken to correct the violation or prevent a reoccurrence of the violation, any measures that could be taken to correct a violation, the date when a violation was corrected or is expected to be corrected and any additional information or recommendations useful in resolving the complaint.

At the request of the individual filing a complaint or the request of a member of the commission, the commission shall conduct a hearing on the complaint and prepare a record of the hearing. A request for a hearing must be filed with the Indiana Election Division not later than noon seven days after the report is mailed by the Indiana Election Division. After concluding the hearing, the Indiana Election Commission shall do the following: (1) affirm the report; (2) amend the report; or (3) refer the matter to the Indiana Election Division for further investigation and submission of a subsequent report to the Indiana Election Commission. If the Indiana Election Commission finds that there is no violation, the commission shall dismiss the complaint and publish the order of dismissal in the ***Indiana Register***. If the Indiana Election Commission determines that there is a violation of any provision of Title III, the Indiana Election Commission shall determine and provide the appropriate remedy if authorized by law to do so.

The Indiana Election Commission shall forward a written summary of any action taken by the commission by certified mail to the following: (1) the individual who filed the notice; (2) the individual alleged to have committed the violation; (3) the members of the Indiana Election Commission, and (4) the Indiana Attorney General.

The Indiana Election Commission shall make the final determination regarding the complaint not later than ninety days after the date the complaint is filed. If the Indiana Election Commission fails to make a final determination (or the Indiana Election Commission ties 2-2) within ninety days, the complaint shall be resolved by referral to an arbitrator selected jointly by the commission and the individual who filed the complaint. The record and other materials from any proceeding conducted by the Indiana Election Commission shall be made available for use by the arbitrator. The arbitrator shall file a report with the Indiana Election Division setting forth the resolution of the complaint.

The procedures set forth in Indiana Code 3-6-4.5 are subject to the Indiana Administrative Rules and Procedures Act (IC 4-21.5), which permits judicial review of determinations under the grievance procedure.

Indiana Code 3-6-5.1 establishes a county based administrative complaint procedure to supplement the state based administrative complaint procedure. An individual who files a complaint with the county retains the right to file a complaint with the Indiana Election Division. If the county election board is notified at any time that a complaint has been filed with the Indiana Election Division regarding this matter, the county election board shall dismiss the proceeding.

## Section 10

**Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

**(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.**

Section 101 money will be used, in at least part, to do all of the following:

- Reimburse counties for voting equipment ($2 million). See section 6 for further explanation.
- Create a strategic reserve (at least $2 million). See Section 6 (page 21) for further explanation.
- Statewide voter registration system (to hire consultant), with Section 101 funds used for this purpose being reimbursed from Title III requirement monies. See Section 6 for further explanation.
- Begin to administer HAVA ($500,000)
- Train and educate poll workers and election officials ($1.7 million), with an additional $2.2 million from Title III requirement monies being budgeted to training workers and officials regarding Title III requirements, for an overall training budget of $3.9 million. ($1.4 million will be taken from the Sec. 101 funds for Voter Education)

## Section 11

**Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

**(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 through the Indiana Election Division will conduct annual training sessions with county circuit court clerks, election boards and voter registration officials to review standards and procedures and to assess the goals and objectives of the HAVA state plan.

If the Secretary of State determines the State Plan requires material change, the Secretary of State shall do the following:

1. propose changes to the Vote Indiana Team,
2. allow for public comment for a period of time not less than 30 days and
3. publish the changes in the ***Federal Register*** upon submitting the revised plan to the Election Assistance Commission.

## Section 12

**Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

**(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.**

This version of the State Plan is the initial State Plan required under the Help America Vote Act of 2002. This section will be updated in the next fiscal year, reflecting changes to the State Plan as well as a summary of the 2003 successes.

## Section 13

**Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

**(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.**

**Process**

The Vote Indiana Team is comprised of 28 diverse Hoosiers who are all stakeholders in the election process and who bring ethnic, geographic and tri-partisan political diversity to the planning process.

Tasks were assigned to one of our five subgroups: Accessibility, Election Administration, Statewide Voter File, Training and Education, and Voting Equipment. Members served on two subgroups. Members were assigned to two subgroups, one per member's choice and one per chair's discretion to ensure balanced discussions. Members met over a six-month period including twenty-four subgroup meetings, which each lasted 1.5 hours, and five full team meetings. Meetings were held in accordance with Indiana's Open Door Law (I.C 5-14-1.5). Procedures on setting meeting agendas and handling deadlock were established at the first meeting. **Testimony and public comment were specifically sought at each meeting.** Meeting notes were kept of each meeting and made immediately available on the Indiana Secretary of State's website: www.sos.IN.gov. Materials were also available to the public by mail and electronic distribution. On the Secretary of State's website, a listserv permitted any individual with access to the internet to register as a member of the listserv and register any comments regarding the plan.

Letters were sent to each of the Clerks of Circuit Court and to county voter registration officials as local stakeholders advising them of the work of the Team and process involved for developing the state plan. In April, a draft state plan was developed in accordance with discussions from the subgroups, current legislation and ideas where gaps existed. The draft plan was distributed to the full Team for review at their April 11, 2003 meeting. Areas of concern were returned to the respective subgroup in order to reach a consensus. The subgroup's decisions were incorporated into the second draft that was also reviewed by the full Team prior to release for public comment.

The Vote Indiana Team met on May 30, 2003 to review subgroup suggestions and to discuss additional suggestions and comments from the entire group and from members of the public. At the conclusion of that meeting, the Team endorsed the submission of the Preliminary State Plan for public comment.

After revision of the document to reflect the Team's actions at its May 30 meeting, the Preliminary State Plan was made available for public comment beginning June 3, 2003 (See "Public Comment Period and Procedure" under this Section for additional information.).

The Team convened on July 18, 2003 to conduct a meeting to consider all public comment received to date. At the conclusion of the meeting, the Team recommended the State Plan for submission to the Election Assistance Commission. The Plan will also be published in the ***Federal Register*** and the ***Indiana Register***.

**The final version of the State Plan is available on the Secretary of State's website: www.sos.IN.gov.**

**Public Comment Period and Procedure (June 3, 2003 – July 3, 2003)**

Copies of the Preliminary State Plan were available at the Secretary of State's Office, the Indiana Election Division's office and via the website at www.sos.IN.gov. In addition, the Preliminary State Plan was specifically distributed to other interested parties during the public comment period of June 3, 2003 through July 3, 2003. The Vote Indiana Team members' diverse backgrounds directly and indirectly provided the accumulation of the following list.



- AARP Indiana
- Area Agencies on Aging (Family and Social Services Agency)
- Association of Indiana Counties newsletter *Indiana News 92*
- Clerks of Circuit Court, county voter registration officials and county election board members
- County commissioners, county council members, and county auditors
- Freedom's Answer
- Governor's Planning Council for People with Disabilities *On Target* newsletter
- Interested parties associated with the Governor's Planning Council for People with Disabilities
- Indiana Association of Cities and Towns
- Indiana Black Legislative Caucus
- Indiana Broadcasters Association
- Indiana Congressional Delegation
- League of Women Voters
- Libertarian Party of Indiana Central Committee
- Military Officers Association of America – Indiana Chapter
- NAACP chapter presidents in Indiana including the State NAACP president
- National Association of Latino Elected and Appointed Officials
- News Releases to Indiana media, Editorial Board interviews, and letters to editors
- Partners in Policy Making Academy coordinated by the Governor's Planning Council for People with Disabilities
- Urban League chapter presidents in Indiana
- Youth Vote Coalition

Comments were sent to the chair of the Vote Indiana Team in writing at the following address: Todd Rokita, Indiana Secretary of State, 200 West Washington Street, Room 201, Indianapolis, Indiana 46204, or were emailed to VoteIndianaTeam@sos.state.in.us. Public comment on the Preliminary State Plan was also left at 317-234-VOTE or by contacting the Indiana Election Division toll free in Indiana at 800-622-4941(TDD). Comments were also faxed to 317-233-3283.

All comments were distributed to all team members upon receipt. The team considered all public comment at the final VIT meeting.

**Composition of the Vote Indiana Team**

**Todd Rokita**, Chair
Indiana Secretary of State

**Christa Adkins**
Indiana Libertarian Party representative

**Tami Barreto**
League of Women Voters

**Sen. Billie Breaux**
Indiana Senate

**Amos Brown**
African-American community and media representative

**Dick Dodge**
Steuben County Commissioner and Association of Indiana Counties representative

**Pam Finlayson**
Allen County Election Administrator

**Linda Grass**
Hancock County Clerk

**Dee Ann Hart**
Disability community representative

**Laura Herzog**
Indiana Voter Registration Association

**Suellen Jackson-Boner**
Governor's Planning Council for People with Disabilities

**Gen. Michael Kiefer**
Military representative

**J. Bradley King**
Co-director, Indiana Election Division

**Jon Laramore**
Office of the Governor

**Sally LaSota**
Lake County Election Board Administrator

**Rep. Ed Mahern**
Indiana House of Representatives

**Zach Main**
Indiana Republican Party representative

**Regina Moore**
Indiana Voter Registration Association

**Martha Padish**
Vermillion County Clerk



**Nick Rhoad**
Disability community representative

**Rep. Kathy Richardson**
Indiana House of Representatives

**Kristi Robertson**
Co-director, Indiana Election Division

**Col. Joe Ryan (Ret.)**
Military representative

**Doris Anne Sadler**
Marion County Clerk

**Sen. Becky Skillman**
Indiana Senate

**Joe Slash**
Indianapolis Urban League

**Patricia Wilson**
Hispanic community representative

**Robin Winston**
Indiana Democratic Party representative

Facilitators: Sarah M. Taylor, former Marion County Clerk; Holly M. Davis; Anita L. Kolkmeier, General Counsel, Indiana Secretary of State's Office

**This plan is respectfully submitted to the Election Assistance Commission, in accordance with Public Law 107-252, this 26th day of August, 2003.**

**Todd Rokita**
**Indiana Secretary of State**

## Items for Future Consideration

The Team put forth some additional ideas for future consideration following their charge for developing a blueprint for elections over the next five years.

(1) Department of Defense – "2nd generation voting"

This would require an amendment to the Constitution of Indiana to permit the children of overseas voters from Indiana, but who have never resided in Indiana themselves, to be eligible to register to vote upon meeting the requirements other than 30 days residence in Indiana.

(2) I.C. 3-11-8-3 flexibility of polling place relocation in rural counties.

(3) I.C. 3-6-6-13 majority vote of county election board to fill vacancies on precinct election boards.

(4) Although Public Law 209-2003 provides that lever voting machines and punch card voting systems may continue to be used in Indiana elections until December 31, 2005, the existing certifications for these systems should be revoked before that date so that no additional marketing of the systems can occur. To provide for more detailed scrutiny of applications for voting system certification, the General Assembly may wish to consider providing an up-to-four year term for certification, with all existing applications coming up for renewal during the off election year.

(5) Indiana Election Division explore future participation in Department of Defense project to permit military voters to cast ballots electronically through secured web based sites.



## Appendix 1

## INDIANA ELECTION REFORM HISTORY

The development and issuance of Indiana's plan to implement the Help America Vote Act of 2002 marks a significant moment in our state's history of election administration.

While the formation of the State Plan required the members of the Vote Indiana Team to look ahead to determine the wisest way to use our state's resources to bring about election reform in the years ahead, it also provides an opportunity to look back at Indiana's past efforts to ensure fair, honest, and accurate elections.

This look at our past tells us that many issues addressed in the HAVA Plan have been the focus of efforts to improve elections in Indiana since the earliest days of our state. In fact, the first elections were held in what is now Indiana in December 1798, well before statehood.

The voters in the Northwest Territory created by the Continental Congress in 1787, only won the right to elect legislative representatives after a dozen years of effort, and not without obstacles and opposition. When the election was finally permitted, the franchise was limited to free males who were at least 21 years of age. The polling places were literally few and far between in the vast expanse of the territory. Voters in what is now Indiana could choose between traveling by river or wilderness trail to Vincennes, Detroit, and a couple of locations near Cincinnati to cast their ballot. Voting was *viva voce* ("by voice"), meaning that the voter recited the names of the candidates he wished to vote for before an election board, which wrote them down.

When Indiana attained statehood in 1816, election reform was a topic at the first Constitutional Convention. In a compromise, *viva voce* voting was eliminated, but the General Assembly retained the option to return to that method if it chose to do so. Instead, the emerging political parties began to provide the voters with "tickets" that listed their candidates. These tickets varied in size and color, so the ballot was still not secret.

When Indiana adopted its present Constitution on November 1, 1851, many of the current features of our election system began to take shape. Voting was now organized by counties within precincts. However, in almost all cases, the "precinct" consisted of an entire township, and there was no voter registration system. Elections were held on uniform dates (the second Tuesday in October for general elections, other than the November presidential elections), but there was no opportunity to cast an absentee ballot. A circuit court clerk was elected with responsibilities for county election administration.

During the Civil War era and the remainder of the 19th Century, the increasing growth of cities and other changes in society brought attention to the inadequacies in Indiana's election system. The absentee ballot process began as an opportunity to permit military voters to fully participate in elections, without being called away from their post of duty. The growing presence of a non-English speaking group of immigrants in Indiana led to the official publication of laws and other

documents in their native language to educate the new German-speaking Hoosiers about the voting process.

Multiple voting by "repeaters" or "floaters" led to the adoption of a constitutional amendment requiring voter registration in Indiana in 1881. The franchise was expanded following the Civil War to include all adult males, regardless of race or color, repealing a ban on voting by African-Americans that had been enacted in Indiana in 1816.

However, the catalyst for sweeping election reform in Indiana was the controversial and disputed presidential election of 1888. Following charges of widespread election fraud in Indiana, Governor Isaac Gray initiated a bipartisan effort to restore public confidence in the integrity of the election process.

In 1889, the Indiana General Assembly enacted sweeping election reform legislation that became a model for other states. Indiana was the second state in the nation to require that voters be provided with government-issued, standardized secret ballots to replace the political party tickets. To safeguard the election process, bipartisan representation was required on all election boards, from the precinct level, to the county level, and in the newly created State Board of Election Commissioners. Counties were required to divide larger townships into multiple precincts to provide more accessibility to voters.

During the early years of the 20th Century, Indiana continued to refine and expand its election reform efforts. The franchise was expanded by constitutional amendment throughout the nation to include adult women. However, Indiana continued to be noted for its willingness to try innovative methods to improve the election process. Indiana embraced the new technology of lever machines after President McKinley signed a law in 1899 permitting their use in federal elections. In 1917, before the 19th Amendment to the U.S. Constitution was ratified, Indiana became one of the first eight states in the nation to pass legislation permitting women to vote in presidential elections. From 1915 until 1917, Indiana was (and so far remains) the only state to provide an "instant runoff" or preferential voting procedure in federal and state elections.

Despite this tradition of innovative reform, Indiana's election laws failed to keep pace with the sweeping changes of the 1930's and early 1940's. However, in 1945, at the urging of State Representative Edwin Steers, the Indiana General Assembly recognized the need to ensure the consistent and fair application of election statutes throughout the state, and adopted a comprehensive recodification of state election laws.

During the post-World War II period, Indiana election procedures continued to adapt to changes coming from the national level, including the expansion of the franchise to 18-year-old citizens and the elimination of lengthy residence requirements for voter registration. Likewise, Indiana continued to embrace new technology for voting, such as the punch card voting systems introduced in the 1970's. However, Indiana's very decentralized election administration system led to both a new national controversy and the incentive for renewed election reform.

Following the disputed 8th Congressional District election in 1984, national attention was focused on the lack of a uniform process for conducting multi-county recounts in Indiana. Under



the law of that time, each county conducted its own recount for the congressional election. After congressional hearings documented that the counties within the 8th District lacked consistent standards for counting votes, the Indiana General Assembly acted.

In 1986, the legislature began by enacting a new codification of Indiana election laws to better organize these statutes after forty years of amendments, and to repeal obsolete procedures. The State Recount Commission was created, and after conducting its first congressional recount in December 1986, recommended the adoption of legislation that established detailed and precise standards for counting punch cards and other types of ballots.

In 1987, the General Assembly continued its election reform efforts by enacting the recommendations of the Recount Commission as a part of one of the most comprehensive revisions in Indiana election law (Senate Enrolled Act 587). This 530-section statute authorized and expanded the use of new technologies such as direct recording electronic voting systems and optical scan ballot cards in Indiana elections, along with expanding county flexibility in locating polling places for access by voters with disabilities.

During the next dozen years, Indiana enacted several laws (and in 1998, a state constitutional amendment) to respond to new challenges in election administration. These measures included the protection of the voting rights of military voters and voters who moved during the final 30 days before an election, and the repeal of obsolete constitutional provisions, such as permitting township elections to be held in October. In response to the National Voter Registration Act of 1993, Indiana's voter registration statutes were comprehensively revised in 1995. The Census Data Advisory Committee was created as a permanent, standing body of the legislature to review and recommend changes to Indiana election laws. As a result of this Committee's work, significant election reform legislation was enacted in 1995, 1997, 1999, and 2003.

The 2003 legislative session also witnessed the enactment of Senate Enrolled Act 268, another comprehensive effort at election reform focused on the implementation of the Help America Vote Act in Indiana.

As a result of this rich heritage, Indiana stood in an enviable position to continue election reform in response to the 2000 general election and the enactment of the Help America Vote Act of 2002. It is hoped that the work of the members of the Bipartisan Task Force in 2001, and the Vote Indiana Team in 2003, the hundreds of county election administrators, and thousands of poll workers throughout the state will contribute to the success of the ongoing effort for election reform in Indiana.

*Compiled and written by*
*J. Bradley King,*
*Co-Director, Indiana Election Division*

# Appendix 2

**Indiana Bond Bank**

**Hoosier Equipment Lease Purchase (HELP) Program**

**Letter from the Chairman**

To all potential participants:

The Primary mission of the Indiana Bond Bank is to assist local government in obtaining low-cost financing for their operations. To achieve our mission, the Bond Bank has developed several programs tailored to specific financing needs. The HELP program is one of these programs. Through the Hoosier Equipment Lease Purchase Program, local communities can acquire equipment at cash prices and utilize tax-exempt interest rates. Since its beginning in 1989, the program has assisted more than 135 communities in obtaining over $82 million in equipment. Interest rates for the program are based on the current U.S. Treasury Yield. According to a recent Internal Revenue Service Private Letter Ruling, small entities can also benefit from participation and still maintain their "small issuer" status. I encourage you to find out more about this standardized and streamlined lease-purchase program offered by the Indiana Bond Bank.

Sincerely,

Tim Berry
Chairman, Indiana Bond Bank
Treasurer, State of Indiana

**Description of Program**

- Assists communities in acquiring essential equipment through a standardized and streamlined lease-purchase process
- Standard lease term
- Minimum lease amount is $100,000
- Repayment flexibility; monthly, quarterly, semi-annually, or annually
- Eliminates the need to bid financing
- Rates are updated daily
- Over 135 communities assisted



**Application Procedures**

1. Complete one page application
2. Submit certain financial information
   Most recent audit report
   Current Budget
3. Approval process usually within seven business days

Applications can be submitted at any time. Upon credit approval from the Bond Bank lender, only lease documentation is required to complete the transaction.

**Lease Equipment**

| | | |
|---|---|---|
| Computers | Voting Machines | Buses |
| Phone Systems | Cafeteria Equipment | Ambulances |
| 911 Emergency Equipment/System | Maintenance Equipment | Garbage Trucks |
| Safety, Security and | Police Cars | Tandem Trucks |
| Surveillance Equipment | Fire Trucks | Sewer Vacs |

**For questions about eligible equipment, contact the Indiana Bond Bank at 317.233.0888 or 800.535.6974.**
**Information can also be found at www.in.gov/bond.**

# State of IOWA Help America Vote Act State Plan

*As required by Public Law 107-25, Help America Vote Act 2002, section 253 (b).*

*As adopted on July 17, 2003 with Public Comments*

**Chester J. Culver**
**Iowa Secretary of State**
**and Chief State Election Official**
**Statehouse**
**Des Moines, IA 50319**

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## COMMITTEE MEMBERS

*Jill Avery** – Iowa Department of Human Rights

*Elaine Baxter* – former Iowa Secretary of State

*Jane Burleson* – City Councilwoman, City of Fort Dodge

*Joy Corning* – former Lt. Governor of Iowa

*Michael Fitzgerald* – Treasurer of State, State of Iowa

*Mike Hoenig** – Director IDEAS Program Center for Disabilities and Development

*Barbara Huey* – President of the Iowa State Association of County Auditors

*Elizabeth "Libby" Jacobs* – State Representative, District 60, Polk County

*Mike King* – President of the Iowa State Association of Supervisors

*Linda Langenberg** – Linn County Auditor

*Michael Mauro** – Polk County Auditor

*Jan McNelly* – President of the Iowa League of Women Voters

*Andrew Nielsen* – Deputy Auditor, State of Iowa

*Mary Jane Odell* – former Iowa Secretary of State

*Sylvia Piper** – Iowa Protection and Advocacy Services

*Rik Shannon** – Governor's Developmental Disabilities Council

*Rita Vargas* – County Recorder, Scott County

## TECHNICAL ADVISORS

*Dave Beary* – Iowa Department of Transportation

*Dennis Cowen* – Iowa Information Technology Department

*Holmes Foster* – former Banking Superintendent, State of Iowa

*Shashi Goel* – Iowa Department of Management

*Ken Paulson* – Senior Purchasing Agent, Iowa Department of General Services

*Surasee Rodari* – Bankers Trust

*Dawn Williams* – Elections Director, Marshall County Auditor's Office

*HAVA section 255(a) requires membership in the committee.

## LIST OF ACRONYMS

| | |
|---|---|
| CSEO | Chief State Election Official |
| DRE | Direct Recording Electronic* |
| FEC | Federal Election Commission |
| HAVA | Help America Vote Act |
| ISACA | Iowa State Association of County Auditors |
| NASS | National Association of Secretaries of State |
| NASED | National Association of State Election Directors |
| RFP | Request for Proposal |
| SEAT | State Election Administrators Training |
| SPPG | State Public Policy Group |
| VSS | Voting System Standards |

*An electronic voting machine where votes are cast by touching the screen on a video display terminal, or by pressing a corresponding button. Similar types of machines include ATM cash machines or other touch-screen equipment.

CHESTER J. CULVER
IOWA SECRETARY OF STATE

STATEHOUSE
DES MOINES, IOWA 50319

June 5, 2003

Dear Fellow Iowans:

As a result of the 2000 presidential election and the chaotic 36 day recount in Florida, in 2002 the United States Congress passed an election reform law to improve election administration in the United States. The legislation, called the Help America Vote Act (HAVA), had bipartisan and overwhelming support as demonstrated by United States Senate's 99 to 1 approval of the law. HAVA provides nearly $4 billion of federal assistance available to the states with Iowa's share being up to $35 million.

To receive federal funds, HAVA requires each state to write a Preliminary State Plan to be developed by the State HAVA Advisory Committee. The law requires the advisory committee to be appointed by the state's chief state election official. Required members of the advisory committee are the chief election officials from the state's two most populous jurisdictions. In addition, Congress recommends the inclusion of other stake holders on the committee including groups of individuals with disabilities, local election officials, and other concerned citizens. (Pub. Law 107-252, Sec. 255).

In February 2003, as the chief state election official, I was honored to appoint 17 distinguished Iowans from across the state to serve on the HAVA Advisory Committee. I also invited a number of technical advisors with special expertise to assist the committee. A complete list of advisory committee members and technical advisors is following. Each advisory committee member has worked hard during the last three months meeting, researching, and coming to consensus on the best election reform plan for Iowa. These committee members should be commended for their outstanding commitment to this important cause.

The advisory committee members are divided into five subcommittees to prepare each section of the *Iowa HAVA State Preliminary Plan (Plan)*. The subgroups are: voting equipment, voter registration system, education and training, budget and finance, and public policy. Each subcommittee made recommendations to the full advisory committee. The advisory committee held five public meetings from February through May and each subcommittee met three or more times.

HAVA requires public notice of the plan be published and a minimum of a 30-day public comment period be provided on the Plan. (Pub. Law 107-252 Sec. 256). On June 11, 2003 notice of the State Plan will be published in the Iowa Administrative Bulletin. In an effort to seek additional public comment, the Plan will be presented at 13 public hearings across the state. During these hearings, Iowans will be asked to comment publicly and share ideas to improve election administration in our state. Following the public comment period that ends July 15, 2003, the HAVA advisory committee will review public comments and make revisions to the Plan prior to its submission to the federal Election Assistance Commission.

As we move into the exciting implementation phase of election reform, interested Iowans and elected officials will continue to play an integral role in the process. Now that the Plan has been drafted, we must work together to better define specific implementation strategies for each major section of the Plan. The Advisory Committee with the assistance of technical advisors will work during the next three years to ensure successful implementation of the Plan. Additionally, HAVA requires an annual review of the planning and implementation process. The HAVA Advisory Committee members will be asked to assist with this annual review.

This *Iowa HAVA State Plan* is a blueprint for making Iowa's good election administration even better. The advisory committee and I share a common goal; Iowans should have the best election system in the nation. This goal will only be achieved by upgrading Iowa's election technology, providing better training for election officials, and increasing voter education opportunities for all Iowans.

Working together, I am confident we will not only successfully implement the election reform plan for Iowa, but I believe we will accomplish our goal of becoming a national leader in election administration.

Sincerely,

Chester J. Culver,
Iowa Secretary of State and
Chief State Election Official

## Introduction and Background on Election Reform

*By Secretary of State Culver*

Election 2000 and the chaotic 36-day recount in Florida presented our nation with one of the closest presidential races in history – one we will not soon forget. As Iowa's Secretary of State and chief state election official, I came away with three primary lessons from Election 2000.

The first lesson is not new, and it is a lesson we can never be reminded of too often. Every vote must count for each Iowan who has a right to vote. Every Iowa voter should have "equal protection" when it comes to voting--all of our citizens deserve the same guarantee that their vote will be recorded correctly regardless of what county they live in and what type of voting equipment they use. Additionally, in an effort to keep our democracy strong, Iowans must have a high level of confidence in the voting process. There is no crisis. Iowa has a well-earned and deserved reputation for conducting clear, open, and honest elections. In fact, Iowans consider their elections to have high integrity as noted by a statewide *Des Moines Register Iowa Poll* released on Election Day, November 5th, 2002. It revealed that nearly 80% of Iowans polled ranked the quality of Iowa's election administration as very good.

The second lesson learned is that Iowans deserve a thorough review of our election practices and procedures and improvements must be made where necessary. After conducting public hearings in each of Iowa's five congressional districts to seek public input, in March of 2001 my office issued a report, ***Iowa's Election 2000: Facts, Findings and Our Future***. The report and hearings emphasized election administration strengths and challenges. In addition, the 2001 report provided us with a vision for the future of Iowa's elections.

The third and final lesson learned is that the federal government needs to take a more active role in providing the states with uniform and consistent standards and funding to prevent another Florida fiasco from occurring. The Presidential Election of 2000 was a very embarrassing and traumatic event for our country and our democracy. We should never again have to wait 36 days after Election Day to determine the next President and 4 to 6 million Americans should never again be denied the right to have their vote counted.

I am pleased that the federal government decided to assist states and counties with election administration when the U.S. Congress passed the Help America Vote Act (HAVA) of 2002. This national election reform law was designed to make the necessary changes to level the playing field in all 50 states by giving our citizens "equal protection" when they vote. HAVA received overwhelming bipartisan support as demonstrated by United States Senate's 99 to 1 approval of the law. In the U.S. House 363 members, including the entire Iowa delegation, voted for its passage. As an active participant in developing the federal election reform legislation, I was honored be invited to join the President and members of Congress at the HAVA bill signing ceremony in October 2002.

The problems with the presidential race of 2000 taught us all some very important lessons about our need to continually make investments in our democratic process. The Help America Vote Act provides Iowa with a tremendous opportunity to improve election administration and bring our voting process into the 21st century.



State of Iowa
Help America Vote Act State Plan

### Help America Vote Act

## Public Meeting Summary

Over a period 40 days, the Iowa HAVA State Plan Advisory Committee, in cooperation with the State's Chief Election Official conducted 13 public meetings and discussion sessions across the state of Iowa. The primary goals of these public meetings were to inform Iowans regarding the federal HAVA legislation; listen to Iowans' concerns and suggestions regarding voting in the state; and provide a forum for discussion, information, and ideas relating to the Iowa HAVA Preliminary State Plan.

The public meetings were held in Iowa's large and small communities throughout the state. Care was especially taken to ensure accessibility to the meeting place for all, that appropriate accommodations were made prior and during the public meeting, and the public meeting was fair and open to the public. The format at each public meeting required all participants to sign in for the record. At that time, each was given an opportunity to speak to his or her particular issue. Following a presentation by panelists representing the State Plan Advisory Committee and the Secretary of State's Office, participants commented for the record. In an effort to engage others attending the meetings, the meeting facilitator opened up the meeting for questions and comments. All aspects of the meeting and discussions were audio recorded for public purposes. Each comment or question was a part of the record, as was the response and discussion.

The 13 meetings were held in the following locations from the period of June 5 to July 15. Also indicated is the number of registered participants. It is estimated that nearly 1,000 individuals attended these meetings.

| | | | |
|---|---|---|---|
| **Creston** | **48** | **Neola** | **16** |
| **West Des Moines** | **76** | **Cedar Rapids** | **114** |
| **Burlington** | **51** | **Waterloo** | **82** |
| **Knoxville** | **47** | **Mason City** | **139** |
| **Dubuque** | **73** | **Spencer** | **46** |
| **Sioux City** | **71** | **Fort Dodge** | **54** |
| **Davenport** | **45** | | |

The contributions from the meeting participants primarily focused on ideas or suggestions for the implementation of the HAVA State Plan, rather than specifics for amending the preliminary draft of the plan. These suggestions focused on a range of issues including: disabilities; voting; polls and poll workers; absentee ballots; training and education; voter fraud; trust of technology; funding; costs for HAVA implementation; voter registration; and others, which took into account a variety of comments.

While there were efforts by the facilitators to diminish the political focus of the discussion and concerns about the pending lack of commitment from the state to provide the matching funds, there were considerable comments regarding this issue. There were also some participants who weighed in on broader voter issues not encompassed in the federal HAVA law, such as creating a voter holiday, same day registrations, and broad Internet voting.

Three significant issues need to be mentioned. Across all of the meetings, there were many questions and suggestions relating to the implementation of the education and training component of HAVA. A number of participants also have a concern about the process for absentee voting in Iowa. This concern ranges from the mail-in ballot procedures, to counting these ballots, to soliciting them in long-term care facilities. A third issue that surfaced was a concern about the trust or fear of technology. Some participants were concerned about simply trusting the machines to record the votes, while others felt a great deal of uncertainty regarding the ethics of machine voting.

There was a great appreciation by participants and state and local elected officials who attended the public meetings. Consistently, there were comments that reflected the need for these meetings, and an appreciation of the effort for traveling throughout the state to meet with Iowans to present the HAVA Preliminary State Plan.





## Help America Vote Act
## Public Meeting Summary of Comments

As a part of the Secretary of State's effort and in cooperation with the HAVA Plan Advisory Committee, 13 public meetings were held throughout the state to listen to Iowans thoughts and discuss the Help America Vote Act (HAVA) Iowa State Preliminary Plan. These meetings did more than meet the requirements of "public input" as outlined in the HAVA federal legislation. It gave the State's Chief Election Official, the Advisory Committee, County Auditors, and local and state elected officials an opportunity to know more about this important legislation and participate in the planning process for implementation. The following comments were gleaned from the discussion and represent issues and concerns that were posed during the public testimony and public discussion at the 13 meetings. The comments were arranged by theme or category, and there is no attribution. Please note that only the comments and questions from the participants have been provided, not the responses from the panel or facilitator

### Disability

- Make voting easier
- Concern about what will be required
- What about non-readers
- Will these machines be available for all people to use
- Will you still be able to vote from the car if you are disabled
- Need considerable education and training
- Make materials available and useful to everyone
- Need to make it easier for persons with disabilities to vote
- Accessibility to many polling places is a major problem
- Need to have these DREs for persons with disabilities and the state legislators should realize this
- Privacy is so very important to everyone in voting
- What will this do to help low-sighted people
- Will there be large print ballots
- HAVA allows voting by audio instruction
- How will the DRE machines be chosen for the state
- Is it true that the rural areas do not need a DRE for every precinct
- Who decides which one of the machines or the brand of machine to be purchased

### Education and Training

- There is a need to learn how to interact with persons with disabilities
- Need disability training especially on the special machines
- Need a lot of voter and voting education
- Concern about election turn out being so low
- Concern about how uneducated voters are
- Need more training on the use of absentee ballots

- Involve High School students in training development efforts
- Use students to help with the elderly
- Conduct public sessions to teach the public how to use new machines
- Use the Iowa Communication Network (ICN) to train
- Train and educate at malls
- There is a tremendous need for voter education
- There is a need for Hispanic voter education
- Be creative in how you approach training and education using all kinds of groups
- Develop a means to ensure less of a fear of technology
- Familiarize Latinos with machines
- We need more thorough and complete training at all levels
- Need to integrate voter education in the schools
- Need to make it as easy as possible to ensure that the elderly maintain their dignity
- Train in our schools
- Need to help elderly with machines
- Need to clarify procedures and adopt universally for all counties
- Important to educate persons with disabilities
- Help educate those in the military about their voting
- Educate young people
- There is a lack of consistency across counties in policies of elections
- As difficult as it is, educate citizens at all levels
- Educate voters regarding these new procedures
- Teaching persons with disabilities should be a priority
- Concern about the machines intimidating people
- Be sure there is sufficient communication at the grass roots level
- Work to educate our seniors

### Voter Registration

- There is a need to track voters better
- Need a statewide system
- Need for privacy
- The state system will help with many problems
- The state registration system will be fairer
- Are we going to replace the entire voter registration system
- Want to be able to continue to register to vote in the county
- Changes will help some of the absentee balloting concerns
- People need to prove at the polls they are registered
- Recruit persons with disabilities for training
- New technology will be difficult to learn for poll workers
- Duplicate registration systems is a concern





- Will there be a nationwide check on registration
- Concern about the DOT Driver's Station transition in the past with Secretary of State

### Absentee Balloting

- There is a need to clarify the process
- Concern about the existing legislative proposal regarding who delivers the absentee ballots is restrictive
- Need to determine a better way to do absentees for those hospitalized
- There are issues regarding reform that need to be addressed, need to be addressed in a separate way
- Concern about absentee ballot lateness
- Political parties should not control the absentee ballots
- Absentee ballots should be mailed back in pre-stamped envelopes
- Need to work to eliminate any chance of fraud
- What has been the percentage and error rates for absentee ballots in Iowa
- Concerned about absentee ballots
- Confused voters at times who forget they wanted absentee ballots
- Need to be more clear in our policies

### Trust of Technology

- Have no trust
- Concern about an answer to issues of technology concerns
- Need to track computerize votes to make sure they are not manipulated – paper trail
- Concern about trusting technology
- Concerned about the loss of electricity and the computers going down
- What about power outages and what can we expect
- Who is eligible to use the DRE machines
- I want to see my vote
- Concern about a computer program that can wipe out votes
- How do we recount with no paper
- DRE machines could be rigged
- Need to see the vote I put down

### Voting Fraud

- General concern about fraud in the system
- Not concerned about fraud
- Concerned about people who die and are still registered to vote
- Need to ensure the continuation of provisional voting
- Use the machines at the courthouse to count absentee ballots
- More checks in absentee balloting for certain people

- Concern about the increased use of absentee ballots
- Voter fraud is a serious misdemeanor
- Concern about someone opening the outside envelope prior to counting
- Concern about not using Ids at the polls
- In Wisconsin, students voted many times and there was no punishment
- Need a machine certifications to make sure machines work properly
- Is there really any voter fraud in absentee balloting
- There is required federal and state certification of machines

### Voting

- Will we get rid of paper all together
- Iowans want a choice in how they vote
- Want to continue the use of the absentee ballot system
- Need to speed up voting in some precincts while others have no one
- Make it easier, not harder
- DREs will help to eliminate spoiled ballots
- Most spoiled ballots are absentee ballots where there is no second chance
- Are ballots and information in other languages than English
- Concerned about voting process at long-term care facilities
- Concern we are one of the 13 states that does not allow certain felons to vote
- Only half the people vote, but it is higher here in Iowa
- Is there a back-up system to the machines
- Do you have a paper trail with DRE machines
- Who signs off on Iowa's election reform
- Will each or all state be doing the same as it relates to voting
- Is Iowa's voting system any better than the other states

### Costs Associated with HAVA

- Concern that some counties may be penalized for buying new machines that already comply
- Unfairly being penalized in some counties because of recent investments
- Concerned about the costs for small counties if funds are not available
- The costs of these computers will be very expensive
- Concern about getting stuck at the local level with paying for these improvements
- This is a cost to the taxpayer if the legislature does not help match these funds
- The additional costs in money and time is very high
- Many counties need new software for DREs to make them compatible with their current system
- Under the plan, there is no budget for administrative complaints





### Poll Workers and the Polls

- Difficult and very long days
- Close the polls an hour earlier to help poll workers
- Consider persons with disabilities to work at polls
- Would like to see the number of hours the polls are open reduced
- Recruitment is difficult
- It is not the pay, but a lack of party affiliates in some precincts
- Will the poll time change under HAVA
- Shorten poll hours to help the workers
- Recruit 16 and 17 year olds to work at polls

### Funding Concerns for HAVA

- Concern that the state is not going to provide the match
- Will the federal government fund us
- I am angry with the state and federal government for not supporting voting
- Concerned about the lack of state match funding
- Is the money that is available on a first come, first serve basis
- Need to fund this at the state level
- Is the federal funding available if the state does not provide the match
- If the plan is in place and there is no match, the counties will have to fund the HAVA compliance issues
- We need to have the state fund this when we are trying to get more people to vote and fewer people disenfranchised
- Will the majority party decide to match funds
- When is the state going to provide the match to counties
- Looking forward to working with the SOS office and the Governor in support of the state match
- The lack of state match has put a burden on counties and this is very difficult
- This should be non partisan because it will help both parties
- Concerned about the lack of funding at the state level
- If the state does not fund the match, we lose at all levels
- Hope the deadlines can be extended by the federal government to allow us to comply
- Concern about the federal government not appropriating the full amount of the funding
- Federal funding is needed
- Concerned about the legislature not providing matching funds
- Taxpayers need to understand that if the state does not contribute, it could cost the county $100,000
- Because of funding cuts to local governments, we may have to cut down on the number of precincts which actually would cut down the number of voters
- The loss of any federal funds would be detrimental
- Need the federal funding to fully fund what they promised
- Disgusted with the legislature
- Hope the Legislature funds this

- What do these machines cost
- What will be available at the state level to help counties
- Concerned about what happens if the legislature does not fund the matching funds
- The state legislature should not have made this a partisan issue, but should have passed a clean HAVA bill

**Other Issues**

- Need to make election day a National Holiday
- Establish a Voter Holiday
- Implement election day registration
- Consider using the Internet for voting
- Thank the auditors for their work
- Concern about forcing controversial policies into HAVA legislation
- Have election day registration
- Should the control of the voting system be given to a nonpartisan office
- Do not want election officials to be partisan
- There is too much emphasis in this office on voter education
- Fantastic job done by the SOS office
- Minnesota has same day registration and we should too
- Appreciate meetings and efforts
- How will overseas internet votes be counted with our own here
- Can those voting overseas vote for state officials
- What part of the HAVA bill that the Governor vetoed was not in compliance with the federal act
- Am not sure if the Legislative Council has the authority to appropriate funds for the match





## SECTION 1: STATE PLAN REQUIRED ELEMENTS

**ELEMENT 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. HAVA section 254 (a)(1)

### 301. VOTING SYSTEMS STANDARDS.

Iowa currently has 5 types of voting systems in place in its 99 counties. The following table, Iowa's Current Voting Systems, summarizes the types of system and the prevalence of use.

**Iowa's Current Voting Systems**

| | | |
|---|---|---|
| Lever | 6 | 95 |
| Paper Ballot | 1 | 9 |
| Central Count Optical Scan | 59 | 909 |
| Precinct Count Optical Scan | 18 | 715 |
| DRE | 15 | 269 |
| **Total** | **99** | **1,997** |

**Evaluate Voting Systems**

Iowa will conduct a comprehensive study of the voting systems in place to determine: (1) which systems are in compliance with section 301; (2) which systems not in compliance can be brought into compliance, and (3) which systems cannot be brought into compliance.

**Replace Lever County Machines with HAVA Title I Funds**

Iowa's first voting equipment priority is lever machines. Lever counties will be provided partial reimbursement to replace their election systems. Only replacement equipment meeting the 2002 Federal Election Commission (FEC) voting system standards is eligible for at least partial reimbursement.

**Meeting Accessibility Requirements**

The State Plan Advisory Committee recommends that the State of Iowa meet the requirement that each precinct contain accessible voting equipment by the placement of a minimum of one DRE per polling place. At least partial reimbursements will be provided for the DRE, the supporting software, and tabulation packages from HAVA requirements payments.

### Voting Equipment Technical Support Services

To assist with the conversion process to DRE based systems in the lever counties and in each precinct to meet accessibility requirements, it is recommended that a technical support staff with extensive training on the prevalent voting equipment be established. The technical support services shall initially be funded entirely with HAVA funds. After the establishment of the program the funding will be re-evaluated and funding this position through a county and state partnership will be considered.

## 302. Provisional Voting and Voting Information Requirements.[1]

HAVA addresses the process of provisional voting to ensure that no individual who goes to the polls intending to cast a ballot is turned away without having the opportunity to do so. In 1975, Iowa enacted provisional voting legislation. In developing the State Plan, the Chief State Election Official assessed the state's recent provisional voting legislation to determine those elements needing modification in order to fully comply with HAVA.

HAVA requires that the precinct election officials inform voters who may cast provisional ballots of this right. Iowa law does not currently require this, but a change to Iowa Code section 49.81 was included in the 2003 legislative proposal by the Chief State Election Official.

- **Provisional Voting Program Milestones**
  The Chief State Election Official is in the process of proposing updates to legislation governing the State's provisional voting program.

- **Voting Information Program**
  Current Iowa law requires the Chief State Election Official to furnish instructions regarding voting procedures for posting at each polling place on Election Day. HAVA imposes new content requirements for the instructions. Alternative methods of disseminating information will be developed for Iowans of diverse cultures, skills, and abilities. The proposed HAVA implementation bill in the Iowa General Assembly includes the necessary adjustments to the required content of these instructions.

HAVA section 302 further provides that voters who vote (pursuant to a court or other order) during extended hours after the normal close of a polling place, cast provisional ballots. These ballots must be kept separate from other provisional ballots. The state did not previously include this requirement as part of its provisional voting law and procedures, and consequently, the Chief State Election Official will update administrative rules to comply with procedures as described above.

[1] **Provisional voting** is a way for a person to cast a ballot if the voter's qualifications have been questioned either because the person's name does not appear on the election register, or because someone has challenged the person's right to cast a ballot. The ballot is sealed in an envelope and kept separate from other ballots. The absentee and special voters precinct board reviews written evidence submitted by the provisional voter, the challenger and the voter registration records to determine whether the ballot will be counted. If the ballot is rejected the voter is notified of the reason.





## 303. Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail.

Currently, the official State voter registration records are created and maintained at the local jurisdiction level. Each county auditor updates and separately maintains voter registration records for its jurisdiction, with 52 of the state's 99 jurisdictions using a uniform mainframe system. The Chief State Election Official does, however, maintain an aggregate list, referred to as the centralized voter registration database. On a bi-weekly basis, county auditors send data files to the Chief State Election Official, and these are merged into the centralized voter registration database. The database is accessible to the county auditors and to the voter Registration Division of the Chief State Election Official. The Chief State Election Official performs multiple checks for voter registration duplicates and distributes reports to the county auditors, who then manually update their databases by removing the duplicates.

As explained above, the Chief State Election Official's database is not the "single, uniform, official, centralized, interactive, computerized statewide voter registration list" required by HAVA because Iowa's voter registration system is entirely county-based. A complete replacement of voter registration software is required. Moreover, information gathered and maintained on State voters does not uniformly include driver's license numbers or partial social security numbers, as required by HAVA.

The mail-in voter registration process in Iowa currently meets HAVA requirements. The mail-in voter registration form was redesigned to accommodate information required by HAVA. However, the voter registration and polling place voter qualification processes must be modified to allow for the verification of identification provided by first-time voters who register by mail.

In order to comply with the voting system requirements of section 303, the State of Iowa has developed the following Plan for the acquisition of the necessary voting equipment and support services.

### Study Iowa's Current Voter Registration System

- Review HAVA section 303 to determine requirements for system and necessary changes in procedures and regulations/legislation

- Find system capability of each county.
  1. Find out how much infrastructure is available (computers, operating systems, and software).

  2. Every county should begin at the same infrastructure point - some counties need computers, internet connections, etc.

- Choose one auditor that represents each type of voter registration vendor/system in use and inquire about the different functionality these systems have (soliciting specifics for RFP).

- Involve all users in developing a shopping list of functions (has already begun and is on-going).



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- Define a list of the roles and responsibilities of implementing the functions of voter registration to enhance the operations of each county auditor's office.
- Establish a users group.
- Develop a training plan for new voter registration system.
- Develop an RFP, and determine which vendors can meet the specific functional requirements determined by the users group.

### Administering and Implementing Plan

- Work with county auditors to create a comprehensive resource plan, schedule and work plan.
- Examine vendors: general review of the industry
    1. See what systems are available.
    2. See which vendors will be viable in future years to service the product.
- Seek input from other states and counties about their previous purchases.
- Meet with vendors.
- Meet with others who have bought vendor products.
- Complete a hardware and software evaluation of each county.
- Develop an implementation schedule.

**Estimated Project Duration**

| | |
|---|---|
| Meet with county auditors and users group | 45 days |
| Compile list of required functionalities | 15 days |
| Write and submit RFP | 30 days |
| RFP bids due to CSEO | 30 days |
| Award contract to vendor and begin software development and conversion | 30 days |





### Voter Registration by Mail

HAVA section 303 includes new identification requirements for voters who register by mail and who have not previously voted in an election for federal office in the county. These requirements took effect January 1, 2003. As part of this mandate, the State of Iowa developed new voter registration forms that include:

- The question, "Are you a citizen of the United States of America?"
- The question, "Will you be 18 years of age on or before election day?"
- The statement, "If you check 'no' in response to either of these questions, do not complete this form."
- A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid additional identification requirements when voting for the first time in a federal election. Sufficient identification can include valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

Iowa has created a new voter registration application to reflect the needed changes and a process ensuring that registration and voting are handled properly under the new law. For voters who do not submit identification with their registration, county auditors will take the appropriate steps.

## 304. Minimum Requirements.

The State understands that the requirements of HAVA Title III are minimum requirements, and that the State may establish election technology and administrative requirements that are more stringent. Any additional requirements that the State imposes will comply with all Title III requirements as well as the laws described in HAVA section 906.

## 305. Methods of Implementation Left to Discretion of State.

Implementation of Title III is left to the State. The previous portions of section 1 of this plan describe the methods for implementation of each section of Title III.

## 312. Adoption of Voluntary Guidance by Commission.

The State will consider any guidance issued by the federal Election Assistance Commission (EAC) in its periodic updating of the State Plan.

## 251(b)(2). Other Activities.

The State of Iowa will not participate in activities authorized under 251(b)(2) this year.

## SECTION 2: DISTRIBUTION OF REQUIREMENTS PAYMENTS

**ELEMENT 2.** How the State will distribute and monitor the distribution of requirements payments 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 performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adapted under paragraph (8). HAVA section 254 (a)(2)

### Eligibility of Local Units to Receive the Payment

Funds will be distributed based on availability and the priorities established in this state plan. Counties may be eligible to receive at least partial reimbursement for election equipment purchases. To receive reimbursement, the county will first submit to the Chief State Election Official an equipment purchase proposal. The proposal will include the equipment to be purchased, the total amount of purchase, and anticipated delivery and implementation dates. The proposal should be submitted by the county auditor and the county board of supervisors and signed by both the county auditor and the board of supervisors chair on behalf of the board. Reimbursement will be based on group purchase prices and funds available. The Chief State Election Official will verify that the equipment meets HAVA requirements and notify the county of the proportion of HAVA funding available for the equipment purchases. Funds will be distributed based on availability and applying criteria developed by the HAVA Advisory Committee.

Upon receipt of the notification, the county may then make the purchase, submit a copy of the contract and/or invoice for the equipment to the Chief State Election Official for prompt distribution of the HAVA portion to the county. Annually, each county auditor and board of supervisors receiving HAVA funds will be required to certify the equipment purchased with the funds.

### Performance Measures

The performance measures detailed in section 8 of the state plan will be used to evaluate participation and effectiveness of disbursements. The Chief State Election Official will submit a quarterly report of expenditures and disbursements from the Election Fund to the Legislative Oversight Committee, the Governor, Executive Council and the State Plan Advisory Committee. The plan will also be posted on the Chief State Election Official's website.





## SECTION 3: VOTER EDUCATION, ELECTION OFFICIAL EDUCATION AND TRAINING, AND POLL WORKER TRAINING

**ELEMENT 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. HAVA section 254 (a)(3)

Education and training programs are critical to a successful program of election reform in Iowa. The programs described in this document will be planned to ensure that all participants, including eligible voters, poll workers, and election officials are comfortable with the new processes and supporting technologies that HAVA requires, as well as the existing election procedures.

A thorough and thoughtful training and outreach program can increase the sense of ownership of all affected groups and individuals in the election process. It is important to develop the training and outreach program with the participation of the county auditors, as they are a critical component to the current and future process and will provide valuable expertise. The program must also account for the changing poll worker and election official workforce, so that training is effective for a group with varying levels of skill. Finally, HAVA brings increased accessibility to elections. Training programs must address the needs of all diverse communities. In collaboration with the county auditors, effective training and outreach will help provide for smooth implementation of the State Plan, and for improved administration of federal, state and local elections in Iowa.

### Training Program

The Chief State Election Official shall establish a central training and outreach program within the Chief State Election Official's office. This program will serve as the liaison among all county auditors regarding training: ensuring county auditor participation in training development, statewide standardization, coordination among county auditors and vendors responsible for new technologies, and general consistency of message and delivery across the State of Iowa. This entity will also track progress and report on effectiveness of training and outreach efforts.

### Voter Outreach Education

Clear, consistent, user-friendly outreach materials are important tools to increase accurate voter registration, increase voter turnout in all elections, reduce the number of voting errors, inform voters of the means to obtain replacement and provisional ballots, and assure access to the electoral process to all voters. These materials must include the voter education programs required by HAVA for:

- Users of mail-in absentee ballots, paper ballot voting systems, and central count voting systems by HAVA section 301(a)(1)(b) and
- Voting Information for Election Day display at polling places pursuant to HAVA section 302(b).
- Voter registration application and identification requirements of HAVA section 303.



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- Voter outreach education will be designed to inform the public about HAVA and its new requirements and previously existing election procedures.

The Chief State Election Official will seek participation of representatives of Iowa's diverse culture groups to develop educational materials through an outreach program. These materials will provide a consistent message, including benefits of voter registration, equipment changes, and guidance in how to participate in elections.

The State will develop an outreach and communication plan describing the strategy for developing and delivering uniform messages to a variety of diverse groups. This plan will emphasize the use of presentation formats designed for the range of diverse needs of Iowa's voters.

Voter education materials will be enhanced for accuracy, readability, and ease of use through improved, professional designs. These materials may include, but are not limited to:

- Non-visual presentations using braille and audio tapes and other media
- Voter Bill of Rights
- Voter registration cards and instructions
- Absentee ballots and voting instructions
- Voters' pamphlets – Voter Guide, Candidate Guide
- Training focused on first-time voters
- Iowa Voter Registration Day
- Posters at polling place to advise voters on new voting equipment and procedural changes
- Voter education display at county courthouses
- Voter education kiosks
- Internet website maintained by the Chief State Election Official
- Instructions for provisional voting
- PSA (through television, radio, newspaper and cable systems)
- State and county fair booths to distribute information
- Languages other than English used in Iowa
- Telecommunications devices for the deaf in state and county election offices
- Toll-free election information line in the office of the Chief State Election Official

| Milestone | Date |
|---|---|
| Prepare educational materials | Current – January 2004 |
| Begin educational program for voters | January 2004 |
| Distribute educational materials and continue to enhance as necessary | March 2004 |





**Poll Worker Training**

The goal of poll worker training is to increase consistency in the election-day management of Iowa's polling places, and to ensure that all voters receive uniform and appropriate messages from their poll workers. The training will include and emphasize the HAVA-mandated requirements (see section 301) to inform voters of the means to obtain replacement and provisional ballots. Training programs will be developed for each type of election, as well as for each type of voting system in use in Iowa. This training program will assure equal access to the electoral process for all voters and guide the poll workers to be able to administer the election efficiently, effectively and fairly to all voters in consideration to Iowans of diverse cultures, skills and abilities.

The Chief State Election Official, along with county election officials, poll workers and a diverse group of Iowans, will develop educational materials for county auditors to use for their poll worker training sessions. The program will also include training programs for the county officials who will be providing instruction to the poll workers. The plan content will include a consistent message, including positive benefits of voter registration, equipment changes, and participation in general. Special consideration and training will be provided for assisting voters of diverse cultures and skills to improve the voting experience.

State and county election materials will be enhanced where necessary for accuracy, accessibility, and ease of use through improved, professional designs. These materials may include, but are not limited to:

- Video
- PowerPoint presentations
- Role playing
- Handouts
- Internet and/or computer-based
- Training manuals in print, large type, braille and audiotape
- ICN – Iowa Communications Network
- Job-specific instructions

In addition, the Chief State Election Official will assist the county auditors by designing programs intended to increase the size and diversity of the poll worker pool, such as exploring voluntary participation by businesses to allow workers to work at the polls for the day without loss of pay or benefits.

| | |
|---|---|
| Prepare training materials for county auditors | March 2004 |
| Deliver training materials to county auditors | May 2004 |
| Train Auditors to use materials | May 2004 |
| County auditors train poll workers | End of May 2004 |
| Continue to enhance materials as necessary | Ongoing |

### Election Official Training

All participants in the election process can benefit from instruction in election law and procedure. The creation of training materials and programs is a shared responsibility of both state and local election officials. Some responsibilities fall to the Chief State Election Official, who is charged with the duty to ensure uniformity in the application, operation and interpretation of the election laws. County auditors in Iowa, through the State Election Administrator's Training (SEAT), have assumed responsibility for developing and maintaining a training and certification program for election administration, by addressing:

- New requirements by Federal/state law, or administrative rule changes
- Interpretation of the laws
- New voter registration software; forms, fields, requirements
- Motor voter registration
- SEAT curriculum content needs to be made universal
- Absentee balloting
- Early voting, satellite voting, voting by mail
- New accessibility requirements
- Cultural and alternative language accessibility
- Disability and other populations – diverse cultures -- etiquette in relation to voting
- First time voters – how to help people vote when they are unfamiliar with the system
- Benefits of new system
- Selection of poll workers; payment system/method (fiscal impact of poll worker training)

The State Election Administrator's Training (SEAT) is a training and certification program for Iowa election officials. SEAT has initial certifications of proficiency and continuing education components. The SEAT certification is designed to ensure that all election officials are familiar with the current election laws, procedures and practices. This program will continue to operate with funding from HAVA.

Currently, the Iowa State Association of County Auditors (ISACA) and the Chief State Election Official maintain regular educational programs on current election topics at statewide meetings held in March, July and November. These programs will continue to be offered.

| [illegible] | [illegible] |
|---|---|
| Prepare training materials for election officials | Current |
| Train Election officials | January 2004 |
| Continue to enhance training materials as necessary | Ongoing |





### County Supervisors Training

This training program will be separate from the election official training, allowing the county board of supervisors to keep updated on the law with regard to their role in the election process. This program will be developed by the Chief State Election Official, and will begin before the next federal election. The county boards of supervisors have statutory responsibilities for canvassing elections and in selecting voting equipment for the county. Supervisors are also responsible for approval of county budgets, including funding for elections and election equipment.

## SECTION 4: VOTING SYSTEM GUIDELINES AND PROCESSES

**ELEMENT 4.** How the state will adopt voting systems guidelines and processes which are consistent with the requirements of section 301. HAVA section 254 (a)(4)

### Elements of Voting System Standards Currently in Iowa Law

**Required Performance Features**
HAVA section 301(a)(1)(A) requirements are also mandated in the 2002 FEC Voting Systems Standards. Current Iowa law and administrative rules require all voting equipment used in Iowa to be NASED-qualified under the 2002 Federal Election Commission Voting Systems Standards before being examined and tested by the Iowa Board of Examiners for Voting Machines and Electronic Voting Systems. All new voting equipment approved in Iowa after April 9, 2003, and subsequently purchased for use will meet the requirements of section 301(a)(1)(A).

**Voter Education Program**
The Instructions for Voters required by *Iowa Code* section 49.68 currently include notice to voters required by HAVA section 301(a)(1)(B) to substitute for the automatic notice and correction features of section 301(a)(1)(A)(iii).

**Privacy Requirement**
HAVA section 301(a)(1)(C) requirements are also mandated in the 2002 FEC Voting Systems Standards, which must be complied with by any voting system certified for use in Iowa after April 9, 2003.

**Audit Capacity**
HAVA section 301(a)(2) requirements are also mandated in the 2002 FEC Voting Systems Standards, which must be complied with by any voting system certified for use in Iowa after April 9, 2003.

**Accessibility for People with Disabilities**
HAVA section 301(a)(3)(A) requirements are also mandated in the 2002 FEC Voting Systems Standards, which must be complied with by any voting system certified for use in Iowa after April 9, 2003.

**Alternative Language Requirements**
No Iowa jurisdictions are covered by the requirements of section 203 of the Voting Rights Act of 1965. Therefore, the requirements of HAVA section 301(a)(4) do not apply to Iowa. However, it is recommended that the Chief State Election Official propose the inclusion of alternate language capacity for all voting systems in the department's legislative proposal for the 2004 General Assembly.

**Error Rate**
All new voting equipment approved in Iowa after April 9, 2003, and subsequently purchased for use will meet the error rate requirements of section 301(a)(5).



State of Iowa
Help America Vote Act State Plan

### Elements of Voting System Standards Not Addressed in Iowa Law

The Chief State Election Official will recommend the following changes to the *Code of Iowa* to meet the following requirements of section 301. The proposal will be presented to the 2004 Session of the Iowa General Assembly.

**Uniform Definition of What Constitutes a Vote** - HAVA section 301(a)(6).
The Chief State Election Official will convene a committee to discuss the details of a legal definition of a vote to be recommended for inclusion in the Code of Iowa. The committee will be convened in June 2003 and their final report will be due November 1, 2003.

**Voting System Defined** - HAVA section 301(b).
The Chief State Election Official will recommend for inclusion in the *Code of Iowa* the definition found in HAVA section 301(b).

**Effective Date** - HAVA section 301(d).
Amend *Iowa Code* section 52.1. All voting equipment not in compliance with HAVA and the FEC 2002 Voting Systems Standards shall be removed from use in the State effective January 1, 2006.

### Elements of Voting Systems Requiring Changes to the Administrative Code

The Chief State Election Official will propose the adoption of the following changes in the *Iowa Administrative Code* to meet the following requirements of section 301.

- Amend the definitions in 721Iowa Administrative Code 22.1, to conform to the definition of voting system found at section 301 (b).
- Amend 721 Iowa Administrative Code 22.18 to include the automatic decertification of all voting equipment that does not conform to the requirements of HAVA.

## SECTION 5: HAVA FUND MANAGEMENT

**ELEMENT 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. HAVA section 254 (a)(5)

The Chief State Election Official, acting in conjunction with the Office of Treasurer of State, has created an "Election Fund" meeting the requirements of HAVA section 254(b). All amounts appropriated or designated by the officers of the State for carrying out HAVA requirements and all federal requirements payments will be deposited into the Election Fund. Notwithstanding Iowa Code section 12C.7, all interest earned on deposits in the fund shall be retained by the fund as required by HAVA section 254(b)(1)(D).

Monies in the Election Fund shall be used by the State exclusively to carry out activities for which the federal requirements payment is made to the State. The Chief State Election Official will submit a quarterly report of expenditures and disbursements from the Election Fund to the Legislative Oversight Committee, the Governor, Executive Council and the State Plan Advisory Committee.

Pursuant to Iowa Code section 11.2(1), the Auditor of State shall annually make a complete audit of the Election Fund. As required by Iowa Code section 11.4, the Auditor shall make a full report of each audit, detailing among other items: the actual condition of the fund, whether the fund has been expended efficiently for the purposes for which it was appropriated, and if legal and businesslike practices were followed.





## SECTION 6: BUDGET

**ELEMENT 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. HAVA section 254 (a)(6)

The plan assumes full federal funding of the Help America Vote. If the Help America Vote is not fully funded, the plan will be revised to meet the new budget estimates.

**Estimated Funding Available for HAVA Requirements**

| | | | |
|---|---|---|---|
| Title I -- FY 2003 | $650 million | $5 million | $0 |
| Title II -- FY 2003 | $1.4 billion | $14 million | $700,000 |
| Title II -- FY 2004 | $1 billion | $10 million | $500,000 |
| Title II -- FY 2005 | $600 million | $6 million | $300,000 |
| **Total** | **$3.65 billion** | **$35 million** | **$1.5 million** |

**Budget for HAVA Activities**
The table on the following page presents Iowa's budget for HAVA activities.

## SECTION 7: MAINTENANCE OF EFFORT

**ELEMENT 7.** How the State, in using the requirements payments, 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. HAVA section 254 (a)(7)

In compliance with HAVA section 254 (a)(7), in using any requirements payment, Iowa will maintain expenditures of the State for activities funded by the payment at a level equal to or greater than the level of Title III expenditures in State FY 2000.

The intent of funding provided under HAVA is to pay for new or enhanced efforts, not to supplant existing funding at the state and county level. The projected HAVA budget is based on a critical assumption that the state and counties will maintain this foundation of election operating expenditures at existing levels. Without this found, the short-term infusion of HAVA funds would not be sufficient to maintain a new state election and voter registration system in the long-term.





### Budget for HAVA Activities

| | | | | | | |
|---|---|---|---|---|---|---|
| **Title III Requirements** | | | | | | |
| §301 Voting System | 42 | 1.2 | 23.9 | 1.5 | 15.4 | 2003-2005 |
| §302 Provisional Voting | .25 | .25 | 0 | 0 | 0 | 2004 |
| §303 Computerized Statewide Voter Registration List and Voter Registration by Mail Requirements | 6 | 3.4 | 2.6 | 0 | 0 | 2003-2006 |
| **Other Election Reform Activities** | | | | | | |
| §254(3) Voter education, election official education, and training, and poll working training | 3 | 0 | 3 | 0 | 0 | 2004-2006 |
| §402 Establishment of State-based administrative complaint procedures to remedy grievances | 0 | 0 | 0 | 0 | 0 | 2003 |
| State Plan, Budget, Fiscal Controls, and Program Management | .65 | .15 | .5 | 0 | 0 | 2003-2006 |
| **Totals ($ Millions)** | **51.9** | **5** | **30** | **1.5** | **15.4** | |

## SECTION 8: PERFORMANCE GOALS AND MEASURES

**ELEMENT 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. HAVA section 254 (a)(8)

The Chief State Election Official, in collaboration with the county auditors and other key stakeholders, will establish performance goals and will institute a process to measure progress toward the achievement of these goals. This process will provide the county auditors with structure and continued measurable targets for accomplishment.

The Chief State Election Official is responsible for ensuring the success in meeting each performance goal. Each county auditor's office also has a substantial responsibility in meeting performance goals in that the counties will monitor performance measures and will report to the state.

Performance goals provide a high-level view of a project's direction. The State's goal is to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in the State Plan. Below is a matrix that details each element of the Plan, the title of the official who is responsible for ensuring that each plan element is met, and the timeframe for meeting each of the elements of the Plan.





| | | |
|---|---|---|
| **Voting Systems:**<br>– §301 | Chief State Election Official or Designee | To be implemented by January 1, 2006 |
| **Provisional Voting:**<br>-- §302 | Chief State Election Official or Designee | To be implemented by January 1, 2004 |
| **Voter Registration:**<br>– §303(a)<br>– §303(b) | Chief State Election Official or Designee | §303(a) to be implemented by January 1, 2006*<br>§303(b) was implemented by January 1, 2003 |
| **Other Activities**<br>– §101 (b)(1), §251(b)(2) | Chief State Election Official or Designee | No Current Participation |
| **Education and Training:**<br>– §254 (a)(3) | Chief State Election Official or Designee | On-going |
| **Budget and Fiscal Controls:**<br>– §254 (a)(6)<br>– §254 (a)(2)<br>– §254 (a)(7)<br>– §254 (a)(10) | Chief State Election Official or Designee | On-going |
| **Complaint Procedures:**<br>--Title II, §254 (a)(9)<br>--Title IV, §402 | Chief State Election Official or Designee | On-going |
| | | *The State may certify good cause for a waiver. |

**Performance Goal 1: Elimination of lever voting machines**
The state and counties will eliminate the use of lever voting machines. Key steps in completing this once the appropriate funds are available are: 1) development by the Chief State Election Official of a statewide Request for Proposal (RFP) to contract for replacement voting systems and successful award of contracts, and 2) requisition and use by counties of HAVA- compliant voting systems under the contracts. The measure of success for both elements is the successful replacement of all lever voting machines by the 2004 general election, or if a waiver is sought, by January 1, 2006.

**Performance Goal 2: HAVA-required DRE in Each Polling Place**
The state and counties will place a minimum of at least one HAVA-required DRE in each polling place in Iowa by January 1, 2006. The priority is to maintain the independence of the voter and the secrecy of the ballot.

**Performance Goal 3: Accessibility for all Voters**
The state will ensure that all voters have improved accessibility as required by HAVA, with consideration to diverse cultures and skills.

**Performance Goal 4: Centralized Statewide Voter Registration System**
The state will have a single, uniform, official, centralized, interactive, computerized statewide voter registration database operational by January 1, 2004, or if a waiver is sought, January 1, 2006.

**Performance Goal 5: Administrative Complaint Procedure**
The state will implement an administrative complaint procedure. Working with the county auditors, state election officials, and state attorney general, the Chief State Election Official will define functional requirements, roles and responsibilities of grievance procedures.

**Performance Goal 6: Provisional Ballots**
The state will make changes to the Iowa Administrative Code to meet HAVA requirements and will train the election officials.

**Performance Goal 7: Voter Education**
The state will establish a statewide uniform voter education system. Additionally, the Chief State Election Official will develop uniform materials that can be used when implementing new voting equipment in a county. The Chief State Election Official will follow the timeline as presented in section 3.

**Performance Goal 8: Poll Worker Training**
The state will develop a uniform system of poll worker training. Additionally, a program will be developed to increase the pool of poll workers. The Chief State Election Official will follow the timeline as presented in section 3.





**Performance Goal 9: Election Official Training**
The state will continue to enhance and conduct SEAT training of the election officials. Additionally, Iowa will pursue other election official training. The Chief State Election Official will follow the timeline as presented in section 3.

**Performance Goal 10: County Board of Supervisor Training**
The state will develop and conduct training for county boards of supervisors with regard to their role in the election process.

## SECTION 9: STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES

**ELEMENT 9.** A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. HAVA section 254 (a)(9)

The Chief State Election Official, acting in the capacity of state commissioner of elections, has enacted administrative rules establishing a statewide complaint system to receive and process complaints regarding alleged violations of the requirements contained in Title III of the Help America Vote Act, HAVA sections 301 through 305. The complaint procedure complies with all requirements of HAVA section 402, and is in the form of a contested case proceeding governed by the minimum procedural requirements of the Iowa Administrative Procedures Act, Iowa Code chapter 17A.

### Scope of procedure

Any person who believes that there is a violation of any provision of Title III, including a violation which has occurred, is occurring, or is about to occur, by any state or local election official, may file a complaint with the state commissioner. All complaints shall be in writing, signed and notarized, and be sworn under oath. Each complaint must identify the complainant by name and mailing address, and include a clear and concise description of the alleged violation that is sufficiently detailed – including the name and address of each respondent, if known – to inform both the respondent and the presiding officer of the nature of the alleged violation.

### Initial screening of complaints

Complaints will be screened by staff within the state commissioner's office to determine whether the jurisdictional prerequisites of a complaint proceeding are met. If a complaint is found to be deficient, the complaint will be rejected and a written explanation of the basis for the rejection will be provided to the complainant and respondent. If a complaint contains all required information and sets forth allegations of a Title III violation, the complaint will be accepted and assigned to a presiding officer for resolution.

### Presiding officer

The state commissioner of elections is statutorily directed to supervise the activities of local election officials, prescribe uniform election practices and procedures, and provide letters of instruction upon becoming aware of an apparent violation of Iowa election law. Iowa Code sections 39A.6 and 47.1. All complaints shall be initially filed with the office of the state commissioner and the state commissioner shall act as presiding officer for all proceedings related to complaints alleging a violation of Title III by a county commissioner of elections or other local election official.

Given the inherent conflict of interest, the state commissioner cannot act as presiding officer in proceedings related to complaints alleging a violation of Title III in which allegations of a violation by the state commissioner or a person or persons employed or appointed by the state commissioner. In those cases, the





presiding officer shall be the state voter registration commission, formed pursuant to Iowa Code section 47.8, acting without a representative of the state commissioner. This bi-partisan commission is composed of the state chairpersons of the two political parties whose candidates for president of the United States or governor, as the case may be, received the greatest and next greatest number of votes in the most recent general election, or their representative designees, and a county commissioner of elections appointed by the president of the Iowa State Association of County Auditors, or an employee of the commissioner.

An administrative law judge may be appointed by the state commissioner or voter registration commission to aid the presiding officer in conducting the proceeding.

### Nature of the proceeding

In order to expedite resolution of complaint proceedings, complaints shall be evaluated and a decision rendered based upon written submissions, unless the Complainant or Respondent requests an evidentiary hearing on the record or the presiding officer determines that an evidentiary hearing will assist in resolution of outstanding factual disputes. The administrative rules detail the procedures governing complaint proceeding hearings.

### Remedies and form of decisions

All final determinations resolving complaint proceedings shall be in writing and shall include findings of fact and conclusions of law as required by Iowa Code section 17A.16(1).

If, based upon a preponderance of evidence provided through written submissions or at hearing, the presiding officer determines that a violation of Title III has been established, the presiding officer shall issue an order providing for an appropriate remedy. The remedy so provided shall be designed to ensure compliance with the requirements of Title III and may include an order to any respondent directing the respondent to take specified action, or prohibiting the respondent from taking specified action, with respect to a past, immediately pending, or future election. The remedy shall not include an award of money damages or attorney's fees.

If, based upon a preponderance of evidence provided through written submissions or at hearing, the presiding officer determines that no violation of Title III has been established, the presiding officer shall issue an order dismissing the complaint.

### Record of proceedings

The state commissioner will maintain the official record of all complaint proceedings as required by Iowa Code section 17A.12(6). At a minimum, the records will include: the complaint, answer, and all pleadings, motions, and rulings; all evidence received or considered and all other submissions; a statement of all matters officially noticed; all questions and offers of proof, objections, and rulings thereon, all proposed findings and final orders, and a tape recording of all oral proceedings. Final orders resolving complaints will be made available for public inspection and published on the Chief State Election Official's internet website.



Federal Register / Vol. 69, No. 57 / Wednesday, March 24, 2004 / Notices 14421

**Right to review**

Complaint proceedings constitute contested cases pursuant to the Iowa Administrative Procedures Act, Iowa Code chapter 17A. A person or party who has exhausted all adequate administrative remedies and is aggrieved or adversely affected by the final decision in a complaint proceeding, may seek judicial review of the decision pursuant to Iowa Code section 17A.19.





## SECTION 10: EFFECT OF TITLE I PAYMENTS

**ELEMENT 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. HAVA section 254 (a)(10)

The State of Iowa has received $5 million in Title I payments. The payments will be used to help develop the HAVA State Plan, replace lever voting equipment, implement provisional voting, and assist in the development of the computerized statewide voter registration system.

**Allocation of Title I Payments**

| | |
|---|---|
| Replacing Lever Machines | $1.2 Million |
| Provisional Voting System | $0.25 Million |
| Computerize Statewide Voter Registration System | $3.4 Million |
| State Plan Development, Budget, Fiscal Controls, etc. | $.15 Million |
| **Total Title I Payments** | **$5 Million** |

## SECTION 11: HAVA STATE PLAN MANAGEMENT

**ELEMENT 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). HAVA section 254 (a)(11)

The State will maintain the state plan advisory committee to recommend future changes in the HAVA State Plan. The advisory committee will meet a minimum of annually to review the progress of HAVA implementation and to make recommendations for changes in the state plan. The State understands the publication requirements and public comment requirements included in HAVA for changes to the state plan.





## SECTION 12: CHANGES TO STATE PLAN FROM PREVIOUS FISCAL YEAR

**ELEMENT 12.** In the case of 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 year. HAVA section 254 (a)(12)

The FY 2003 state plan is the preliminary state plan required under the Help America Vote Act of 2002. This section will be updated in the next fiscal year, reflecting changes to the state plan, as well as a summary of the 2003 successes.

## SECTION 13: STATE PLAN DEVELOPMENT AND COMMITTEE

**ELEMENT 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 255 and section 256. HAVA section 254 (a)(13)

HAVA section 255 requires the chief election officials from the two most populous jurisdictions within the state to be included on the advisory committee. The section also requires representation from other stakeholders including: representatives of groups of individuals with disabilities, local election officials, groups within the state, and other citizens on the committee. The state plan committee was selected by the Chief State Election Official and includes representation from several non-partisan statewide organizations representing stakeholders and is a group with diverse cultural backgrounds. The Chief State Election Official sought additional recommendations from leaders of the Iowa General Assembly.

**Chief Election Officials from the Two Most Populous Jurisdictions**
*Linda Langenberg* - Linn County Auditor
*Michael Mauro* -Polk County Auditor

**Representatives of Groups of Individuals with Disabilities**
*Jill Avery* – Director of the Division of Persons with Disabilities, Iowa Department of Human Rights
*Mike Hoenig* – IDEAS Program Center for Disabilities and Development
*Sylvia Piper* – Iowa Protection and Advocacy Services
*Rik Shannon* - Governor's Developmental Disabilities Council

**Other Election Officials**
*Jane Burleson* – City Councilwoman, City of Fort Dodge

**Representatives of State-wide Non-Partisan Organizations**
*Barbara Huey* – President of the Iowa State Association of County Auditors
*Mike King* – President of the Iowa State Association of Supervisors
*Jan McNelly* – President of the Iowa League of Women Voters

**Other Citizens**
*Elaine Baxter* – Democrat, former Iowa Secretary of State
*Joy Corning* – Republican, former Lt. Governor of Iowa
*Michael Fitzgerald* – Democrat, Treasurer, State of Iowa
*Elizabeth "Libby" Jacobs* – State Representative, District 60, Polk County
*Andrew Nielsen* – Republican, Deputy Auditor, State of Iowa (auditing advice)
*Mary Jane Odell* – Republican, former Iowa Secretary of State
*Rita Vargas* – Democrat, County Recorder, Scott County





**Technical Advisors**
*Dave Beary* – Iowa Department of Transportation
*Dennis Cowen* – Iowa Information Technology Department
*Holmes Foster* – former Banking Superintendent, State of Iowa
*Shashi Goel* – Iowa Department of Management
*Ken Paulson* – Senior Purchasing Agent, Iowa Department of General Services
*Surasee Radari* – Bankers Trust
*Dawn Williams* – Elections Director, Marshall County Auditor's Office

The State Public Policy Group facilitated the open and public meetings in compliance with Iowa's open meetings laws. Meetings were held on February 28, March 21, April 17, May 8, and May 16, 2003. SPPG also facilitated the following work groups: Public Policy, Finance and Budget, Training and Education, Technology (Voting Equipment) and Technology (Voter Registration System).

# 2003 Kansas State Plan

## HELP AMERICA VOTE ACT OF 2002

**Kansas Secretary of State Ron Thornburgh**
**First Floor, Memorial Hall, 120 S.W. 10th Avenue**
**Topeka, Kansas 66612**
**785.296.4564**

**Public Hearing and Comment Period**
A public hearing regarding this plan was conducted June 27, 2003, at 9:30 a.m., Second Floor, Memorial Hall, Room 210, 120 S.W. 10th Avenue, Topeka, Kansas. Written comments regarding the proposed draft of the 2003 Kansas State Plan were accepted from June 12 to July 14, 2003.



## A MESSAGE FROM THE SECRETARY

The Help America Vote Act of 2002 (HAVA) is the United States Congress' response to the problems which occurred during the 2000 presidential election. HAVA is a broad federal law that requires change in almost every area of the voting process. As Kansas' chief election official, I am responsible for ensuring the new requirements are carried out and correctly implemented in our state.

By 2006, Kansas elections will look significantly different than they do today. Over the next few years, there will be numerous changes behind-the-scenes, as well as at polling places. Significant changes will include new training and education programs for election officials and a statewide computerized voter registration system. In addition, accessible voting equipment will be implemented in every polling place, allowing individuals with disabilities to cast an independent vote. We are working to ensure that our state has the most technologically advanced systems and highly trained workers at every polling place. The new mandates will make Kansas' electoral system more uniform and secure.

This document is our roadmap for implementation of the HAVA requirements in Kansas. The plan has been developed with assistance from the Kansas Election Reform Advisory Council, a group of Kansans from across the state who are committed to making our electoral process a model of excellence. It is a living document that will be reviewed, updated and published annually with assistance from the advisory council and all interested Kansans.

A public hearing on the state plan was held Friday, June 27 in Topeka. We also accepted written comments from June 12 to July 14, 2003. Your comments regarding implementation of HAVA mandates are valued and welcome at any time. As the least complicated, most accessible agency in state government, we are always interested in your questions and concerns.

Sincerely,
RON THORNBURGH
Secretary of State

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- ***Overview of Kansas Elections***

**Statutory and Administrative Framework**
Kansas election laws are shaped by the Kansas Legislature and new laws are enacted July 1 each year. State election laws are contained in Chapter 25 of the Kansas Statutes Annotated (hereinafter "KSA"). Administrative rules are promulgated by the secretary of state when authority to do so is granted by the legislature. The secretary of state does not have general administrative rule making authority.

**State and Local Roles and Responsibilities**
Day-to-day administration of elections is handled by 105 county election officers – 101 county clerks and four election commissioners. State and federal elections in Kansas are overseen by the state's chief election officer, the secretary of state. Local elections fall within each county election officer's jurisdiction.

**Voting Statistics**
- According to April 1, 2000, United States Census Bureau data, Kansas' voting age population is 1,975,425.
- In the 2002 general election, 851.968 votes were cast while 1,615,698 Kansans were registered to vote in that election.
- In the 2002 general election, 16.4 percent (139,343) of votes cast were cast before Election Day through the state's early voting program called advance voting.

**Voting Systems**
In Kansas, voting equipment is subject to a statutory certification process and must be certified before it may be purchased or used in any county. The following procedure is derived from KSA 25-1309, 25-4405, and 25-4604.

1. Manufacturers and vendors submit a written request for certification to the secretary of state, accompanied by a $500 examination fee.
2. The equipment must be tested by an independent testing authority and a report from such must be filed with the secretary of state.
3. The secretary of state reviews the equipment to ensure that it meets the standards established by the Federal Election Commission and the requirements of Kansas law.
4. An open meeting is conducted by the secretary of state at which the manufacturer or vendor displays the equipment and the equipment is tested.
5. The secretary of state contacts other jurisdictions in the United States that have certified and used the equipment to inquire about their experiences.
6. The secretary of state may grant temporary, conditional approval for the equipment to be used in a Kansas jurisdiction before granting final certification.
7. If the above conditions are met, the secretary of state makes the final decision whether to grant certification and informs the manufacturer and vendor of the decision in writing.

Each county selects and purchases its own system from the systems certified by the secretary of state. There are currently three types of voting systems used in Kansas: (1) direct recording electronic (DRE); (2) optical scan; and (3) hand counted ballots. The majority of counties, 81, use an optical scan system. Twenty-one counties use hand-counted ballots and three counties use direct recording electronic systems. Punch-card and lever voting systems are not used in Kansas.

**Voter Registration Systems**
Kansas law requires the secretary of state to maintain a statewide, centralized voter registration database. The database is only a repository file; each county election officer is required to submit the county's complete database on a quarterly basis (January, April, July and October). An administrative regulation, KAR 7-23-13, prescribes the formats, data fields and frequency of submission. The secretary of state never alters a record in a voter file. The county election officer has sole authority and responsibility for adding, deleting and altering voters' registration records.





- ***Section 1: How will Kansas use the requirements payments to meet the requirements of title III, and if applicable, to carry out other activities to improve the administration of elections?***

***1.1: Voting System Standards Requirements – Section 301***
***Deadline for compliance: January 1, 2006***

**Second Chance Voting (Section 301(a)(1))**
The voting systems currently used in Kansas counties include paper ballots, optiscan (central and precinct count) and DRE. The following matrix illustrates each voting system's current level of compliance with HAVA's "second chance" voting requirements. Due to the fact that the deadline for compliance with these requirements is January 1, 2006, the plans noted in the matrix are tentative.

| | Paper Ballot | Optiscan Central Count | Optiscan Precinct Count | DRE |
|---|---|---|---|---|
| | Yes | Yes | Yes | Yes |
| | No<br>To be fulfilled through a voter education program.* | No<br>To be fulfilled through a voter education program.* | Yes | Yes |
| | No<br>To be fulfilled through a voter education program.* | No<br>To be fulfilled through a voter education program.* | Yes | Yes |
| | No<br>To be fulfilled through a voter education program.* | No<br>To be fulfilled through a voter education program.* | Yes | Yes |
| | No<br>A Kansas voter may receive a new ballot upon request.<br>Notification of this opportunity to be fulfilled through a voter education program.* | No<br>A Kansas voter may receive a new ballot upon request.<br>Notification of this opportunity to be fulfilled through a voter education program.* | Yes | Yes |

*The secretary of state plans to develop a voter education program by January 1, 2006, to fulfill the aforementioned requirements.

**Audit Capacity (Section 301(a)(2))**
The following matrix illustrates each voting system's current level of compliance with the 2006 audit capacity requirements. A plan to remedy the noncompliant voting systems will be devised by the secretary of state.

| [redacted] | Paper Ballot | Optiscan Central Count | Optiscan Precinct Count | DRE |
|---|---|---|---|---|
| [redacted] | Yes | Yes | Yes | Yes |
| [redacted] | Yes | Yes | Yes | Yes |
| [redacted] | Yes | Yes | Yes | Yes |

**Accessibility for Individuals with Disabilities (Section 301(a)(3))**
HAVA requires every voting place in Kansas to have at least one direct recording electronic (DRE) voting system or other voting system equipped for individuals with disabilities by January 1, 2006. Kansas currently does not meet this requirement. The secretary of state plans to purchase one DRE for every polling place using requirement payments. Vendor(s) will be selected through a bid process. It has not yet been determined whether the secretary of state will contract with one vendor or multiple vendors for the statewide DRE purchase. It is anticipated that counties will have the opportunity to purchase additional DRE machines under the state contract.

**Alternative Language Accessibility (Section 301(a)(4))**
HAVA requires each voting system to provide alternative language accessibility pursuant to the Voting Rights Act of 1965. The current voting systems used in Kansas are capable of accommodating ballots in alternative languages.

**Error Rates (Section 301(a)(5))**
Error rates on voting systems approved for use in Kansas have been verified by an independent testing authority and meet FEC requirements.

**Uniform Definition of What Constitutes a Vote (Section 301(a)(6))**
In January 2004, the secretary of state will propose legislation to define what constitutes a vote for paper ballot, optical scan, and DRE voting systems. The proposal will be developed with assistance from the Kansas Election Standards Task Force. No expenditures of requirements payments are anticipated.

***1.2: Provisional Voting Requirements – Section 302***
***Deadline for compliance: January 1, 2004***
Provisional voting has been part of Kansas election law since 1996. Therefore, in order to comply with the provisional voting requirements of HAVA, only modification of existing law will be required.

**Notification of the right to cast a provisional ballot (Section 302(a)(1))**
Under current Kansas law (KSA 25-409), a poll worker is required to notify a potential voter of the right to vote a provisional ballot, if applicable. Voters are also notified of such right on the "Voter's Rights and Responsibilities" poster posted in each polling place pursuant to KSA 25-2706.





**Affidavit for all provisional voters attesting to registration, eligibility (Section 302(a)(2))**
Legislation to implement this requirement was proposed during the 2003 session of the Kansas Legislature. The legislation, House Bill 2288, was approved by both houses of the legislature, but ultimately vetoed. An attempt to override the veto failed and this requirement is not yet codified in Kansas law. New legislation to implement this requirement will be proposed in January 2004 at the beginning of the next legislative session. Requirements payments will not be used; counties will be responsible for costs associated with producing the affidavit.

**Written information regarding how to determine the outcome of a provisional ballot (Section 302(a)(5)(A))**
The secretary of state will prescribe and develop a publication describing use of the free access system. One copy of the publication will be distributed to each county election official. The county election official will be responsible for replication costs and training poll workers to distribute the information. In addition, instructional information about provisional ballots will be added to the secretary of state's website. It is not anticipated that requirements payments will be used.

**Free access system for publication of provisional vote results (Section 302(a)(5)(B))**
A web-based free access system will be developed by the secretary of state for use in 2004. County election officials will be responsible for submitting provisional vote information to the secretary of state's office via electronic transfer no later than seven days following certification of the election results. The information will then be posted on the secretary of state's web site and made available to the public in a timely manner. No expenditures of requirements payments are anticipated.

***1.3: Voting Information Requirements – Section 302***
***Deadline for compliance: January 1, 2004***

**Public posting at polling places (Section 302(b)(2))**

- **Sample Ballot:** While it has been common practice to post sample ballots at polling places in Kansas, it is not a statutory requirement. Legislation to implement this requirement was vetoed during the 2003 session. New legislation will be proposed in January 2004. No expenditure of requirements payments will be made to produce sample ballots. County election officials will be responsible for the cost of producing and posting sample ballots in polling places.
- **Date of the election and hours the polling place is open:** Legislation to implement these requirements was vetoed during the 2003 session. New legislation will be proposed in January 2004. No expenditures of requirements payment are anticipated. County election officials will be responsible for posting this information at each county's expense.
- **Instructions on how to vote, including a provisional ballot:** This information will be included in a publication prescribed and designed by the secretary of state and posted at the polling place by county election officials. Counties will be responsible for the costs associated with reproduction of the publication. No expenditures of requirements payments are anticipated.
- **Instructions for mail-in registrants who are first time voters in the jurisdiction:** This information will be included in a publication prescribed and designed by the secretary of state and posted at the polling place by county election officials. Counties will be responsible for the costs associated with reproduction of the publication. No expenditures of requirements payments are anticipated.
- **General information on voting rights:** This information will be included on a poster entitled "Voters Rights and Responsibilities". All polling places must display this poster in accordance with K.S.A. 25-2706. Title I funding will be used to produce an updated version of the poster. No expenditures of requirements payments are anticipated.

- **General information on federal and state fraud laws:** This information will be included on a poster entitled "Voters Rights and Responsibilities". All polling places must display this poster in accordance with K.S.A. 25-2706. Title I funding will be used to produce an updated version of the poster. No expenditures of requirements payments are anticipated.

**Provisional ballots for individuals who vote pursuant to a court or other order extending polling place hours; ballots must be separated from other provisional ballots (Section 302(c))**
Provisional voting has been part of Kansas election law since 1996. Legislation to amend current provisional voting statutes to include this requirement was vetoed during the 2003 session. New legislation will be proposed in January 2004. No expenditures of requirement payments are anticipated.

***1.4: Computerized Statewide Voter Registration List Requirements – Section 303(a)***
***Deadline for compliance: January 1, 2004 / January 1, 2006 (with waiver)***
Kansas law (KSA 25-2304(b) requires the secretary of state to maintain a statewide centralized voter registration database. The current database is only a repository for county voter registration data and does not appear to meet the HAVA requirements. Due to the time needed to implement the new system, the secretary of state will seek a waiver of the January 1, 2004, deadline as permitted by HAVA and extend the deadline to January 1, 2006.

The central voter registration subcommittee of the Kansas Election Reform Advisory Council has provided preliminary recommendations for database design. Preparations are now being made to issue a Request for Proposal and seek a vendor for the central voter registration database project. The secretary of state has contracted with a consultant, Jim Minihan of Imerge Consulting, and convened a central voter registration work group to assist with RFP development. The work group includes state and local election officials as well as individuals with information technology expertise. One vendor will be selected through the RFP process.

Once a vendor is selected and a contract has been executed, it is anticipated that implementation of the new database system will begin in summer or early fall 2004. Each county will maintain its current database in 2005 while the new system is tested. Beginning January 1, 2006, the new database will be the sole system used statewide. This project will be funded primarily with Title I funds. Depending on the cost, requirements payments may be used to partially fund this project.

A tentative timeline for this project is included below:

| | |
|---|---|
| May – October 2003 | RFP development |
| November 2003 | Publish RFP |
| February 2004 | Select vendor |
| March-April 2004 | Contract negotiations |
| May 2004 | Contract execution |
| Fall 2004 | Implementation of system begins |
| 2005 | Current system and new system to run simultaneously |
| January 1, 2006 | New system becomes the sole system used in Kansas |





***1.5: Requirements for Voters Who Register by Mail – Section 303(b)***
***Deadline for compliance: January 1, 2004***

**Identification Requirements:** Currently Kansas law does not require any individual to present identification when voting. During the 2003 session of the Kansas Legislature, an effort to amend Kansas law to require identification from all voters and comply with the HAVA requirements for voters who register by mail was not successful. Legislation will be proposed in January 2004 to ensure Kansas' compliance with the requirements for first-time voters, in each jurisdiction, who register by mail.

**Fail-Safe Voting:** Under HAVA, voters who register by mail and cannot meet the identification requirement must be afforded the opportunity to vote a provisional ballot. Current Kansas law allows such individuals to cast provisional ballots; therefore, Kansas is in compliance with the fail-safe voting requirement.

**Contents of Mail-In Registration Form:** In 2003, the secretary of state proposed legislation to amend KSA 25-2309, the statute which enumerates the contents of Kansas' mail-in registration form. The proposal was ultimately vetoed. Legislation will be proposed in January 2004 to implement the questions and statements which must now be included on the mail-in registration form. However, due to the need to comply with this requirement by January 1, 2004, the secretary of state will modify the mail-in voter registration form in 2003 pursuant to KSA 25-2309. The secretary of state's office will print and provide counties with a short-term supply of new voter registration cards. Only title I money is planned to be used.



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- ***Section 2: How will Kansas distribute and monitor the distribution of the requirements payment to units of local government or other entities in Kansas for carrying out activities to improve the administration of elections?***

***2.1: Criteria to be used to determine the eligibility of units or entities for receiving the payment (Section 254(a)(2)(A))***

The secretary of state will manage all requirements payments and make expenditures to implement title III requirements. Expenditures will be made for counties (eligible units) by the state to fulfill the requirements specified by the secretary of state. Counties will be responsible for financial needs that exceed the specified requirements.

Planned expenditures of requirements payments may include the following projects: (1) a new centralized voter registration system; (2) accessible voting equipment; and (3) education and outreach programs. These projects are priorities and all other financial requests will be assessed after completion of the projects.

Eligible entities are organizations or persons with goals and objectives related to HAVA. If grants are made to eligible entities, the following criteria will be used:

(1) The entity must submit a written proposal to the secretary of state.
(2) The proposal must include specific performance goals for the proposed project.
(3) The proposal must include information on how the goals will address and accomplish title III objectives.
(4) Grants will be awarded at the discretion of the secretary of state after review of the proposal.

***2.2 : Methods to be used to monitor the performance of the units or entities to whom the payment is distributed (Section 254(a)(2)(B))***

The secretary of state will develop appropriate auditing procedures. All units or entities receiving title I or title II funds will be subject to reporting requirements established by the secretary of state. The following reports will be required of units or entities that receive grants or materials purchased with federal funds.

Units of local government:

(1) Reporting requirements incorporated into existing reports submitted by county election officials
(2) Annual report

Eligible entities:

(1) Quarterly financial reports
(2) Annual financial report
(3) Annual performance report





- ***Section 3: How will Kansas provide 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?***

***3.1: Voter Education***

Education is an essential element of HAVA implementation in Kansas. In order for the state to maximize the benefits of HAVA, we must reach out and educate Kansans. The secretary of state plans to educate the voting age population and guarantee that all Kansans comprehend new requirements and procedures through a two-fold voter education program consisting of (1) voter outreach and (2) instruction on how to vote so the vote will count. These programs will be developed by the secretary of state's staff.

*(1) Voter Outreach*

A statewide media campaign will be developed to encourage registration and voting before primary and general elections. The campaign may use the following media: radio, internet, television, newspaper, and direct mail. County election officials, youth voting programs, and other interested groups may play a role in this program.

Outreach material describing the voter registration process in Kansas will be developed by the secretary of state and provided to local election officials. Groups interested in voter outreach may contact the secretary of state's office and materials may be provided upon request.

Emphasis will be placed on development of an outreach initiative for citizens with disabilities. The secretary of state's office will work with advocacy groups to develop accessible resources.

Another component of this program may be expansion of Kansas' student poll worker program. The program was developed in 2000 pursuant to KSA 25-2804(b).

*(2) Voting Instruction*

A statewide media campaign will be developed and conducted by the secretary of state. Assistance may be provided to local interest groups. The campaign will encompass the following topics: (1) voting procedure in Kansas; (2) instructions regarding how to use each voting system; (3) reasons for provisional voting and how to cast a provisional ballot; (4) reasons for ballot invalidation; (5) accessibility of polling places and voting equipment.

The campaign will be developed with assistance from county election officials and other relevant groups. Campaign content will be designed to meet HAVA requirements and may be modeled after previous media campaigns conducted by the secretary of state's office. Media used to conduct the campaign may include the following: radio, internet, television, newspaper, and direct mail. County election officials, youth voting programs, and other interested groups may play a role in this program.

The following ideas may be incorporated in this campaign:

- Brochures and electronic advertising explaining new voting procedures and rights
- Information (printed, audio, etc.) on the DRE voting system for all Kansans, including individuals with disabilities
- A website providing one-stop information on voting procedures and rights
- A revised version of the Voter's Rights and Responsibilities poster required by KSA 25-2706
- Partnerships with public and private organizations

### *3.2: Election Official Education and Training*

In order to ensure that county election officials receive the necessary education and training on election issues, the secretary of state's office will develop a uniform, statewide training program. The program will be provided at no cost to participants. A description of the program is included below.

*Curriculum*: The annual program will be developed by the secretary of state's office with assistance from Kansas County Clerks and Election Officials Association members and adult education specialists. The secretary of state's office will seek partnerships with the Wichita State University Hugo Wall School and Emporia State University. Eight hours of required instruction will be provided each year and will consist of the following courses:

| COURSE | HOURS |
|---|---|
| HAVA overview / NVRA refresher | 1 |
| Preparing for an election | 1 |
| Voter registration | 1 |
| Voting procedure / provisional ballots | 1 |
| Advance voting / federal services voting | 1 |
| Canvassing / write-ins / voter intent | 1 |
| Voting equipment | 1 |
| Special situations including, but not limited to, alternative languages, accessibility, awareness and sensitivity | 1 |

*Location*: The aforementioned courses will be provided in coordination with established meetings of the Kansas County Clerks and Election Officials Association (KCCEOA) and the Kansas Association of Counties (KAC). The schedule is as follows:

| MONTH | EVENT | HOURS REQUIRED |
|---|---|---|
| March | KCCEOA Regional Meetings | 2 |
| May | KCCEOA Convention | 2 |
| September | KCCEOA Regional Meetings | 2 |
| November | KAC Convention | 2 |

Make-up sessions may be held at the following times and events:

| MONTH | EVENT |
|---|---|
| May | KCCEOA Convention |
| November | KAC Convention |
| As scheduled | Sanborn Institute for County Clerk Certification (annual) |
| As necessary | Videoconference |
| Once very four years | Midwest Election Officials Conference |

*Resources*: Participants will receive a printed training manual, an updated version of the Kansas Election Standards, and tools for training poll workers.

*Instructors*: The training program will be conducted by the secretary of state and staff, subject matter experts, and Sanborn Institute instructors.

*Attendance*: At least one individual from each county election office must attend the program consisting of eight one-hour sessions. Attendance is a condition of receiving the benefits of federal funding, and the secretary of state shall have the option of withholding county benefits related to HAVA due to nonparticipation in the training program.





### *3.3: Poll Worker Training*

The secretary of state will design a poll worker training program for county election officials in order to facilitate the crucial link between election administrators and voters. County election officials will receive instruction on this program during the election official training program and will be responsible for conducting training sessions at the local level. Participation in this program will be a condition for receipt of county benefits related to HAVA.

*Curriculum:* The following topics will be incorporated into training resources developed by the secretary of state's office in conjunction with adult education specialists.

- Opening, closing and managing the polling place
- Voting procedure
- Provisional ballots
- Special situations including, but not limited to, accessibility, electioneering, authorized poll agents, angry voters, and long lines
- Dealing with natural disasters and emergency situations

*Resources:* The secretary of state will provide each county election officer with the following tools to be used in a local poll worker training session.

- A curriculum for training poll workers
- A reference guide for supervising judges to use at the polling place
- A presentation (Power Point, video, etc.) to be used during training sessions

*Instructors:* Training sessions will be conducted by each county election official and deputy election officials. Voting equipment vendors or technicians may also be involved in the training sessions. County election officials may include supplemental instructors in the training sessions at their discretion.

*Attendance:* County election officials must conduct a minimum of two (2) hours of training prior to each primary and general election for supervising judges and election clerks. The training is currently optional, but due to the complexity and multitude of election administration changes in 2004 and 2006, the secretary of state's office will propose legislation to require training as follows:

- Required training for supervising judges in 2004 and 2006
- Required training for all election clerks in 2006
- Required training for all first time poll workers after 2006

▫ ***Section 4: How will the state adopt voting system guidelines consistent with the requirements of section 301?***

The secretary of state will adopt voting system guidelines consistent with the requirements of section 301 by the January 1, 2006, deadline. An overall method of compliance is yet to be determined.

As illustrated on pages four and five of this document, some voting systems currently used in Kansas do not meet the requirements of section 301. Specifically, paper ballot and central count optical scan systems are noncompliant. At the present time, the secretary of state plans to resolve these compliance issues through use of a voter education program as permitted by Section 301(a)(1)(B). Use of a voter education program will permit counties to maintain paper ballot and central count optical scan systems.





▫ ***Section 5: How will Kansas establish a fund for purposes of administering the state's activities, including information on fund management?***

***5.1: Fund establishment***
During the 2002 legislative session, the secretary of state established a Democracy Fund in anticipation of receiving federal funding for HAVA implementation. Title I funds were received in April 2003 and deposited in the Democracy Fund. In early 2003 it came to the attention of the secretary of state that state accounting and reporting guidelines had been changed and as a result, the Democracy Fund had been improperly coded for receipt of federal funds. A new fund, therefore, was established for title I and title II funds and the funds previously received were transferred to the new fund.

The following funds were changed or established in 2003:
(1) Democracy Fund: The fund was maintained for receipt of matching funds from Kansas counties beginning July 1, 2003.
(2) HAVA Fund: This fund was created for title I and title II funds. Title I funds originally placed in the Democracy Fund have been transferred. Any additional federal funds (i.e. grants) will be deposited in this fund.
(3) New state general fund account: Established for receipt of matching funds from the state.

***5.2: Fund management***
The secretary of state will be responsible for fund management. State and federal fund management guidelines will be followed. Appropriate records of expenditures will be maintained by the secretary of state's office. A monthly review of funds will be made.

▫ ***Section 6: Kansas' proposed budget for HAVA activities based on the state's best estimates of the costs of such activities and the amount of funds to be made available.***

The following chart is Kansas' proposed budget for Fiscal Year 2004. All amounts listed are estimates and subject to change.

| HAVA Requirements | Estimated Total Cost | Funding Source | | | |
|---|---|---|---|---|---|
| | | Title I $5 million[1] | Title II $7.5 million[2] | State Match $225,000[3] | County Match $150,000[4] |
| Central Voter Registration System | No estimate is included here to ensure that the secretary of state may negotiate a truly competitive price for this system. We do not want vendors to assume we are prepared to pay a predetermined amount for the system.[5] | | | | |
| Accessible voting equipment | No estimate is included here to ensure that the secretary of state may negotiate a truly competitive price for this system. We do not want vendors to assume we are prepared to pay a predetermined amount for the equipment.[6] | | | | |
| Administrative costs | $215,000 | $215,000 | | | |
| Voter education | $100,000 | $100,000 | | | |
| CEO training | $35,000 | $35,000 | | | |
| Poll worker training | $36,000 | $36,000 | | | |
| Free access system | $2000 | $2000 | | | |
| Polling place postings | $2000 | $2000 | | | |
| Kansas voter registration forms | $20,000 | $20,000 | | | |
| Federal voter registration forms | $5000 | $5000 | | | |

[1] Kansas has received a title I payment of $5 million.
[2] Kansas is eligible to receive a title II requirements payment of approximately $7.5 million in Fiscal Year 2004. Receipt of the payment is contingent upon filing the state plan.
[3] In order to qualify for title II requirements payments, Kansas must provide five percent (5%) of the payment in matching funds. During the 2003 Kansas Legislative Session, the legislature approved a match of three percent (3%) from the state general fund. This amount is an estimate of three percent of the state match.
[4] As explained in note three, receipt of title II requirements payments is contingent upon providing state matching funds. During the 2003 Kansas legislative session, the legislature specified that the remaining two percent (2%) match is to be provided by Kansas counties. Each county pays a proportionate share of the match based on a formula comparing county voting age population to state voting age population. This amount is an estimate of two percent of the state match.
[5] The actual cost will be negotiated through a Request for Proposal process.
[6] The actual cost will be negotiated through a Request for Proposal process.





▫ ***Section 7: How will Kansas, in using the requirements payment, 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?***

Even though federal funding has been appropriated for state implementation of HAVA, this does not mean that the state may decrease election funding as a result. HAVA requires each state to provide at least the same level of funding for elections in 2004 and beyond, as it did in fiscal year 2000.

In compliance with HAVA Section 254(a)(7), in using requirements payments, Kansas will maintain expenditures of the State for activities funded by the payment at a level equal to or greater than the level of Title III expenditures in State FY 2000.

| Elections & Legislative Matters | Fiscal Year 2000 | Fiscal Year 2004 |
|---|---|---|
| | $ 27,920 | $ 58,408 |

- ***Section 8: How will Kansas adopt performance goals and measures to determine its success and the success of units of local government in carrying out the plan?***

Performance goals and measures will be developed by the secretary of state's office for each applicable element of the state plan. Each element will have a tentative timeline for completion which will serve as a tool for assessing performance. The following charts outline tentative performance goals for implementation of HAVA requirements.

| Performance Goal | Develop and implement a statewide central voter registration system |
|---|---|
| Process to develop criteria | The secretary of state's staff will plan with a Central Voter Registration Work Group and consultant to develop a Request for Proposal (RFP) and establish goals for project management |
| Criteria to measure performance | A set of time-oriented goals for the following events:<br>(1) development and issuance of an RFP<br>(2) selection of a vendor<br>(3) contract negotiations / execution of contract<br>(4) implementation of CVR system |
| Tentative Timeline | May – October 2003: RFP development<br>November 2003: Publish RFP<br>February 2004: Select vendor<br>March – April 2004: Contract negotiations<br>May 2004: Contract execution |
| Deadline for compliance | January 1, 2006 (with waiver) |

| Performance Goal | Implement one voting machine, accessible to individuals with disabilities, in every Kansas polling place |
|---|---|
| Process to develop criteria | The secretary of state's staff will plan with a work group and consultant to develop a Request for Proposal (RFP) and establish goals for project management |
| Criteria to measure performance | A set of time-oriented goals for the following events:<br>(1) development and issuance of an RFP<br>(2) selection of a vendor(s)<br>(3) contract negotiations / execution of contract<br>(4) implementation of voting equipment |
| Tentative Timeline | 2004 – 2005: RFP development/issuance and selection of vendor(s)<br>Summer – Fall 2005: Delivery and implementation of accessible voting equipment |
| Deadline for compliance | January 1, 2006 |





| Performance Goal | Implement second chance voting requirements |
|---|---|
| Process to develop criteria | The secretary of state's office will work with the Kansas Election Reform Advisory council and county election officials to develop a plan for implementation |
| Criteria to measure performance | A set of time-oriented goals for development of a voter education program to meet section 301(a)(1) requirements |
| Tentative timeline | Unknown at this time |
| Deadline for compliance | January 1, 2006 |

| Performance Goal | Meet audit capacity requirements |
|---|---|
| Process to develop criteria | The secretary of state's office will work with county election officials to determine how counties with optiscan voting systems will meet the requirements |
| Criteria to measure performance | A set of time-oriented goals |
| Tentative timeline | Unknown at this time |
| Deadline for compliance | January 1, 2006 |

| Performance Goal | Implement uniform definitions of what constitutes a vote for each type of voting system used in Kansas |
|---|---|
| Process to develop criteria | The secretary of state's office will work with the election standards task force to develop a proposal |
| Criteria to measure performance | Implementation of uniform definitions in Kansas statute or regulations in 2004 or 2005 |
| Tentative timeline | Propose legislation in January 2004 |
| Deadline for compliance | January 1, 2006 |

| Performance Goal | Implement affidavit requirement for provisional voters |
|---|---|
| Process to develop criteria | Development of a plan for implementation by the secretary of state's office in 2003 |
| Criteria to measure performance | To codify the requirement in state election law and implement the requirement on the local level |
| Tentative timeline | Legislation proposed in 2003, passed and ultimately vetoed. New legislation to be proposed in January 2004. |
| Deadline for compliance | January 1, 2004 |

| | |
|---|---|
| Performance Goal | Develop and provide written information regarding how to determine the outcome of a provisional ballot |
| Process to develop criteria | Development of a plan for implementation by the secretary of state's office in 2003 |
| Criteria to measure performance | A time-oriented set of goals for the following events:<br>(1) prescribing a document with the appropriate information<br>(2) sending the document to county election officials and providing instructions for use<br>(3) verifying that county election officials have reproduced and distributed the documents |
| Tentative timeline | Document to be prescribed and distributed prior to August 2004. Information to be distributed to provisional voters beginning with the August 2004 primary election. |
| Deadline for compliance | January 1, 2004 |

| | |
|---|---|
| Performance Goal | Develop a free access system for publication of provisional vote results |
| Process to develop criteria | The secretary of state's office will work with county election officials to develop a plan for implementation |
| Criteria to measure performance | A time-oriented set of goals for the following events:<br>(1) developing a web-based free-access system<br>(2) working with county election officials to test the system<br>(3) implementation of the system |
| Tentative timeline | Plan to implement the system during the August 2004 primary election |
| Deadline for compliance | January 1, 2004 |

| | |
|---|---|
| Performance Goal | Implement required public posting at polling places |
| Process to develop criteria | The secretary of state's office developed a plan for implementation in 2003 |
| Criteria to measure performance | To codify the requirement in state election law and implement the requirement on the local level |
| Tentative timeline | Legislation proposed, passed, and vetoed in 2003. New legislation will be proposed in January 2004. County election officials will implement the requirements in 2004. |
| Deadline for compliance | January 1, 2004 |





| | |
|---|---|
| Performance Goal | Require provisional ballots for individuals who vote pursuant to a court or other order extending polling place hours |
| Process to develop criteria | The secretary of state's office developed a plan for implementation in 2003 |
| Criteria to measure performance | To codify the requirement in state election law and implement the requirement on the local level |
| Tentative timeline | Legislation proposed, passed, and vetoed in 2003. New legislation will be proposed in January 2004. County election officials will implement the requirements in 2004. |
| Deadline for compliance | January 1, 2004 |

| | |
|---|---|
| Performance Goal | Meet the requirements for voters who register by mail |
| Process to develop criteria | The secretary of state's office developed a plan for implementation in 2003 |
| Criteria to measure performance | To codify the requirement in state election law and implement the requirement on the local level |
| Tentative timeline | Legislation proposed, passed, and vetoed in 2003. New legislation will be proposed in January 2004. County election officials will implement the requirements in 2004. |
| Deadline for compliance | January 1, 2004 |

| | |
|---|---|
| Performance Goal | Implement voter education, election official education/training, and poll worker training programs |
| Process to develop criteria | The secretary of state's office developed a plan for implementation with assistance from the Kansas Election Reform Advisory Council in 2003 |
| Criteria to measure performance | A time-oriented set of goals for the following events:<br>(1) convene a work group<br>(2) development of the program<br>(3) conducting the program |
| Tentative timeline | Implementation of the program will occur in 2004. |

- ***Section 9: A description of the uniform, nondiscriminatory state-based administrative complaint procedure in effect under section 402.***

A proposed administrative complaint procedure is included below and remains subject to change. The proposal will be submitted to the Kansas Legislature in January 2004. In addition, the following guidelines have been developed for use by the secretary of state in conjunction with the administrative complaint procedure:

1. All complaints should be addressed at county level first as the county election official is best suited to solve the problem, and will likely solve the problem faster than a state-based complaint process.
2. A brochure/booklet will be created outlining the administrative grievance process for the public. The Secretary of State will work with various groups to construct the content and look of the brochure. (brochure will include point given above in #1.)
3. Notices, hearings, and any other procedures of the grievance process shall include any required accommodation(s).

**KANSAS SECRETARY OF STATE**
**Proposed Administrative Complaint Procedure**

**Section 1. Scope.**
This act provides a uniform, nondiscriminatory administrative procedure for the resolution of any complaint alleging a violation of any provision of Title III of the "Help America Vote Act of 2002," including a violation that has occurred, is occurring, or is about to occur.

**Section 2. Definitions.**
(a) In this act, the following terms have the meanings indicated.
(1) "Complainant" means the person who files a complaint with the Kansas secretary of state under this act.
(2) "Respondent" means any state or local election official whose actions are asserted to be in violation of Title III in a complaint filed under this act.
(3) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code §§15481-15485.
(4) "Arbitrator" means a neutral third party selected by the secretary of state who resolves the dispute between the complainant and respondent, and whose decision is final.

**Section 3. Who May File.**
Any person who believes that a violation of any provision of Title III is occurring, has occurred, or is about to occur, may file a complaint.

**Section 4. Form of Complaint.**
(a) A complaint shall be in writing and signed by the complainant under oath before a notary public.
(b) The complaint shall be submitted on a form prescribed by the secretary of state, which shall be available from the secretary of state or from any county election office.

**Section 5. Place and Time for Filing; Copy for Respondent.**
(a) A complaint shall be filed with the secretary of state within 30 days after the occurrence of the actions or events that form the basis for the complaint. For violations that are occurring or about to occur that may need immediate remedy, the complaint shall be timely filed to allow for resolution.
(b) The secretary of state shall deliver a copy of the complaint to each respondent.
(c) If the secretary of state is the respondent in the complaint, the complaint shall be filed and reviewed by the Kansas Department of Administration and all references to the secretary of state as the determinative body contained in this act shall be construed to refer to the Kansas Department of Administration.

**Section 6. Consolidation of Complaints.**
(a) The secretary of state may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.





**Section 7. Official Record of Proceedings.**
(a) The secretary of state shall compile and maintain an official record in connection with each complaint filed under this act.
(b) The official record shall contain:
(1) A copy of the complaint, including any amendments made with the permission of the secretary of state;
(2) A copy of any written submission by the complainant;
(3) A copy of any written response by any respondent or other interested person;
(4) Any written report or review conducted by the secretary of state or county election officials;
(5) Copies of all notices and correspondence to or from secretary of state in connection with the complaint;
(6) Originals or copies of any tangible evidence received or considered;
(7) The original recording produced at any hearing conducted on the complaint, and a copy of any transcript produced on the complaint; and
(8) A copy of any final determination made on the complaint.

**Section 8. Hearing, Notice of Hearing.**
(a) If requested by the complainant, the secretary of state shall conduct a hearing on the record to review the complaint. The secretary of state or other person designated by the secretary of state shall serve as the hearing officer.
(b) The hearing shall be conducted no later than 30 days after the secretary of state receives the complaint. The secretary of state shall give at least 5 days advance notice of the date, time, and place of the hearing to the complainant and each named respondent.

**Section 9. Conduct of Hearing.**
(a) To the extent necessary for full disclosure of all relevant facts and issues, the hearing officer shall afford all parties the opportunity to respond, present evidence and argument, and shall not be bound by the technical rules of evidence; provided, the hearing officer may place reasonable limits on the length of the hearing.
(b) The hearing officer may at his discretion give nonparties an opportunity to present oral or written statements.
(c) All testimony of parties and witnesses shall be made under oath or affirmation and the hearing officer shall have the power to administer an oath or affirmation for that purpose.
(d) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party.
(e) Official notice may be taken of (1) any matter that could be judicially noticed in the courts of this state, (2) the record of other proceedings before the secretary of state, (3) technical matters within the secretary of state's specialized knowledge, and (4) codes of standards that have been adopted by an agency of the United States, of this state or of another state or by a nationally recognized organization or association.
(f) The hearing officer may conduct all or part of the hearing by telephone or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding.
(g) The hearing shall be recorded at the secretary of state's expense. The secretary of state is not required to prepare a transcript at its expense. Any party, at the party's expense, may request that the secretary of state prepare a transcript from the record, or cause additional recordings to be made during the hearing. If a transcript is produced, the secretary of state shall include a copy in the official record.
(h) The hearing shall be open to the public, except for parts that the hearing officer rules to be closed pursuant to a provision of law expressly authorizing closure.

**Section 10. Informal Conference, Pre-hearing Conference.**
(a) The secretary of state may conduct an informal conference to resolve the filed complaint, if both the complainant and respondent have an opportunity to participate in the proceeding.
(b) The secretary of state may conduct a pre-hearing conference to organize issues and procedures to promote an orderly and prompt hearing.
(c) The secretary of state shall give advance notice of the date, time, and place of any conference to the complainant and respondent.

**Section 11. Subpoenas.**
The Secretary of State may issue subpoenas for a witness or any material that is relevant to the administration of this act.

**Section 12. Final Determination.**
(a) If there has been no hearing, the secretary of state shall review the record and determine whether a violation of Title III has been established by a preponderance of evidence. The determination of the secretary of state shall be final and shall not be subject to appeal pursuant to the Kansas Act for Judicial Review.
(b) At the conclusion of any hearing, the secretary of state shall determine whether a violation of Title III has been established by a preponderance of evidence. The determination of the secretary of state shall be final and shall not be subject to the Kansas Act for Judicial Review.
(c) If the complaint is not timely filed or if the secretary of state determines that a violation has not occurred or that there is insufficient evidence to establish a violation, the secretary of state shall dismiss the complaint.
(d) The secretary of state shall explain in a written decision the reasons for the determination and for any remedy selected.
(e) Except as specified in section 14, the final determination of the secretary of state shall be issued within 90 days after the complaint is filed, unless the complainant consents in writing to an extension. The final determination shall be mailed to the complainant and each respondent, and published on the secretary of state website.
(f) If the secretary of state cannot make a final determination within 90 days after the complaint was filed, or within any extension to which the complainant consents, the complaint shall be referred for final resolution under section 14. The record compiled pursuant to section 7 shall be made available for use under section 14.

**Section 13. Remedies.**
(a) Upon the finding of a violation, the secretary of state shall provide an appropriate remedy to resolve the grievance, which remedies may include the following:
(1) An order to any respondent commanding the respondent to take specified action, or prohibiting the respondent from taking specified action;
(2) An order directing the respondent or any employees or agents of the respondent to obtain additional training or education to prevent future violations;
(3) Any other remedy as deemed appropriate by the secretary of state to prevent or remedy the violation or future violations.
(b) The secretary of state may order either party to pay the costs of the hearing, based upon a finding by the secretary of state that the party's actions were egregious, frivolous, harassing, or were for an improper purpose.

**Section 14. Alternate Dispute Resolution.**
(a) If the secretary of state does not render a final determination within 90 days after the complaint is filed, or within any extension to which the complainant consents, the complaint shall be resolved under this section.
(b) Within five (5) days after a final determination was due, the secretary of state shall designate in writing to the complainant and the respondent the name of an arbitrator to resolve the complaint.
(c) The arbitrator may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence.
(d) The arbitrator shall issue a written resolution within ten (10) days after the secretary of state's determination was due. The final resolution of the arbitrator shall be mailed to the secretary of state, the complainant, and each respondent, and published on the secretary of state website.

**Section 15.** The Secretary of State may adopt rules and regulations to administer this act.





- ***Section 10: A description of how Kansas will use the title I payment to carry out proposed activities in this plan.***

Kansas has received $5 million in title I payments for improvement of election administration. This funding may be used for the following approved purposes:
(1) Complying with requirements of title III
(2) Improving the administration of elections for federal office
(3) Educating voters concerning voting procedures, voting rights, and voting technology
(4) Training election officials, poll workers, and election volunteers
(5) Developing the state plan
(6) Improving, acquiring, leasing, modifying, or replacing voting systems and technology
(7) Improving the accessibility and quantity of polling places
(8) Establishing a toll-free hotline for use by voters to obtain voting information

It is expected that Kansas' title I funds will be used for the following, prioritized purposes:
(1) Implementation of a new statewide central voter registration system
(2) Administrative expenses for development of the state plan and the central voter registration system RFP
(3) Education programs
(4) Section 301 requirements (i.e. free access system, polling place postings, voter registration forms)

| HAVA Requirements | Funding Source | | | |
|---|---|---|---|---|
| | Title I $5 million | Title II $7.5 million | State Match $225,000 | Local Match $150,000 |
| Central Voter Registration System | X | | | |
| Accessible voting equipment | | X | | |
| Administrative expenses | X | | | |
| Voter education | X | | | |
| CEO training | X | | | |
| Poll worker training | X | | | |
| Free access system | X | | | |
| Polling place postings | X | | | |
| Voter registration forms | X | | | |

▫ ***Section 11: How will Kansas conduct ongoing management of the plan?***

The 2003 Kansas state plan will be submitted to the Federal Election Commission in September and with the Election Administration Commission when it is established. The secretary of state's office will then work to implement and develop the proposals made in the state plan. Work groups provide assistance with development of proposals. The Kansas Election Reform Advisory Council will meet to reevaluate the state plan in spring 2004. Changes may be proposed to the advisory council by the secretary of state's office at that time.





▫ ***Section 12: A description of the committee which participated in development of the state plan.***

In January 2003, the secretary of state formed the Kansas Election Advisory Council to comply with Section 255. The advisory council is a committee of appropriate individuals who met on a monthly basis (February through May) to assist with development of the state plan. Secretary Thornburgh is chairman of the group and each member of the advisory council serves on one of four subcommittees.

| | | |
|---|---|---|
| **Accessibility Subcommittee** | Melissa Wangemann, Chair | Legal Counsel, Kansas Secretary of State's Office |
| | Mark Braun | Director, Kansas Office of Administrative Hearings |
| | Robert Bugg | Commissioner, Kansas Advisory Council on African-American Affairs |
| | Michael Byington | Director, Kansas Relay Service and Kansas Telecommunications Access Program |
| | Tina DeLaRosa | Executive Director, Kansas Advisory Committee on Hispanic Affairs |
| | Anthony Fadale | Coordinator, Kansas ADA Compliance |
| | Martha Gabehart | Executive Director, Kansas Commission on Disability Concerns |
| | Brad Hamilton | Former Director, Kansas Office of Native American Affairs |
| | Scott Letts | Kansas Advocacy & Protective Services |
| | Betty Musick | Cloud County Clerk |
| | Pat Rahija | Wyandotte County Election Commissioner |
| | Patrick Terick | Director of Governmental Affairs, Cerebral Palsy Research Foundation |
| | Mary Tritsch | Associate State Director, AARP Kansas |
| **Finance Subcommittee** | Mindy Miller, Chair | Legal Associate, Kansas Secretary of State's Office, Elections & Legislative Matters Division |
| | Randall Allen | Executive Director, Kansas Association of Counties |
| | Marilyn Chapman | Sedgwick County Election Commissioner |
| | Rebecca Floyd | Executive Vice President & General Counsel, Kansas Development Finance Authority |
| | Randy Mettner | Special Assistant to the Governor |
| | Don Proffitt | Linn County Clerk |
| | Neil Woerman | Director of Information Technology, Office of the Insurance Commissioner |
| | Ryan Wright | Director of Public Affairs, Kansas Treasurer's Office |

| | | |
|---|---|---|
| **Central Voter Registration Subcommittee** | Bryan Caskey, Chair | Administrative Assistant, Kansas Secretary of State's Office, Elections & Legislative Matters Division |
| | Cheryl Adelhardt | Harper County Clerk |
| | Tim Blevins | Chief Information Officer, Kansas Department of Revenue |
| | Rebecca Bossemeyer | Geary County Clerk |
| | Elizabeth Ensley | Shawnee County Election Commissioner |
| | Don Merriman | Saline County Clerk |
| | Denise Moore | Director, DISC |
| | Kathy Peckman | Miami County Clerk |
| | Mike Stewart | Chief Information Officer, Kansas Secretary of State's Office |
| | Sheila Walker | Director of Vehicles, Kansas Department of Revenue |
| **Voting Standards & Education Subcommittee** | Brad Bryant, Chair | Deputy Assistant Secretary of State, Elections and Legislative Matters Division |
| | Emily Bradbury | Executive Director, Kids Voting Kansas |
| | Jeff Burkhead | Executive Director, Kansas Press Association |
| | Gail DuPuis | Director, Kansas Office of Native American Affairs |
| | Keith Lawing | Wichita State University |
| | Patrick Murray | Executive Director, Kansas Democratic Party |
| | Ann Havenhill | President, Kansas League of Women Voters |
| | Scott Poor | Executive Director, Kansas Republican Party |
| | Connie Schmidt | Johnson County Election Commissioner |
| | Dr. Harvey Foyle | Emporia State University |
| | Rich Smith | Assistant Attorney General |
| | Rich Vargo | Riley County Clerk |

# Commonwealth of Kentucky

# State Plan

## As required by Public Law 107-252
## Help America Vote Act 2002, Section 253(b)

**John Y Brown, III**
**Secretary of State**
**State Capitol, Suite 152**
**700 Capital Avenue**
**Frankfort, KY 40601**

**Introduction**

On October 29, 2002, President George W. Bush signed the Help America Vote Act (HAVA) into law. HAVA is a federal response to the irregularities in voting systems and processes seen in certain states during the 2000 Presidential election. HAVA requires each state to develop a comprehensive state plan for implementing mandatory changes in the administration of elections. The impact of HAVA on the Commonwealth includes these areas: replacing lever voting machines in 147 precincts, improving voter education and poll worker training, requiring provisional ballots, and mandating that at least one voting machine be available per polling place which is accessible to voters with disabilities.

The state plan for the Commonwealth of Kentucky, developed in accordance with Section 254 of the Act, through Kentucky's HAVA Advisory Committee, establishes a framework for meeting requirements, yet remaining a national leader in the conduct of elections.

We anticipate revising this document several times as the Commonwealth works toward improving elections and complying with HAVA. Most of the items included in this plan are based on the assumption that HAVA is fully funded by Congress over the next three federal fiscal years.

**Overview of Conduct of Elections in Kentucky**

The Secretary of State, an elected constitutional officer, serves as the Chief Election Official and Chairman of the State Board of Elections. Certain candidates for public office must file candidacy declaration papers with the Secretary of State. Candidates' names, party affiliation, and ballot order are certified by the Secretary to county clerks for ballot placement and printing. Election returns must be certified to the Secretary, as custodian of the official election results.

The State Board of Elections, an independent agency, administers the Commonwealth's election laws, promulgates administrative regulations necessary to properly carry out its duties, supervises the registration and purgation of voters, appoints the political party representatives to the 120 county boards of elections, and certifies the official election results. The State Board of Elections is comprised of seven members: Secretary of State (Chairman), three Democratic members and three Republican members. The State Board of Elections appoints an Executive Director and an Assistant to the Director, which shall be of opposite political party affiliations, to conduct the day-to-day operations.

The bulk of election administration is conducted at the county level by the county clerks and the county boards of elections. The county clerk is the candidate-filing officer for

county level offices. The county board of elections, which works at the direction of and under the supervision of the State Board of Elections, administers the election laws and the registration and purgation of voters within the county. The county board of elections is comprised of four members: county clerk (chairman), county sheriff, and one Democratic member and one Republican member appointed by the State Board of Elections.

**State Plan Required Elements**

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

**Voting System Standards**

| Voting System Standards | Sec. 301 (pages 36-102 of the PL) | |
|---|---|---|
| HAVA Requirement | State of Kentucky's Current Status | Action Planned |
| All voting systems shall permit a voter to verify/review selections before casting the vote. | Meets the requirement. | No action needed. |
| Allow voter to change or correct any error on the ballot before casting the vote. | Partially meets the requirement.<br><br>Some paper ballots, which are used with an optical scan system or placed in a ballot box, are not scanned or counted while voter is still present in the polling site.<br><br>Current process on mail-in paper absentee ballots would not meet the requirement. | A voter education campaign will need to be implemented in these precincts.<br><br>A voter education campaign will need to be implemented. |



| Voting System Standards | Sec. 301 (pages 36-102 of the PL) | |
|---|---|---|
| HAVA Requirement | State of Kentucky's Current Status | Action Planned |
| Prevent or alert voter if he/she over votes on the ballot. | Partially meets the requirement.<br><br>Some paper ballots, which are used with an optical scan system or placed in a ballot box, are not scanned or counted while voter is still present in the polling site.<br><br>Current process on mail-in paper absentee ballots would not meet the requirement. | A voter education campaign will need to be implemented in these precincts.<br><br>A voter education campaign will need to be implemented. |
| All voting systems must be able to produce a paper audit trail of all votes cast. | Partially meets the requirement.<br><br>Optical scan tabulation systems and the MicroVote MV-464 DRE electronic voting system meet this requirement.<br><br>Electronic 1242 DRE voting system, as currently programmed, does not meet this requirement. | Update existing voting systems or purchase new systems. |
| Voting systems must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for privacy and independence as other voters.<br><br>This requirement may be met by having at least one DRE or other system equipped for individuals with disabilities at each polling site. | Do not meet the requirement; all voting systems require human assistance.<br><br>Jefferson County was a test county in the 2002 general election for a new DRE voting system, which contained audio plug-in for visually impaired voters. | Update existing voting systems or purchase new systems.<br><br>Kentucky Disabilities Coalition will make a recommendation on an accessible voting system. |

| Voting System Standards | Sec. 301 (pages 92-102 line 9-) | |
|---|---|---|
| HAVA Requirement | State of Kentucky's Current Status | Action Planned |
| Voting systems shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965. | Kentucky is not currently covered under the alternative language section of the Voting Rights Act. | No action needed. |
| All voting systems shall have error rates (machine errors only) that do not exceed the Federal Election Commission standards. | Meets the requirement. | |
| A uniform definition of what constitutes a vote for each voting system in use in the state. | Does not meet the requirement.<br><br>We have no uniform definition in place. | Implement a uniform definition for all voting systems in use in the state. |

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**Provisional Voting and Voting Information Requirements**

| Provisional Voting and Voting Information Requirements | Sec. 302 (pages 102 line 10- 105 line 19-) | |
|---|---|---|
| HAVA Requirement | State of Kentucky's Current Status | Action Planned |
| A provisional voter is to be allowed to vote a paper ballot or an electronic ballot upon the completion of an affidavit. The ballot will be sealed in an envelope or electronically stored separately from the regular votes. The provisional ballot is to be transported to the county board of elections for determination of eligibility and possible counting if voter deemed eligible. | Does not meet the requirement.<br><br>KRS 117.245 allows a provisional voter to fill out an Oath of Voter affidavit and then vote on the voting machine. The vote is counted. The Oath of Voter form is turned over to the commonwealth's attorney after the election. The commonwealth's attorney and county attorney shall investigate these forms and report to the grand jury. | The State Board of Elections will promulgate an administrative regulation to implement this provision. |



| Provisional Voting and Voting Information Requirements | Sec. 302 (pages 102 line 10- 105 line 19-) | |
|---|---|---|
| HAVA Requirement | State of Kentucky's Current Status | Action Planned |
| Each voter who casts a provisional vote shall be given written information on how they can ascertain whether their vote was counted, and if not why. | Does not meet the requirement. | Develop written instructions. |
| Establish a free access system, such as toll-free phone number or internet website, allowing provisional voters to ascertain whether their vote was counted, and if not why. | Does not meet the requirement. | Develop a free access system. |
| Post in each polling place a sample version of the ballot that will be used on election day. | Meets the requirement.<br><br>KRS 424.290 requires each county clerk to publish in the newspaper of largest circulation, at least three days before each primary and regular election, a copy of face of the ballot.<br><br>KRS 117.175 requires each precinct to post a copy of the ballot in the precinct. Most county boards of elections print an adequate supply of sample ballots to give to voters as they wait in line. | No action need. |
| Post information regarding the day of the election and polling hours. | Does not meet the requirement. | Post information. |
| Post instructions on how to vote on the voting system including how to cast a provisional vote. | Partially meets the requirement.<br><br>KRS 117.175 requires the posting of instructions on how to operate the voting machine.<br><br>Kentucky does not have provisional voting instructions. | No action needed.<br><br>Post information on how to cast a provisional vote. |

| Provisional Voting and Voting Information Requirements | Sec. 302(pages 482<line 10> - 206<line15>) | |
|---|---|---|
| HAVA Requirement | State of Kentucky's Current Status | Action Planned |
| Post general information on state and federal voting rights and the right to a provisional vote if they meet the requirements to vote. | Does not meet the requirement. | Post information. |
| Post general information on federal and state laws prohibiting acts of fraud and misrepresentation. | Partially meets the requirement.<br><br>KRS 117.030(2) requires conspicuous placement of signs in each precinct stating that vote buying and selling are illegal and the penalties for such acts.<br><br>KRS 117.030(3) requires conspicuous placement of signs in each precinct informing voters of their right to report any administrative or clerical error they witness to the county board of elections (includes county board contact information).<br><br>No information on federal laws. | No action needed.<br><br>No action needed.<br><br>Post information on federal laws. |
| Any voter who casts a vote as the result of a federal or state court order extending polling hours, shall do so on a provisional ballot, and it shall be kept separate from other provisional ballots. | Does not meet the requirement. | Provide for this occurrence. |

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**Computerized Statewide Voter Registration List**

One of the most important aspects of HAVA is the requirement that states create and maintain a statewide voter registration system. The Commonwealth of Kentucky established such a system in 1973, and it was used as a model by Congress for HAVA. The Kentucky system provides a consistent and standardized means of establishing and maintaining voter registration records, preparing voter lists and providing registration and election statistics. It is one of the key reasons the State Board of Elections and the individual county clerks maintain accurate, current, and relatively trouble free voter registration records. We currently have 2,682,997 persons registered to vote and a voting age population (2000 census data) of 3,046,951.

Because of the features and simplicity of our mainframe-based voter registration system, all of Kentucky's 120 counties benefit equally regardless of size. The voter registration records for each county reflect the actual number of registrants because the system does not allow more than one voter registration record to exist per social security number. Kentucky has utilized the full social security number since the early 1970's. In order to ensure privacy, we do not release or print the social security number on any public documents. In addition, registrants who move to a new county within the state and reregister to vote in that new county are automatically purged from the voter registration rolls of the county they left. We provide each county clerk with daily reports detailing changes to registrants' records, voter registration statistics by precinct prior to each election, and, finally, voter turnout statistics by precinct following each election. The State Board of Elections utilizes the information contained on the database to produce election day precinct rosters for our 3,464 precincts. Finally, our statewide voter registration database allows us to manage efficiently our list maintenance activities on the state level versus a county level.

In 1973, Kentucky became the fourth state (South Carolina in 1967, Delaware in 1968, and Alaska in 1970) to implement a centralized statewide voter registration system. The enabling legislation passed in 1972 with an implementation deadline of September 1973. The legislation required everyone to re-register to vote in order to assure we started with a clean voter registration database. The county clerks (local election officials) would register voters, mail copies of the cards to the State Board of Elections for data entry, and then receive an activity report back from the State Board of Elections on these entries. The system cost $1,102,498 to implement.[1]

In 1985, the State Board of Elections realized Kentucky needed a quicker more efficient process for registering voters. Utilizing existing hardware and communications infrastructure provided by another state agency, We developed a "real time" "on-line" mainframe-based system that enabled each county clerk to take over all data entry for his or her own county. This system enhancement required no any enabling legislation.

[1] The 1973 cost adjusted for inflation to 2001 dollars using the Consumer Price Urban Consumer Factor Index.

In the summer of 1985, the statewide database enhancement process began and was implemented in August, 1986. The system cost $796,899 to implement.[2]

Passage of the National Voter Registration Act of 1993 ("Motor-Voter") and our desire to add other features to greatly enhance the system, led to the complete overhaul of the database in 1995 . The enabling state legislation passed in April, 1994 with full implementation on January 1, 1995. The current mainframe database includes the following information for each registrant: social security number, name, residential address, mailing address, telephone number, voting precinct, voting precinct location, voting district information, party affiliation, date of birth, date of registration, last update date, inactive date (if needed), and a five year voting history that shows if the person voted in the primary and general elections of those years, and other information.

A direct "real-time" link with the Kentucky Transportation Cabinet's Division of Driver's License database and a "nightly batch" link with the social services agencies' database now interface with the statewide voter registration database. The State Board of Elections prints an acknowledgement card for the counties to mail to each voter who registers to vote or changes their residential address that affects their voting precinct location. An on-line declination screen allows any county clerk to access a listing of all those who decline the right to register to vote at the driver's license or agency offices. A voter registration purge inquiry screen provides a listing of the date, reason and "userid" of the person who purged the registrant. A master street screen function lists all registered voters on a given street in house number order, to aid in assigning the correct voting precinct. A precinct notification function, which allows a county to request the State Board of Elections produce a post card that the county mails, alerts voters in a given precinct of their new voting location. The system cost $1,160,926 to implement.[3]

The Election Night Tally (ENT) System for counties to enter their election results was implemented in 1986, placed on our website for public access in 1995 and overhauled in 2002. The ENT system provides an efficient compilation of statewide election results, which aids both our office and the public.

[2] The 1985 cost adjusted for inflation to 2001 dollars using the Consumer Price Urban Consumer Factor Index.

[3] The 1995 cost adjusted for inflation to 2001 dollars using the Consumer Price Urban Consumer Factor Index.



| [illegible] | [illegible] | [illegible] |
|---|---|---|
| [illegible] | [illegible] | [illegible] |
| Establish a uniform, statewide voter registration database including a unique identifier for each registrant. | Meets the requirement.<br><br>KY has had a voter registration database since 1973, which was used as a model for this law.<br><br>Our unique identifier on the voter registration database is the full Social Security number. | No action needed.<br><br>The current database is a mainframe system. We would like to upgrade to personal computers and election management systems in each county clerk office. |
| All list maintenance activities shall conform to the National Voter Registration Act of 1993 (NVRA). | Meets the requirement.<br><br>Refer to KRS 116.112. | No action needed. |
| State shall coordinate the voter registration database with appropriate state agencies concerning felony convictions and deaths. | Meets the requirement.<br><br>KRS 116.113 sets forth requirements to work with Cabinet for Health Services on deaths; circuit clerks for persons declared mentally incompetent; and the Administrative Office of the Courts for convicted felons.<br><br>NVRA also stipulates that the U.S. Attorneys notify states on federal felony convictions. | No action needed. |
| Implement special identification requirements for first time registrants who register by mail. (This does not apply to military, dependents of military or overseas voters.) | Not applicable.<br><br>KRS 117.227 and 31 KAR 4:010, require all voters to present identification before being allowed to vote on election day. | |

| [illegible] | [illegible] | [illegible] |
|---|---|---|
| [illegible] | [illegible] | [illegible] |
| Mail-in voter registration form shall contain two questions concerning U.S. citizenship and will the voter be 18 by election day. | Meets the requirement.<br><br>The Kentucky mail-in voter registration card now conforms to this new requirement. | No action needed.<br><br>No action needed. |

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We include the following chart on voting rights for military and overseas citizens for informational purposes, as it is addressed in Title VII of HAVA and not Title III.

**Voting Rights of Military and Overseas Citizens**

| [illegible] | [illegible] | [illegible] |
|---|---|---|
| [illegible] | [illegible] | [illegible] |
| Each state must designate a single office to provide information on registration and absentee ballot procedures for all military, dependents of military, and overseas voters. | Does not meet.<br><br>County clerk is the contact person for this information. | Designate the State Board of Elections as the information site per HAVA requirement. |



| [illegible] | [illegible] | [illegible] |
|---|---|---|
| [illegible] | [illegible] | [illegible] |
| All states must report to the Election Assistance Commission, not later than 90 days after each federal general election, the number of military and overseas absentee ballots mailed and received back. | Partially meets the requirement.<br><br>KRS 117.355(2) requires each county board of elections to submit a post-election report listing the type and number of absentee voters after each primary and general election. The form was modified in 2002 to provide information on military and overseas voters. | Send the information to Election Assistance Commission after each federal general election. |
| Absentee ballot applications for military, dependents of military, and overseas U.S. citizens are valid for all elections held within two-federal general election cycle. | Does not meet the requirement.<br><br>A 2002 federal Department of Defense Authorization bill set forth a requirement that all applications were valid for a one-year federal general election cycle. KY currently follows this guideline. | Comply with the HAVA requirement. |
| All states must notify military, dependents of military, and overseas voters if their voter registration application and/or absentee ballot application has been rejected and the reason why. | Does not meet the requirement.<br><br>If a voter registration application and/or absentee ballot application is missing some information, county clerks do try to notify the voter in order to receive the necessary information. | Comply with the HAVA requirement. |
| A state can not refuse to accept or process any otherwise valid voter registration application or absentee ballot application submitted by military, dependent of military, and overseas citizen on the grounds of early submission. | Meets the requirement.<br><br>County clerk's process the voter registration when it is received and then hold the absentee application until the absentee ballots are printed 50 days prior to the primary and general elections per state law. | No action needed. |

2. **How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entitles 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).**

The State Board of Elections will manage all Title II funds and account for all expenditures, funding levels, program controls, and outcomes. Kentucky will follow all applicable laws and regulations regarding the distribution of Title II funds.

A memorandum of understanding will be signed between the Chief Election Official and all counties detailing work required and the amounts of money. The counties will be required to submit semi-annual reports on their performance.

The Chief Election Official and the state Auditor will develop an agreement to provide the monitoring of all activities of HAVA funding.

Accessible voting systems will be placed in all voting locations. Equipment that will aid in the administration of elections will be placed in each of the county clerk's offices. Monies that are distributed for education and training will be based on voting age population with the Chief Election Official reserving the right to set minimum amounts for small counties.

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.**

**Voter education:** As in the past, the State Board of Elections plans to develop television and radio public service announcements informing citizens how to register to vote and encouraging them to vote, as well as providing information regarding provisional voting and other election laws. The current *Voter Information Guide* (a pamphlet containing information on registering to vote, and voting) will continue to be produced and updated as warranted. The State Board continues providing voter education information on our website in addition to providing a list of candidate filings and will work with other for-profit and non-profit, governmental, and non-governmental groups to educate the public. The Board will encourage local county clerks/boards of election to demonstrate the operation of new voting equipment in malls and other public places.



**Election official education and training:** Pursuant to KRS 117.187, the State Board of Elections must provide special training regarding election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the KY State Police on a regular basis. The Board participates in training sessions at the Kentucky County Clerks Association summer and fall conferences, monthly legislative meetings, and at any other time as issues arise or as requested. The State Board will continue to provide the *Precinct Election Officers Quick Reference Guide*. We will pursue the possibility of producing training videos, training modules and/or printed materials to aid in the training process. We will require each county board of elections to designate a county training/education coordinator who will work directly with the training officer at the State Board of Elections. The county training/ education coordinator will meet at least semi-annually with the State Board of Election's training officer.

**Poll worker training:** The county boards of elections provide special training before each primary and regular election to all poll workers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Any person failing to attend a training session without being excused for illness or other emergency is prohibited from serving as an election officer or challenger for five (5) years.

Per KRS 117.187, the training provided by the county boards of elections shall include:

a. Operation of the voting machine or ballot cards
b. Posting of necessary signs and notices at the polling place
c. Voter assistance
d. Maintaining precinct rosters
e. Confirmation of a voter's identity
f. Challenge of a voter
g. Completing changes of address or name at the polling place
h. Qualifications for voting in a primary election
i. Electioneering and exit polling
j. Write-in voting procedures
k. Persons who may be in voting room
l. Election violations and penalties
m. Assistance which may be provided by law enforcement officers
n. Election reports required to be completed

We will seek legislation to add sections to KRS 117.187 requiring sensitivity training for poll workers regarding persons with disabilities and training on the provisional voting process.

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

Summary of Kentucky Voting Systems In Use
(2003 figures)

| | |
|---|---|
| Election day voting systems | 96 counties use Electronic 1242 DRE equipment<br><br>17 counties use MicroVote MV-464 DRE equipment<br><br>1 county uses ACCU-VOTE ES Optical Scan Tabulation<br><br>1 county uses mechanical lever machines<br><br>5 counties use mechanical lever machines and MicroVote MV-464 |
| Mail-in absentee voting systems | 114 counties hand count paper ballots.<br><br>6 counties utilize an optical scan system. |
| Walk-in absentee voting systems | 113 counties utilize an electronic voting machine.<br><br>1 county utilizes a mechanical lever machine.<br><br>6 counties utilize an optical scan system. |

Any person or corporation owning, manufacturing or selling any electronic voting system may request the State Board of Elections to examine the system for a $500 fee and the submission of a test report from an independent testing authority approved by the State Board of Elections. The report must demonstrate that the system meets all Federal Election Commission voting system standards.

The entity selling the electronic voting system must demonstrate the system to three examiners appointed by the State Board of Elections: one examiner who is an expert in computer science or electronic voting systems; one examiner who is knowledgeable in election procedures and law in Kentucky; and one examiner who is a present or former



county clerk. The three examiners shall submit one written report on each system examined. The members of the State Board of Elections shall also examine the system and approve the system if the examiners' report states that the system meets all the requirements of KRS 117.381, and if the State Board of Elections also finds that it meets the requirements. Although the State Board of Elections approves a system for use in Kentucky, the county's fiscal court in consultation with the county clerk purchases a voting system from the State Board of Elections' approved list of voting systems.

Per KRS 117.381, the following requirements shall be met before the electronic voting system is approved:

a. Provides for voting in secrecy
b. Permits each voter to vote at any election for all candidates and questions for which he is lawfully entitled to vote, and no others
c. Permits each voter, at the general election, to vote a straight political party ticket by one or more marks or acts
d. Provides a method for write-in voting
e. Provides for a nonpartisan ballot
f. Precludes each voter from voting for more persons for any office than he is entitled to vote for or upon any question more than once
g. Permits each voter at a primary election to vote only for the candidates seeking nomination by a political party in which such voter is registered, and for any candidate for nonpartisan nomination, and for any question upon which he is entitled to vote
h. Permits a voter to change his vote for any candidate or upon any question appearing on the official ballot up to the time that he takes the final step to register his vote and to have his vote computed. If the system uses paper ballots or ballot cards to register the vote and automatic tabulating equipment to compute such votes, the system shall provide that a voter who spoils his ballot may obtain another.
i. Provides for tabulating votes at the precinct by candidate and precinct
j. Meets or exceeds the standards for electronic voting equipment established by the Federal Election Commission.

The newly created Federal Election Assistance Commission will develop new voting system standards as stipulated in HAVA. Once these new standards are in place, we will amend our statutes to reflect the change.

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.**

The State Comptroller of the Commonwealth of Kentucky established an "Election Fund" within the Commonwealth's Federal Fund to meet the reporting requirements of title I

of P.L. 107-252, the Help America Vote Act (the "Act"). The Election Fund will be maintained as part of the Commonwealth's Board of Elections.

The Election Fund consists of three programs, which will be interest-bearing accounts as described in Section 254(b)(1):

- A program titled "Election Fund – State Match" has been established to deposit funding received under title I as described in Section 254(b)(1). This account will ensure proper tracking of funds provided to the Commonwealth.
- A program titled "Election Fund – Section 101 and 102" has been established to track spending and verification of actual purchases in order to report to the Election Assistance Commission.
- A program titled "Election Fund – Title 3 Requirements" has been established to meet the requirements for uniform and nondiscriminatory technology and improve the administration of elections.

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.**

| Activity | Cost Allocation |
|---|---|
| Voting equipment for all polling locations accessible to individuals with disabilities | $17,000,000 |
| Other Title III requirements | $1,750,000 |
| Voting system audit trail | $1,200,000 |
| Provisional voting | $350,000 |
| Voter education | $3,000,000 |
| Poll worker training | $3,000,000 |
| New absentee voting systems | $1,200,000 |
| Enhancement of statewide voter registration system | $1,000,000 |
| Election administration technology for counties | $14,500,000 |
| Miscellaneous | $1,000,000 |
| TOTAL if fully funded | $44,000,000 |

The Kentucky General Assembly appropriated up to $2.1 million in matching funds as required by the Act, to match Title II funds for implementation of the State Plan in Kentucky totaling approximately $44 million.



Submission of this plan presumes full and timely federal funding. In order for Kentucky to meet the schedule outlined in the State Plan, it is imperative that federal monies be made available to the state on a schedule that is consistent with implementation of the base components of the plan.

Kentucky reserves the right to seek waivers stipulated in the Help America Vote Act that allow us to delay implementation of this plan if federal funding is not forthcoming in a timely manner.

Proceeding without a guarantee of federal funds would create a financial burden for the state of Kentucky and its 120 counties. While Kentucky is anxious to meet and exceed the standards of the Help America Vote Act, implementation is not possible without the federal guarantees that accompany the Act.

7. **How the State, in using the requirements payment, will maintain 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.**

The Governor's office of Policy and Management evaluated the budget of the Kentucky State Board of Elections to ensure that the Maintenance of Effort requirement has been met. In addition, there will be a Maintenance of Effort requirement for each county receiving direct HAVA funds.

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 held responsible for ensuring that each performance goal is met.**

The Secretary of State, as Chief Election Official and Chairman of the State Board of Elections, is ultimately responsible for compliance with HAVA. The State Board of Elections administers elections in the commonwealth. Each county clerk and county boards of elections have substantial responsibilities in conducting elections. Therefore, the Chief Election Official/Chairman of the State Board of Elections, in collaboration with local election officials, will establish performance goals and will institute a process to measure performance toward the achievement of these goals.

**Performance Goals**

The State's primary goal is to achieve compliance with HAVA through the successful implementation of the programs outlined in the State Plan. Following is a description of the timetable for meeting each element of the Plan and the title of the official responsible for ensuring such element is met:

| *Element* | *Official Responsible* | *Timetable* |
|---|---|---|
| Voting Systems | State Board of Elections<br>County Clerk | By January 1, 2006 |
| Voter Registration | State Board of Elections | meets Requirement; no HAVA changes necessary |
| Provisional Voting | State Board of Elections<br>County Board of Elections | By January 1, 2004 |
| Polling Place Accessibility | County Board of Elections | Ongoing |
| Voter Education/Outreach | State Board of Elections<br>County Board of Elections | Ongoing |
| Poll Worker Training | County Board of Elections | Ongoing |
| Administrative Complaint Procedure | State Board of Elections | By January 1, 2004 |

**Performance Measures**

Please refer to our answer to question 2 for additional information.

9. **A description of the uniform, non-discriminatory State-based administrative complaint procedures in effect under section 402.**

The State Board of Elections will promulgate an emergency regulation to place these procedures into the State Administrative Code. In summary, the procedure provides a uniform, nondiscriminatory process for the resolution of any complaint alleging a violation of any provision of Title III of HAVA, including a violation that has occurred, is occurring, or is about to occur during a federal election. Any person who believes a violation of any provision of Title III has occurred may file a complaint with the State Board of Elections. The complaint must be on a form prescribed by the Board, signed, sworn to and notarized. At the request of the complainant the State Board of Elections will conduct a hearing on the record that will be conducted in accordance with HAVA requirements. The State Board of Elections will provide the appropriate remedy, and a final determination within the timeframes specified in HAVA. The procedure provides for alternative dispute resolution if the State Board of Elections does not make a timely final determination.



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.**

The Title I money will be used to replace lever machines for 147 precincts. The remaining money, excluding expenses in preparing and implementing the state plan, will remain in the interest-bearing election fund until a final appropriation has been made by Congress to determine if the legislation has been fully funded to the authorization level.

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 State HAVA Committee will continue to meet at least twice each year to review the budget and progress of the plan, making changes where necessary. The Chairman of the State Board of Elections will include individuals with disabilities in the implementation of HAVA. The Chairman of the State Board of Elections shall report annually to the Kentucky General Assembly's Task Force on Elections, Constitutional Amendments and Intergovernmental Affairs Committee, which is a sub-committee of the Interim Joint Committee on State Government, concerning the implementation of HAVA and expending of HAVA funds.

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.**

This State Plan represents Kentucky's initial submission to the Election Assistance Commission.

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.**

Kentucky's HAVA Advisory Committee consists of twenty-four (24) members including the Secretary of State, local election officials from the two largest counties in the state, representatives from the Kentucky House and Senate, representatives of the disabled community, chairman of the political parties, and a variety of other election stakeholders.[4] The Secretary of State selected the committee membership and appointed a facilitator to chair each meeting.

To develop the state plan, the HAVA Advisory Committee met four times: March 20, April 17, May 8 and June 12.[5] Initially, the Advisory Committee discussed the requirements of HAVA and its effect on Kentucky election law. The next two meetings addressed accessible voting, provisional voting, training and education and the voting process and information technology. Committee meetings were publicly held and noticed in accordance with the state's Open Meetings Law.

The State Plan will be made available for public inspection and comment for a 30-day period prior to submission of the plan. A public hearing on the plan is scheduled for June 12, 2003. The State Board of Elections will publish notice in the state's two newspapers with the largest circulation.[6] The Secretary of State will have copies of the plan available for inspection in his office, and the plan will be published on both the Secretary of State's and the State Board of Elections' web pages. Copies of the plan will also be provided to all 120 county clerks. All comments are to be made in writing and filed with the Secretary of State.

[4] See Appendix A for list of Advisory Committee Members.
[5] See Appendix B for Advisory Committee Meeting Agendas.
[6] See Appendix C for Notice of Public Hearing for Comment on State Plan.



## Appendix A

## Advisory Committee Members

### Kentucky' HAVA Advisory Committee Members

| Committee Member | Title and Group Representing |
|---|---|
| The Honorable Adrian Arnold | Chairman, Kentucky House Elections, Constitutional Amendments, Intergovernmental Affairs Committee |
| The Honorable Donald W. Blevins | Fayette County Clerk |
| Moretta Bosley | Chairman, Kentucky Democratic Party |
| The Honorable John Y Brown, III | Secretary of State |
| Gary Brunker | Director, Division of Driver's Licensing, Department of Transportation |
| Raoul Cunningham | National Association for the Advancement of Colored People (NAACP) |
| David Disponett | Board Member, State Board of Elections |
| Richard Eisert | Paralyzed Veterans of America |
| Sharon Fields | Executive Director, Kentucky Disabilities Coalition, Inc. |
| The Honorable Barbara Holsclaw | Jefferson County Clerk |
| The Honorable Dean Johnson | Laurel County Clerk |
| Jerry Johnson | Liaison, Governor's Office |
| Priscilla Johnson | Chairman, Migrant Workers Coalition |
| The Honorable Lynn W. Lane | Ballard County Clerk |
| The Honorable James Lewis | Leslie County Clerk |
| Chris Lilly | General Counsel, Kentucky Senate Majority Office |
| Terry L. Naydan | Past President, League of Women Voters |
| Joan Peoples | President, League of Women Voters |
| Norb Ryan | Kentucky ADA Coordinator |
| Jim Steinfeld | Board Member, Jefferson County Board of Elections |
| Aldona Valicenti | Chief Information Officer, Governor's Office of Technology |
| Ellen Williams | Chairman, Republican Party of Kentucky |
| Ken Zeller | Protection and Advocacy |
| The Honorable Guy Zeigler | Franklin County Clerk |

## Appendix B

## Advisory Committee Meeting Agendas

Kentucky's Help America Vote Act (HAVA)
Advisory Committee Meeting Agenda
March 20, 2003, 1:30 pm
Capitol Annex, Room 131

| | | |
|---|---|---|
| I. | John Y. Brown III | Call Meeting To Order and Opening Remarks |
| II. | Tommy Greenwell | Advisory Committee Facilitator |
| III. | Mary Sue Helm | Kentucky Update |
| IV. | George Russell | State Plan, Time Frame, Money |
| V. | Sarah Ball Johnson | What We Have To Do<br>What We Do Not Have To Do<br>What We Want To Do |
| VI. | Future Meeting Topics | A. Accessible Voting<br>1. Voting Equipment<br>2. Polling Locations<br>B. Provisional Voting<br>1. Jurisdiction<br>2. Notifying the Voter<br>3. Statewide Precinct Locator<br>C. Training & Education<br>1. Disability Community<br>2. Election Officials<br>3. Precinct Workers<br>4. Voters<br>D. Equipment Upgrades<br>1. Statewide Voter Registration System<br>2. County Election Equipment & PC's<br>3. Absentee Voting |
| VII. | | Call to the Public |

This is the time for the public to comment. Therefore, any action as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration.



Kentucky's Help America Vote Act (HAVA)
Advisory Committee Meeting Agenda
April 17, 2003, 1:30 pm
Capitol Annex, Room 131

| | | |
|---|---|---|
| I. | John Y. Brown III | Call Meeting To Order and Opening Remarks |
| II. | Tommy Greenwell | Advisory Committee Facilitator |
| III. | Sarah Ball Johnson | Kentucky Update/ 2001 Polling Place Accessibility Survey Form and Results From 120 Counties |
| IV. | George Russell | Video |
| V. | Sharon Fields | How to Accurately Access Polling Places |
| VI. | Bobbie Holsclaw | 2002 Jefferson County Pilot Project for the Blind/Vision Impaired |
| VII. | Sarah Ball Johnson | Certified Voting Equipment in Kentucky |
| VIII. | Don Blevins | Provisional Voting |
| IX. | George Russell | Notification Procedures for Provisional Voting |
| X. | Call to the Public | |

This is the time for the public to comment. Therefore, any action as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration.

Kentucky's Help America Vote Act (HAVA)
Advisory Committee Meeting Agenda
May 8, 2003, 1:30 pm
Capital Annex , Room 131

| | |
|---|---|
| I. Tommy Greenwell | Advisory Committee Facilitator |
| | Call Meeting To Order and Opening Remarks |
| II. Mary Sue Helm | Kentucky Update |
| III. Guy Zeigler<br>Franklin County Clerk | County Election Administration Improvements |
| IV. Aldona Valicenti<br>Chief Information Officer | The Voting Process and Information Technology |
| | 1. Digitized Drivers License<br>Gary Brunker DOT |
| | 2. Aids and Improvements to the Voting Process<br>Mike Kinnaird DOT<br>Robin McIver GOT |
| V. Tommy Greenwell | Training & Education<br>5. Disability Community<br>6. Election Officials<br>7. Precinct Workers<br>8. Voters |

VI. Call to the Public

This is the time for the public to comment. Therefore, any action as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration.



## Appendix C

## Notice of Public Hearing for Comment on State Plan

**NOTICE OF PUBLIC HEARING**
**KY CHIEF ELECTION OFFICIAL, JOHN Y BROWN III**
**FOR COMMENT ON STATE PLAN**
**AS REQUIRED BY SECTION 254**
**OF THE HELP AMERICA VOTE ACT OF 2002**

The Secretary of State as Chief Election Official for Kentucky, John Y. Brown III, will conduct a hearing on June 12, 2003 at 2:30 PM (ET) in Room 131, Capital Annex, Frankfort Kentucky, to receive comments on a state plan developed in accordance with Section 254 of the Help America Vote Act of 2002.

The hearing is open to the public and all interested persons will be given the opportunity to present testimony. Testimony will be limited to ten (10) minutes per person. To assure that all comments are accurately recorded, oral comments presented at the hearing must be provided in written form. Written comments on the state plan must be received within 30 days of this published notice to be considered part of the hearing record and can be mailed to the contact person listed below.

The hearing facility is accessible to people with disabilities. An interpreter or other auxiliary aid or service will be provided upon request. Please direct these requests as soon as possible to the contact person listed below.

The full text of the proposed State Plan is available on the Secretary of State's website (www.kysos.com) or is available for public inspection and copying during regular business hours (8:00 AM to 4:30 PM, ET) at the location listed below. Any individual requiring copies may submit a request to the contact person listed below in writing, by telephone, by FAX, or by e-mail.

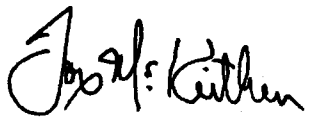
CONTACT PERSON: Lisa Cleveland, Secretary of State Office, Suite 152 State Capitol, 700 Capital Ave., Frankfort KY 40601. The phone number is (502) 564-3490. The FAX number is (502) 564-5687. E-mail at lcleveland@mail.sos.state.ky.us.

# STATE OF LOUISIANA

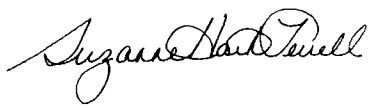
## STATE PLAN

As required by Public Law 107-252
Help America Vote Act 2002

Prepared by:



W. Fox McKeithen
Secretary of State



Suzanne Haik Terrell
Commissioner of Elections

August 1, 2003

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# Overview of the Louisiana Election System

Since 1962 the State of Louisiana has administered all elections in its state and local jurisdictions through a bifurcated system of elections management. The Secretary of State serves as the Chief Election Officer for the State of Louisiana and oversees the preparation and certification of ballots for all elections, the promulgation of all election returns, and the administration of the elections laws, except those relating to voter registration and the custody of voting machines. The Louisiana Department of Elections and Registration (Department of Elections and Registration) and the Commissioner of Elections are constitutionally and statutorily charged with administering laws with regard to registration of voters and voting machines. With regard to the registration of voters, the Commissioner of Elections is instructed to direct and assist the Registrars of Voters on the issue of registration, promulgate rules and regulations relative to registration, maintain a statewide database of voter registration data and to coordinate the state's compliance with the National Voters Registration Act of 1992 (NVRA). These two statewide officials are assisted by the local election officials, Clerks of Court and Registrars of Voters, in the conduct of all elections occurring in the State of Louisiana.

Louisiana has a commitment to providing accurate, efficient and technologically advanced elections systems to its constituents. Since the mid-1950s, Louisiana has conducted all of its elections on voting machines. The first voting machines to be introduced were the Shoup 2.5 lever voting machines. Since that time, Louisiana has upgraded its voting equipment to include lever and electronic systems each of which provides a printed copy of the election results. In 2001-2002, the State of Louisiana became one of the first states in the country to install touch screen electronic voting machines in its statewide absentee voting process and in election day voting in two of its parishes. These machines are equipped to accommodate disabled voters including those with visual impairments or disabilities.

The extent of Louisiana's cutting-edge election system is not limited to its voting machinery. Nearly eighteen years ago, the Department of Elections and Registration developed its elections and registration information network (ERIN), a statewide, centralized election management system. ERIN was designed to maintain voter registration records for every voter in the State of Louisiana in a central location, provide access to those voter records to authorized users in the Department of Elections and Registration and local Registrars of Voters offices, generate forms and reports required by the Registrars of Voters including printing precinct registers, and coordinate with computerized accounting programs and procedures to generate invoices for responsible parties and checks for personnel working in an election.

By the time that the Help America Vote Act of 2002 (HAVA) became law, Louisiana had implemented a significant number of the reforms and efficiencies that are required by HAVA. Louisiana had begun the move to more technologically advanced and accessible voting apparatus and had developed and refined its centralized election registration information system.

In January of 2004, Louisiana will end its bifurcation of elections management at the state level by merging the Department of Elections and Registration with the Louisiana Department of State (Department of State). All elections will be administered by the Secretary of State as the Chief Election Officer for the state and as the repository for all voter registration records.[1]

The following plan has been developed jointly by the Commissioner of Elections and Secretary of State in conjunction with the Louisiana Help America Vote Advisory Committee and the Governor. It details the plans, budget and ideals that Louisiana seeks to attain in its election process using funds authorized by HAVA.

# Meeting the Requirements of HAVA

**SECTION 1: How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under Section 251(a)(2), to carry out other activities to improve the administration of elections. (Section 254(a)(1))**

## Section 1.1 Voting Systems Standards (Section 301(a))

HAVA requires that each voting system used in an election for Federal office on and after January 1, 2006 shall meet the following requirements:

- Permit the voter to verify the votes selected by the voter on the ballot before the ballot is cast and counted.
- Provide the voter with the opportunity to change the ballot or correct any error before the ballot is cast and counted.

[1] References in this plan may be made to the Secretary of State and/or Commissioner of Elections. After January 12, 2004, the responsibility for all functions of both constitutional officers will lie with the Secretary of State.



- If the voter selects votes for more than one candidate for single office, notify the voter that the voter has selected more than one candidate for a single office on the ballot; notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

HAVA further requires that all paper ballot systems meet the following requirements:

- Establish a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office and provide the voter with instructions on how to correct the ballot before it is cast and counted including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error.
- Voting system shall ensure that any notification required under Section 301 preserves the privacy of the voter and the confidentiality of the ballot.

Louisiana's HAVA Compliance

Louisiana currently has four types of voting systems in place for casting election day and absentee ballots. For election day voting, Louisiana conducts elections only on lever and electronic voting machines. Fifty of Louisiana's sixty-four parishes are equipped with the AVM-POM, lever-type voting machines. Fourteen parishes are outfitted with electronic voting machines. Those machines are provided by two different vendors: AVC Advantage, manufactured by Sequoia Voting Systems, and iVotronic, manufactured by Election Systems & Software (ES&S). As for absentee voting, in-person ballots are cast on electronic, touch screen voting machines (iVotronic). All mail-in absentee ballots are cast on mark-sense paper and read by NCS Optiscan 5 scanners.

The voting system standards and voting apparatus currently in place in Louisiana allow the voter to review his selections and alter any selection prior to activating the cast vote mechanism. All three machines prevent an overvote by refusing to allow the voter to make more selections than are permitted in a particular candidate or proposition election. The iVotronic gives the user a message stating that he has attempted to select more selections than are allowed in that election and to change one of his previous selections. However, the AVM-POM and AVC Advantage simply will not allow the voter to depress an additional lever or electronic selection key. In order to alter one of these selections, the voter must de-select one of his/her previous choices.

Paper ballots are accompanied by instructions that tell the voter how to cast a vote on the paper ballot, including the proper technique in marking the selection and correcting a selection. These instructions have been attached as Appendix "1". Legislation was adopted by the Louisiana Legislature, which requires the Secretary of State to amend

those instructions to include information relative to using pencil to mark the paper ballot, allowing for corrections, and instructions on what effect selecting more than the allowed number of selections in a single election will have on the counting of the voter's ballot. See Act No. 1220 of the 2003 Regular Legislative Session.

The Louisiana voting system standards further require that each election device be contained within a booth that provides privacy to the voter. A copy of the voting system standards has been attached as Appendix "2". All voting apparatus used in Louisiana are shielded either by a curtain or booth such that the selections of the voter cannot be seen.

In addition, the voting system standards require that the system "provide secrecy in the act of voting such that the selection of a voter cannot be determined after that vote has been cast." See Appendix "2". Lever machines tally votes using mechanical counters. The appropriate counter advances each time that position is voted. The counters are locked inside the machine such that persons cannot ascertain the number of votes on the counters during voting on election day. A final result is printed upon the close of polls, when all counters have been locked against further voting. As for the electronic systems in use in Louisiana, each computer assigns the votes cast to random positions within the computer's memory so as to avoid the ability to determine an individual's vote.

Section 1.1.a. Audit capacity

- Voting system shall produce a record with an audit capacity for such system.
- Manual audit capacity: Voting system shall produce a permanent paper record with a manual audit capacity for such system; shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced; and the paper record produced shall be available as an official record for any recount conducted with respect to any election in which the system is used.

Louisiana's HAVA Compliance

Each voting system currently in place in the State of Louisiana produces a permanent paper record of the results tallied by that apparatus. All lever machines produce a paper record by sliding a platen over the raised numbers on the counters, similar to an old-style credit card imprinting device. All electronic voting machines produce a printed result generated by the computer. Last, all scanners used to calculate results of paper mail-in absentee ballots are attached to a computer that provides a printed result of the tally.

Upon the replacement of lever voting machines with a direct record electronic voting system, all machines used in Louisiana will be capable of printing not only a paper record of the final results but also a paper record of each vote cast in the election.



Section 1.1.b. Accessibility for individuals with disabilities

- Voting system shall be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation as for other voters; use at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and if used Title II money to purchase machines, meet the voting system standards for disability access by January 1, 2007.

Louisiana's HAVA Compliance

Two parishes for election day voting and all sixty-four parishes for absentee in-person voting are equipped with voting machines that meet the disability requirements of HAVA. Those parishes and the Registrars of Voters Offices are equipped with iVotronics manufactured by ES&S. These laptop-style, touch screen voting machines accommodate individuals restricted to wheelchairs, by allowing the individual to hold the machine in his lap and vote the ballot. In addition, at least one unit in each precinct and each Registrar of Voter's office is equipped with an audio ballot to accommodate blind and visually impaired voters by reading the ballot to the voter.

In addition, the AVC Advantage voting machines will accommodate physically disabled persons, by lowering the ballot screen to a level that an individual confined to a wheelchair would be able to reach. Those machines are not currently equipped with audio ballots. However, a retrofit is available to provide an audio ballot on those machines. At least one voting machine in each precinct in the twelve parishes using AVC Advantage voting machines will be retrofitted to provide an audio ballot for visually impaired and blind voters.

The AVM-POM lever voting machines can be lowered to a level accessible for a handicapped individual, but cannot be upgraded to permit an audio ballot. The state will have to acquire alternative voting systems in order to comply with HAVA in the precincts in the fifty parishes currently using AVM-POM lever voting machines.

Section 1.1.c. Alternative language accessibility

- System shall provide alternative language accessibility pursuant to Section 203 of the Voting Rights Act of 1965.

Louisiana's HAVA Compliance

Two voting systems currently comply or would allow accommodation for a foreign language ballot. Louisiana does not currently have a mandate to provide a foreign language ballot. However, should that need arise in the future, both the iVotronic and

AVC Advantage ballots can be developed to accommodate multiple languages. The ballot layout for the AVM-POM machines does not allow room to print more than one language on the same ballot. As such, some other voting system would have to be available for those fifty parishes using AVM-POM voting machines in order to accommodate foreign language ballots.

Section 1.1.d. Error rates

- Error rate of the voting system in counting ballots shall comply with the error rate standards established under Section 3.2.1 of the voting systems standards issued by the Federal Election Commission (FEC) in effect on October 29, 2002.

Louisiana's HAVA Compliance

Assuming that the error rate adopted by the FEC in its 2002 voting system standards is made applicable to all voting systems as required by Section 301(a)(5), then every system currently in use in Louisiana that was previously certified under the 1990 standards would have to be resubmitted by its vendor to the National Association of State Election Directors (NASED) for testing under the 2002 FEC standards. At this time, it is uncertain whether any of the independent testing authorities approved by NASED are testing voting systems according to the 2002 FEC voting system standards.

It is believed that the iVotronic and AVC Advantage will meet the error rate provided in Section 3.2.1 of the 2002 FEC voting system standards. However, that remains to be seen, as those machines will both have to be resubmitted for testing in the near future. As for the AVM-POM, it is highly uncertain as to whether this system will meet the error rate requirement as this system was implemented for use in elections long before the FEC had developed any type of standards for voting.

Assuming that one or more of these systems do not meet the error rate set forth in Section 3.2.1 of the 2002 FEC voting system standards, the system(s) will have to be replaced with a voting apparatus that meets the FEC standards for errors.

Section 1.1.e. Uniform definition of what constitutes a vote

- State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.

Louisiana's HAVA Compliance

Act 1220 of the 2003 Regular Session of the Louisiana Legislature complies with the HAVA requirement for a uniform definition of what constitutes a vote and what will be counted as a vote:



a) Provides that in order to cast a vote on a voting machine, a voter shall make at least one selection in a candidate or proposition election and that voting is completed by activating the cast vote mechanism.

b) Provides that in order to cast a vote on a paper ballot, a voter must make a selection for a candidate or for or against a proposition by completely filling in the oval to the right of a selection and returning the ballot to the appropriate election official within the applicable deadline set forth by law. Also provides that if a voter makes selections for more than the number of candidates to be elected for an office or makes selections for and against the same proposition, the selections for that office or proposition will be void.

See Act 1220 attached as Appendix "3".

## SECTION 1.1 VOTING SYSTEM STANDARDS

| VOTING SYSTEM STANDARDS | VOTING MACHINE COMPLIANCE IN LOUISIANA | | |
|---|---|---|---|
| | AVM-PO M | AVC | iVotronic |
| Permit the voter to verify the votes selected by the voter on the ballot before the ballot is cast and counted. | Yes | Yes | Yes |
| Provide the voter with the opportunity to change the ballot or correct any error before the ballot is cast and counted. | Yes | Yes | Yes |
| If the voter selects for more than one candidate for a single office, notify the voter that the voter has selected more than one candidate for a single office on the ballot; notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | The AVM -POMdoes not allow the voter to cast more than the maximum number of votes in a particular race. It will not allow the voter to depress another lever to cast an overvote. It thereby meets this requirement and the notification part of this requirement is self-evident. | The AVC does not allow the voter to cast more than the maximum number of votes in a particular race. It will not allow the voter to illuminate another button to cast an overvote. It thereby meets this requirement and the notification part of this requirement is self-evident. | The iVotronic will not allow more than the appropriate number of votes in a single race and provides an error message to the user. The voter is instructed to change his selection by deselecting his previous choice and then selecting the candidate or position that he chooses. |
| Voting system shall produce a record with audit capacity for such system, including manual audit capacity. | AVM – POM will provide a printed version of final result, but does not provide a printed log of each vote cast on the machine. | AVC will provide a printed version of final result and a printed log of each vote cast on the machine. | iVotronic will provide a printed version of final result and a printed log of each vote cast on the machine. |
| Voting system shall be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired. | AVM –POM can provide access to physically handicapped indivduals but not to visually impaired voters. | AVC can provide access to physically handicapped indivduals and to visually impaired voters via retrofit. | iVotronic can provide access to physically handicapped indivduals and visually impaired voters. |



## SECTION 1.1 VOTING SYSTEM STANDARDS (CONTINUED)

| VOTING SYSTEM STANDARDS | VOTING MACHINE COMPLIANCE IN LOUISIANA | | |
|---|---|---|---|
| | AVM-POM | AVC | iVotronic |
| System shall provide alternative language accessibility pursuant to Section 203 of the Voting Rights Act. | Due to the limited space and ballot layout, AVM cannot provide alternate languages. | AVC ballot style will allow alternate languages to be printed beside English text. | iVotronic's electronic ballot will allow for alternate languages. |
| Error rate of system shall comply with the error rate standard established under Section 3.2.1 of the voting system standard issued by the FEC in effect on October 29, 2002. | It is uncertain as to whether the AVM-POM will meet the error rate standard. AVM-POM's were introduced prior to the FEC's error rate standard. | AVC is believed to meet the error rate standard of the FEC; machine will have to undergo recertification under that standard. | iVotronic is believed to meet the error rate standard of the FEC; machine will have to undergo recertification under that standard. |
| State shall adopt uniform and non-discriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the state. | Act 1220 defines what constitutes a vote and what shall be counted as a vote on a lever voting machine. | Act 1220 defines what constitutes a vote and what shall be counted as a vote on an electronic voting machine. | Act 1220 defines what constitutes a vote and what shall be counted as a vote on an electronic voting machine. |

| SECTION 1.1 VOTING SYSTEM STANDARDS (CONTINUED) | |
|---|---|
| VOTING SYSTEM STANDARDS | PAPER BALLOT COMPLIANCE IN LOUISIANA |
| | Mark Sensor Paper Ballots used in Absentee by Mail and Provisional Voting |
| Establish education program that notifies each voter of the effect of casting multiple votes for an office and provide instuctions on how to correct the ballot before it is cast and counted. | Louisiana already has in place an instruction sheet that is distributed with absentee mail-in ballots. That pamphlet must be revised pursuant toAct 1220 to include instructions on filling out the ballot in pencil to allow for corrections and specific information about how to properly alter a selection. |
| Uniform and non-discriminatory standard that defines what constitutes a vote and what will be counted as a vote. | Act 1220 defines what constitutes a vote and what shall be counted as a vote on a paper ballot distributed during absentee by mail or provisional voting. |

## Section 1.2 Provisional Voting (Section 302)

HAVA requires that provisional voting be permitted in federal elections on and after January 1, 2004 as follows:

- If an individual declares that he is a registered voter in the jurisdiction in which he desires to vote and that he is eligible to vote in an election for Federal office, but his name is not on the official list of eligible voters at a polling place or an election official asserts that the individual is not eligible to vote, the individual may cast a provisional ballot.
- The election official must notify the voter that he is eligible to cast a provisional ballot.
- The voter may cast a provisional ballot or absentee provisional ballot at the polling place or Registrar of Voter's office after signing an affirmation that states that he is a registered voter in the jurisdiction and that he is eligible to vote in the federal election.
- The election official shall transmit the provisional ballot or the voter information contained in the written affirmation to the appropriate state or local election official to verify if the individual is eligible to vote.
- If the appropriate state or local election official determines that the individual is eligible to vote under state law, the individual's provisional ballot shall be counted as a vote in the federal election in accordance with state law.
- At the time the individual casts a provisional ballot, the appropriate state or local election official shall give the voter written information that explains how to ascertain whether his vote was counted, and, if his vote was not counted, the reason that his vote was not counted.
- The appropriate state or local election official shall establish a free access system for an individual who casts a provisional ballot to determine whether his vote was counted, and if his vote was not counted, the reason that his vote was not counted.
- The state or local official must maintain reasonable procedures to protect the security, confidentiality, and integrity of personal information used for the free access system. Access to the information concerning the provisional ballot will be restricted to the individual voter who cast the provisional ballot.
- A provisional ballot shall also be cast by any individual who votes for a federal office after the polls close pursuant to a court order or any other order extending the poll hours. Those provisional ballots cast shall be held separate from other provisional ballots cast by voters who cast provisional ballots during regular poll hours.

Louisiana's HAVA Compliance

Louisiana will comply with the provisional voting requirements of HAVA and legislation was passed in the 2003 Regular Session of the Louisiana Legislature to provide for provisional voting. Act 423 of 2003 Regular Legislative Session implements provisional voting in Louisiana only in elections for federal office as follows:

1) Authorizes an individual to cast a provisional paper ballot for candidates for federal office if his name does not appear on the precinct register and he has not been authorized by the Registrar of Voters to vote by affidavit or his eligibility to vote has been challenged by the commissioners or registrar/deputy registrar.

2) Procedure for provisional voting for federal office at a polling place or the Registrar of Voter's office:

- Applicant fills in the provisional ballot envelope flap and signs the certificate on the flap attesting that he is a registered voter in the parish and is eligible to vote in the election for federal office.
- Applicant marks the provisional ballot, places the provisional ballot in the provisional ballot envelope, seals the envelope, and returns the provisional ballot envelope to the commissioner or registrar/deputy registrar.
- Applicant who casts a provisional ballot shall be provided written instructions by the commissioner or registrar/deputy registrar that explains how the applicant may determine whether his provisional vote was counted, and, if his provisional vote was not counted, the reason his vote was not counted.

3) Counting of provisional ballots:

- The parish Registrar of Voters compiles a list of the names of individuals who voted a provisional ballot.
- The Registrar of Voters, Secretary of State, and other state and local agencies shall compile and provide available registration documentation for the Parish Board of Election Supervisors (Parish Board) to determine if an individual casting a provisional ballot is a registered voter and eligible to vote in the federal election.
- The Parish Board shall be responsible for counting and tabulation of provisional ballots for federal office.
- Provisional ballots shall be counted by the Parish Board on the third day following the election.
- Candidates, their representatives, and qualified electors may be present during the counting and tabulation of provisional ballots.
- The Parish Board shall determine if a provisional ballot shall be counted.
- All provisional ballots that are rejected by the Parish Board shall be sealed in the special provisional ballot envelope. No rejected provisional ballot shall be counted.
- A member of the Parish Board shall remove the flaps from the valid provisional ballots. The valid provisional ballot flaps and supporting registration documentation shall then be placed in the designated envelope and transmitted to the Registrar of Voters.
- The members of the Parish Board shall count the valid provisional ballots by hand and the total number of provisional votes cast for a candidate shall be entered on the final provisional ballot vote report and the results shall be certified.
- A copy of the signed list of provisional voters indicating which ballots were counted and which ballots were rejected shall be transmitted to the Secretary of State.

4) Provisional voting for federal office during extension of poll hours:



- An applicant who votes during the extension of poll hours pursuant to a court order or any other order extending the poll hours shall vote by provisional ballot for federal offices.
- The provisional ballots cast during the extension of poll hours shall be kept separate and placed in a separate envelope.
- The provisional ballots cast during the extension of poll hours shall be counted according to the same procedure set forth for provisional ballots cast during absentee voting in person or during regular poll hours.
- An emergency as defined by Louisiana law, La. R.S. 18:401.1, does not constitute a circumstance in which polling hours are delayed necessitating the use of provisional ballots.

5) Results of federal election:

- The results of the federal election prepared by the Parish Board shall also include the total provisional votes for each candidate for federal office.

See Act 423 attached as Appendix "4".

The Secretary of State in conjunction with the Clerks of Court and Registrars of Voters will ensure that the State complies fully with the requirements of HAVA for provisional voting as follows:

1) The Secretary of State will be responsible for preparing the forms that are required for implementing provisional voting in Louisiana.

2) The Secretary of State will be responsible for establishing a free access system that allows an individual who casts a provisional ballot to determine whether his vote was counted, and, if his vote was not counted, the reason that his vote was not counted. The system will include a toll-free telephone number where access to the information about an individual's provisional ballot will be restricted to the individual who casts the ballot.

3) The Secretary of State will provide an updated informational pamphlet that will provide instructions for provisional voting, counting and tabulation of provisional ballots, and posting of additional information for provisional voting required by HAVA.

4) The Clerks of Court and Registrars of Voters will be responsible for implementing provisional voting for federal offices at the polling places on election day and during absentee voting in person, respectively.

## Section 1.3 Voting Information Requirements (Section 302(b))

Section 302(b) of HAVA requires, with respect to federal elections held on and after January 1, 2004, the following voting information to be publicly posted at each polling place on the day of each election for federal office:

- A sample version of the ballot that will be used for that election;
- Information regarding the date of the election and the hours during which polling places will be open;
- Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;
- Instructions for mail-in registrants and first-time voters under Section 303(b);
- General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
- General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

### Louisiana's HAVA Compliance

Louisiana law requires the following election day and absentee voting information:

1) La. R.S. 18:421B. requires the Secretary of State to develop and print cards of instruction to voters and commissioners which shall not be inconsistent with the constitution and laws of the United States or of this state and which shall be approved by the Attorney General.

2) La. R.S. 18:552A.(2) requires the Secretary of State to furnish the parish custodian of voting machines for each parish two sample ballots for each voting precinct at which voting shall be conducted in an election.

3) La. R.S. 18:562 provides the requirements for the identification of voters. The Secretary of State prepares an informational poster that sets forth the requirements of R.S. 18:562, and informs the voter that he may sign an affidavit and vote if he does not have a Louisiana driver's license, a Louisiana special identification card,. or other generally recognized picture identification.

4) La. R.S. 18:1306B.(2) requires the Secretary of State to prepare an informational pamphlet, approved by the Commissioner of Elections and the Attorney General, generally describing the particular absentee counting equipment utilized in the election to



count absentee ballots or voting machines used to cast absentee ballots. The pamphlet shall also include instructions that inform the voter how to cast his vote, which shall include instructions for marking the absentee ballot and examples of the correct and incorrect methods of marking the ballot, if applicable.

Legislation was passed during the 2003 Regular Session of the Louisiana Legislature to comply with the HAVA voting information requirements.

Act 1220:

a) Requires the Secretary of State, in the case of a federal election, to supply informational posters as required by the Help America Vote Act of 2002.

b) Requires the commissioners to post informational posters, if required, in addition to instructions, the statement of proposed constitutional amendments on the ballot, and a sample ballot in a conspicuous place at the principal entrance to the polling place.

See Appendix "3".

Act 423:

a) Requires the commissioner or registrar/deputy registrar to provide an applicant who casts a provisional ballot with written instructions for how the applicant may ascertain whether the provisional vote was counted, and if the provisional vote was not counted the reason the vote was not counted.

See Appendix "4".

The Secretary of State will update the following publications to meet the requirements of HAVA: 1) the card of instructions on how to vote, including how to cast a vote and how to cast a provisional ballot, and 2) the informational pamphlet required by R.S. 18:1306 for absentee voting to provide the voter who votes on a paper ballot with instructions on how to correct the ballot before it is cast and counted.

The Secretary of State will also prepare new informational posters to provide the following: information regarding the date of the election and the hours during which polling places will be open; instructions for mail-in registrants and first time voters under Section 303(b); general information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and general information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

## Section 1.4 Computerized Statewide Voter Registration List

Title III, Section 303(a) sets forth the computerized statewide voter registration list requirements:

- Requires a single, uniform, official, centralized, interactive computerized list of all legally registered voters in the state and each voter assigned a unique identifier.
- Any election official may obtain immediate access to the list or database.
- Requires computerized list maintenance.
- Requires removal of individuals in accordance with the NVRA.
- Requires coordination of felony status and death records with state agencies.
- Requires security preventing unauthorized access.
- Requires verification of certain voter registration information provided by applicants. (Should individual provide last four digits of his social security number, verification must be obtained from the Social Security Administration via link through the Office of Motor Vehicles (OMV) that the number provided is an accurate and valid number. State Elections Official and Motor Vehicle Authority shall enter into an agreement to match information in the statewide registration database and the OMV database to verify accuracy of information provided on voter registration application.)
- Requires applicant to provide driver's license number, if issued, or last four digits of social security number, if issued. If applicant has neither, a unique number will be generated to identify the individual.
- Requires sharing of information in databases.

Compliance with Section 303(a) of HAVA must be completed on or before January 1, 2004.

### Louisiana's HAVA Compliance

Louisiana already has in place a single, centralized computerized list of voters registered to vote in the State of Louisiana. ERIN has been in place for nearly eighteen years. By and large, ERIN already accomplishes exactly what HAVA envisions. The system maintains all records of registered voters throughout the state and assigns each voter a unique identification number. However, there are a few, minor alterations that must be made to conform to the HAVA requirements.

Modifications that will be required to ERIN, include allowing Clerks of Court access. ERIN already provides access to the Registrar of Voters in each jurisdiction. However, HAVA requires access to all local election officials. Thus, the Clerks of Court, chief local election officials, will be given inquiry access to ERIN. In order to accomplish this



link, Clerks of Court in all parishes must be linked to the system via a series of routers, switches and lines. This project was already underway in light of the upcoming merger between the Department of State and Department of Elections and Registration. This project is expected to be completed on or before December 31, 2003.

ERIN meets the requirements of removal of individuals in accordance with the NVRA. Duplicate names are eliminated from the list. In addition, regular list maintenance is performed, placing individuals who do not respond to mailings on the inactive list and purging them from the list of voters if they are inactive for the course of two federal general elections. ERIN data is also compared to felony lists provided by the Louisiana Department of Public Safety and Corrections (DPS) and federal and state clerks or court and death notices from the Louisiana Department of Health and Hospitals. Persons who have been convicted of a felony and are serving a sentence of imprisonment, as defined by Louisiana law, are suspended during the period of incarceration and probation. Similarly, death notices are matched against ERIN data to allow for the removal of deceased voters. No modifications are necessary to meet HAVA's removal of voters requirement in keeping with the provisions of the NVRA.

ERIN provides customized software security disallowing unauthorized access. No modifications are necessary to meet the security requirements of HAVA.

In order to meet the registration information verification requirements of HAVA, certain modifications will be required. ERIN will be modified as follows:

- Add field for driver's license number on application entry screen and forms.
- Add driver's license number and OMV data to add/update screen.
- Develop applications to process verification and exchange information with OMV.
- Develop programs to update/add/load information provided by OMV.
- Develop reports for Registrars of Voters.
- Update ERIN manual.

In addition to the in-house changes that must be made to ERIN, certain changes must be made by the OMV to both their software and procedures to ensure compliance with the HAVA information verification requirements:

- The voter's driver's license number will be preprinted on in-person and mail-in voter registration applications.
- Develop exchange information processes with the Department of Elections and Registration.
- Create an interface with the Social Security Administration on social security number verification method.

The Department of Elections and Registration and DPS will exchange information electronically via a secure encrypted protocol (VPN). An exchange data format has been developed between the agencies. In order to accomplish this information sharing, the following alterations must be made to ERIN.

- Develop encription software scripts.
- Develop program to capture data.

No changes are anticipated to be necessary to the DPS system to accommodate an encrypted data transfer.

## Section 1.5 Requirements For Voters Who Register By Mail

Section 303(b) of HAVA sets forth the requirements for persons who register to vote by mail. The changes affect the information that is contained on the mail-in registration form and the information or proof of identity provided by the mail-in registrant.

Any mail-in registration form must contain the following information:

- Whether the registrant is a citizen of the United States.
- Whether the registrant will be 18 years of age or older by the next election date.
- Instructions on discontinuing the application process if the answer to one of these two questions is "no".
- Instructions that certain verification information must be provided with the mail-in registration form in order to avoid the necessity for the provision of additional verification information upon voting for the first time.

If the registrant has a driver's license number, that number must appear on the voter registration form. If the registrant does not have a driver's license number but has a social security number, at least the last four digits of the registrant's social security number must be provided on the voter registration form. If these numbers are issued and are not provided, the registration application cannot be processed. Certain alternative information may be provided by a mail-in registrant in order to avoid additional identification requirements upon voting for the first time. This information includes:

- A copy of a current and valid photo identification; or
- A copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

Persons who fall into one of the following categories are exempted from the additional identification requirements:



- A registrant authorized to receive an absentee ballot under the Uniform and Overseas Citizens Absentee Voting Act (UOCAVA); or
- A registrant authorized to vote otherwise than in person by Section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (VAEHA); or
- A registrant entitled to vote other than in-person under any other Federal law.

If this identifying information is not provided or the registrant does not fall into one of the categories of authorized persons under UOCAVA, VAEHA, or any other Federal law, the new registrant must provide the following information upon voting for the first time in-person or by mail:

- Current and valid photo identification; or
- A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

If this information is not provided, the voter will be allowed to cast a provisional ballot.

### Louisiana's HAVA Compliance

The Louisiana Legislature in Act 1220 made changes that require all registrants to provide either a valid and current photo identification, driver's license number, social security number, or copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the registrant as a part of the registration process. This seeks to assure that Louisiana will have the information necessary to apply Section 303(b)(3) and be exempted from Sections 303(b)(1) and 303(b)(2). See Appendix "3".

Louisiana has revised its mail-in registration form to comply with HAVA. It has obtained initial preclearance from the U. S. Department of Justice, Voting Rights Division. A copy of that form has been attached as Appendix "5". However, additional changes are required and the changed form will be resubmitted to the Department of Justice for further review.

# Managing Disbursement of HAVA funds

**SECTION 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). (Section 254(a)(2))**

The State of Louisiana funds the conduct of federal elections, including the costs of ballot preparation, election packets, election materials for use at the polls and for absentee voting, personnel charges for time spent on election functions outside the regular office hours of the Clerks of Court, conducting schools for commissioners, per diems for the members of the Parish Board of Election Supervisors, pay for the commissioners and commissioners-in-charge, and fees for drayage contractors to haul voting machines. As a result, there will be no distribution of requirements payments to units of local government or other entities.

# Educational Programs

**Section 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. (Section 254(a)(3))**

## Section 3.1 Election Official Education and Training

The Clerk of Court for each parish is the Chief Election Officer of the parish and is responsible for qualifying local and municipal candidates, conducting general courses of instruction for commissioners, serving as a member of the Parish Board of Election Supervisors, and choosing deputy custodians, key custodians and janitors.



The Registrar of Voters for each parish is responsible for conducting voter registration, maintaining accurate voter registration records, conducting the annual canvas of registered voters, making changes to voter registration rolls relative to reapportionment and changes in district lines, conducting absentee voting, and serving as a member of the Parish Board of Election Supervisors.

The Parish Board of Election Supervisors consists of the Clerk of Court, Registrar of Voters, one representative of each of the two recognized political parties and a representative appointed by the Governor. This body is responsible for certifying the official results of any election in their jurisdiction.

The Secretary of State will keep the Clerks of Court and Registrars of Voters updated on changes in the law, including changes required by HAVA. In addition, the informational pamphlet required by La. R.S. 18:421 will be amended to provide instructions for provisional voting, counting and tabulation of provisional ballots, and posting of additional information required by HAVA.

## Section 3.2 Poll Worker Training

The Clerk of Court for each parish is required to conduct courses of instruction for the commissioners. La. R.S. 18:431A requires each Clerk of Court to semiannually conduct a general course of instruction for the commissioners and provide the following: a copy of the informational pamphlet provided by the Secretary of State, instructions in the use of the voting machines, instructions in conducting a primary and general election, and instructions on the commissioner's duty to offer a voter the opportunity to sign an affidavit and vote if the voter does not have a picture identification.

La. R.S. 18:431B authorizes the Clerk of Court to conduct a course of instruction for commissioners-in-charge, commissioners, and alternate commissioners who are selected to serve in each election. The course primarily covers the procedures to be used in the election for which the officials were selected. Poll worker training will include information about persons with disabilities and the best way to assist them with participating in the voting process.

The Secretary of State, in addition to amending the informational pamphlet to address the requirements of HAVA, will prepare and supply the following new informational posters for use at the courses of instruction: information regarding the date of the election and the hours during which polling places will be open; instructions for mail-in registrants and first time voters under Section 303(b) of HAVA; general information on voting rights under applicable federal and state law, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and general information on federal and

state laws regarding prohibitions on acts of fraud and misrepresentation. The Secretary of State will make the information described in these publications accessible to individuals with disabilities and will work with the disability community on how to more efficiently and effectively provide this information.

## Section 3.3 Voter Education

Voter education is of vital importance to the election process. Voter education includes educating voters as to what is contained on the ballot, use of the voting systems, polling place locations, election dates, dates of absentee voting, casting an absentee ballot, and registering to vote. The goal of voter education is to provide educational programs and information to all voters to facilitate a firm understanding of the election process and applicable laws that govern the conduct of elections in Louisiana. To that end, the Secretary of State will make it a priority to coordinate with governmental agencies and non-governmental organizations to ensure that all strata of the Louisiana population are reached through voter education programs.

Act 286 of the 2003 Regular Session of the Louisiana Legislature requires the Secretary of State, as of January 12, 2004, in administering the laws relating to the custody of voting machines and voter registration to do the following:

- Prescribe uniform rules, regulations, forms, and instructions as to standards for effective nonpartisan voter education. Standards shall address but shall not be limited to voter education concerning voter registration, balloting procedures, distribution of sample ballots, and effective voter education methods.
- Review current voter education programs within Louisiana.
- Prepare an annual report on the effectiveness of voter education programs.
- Develop activities, events, informational posters and pamphlets, and public service announcements for the implementation of an annual voter registration week, and generally be responsible for implementation of such voter registration week.

The Secretary of State will implement a more comprehensive voter education program that meets the requirements of Act 286, and the following additional activities may be included in the program:

- Expansion of website information and toll-free telephone access to provide additional information to citizens on how to participate fully in the election process.
- Coordination with parish election officials to establish community-based programs for voter outreach and education programs.
- Continuation of student mock elections.
- Continuation of school-aged and college voter outreach and registration programs.



- Preparation of public service announcements for voter education and registration information.
- Conduct of seminars throughout Louisiana for voter education and registration.
- Coordinate with NVRA officials and other civic groups to assist with voter registration drives.
- Coordinate with other state officials to provide voter education on the use and operation of new voting equipment.

See Act 286 attached as Appendix "6".

# Voting System Standards

**SECTION 4. How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301. (Section 254(a)(4))**

The State of Louisiana has both statutory provisions and administrative rules relative to the types and forms of voting systems that can be certified for use in the state. Currently, the Commissioner of Elections is required by statute to adopt voting system standards that meet with her requirements for durability, accuracy, efficiency and capacity. All voting systems must be certified by the Commissioner or a committee of experts appointed by her prior to use in state elections. La. R.S. 18:1361. State law requires that all voting systems comply with applicable standards and regulations adopted by the FEC and tested through independent testing authorities appointed by NASED. La. R.S. 18:1361(A). A copy of the existing standards has been attached as Appendix "2".

Modifications will be required to these standards to assure that all machines in use meet the error rate standards established by Section 3.2.1 of the 2002 FEC standards for electronic voting machines. In addition, there are a number of other changes that will be adopted in the next several months to assure that the ever-changing and improving technology is reflected as a part of the certification and testing process in Louisiana.

# HAVA Fund

**SECTION 5. How the State will establish a fund described in subsection (b) for the purposes of administering the State's activities under this part, including information on fund management. (Section 254(a)(5))**

Act 142 of the 2003 Regular Session of the Louisiana Legislature establishes the Help Louisiana Vote Fund as a special fund in the state treasury for the deposit of all funds received pursuant to HAVA. See Act 142 attached as Appendix "7". Act 142 provides that federal monies shall be deposited into the fund and allocated by the State Treasurer to one of the following five accounts: Election Administration Account; Voting Systems Account; HAVA Requirements Account; Voting Access Account; and College Program Account. The Help Louisiana Vote Fund is a separate fund from the state general fund and all interest earned on the investment of the monies in the fund shall be credited to the fund.

The Secretary of State will provide written instructions to the State Treasurer as to the appropriate account into which the HAVA funds shall be deposited. Appropriations will be made by the Louisiana Legislature from the fund, and the Secretary of State will direct the expenditure of the monies from the fund in compliance with HAVA.

# State Budget

**SECTION 6. The State's proposed budget for activities under this part, based on the State's best estimates of the costs for 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. (Section 254 (a)(6))**

Louisiana received $4,911,421 of Section 101 funds for the purpose of improving the administration of elections for Federal office, and $7,351,684 of Section 102 funds as reimbursement for the purchase of punch card or lever voting systems and for the replacement of punch card or lever voting systems.

It is estimated that Louisiana will be eligible to receive a maximum of $37,234,037 of Title II funds for requirements payments during federal fiscal years 2003-2005. HAVA authorized appropriations of $1,400,000,000 for federal fiscal year 2002-2003, $1,000,000,000 for federal fiscal year 2003-2004, and $600,000,000 for federal fiscal year 2004-2005. However, federal fiscal year 2002-2003 was not fully funded, as $830,000,000 was appropriated for Title II. The estimate of the maximum Title II payment for Louisiana of $37,234,037 is based on the current appropriation and the assumption that federal fiscal years 2003-2004 and 2004-2005 will be fully funded. In addition, the maximum payments to Louisiana of Title II funds are subject to pro rata reductions to ensure that all states and territories receive the minimum payments required by Title II of HAVA.

The Title II funds require a state match of 5% and the State of Louisiana has appropriated $654,360 in the appropriations bill for Louisiana's fiscal year 2003-2004. The Secretary of State will make budget requests for the 5% state match in the appropriations bills for fiscal years 2004 and 2005.

The proposed budget for HAVA funds is based on the following priorities: federal funding will be used first to address the mandates placed on the State of Louisiana by HAVA, specifically voting systems, accessibility for individuals with disabilities, computerized statewide voter registration list, computerized list maintenance, and verification of registration information; and second for discretionary improvements to the election process.

The following budget is based on an estimate of costs for implementation of the requirements of HAVA. The estimated budget percentages assume that the amounts set forth in HAVA will be fully funded and that Louisiana's share will be the maximum amount that Louisiana is eligible to receive under the provisions of HAVA. The budget percentages are subject to modification based on the uncertainty in funding and the amount that Louisiana will receive due to pro rata reductions. The proposed budget percentages will be adjusted accordingly upon receipt of actual federal funds.

Preliminary Estimated Budget: (percentage of funds received)

| Budget Item | Percentage of Federal Funds |
|---|---|
| Replacement of non-compliant lever voting systems and upgrade of existing electronic voting systems to meet disability access requirements | 91.8 |
| Statewide voter registration database, including software and hardware, and upgrade/replacement of software and hardware for Clerks of Court, Registrars of Voters and Secretary of State to provide access to ERIN and improve ballot preparation and voting system programming | 4.0 |
| Voter education, election official education and training, and poll worker training for meeting the requirements of Title III of HAVA | 2.7 |
| Update voting system standards | 0.1 |
| Development of state plan(s), production of reports, monitoring of performance goals, fiscal management and management of the state plan | 1.3 |
| Telecommunications | 0.1 |
| Voting information requirements | 0 – State funds[2] |
| Provisional voting | 0 – State funds |
| State-based administrative complaint procedure | 0 – State funds |
| Requirements for first time voters who register by mail | 0 – State funds |

# Louisiana's Maintenance of Effort

**SECTION 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. (Section 254(a)(7))**

[2] "State funds" denotes that money for this program or project will be provided out of funding allocated to the Department of State and/or Department of Elections and Registration as a part of their annual state funded budgets.



Louisiana has a state-driven election system and Louisiana will maintain the expenditures of the state for activities funded by the payment at a level equal to or greater than the level of such expenditures in Louisiana for fiscal year 2000.

# Performance Goals and Measures

**SECTION 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. (Section 254(a)(8))**

## Section 8.1 Replacement of lever voting systems

1) Deadline: First federal election on and after January 1, 2006.[3]

2) Criteria: Replacement of lever voting systems that comply with Title III of HAVA in the fifty-two parishes that used lever voting machines in the 2000 federal election.

3) How Criteria is Judged: Success of meeting the performance goal will be based on the number of the lever voting systems still in use in Louisiana after the 2006 deadline.

4) Responsible Official: Secretary of State.

## Section 8.2 Voting accessibility for individuals with disabilities

1) Deadline: First federal election on and after January 1, 2006.

2) Criteria: Providing at least one direct recording electronic voting system for individuals with disabilities in each precinct in Louisiana.

3) How Criteria is Judged: Success of meeting the performance goal will be based on the placement of at least one direct recording electronic voting system for individuals with disabilities in each precinct in Louisiana.

[3] Louisiana will request a waiver of the January 2, 2004 deadline.

4) Responsible Official: Secretary of State in cooperation with the Clerks of Court and Registrars of Voters.

**Section 8.3 Statewide voter registration system**

1) Deadline: January 1, 2006.[4]

2) Criteria: Implementation "in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive, computerized statewide voter registration list that is defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State".

3) How Criteria is Judged: Success of meeting this performance goal will be based on implementation of minor changes to ERIN to meet the requirements of HAVA.

4) Responsible Official: Secretary of State in conjunction with the Registrars of Voters.

**Section 8.4 Provisional voting**

1) Deadline: January 1, 2004.

2) Criteria: Implementation of provisional voting for federal elections and establishment of a free access system so that provisional voters can determine if their provisional ballots were counted.

3) How Criteria is Judged: Success of meeting this performance goal will be based on the implementation of provisional voting in each parish at the polling places on election day and during absentee voting in person and establishment of the free access system required for provisional voters.

4) Responsible Official: Secretary of State in conjunction with the Clerks of Court and Registrars of Voters.

**Section 8.5 Posting of voting information**

1) Deadline: January 1, 2004.

2) Criteria: Posting of the required information at each polling place required by Section 302(b) of HAVA.

[4] Louisiana is not anticipating need for waiver, but will request a waiver if needed.



3) How Criteria is Judged: Success of meeting this performance goal will be based on the preparation of the required information and the posting of the information at each polling place and each Registrar of Voter's office.

4) Responsible Official: Secretary of State in conjunction with the Clerks of Court and Registrars of Voters.

**Section 8.6 Voter education on how to correctly cast a ballot for a paper ballot voting system**

1) Deadline: January 1, 2006.[5]

2) Criteria: Establishment of a voter education program for a paper ballot voting system that notifies the voter of the effect of casting multiple votes for an office and how to correct the ballot before it is cast and counted.

3) How Criteria is Judged: Success of meeting this performance goal is based on the establishment and implementation of the voter education program for the paper ballot voting system used in Louisiana.

4) Responsible Official: Secretary of State in conjunction with the Clerks of Court and Registrars of Voters.

# Administrative Complaint Procedure

**SECTION 9. A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under Section 402.**

Act 423 of the 2003 Regular Session of the Louisiana Legislature establishes a uniform, nondiscriminatory procedure for the resolution of a complaint alleging a violation of any provision of Title III of HAVA for an election for federal office.

See Appendix "4".

[5] Louisiana is not anticipating need for a waiver, but will request waiver if needed.

Elements of the Louisiana's Administrative Complaint Procedure include:

- The complaint must be in writing, signed by the complainant, executed before a notary public, and sworn under oath.
- The complaint shall be filed with the Secretary of State within ninety days after the final certification of the federal election.
- The complainant may request that the State Board of Election Supervisors (State Board) conduct a hearing on the record.
- The complainant, any respondent, or any other interested person may appear at the hearing and testify or present tangible evidence in connection with the complaint.
- The State Board shall determine whether a violation of Title III has occurred and shall issue a written decision.
- The final decision of the State Board shall be issued within ninety days from the date the complaint was filed, and the decision shall be posted on the Secretary of State's website.
- If the State Board fails to issue a final decision within ninety days from the date the complaint was filed or within any extension to which the complainant consents, the complaint shall be referred for final resolution to the Division of Administrative Law.
- An administrative law judge shall issue a written resolution of the complaint within sixty days after the final board decision was due.
- The final decision of the State Board or the final resolution of the administrative law judge may be judicially reviewed by filing a petition in the Nineteenth Judicial District Court, Parish of East Baton Rouge, within thirty days after the mailing of the notice of the final decision.

# Use of Title I Payment

**SECTION 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. (Section 254(a)(10))**



Louisiana received $4,911,421 in Title 1, Section 101 funds for the purpose of improving the administration of elections for Federal office.

These funds will be used for the following activities: (percentage of funds to be used)

| Budget Item | Percentage of Title I Funds |
|---|---|
| Replacement of lever voting systems and upgrade of existing electronic voting systems to meet disability access requirements | 75.3 |
| Voter registration system, equipment and information technology | 2.8 |
| Toll-free telephone system | 0.9 |
| Remaining Section 101 funds to be used for purposes outlined in Section 101 | 21 |

Louisiana received $7,351,684 in Title I, Section 102 funds as reimbursement for the purchase of punch card or lever voting systems and for the replacement of punch card or lever voting systems.

These funds will be used as follows:

- $654,360 of the reimbursement funds for Louisiana's 5% state match required by Section 253(b)(5) of HAVA.
- The balance of Section 102 funds will be used for replacement of non-compliant lever voting systems and upgrade of existing voting systems for disability access.

# State Plan Management

**Section 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). (Section 254(a)(11))**

The Secretary of State as the "chief election officer of the state" will be responsible for the ongoing management and implementation of the plan. The State Plan is a critical component in Louisiana's effort to improve accessibility and accountability in the election process. Louisiana presently has met many of the requirements of HAVA, including but not limited to, the presence of the statewide voter registration system, and the implementation and maintenance of the State Plan will be a continuation of Louisiana's commitment to a progressive and efficient election process.

Input from the Clerks of Court and Registrars of Voters in accomplishing the requirements of HAVA is essential and the Secretary of State will coordinate with the Clerks of Court and Registrar of Voters to review the performance goals and assess compliance with the objectives of Louisiana's State Plan.

The State agrees that it may not make any material change in the administration of the State Plan unless the change:

1) Is developed and published in the Federal Register in accordance with Section 255 of HAVA in the same manner as the State Plan;

2) Is subject to public notice and comment in accordance with Section 256 of HAVA in the same manner as the State Plan; and

3) Takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

## Help America Vote Advisory Committee

**SECTION 12. 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. (Section 254 (a)(13))**

The members of the Louisiana Help America Vote Advisory Committee were the following:

Mr. Al Ater, First Assistant Secretary of State (Chairman)
P. O. Box 44276
Baton Rouge, LA 70804-4172



Representative of the Secretary of State

Mr. Michael Stephenson Bell, Director of Registration
4737 Sweetbriar Street
Baton Rouge, LA 70808
Representative of the Department of Elections and Registration

Honorable Larry Cager
Clerk of the Criminal Court, Orleans Parish
2700 Tulane Ave., Room 115
New Orleans, LA 70119
Chief Local Election Official in the largest state jurisdiction

Honorable Carolyn Caldwell
Clerk of Court, Madison Parish
P.O. Box 1710
Tallulah, LA 71284-1710
Representative of Clerk of Court Association

Honorable Jon A. Gegenheimer
Clerk of Court, Jefferson Parish
P.O. Box 10
Gretna, LA 70054
Chief Local Election Official in the second largest state jurisdiction

Mr. Cedric Grant (Vice Chair)
3523 Piedmont Drive
New Orleans, LA 70122-4746
At Large Member

Honorable Charles D. Jones
State Senator
141 Desiard Street, Suite 315
Monroe, LA 71202
Representative of Senate & Governmental Affairs Committee of the Louisiana Legislature

Mr. Ernest Ladd
106 Jackson Street
Franklin, LA 70538
Representative of Louisiana NAACP

Ms. Tina Mosca
4417 Prien Terre Drive
Lake Charles, LA 70605
At Large Member

Honorable Charles Lancaster
State Representative
2201 Veterans Memorial Blvd., #200
Metairie, LA 70002
Chairman of House & Governmental Affairs Committee of the Louisiana Legislature

Honorable Kristi McCormick
Registrar of Voters, Sabine Parish
400 Capitol Street
Many, LA 71449
Representative of Registrars of Voters Association

Honorable Ed Murray
State Representative
1540 North Broad Street
New Orleans, LA 70119
Representative of House & Governmental Affairs Committee of the Louisiana Legislature

Honorable Angela M. Quienalty
Registrar of Voters, Calcasieu Parish
1000 Ryan Street, Room 7
Lake Charles, LA 70601
Representative of Registrars of Voters Association

Ms. Kimberly W. Rosenberg
1139 Bourbon Street
New Orleans, LA 70116-2709
Representative of the Governor's Office

Ms. Lois V. Simpson, Executive Director
Advocacy Center
225 Baronne Street
New Orleans, LA 70112
Representative of the disabilities community



Honorable Chris Ullo
State Senator
2150 Westbank Expressway, Suite 705
Harvey, LA 70058
Chairman Senate & Governmental Affairs Committee of the Louisiana Legislature

Honorable M. Dwayne Wall
Registrar of Voters, St. Tammany Parish
P.O. Box 1815
Covington, LA 70434
Representative of Registrars of Voters Association

The Louisiana Help America Vote Advisory Committee met five times. The dates of its meetings were as follows:

March 27, 2003 (Introduction to HAVA)
April 14, 2003 (Voter Registration System and Provisional Voting)
April 28, 2003 (Publication Requirements and Educational Programs)
May 12, 2003 (Voting Systems and Educational Programs – Continued)
June 5, 2003 (Complaint Procedure, Funding, Draft HAVA Plan)

Copies of the agendas of those meetings have been attached as Appendix "8".

The Louisiana Help America Vote Advisory Committee adopted this plan by unanimous vote on June 5, 2003. In addition, the Committee issued one resolution recommending other state-related voting considerations that will be submitted to the Secretary of State.

Public meetings were held to present the State Plan and obtain comments thereon in Alexandria and Shreveport on June 26, 2003, Monroe on June 27, 2003, Lafayette and Baton Rouge on June 30, 2003, Lake Charles on July 1, 2003 and New Orleans on July 9, 2003. A copy of the agenda for these meetings are attached as Appendix "9".

# APPENDIX 1



## INSTRUCTIONS FOR ABSENTEE VOTING — BY MAIL

**State of Louisiana**

**DEADLINES FOR REGISTRAR OF VOTERS TO RECEIVE ABSENTEE BALLOTS BY MAIL:**

For military personnel.....election day
For U. S. citizens residing outside the United States.....election day
For sequestered jurors.....before polls close on election day
For all others.....the day before election day

**REGULAR ABSENTEE BALLOT**

**Instructions for voting white regular absentee ballot**

1. Fill in all the information required in the certificate on the white ballot envelope flap. DO NOT SIGN CERTIFICATE AT THIS TIME.
2. Follow instructions on the ballot to vote your ballot.
3. Place ballot in white ballot envelope and seal. DO NOT DETACH FLAP.
4. **Sign the certificate on the flap in the presence of an officer authorized to administer oaths OR in the presence of two witnesses, who must also sign the certificate.**
5. Place the sealed ballot envelope in the return envelope addressed to the Registrar of Voters. Add postage, if necessary, and deposit it in the mail.
6. Your vote will be counted either by op-scan reader or manually.

**SPECIAL ABSENTEE BALLOT (Green)**

**Instructions for voting green special absentee ballot for general election**

**(This ballot is provided for use by military personnel or U. S. Citizens residing overseas ONLY. This is the only ballot you will receive for the general election.)**

1. Fill in all the information required in the certificate on the green ballot envelope flap. DO NOT SIGN CERTIFICATE AT THIS TIME.
2. Vote your ballot as follows:

   In order to be certain that you will cast a vote that will be counted for a candidate who advances to the general election (runoff election) for a particular office, you must indicate your order of preference for each candidate by placing number one (1) in the box next to the name of the candidate who is your first choice, the number two (2) next to the name of the candidate who is your second choice, and so on until you have placed a number next to the name of each candidate. By numbering the candidates according to your order of preference, if your first choice candidate is eliminated in the primary and your second choice candidate advances to the general election, your second choice candidate will receive your vote and so on until your order of preference is exhausted.

   You may, but are not required to, number all of the candidates for an office on the ballot. However, if you choose to number only one candidate, for instance, and if that candidate does not advance to the general election, you will NOT have cast a vote for a candidate for that office in the general election.
3. Place ballot in green ballot envelope marked "SPECIAL ABSENTEE BALLOT - GENERAL ELECTION" and seal. DO NOT DETACH FLAP.

   PROPOSED CONSTITUTIONAL AMENDMENT BALLOT: If you have been provided with a ballot containing a proposed constitutional amendment, you must be careful to return it in the proper envelope for tabulation. This ballot will reflect either the primary election date or the general election date. If it reflects the same date as the green special absentee ballot for the general election, place it in the green envelope. If it reflects the same date as the white regular absentee ballot for the primary election, place it in the white envelope.
4. **Sign the certificate in the presence of an officer authorized to administer oaths OR in the presence of two witnesses, who must also sign the certificate.**
5. Place the sealed ballot envelope in the return envelope addressed to the Registrar of Voters. Add postage, if necessary, and deposit it in the mail.
6. Your vote will be counted either by op-scan reader or manually.

**ASSISTANCE TO VOTERS**

A voter is entitled to receive assistance in voting if he is (1) unable to read, or (2) unable to vote without assistance because of a physical handicap, including blindness. Persons prohibited from assisting voters:

1. No candidate can assist a voter.
2. No employer or employer's agent can assist an employee.
3. No union agent can assist a union member.

Except as provided above, voters entitled to assistance in voting may receive the assistance of any person of his choice.

The person assisting the voter shall explain to the voter that a signature or mark made by the voter constitutes certification that all statements in the certificate are true and correct and that any person who knowingly provides false or incorrect statements is subject to a fine or imprisonment, or both. *(L.R.S. 18:1310 and 16:1461)*

V-AB-M (Rev. 1/03)

Prepared and Furnished by Secretary of State
Approved by Attorney General and Comm. of Elections

# APPENDIX 2



**STATE OF LOUISIANA**
DEPARTMENT OF ELECTIONS AND REGISTRATION
VOTING SYSTEM CERTIFICATION STANDARDS

Pursuant to La. R.S. 18:1351, any voting system proposed or bid for use in the State of Louisiana must meet or exceed the following standards. These standards include statutory standards found in La. R.S. 18:1355. These standards further include requirements established by the Commissioner of Elections pursuant to her authority under La. R.S. 18:1353.

The voting system must:

GENERAL REQUIREMENTS:

- Allow person to vote for or against, yes or no to, each question that is submitted;
- Permit the voter to vote for as many persons for an office as he is lawfully entitled to vote, but no more. However, where the voter may vote for more than one person for an office, it shall count each vote cast, even though the voter has voted for fewer that the total number of votes he is entitled to cast for a particular election;
- Permit the voter to vote for or against any question or race for which he has a right to vote, but no other;
- When used in a primary election at which members of a political party committee are to be voted on, it shall be so equipped that the election officials can lock out all candidate counters except those of the party with which the voter is affiliated;
- Correctly register and record and accurately count all votes cast for each candidate and for or against each question;
- Meet or exceed standards established by NASED and tested through Independent Testing Authorities;
- Have at least 250 voting positions with ability to expand to at least 500 positions;
- Have an internal real time clock that works in conjunction with all printouts and voting machine diagnostics performed for maintenance or operation purposes;
- Maintain all vote totals, public counter totals, audit trail records, protective counter totals and the internal clock time in both the main memory and the removable programmable memory devices in the event the main power and battery backup power fail;
- Be able to withstand a maximum temperature of 130 degrees Fahrenheit, while in storage, and 105 degrees Fahrenheit while in operation, and a minimum temperature of – 15 degrees Fahrenheit, while in storage, and 40 degrees Fahrenheit, while in operation, without any permanent damage, degraded reliability or performance deterioration;

- Be able to survive exposure to uncontrolled temperature and non-condensing humidity environments, while in storage, and shall operate without damage to the component parts when operated at non-condensing relative humidity of up to 98%;
- Be designed so that no failure, short of destruction of the voting machine and programmable memory device, can result in the loss of vote counts or inaccurate vote counts;
- Provide printed records regarding the opening and closing of the polls, including:
    - Identification of election;
    - Identification of each unit;
    - Identification of ballot format;
    - Identification of candidate and/or issue, verifying zero start;
    - Identification of all ballot fields and all special voting options;
    - Summary report of votes cast for each device, or ability to extract same;
- Prevent printing of summary reports before the sequence of events required for closing of the polls are completed;
- Opening the polls reports should have all system audit information required;
- No data should be lost during generation of reports;
- Integrity and security of data maintained according to time frame for federal, state and local elections;
- Prevent unauthorized functions in an improper sequence;
- Include security provisions compatible with administrative set up and operational use;
- Allow for extraction of data from memory devices via land lines;
- Prevent loss of results, images and inaccurate vote count;
- Provide security procedures system-wide, from turn on to turn off;
- Prevent tampering or destruction of information through the introduction of a magnetic device;
- Provide for safeguards against tampering, theft or damage;
- Ensure that test data has been purged from the system;



**SECURITY:**

- Provide secrecy in the act of voting such that the selection of a voter cannot be determined after that vote has been cast;
- Prevent the voter from voting more than once on the same candidate race or on the same question;
- Permit all unused vote indicators or devices to be locked out against use;
- Provide a protective counter or tabulator;
- Provide a public counter or tabulator that at all times during the election shall show the number of persons who have voted;
- Contain one or more automatic locks that upon exposure of the vote count at any time after the polls are opened on election day will automatically lock the machine against further operation;
- Provide a screen, hood, or curtain that is so made and can be so adjusted as to conceal the voter while voting;
- Be incapable of being reset, altered, or used except by operating the machine;
- Provide for protective counter that advances each time the system reset is performed;

**PROGRAMMING:**

Contain for election for president and vice president, those devices needed in order to comply with R.S. 18:1259 (A copy of R.S. 18:1259 is attached as Appendix "1");

- Provide screen size, display and programming that shall be capable of producing a ballot of font sizes no less than 14 to 18 points in the following denominations:
    - **Heading for races and propositions (18 points)**
    - **Names of candidates (16 points)**
    - **All other text, including text of propositions (14 points);**
- Accommodate up to twelve (12) different parties or districts or combination of both within a precinct;
- Print an alphanumeric printout of the contest, candidates, position numbers, and vote totals when the polls are open to assure that all vote totals are at zero (0). At the close of polls, the voting machine must be able to print out in the same format the results of the election. These printouts should contain the voting machine serial number, the public

counter total and the protective counter number. The poll worker must be able to request as many copies as necessary according to state law;

- Have the option of consolidating the vote totals for each candidate and question for an entire precinct onto one programmable memory device and the results of the precinct printed out at the precinct. This consolidating programmable memory device must be able to be brought into a central computer system and the results for that precinct read off of the programmable memory device so that a jurisdictional vote total report can be obtained;

- Have a mandatory pre-election testing of the ballot control logic and accuracy. The voting system also must have a post-election ballot control logic and accuracy test available after the election. These logic and accuracy test results must be stored into memory of the main processor and into the same programmable memory device that is used on election day for future reference. This should be stored by vote total summaries and by each individual ballot image randomly. The voting system must printout prior to these tests and a results printout after the test;

- Provide redundant storage of both the vote totals and the randomized individual ballot images. There must be polling of these multiple locations of totals and ballot images between voters to detect any errors or discrepancies. In the event of a data discrepancy, an appropriate error message must be displayed in order to either correct the data error or prohibit voting from continuing;

- Have a programmable memory device that plugs into the voting machine. This programmable memory device must contain the ballot control information, store the summary vote totals, maintenance log, operator log and the randomized ballot images which is each individual voter's choices. This programmable memory device must have the ability to be sealed in the voting machine prior to the election so that it is assured of not being tampered with without detection. This programmable memory device must be able to be removed after the polls are closed so that it may be brought to a central site where the vote totals can be read into a computer to obtain the jurisdiction totals;

- Be programmed with the ballot control information from the voting machine itself so that the results printout contains the candidate name next to the vote totals for the candidate;

- Be able to be programmed with the ballot control information by a separate computer which loads the information for that particular election into the programmable memory device. This same computer must be able to read the programmable memory device after the election to obtain the voting results and be able to accumulate the vote totals for the entire voting jurisdiction by precinct;

- Have a mandatory testing system to verify that the voting machine is in an operable condition within a reasonable period of time prior to an election. This testing must appear in the operator log of the system to verify that the tests were performed;



- Be able to test all major subsystems and assemblies in the software of the system;

- Have a mandatory verification of the ballot by the technician when setting up the voting machine for an election. This verification must check the ballot control information to see that the information on the ballot face is correct;

- Have an automatic means of voting the voting machine (voter simulation) in the warehouse to test the voting machine while the voting machine is only in the pre-election or post-election state;

- Maintain an operator log that begins with the resetting of the voting machine and continue throughout the complete election process. Next to each event should be printed the time and date;

- Allow voters from any voting precinct to vote at any location within the Parish;

- Allow units used during early voting to be de-programmed and re-programmed for use on election day, if necessary;

- Provide a means of electronically integrating absentee voting by mail results with voting system;

**POWER SUPPLY:**

- Have a self-contained, internal battery backup that is rechargeable by the main power supply when the voting machine is plugged into AC power. This battery must be commercially available. The battery supply must be capable of operating the voting machine without AC power for four (4) to twelve (12) hours;

- Have a main power system and battery charger that operate from a standard 115-volt, 60hz, single phase, alternating electrical current;

- Have a backup battery that powers all necessary components of the voting machine;

- Have backup battery power that in the event of a power outage in the precinct will be engaged with no disruption of operation or loss of data;

- Have a visible indicator that shows if the voting machine is receiving AC power. The voting machine must be able to test the battery and show the battery charge level. The voting machine must automatically shut itself down in the event the backup battery has only enough power to print out the results and go to an inactive state so to conserve enough power to close the polls at the end of the day;

- Remain operable in the event of abnormal line voltage conditions of power surges up to 132.25 volts rms over periods of up to two (2) seconds with a maximum of two (2) such surges per 60 second period;

**SPECIAL FEATURES:**

- ✓ Contain a gong or other sound creating device which will audibly indicate that a voter has left the machine after casting his vote;
- ✓ Provide visual and audible signals to the poll workers that the voting machine is in a voter active position and that the voter has cast their vote. The audible sound should be able to be heard from 20 feet. The visual display shall be well illuminated and easily readable;
- ✓ Have an adjustable volume control such that the bell, gong or noise making device signaling the casting of a vote is audible to the voter;
- ✓ Have all circuit boards conformal coated or provided with some other treatment which purpose is to significant improve the reliability of circuit boards over a large period of time when used in an ambient air environment that is normal in the State of Louisiana (i.e. salt, dust, high humidity, rapid temperature changes);
- ✓ Must have components made of non-corrosive material or painted metal where required for strength;

**EASE OF USE:**

- ❖ Display clearly to the voter the mechanism by which his vote is cast;
- ❖ Have maximum weight to be handled by the poll worker while moving the voting machine or setting up the voting machine of not more than twenty-five (25) pounds;
- ❖ Have a display in full view of the voter that confirms the voter's choice;
- ❖ Be able to change his selections of candidates and questions on the ballot prior to casting his ballot. When deselecting the voting machines must verify to the voter on a display in full view of the voter that the de-selection was made;
- ❖ Allow poll workers to display the public and protective counters during an election;
- ❖ Be able to display such that poll workers can see any error messages associated with machine malfunction;
- ❖ Accommodate physically handicapped voters, particularly voters confined to wheel chairs, with little or no intervention by the poll worker;
- ❖ Permit voters to cast ballots as quickly as possible without any loss of degree of accuracy;



- ❖ Provide on-screen instructions to provide for voter awareness of the voting machine operation;
- ❖ Provide for an accurate and immediate transfer of data, if requested, to permit the dissemination of election results to the media and candidates in an expeditious manner;
- ❖ Present a ballot that is easy to read, follow legal requirements, be appealing to the voter's eye and include easy to follow instructions for use;
- ❖ Prompt voter when he is not using the device correctly;
- ❖ Make voter aware by clear means of ballot choice (i.e. a clear visual indicator that the voter has selected a particular candidate or proposition choice);
- ❖ Allow voter to review all ballot choices before casting the ballot;
- ❖ Provide sealed cases for transport to minimize damage to internal workings of the voting unit;
- ❖ Able to withstand frequent loading and unloading, stacking, assembling, disassembling, reassembling, and heavy use;
- ❖ Be stackable;
- ❖ Allow poll workers and Registrars' employees easy access to all activity taking place in the voting units, being able to monitor the movement of voters into and out of the voting booth;
- ❖ Have programmable memory device that is easy for poll workers and Registrars' employees to operate after the closing of the polls;
- ❖ Be "tamper-proof" while in a storage configuration either in the storage facility or the polling precinct;

**REPORTING REQUIREMENTS**

- ❑ Provide a cumulative, canvass and precinct report of absentee voting by mail, absentee voting by personal appearance and election day as one total;
- ❑ Provide a cumulative, canvass and precinct report of absentee voting by mail and early voting by personal appearance as one total;
- ❑ Provide a cumulative, canvass and precinct report of election day as one total;

- Provide for unofficial and official reports in any variety including absentee voting, election day and total vote;

- Provide the ability to custom design an election report to include the following information in total or in part;

  - Name of election;
  - Political subdivisions involved – separate reports should be available for each subdivision in the format enumerated above;
  - Date of election;
  - Type of report;
  - Total number of registered voters in each political subdivision and total number of registered voters in each variable race;
  - Total number of registered voters in each voting precinct, including a sub-listing when the precinct is split;
  - Formatting of election results by capturing election data embedded in the database and producing specialized reports, i.e. a report of Presidential vote by legislative district or commissioner precinct;

- Provide, for election night reporting, a listing of precincts reporting and a listing of precincts not reporting;

- Provide for the operator of the reporting system to change the appearance of the report by reformatting the data;

- Provide for the removal of an already counted precinct and a re-counting of that same precinct in the event of errors in transmission;

- Provide individualized sample ballot information for storage on the Parish Clerk of Court's website and for reproduction and distribution;

- Provide for the automatic transmission of election results through electronic data, while adhering to the transmission rules set out in the Louisiana Election Code;

- Provide for the storage of election results in any version of software required, including, but not limited to, Access, Excel, Adobe, and ASCII;

- Provide for election results to be produced in such a manner as to allow for easy copying for paper distribution upon request; and

- Provide for the combining of election day, absentee in person, and mail-in absentee vote totals into the new counting system to achieve total votes.



I hereby adopt the above requirements as the voting machine certification standards for the State of Louisiana and Department of Elections and Registration, pursuant to La. R.S. 18:1351 and 1353. This 18th day of August, 2001.

S/ Suzanne Haik Terrell
SUZANNE HAIK TERRELL
COMMISSIONER OF ELECTIONS

# APPENDIX 3



Regular Session, 2003

HOUSE BILL NO. 1211

BY REPRESENTATIVES BRUNEAU, DOWNER, AND MURRAY

AN ACT

To amend and reenact R.S. 18:31(B)(as enacted by Acts 2001, No. 451) and (C), 103(A), 104(A)(15) and (16), 110(B)(1), 111(B), 154(C), 401.1(C) and (D)(1), 423(H), 425(A)(1)(b) and (2), 435(A)(1), 463(A)(2), 552(B), 553(B)(4), 563, 564(C), 574(A)(2), 576(B) and (C), 1259(B)(1) and (4), 1284(F)(1), 1286(A), 1299.1(A), 1300.2(C)(2), 1300.3(B), 1306(A)(3), 1307(C), 1354(C), and 1400.3(D)(1), to enact R.S. 18:18.1, 110(B)(3), 401.1(G), 401.2, 425(B)(4), 552(C), and 1309(E)(4) and (5), and to repeal R.S. 18:425(A)(3) and R.S. 36:742.1, relative to the Election Code; to make technical changes to the Election Code; to prohibit the commissioner of elections and certain unclassified civil service employees from engaging in political activities; to provide relative to the name a woman may use to register to vote; to provide relative to charges for preparation of lists of voter registration information; to provide relative to form and signature requirements on applications to register to vote; to provide for procedures in circumstances of election emergency; to provide for transmission of certain voter registration data where necessary for verification purposes; to provide relative to a designee

attending a board of election supervisors meeting; to provide for filing a list of watchers to be present at the precinct; to provide relative to the certification of a candidate in the notice of candidacy; to provide for the secretary of state to issue information as necessary under the Help America Vote Act; to provide for the definition of casting a vote; to provide for procedures for assisted voting; to provide relative to the transmission of election results to the secretary of state by the clerks of court; to provide relative to the format of ballots and statements of propositions and the manner of marking on a ballot; to provide relative to recall petitions and written requests to delete or add from such petitions; to provide relative to mail applications to vote absentee by mail; to provide for procedures for when a voter fails to activate the cast ballot mechanism; to prohibit a parish custodian from appointing a candidate or his family member from serving at certain polling places; to provide relative to compensation of certain employees of registrars of voters; to allow students age seventeen who are seniors in high school to serve as commissioners on election day; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:103(A), 110(B)(1), 111(B), 401.1(C) and (D)(1), 423(H), 425(A)(1)(b) and (2), 435(A)(1), 463(A)(2), 574(A)(2), 576(B) and (C), 1259(B)(1) and (4), 1284(F)(1), 1286(A), 1299.1(A), 1300.2(C)(2), 1300.3(B), 1354(C), and 1400.3(D)(1) are hereby amended and reenacted and R.S. 18:18.1, 110(B)(3), 401.1(G), and 401.2 are hereby enacted to read as follows:

§18.1. Political activities prohibited



A. Neither the commissioner of elections nor any employee of the elections division or of the Department of Elections and Registration within the Department of State who is in the unclassified state service shall participate or engage in political activity, including his own or any other candidacy for election to public office; membership on any national, state, or local committee of a political party or faction; making or soliciting contributions for any political party, faction, or candidate; taking active part in the management of the affairs of a political party, faction, candidate, or any political campaign, except to exercise his right as a citizen to express his opinion privately and to cast his vote as he desires.

B. As used in this Section, the term "political activity" shall have the meaning ascribed to it in Article X, Section 9(C) of the Constitution of Louisiana.

* * *

§103. Personal appearance of applicant required; exceptions

A. Except as otherwise specifically provided by law, any person who meets the qualifications for voter registration and desires to register as an elector shall apply to do so by making application in person to a registrar or deputy registrar of the parish in which he seeks to register, by submission of the federal postcard application form as authorized in this Code, by application through the Department of Public Safety and Corrections, by application through designated voter registration agencies, or by mail using the national voter registration form as promulgated by the Federal Election Commission, the state mail voter registration form, or a computer-generated form thereof containing the same requests for

information as prescribed by R.S. 18:104 or as contained on the Federal Election Commission voter registration form.

* * *

§110. Removal from precinct; removal from parish

* * *

B.(1) A change of registration based upon a change of residence within a parish received after the closing of registration for a primary election shall become effective the day after the general election or special general election when a special primary election is held in conjunction with a general election except as follows:

(a) A person whose registration has been canceled pursuant to R.S. 18:193(G),

(b) A person whose registration has been canceled or whose address has been corrected pursuant to R.S. 18:196(C).

* * *

(3) However, in a primary election where the only candidate's election appearing on any ballot in the parish is a special primary election, then in such instance, the change shall become effective prior to the special primary election. In a special general election, where the ballot is the same throughout the parish, the change shall become effective prior to the special general election.

* * *

§111. Change of name



* * *

B. A ~~female~~ married woman, at her option, may be registered in her maiden name, ~~or~~ her present husband's name, or in a hyphenated combination thereof. ~~or if~~ If divorced, ~~or~~ widowed, or remarried, she may be registered in her maiden name, ~~or~~ in the surname of her ~~last~~ deceased or former or present husband, or in a hyphenated combination thereof. ~~However, a woman registered in her last husband's name may not remain a legal registrant in his name or in a hyphenated combination of her maiden surname and his surname if she remarries. In such case, in order to remain a legal registrant she shall apply for a change of name.~~ A change of name allowed ~~or required~~ by this Subsection shall be made by producing in the presence of ~~or, if required, filing with~~ the registrar or other person authorized to accept voter registration applications her affidavit ~~setting forth the pertinent facts concerning the change of name and~~ stating the name under which she desires to be registered as allowed by this Section.

* * *

§401.1. Election emergency; purpose; elections emergency contingency plan

* * *

C. If any delays or suspensions are authorized by the governor, the delayed qualifying, absentee voting in person or election day voting shall resume or be rescheduled as soon thereafter as is practicable. In the event the voting on election day is delayed or suspended and absentee voting in person has been completed prior to the issuance of the executive order delaying or suspending election day

voting, absentee voting in person for the rescheduled election day may be reopened upon authorization of the governor for a reasonable time prior to the new election date. Notice of the delay or suspension and rescheduling of the election day or absentee voting shall be published at least once in a newspaper of general circulation in the affected area if time permits and, where practicable, broadcast as a public service announcement on radio and television stations, or by any other means of communication available at that time.

D.(1) As soon as possible following an emergency, the clerk of court shall identify the number of polling places that are functional and the number of polling places that have been destroyed. If a polling place is destroyed, inaccessible, or unsafe, efforts should be made to work with federal, state, and local emergency management agencies to permit the orderly establishment of a new polling place. An alternate emergency location shall be designated by the parish clerk of court in conjunction with the local parish governing authority, represented by its presiding officer, and advertised by any means available.

* * *

G. Nothing in this Section shall be interpreted as extending or as an extension of the time period for an election.

§401.2. Relocation of polling places; state of emergency

A. Notwithstanding the provisions of R.S. 18:534, 535, 536, and 537, if any polling place is determined by the clerk of court in conjunction with the secretary of state and commissioner of elections to be destroyed, inaccessible, or



unsafe due to an emergency or common disaster occurring before or during a regularly scheduled or special election, the secretary of state in conjunction with the commissioner of elections may issue a certification of a state of emergency allowing the relocation of any such polling place when such action would allow voting to continue without the necessity of the issuance of an executive order by the governor for a suspension or delay pursuant to R.S. 18:401.1(B). Upon issuance of such a certification, the clerk of court and the presiding officer of the parish governing authority shall relocate any such polling place. The polling place shall be relocated to the nearest feasible and accessible location as determined by the secretary of state in conjunction with the commissioner of elections, upon the recommendation of the clerk of court in conjunction with the presiding officer of the parish governing authority.

B. When a polling place is relocated pursuant to Subsection A, the clerk of court in conjunction with the secretary of state and commissioner of elections shall give adequate notice of the change of the location to each voter registered to vote at that polling place and to each candidate to be voted on at that polling place, if practicable, in the following manner:

(1) Each candidate shall be given immediate notice by telephone or by electronic means, and by certified mail where reasonable time exists, of the new location of any polling places that have been relocated.

(2) A sign shall be posted at any former polling place directing voters to the new location of the polling place, if practicable.

(3) An employee of the parish governing authority shall be stationed at any former polling place, if practicable, for the purpose of directing potential voters to the new location of the polling place. Such employee shall be required to take the constitutional oath or affirmation. The clerk of court shall administer the oath.

(4) If reasonable time exists, the notice of the change in location shall be published by the clerk of court in the official journal of the parish and in any other newspaper of general circulation in the precinct or precincts affected. Publication of the notice shall appear under the heading, NOTICE OF CHANGE OF POLLING PLACE.

C. The clerk of court may take any other reasonable steps as it deems necessary or desirable to inform the voters and the candidates of the change in location, including but not limited to posting notices on utility poles and advertisements in the electronic media.

* * *

§423. Parish boards of election supervisors

* * *

H. Designees. The clerk of court and the registrar of voters may each appoint a designee to serve in his place on the parish board of election supervisors when he is absent from any meetings of the board. Any designee of the registrar of voters shall be a sworn deputy registrar. For each day of such service the designee of the clerk of court or the registrar of voters shall be paid the same compensation as a member, and the designating member shall not be compensated



for that day. Any compensation paid to the designee shall be counted against the designating member's compensation, which shall not exceed six days as provided in R.S. 18:423(E).

* * *

§425. Commissioners

A. Number. (1) In addition to the commissioner-in-charge, at the following elections there shall be the following number of additional commissioners at each precinct:

* * *

(b) For all elections not specifically provided for in Subparagraph (A)(1)(a) or in Part III of Chapter 6~~, or in Chapter 6-A or Chapter 6-B~~ of this Code:

(i) Three commissioners for precincts with more than three hundred registered voters.

(ii) Two commissioners for precincts with three hundred registered voters or less.

(2) The governing authority of a municipality, the governing authority of a parish, or the governing authority of a district having a governing authority, with the approval of the parish board of election supervisors, may adopt a resolution to reduce the number of such additional commissioners to not less than two for each precinct in the municipality, in the parish outside of a municipality, or in the district outside of a municipality in a district election, respectively, whenever in

the opinion of the governing authority such reduction is not detrimental to the conduct of an election. In no event shall there be less than one commissioner-in-charge and two additional commissioners per precinct.

* * *

§435. Watchers; appointment and commission

A. Right to have watchers. (1) Each candidate is entitled to have one watcher at every precinct where the office he seeks is voted on in a primary or general election. The candidate or his authorized representative shall file one list of watchers on a form provided by the secretary of state or on a form which contains the same information as required by the form provided by the secretary of state. When a candidate's list of watchers is filed by the candidate's authorized representative, a letter of authorization from the candidate shall accompany the list of watchers. However, in the case of a presidential election, each slate of candidates for presidential elector is entitled to have one watcher at every precinct. The state central committee of each recognized political party shall be responsible for filing the list of watchers for its slate of candidates for presidential elector. The list of watchers for an independent or other party slate of candidates for presidential elector shall be filed by any person so authorized by the presidential candidate supported by the slate of electors. A letter of authorization from the presidential candidate, or an authorized agent of his campaign, shall accompany the list of watchers.

* * *



§463. Notice of candidacy; financial statements; political advertising; penalties

A.

* * *

(2) The notice of candidacy also shall include a certificate, signed by the candidate, certifying that he has read the notice of his candidacy, that he meets the qualifications of the office for which he is qualifying, that he is not currently under an order of imprisonment for conviction of a felony, that he is not prohibited from qualifying as a candidate for conviction of a felony pursuant to Article I, Section 10 of the Constitution of Louisiana, that he has attached to the notice of his candidacy the financial statement required by Subsection B of this Section, if applicable, that he acknowledges that he is subject to the provisions of the Campaign Finance Disclosure Act (R.S. 18:1481 et seq.) if he is a candidate for any office other than United States senator, representative in congress, or member of a committee of a political party, and that all of the statements contained in it are true and correct. The certificate shall be executed before a notary public or shall be witnessed by two persons who are registered to vote on the office the candidate seeks. If the candidate is serving outside the state with the armed forces of the United States, his notice of candidacy shall be witnessed by a commissioned officer in the armed forces of the United States.

* * *

§574. Compilation and promulgation of returns

A.

* * *

(2) Immediately after the completion of the verification by the clerk of court, the board shall publicly prepare two compiled statements of the election returns as shown by the record of the votes made by the clerk of court. The compiled statements shall separately show the machine votes for each candidate and for and against each proposition in each precinct, the total absentee votes for each candidate and for and against each proposition in the parish, and the total of all votes for each candidate and for and against each proposition in the parish.

* * *

§576. Election night returns

* * *

B. Each clerk of court shall transmit the results of the elections ~~involving state candidates, as defined in R.S. 18:452,~~ to the secretary of state ~~immediately~~ expeditiously ~~upon the completion of the tabulation~~ and in accordance with rules and regulations which shall be adopted by the secretary of state.

C. The secretary of state shall compile the results of the elections ~~involving state candidates~~ immediately upon receipt of the results from the clerks of court and shall make the compiled results available to the press and public.

* * *



§1259. Arrangement of ballot; designation of party candidates

* * *

B.(1) The ballot shall be so arranged that the names of the candidate for president and the candidate for vice president nominated by each recognized political party, by nominating petition, or by filing of notices of candidacy accompanied by a qualifying fee shall appear~~,in fourteen point type print,~~ prominently together with the name of the presidential candidate on top and the name of the vice presidential candidate directly underneath on the vertical type voting machine and with the name of the presidential candidate on the left and the name of the vice presidential candidate directly to the right on the horizontal type voting machine.

* * *

(4) Immediately below the word "Electors" the names of the presidential electors nominated in support of the nominees for president and vice president of that party or political principal shall appear ~~in six point type print~~.

* * *

§1284. Resolution calling election; proposition

* * *

F.(1) The preparation of the statement of the proposition to be submitted to the voters at an election shall be the responsibility of the governing authority of the political subdivision ordering the election. The statement of the proposition shall also include a simple and unbiased concise summary in easily understood

language which sets forth the substance of the proposition. The statement of the proposition, including the summary, shall not exceed four hundred words in length. Such summary shall be set in all capital letters and shall be placed at the beginning of the statement of the proposition.

* * *

§1286. Polling places; election officers

A. When an election called under the provisions of this Chapter is not held at the same time as the election of any public official, the governing authority of the political subdivision ordering the election shall use the established polling places and provide the voting machines and a compiled statement of qualified voters~~, and fix the compensation of the election officers~~. On or before the twenty-first day prior to such election, the parish board of election supervisors shall appoint ~~not less than two~~ the number of commissioners for each precinct as provided in R.S. 18:425(A)(1)(b) and not less than ~~two~~ the same number of alternate commissioners for each precinct, all of whom shall meet the qualifications set forth in Part II of Chapter 5 of this Title. The commissioner-in-charge for each precinct at which an election called under the provisions of this Chapter is held shall be the commissioner-in-charge selected or appointed for such precinct under the provisions of Part II of Chapter 5 of this Title.

* * *



§1299.1. Statement of question or proposition to be voted on; statement length

A. The preparation of the statement of any question or proposition to be submitted to the voters at an election shall be the responsibility of the governing authority or other entity calling the election or submitting the question or proposition. The statement of the proposition shall also include a simple and unbiased concise summary in easily understood language which sets forth the substance of the proposition ~~and~~. The statement of the proposition, including the summary, shall not exceed four hundred words in length. Such summary shall be set in all capital letters and shall be placed at the beginning of the statement of the proposition.

* * *

§1300.2. Petition for recall election; campaign finance disclosure

* * *

C.

* * *

(2) The signed and dated petition shall be submitted to the registrar of voters for each parish within the voting area not later than one hundred eighty days after the day on which the copy of the petition was filed with the secretary of state; however, where fewer than one thousand qualified electors reside within the voting area, the petition shall be submitted to the registrar of voters not later than ninety days after the day on which the copy of the petition is filed with the secretary of state. If the final day for submitting the signed and dated petition falls

on a Saturday, Sunday, or legal holiday, the deadline for filing such petition shall be on the next day which is not a Saturday, Sunday, or legal holiday.

* * *

§1300.3. Certification of registrar of voters; addition or withdrawal of signatures; form of names

* * *

B.(1) The registrar of voters shall honor the written request of any voter who either desires to have his handwritten signature stricken from the petition or desires to have his handwritten signature added to the petition at any time after receipt of the signed petition as provided in R.S. 18:1300.2(C) but prior to certification of the petition or within five days after receipt of such signed petition, whichever is earlier. The written request of the voter shall include the name and address of the voter, the signature of the voter, and the date.

(2) Upon the signature of the voter, the written request of the voter to have his signature stricken or added to the recall petition shall be a public record. Any person in possession of such a written request shall be the custodian thereof. The voter or any other person who is the custodian of the written request shall transmit the written request to the registrar of voters for each parish within the voting area by mail or directly by hand, immediately upon signature of the voter or upon receipt of the signed, written request.

* * *



§1354. Parish custodian of voting machines; powers and duties; appointment of deputy custodians

* * *

C. The parish custodian of voting machines may employ persons on a temporary basis, as needed, to assist him in the performance of his duties. He may appoint a deputy parish custodian of voting machines for any polling place he deems necessary. The parish custodian shall not appoint a person who is a candidate or a member of a candidate's immediate family to serve in any polling location where the candidate's name appears on the ballot. The compensation of a deputy parish custodian shall be seventy-five dollars for each election at which he serves. The deputy parish custodian shall deliver the key envelope and the supplemental list to the commissioner-in-charge at least one-half hour before the fixed time for the opening of the polls.

* * *

§1400.3. Election expenses incurred by clerks of court and registrars of voters; payment by commissioner of elections; payment by governing authorities

* * *

D. For the purposes of this Section, "election expenses incurred by registrars of voters" is defined and limited to the following:

(1) Expenses incurred by a registrar of voters to pay for one or more temporary part-time clerical employees to perform election duties and responsibilities associated with his office as provided in this Title. Such employees shall be paid at an hourly rate established by the registrar at not to exceed that of a ~~Voter Registration Specialist~~ Clerk Chief II in the General Schedule at the entry level as specified in the classification and pay plan of the Louisiana Department of Civil Service.

* * *

Section 2. R.S. 18:31(C), 104(A)(15) and (16), 154(C), 552(B), 553(B)(4), 563, 564(C), 1306(A)(3), and 1307(C) are hereby amended and reenacted and R.S.18:425(B)(4), 552(C), and 1309(E)(4) and (5) are hereby enacted to read as follows:

§31. State voter registration computer system; parish computer system

* * *

C. The commissioner of elections shall adopt rules and regulations with respect to all records, data, and information required for registration of voters and the transfer of copies thereof to the department. The commissioner shall establish, by rule, a uniform cost for the preparation of lists of registered voters. However, no charges for preparation or transmission of voter registration data shall apply to the office of motor vehicles of the Department of Public Safety and Corrections, when the transmitted data is used to verify voter registration information against driver's license and social security information. All rules and regulations shall be adopted pursuant to the Administrative Procedure Act.



* * *

§104. Application for registration; form

A.

* * *

(15) The application form also shall inform the applicant of the penalty for violation of applicable laws relating to registration of voters and shall contain an affidavit to be subscribed, through a handwritten signature, before the registrar, deputy, or any person authorized to accept voter registration applications attesting that the applicant is a United States citizen and that the facts given by him on this application are true to the best of his knowledge and belief. When the registration application is completed at the office of motor vehicles of the Department of Public Safety and Corrections, an electronically captured signature of the applicant may suffice as a handwritten signature of the applicant.

(16) ~~Social security number.~~ Louisiana driver's license number, if issued, or if no driver's license has been issued, the last four digits of the social security number, if issued. The full social security number of the applicant may be provided on a voluntary basis by the applicant. If the applicant has neither a Louisiana driver's license number nor a social security number, the applicant shall attach one of the following items to his application:

(a) A copy of a current and valid photo identification.

(b) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the applicant.

* * *

§154. Records open to inspection; copying; exception

* * *

C. Notwithstanding the provisions of this Section, neither the registrar nor the Department of Elections and Registration shall disclose the social security number of a registered voter or circulate the social security numbers of registered voters on commercial lists, except when voter registration data is transmitted to the office of motor vehicles of the Department of Public Safety and Corrections, for the purposes of verifying the accuracy and authenticity of the social security number provided by the voter.

* * *

§425. Commissioners

* * *

B. Qualifications and classifications.

* * *

(4) A person who is at least seventeen years of age, under the age of eighteen, and is not a qualified voter but is otherwise qualified to serve as a commissioner pursuant to this Subsection may be selected to serve as a commissioner in any precinct of the ward where he may register to vote pursuant



to R.S. 18:101(A), provided that the person is enrolled in the twelfth grade of any Louisiana public high school or state-approved nonpublic high school or is participating at the twelfth grade level in a home study program approved by the State Board of Elementary and Secondary Education.

* * *

§552. Election materials

* * *

B. In the case of a federal election, in addition to the materials provided in Subsection A of this Section, the secretary of state shall supply informational posters as required by the Help America Vote Act of 2002.

C. Delivery of materials. The contractor who delivers the voting machines also shall deliver the election materials to each polling place under the direction and supervision of the parish custodian of voting machines.

* * *

§553. Inspection and preparation of voting machines at polling places; precinct registers and supplemental list

* * *

B. Inspection of the voting machines. After the commissioners take their oath and before the time for opening the polls, the commissioners, in the presence of the watchers, shall prepare the polling place for voting as follows:

* * *

(4) Post the ~~card of~~ instructions, informational posters, if required, the statement of proposed constitutional amendments on the ballot, and a sample ballot in a conspicuous place at the principal entrance to the polling place.

* * *

§563. Procedure for voting

A. The commissioners shall not allow more voters to approach the voting machines than there are vacant machines available for voting. Except as otherwise provided by law, the commissioners shall not allow more than one person to enter a voting machine at a time.

B. A pre-teen child may accompany his parent or legal guardian into the voting machine.

C. A voter shall not remain in a voting machine longer than three minutes. If a voter fails to leave a voting machine promptly after a commissioner has notified him that three minutes have elapsed, the commissioners shall have the voter removed from the voting machine.

D.(1) In order to cast a vote on a voting machine, a voter shall make at least one selection in a candidate or proposition election. Voting is completed by activating the cast vote mechanism. If the voter has made any selection in a candidate or proposition election but has failed to activate the cast vote mechanism, a commissioner observed by at least one other commissioner shall activate the cast vote mechanism for the fled voter without altering any selections made by the voter.



(2) In order to cast a vote on a paper ballot, a voter must make a selection for a candidate or for or against a proposition by completely filling in the oval to the right of a selection and returning the ballot to the appropriate election official within the applicable deadline set forth by law. If a voter makes selections for more than the number of candidates to be elected for an office or makes selections for and against the same proposition, the selections for that office or proposition will be void.

E. A voter shall promptly leave the polling place after voting and shall not reenter a voting machine.

§564. Assistance in voting

* * *

C. Procedure when voter receives assistance. The person or commissioners assisting the voter shall enter the voting machine with the voter and assist him in voting. No other person shall enter the voting machine or assist the voter in voting. No person selected by the voter to assist him shall reveal the name of any person for whom the voter has voted, any proposition upon which he voted, or anything that took place while the voter was being assisted. When a precinct is equipped with a voting machine which provides an audio ballot, the commissioner shall offer the option of voting using the audio ballot to a visually impaired voter or a voter who is unable to read. If the voter elects to vote using such method, the commissioner shall assist the visually impaired voter or the voter

who is unable to read with the headset and instruct the voter and the person selected to assist the voter on the use of the audio ballot.

* * *

§1306. Preparation and distribution of absentee ballots

A.

* * *

(3) Depending on the type of ballot used in an election, a ballot shall be marked by the voter with a pencil containing black lead ~~or a pen or ball-point pen containing black, blue-black, or blue ink,~~ or with an instrument or device to punch out the appropriate space or box on the ballot. The instructions printed on the face of the ballot shall inform the voter of the type of instruments that he shall use to mark his ballot.

* * *

§1307. Application by mail

* * *

C. If the applicant is a member of the United States Service or resides outside the United States, he may use the federal postcard application. ~~, and the period during which applications may be received shall extend from twelve month to seven days before election day.~~ Such application shall be valid for a period extending from the date the application is received in the office of the registrar of voters through two subsequent federal general elections. If the registrar rejects the application of an applicant who is a member of the United States Service or



resides outside the United States, the registrar shall provide the applicant with written reasons for the rejection.

* * *

§1309. Absentee application and voting in person

* * *

E.

# APPENDIX 4





**Regular Session, 2003**

HOUSE BILL NO. 1358

BY REPRESENTATIVES BRUNEAU AND LANCASTER (BY FEDERAL MANDATE)

AN ACT

To amend and reenact R.S. 18:24 and 574(A)(2) and to enact Subparts F and G of Part V of Chapter 5 of Title 18 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 18:566 through 567.6, relative to provisional voting and Title III complaint procedures as mandated by the Help America Vote Act of 2002; to provide for the powers and duties of the state board of election supervisors to extend to Title III complaint procedures; to provide for the compilation and promulgation of election results to include any counted provisional votes; to provide for provisional voting on election day and in person absentee; to provide for provisional voting in the event that the poll hours of an election for federal office are extended; to provide for the registrar of voters to record who uses a provisional ballot; to provide for agencies to provide and compile information as necessary to determine whether a provisional ballot shall be counted; to provide for the tabulation of provisional votes; to provide for the voter to determine whether his provisional vote was counted; to provide for a complaint procedure for alleged violations of Title III of the Help America Vote Act; to provide for a procedure for filing a complaint; to provide for procedures for processing the complaint; to provide for the board to conduct a hearing and provide a final decision and the reasons therefor; to provide for remedies; to provide for the Division of Administrative Law to assign the complaint to an administrative law judge if the complaint is not heard or decided timely by the board of election supervisors; to provide for the computation of time intervals; to provide for the complaint procedure to be exempt from the administrative hearing process of Chapter 13-B of Title 49; to provide for judicial review of a final decision of the board or resolution of the administrative law judge; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:24 and 574(A)(2) are hereby amended and reenacted and Subpart F and Subpart G of Part V of Chapter 5 of Title 18 of the Louisiana Revised

Statutes of 1950, comprised of R.S. 18:566 through 567.6, are hereby enacted to read as follows:

§24. Powers and duties; authority to intervene in actions

A. To accomplish the purposes of this Part and Subpart G of Part V of Chapter 5 of this Title, the board shall have the following powers, duties, and functions:

(1) To adopt, amend, and repeal such rules and regulations as are necessary for the transaction of its business and to implement the provisions of this Part and Subpart G of Part V of Chapter 5 of this Title.

(2) To conduct hearings as provided in this Part and Subpart G of Part V of Chapter 5 of this Title.

(3) To review election laws and procedures and to report to the legislature as required by this Part.

(4) To employ an executive director, legal counsel, and such other personnel as the board deems necessary and appropriate.

(5) To exercise such other powers and duties as are necessary to effectuate the purposes of the board as set forth in this Part and not inconsistent with such provisions.

B. To accomplish the purposes of Subpart G of Part V of Chapter 5 of this Title, the board shall also have the power and authority to hold hearings, subpoena witnesses, administer oaths, require the production of books and records, and do all other things necessary to discharge its duties and responsibilities.



* * *

SUBPART F. PROVISIONAL VOTING

§566. Provisional voting for federal office; polling place and in person absentee

A. In an election for federal office, when an applicant's name does not appear on the precinct register and the registrar of voters has not authorized the applicant to vote by affidavit, or the commissioners assert that the applicant is not eligible to vote, and the applicant declares himself to be a registered voter and eligible to vote in the election for federal office, the applicant may cast a provisional ballot for candidates for federal office.

B. Procedure for provisional voting for federal office at a polling place:

(1) The applicant shall first fill in the blanks on the provisional ballot envelope flap and sign the certificate on the envelope flap in the presence of a commissioner attesting that he is a registered voter in the parish and is eligible to vote in the election for federal office. The applicant shall then sign the precinct register on the page marked "Provisional Voters". The commissioner shall record the provisional ballot number on the provisional ballot envelope and then shall provide the applicant the provisional ballot envelope and the provisional ballot listing the federal offices. The applicant shall then mark the provisional ballot according to the printed instructions on its face, place the ballot in the provisional ballot envelope, seal the envelope, and return the provisional ballot envelope to the commissioner. The applicant shall be allowed to mark the provisional ballot in an area and in a manner that protects the secrecy of his vote. The commissioner shall place the provisional ballot envelope inside the envelope marked "Provisional Ballot". The "Provisional Ballot" envelope shall be returned to the registrar of voters on election night.

(2) The commissioner shall provide an applicant who casts a provisional ballot with written instructions for how the applicant may ascertain whether the provisional vote was counted, and, if the provisional vote was not counted, the reason the vote was not counted.

C. In an election for federal office during the period of absentee voting in person, when an applicant's name does not appear on the precinct register and the registrar of voters has not authorized the applicant to vote by affidavit, or the



registrar or deputy registrar asserts that the applicant is not eligible to vote, and the applicant declares himself to be a registered voter and eligible to vote in the election for federal office, the applicant shall be permitted to cast an in-person absentee provisional ballot for candidates for federal office.

D. Procedure for provisional voting for federal office during the period of absentee voting in person:

(1) The applicant shall first fill in the blanks on the provisional ballot envelope flap and sign the certificate on the envelope flap in the presence of the registrar or deputy registrar attesting that he is a registered voter in the parish and is eligible to vote in the election for federal office. The applicant shall then sign the precinct register on the page marked "Provisional Voters". If the applicant is voting at a branch office of the registrar, the applicant shall be required to sign and date a register for absentee provisional voters kept by the registrar prior to voting by provisional ballot. The registrar or deputy registrar shall record the provisional ballot number on the provisional ballot envelope flap and then shall provide the applicant the provisional ballot envelope and the provisional ballot listing the federal offices. The applicant shall then mark the provisional ballot according to the printed instructions on its face, place the ballot in the provisional ballot envelope, seal the envelope, and return the provisional ballot envelope to the registrar or deputy registrar. The applicant shall be allowed to mark the provisional ballot in an area and in a manner that protects the secrecy of his vote.

The registrar or deputy registrar shall place the provisional ballot envelope inside the envelope marked "Absentee Provisional Ballot".

(2) The registrar or deputy registrar shall provide an applicant who casts an in-person absentee provisional ballot with written instructions for how the applicant may ascertain whether the provisional vote was counted, and, if the provisional vote was not counted, the reason the vote was not counted.

§566.1. Provisional voting for federal office; order for extension of poll hours during an election for federal office

A. If the poll hours in an election for federal office are extended as a result of a federal or state court order or any other order extending the time established for closing the polls, an individual who votes during the extension shall vote by provisional ballot for federal offices as set forth in R.S. 18:566(B).

B. Any provisional ballot cast pursuant to Subsection A of this Section shall be kept separate and placed by the appropriate election official in the envelope marked "Provisional Ballot – Extended Poll Hours", and shall be counted and tabulated as provided in R.S. 18:566.2.

§566.2. Tabulation and counting of provisional ballots for federal office

A. Upon receipt of the "Provisional Ballot" envelope, the registrar of voters shall compile a list of the names of individuals who voted a provisional ballot, including the names of individuals who voted a provisional absentee ballot. On or before the date prescribed for the date of tabulation and counting of provisional ballots set forth in Subsection C of this Section, the registrar of voters, secretary of state, and other state and local agencies shall compile and provide available registration documentation to the parish board of election supervisors for the purposes of determining whether the individual casting a provisional ballot is a registered voter and eligible to vote in the election.

B. The parish board of election supervisors in each parish shall be responsible for the counting and tabulation of all provisional ballots for federal office.

C. Provisional ballots shall be counted on the third day following the election and prior to the compilation of returns pursuant to R.S. 18:574 at the office of the registrar of voters or at a public facility within the parish designated by the parish board of election supervisors.

D. Candidates, their representatives, and qualified electors may be present during the counting and tabulation of provisional ballots.

E. The board shall count and announce the results of the provisional ballots as the total number of provisional votes cast in the election for each candidate for federal office.

F. The procedure for counting provisional ballots shall be as follows:

(1) A member of the board shall remove the envelopes containing the provisional ballots from the envelopes marked "Provisional Ballot" and "Absentee Provisional Ballot".

(2) The board shall announce the name of each provisional voter and shall compare the name on the flap of the provisional ballot envelope with the name on the list of provisional voters.

(3) If the board has determined that a provisional ballot shall be counted, a member of the board shall write the provisional ballot number and the word "counted" adjacent to the provisional voter's name on the list of provisional voters. A member of the board shall tear the flap from the envelope containing the provisional ballot, attach the provisional voter's registration documentation to the envelope flap, and leave the envelope sealed.

(4) If the board has determined that a provisional ballot shall not be counted, the members of the board shall leave the flap on the envelope containing the provisional ballot, leave the envelope sealed, and shall write the word "rejected", together with the reason for rejecting the provisional ballot across the envelope containing the ballot. A member of the board shall write the provisional ballot number and the word "rejected" adjacent to the provisional voter's name, together with the reason for rejecting the provisional ballot, on the list of provisional voters. The rejected provisional ballots shall be placed in the special provisional ballot envelope. No rejected provisional ballot shall be counted.

(5) After the validity of all provisional ballots has been determined, the members of the board shall place the original signed list of provisional voters, the flaps removed from the valid provisional ballots and the attached registration documentation in the envelope provided for that purpose, and seal the envelope.



Two of the members of the board shall execute the certificate on the envelope and transmit the envelope to the registrar of voters.

(6) The members of the board shall open the envelopes containing the valid provisional ballots and remove the ballots.

(7) The provisional votes cast for a candidate for federal office shall be counted by hand, and the total number of provisional votes cast for a candidate shall be announced in the order the offices and candidates are listed on the provisional ballot. The members of the board shall enter the total number of votes on the final provisional ballot vote report and certify the results.

(8) The original of the final provisional ballot vote report prepared by the parish board of election supervisors shall be transmitted to the clerk of court upon completion of the tabulation of the provisional ballots.

(9) A copy of the signed list of provisional voters and a copy of the final provisional ballot vote report shall be transmitted immediately to the secretary of state.

G. When the flaps of the provisional ballots that were counted and the attached registration documentation have been returned to the registrar of voters, the registrar shall add the name of each provisional voter whose ballot was counted to the list of registered voters.

H. Upon completion of the tabulation and counting of the provisional ballots, the parish board of election supervisors shall return the provisional ballots and a copy of the final provisional ballot vote report to the special provisional

ballot envelope, shall seal the envelope, and shall deliver the envelope to the registrar of voters. The registrar shall preserve the envelope and its contents inviolate and, except upon order of a court of competent jurisdiction, shall not allow the provisional ballot documents to be inspected by anyone until the delay for filing an action contesting the election has lapsed. If an action contesting the election is commenced timely, the registrar shall continue to preserve the envelope and its contents inviolate, subject to the orders of the court, until the final judgment in the action has become definitive.

SUBPART G. ADMINISTRATIVE COMPLAINT PROCEDURE

§567. Administrative complaint procedure; scope

This Subpart provides a uniform, nondiscriminatory procedure for the resolution of any complaint alleging a violation of any provision of Title III of the Help America Vote Act of 2002 for an election for federal office, including a violation that has occurred, is occurring, or is about to occur.

§567.1. Definitions

As used in this Subpart, the following words and terms shall have the meanings hereinafter ascribed to each, unless the context clearly indicates another meaning:

(1) "Complainant" means the person who files a complaint with the board under this Subpart.



(2) "Respondent" means any state or local election official whose actions relating to a federal election are asserted, in a complaint under this Subpart, to be in violation of Title III of the Help America Vote Act of 2002.

(3) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), 42 U.S.C. §15481- 15485.

(4) "Federal election" means a general, special, primary, or runoff election for federal office; and a primary election held for the expression of a preference for the nomination of individuals for election to the office of president.

(5) "Board" means the State Board of Election Supervisors.

§567.2. Filing a complaint

A. Any person who believes that there is a violation by any state or local election official of any provision of Title III may file a complaint, including a violation which has occurred, is occurring, or is about to occur. The complaint procedures set forth in this Subpart are limited to allegations of violations of Title III in a federal election.

B. The complaint shall be in writing, signed by the complainant, executed before a notary public, and sworn under oath. The complaint shall provide the name and mailing address of the complainant and shall include a description of the alleged violation that is sufficiently detailed to put the board and the respondent on notice of the nature of the alleged violation.

C. The complainant may use any of the following forms to file a complaint:

(1) The form provided by the secretary of state, subject to approval of the attorney general as to content.

(2) Any other form which contains the same information as required by the approved form prepared by the secretary of state.

D. A complaint shall be filed with the secretary of state and shall be filed within ninety days after the final certification of the federal election.

E. The complainant shall mail or deliver a copy of the complaint to each respondent.

§567.3. Processing of complaint

A. The secretary of state or his designee shall examine each complaint and may reject the complaint for filing if any of the following apply:

(1) The complaint does not clearly identify the name of the complainant and include an adequate means of contacting the complainant.

(2) The complaint is not signed by the complainant and notarized.

(3) The complaint does not, on its face, allege a violation of Title III with regard to a federal election.

(4) The complaint is not in proper form.

B. The chairman of the board shall establish a schedule under which the complainant and respondent, as well as any other interested person, may file written submissions concerning the complaint and under which the complaint shall be finally determined.



C. The board may consolidate complaints if they relate to common issues or to the same actions or events.

D.(1) The board shall compile and maintain an official record in connection with each complaint under this Subpart.

(2) The official record shall contain all of the following:

(a) A copy of the complaint, including any amendments requested by the board.

(b) A copy of any written submissions by the complainant, respondent(s), or other interested persons, including any responses authorized by the board.

(c) A written report of any investigation conducted or commissioned by the board.

(d) Copies of all notices and correspondence to or from the board in connection with the complaint.

(e) Originals or copies of any tangible evidence produced at any hearing conducted pursuant to Subsection F of this Section.

(f) The original tape recording produced at any hearing conducted pursuant to Subsection F of this Section and a copy of any hearing transcript.

(g) A copy of any final decision issued pursuant to Subsection G of this Section.

E. If the board has determined that the complaint does not include a clear and concise description of the alleged violation that is sufficiently detailed to put the board and the respondent on notice of the nature of the alleged violation, the

board may require the complainant to file an amended complaint. If the complainant fails to file the amended complaint, the chairman of the board shall dismiss the complaint.

F.(1) At the request of the complainant, the board shall conduct a hearing on the record. The request shall be made in writing to the secretary of state no later than ten days after the filing of the complaint or the amended complaint. A request for a hearing made after the deadline set forth in this Subsection shall be denied by the chairman of the board.

(2) The chairman of the board shall establish the date, time, and place for the hearing. He shall give at least five business days' notice of the date, time, and place of the hearing by all of the following means:

(a) By mail to the complainant, each named respondent, and any other person who has made a written request to be advised of the hearing.

(b) On the secretary of state's website.

(c) By posting in a prominent place, available to the general public, at the offices of the secretary of state.

(3) Four members of the board shall constitute a quorum and a quorum is required to conduct any hearing under this Subpart.

(4) The complainant, any respondent, or any other interested person may appear at the hearing and testify or present tangible evidence in connection with the complaint. Each witness shall be sworn. The Louisiana and federal rules of evidence shall not apply to this hearing. The chairman of the board may limit the



testimony, if necessary, to ensure that all interested participants are able to present their views. The chairman of the board may recess the hearing and reconvene at a later date, time, and place announced publicly at the hearing.

(5) A complainant, respondent, or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

(6) The proceedings shall be tape recorded by and at the expense of the board. The recording shall not be transcribed as a matter of course, but the board, a parish board of election supervisors, or any party may obtain a transcript at its own expense. A copy of the transcript shall be filed as part of the record, and any other interested person may examine the record copy.

(7) Any party to the proceedings may file a written brief or memorandum within five business days after the conclusion of the hearing upon authorization of the board. No responsive or reply memoranda will be accepted, except with the specific authorization of the chairman of the board.

G.(1) If there has been no hearing conducted pursuant to Subsection F of this Section, the members of the board shall review the record and determine whether a preponderance of the evidence establishes a violation of Title III. The decision of the board shall require the concurrence of a majority of the members of the board.

(2) At the conclusion of a hearing conducted pursuant to Subsection F of this Section, the board shall determine whether a preponderance of the evidence

establishes a violation of Title III. The decision of the board shall require the concurrence of a majority of the members of the board present at the hearing.

(3)(a) If the board determines that a violation of Title III has occurred, the board shall provide an appropriate remedy. The remedy so provided may include an order to any respondent, commanding the respondent to take specified action, or prohibiting the respondent from taking specified action, with respect to past or future elections; however, the remedy shall not include an award of monetary damages, costs, or attorney fees, and shall not invalidate the results of any election or invalidate any ballot or vote cast.

(b) The board shall dismiss the complaint if any of the following apply:

(i) The complaint is not filed within the time set forth in R.S. 18:567.2.

(ii) The board determines that a violation of Title III has not occurred.

(iii) The board determines that there is insufficient evidence to establish a violation of Title III.

(4) The board shall provide reasons for the decision and for any remedy ordered. A written decision shall be issued by the board.

H. Except as specified in Subsection J of this Section, the final decision of the board shall be issued within ninety days from the date the complaint was filed, unless the complainant consents in writing to an extension. The final decision shall be mailed to the complainant, each respondent, and any other person who has made a written request to be advised of the final decision. It shall also be posted on the secretary of state's website.



I. If the board fails to make a final decision within ninety days from the date the complaint was filed, or within any extension to which the complainant consents, the complaint shall be referred for final resolution as provided in Subsection J of this Section. The record compiled pursuant to Subsection D of this Section shall be made available for use pursuant to Subsection J of this Section.

J.(1) If the board fails to render a final decision within the time set forth in Subsection H of this Section, the board shall transmit the record to the Division of Administrative Law on or before the fifth business day after the board's decision was due. The Division of Administrative Law shall assign the complaint to an administrative law judge.

(2) The administrative law judge shall review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any submissions, briefs, or memoranda. The administrative law judge shall not receive additional testimony or evidence, unless the complainant requested a hearing within the deadline set forth in Subsection F of this Section and the hearing was not conducted within the time set forth in Subsection H of this Section. In exceptional cases, the administrative law judge may request that the parties present additional briefs or memoranda.

3) The administrative law judge shall determine the appropriate resolution of the complaint.

(4) The administrative law judge shall issue a written resolution of the complaint within sixty days after the final board decision was due pursuant to Subsection H of this Section. The sixty-day period shall not be extended. The final resolution of the administrative law judge shall be transmitted to the board. The final resolution shall be mailed by the board to the complainant, each respondent, and any other person who has made a written request to be advised of the final resolution. It shall also be posted on the secretary of state's website. The resolution so provided may include an order to any respondent, commanding the respondent to take specified action, or prohibiting the respondent from taking specified action, with respect to past or future elections; however, the resolution shall not include an award of monetary damages, costs, or attorney fees, and shall not invalidate the results of any election or invalidate any ballot or vote cast.

K. A complaint filed pursuant to this Subpart shall not constitute an election contest pursuant to R.S. 18:1401 et seq.

§567.4. Computation of time

Except as otherwise provided in this Subpart, computation of all time intervals in this Subpart shall include Sundays and other legal holidays. However, if the time interval ends on a Sunday or other legal holiday, then noon of the next legal day shall be deemed to be the end of the time interval.

§567.5. Exemption

The provisions of Chapter 13-B of Title 49 relating to the Division of Administrative Law shall not apply to the administrative hearing process



established under this Subpart. The board is exempt from the hearing requirements set forth in Chapter 13-B of Title 49 and shall conduct hearings pursuant to this Subpart. However, the board is authorized to contract with the Division of Administrative Law for the alternative dispute resolution services required by R.S. 18:567.3.

§567.6. Judicial review

The final decision of the board or the final resolution of the administrative law judge may be judicially reviewed by filing a petition in the Nineteenth Judicial District Court, Parish of East Baton Rouge. The petition shall be filed within thirty days after the mailing of the notice of the final decision of the board or the final resolution of the administrative law judge.

* * *

§574. Compilation and promulgation of returns

A.

* * *

(2) Immediately after the completion of the verification by the clerk of court, the board shall publicly prepare two compiled statements of the election returns as shown by the record of the votes made by the clerk of court. The compiled statements shall separately show the machine votes for each candidate and for and against each proposition in each precinct, the total absentee votes for each candidate and for and against each proposition in the parish, the total

provisional votes for each candidate for federal office, and the total of all votes for each candidate and for and against each proposition in the parish.

* * *

Section 2. This Act shall become effective on January 1, 2004.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED:



# APPENDIX 5

**U.S. Department of Justice**

Civil Rights Division

JDR:RPL:RAD:nj
DJ 166-012-3
2003-1527

*Voting Section - NWB*
*950 Pennsylvania Avenue, N.W.*
*Washington, DC 20530*

June 19, 2003

Ms. Suzanne Haik Terrell
Commissioner of Elections
P.O. Box 4729
Baton Rouge, Louisiana 70821-4729

Dear Ms. Terrell:

This refers to the revisions to the Louisiana Mail Voter Registration Application Form (LR-1M) (REV.03/03) R.S. 18:104 Form # 01253)) adopted in part to comply with the Help America Vote Act of 2002, 42 U.S.C. 15301-15545, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on May 1, 2003; supplemental information was received on June 3, 2003.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,

Joseph D. Rich
Chief, Voting Section



**LOUISIANA MAIL VOTER REGISTRATION APPLICATION FORM**

**YOU CAN USE THIS FORM TO:**

1) Register to vote 2) Change your address 3) Request a name change 4) Change party affiliation

**TO REGISTER YOU MUST:**

- be a United States citizen
- be at least 17 years old but must be 18 years old prior to next election to vote
- not be under an order of imprisonment for conviction of a felony
- not be under a judgment of interdiction for mental incompetence
- reside in the state and parish in which you seek to register.

**INSTRUCTIONS FOR COMPLETING THIS FORM:**

All information except your signature should be printed clearly in ink, preferably black, or typed. Fill in all boxes that apply to you.

Box 1: Indicate whether you are a citizen of the United States of America.

Box 2: Provide full name. Do not use initials for middle or maiden name.

Box 3: 'Residence Address' means the address where you live and are registering to vote. If you claim a homestead exemption, you must list the address of that residence. Do not use a post office box for your 'Residence Address'. If you use a rural route and box number, draw a map in the space labeled 'Give Location.' Write in the names of the crossroads (streets) nearest to where you live. Draw an X to show where you live. Use a dot to show any schools, churches, stores or landmarks near where you live and write the name of the landmark. Complete 'Mailing Address' only if it is different from the 'Residence Address'.

Boxes 6 & 15: You must provide your Louisiana driver's license number, if issued. If not issued, you must provide at least the last four digits of your social security number, if issued. The full social security number may be provided on a voluntary basis. If neither a social security number nor a driver's license has been issued, you must attach either a) a copy of a current and valid photo identification or b) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows your name and address.

Boxes 9,11 & 12: The items 'race/ethnic origin', 'daytime phone' and 'home phone' are not required but are helpful.

Box 8: If you do not complete this item, your party affiliation will be listed as 'none'.

Box 16: If you are using this form to request a change of name, you must print the name to be changed here.

Box 18: The signatures of two witnesses to your mark if you are unable to sign your name must be included here.

Box 19: Date and sign the card with your signature or mark.

If returned by mail, either complete the 'Mail to:' box found on the reverse side or place in an envelope, using the address of the appropriate registrar of voters found on the reverse side. If you have not been issued a social security number or Louisiana driver's license number, you must mail it in an envelope so that you can include the required documentation with your application. Your application or envelope must be postmarked 30 days prior to the first election in which you seek to vote based on the residence listed on this application.

NOTE: 1. If you received this application from a designated agency, should you decline to register to vote, this fact will remain confidential. If you register to vote, the office where your application was submitted will remain confidential and may be used only for voter registration purposes. 2. Your social security number is intended to be used for voter registration purposes only. (L.A. R.S.18:104(A)(19) and 154)

**QUESTIONS? Call your Parish Registrar of Voters. Check your local directory for the number. You may also call the Department of Elections and Registration at 1-800-825-3805.**

**COMPLETE AND CHECK ALL APPLICABLE BOXES AND TEAR ALONG PERFORATED LINE BEFORE MAILING.**

**LOUISIANA MAIL VOTER REGISTRATION APPLICATION**

1 CITIZEN OF THE UNITED STATES? (Circle One) Yes No

OFFICIAL USE ONLY — Reg Type — Precinct — Ward — Dist — Out

2 NAME OF APPLICANT: PLEASE PRINT — LAST — FIRST — MIDDLE OR MAIDEN NAME

GIVE LOCATION

3 RESIDENCE ADDRESS: MUST BE ADDRESS WHERE YOU CLAIM HOMESTEAD EXEMPTION, IF ANY — House or Apt. No. & Street or Rural Route & Box No. — CITY OR TOWN — STATE — ZIP

Mailing Address, if Different

4 AGE: DATE OF BIRTH — Month / Day / Year

5 SOCIAL SECURITY #

6 SEX (Circle One) — MALE FEMALE

9 RACE/ETHNIC ORIGIN (Circle One) — WHITE - - BLACK - - ASIAN - - HISPANIC - - AMER INDIAN — Other

8 PARTY AFFILIATION (Circle One) — DEM REP LDEM — OTHER (Specify)

10 APPLICANT'S PLACE OF BIRTH — City or Town — Parish or County — State — Country

11 DAYTIME PHONE ( )

12 HOME PHONE ( )

13 FORMER RESIDENCE AND REGISTRATION ADDRESS — Address — Parish or County — State

14 MOTHER'S MAIDEN NAME

15 LA DRIVER'S LIC. #

16 FORMER REGISTERED NAME, IF APPLICABLE

17 Assistance needed at polls? (Circle one) Yes No Give reason:

18 If you are unable to sign your name, two witnesses to your mark must sign here.

Signature — Signature

AFFIRMATION: I do hereby solemnly swear or affirm that I am a bona fide resident of this state and parish, that I am not currently under an order of imprisonment for conviction of a felony, that I am not currently under a judgment of interdiction for mental incompetence, and that the facts given by me on this application are true to the best of my knowledge and belief. If I have provided false information, I may be subject to a fine of not more than $1,000 ($2,500 for subsequent offense) or imprisonment for not more than 1 year (5 years for subsequent offense), or both. Any false statement may constitute perjury.

19 SIGN YOUR NAME IN BOX AT RIGHT.

Date: ___/___/___

* Last 4 #s required if no license issued; full # OPTIONAL
** OPTIONAL

LR-1M (REV. 03/03) R.S.18:104 FORM #01253

# APPENDIX 6

| | | | | | |
|---|---|---|---|---|---|
| ACADIA | Courthouse, #115 | GRANT | Chse, 200 Main St. | ST BERNARD | 8201 W.Judge Perez |
| Crowley LA | 70526-4183 | Colfax LA 71417-1826 | | Chalmette LA 70043-5932 | |
| ALLEN | P. O. Box 160 | Iberia | 300 W. Main St. #110 | ST CHARLES | P. O. Box 816 |
| Oberlin LA 70655-0150 | | New Iberia LA 70560-4543 | | Hahnville LA 70057-0315 | |
| ASCENSION | 828 S. Irma Blvd #103 | IBERVILLE | P. O. Box 554 | ST HELENA | P. O. Box 543 |
| Gonzales LA 70737-3431 | | Plaquemine LA 70765-0554 | | Greensburg LA 70441-0543 | |
| ASSUMPTION | P. O. Box 578 | JACKSON | 100 E. Court #102 | ST JAMES | P. O. Box 179 |
| Napoleonville LA 70390-0578 | | Jonesboro LA 71251-3400 | | Convent LA 70723-0179 | |
| AVOYELLES | 312 N. 2nd St #E | JEFFERSON | P. O. Box 10494 | ST JOHN | 1801 W. Airline Hwy |
| Marksville LA 71351-2409 | | Jefferson LA 70181-0494 | | LaPlace LA 70068-3344 | |
| BEAUREGARD | P. O. Box 952 | JEFF DAVIS | Chse, 300 State St. | ST LANDRY | P. O. Box 816 |
| DeRidder LA 70634-0952 | | Jennings LA 70546-5361 | | Opelousas LA 70571-0816 | |
| BIENVILLE | P. O. Box 697 | LAFAYETTE | 1010 Lafayette #313 | ST MARTIN | Chse, 415 S. Main |
| Arcadia LA 71001-0697 | | Lafayette LA 70501-6865 | | St.Martinville LA 70582-4549 | |
| BOSSIER | P. O. Box 835 | LAFOURCHE | 307 W. 4th St., #101 | ST MARY | 500 Main St. #301 |
| Benton LA 71006-0835 | | Thibodaux LA 70301-3915 | | Franklin LA 70538-5104 | |
| CADDO | P. O. Box 1253 | LASALLE | P.O. Box 2439 | ST TAMMANY | P.O.BOX 1815 |
| Shreveport LA 71163-1263 | | Jena LA 71342-2439 | | Covington LA 70434-1815 | |
| CALCASIEU | 1000 Ryan St. #7 | LINCOLN | 100 W.Texas Ave #10 | TANGIPAHOA | P. O. Box 885 |
| Lake Charles LA 70601-5502 | | Ruston LA 71270-4443 | | Amite LA 70422-0885 | |
| CALDWELL | P. O. Box 1107 | LIVINGSTON | P. O. Box 968 | TENSAS | P. O. Box 183 |
| Columbia LA 71418-1107 | | Livingston LA 70754-0968 | | St.Joseph LA 71366-0183 | |
| CAMERON | P. O. Box 549 | MADISON | 100 N. Cedar St. | TERREBONNE | P. O. Box 9189 |
| Cameron LA 70631-0001 | | Tallulah LA 71282-3992 | | Houma LA 70361-9189 | |
| CATAHOULA | P. O. Box 216 | MOREHOUSE | 129 N. Franklin | UNION | P. O. Box 235 |
| Harrisonburg LA 71340-0216 | | Bastrop LA 71220-3315 | | Farmerville LA 71241-0235 | |
| CLAIBORNE | 407 W.Main, Suite 101 | NATCHITOCHES | P. O. Box 677 | VERMILLION | 100 N.State St., #120 |
| Homer LA 71040-3914 | | Natchitoches LA 71458-0677 | | Abbeville LA 70510 | |
| CONCORDIA | 400 Carter St., #4 | ORLEANS | 1300 Perdido, #1W23 | VERNON | P. O. Box 938 |
| Vidalia LA 71373-3027 | | New Orleans LA 70112-1217 | | Leesville LA 71496-0938 | |
| DESOTO | 105 Franklin St. | OUACHITA | 400 St. John, #106 | WASHINGTON | 300 Washington St |
| Mansfield LA 71052-2046 | | Monroe LA 71201-7342 | | Franklinton LA 70438-1719 | |
| E. BATON ROUGE | P. O. Box 969 | Natchitoches | P. O. Box 969 | WEBSTER | 410 E. Main St. #214 |
| 222 St. Louis #201 | | Port Sulphur LA 70083-0969 | | Minden LA 71058-0674 | |
| Baton Rouge LA 70802-9680 | | POINTE COUPEE | 211 E. Main | WEST BATON ROUGE | P. O. Box 31 |
| E. CARROLL | 400 1st St. | New Roads LA 70760-3681 | | Port Allen LA 70767-0031 | |
| Lake Providence LA 71254-2695 | | RAPIDES | 701 Murray St. | WEST CARROLL | P. O. Box 71 |
| E. FELICIANA | P. O. Box 488 | Alexandria LA 71301-8099 | | Oak Grove LA 71263-0071 | |
| Clinton LA 70722-0488 | | RED RIVER | P. O. Box 432 | WEST FELICIANA | P. O. Box 2490 |
| FRANKLIN | 1001 Cameron St.,Suite 102 | Coushatta LA 71019-0432 | | St. Francisville LA 70775-2490 | |
| Vila Plaza LA 70586-4463 | | RICHLAND | P. O. Box 368 | WINN | Courthouse, Room 105 |
| FRANKLIN | Chse, 8550 Main St. | Rayville LA 71269-0368 | | Winnfield LA 71483-0961 | |
| Winnsboro LA 71295-2760 | | SABINE | 400 Capitol St | | |
| | | Many LA 71449-3996 | | | |

APPLICANT'S ADDRESS:

_____

_____

_____

PLACE STAMP HERE

OFFICIAL USE ONLY

Address change

_____

_____

_____

_____

Name change

_____

_____

_____

_____

Party change

_____

_____

Remarks

_____

_____

Cards Gen. PA HAV REG BDM SS

Received By _____

MAIL TO

REGISTRAR OF VOTERS

_____

_____

_____

_____

Regular Session, 2003

HOUSE BILL NO. 1594

BY REPRESENTATIVES K. CARTER, BAYLOR, BROOME, CURTIS, GALLOT, GLOVER, GREEN, GUILLORY, HONEY, HUDSON, HUNTER, L. JACKSON, M. JACKSON, LUCAS, MORRELL, MURRAY, PEYCHAUD, PIERRE, QUEZAIRE, RICHMOND, SWILLING, AND WELCH

AN ACT

To enact R.S. 18:18(A)(8), relative to the duties and powers of the secretary of state; to provide for the secretary of state to be responsible for the implementation of voter registration week; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:18(A)(8) is hereby enacted to read as follows:

§18. Secretary of state; commissioner of elections; powers and duties

A. The secretary of state shall administer the laws relating to custody of voting machines and voter registration, and for the purpose he shall:

* * *

(8)(a) Prescribe uniform rules, regulations, forms, and instructions as to standards for effective nonpartisan voter education, which shall be approved by the attorney general and thereafter shall be implemented uniformly by each registrar of voters in the state. In developing the standards, the secretary of state shall review current voter education programs within the state. The standards shall address but shall not be limited to voter education concerning voter registration, balloting procedures, both absentee and at the polling places, distribution of sample ballots, and effective voter education methods, including the use of public service announcements and other public awareness methods. By December fifteenth of each general election year, each registrar of voters shall report to the secretary of state a detailed description of the voter education programs implemented in his parish. The secretary of state, upon receipt of such information, shall prepare a report on the effectiveness of voter education programs and shall submit the report to the governor, the president of the Senate, and the speaker of the House of Representatives by January thirty-first of each year following a general election.

(b) Develop activities, events, informational posters and pamphlets, and public service announcements for the implementation of an annual voter registration week and generally be responsible for implementation of such week. It is the policy of the state of Louisiana to encourage full participation in voting by all citizens of this state. To this end, the official state voter registration week shall be the last full week which occurs two weeks prior to the close of registration records for the regular fall primary election.

* * *

Section 2. The provisions of this Act shall become effective at noon on January 12, 2004.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA
APPROVED:



# APPENDIX 7

Regular Session, 2003

HOUSE BILL NO. 1623

BY REPRESENTATIVES LEBLANC, LANCASTER, MURRAY, FAUCHEUX, THOMPSON, AND RICHMOND

AN ACT

To enact Chapter 8-B of Title 18 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 18:1400.21, relative to special treasury funds; to establish the Help Louisiana Vote Fund as a special fund in the state treasury; to establish accounts within the fund for certain purposes; to provide for deposit and use of monies in the fund; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 8-B of Title 18 of the Louisiana Revised Statutes of 1950, comprised of R.S. 18:1400.21, is hereby enacted to read as follows:

CHAPTER 8-B. HELP LOUISIANA VOTE FUND

§1400.21. Help Louisiana Vote Fund

A. The Help Louisiana Vote Fund is established as a special fund in the state treasury, hereinafter referred to as the "fund", for purposes of improving Louisiana's elections in accordance with the Help America Vote Act of 2002, hereinafter referred to as "HAVA".



B. The sources of money deposited into the fund shall be any federal monies received by the state pursuant to HAVA and any monies appropriated to the fund. State monies appropriated to the fund may be deposited in any account designated in the appropriation. After compliance with the requirements of the Bond Security and Redemption Fund, federal monies shall be deposited into the fund and allocated by the state treasurer to one of the following five accounts. Within ten days of receipt of any federal monies by the state treasurer, the secretary of state shall provide written instructions to the state treasurer with respect to the specific account into which such monies shall be deposited.

(1) The Election Administration Account is established within the fund, into which the state treasurer shall deposit monies received pursuant to Section 101 of Title I of HAVA with respect to improving administration of elections. Monies in this account shall be appropriated only for improving the administration of elections, acquisition of equipment and voting system technologies, and other requirements of Title III of HAVA with respect to uniform and nondiscriminatory election technology and administration.

(2) The Voting Systems Account is established within the fund, into which the state treasurer shall deposit monies received pursuant to Section 102 of Title I of HAVA with respect to replacement of punch card and lever voting systems or to reimburse the state for expenditures made after January 1, 2001, for replacement of such systems. Reimbursement monies received under Section 102 of Title I of HAVA which are deposited into this account shall be appropriated

only for the replacement of lever voting systems or to satisfy the state's responsibilities under Title II of HAVA. All other monies in this account shall be appropriated only for the replacement of lever voting systems.

(3) The HAVA Requirements Account is established within the fund, into which the state treasurer shall deposit monies received pursuant to Title II of HAVA designated as requirements payments. Monies in this account shall be appropriated only to meet the requirements of Title III of HAVA with respect to uniform and nondiscriminatory election technology and administration requirements, after which any residual amounts available may be used for improving administration of federal elections.

(4) The Voting Access Account is established within the fund, into which the state treasurer shall deposit monies received pursuant to Title II of HAVA with respect to assuring voting access for individuals with disabilities. Monies in this account shall be appropriated only for (a) improvement of polling places to ensure accessibility to individuals with disabilities in a manner that provides the same opportunity for participation, privacy, and independence as for other voters; and (b) providing disabled individuals with information about accessible polling places, including outreach programs and training for election officials.

(5) The College Program Account is established within the fund, into which the state treasurer shall deposit monies received pursuant to Title V of HAVA with respect to the Help America Vote College Program. Monies in this account shall be appropriated only for activities and programs to encourage



students enrolled at institutions of higher education to assist state and local governments in the administration of elections by serving as nonpartisan poll workers or assistants and to encourage state and local governments to use the services of such students.

C. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. Such monies shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the fund after compliance with the requirements of the Bond Security and Redemption Fund. The state treasurer shall annually allocate investment earnings among the five accounts proportionally based on the fund balance of each account at the time of the allocation.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED:

# APPENDIX 8





**HELP AMERICA VOTE ADVISORY COMMITTEE**
**AGENDA**
**MARCH 27, 2003**

I. Introduction of Committee Members and Staff

Election or Appointment of Chairman, Vice Chairman and Secretary

II. Summary of Help America Vote Act - Juliet E. Thompson

III. Explanation of Materials Provided

IV. Goals of Committee

Provisional Voting
Handicap Accessible Voting Systems
Publication
Voter Registration System
Complaint Procedure

V. Set Future Meeting Dates and Agendas

Meeting Number 2 - Provisional Voting and Statewide Voter Registration Database
Meeting Number 3 - Publication, Education Requirements, Vendor Demonstration
Meeting Number 4 - Voting Machine Accessibility
Meeting Number 5 - Funding

**HELP AMERICA VOTE ADVISORY COMMITTEE**
**MEETING 2 – VOTER REGISTRATION SYSTEM & PROVISIONAL VOTING**

I. MINUTES FROM MARCH 27, 2003 MEETING

II. VOTER REGISTRATION SYSTEM
- A. Requirements of HAVA
- B. Louisiana's current Voter Registration System
- C. Needed changes to Louisiana's Voter Registration System
  - Proposed legislation
  - Amendments to ERIN System
  - Amendments to OMV computer system
  - Amendments to Louisiana voter registration procedures
- D. Estimated cost of amending Louisiana's Voter Registration System

III. PROVISIONAL VOTING
- A. Requirements of HAVA
- B. Issues of application – State versus Federal Offices
- C. Needed changes to make Louisiana compliant with HAVA requirements
  - Proposed legislation
  - Provisional Ballots
- D. Estimated costs of instituting provisional voting

IV. OLD BUSINESS

V. NEW BUSINESS



**HELP AMERICA VOTE ADVISORY COMMITTEE**
**MEETING 3 – PUBLICATION AND EDUCATION**
**APRIL 28, 2003 – 10:00 A.M.**

I. MINUTES FROM MEETING 2 – APRIL 14, 2003

II. PUBLICATION
- A. Requirements of HAVA
- B. Louisiana's current election day publications
- C. Needed amendments and additions to Louisiana's election day publications
  1. Proposed legislation
  2. Amendments to current posters
  3. Amendments to handbook
  4. Additional posters and information
- D. Estimated cost of publication changes

III. EDUCATION
- A. Requirements of HAVA
- B. Louisiana's current poll worker, election official and voter education programs
- C. Needed changes to Louisiana's education programs
- D. Additional voter education
- E. Grant applications under Help America Vote College Program
- F. Estimated costs of instituting additional voter education programs

IV. OLD BUSINESS

V. NEW BUSINESS

**VENDOR DEMONSTRATION – HANDICAP ACCESSIBLE VOTING SYSTEMS**

**Meeting Number 4 – May 12, 2003 at 10:00 a.m.**

**HELP AMERICA VOTE ADVISORY COMMITTEE**
**AGENDA**
**MEETING 4 – VOTING SYSTEMS**
**MAY 12, 2003- 10: 00 A. M.**

I. MINUTES FROM MEETING NUMBER 3 – APRIL 28, 2003

II. VOTING SYSTEMS
- A. Requirements of HAVA
- B. Incentives provided by HAVA – Title I
- C. Louisiana's current voting systems and their compliance or non-compliance with HAVA
- D. Needed amendments and additions to Louisiana's voting systems
  - 1. Proposed legislation
  - 2. Retro-fits to voting systems currently in place
  - 3. Purchases of voting systems
- E. Handicap Accessible voting systems
  - 1. Requirements of HAVA
  - 2. Discussion of the systems demonstrated at Meeting 3
- F. Estimated cost of replacing voting systems

III. EDUCATION
- A. Discussion of proposals for voter and poll worker education
- B. Anticipated costs of such educational programs

IV. OLD BUSINESS

V. NEW BUSINESS

**Meeting Number 5 – May 22, 2003 at 10:00 a.m.**



**HELP AMERICA VOTE ADVISORY COMMITTEE**
**AGENDA**
**MEETING 5 – COMPLAINT PROCEDURE AND FUNDING**
**PRESS ROOM, 4TH FLOOR**
**LOUISIANA CAPITOL**
**JUNE 5, 2003 – 10:00 A. M.**

I. MINUTES FROM MEETING 4 - MAY 12, 2003

II. COMPLAINT PROCEDURE
- A. Requirements of HAVA
- B. Louisiana's current fraud investigation unit
- C. Needed changes to make Louisiana compliant with HAVA complaint requirements
  - 1. Proposed legislation
  - 2. Website changes
  - 3. 1-800 number
- D. Estimated cost of implementing the complaint procedure

III. FUNDING
- A. Requirements of HAVA
- B. Proposed legislation to create 254(b) fund
- C. Maintenance of Effort
- D. 5% state match
- E. State budget for meeting Title III requirements – Section 254(a)(6)
- F. Performance goals and measures for Title III compliance – Section 254(a)(8)

IV. ADOPTING STATE PLAN
- A. Discussion of draft plan
- B. Adoption of plan

V. OLD BUSINESS

VI. NEW BUSINESS

# APPENDIX 9



**HELP AMERICA VOTE ADVISORY COMMITTEE**
**AGENDA FOR PUBLIC MEETINGS**

I. Introduction of Presenters and Staff

II. Summary of Help America Vote Act and State Plan - Juliet E. Thompson

III. Public Comment
Time Limit: 5 minutes per person

IV. Closing Comments

# State of Maine

# Preliminary State Plan

## for the Implementation of the Help America Vote Act of 2002

*(Public Law 107-252)*

Dear Election Assistance Commission and Citizens of Maine,

I am pleased to submit to you the State of Maine Preliminary State Plan for the Implementation of the Help America Vote Act of 2002. The Help America Vote Act of 2002 (HAVA), enacted by Congress on October 29, 2002, is the most significant piece of federal election reform legislation in the past 30 years. The federal law seeks to enhance the accessibility and integrity of elections across the country and authorizes federal funding to assist states in meeting the law's requirements. HAVA presents Maine with an exciting opportunity to enhance our elections with an unprecedented level of resources. This Preliminary State Plan outlines Maine's strategy for complying with the federal requirements and refining our elections process.

Maine has a long and proud tradition of implementing election laws, procedures and practices to encourage a high level of voter access and participation and to instill confidence in the integrity and accuracy of election results. As a result, Maine is well positioned to meet many of the HAVA's requirements. However, the State's compliance with all requirements will necessitate substantial efforts at the State and municipal level and full funding by Congress.

I want to take this opportunity to thank the State Plan Advisory Committee, comprised of a variety of stakeholders, who worked with me to craft our plan. In Maine, the successful conduct of elections is a cooperative effort of State and municipal election officials. The success of our elections process also relies on the confidence and participation of all Maine citizens. The State Plan Advisory Committee has set out a framework for continued cooperation as we implement HAVA. They have worked to create a plan that will help ensure that every vote counts as intended and that no voter is excluded from the process.

This plan sets out an ambitious agenda for implementing HAVA and enhancing Maine's elections process. With the continued dedication of election officials, civic organizations and Maine's citizens, I am confident we will meet our goals and continue to lead the nation with citizen participation and voter confidence in our elections. I hope you will share your thoughts with us about this Preliminary State Plan, and Maine's election process.

Sincerely,

Dan A. Gwadosky
Maine Secretary of State

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## BACKGROUND AND OVERVIEW

The Help America Vote Act of 2002 (HAVA) is a landmark piece of election reform legislation that seeks to enhance the integrity of our elections process by establishing certain minimum standards for the conduct of federal elections. HAVA also authorizes the federal government to make funds available to states for the purposes of implementing the requirements of the law and making other election improvements.

In Maine, our election laws and practices are strong and we are already in compliance with several of the federal requirements contained in the Help America Vote Act, including the provisional voting requirements, most voting information requirements, and all voting system requirements except for the disability access provisions.

We will, however, need to obtain all possible funds to execute the requirements of HAVA that we do not meet. The single biggest challenge Maine faces in complying with HAVA is the development and implementation of a statewide computerized central voter registration list. Due to the current decentralized process of maintaining the voter registration lists in each municipality, implementation of the central voter registration list will require the greatest use of HAVA resources. Another significant challenge will be compliance with the disability accessibility requirements for voting systems. The planning, technology, and training necessary to implement these provisions require most of the resources available through HAVA. Without full funding, Maine will not achieve full compliance.

**Maine's Current Election Process**

State and Federal elections in Maine are conducted in a manner used mostly in the New England States, which dates back to our country's earliest traditions of government. Maine's election process is a partnership between the State and the municipalities.

The Secretary of State is the chief state election official, and has central authority to oversee the application of the State's election laws and procedures; approve voting machines for use by municipalities; train and advise municipal election officials in the proper conduct of statewide elections; design, prepare and distribute ballots and other election forms in a consistent format for all municipalities; collect and compile statewide reports of election results and voter registration figures; and conduct recounts centrally following uniform procedures. The staff of the Division of Elections carries out these election activities on behalf of the Secretary of State.

The conduct of elections and voter registration is decentralized, occurring in 503 separate voting jurisdictions. These jurisdictions include municipalities, plantations and a small number of unorganized townships that administer their own elections, and range in the number of registered voters from 2 to 50,799. Each jurisdiction has a Clerk, who is responsible for conducting elections, and a Registrar of Voters, who is responsible for voter registration activities. In many jurisdictions, one person holds both of these positions.

The local jurisdictions are responsible for determining the location of voting places; securing accessible buildings and arranging the voting area for each election; obtaining voting booths and other equipment necessary for the election; and electing or appointing election officials and ensuring their training. In addition, municipalities that do not wish to use hand-counted paper ballots must purchase State-approved voting machines.

There are a total of 627 precincts statewide. The majority of jurisdictions have a single voting precinct, while the larger municipalities have up to 20 precincts. As of the November 2002 General Election there were 950,059 registered voters in Maine. About 92% of the voting jurisdictions have fewer than 5,000 registered voters, and over 50% of the jurisdictions have fewer than 900 registered voters.

Maine is a leader in adopting laws and procedures that remove barriers to registration and voting, encourage full citizen participation in the electoral process, and provide uniform and consistent voting procedures for all voters across the State. Since 1973, Maine has permitted new residents to register to vote in person up to and during Election Day, and has eliminated the length of residency requirement. Voters have also been allowed to register to vote by mail since 1973, and signature notarization requirements were eliminated in the late 1980's. Maine provided voter registration at motor vehicle branches five years before it was required under the National Voter Registration Act (NVRA), and added opportunities for voter registration at a variety of social service and public agencies when NVRA was adopted.

For decades, Maine has allowed absentee voting under certain circumstances both by mail and in the presence of the municipal clerk. In 1999, the election law was amended to allow any voter to cast an absentee ballot for any reason. In recent years, Maine has also expanded access to absentee voting by allowing voters to obtain a ballot via a telephone request, an immediate family member, a designated third person, or voting in the presence of the municipal clerk in certain licensed residential facilities.

Maine law also includes a fail-safe voting system, in the form of the challenged ballot. Qualified voters whose names do not appear on the voting list, or who are unable to show satisfactory proof of identity and residency upon registering to vote on Election Day, must be allowed to vote a challenged ballot. The challenge process protects the voter's right to vote. It also protects the integrity of the system by marking challenged ballots for later retrieval and a determination of validity if the results of the election could be affected by those ballots.

In the 1980's and 1990's, the Maine municipalities that used older voting technologies (e.g. mechanical lever machines and punch card voting systems) replaced those systems with newer optical scan precinct tabulators. Although only 22% of Maine's voting jurisdictions use optical scan systems, over 65% of the voters in Maine vote using one of these systems. All others vote using paper ballots that are counted by hand.

The Office of the Secretary of State has pioneered the use of its website to provide a wealth of election information to the public. From information on upcoming elections, including the Citizen's Guide to the Referendum Election and candidate listings, to information on registering to vote and absentee voting, to the results of prior elections over the past decade, Maine has used the web to create a vital link between the citizens of Maine and their democracy.

In an effort to ensure that municipal election officials have the tools they need to conduct election and voter registration duties according to current laws and procedures, the Secretary of State has created educational and instructional materials and has conducted voluntary training sessions for municipal clerks and registrars in partnership with the Maine Town and City





Clerk's Association over the past decade. The Secretary of State also hosts a 2-day annual elections conference to combine specific training on election duties with other professional development sessions. In addition, Maine now requires that all municipal clerks and registrars attend at least one of these training programs during each two-year election cycle.

All of Maine's efforts to improve the accessibility and consistency of the State's voter registration and election processes have increased voter confidence in Maine's electoral process and likewise have increased voter participation dramatically in the last 30 years. In the Presidential Election of 1972, Maine's turnout was twenty-first in the nation. In the Presidential Elections of 1992 and 1996, Maine led the nation in voter turnout, and in 2000, Maine's turnout was second in the nation.

**The Future of Maine's Elections**

Maine, through the efforts of the Secretary of State, the Legislature, advocacy groups and other concerned citizens, has consistently updated its laws and procedures to enhance the integrity of the election process and increase citizen participation in democracy, and will continue to do so. HAVA bolsters those efforts by providing Maine with an unprecedented level of federal resources to make substantial election infrastructure improvements and technological advances. HAVA also mandates Maine to meet certain requirements. Full funding of HAVA will ensure that Maine meets these requirements.

This State Plan outlines Maine's approach to implementing HAVA. It does not attempt to address every detail of implementation, but provides a basic framework and budget for achieving compliance. Importantly, Maine recognizes that the requirements contained in HAVA are minimum requirements. This plan is not intended to prevent Maine from exceeding these minimum requirements.

State Plan Required Elements (HAVA §254)

## 1. Title III Requirements and Other Activities

*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. -- HAVA §254 (a)(1)*

### 1.A §301(a), Voting Systems Standards Requirements

*Deadline for Compliance: January 1, 2006; no waiver permitted.*

Maine has 503 municipal jurisdictions and 627 precincts where voting is conducted for federal and state elections. The State approves the voting systems that may be purchased by municipalities and prepares all ballots in a consistent format for these voting systems. Two categories of voting systems are currently used in Maine. Hand counted paper ballots are used by 394 municipalities, and optical scan ballots are used by 109 municipalities. (Optical scan ballots are also paper based, but are machine counted using precinct tabulators.)

**Hand Counted Paper Ballots**

| | | |
|---|---|---|
| Paper Ballot | 394 municipalities* | 401 voting precincts |

**includes unorganized townships that conduct their own voting*

**Optical Scan Ballot**

| | | |
|---|---|---|
| Accu-Vote ES-2000 | 36 municipalities | 72 voting precincts |
| Optech IIIP | 47 municipalities | 69 voting precincts |
| Optech IIIP Eagle | 24 municipalities | 83 voting precincts |
| ES&S Model 100 | 2 municipalities | 2 voting precincts |

**Verification and Correction of Ballots before Casting**
Since all voting systems in Maine currently use a paper ballot, voters can verify their vote selections in a private and independent manner before their ballots are cast and counted. Voters are permitted to change a selection or otherwise correct any error on their ballots by returning their spoiled ballot to the election clerk and requesting a replacement ballot. (Voters may obtain up to 2 replacement ballots, or a total of 3 ballots.)

All optical scan voting systems in use in Maine are capable of being programmed to notify voters of overvotes (multiple votes cast for a candidate or question) and return those ballots to the voter for an opportunity to correct the error using a replacement ballot. The Secretary of State (in conjunction with municipal election officials and the vendors charged with programming or maintaining these systems) will implement this programming change by January 1, 2006.

The Secretary of State already has an extensive voter education program for each voting system currently in use. The Secretary of State provides instructions on how a voter can correct an error through the use of a replacement ballot and will enhance these instructions to describe the effect of an overvote.





**Audit**
The paper ballots and paper based optical scan ballots used in Maine elections serve as the paper record required for manual audits. Maine already utilizes a manual recount system for all types of ballots, satisfying the manual audit capacity requirement.

**Disability Access**
Maine will not have enough resources, even with the federal funding, to replace all the existing voting systems with accessible units. However, Maine will improve its accessibility and satisfy this requirement by purchasing at least one direct recording electronic voting system (DRE), or other system equipped for individuals with disabilities, per voting precinct. Although past practice by the State of Maine has been for the Secretary of State to approve voting systems that may be purchased by municipalities, the Secretary of State will go through a process to select the DRE's, or other compliant systems, and undertake a statewide purchase of those systems by January 1, 2006. The Secretary of State will explore joint purchasing agreements with other states. The purchase may include ongoing programming and maintenance costs associated with the selected systems.

The process for selecting any systems will include input from municipal election officials, members of various disability communities, senior citizen representatives, and other interested parties. The Secretary of State will consider, among other functionalities, the requirements of Maine's challenged ballot procedure, alternative language capabilities, and flexibility in programming for various election formats. The Secretary of State will ensure that the systems to be purchased meet all federal requirements.

The Secretary of State will incorporate extensive voter education and poll worker training for the new systems into its existing education and outreach programs prior to the first election in which they are used.

**Alternative Language Accessibility**
Although no jurisdiction in Maine is subject to the alternative language accessibility requirements of Section 203 of the Voting Rights Act of 1965, voting systems approved in the future will be required to be capable of providing alternative language accessibility should it become necessary. In addition, the Secretary of State will monitor language trends throughout its various voting jurisdictions and will consider voluntary and targeted measures to increase citizen participation and access in those jurisdictions with significant populations of citizens who use languages other than English as their primary language.

**Error Rates**
Current voting systems used in Maine comply with the error rate standards established under section 3.2.1 of the voting system standards issued by the Federal Election Commission and in effect at the time that HAVA was enacted.

The following standard will apply to any new voting systems purchased by the State or approved by the Secretary of State for municipal purchase, including DRE's: For each processing function, the voting system shall achieve a target error rate of no more than 1 in 10 million ballot positions, with a maximum acceptable error rate in the test process of 1 in 500,000 ballot positions.

| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 301. VOTING SYSTEMS STANDARDS** | | |
| (a) REQUIREMENTS- Each voting system used in an election for Federal office shall meet the following requirements | | |
| (1) IN GENERAL- | | |
| (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall | | |
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | Meets. *Maine uses paper ballots and optical scan ballots. Optical scan ballots are paper based and can be verified before casting.* | |
| (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | Meets. *Maine utilizes a replacement ballot process. Voters may obtain up to 3 ballots.* | |
| (iii) if the voter selects votes for more than one candidate for a single office-- (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | Does not meet. | The State will ensure that machines are programmed to return any overvoted ballots to the voters; will instruct municipal election officials on how to handle these ballots; and, will prepare instructions for voters about overvotes and how to correct them. |
| (B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by | | |





All systems submitted for certification in Maine will be required to provide documentation by the Independent Testing Authority, indicating that their systems comply with these error rates.

**Uniform Definition of what Constitutes a Vote**

Maine has a uniform state law requiring a determination of voter intent and has a uniform central recount procedure.

Maine statute requires that election officials must count each vote based on voter intent, even when the ballot is marked in a way that differs from the instructions. Before every election, the Secretary of State provides each municipality with uniform instructions for counting ballots, including instructions on counting specific types of ballots such as challenged ballots, invalid vote ballots, defective ballots and void ballots. In addition, the Secretary of State provides municipal election officials with training on how to determine voter intent. This training is based on case law and includes examples of common ballot mis-markings that still show voter intent.

Further enhancing the uniform application of voter intent at the municipal level is the Secretary of State's exclusive, central authority to conduct recounts. All recounts follow a well-established, uniform recount procedure, which includes instructions on counting certain types of ballots and determining voter intent.

Although the framework for determining voter intent is uniform, the Secretary of State will work in consultation with municipal election officials and other stakeholders to further clarify and define voter intent for each category of voting system used in Maine. The Secretary of State will work to incorporate these definitions into either statute or rule by January 1, 2006.

| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Partially meets. *Maine has a voter education program specific to each voting system, but must add information about casting multiple votes for an office.* | Maine will incorporate information on the mechanics of voting (such as the effect of overvoting) into our voter education program (voting brochures and posters) and the ballot instructions. |
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error) | Partially Meets. *Maine posts one instruction poster in each voting booth and two are posted outside the guardrails at each polling precinct.* | Maine will add the specifics about an overvote to the instruction posters or create a separate poster. |
| (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | Meets. *Voting systems notification is done either by verbal instruction or by tape diagnostics.* | |
| (2) AUDIT CAPACITY- | | |
| (A) IN GENERAL- The voting system shall produce a record with an audit capacity for such system. | Meets. *All systems currently have a paper ballot.* | |
| (B) MANUAL AUDIT CAPACITY- | | |
| (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | Meets. *All systems currently have a paper ballot.* | |
| (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | Meets. *Maine utilizes a replacement ballot process. Voters may obtain up to 3 ballots.* | |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | Meets. *By policy, all recounts, even of optical scan ballots, are manually hand-counted.* | |
| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES- The voting system shall- | | |



| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | Does not meet. | Maine will satisfy this requirement through the use of at least one DRE, or other voting system equipped for individuals with disabilities, per polling place as provided in paragraph (3)(B). |
| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Does not meet. | Maine will use Title II funds to purchase one DRE, or other voting system equipped for individuals with disabilities, for each polling place by January 1, 2006. |
| (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph). | N/A | |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY- The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | N/A *No jurisdictions in Maine are subject to section 203 of the Voting Rights Act.* | |
| (5) ERROR RATES- The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | Meets. | |
| (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE- Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | Partially meets. *Maine has a uniform state law requiring a determination of voter intent and has a uniform central recount procedure.* | Maine will further clarify and define voter intent for each category of voting system and will incorporate these definitions into either statute or rule by January 1, 2006. |

## 1.B §302, Provisional Voting and Voting Information Requirements

*Deadline for Compliance: January 1, 2004; no waiver permitted.*

**Provisional Voting Requirements**

Maine's challenged ballot law (21-A M.R.S.A. §673) in combination with its Election Day registration law (21-A M.R.S.A. §122), meet the provisional voting requirements of HAVA. Maine law permits in-person voter registration on Election Day, and there is no length of residency requirement to qualify as a voter. Under current Maine law, any person whose name is not on the voting list on Election Day may show proof of identity and residency to the registrar and must then be allowed to vote. A voter whose name was removed from the voting list in error, may reinstate the registration at the polls, and be permitted to vote. A new voter who declares residency on Election Day, but does not have satisfactory proof of such residency, must be allowed to vote a challenged ballot. Maine's challenged ballot process achieves the required results of provisional voting.

Under Maine's challenged ballot law, an election official or any voter of a municipality may challenge the right of another person to vote in that municipality. A challenge of an in-person voter must be made to the election warden before that voter enters a voting booth. A challenge of an absentee voter must be made at the time that absentee ballot is being processed by the municipal clerk or election official, and before the ballot is placed in the ballot box or tabulating machine.

There are certain requirements that must be met for a challenge to be processed by the warden. If these requirements are met, the warden completes a challenge certificate, containing: the challenged voter's affirmation of the voter's qualifications and registration status; the signature and identifying information from the challenger, including the reason that the voter is being challenged; and the signature of the warden. The warden writes a unique number on the ballot as well as on the challenge certificate. This number is known only to the warden and the voter. The warden returns the ballot to the voter and the voter proceeds to vote in the usual manner. The warden seals the challenge certificate in an envelope, which is secured with the voted ballots and other materials at the end of Election Day. The warden also creates a public list containing the challenged voter's name, the name of the challenger and the reason for the challenge.

Challenged ballots are counted in the same manner as regular ballots on election night. The validity of a challenge is not reviewed unless a recount occurs, it is determined that there are a sufficient number of challenged ballots to affect the outcome of the election, and the recount remains disputed. In that event, the appropriate appeal authority promptly reviews any challenged ballots as well as ballots that were disputed during the recount, and makes a determination as to whether these ballots will be removed from the count.

**Instructions for municipal election officials**

The Secretary of State will provide municipal election officials with an informational sheet on the challenged ballot process that the election officials at each voting place can give to each challenged voter. The information sheet will detail how an individual can determine the status of a challenged vote. The Secretary of State will provide generic information on its web site that confirms that all challenged ballots have been counted, and provide an email address or





other electronic system where individual voters can request additional information. If there is a disputed recount, and any challenged voters are deemed not to be eligible, the Secretary of State will give notice to the individual voters affected.

**Voting Information Requirements**

For many years, Maine has had laws requiring the posting of voting information at the polls. In recent years, the Secretary of State has worked with adult literacy experts to produce all election information in a format that is most easily understood by voters. In addition, the Secretary of State is continually providing new and improved information and instructions for voters and election officials.

The Secretary of State provides certain instructional materials to each municipality for posting in each voting place. These materials include:

- A Notice of Election that is posted in a conspicuous place in each voting district, announcing the date and polling hours of the election, the location of the polling place in that district, and the offices and questions that will appear on the ballot. This notice must be posted at least 7 days prior to the election along with a sample ballot of each official ballot being used at that voting place.
- Instruction posters inform voters how to properly mark their ballot, how to cast a write-in vote, how to obtain assistance and what to do if they make an error. These posters are placed in each voting booth, and two additional instruction posters are located at the entrance to the voting place on Election Day. An enlarged instruction poster is placed in one of the voting booths in each precinct, that is further equipped with a magnifying device and an adjustable light.
- Two sample ballots of each official ballot being used at a voting place are posted at the entrance to that voting place on Election Day.
- A penalty poster that describes certain election law violations is posted at the entrance to each voting place on Election Day. In addition, this poster must be permanently posted at each voter registration location.
- A voting rights poster ("Your Right to Vote in Maine") is posted at the entrance to each voting place on Election Day. In addition, this poster must be permanently posted at each voter registration location.

Maine requires the posting of other election materials at the polls, including a certified copy of the voter registration list, a list of the persons appointed to be election clerks and information pertaining to the issues on the referendum ballot.

The Secretary of State will develop instructions on casting a challenged ballot and the requirements for mail-in registrants and first time voters described in section 303(b).

| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.** | | |
| (a) PROVISIONAL VOTING REQUIREMENTS- If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows: | Maine law permits in-person voter registration on Election Day, and there is no length of residency requirement to qualify as a voter. Under current Maine law, any person whose name is not on the voting list on Election Day may show proof of identity and residency to register and must then be allowed to vote. A voter whose name was removed from the voting list in error may reinstate the registration at the polls, and be permitted to vote. A new voter who declares residency on Election Day, but does not have satisfactory proof of such residency, must be allowed to vote a challenged ballot. Maine's challenged ballot process achieves the required results of provisional voting. | |
| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | Meets. | |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is-- | | |
| (A) a registered voter in the jurisdiction in which the individual desires to vote; and | Meets. | |
| (B) eligible to vote in that election. | Meets. | |



| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4). | Meets. *Information regarding challenged voters is verified promptly, as necessary, as part of the appeal of a disputed recount.* | |
| (4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | Meets. *A challenged ballot is counted on Election Day and at any recount, unless the number of challenges is sufficient to affect the outcome of the election, when the recount becomes disputed. During an appeal of a disputed recount, if a challenged voter is determined not to be eligible by the appeal authority, then the challenged ballot is removed from the count.* | |
| (5)(A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet. | Beginning January 1, 2004, Maine will provide an informational sheet on the challenged ballot process that the election officials at each voting place can give to each challenged voter. |
| (B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet. | Beginning January 1, 2004, Maine will provide generic information on the Secretary of State's web site that confirms that all challenged ballots have been counted, and will provide an email address where individual voters can request additional information. If there is a disputed recount, and any challenged voters are deemed not to be eligible, Maine will give notice to individual voters affected. |

| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| States described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot. | | |
| (b) VOTING INFORMATION REQUIREMENTS- | | |
| (1) PUBLIC POSTING ON ELECTION DAY- The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office. | Meets.<br>*Maine law currently requires the posting of certain voting information at each polling place on Election Day.* | |
| (2) VOTING INFORMATION DEFINED- In this section, the term 'voting information' means-- | | |
| (A) a sample version of the ballot that will be used for that election; | Meets.<br>*21-A MRSA §651 requires the posting of 2 sets of sample ballots of each type being used at each voting place to be posted in that voting place.* | |
| (B) information regarding the date of the election and the hours during which polling places will be open; | Meets.<br>*21-A MRSA §622-A requires the posting of a Notice of Election in each voting district, that provides the date of the election and the polling hours as well as other information specific to that election.* | |
| (C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; | Partially meets.<br>*21-A MRSA §605 and §651 requires the posting of one Instruction Poster inside each voting booth and two additional Instruction Posters at each voting place (along with the Sample Ballots above).* | Maine will either add instructions on casting a challenged ballot to the Instruction Poster, or will develop separate instructions on this issue to be posted at each voting place. |



| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (D) instructions for mail-in registrants and first-time voters under section 303(b); | Does not meet. | Maine will develop instructional material regarding mail-in registrants and first-time voters to be posted at each voting place. |
| (E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and | Meets.<br>*21-A MRSA §605 requires the posting of a Voter Rights Poster, that informs voters of their rights, including the right to vote a challenged ballot, at the entrances to each polling place and voter registration place.* | |
| (F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | Meets.<br>*21-A MRSA §605 requires the posting of a Penalty Poster, that informs voters of the penalties for election law violations, at the entrances to each polling place and voter registration place.* | |
| (c) VOTERS WHO VOTE AFTER THE POLLS CLOSE- Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order. | Meets.<br>*Maine has adopted of P.L. 2003 c.407 – "An Act to Comply With Federal Election Laws Including the Help America Vote Act of 2002", effective June 3, 2003. The law brings Maine into compliance with this requirement.* | |

## 1.C §303, Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail

*Deadline for Compliance: January 1, 2004; State can submit a certification stating "good cause" that will move the deadline for §303(a) compliance to January 1, 2006.*

The most significant challenge Maine faces in meeting the requirements of the Help America Vote Act is the development, implementation and management of a computerized statewide voter registration list as described in HAVA §303(a). Due to the decentralized nature of Maine's registration process, an enormous collaborative effort of the State and municipalities will be necessary to come into compliance with this particular requirement. The State will also need to invest the most significant portion of the funds made available under HAVA to ensure the success of this effort.

The State of Maine, like most other states, has at the foundation of its elections process a system for registering those citizens who are eligible to vote in local, state, and federal elections. As referenced earlier in this plan, Maine has consistently sought to ensure that the registration process is open, easy, and accessible to all eligible citizens, while maintaining the integrity of our elections. To prevent voter registration from becoming a barrier to citizen participation in our democracy, Maine has, for the past thirty years, allowed mail-in voter registration and in-person Election Day voter registration. Maine implemented voter registration at motor vehicle branches five years prior to implementation of the National Voter Registration Act. Maine law also permits voters, whose registration qualifications are questioned, to cast a challenged ballot.

Although Maine registration laws are uniform throughout the State, individual jurisdictions are responsible for the actual collection of registration data and maintenance of official voter registration lists. The Help America Vote Act provides Maine with a challenging mandate and an opportunity to enhance the citizen access, integrity, and administrative efficiency of our registration process by developing a computerized statewide voter registration list.

Currently, each municipality's registrar of voters is responsible for maintaining a list of residents who are eligible and registered to vote in elections. These official voter registration lists are maintained separately by 503 municipal jurisdictions, in a variety of disparate formats, including handwritten, typed, and computerized lists. The number of citizens registered to vote ranges from 2 in Maine's smallest jurisdiction to 50,799 in Maine's largest city. Nearly 400 municipalities have fewer than 2,000 registered voters.

The development of a computerized statewide voter registration list as described in HAVA will be a significant undertaking in Maine due to the State's current decentralized, municipal level voter registration process, and the rural nature of our state. This project will involve the acquisition of the technological capabilities for the State to administer the system, the integration of existing and varying municipal data, the development of the necessary infrastructural capabilities throughout the State, and extensive training for state and local election officials. A substantial portion of federal funds made available to the State of Maine under HAVA will be necessary for Maine to develop a computerized statewide voter registration system.





**Development and Implementation of List**

In anticipation of the federal requirement to develop a computerized statewide voter registration list, and in recognition of the benefits of developing such a system, Maine enacted enabling legislation to facilitate the list's development. Maine Public Laws 2001, Chapter 637 - *An Act to Establish a Centralized Voter Registration System for the State* (21-A MRSA §§191-195), sets forth the general process Maine will use to implement this requirement. The state law established a Centralized Voter Registration Advisory Committee, consisting of various stakeholders, to advise the Secretary of State with respect to planning for the centralized voter registration system. The law also creates a pilot program and calls for a staged implementation plan to bring the entire state online.

The Secretary of State has convened the Advisory Committee and is in the process of conducting a comprehensive needs assessment, defining the system parameters, and drafting a request for proposals (RFP). During this process, in addition to consulting with the members of the Advisory Committee, the Secretary of State may also consult with municipal election officials, state agencies, and other states to define the functional requirements of a computerized statewide voter registration list. The Secretary of State will also take necessary steps to ensure that the list will be coordinated with other agency data, specifically including data from the Bureau of Motor Vehicles and the Office of Vital Statistics.

The State may also consider hiring an outside consultant to assist with the needs assessment and drafting of a request for proposals (RFP) to build and implement the system. The RFP will incorporate each of the voter registration list requirements set out in HAVA. Maine's successful implementation of a computerized statewide voter registration list will require the combined efforts of state election officials, municipal election officials, other state agencies and any contracted vendor or vendors. The Secretary of State will coordinate these efforts and manage the implementation.

**Mail-in Registrations**

The Secretary of State and the State Plan Committee have reviewed Maine's registration procedures and have made modifications to those procedures, where necessary, to bring Maine into compliance with the requirements for voters who register by mail. Maine has established procedures to obtain the required ID for first time mail-in registrations received after January 1, 2003. The procedures include collecting required information prior to and on Election Day. The Secretary of State has also updated the voter registration card, mail-in voter registration acknowledgement procedures and forms to advise mail-in registrants of the HAVA requirements and to notify those with incomplete applications how they may complete their registrations. Maine's challenged ballot and Election Day voter registration laws will ensure that voters who fail to provide the required ID by the first federal election in which they vote will still be eligible for fail-safe voting in person or by mail.

Upon implementation of a computerized statewide voter registration list, Maine will be capable of matching the registrants' driver license numbers or the last 4 digits of their social security numbers with existing state identification records to confirm the ID of prospective registrants and to satisfy the ID requirements.

| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.** | | |
| (a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS- | | |
| (1) IMPLEMENTATION- | | |
| (A) IN GENERAL- Except as provided in subparagraph (B), each State, acting through the chief state election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the computerized list), and includes the following: | Does Not Meet. *In 2002, the Secretary of State secured passage of state enabling legislation to implement a computerized statewide voter registration list (PL 2001, c.637). Pursuant to this law, an advisory committee was named, and has been convened in 2003 to begin to review system parameters and draft an RFP.* | The Secretary of State anticipates the need to request a waiver of the 1/1/2004 deadline, and to evidence progress toward completing implementation by 1/1/2006. The State will develop and issue an RFP. Maine will implement the system first as a pilot program, and then will deploy the system in stages. |
| (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State. | Does Not Meet. | The RFP will include this requirement. |
| (ii) The computerized list contains the name and registration information of every legally registered voter in the State. | Does Not Meet. | The RFP will include this requirement. |
| (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | Does Not Meet. | The RFP will include this requirement. |





**Voter Registration Goals**

Maine, through its implementation of a computerized statewide voter registration list and its implementation of the requirements for those who register by mail, will seek enhanced access and ease of registration for voters, accuracy and integrity of voter registration information, administrative efficiencies, uniformity, and ease of operation by municipalities.

| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (iv) The computerized list shall be coordinated with other agency databases within the State. | Does not meet. | The RFP will include this requirement. The Secretary of State will coordinate the list with the databases of the Bureau of Motor Vehicles and the Office of Vital Statistics, and may draft rules governing this procedure. |
| (v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | Does not meet. | The RFP will include this requirement. |
| (vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | Does not meet. | Maine will address this requirement by policy or by rule. |
| (vii) The chief state election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). | Does not meet. | Maine will address this requirement by policy or by rule. |
| (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | Does not meet. | Maine will address this requirement by policy or by rule. |
| (B) EXCEPTION- The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office. | | |
| (2) COMPUTERIZED LIST MAINTENANCE- | | |
| (A) IN GENERAL- The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows: | | |



| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6). | Partially meets. *Maine currently meets the requirements of NVRA for voter list maintenance at the local level.* | The Secretary of State will explore statewide methods for list maintenance and will update procedures to be compatible with the new computerized list. |
| (ii) For purposes of removing names of ineligible voters from the official list of eligible voters-- (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death. | Does not meet. *Maine does not prohibit felons from voting, so it will not be necessary to coordinate the computerized list with State agency records on felony status.* | The Secretary of State will coordinate the list with the Office of Vital Statistics and will require this functionality in the RFP. |
| (iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. | N/A | |
| (B) CONDUCT- The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that-- | | |
| (i) the name of each registered voter appears in the computerized list; | Does not meet. | Maine will include this requirement in the RFP. |
| (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | Partially meets. *Maine currently meets this requirement at the municipal level.* | Maine will include this requirement in the RFP and will address in policy or rules. |
| (iii) duplicate names are eliminated from the computerized list. | Does not meet. | Maine will include this requirement in the RFP. |
| (3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST- The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | Does not meet. | Maine will include this requirement in the RFP. |

| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS- The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following: | | |
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | Meets. *Maine currently meets this requirement at the municipal level.* | The Secretary of State will monitor implementation of the computerized list and ensure ongoing compliance. |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | Meets. *Maine currently meets this requirement at the municipal level. Maine's Election Day registration law is an additional safeguard for voters.* | The Secretary of State will monitor implementation of the computerized list and ensure ongoing compliance. |
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION- | | |
| (A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS- | | |
| (i) IN GENERAL- Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes-- (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | Does not meet. | Maine will meet this requirement upon implementation of the computerized statewide voter registration system. |



| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER- If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | Does not meet. | Maine will meet this requirement upon implementation of the computerized statewide voter registration system. |
| (iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED- The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | Does not meet. | Maine will consider what verification of voter identification is necessary and will adopt rules as appropriate. |
| (B) REQUIREMENTS FOR STATE OFFICIALS- | | |
| (i) SHARING INFORMATION IN DATABASES- The chief state election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | N/A. *The Secretary of State is both the chief state election official and the chief motor vehicle authority, so no agreement is required.* | Maine will ensure that the intended information sharing occurs. |
| (ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY- The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). | Meets. | |
| (b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL- | | |
| (1) IN GENERAL- Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if-- | | |
| (A) the individual registered to vote in a jurisdiction by mail; and | | |

| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (B)(i) the individual has not previously voted in an election for Federal office in the State; or | | |
| (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | | |
| (2) REQUIREMENTS- | | |
| (A) IN GENERAL- An individual meets the requirements of this paragraph if the individual-- | | |
| (i) in the case of an individual who votes in person-- (I) presents to the appropriate State or local election official a current and valid photo identification; or (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; | Meets. *Maine has established procedures to collect the required information prior to and on Election Day. Voters without this information will be eligible for fail safe voting.* | |
| (ii) in the case of an individual who votes by mail, submits with the ballot-- (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter | Meets. *Maine has established procedures to collect the required information prior to and on Election Day. Voters without this information will be eligible for fail safe voting.* | |
| (B) FAIL-SAFE VOTING- | | |
| (i) IN PERSON- An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a). | Meets. *An election official designates and counts that ballot as a challenged ballot, as established in Maine law, and as previously described in this plan.* | |
| (ii) BY MAIL- An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | Meets. *An election official designates and counts that ballot as a challenged ballot, as established in Maine law, and as previously described in this plan.* | |
| (3) INAPPLICABILITY- Paragraph (1) shall not apply in the case of a person-- | | |



| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either-- | | |
| (i) a copy of a current and valid photo identification; or | Meets. *Maine has updated mail-in voter registration acknowledgement procedures and forms, to advise mail-in registrants of HAVA requirements.* | |
| (ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | Meets. *Maine has updated mail-in voter registration acknowledgement procedures and forms, to advise mail-in registrants of HAVA requirements.* | |
| (B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either-- (I) a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and | Does not meet. | The State will meet this requirement upon implementation of a statewide centralized voter registration program. |
| (ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | Does not meet. | The State will meet this requirement upon implementation of a statewide centralized voter registration program. |
| (C) who is-- | | |
| (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | N/A | |
| (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or | N/A | |
| (iii) entitled to vote otherwise than in person under any other Federal law. | N/A | |
| (4) CONTENTS OF MAIL-IN REGISTRATION FORM- | | |

| Requirement | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (A) IN GENERAL- The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: | | |
| (i) The question `Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | Meets. *Maine has updated the voter registration application to comply with this requirement.* | |
| (ii) The question 'Will you be 18 years of age on or before Election Day?' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on Election Day. | Meets. *Maine has updated the voter registration application to comply with this requirement.* | |
| (iii) The statement 'If you checked 'no' in response to either of these questions, do not complete this form.' | Meets. *Maine has updated the voter registration application to comply with this requirement.* | |
| (iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | Meets. *Maine has updated the voter registration application to comply with this requirement.* | |
| (B) INCOMPLETE FORMS- If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | Meets. *Maine has established a notification system for incomplete registrations under NVRA to encompass information sought under 303(4)(A)(i).* | |





**1.D §304, Minimum Requirements**

Maine understands that the requirements set forth in HAVA Title III are minimum requirements, and that the State may establish election technology and administration requirements that are more stringent. Any more stringent requirement that the State imposes will comply with all Title III requirements, as well as the laws described in HAVA §906.

**1.E §305, Methods of Implementation Left to Discretion of State**

Maine has chosen various means to comply with the requirements of HAVA Title III.

**1.F §311, Adoption of Voluntary Guidance by Commission**

Once the federal Election Assistance Commission (EAC) has issued its voluntary recommendations with respect to Title III, the State will consider that guidance in updating the State Plan. Maine will incorporate those recommendations deemed appropriate into any subsequent versions of its State Plan.

**1.G §312, Process for Adoption**

Maine will monitor the progress of the EAC on developing the Title III recommendations. If appropriate, the State will provide feedback during the public comment period after the recommendations are published in the Federal Register and participate in public hearings regarding the recommendations.

**1.H HAVA §251(b)(2) – Other Activities**

Maine does not currently plan to spend requirements payments for other activities as defined in HAVA §251(b)(2). However, Maine anticipates that it will not receive requirements payments in excess of the minimum payment amount applicable under HAVA §252(c), and thus any expenditure for such activities would be permissible.

## 2. Maine's Distribution of Requirements Payment

*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). -- HAVA §254 (a)(2)*

### 2.A Eligibility of local units to receive the payment

Since the Secretary of State will bear the primary responsibility for achieving the Title III requirements, the State's implementation costs will consume most or all of the requirements payments. Therefore, Maine does not anticipate being able to grant money to municipal jurisdictions at this time.

However, should it become necessary and possible to disburse funds to municipal jurisdictions to implement the Title III requirements, Maine will establish the eligibility criteria for local units to obtain the funds based on the level of funding available, and the extent of the requirements to be met at the municipal level.

Note: The State will provide such support as is feasible and appropriate to the municipalities if they seek HAVA grants outside the scope of requirements payments.

### 2.B Performance measures for local units

If it becomes possible to disburse funds to municipalities to meet the Title III requirements, the Secretary of State will ensure that municipal expenditures are subject to the controls and review outlined in this section. Local units will be responsible to account for all expenditures, funding levels, program controls, and outcomes. The Secretary of State will monitor the performance of local units in three areas: financial controls, compliance with standards, and program results.

Financial Controls: The Secretary of State will develop and use standard financial reporting for all local initiatives funded by requirements payments.

Compliance with Standards: The Secretary of State will develop and use standard program management reporting for all local initiatives that are funded by requirements payments.

Program Results: The Secretary of State will develop key performance indicators (KPI) for each local initiative funded by requirements payments.





## 3. Voter Education, Election Official Education and Training, and Poll Worker Training

*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. -- HAVA §254 (a)(3)*

The State of Maine recognizes that voter education, election official education and training, and poll worker training are vital for the successful conduct of elections and the implementation of election reform measures. To ensure that voters, election officials and poll workers are comfortable with the processes and technologies utilized, Maine has developed extensive outreach, education, and training materials and procedures. These include:

- A mandatory training requirement for municipal election officials (the municipal clerk and the municipal registrar of voters must attend training in their area of election administration at least once every two years) [21-A M.R.S.A. §505(7-A) and §101(9)]
- Posters (Voting Instruction Posters, Voters' Rights Poster, etc.)
- Pamphlets (How to Register/Absentee Voting...)
- A Citizens Guide to the Referendum Election, describing the intent and content of citizen initiatives, referenda, and constitutional amendment questions
- Web site (www.maine.gov/sos/cec/elec.htm)
- Voter outreach efforts (Promote the Vote/Mock Elections)
- Existing municipal training and education programs (i.e. annual elections conference, regional training seminars, and various presentations before civic groups)

The Secretary of State will incorporate new processes (e.g. ID provisions, administrative complaint procedure) and technologies (e.g. DRE's, computerized statewide voter registration system) into existing education and outreach programs. The Secretary of State will also review existing programs with input from various stakeholders (possibly including educators and marketing experts) and where appropriate expand or establish new programs. These programs will include training developed specifically for poll workers.

In Maine, the Secretary of State has initiated several efforts aimed at involving youth in our democratic process. Specifically, Maine has organized statewide Student/Parent Mock Election programs, has developed election websites targeting youth, has joined with MTV to send Birthday/Registration cards to those turning 18 years old, and has worked with Promote the Vote committees to target advertisements and other outreach messages to young citizens. To strengthen these efforts, and to increase the pool of qualified poll workers, the Secretary of State will explore education and outreach possibilities made available through the Help America Vote College Program (HAVA Title V) and the Help America Vote Foundation (HAVA Title VI).

The Secretary of State is committed to ensuring that all citizens have full and complete access to Maine elections. Outreach and education designed and targeted for various disability communities are critical to achieving this goal. The Secretary of State will work with advocacy groups for individuals with disabilities to educate voters about election accessibility issues.

The Secretary of State will also explore ways to incorporate accessibility training and cultural sensitivity training into its election official and poll worker training programs and materials.

The Secretary of State may also consider voter outreach and education programs or materials designed for citizens who use languages other than English as their primary language.





## 4. Voting System Guidelines and Processes

*How the State will adopt voting system guidelines and processes, which are consistent with the requirements of section 301. -- HAVA §254 (a) (4)*

Voting systems currently utilized in the State of Maine are capable of being modified to comply with the provisions of Title III, except that disability accessibility requirements will require the addition of one DRE, or other voting system for individuals with disabilities, per voting precinct. Requirements in Title III will be met through a revision of Maine's election laws, rules, and procedures. In anticipation of some of the federal requirements, Maine has already adopted enabling legislation for the creation of a statewide centralized voter registration system and for mandatory training.

## 5. Maine's HAVA Fund Management

*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. -- HAVA §254 (a) (5)*

The Secretary of State, in conjunction with the Legislature, has established an Election Fund as described in HAVA §254 (b). This fund is kept separate and distinct from all other program funds under the Department of the Secretary of State. The Election Fund consists of a federal account (for the receipt and expenditure of federal funds) and a state dedicated account (for the receipt of and expenditure of state match funds). Each account in the fund is non-lapsing and will accrue interest earned.

The Secretary of State will work with the Department of Administrative and Financial Services, the Maine State Treasurer, and the Department of Audit to follow and enforce all mandated fiscal controls and policies.





## 6. Maine's HAVA Budget

*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. -- HAVA §254 (a)(6)*

### Funding Assumptions

Maine used the following Federal and State funding assumptions, when developing its HAVA activities budget.

**Maine's HAVA Funding Eligibility**

| | Federal Funding | Required State Match* | Based On |
|---|---|---|---|
| 2003 Title I | $5,000,000 | N/A | FY 2003 Federal Authorization |
| 2003 Title II | $7,000,000 | $368,421 | FY 2003 Federal Authorization |
| 2004 Title II | $5,000,000 | $263,158 | FY 2004 Federal Authorization |
| 2005 Title II | $3,000,000 | $157,895 | FY 2005 Federal Authorization |
| **Total Funds** | **$20,000,000** | **$789,474** | |

**The state match is equal to 5% of the total amount of federal and state funding made available for meeting the requirements of the law.*

The duration of the State's budget is based on HAVA deadlines and funding. Full funding of the HAVA authorizations is crucial to Maine's successful implementation of the law's requirements. Maine also anticipates that the ongoing costs of operating and maintaining the new DRE (or other voting system for individuals with disabilities) and the statewide voter registration list will be considerably higher than the State's maintenance of effort level. Therefore, Maine's maintenance and operation of HAVA compliant systems in years 2006 and beyond will require ongoing federal and state funding.

## Proposed HAVA Activities Budget

Maine made the following additional assumptions in preparing the budget:

- Providing a precise estimate of the cost for the statewide voter registration list is not possible until Maine has completed its needs assessment and developed the RFP. Until that time the estimate is presented as a range.
- The State is planning to purchase a minimum of one DRE or other suitable voting system per voting precinct. Additional DRE's may be purchased if sufficient funds are available to meet all other HAVA requirements.

### The State of Maine's 2003-2005 Help America Vote Act Implementation Budget

| HAVA Requirements | Title I Funds | Title II Funds | State Match | Estimated Total Cost |
|---|---|---|---|---|
| **Voting System Standards (sec. 301)** (Purchase, Implementation, Administration and Maintenance of DRE's or other compliant voting systems) | $500,000 | $4,500,000 to $9,500,000 | $236,842 to $500,000 | **$5,236,842 to $10,500,000** |
| **Computerized Statewide Voter Registration List (sec. 303)** (Purchase, Implementation, Administration and Maintenance) | $2,700,000 | $5,500,000 to $10,500,000 | $289,474 to $552,632 | **$8,489,474 to $13,752,632** |
| **Voter Education and Outreach and Election Official Training to Assist in Meeting Title III Requirements (sec. 254)** | $750,000 | $0 | $0 | **$750,000** |
| **State Plan Creation and Management of HAVA Implementation (sec. 101 & 254)** | $450,000 | $0 | $0 | **$450,000** |
| **Additional Compliance and Election Improvement Activities (sec. 101, 251, 402)** (Enhancements to Election Management Systems and Processes, Administrative Complaint Procedures, Polling Place Accessibility) | $600,000 | $0 | $0 | **$600,000** |
| **All Activities** | **$5,000,000** | **$15,000,000** | **$789,474** | **$20,789,474** |

* Unspent federal funds will be set aside in the state Election Fund for payment of long-term costs of complying with HAVA.





## 7. Maintenance of Effort

*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. -- HAVA §254 (a)(7)*

In compliance with section 254 (a)(7) of HAVA, Maine will maintain the State's expenditures, on activities similar to those funded by the requirements payment, at the same level as expended on these activities in the State's Fiscal Year 2000, which covered the period from July 1, 1999, through June 30, 2000. Maine's total expenditures for these activities in FY00 were $429,299.

State and federal elections are administered through a partnership between the Secretary of State's Office (Division of Elections) and 503 municipal jurisdictions. The State produces and distributes the ballots, forms and instructional materials necessary for local jurisdictions to conduct the state and federal elections; provides oversight and education for municipal election officials in their administration of voter registration and election duties; and conducts recounts and tabulates the election results. Municipal election officials provide the equipment and staff for the polling places in their jurisdiction, including voting machines or automatic tabulating devices (if they do not wish to hand-count their ballots); as well as the staff and equipment to prepare and maintain the list of voters for their jurisdiction.

The State does not have a separate budgetary line or account for election administration. State election expenditures include personnel costs for the elections staff; general operating costs to maintain the office and support election administration during the fiscal year; and costs that have been specifically attributed to each election held during the election year. The election specific costs include the printing and distribution of ballots for the election; and the preparation and distribution of forms and instructional materials for municipalities to conduct the election.

The two year election cycle always includes a State Primary Election in the even fiscal year and the General Election in the odd fiscal year. The election specific costs of the State Primary and General Elections are similar. The dollar amount calculated for the FY00 maintenance of effort only includes the specific election costs for the June 2000 State Primary Election. Although in Fiscal Year 2000, Maine also conducted a Presidential Preference Primary and a State Referendum Election, the specific costs attributed to these elections is not included in the baseline maintenance of effort figure. The March 2000 Presidential Preference Primary costs were not included because the current Legislature is in the process of repealing this election. Since there will be no future expenditures for a preference primary election, Maine did not add these costs to its maintenance of effort calculation. The November 1999 State Referendum Election costs were also not included, because this election does not occur in each fiscal year.

Although Maine did not add the dollar amount of expenditures for these two elections to its maintenance of effort baseline figure, Maine will continue to expend state funds to support the election-specific costs, as described above, for any state or federal election held during any fiscal year. Maine will not expend requirements payments on these election-specific activities. Moreover, Maine will not include the amount of state funds spent to cover the specific costs of conducting elections other than the State Primary or General Election when it calculates the expenditures that go toward the future maintenance of effort amount.

## 8. HAVA Performance Goals and Measures

*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. -- HAVA §254 (a)(8)*

The Secretary of State will adopt performance goals and measures to determine the success of the State and municipalities in carrying out the elements of Maine's State Plan. Each element of the plan that requires "Actions Planned" to ensure Maine's compliance with HAVA, will be incorporated into the performance goals and measures. The Secretary of State will develop implementation schedules for each major project area outlined below, and will measure progress towards meeting the target dates established in each project schedule. Further, the Secretary of State will periodically monitor the implementation efforts by reviewing program results as measured through the use of key performance indicators (KPI) for each implementation step. The Secretary of State will also periodically review and update performance goals and measures as implementation steps are further developed.

### Performance Deadlines and Responsibilities

| HAVA Requirements | Responsible Official(s) | Deadline for Implementation |
|---|---|---|
| **Voting System Standards (sec. 301)** (Purchase, Implementation, Administration and Maintenance of DRE's or other compliant voting systems) | Secretary of State and municipal election officials | January 1, 2006 |
| **Computerized Statewide Voter Registration List (sec. 303)** (Purchase, Implementation, Administration and Maintenance) | Secretary of State and municipal election officials | January 1, 2004 (January 1, 2006 with waiver) |
| **Voter Education and Outreach & Election Official Training to Assist in Meeting Title III Requirements (sec. 254)** | Secretary of State and municipal election officials | January 1, 2003 – January 1, 2006 |
| **State Plan Creation and Management of HAVA Implementation (sec. 101 & 254)** | Secretary of State and State Plan Advisory Committee | September 30, 2003 – December 31, 2006 |
| **Additional Compliance and Election Improvement Activities (sec. 101, 251, 402)** (Enhancements to Election Management Systems and Processes, Administrative Complaint Procedures, Polling Place Accessibility) | Secretary of State and municipal election officials | September 30, 2003 – December 31, 2006 |





## 9. State-Based Administrative Complaint Procedures

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. -- HAVA §254 (a)(9)*
*Deadline for Compliance: Prior to certification of State Plan, but no later than January 1, 2004; no waiver permitted.*

**Maine's Current Election Complaint Procedure**
Maine currently has a simple, expeditious system for handling election questions and complaints. First, people can easily contact the clerk or registrar of voters in their municipality to either obtain election information or make a complaint about an election issue. Many questions or complaints are resolved at the local level, without the assistance of the Secretary of State's Office. However, local election officials frequently call the Secretary of State's Division of Elections for help with answering questions and resolving election complaints.

In addition, the Division of Elections receives hundreds of phone calls and e-mails in the weeks before each election, and typically receives hundreds of calls on Election Day itself. Most of these contacts involve questions about election law or procedure, or requests for information. The Division of Elections is able to quickly respond to these questions or informational requests.

A small number of contacts involve complaints about something that is occurring or has occurred on Election Day. The Division of Elections works to determine whether there is a violation of election law or procedure, and seeks an immediate resolution or remedy. A remedy may provide corrective action for the complainant, or may provide future corrective actions to prevent further violations of a similar nature during the current or future elections.

Some calls or written complaints are received after Election Day. The Division of Elections obtains information from the complainant in writing, and contacts the appropriate election officials for further information or rebuttal of the complaint. Once all the information is received, the Division of Elections determines whether there has been a violation of election law or procedure. If there has been no violation, the Division of Elections provides the information orally to the complainant and the respondent. If there has been a violation of law or an incorrect procedure was followed, the Division of Elections advises both parties about the corrective action verbally and in writing.

**Maine's Proposed Administrative Complaint Procedure**
While the current process for resolving election complaints is effective, uniform and nondiscriminatory, it does not meet the specific requirements in section 402 of HAVA. Therefore, the Secretary of State has adopted a rule establishing an administrative complaint procedure to resolve alleged violations of Title III of HAVA. The rule was adopted after an opportunity for a public hearing and a public comment period, pursuant to Maine's Administrative Procedure Act. The new process established by rule is intended to supplement, not substitute for, the more expedient process of resolving election complaints described above. The rule, 29-250 CMR Chapter 510 - *Administrative Complaint Procedure for Title III of the Help America Vote Act of 2002 (HAVA)*, may be obtained by contacting the Office of the Secretary of State and is available online at www.maine.gov/sos/cec/rcn/apa/29/chaps29.htm.

| Requirement | | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| **SEC. 402. ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES** | | | |
| (a) ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES | | | |
| (1) ESTABLISHMENT OF PROCEDURES AS CONDITION OF RECEIVING FUNDS- If a State receives any payment under a program under this Act, the State shall be required to establish and maintain State-based administrative complaint procedures which meet the requirements of paragraph (2) | | Meets. | |
| (2) REQUIREMENTS FOR PROCEDURES- The requirements of this paragraph are as follows: | | | |
| | (A) The procedures shall be uniform and nondiscriminatory. | Meets. | |
| | (B) Under the procedures, any person who believes that there is a violation of any provision of title III (including a violation, which has occurred, is occurring, or is about to occur) may file a complaint. | Meets. | |
| | (C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint. | Meets. | |
| | (D) The State may consolidate complaints filed under subparagraph (B). | Meets. | |
| | (E) At the request of the complainant, there shall be a hearing on the record. | Meets. | |



| Requirement | | State of Maine's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| | (F) If, under the procedures, the State determines that there is a violation of any provision of title III, the State shall provide the appropriate remedy. | Meets. | |
| | (G) If, under the procedures, the State determines that there is no violation, the State shall dismiss the complaint and publish the results of the procedures. | Meets. | |
| | (H) The State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period, which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination. | Meets. | |
| | (I) If the State fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures. | Meets. | |

## 10. Effect of Title I Payments

*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. -- HAVA §254 (a)(10)*

Maine has received $5 million in Title I payments. These payments are critical to Maine's implementation of HAVA. Funds will be used for:

| HAVA Requirements | Title I Funds |
|---|---|
| **Voting System Standards (sec. 301)** (Purchase, Implementation, Administration and Maintenance of DRE's or other compliant voting systems) | $500,000 |
| **Computerized Statewide Voter Registration List (sec. 303)** (Purchase, Implementation, Administration and Maintenance) | $2,700,000 |
| **Voter Education and Outreach & Election Official Training to Assist in Meeting Title III Requirements (sec. 254)** | $750,000 |
| **State Plan Creation and Management of HAVA Implementation (sec. 101 & 254)** | $450,000 |
| **Additional Compliance and Election Improvement Activities (sec. 101, 251, 402)** (Enhancements to Election Management Systems and Processes, Administrative Complaint Procedures, Polling Place Accessibility) | $600,000 |
| **All Activities** | **$5,000,000** |





## 11. Maine's HAVA State Plan Management and Changes to State Plan from Previous Fiscal Year

*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). -- HAVA §254 (a)(11)*

*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. -- HAVA §254 (a) (12)*

**State Plan Management**

The Secretary of State will be responsible for the ongoing management of this plan. The Secretary of State will review reports and performance measurements to track the success of implementation and will delegate tasks as necessary to ensure the State meets goals and objectives set forth in this plan, in a timely manner. Should it become necessary to make any material change in the administration of this plan, the State will pursue the state planning procedure, public notice and comment, and publication requirements described in Title II of HAVA.

**Changes to State Plan from Previous Fiscal Year**

This FY 2003 State Plan is Maine's inaugural plan under HAVA. Should it become necessary to make changes to the plan, this section of the plan will be updated to reflect those changes, and to describe how the State has succeeded in implementing the plan.

## 12. State Plan Development and Committee

*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 255 and section 256. - - HAVA §254 (a)(13)*

The State of Maine's committee consists of individuals representing a cross-section of election stakeholders. The State Plan Committee was selected by Secretary of State Dan A. Gwadosky, the State of Maine's chief election official.

Members of the State Plan Committee, and the primary qualification of each for inclusion on the committee, are as follows:

| | |
|---|---|
| Dan A. Gwadosky | Secretary of State |
| Joseph E. Clark | State Representative, Maine House of Representatives |
| Linda C. Cohen | City Clerk, City of Portland |
| Julie Flynn | Deputy Secretary of State |
| Arthur F. Mayo III | State Senator, Maine State Senate |
| Kathleen M. Montejo | City Clerk, City of Lewiston |
| Kim Moody | Disability Rights Center |
| Kenneth F. Morgan | Maine AFL-CIO |
| Nancy G. Nichols | City Clerk, City of Presque Isle |
| Steve Obremski | The Iris Network |
| Alison Smith | League of Women Voters of Maine |
| Rebecca Sockbeson | University of Southern Maine, Multicultural Student Affairs |
| Rhonda L. Stark | Town Clerk, Town of Skowhegan |
| Charlene Thompson | Maine AARP |

The committee will comply with filing, publication, and public notice and comment requirements established in HAVA §255 and §256.

Staff Contact:

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Office of the Secretary of State
148 State House Station
Augusta, Maine 04333-0148
(207) 626-8400

# State of Maryland

# State Plan

As required by Public Law 107-252,
Help America Vote Act 2002, Section 253 (b)

**Robert L. Ehrlich, Jr., Governor**
**100 State Circle**
**Annapolis, MD 21401**

**Linda H. Lamone, Administrator**
**Maryland State Board of Elections**
**151 West Street, Suite 200**
**Annapolis, MD 21401**

May 14, 2003

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## INTRODUCTION BY THE GOVERNOR OF MARYLAND

**STATE OF MARYLAND**
*OFFICE OF THE GOVERNOR*

ROBERT L. EHRLICH, JR.
GOVERNOR

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100 STATE CIRCLE
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TTY USERS CALL VIA MD RELAY

May 13, 2003

Dear Friends:

I am proud to present for public inspection and comment the Maryland State Plan as required by the *Help America Vote Act of 2002* (HAVA). The Act, signed into law by President George W. Bush, enacts numerous election reform measures and authorizes federal funds to help states and localities implement these important changes. In short, as declared by President Bush, the Act will "ensure the integrity and efficiency of voting processes in Federal elections by providing Federal governmental support for that vital endeavor."

Interestingly, many of the reforms presented before the United States Congress during the discussions leading up to the passage of HAVA had already been addressed in Maryland. Over the past several years, the General Assembly and the executive branch worked to make necessary changes in the State Election Article, the Code of Maryland Regulations (COMAR) and the State Board of Elections management procedures.

A great deal remains to be done to satisfy all the requirements of HAVA. The State of Maryland welcomes the challenges and the opportunities as well as the financial commitment of the Federal government to assist in complying with HAVA.

I would like to offer my appreciation to the bipartisan State Plan Committee of State and county election officials, representatives of advocacy groups and citizens who assisted in developing the State Plan. Their hard work will help us to improve voter registration and election management processes in Maryland.

Very truly yours,

Robert L. Ehrlich, Jr.
Governor

## INTRODUCTION BY THE STATE ADMINISTRATOR OF ELECTIONS

I am pleased to offer the Maryland State Plan. Section 253(b) of the Help America Vote Act of 2002 (HAVA) requires each state to develop a long-range plan for implementing the Act. HAVA requires the state and local governments to significantly reform election processes and systems. On behalf of the Maryland elections community, I am proud to say that we, with the support of both the Governor and the General Assembly, began election reform well before the enactment of HAVA. With the appropriate federal financial support, the State of Maryland will have the opportunity to build upon our strong foundation of current election reform and accomplishments.

The State Plan, developed in conjunction with the State Plan Committee, establishes a framework for continuing progress in election reform and achieving compliance with HAVA. The Committee is comprised of a cross-section of the Maryland election community and other stakeholders.

Although HAVA increases responsibility for election administration at the State level in order to establish consistency across localities, the State Board of Elections acknowledges that the local boards of elections are charged with the conduct of elections and are critical to the elections process. Throughout the election reform efforts, the State Board will continue to encourage coordination with the local boards of elections and knowledge sharing on local innovations and successes.

Within the State Plan, Maryland also encourages election accessibility for individuals with disabilities and those with alternative language considerations. Maryland has already taken significant steps to improve polling place accessibility and is in the process of implementing an accessible, uniform statewide voting system. We will continue to strive toward accessibility throughout all aspects of the elections process.

Improving the military and overseas voting process is an important element of HAVA, though separate from the State Plan. The State Board of Elections will serve as the central point of contact in the State for all issues related to military and overseas voting.

Maryland will update and refine the State Plan as necessary over time, to reflect election reform progress and future plans. We welcome the challenges of HAVA and the financial support from the federal government in our continuing efforts to lead the nation in election reform.

Linda H. Lamone, Esq.
State Administrator of Elections

## STATE PLAN APPROACH

The Maryland State Board of Elections (SBE), comprised of the Administrator as the chief State election official, the five-member State Board as the principal authority, and 30 employees, is responsible for administering and supervising elections conducted by the 24 Local Boards of Elections (LBEs) in the State. The LBEs and their respective local governments have the majority of fiscal responsibility for elections. Collaboration between the LBEs and SBE is essential to the conduct of successful elections. In addition to fulfilling federal election responsibilities, the State's elections community works cooperatively to serve State government, approximately 2.8 million registered voters, and over 1,700 political campaigns.

Before the State's 2002 Gubernatorial Election, SBE successfully adopted a number of election reforms. SBE introduced provisional balloting and a new voter registration system (VRS), replaced the remaining punch card and lever machines with Direct Recording Electronic (DRE) voting units, expanded physical accessibility of polling places, and implemented continuous voter registration from one local jurisdiction to another (eliminating the need for re-registration when a voter moves within the State). Through these programs, SBE has shown that it has a vision for election reform. The challenge for the State is to implement that vision in compliance with the Help America Vote Act (HAVA).

Despite these election reform efforts already complete or in progress, considerable effort and resources are necessary for the State to meet HAVA requirements. SBE will need to upgrade systems, redesign processes, and revamp training. SBE's ability to provide ongoing operations and maintenance of new capabilities is dependent on adequate resources and funding. In addition, SBE must address core infrastructure needs to provide a solid foundation to sustain new technology and processes. Additionally, the success of the State's election reform efforts requires implementation at an appropriate point in the election cycle, so that LBEs may use new processes in a timely manner.

This State Plan is organized as specified in HAVA §254. Each section of this document corresponds to a subsection of §254 and addresses a State Plan requirement specified in HAVA. The Plan outlines program milestones to address large-scale system or procedural changes. Additionally, where appropriate, compliance matrices are included to outline the detailed requirements of HAVA, describe the State's current status in regard to those requirements, and define the actions planned to help the State meet those requirements.

In developing the Maryland State Plan, the State Plan Committee used the following themes as a guide:

- Emphasize collaboration with stakeholder community
- Include steps to get the answers
- Focus on accessibility for individuals with disabilities and alternative language needs
- Centralize responsibility, accountability, and authority

## STATE PLAN REQUIRED ELEMENTS (HAVA §254)

### 1. Title III Requirements and Other Activities

*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. -- HAVA §254 (a)(1)*

#### 1.A §301(a), Voting Systems Standards Requirements

*Deadline for Compliance: January 1, 2006; no waiver permitted.*

The State currently uses four polling place voting systems in its 24 jurisdictions, including two optical scan systems (ES+S Optech III-P Eagle and Diebold Model ES-2000) and two Direct Recording Electronic (DRE) systems (Diebold AccuVote TS and Sequoia AVC Advantage). In addition, the State uses four optical scan voting systems for absentee balloting (ES+S Optech III-P Eagle, ES+S Optech IV-C, ES+S Model 315, and Diebold Model ES-2000).

Before the passage of HAVA, the State enacted legislation mandating that, by 2006, all jurisdictions implement a uniform voting system for polling places and a uniform voting system for absentee voting. SBE began to implement this new legislation in 2001. Because SBE closely tracked innovations in voting as well as the developing federal election reform legislation, the polling place voting system selected is compliant with the HAVA requirements that were introduced a year later.

Four of the State's 24 jurisdictions, comprising approximately 32% of its registered voters, transitioned polling place equipment to the new uniform State and HAVA-compliant, DRE voting system (AccuVote TS) in 2002. This new voting system enables a voter to correct ballot errors before casting a ballot. The system also prevents a voter from over-voting, provides for accessibility for individuals with disabilities, and allows for alternative language accessibility. These four jurisdictions also transitioned to uniform absentee voting equipment (Model ES-2000). The implementation of the uniform polling place and absentee voting systems cost the State and counties approximately $15 million for hardware and services; significant costs above that amount were absorbed by the State and counties, not to mention volunteer resources (manpower and supplies). Additionally, the significant effort and cost required to train poll workers and election officials and to conduct adequate voter outreach for the new equipment drew State, local, and volunteer resources away from other important election activities.

Maryland's early and active pursuit of voting system improvements now mandated by HAVA has placed the State on course to fulfill HAVA requirements within the statutory timeframes. SBE plans to proceed with the implementation of uniform State voting systems for the remaining 20 local jurisdictions that do not currently meet HAVA §301(a) requirements. Funding is necessary for the non-compliant jurisdictions to transition to the uniform State voting systems and meet HAVA §301(a) requirements over the next three years.

State legislation mandates a uniform absentee voting system, and SBE is in the process of phasing out all other systems and implementing Model ES-2000 as the absentee

voting system. This absentee system will be used in conjunction with the AccuVote TS in all polling places, satisfying HAVA requirements.

In addition to numerous voting system requirements, §301(a) also requires states to define what constitutes a legal vote for each type of voting system used in the state. In the 2002 Standardized Election Recount Procedures for Optical Scan Automatically Tabulated Systems, the State defined what constitutes a legal vote in the case of a manual recount for optical scan ballots. The State will define a legal vote in a uniform manner for each voting system as a regulation in the Code of Maryland Regulations (COMAR) Title 33.

**Uniform State Voting Systems Program Milestones**

As demonstrated in the above description of the current state of voting systems, the State is on its way to meeting HAVA §301(a) requirements. Phase I of SBE's uniform State voting systems program is already complete.

1) Planning voting system compliance -- Maryland passed legislation in 2001 requiring all jurisdictions to have a uniform system for polling place voting and a uniform system for absentee voting. The uniform systems, selected by SBE, when implemented statewide, will bring the State into full compliance with HAVA. SBE assessed available options and selected the appropriate delivery method for implementation.
2) Implementing voting systems -- In 2002, four jurisdictions replaced punch-card or mechanical lever voting systems with the uniform State systems.

The State is taking actions to ensure full compliance with HAVA §301(a) requirements. Phase II of SBE's uniform State voting systems program is in progress:

1) Planning voting system compliance
   - Assess procurement options
   - Establish user group of relevant internal stakeholders to discuss next phase of implementation, lessons learned from Phase I, and guide the voting system program through planning, managing, and implementing phases
   - Create schedules, milestones, and work plans
2) Managing the implementation effort through a standardized project management framework
   - Develop reporting structures and performance measures to track progress
   - Track issues and risks to ensure smooth transition to new uniform voting systems
3) Implementing compliant voting systems
   - Procure equipment and services pursuant to the State's procurement law
   - Deliver equipment and services to remaining 20 jurisdictions
   - Ensure proper training and change management for stakeholders using new uniform systems

Phase III of SBE's uniform State voting systems program will be operations and maintenance:

1) Operating & Maintaining new uniform State voting systems
   - Maintain and improve voting system software
   - Maintain technical infrastructure for software

The matrix on the following pages outlines the HAVA §301(a) requirements, the "State of Maryland's Current Status" related to these requirements, and the "Actions Planned", where applicable. As the matrix indicates, the four jurisdictions using the uniform State voting systems are currently compliant with HAVA.

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 301. VOTING SYSTEMS STANDARDS** | | |
| (a) REQUIREMENTS- Each voting system used in an election for Federal office shall meet the following requirements | | |
| (1) IN GENERAL- | | |
| (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall | | |
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | Meets. | No action needed. |
| (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | Meets. | No action needed. |
| (iii) if the voter selects votes for more than one candidate for a single office-- (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | Partially Meets.<br>• Non-compliant systems identify over-voting<br>• Require poll workers to inform voter of error<br>• Systems do not show error to voter directly | The State will meet this requirement upon implementation of the uniform State voting systems program described above. |
| (B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by | | |
| (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Meets. | No action needed. |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error) | Meets. | No action needed. |
| (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | Does Not Meet.<br>• Non-compliant systems require poll workers to inform voter of error | The State will meet this requirement upon implementation of the uniform State voting systems program described above. |
| (2) AUDIT CAPACITY- | | |
| (A) IN GENERAL- The voting system shall produce a record with an audit capacity for such system. | Meets. | No action needed. |
| (B) MANUAL AUDIT CAPACITY- | | |
| (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | Meets. | No action needed. |
| (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | Meets. | No action needed. |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | Meets. | No action needed. |
| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES- The voting system shall- | | |
| (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | Partially Meets.<br>• Optech III-P Eagle and Model ES-2000 do not meet requirements; require human assistance<br>• AVC Advantage does not meet requirements; has Braille key capabilities, but | The State will meet this requirement upon implementation of the uniform State voting systems program described above. |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| | requires human assistance<br>• AccuVote TS meets requirements (has audio ability, keypad, option to enlarge font size) | |
| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Partially Meets.<br>• At least one machine per polling place configured to provide accessibility for disabled individuals in precincts that have AccuVote TS machines<br>• Precincts with no AccuVote TS machines -- not compliant | The State will meet this requirement upon implementation of the uniform State voting systems program described above. |
| (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph). | N/A | The State will meet this requirement upon implementation of the uniform State voting systems program described above. |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY- The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | Meets. | No action needed. |
| (5) ERROR RATES- The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | Meets. | No action needed. |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE- Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | Partially Meets.<br>• Standardized Recount Procedures modified in 2002 define a legal vote in case of manual recounts of optical scan ballots<br>• No standardized definition exists. | The State will meet this requirement upon implementation of the uniform State voting systems program described above. |

### 1.B §302, Provisional Voting and Voting Information Requirements

*Deadline for Compliance: January 1, 2004; no waiver permitted.*

HAVA addresses the process of provisional voting to ensure that no individual who goes to the polls intending to cast a ballot is turned away without having the opportunity to do so. Before the passage of HAVA, the State attended to this issue – the Maryland General Assembly enacted provisional voting legislation in 2001. In developing the State Plan, SBE assessed the State's recent provisional voting legislation to determine those elements needing modification in order to fully comply with HAVA.

Currently, the State's provisional voting laws allow a voter whose name does not appear on the precinct register to cast a provisional ballot, provided the voter completes a certification in which he or she affirms under penalty of perjury that he or she is either registered in another county or made a good faith effort to register at a voter registration agency. In any election conducted under the Maryland Election Law Article, election officials must provide provisional voters with provisional ballots identical to the ballots issued to other voters in the precinct. Each LBE is required to maintain a full record of provisional ballot voting, including voter information, the action taken in canvassing the ballot, the ballot style issued, and any other information requested by SBE. On request, a provisional voter may learn whether the voter's ballot was counted and, if not, why.

The intent of the State's recent provisional voting legislation – to reduce the number of individuals unable to participate on election day – is similar to the intent of HAVA §302. However, the new HAVA requirements differ in some respects from the State's procedure, so the State must make some modifications to its legislation and processes. Through these modifications, the State will change its procedures for the issuance of provisional ballots, provide "free access" to its canvass reporting system, and assure the privacy of that reporting system.

**Provisional Voting Program Milestones**
SBE is in the process of proposing updates to legislation governing the State's provisional voting program:

1. Conducting an Impact Assessment
   - Assess the requirements of HAVA §302 in collaboration with the Attorney General's office
   - Review and compare existing State legislation with HAVA to determine gaps
2. Implementing Revisions
   - Develop revisions to State law with input from LBEs and other key stakeholders
   - Facilitate passage of law in State legislature
   - Put new law into operation with revised procedures, training, and outreach mechanisms
3. Managing
   - Track and report on provisional voting

Details on the current status of provisional voting and actions planned are found in the compliance matrix on the following pages.

In addition to provisional voting requirements, HAVA §302 mandates that states publicly post specific information at the polls on election day. The State currently displays voting information at each polling place, though SBE must adjust the content slightly to comply with HAVA.

**Voting Information Program Milestones**
SBE will comply with HAVA requirements for voting information through the following program:

1. Conducting an Impact Assessment
   - Assess the requirements of HAVA §302 in cooperation with the Attorney General's office
   - Review and compare existing voting information posted with HAVA to determine gaps
2. Implementing Revisions
   - Develop revisions to voter information materials posted on election day with input from LBEs and other key stakeholders
   - Put new voting information into operation with revised procedures, election day materials, training, and outreach mechanisms
3. Managing
   - Track and report on success of posted voting information

Details on the current status of voting information and actions planned are found in the compliance matrix on the following pages.

HAVA §302 further requires that voters who vote under a court or other order during extended hours, after the normal close of a polling place, cast provisional ballots. These ballots must be kept separate from other provisional ballots. The State did not previously include this requirement as part of its provisional voting law and procedures, and consequently, SBE is updating the law and procedures as described above.

The compliance matrix on the following pages includes the specific requirements of HAVA §302, as well as the "State of Maryland's Current Status" related to these requirements. The "Actions Planned" column includes next steps for the State.

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.** | | |
| (a) PROVISIONAL VOTING REQUIREMENTS- If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows: | | |
| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | Partially Meets.<br>• Individual may cast provisional ballot<br>• State is more restrictive about when provisional ballots are issued than implied in HAVA | The State will meet this requirement upon implementation of the provisional voting program described above. |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is-- | | |
| (A) a registered voter in the jurisdiction in which the individual desires to vote; and | Partially Meets.<br>• To receive provisional ballot, individual must:<br>• Fill out application and temporary certificate of registration,<br>• Provide proof of identity, and<br>• Sign oath stating that individual is registered voter in State | The State will meet this requirement upon implementation of the provisional voting program described above. |
| (B) eligible to vote in that election. | Partially Meets.<br>• Text of written affirmation differs from HAVA requirements | The State will meet this requirement upon implementation of the provisional voting program described above. |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4). | Meets. | No action needed. |
| (4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | Meets. | No action needed. |
| (5)(A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted. | Meets. | No action needed. |
| (B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | Partially Meets.<br>• A provisional voter can call the LBE or SBE to find out if individual's ballot was counted; current system not necessarily toll free<br>• If ballot is not counted, form letter is mailed to provisional voter, on request, explaining reason<br>• Voter may appeal canvassing decision to appropriate circuit court within five days after completion of canvass | The State will meet this requirement upon implementation of the provisional voting program described above. |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| States described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot. | N/A | Maryland is not a state described in §4(b) of the NVRA. |
| (b) VOTING INFORMATION REQUIREMENTS- | | |
| (1) PUBLIC POSTING ON ELECTION DAY- The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office. | Meets. | The State complies in terms of posting information, but actual details posted will be adjusted. See below for further detail. |
| (2) VOTING INFORMATION DEFINED- In this section, the term 'voting information' means-- | | |
| (A) a sample version of the ballot that will be used for that election; | Meets. | No action needed |
| (B) information regarding the date of the election and the hours during which polling places will be open; | Meets. | No action needed |
| (C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; | Partially Meets.<br>• Needs update to reach full compliance | The State will meet this requirement upon implementation of the voting information program described above. |
| (D) instructions for mail-in registrants and first-time voters under section 303(b); | Does Not Meet.<br>• Information not included in current posting | The State will meet this requirement upon implementation of the voting information program described above. |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and | Partially Meets.<br>• Need more detail for full compliance | The State will meet this requirement upon implementation of the voting information program described above. |
| (F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | Does Not Meet.<br>• Information not included in current posting | The State will meet this requirement upon implementation of the voting information program described above. |
| (c) VOTERS WHO VOTE AFTER THE POLLS CLOSE- Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order. | Does Not Meet.<br>• No procedures exist currently for this requirement | The State will meet this requirement upon implementation of the provisional voting program described above. |

### 1.C §303, Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail

*Deadline for Compliance: January 1,2004; State can submit a certification stating "good cause" that will move the deadline for §303(a) compliance to January 1, 2006.*

Currently, official State voter registration records are created and maintained at the local jurisdiction level. Each LBE updates and separately maintains voter registration records for its jurisdiction, with 19 of the State's 24 jurisdictions using a uniform local system. SBE does, however, maintain an aggregate list, referred to as the centralized voter registration database (CVRDB). On a weekly basis, LBEs send data files to SBE, and these are merged into the read-only CVRDB. CVRDB is accessible to the LBEs and SBE through a read-only Intranet server. SBE performs multiple checks for voter registration duplicates and distributes reports to the LBEs, which then manually update their databases by removing the duplicates.

As explained above, the State's CVRDB is not the "single, uniform, official, centralized, interactive, computerized statewide voter registration list" required by HAVA. Moreover, information gathered and maintained on State voters does not uniformly include driver's license numbers or partial social security numbers, as required by HAVA.

The mail-in voter registration process in Maryland also currently does not meet HAVA requirements. The mail-in voter registration form requires redesign to accommodate information required by HAVA. Also, the voter registration and polling place voter qualification processes must be modified to allow for the verification of identification provided by first-time voters who register by mail.

**Voter Registration System (VRS) Program Milestones**

SBE's VRS program, which will ensure HAVA compliance in both technical and procedural areas of voter registration, is in progress:

1) Planning HAVA voter registration compliance
   - Assess HAVA §303 to determine requirements for system and necessary changes in procedures and regulations/legislation
   - Establish a user group of key stakeholders to guide the VRS program through all phases and milestones
   - Develop a training plan, leveraging expertise from the LBEs (Note: refer to Section 3 Voter Education, Election Official Education and Training, and Poll Worker Training)
   - Research and assess VRS options (upgrade current system, build new system, acquire replacement system, etc.)
   - Determine options for development of interfaces and data integration between SBE and Motor Vehicle Administration (MVA), Department of Health and Mental Hygiene (DHMH), Administrative Office of the Courts (AOC), and other appropriate agencies
   - Develop VRS approach (selection of option, risks, pros and cons, cost benefit analysis, rough order of magnitude, level of effort)
2) Managing the voter registration system effort through a standardized project management framework
   - Create a comprehensive resource plan, schedule, and work plan
   - Develop reporting structures and performance measures to track progress
   - Monitor issues and risks to ensure smooth transition to new voter registration system
3) Implementing the new voter registration system
   - Implement necessary changes to procedures and regulations/legislation
   - Select and procure software and services
   - Design, build, test, and deploy VRS
   - Develop and deliver appropriate training and outreach to ensure successful VRS transition
4) Operating and Maintaining the voter registration system
   - Maintain and improve voting system software
   - Utilize the user group to assist SBE in maintaining and improving voting system software
   - Maintain technical infrastructure and accessibility for software

Based on SBE review of HAVA §303, the State's voter registration system will require technological and procedural upgrades to comply with the Act. The compliance matrix on the following pages includes the specific requirements of HAVA §303, as well as the "State of Maryland's Current Status" related to these requirements. The "Actions Planned" column includes next steps for the State.

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.** | | |
| (a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS- | | |
| (1) IMPLEMENTATION- | | |
| (A) IN GENERAL- Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the computerized list), and includes the following: | Does Not Meet.<br>• Not all registration data in central database<br>• 19 counties -- uniform local systems feed into the central database; other five counties interface with State's central database from their own applications<br>• Official voter registration records are those maintained at the local level | The State will meet this requirement upon implementation of the VRS program described above. Also, legislation will be needed. |
| (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State. | Does Not Meet.<br>• Official voter registration records are those maintained at the local level<br>• Statewide list is stored centrally, but managed locally | The State will meet this requirement upon implementation of the VRS program described above. Also, legislation will be needed. |
| (ii) The computerized list contains the name and registration information of every legally registered voter in the State. | Meets. | No action needed. |
| (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | Does Not Meet.<br>• 19 of 24 counties have potential for duplicate numbers, as systems assign unique numbers locally. No truly unique number assigned.<br>• Five counties are not part of this system | The State will meet this requirement upon implementation of the VRS program described above. |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (iv) The computerized list shall be coordinated with other agency databases within the State. | Does Not Meet.<br>• No direct, coordinated link with all NVRA agencies<br>• Currently some coordination with DHMH and AOC (receive text file from them monthly) | SBE will work to the extent possible with other State agencies to meet this requirement. |
| (v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | Partially Meets.<br>• Local election officials have read-only access to continuous voter registration database (CVRDB), but data is not necessarily current<br>• Batch uploads performed weekly<br>• Election management modules of software not functioning at efficiency and effectiveness levels for access | The State will meet this requirement upon implementation of the VRS program described above. |
| (vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | Does Not Meet.<br>• Assumes uploading data daily is "expedited" method of entering information into list | The State will meet this requirement upon implementation of the VRS program described above. |
| (vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). | Does Not Meet.<br>• Assumes uploading data daily is "expedited" method of entering information into list | The State will meet this requirement upon implementation of the VRS program described above. |
| (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | Does Not Meet.<br>• Official list currently created and maintained at local level | The State will meet this requirement upon implementation of the VRS program described above. Also, legislation is required. |
| (B) EXCEPTION- The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office. | | |
| (2) COMPUTERIZED LIST MAINTENANCE- | | |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (A) IN GENERAL- The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows: | | |
| (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6). | Meets. | No action needed. |
| (ii) For purposes of removing names of ineligible voters from the official list of eligible voters-- (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death | Partially Meets.<br>• Convictions sent to State in text file, processed against voter registration rolls<br>• Death information database sent monthly from DHMH to LBEs for processing | SBE will work to the extent possible with other State agencies to meet this requirement. |
| (iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. | N/A | Maryland is not a state described in 4(b) of the NVRA. |
| (B) CONDUCT- The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that-- | | |
| (i) the name of each registered voter appears in the computerized list; | Meets. | No action needed. |
| (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | Meets. | No action needed. |
| (iii) duplicate names are eliminated from the computerized list. | Partially Meets.<br>• SBE calculates approx. 7000 of 2.7 million names on local voter registration lists are duplicates<br>• Data entry methods of names not standardized | The State will meet this requirement upon implementation of the VRS program described above. |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST- The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | Does Not Meet.<br>• Each county establishes its own process for administering security | The State will meet this requirement upon implementation of the VRS program described above. |
| (4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS- The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following: | | |
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | Meets. | No action needed. |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | Meets. | No action needed. |
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION- | | |
| (A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS- | | |
| (i) IN GENERAL- Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes-- (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | Does Not Meet.<br>• No procedures for this currently<br>• Storage of driver's license number planned<br>• System stores social security number, but providing social security number voluntary on current voter registration forms | The State will meet this requirement upon implementation of the VRS program described above. |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER- If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | Does Not Meet. | The State will meet this requirement upon implementation of the VRS program described above. |
| (iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED- The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | N/A | The State will consider what verification of voter identification information is necessary and adopt appropriate laws. |
| (B) REQUIREMENTS FOR STATE OFFICIALS- | | |
| (i) SHARING INFORMATION IN DATABASES- The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | Does Not Meet.<br>• No current Memorandum of Understanding (MOU) between MVA and SBE; no technology in place to support this | SBE will work to the extent possible with MVA to meet this requirement. |
| (ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY- The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). | Partially meets.<br>• Three MOUs between the two parties; additional MOU may be necessary to comply with HAVA | The State will meet this requirement upon implementation of the VRS program described above. |
| (b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL- | | |
| (1) IN GENERAL- Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if-- | | |
| (A) the individual registered to vote in a jurisdiction by mail; and | | |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (B)(i) the individual has not previously voted in an election for Federal office in the State; or | | |
| (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | | |
| (2) REQUIREMENTS- | | |
| (A) IN GENERAL- An individual meets the requirements of this paragraph if the individual-- | | |
| (i) in the case of an individual who votes in person-- (I) presents to the appropriate State or local election official a current and valid photo identification; or (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; | Does Not Meet.<br>• Current voter registration and polling place voter identification procedures do not meet this requirement | The State will meet this requirement upon implementation of the VRS program described above. |
| (ii) in the case of an individual who votes by mail, submits with the ballot-- (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter | Does Not Meet.<br>• Current voter registration and absentee voting procedures do not meet this requirement | The State will meet this requirement upon implementation of the VRS program described above. |
| (B) FAIL-SAFE VOTING- | | |
| (i) IN PERSON- An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a). | Does Not Meet.<br>• No procedures exist for this requirement | The State will meet this requirement upon implementation of the Provisional Voting Program in section 1.B of this Plan. |
| (ii) BY MAIL- An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | Does Not Meet.<br>• No procedures exist for this requirement | The State will meet this requirement upon implementation of the Provisional Voting Program in section 1.B of this Plan. |
| (3) INAPPLICABILITY- Paragraph (1) shall not apply in the case of a person-- | | |
| (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either-- | | |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (i) a copy of a current and valid photo identification; or | Partially Meets.<br>• LBEs are now prepared to accept identification information if voluntarily provided<br>• Voter registration procedures being updated to advise mail-in registrants of HAVA requirements | The State will meet this requirement upon implementation of the VRS program described above. |
| (ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | Partially Meets.<br>• LBEs are now prepared to accept identification information if voluntarily provided<br>• Voter registration procedures being updated to advise mail-in registrants of HAVA requirements | The State will meet this requirement upon implementation of the VRS program described above. |
| (B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either-- (I) a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and | Does Not Meet.<br>• Voter registration forms and procedures being updated to collect the appropriate numbers | The State will meet this requirement upon implementation of the VRS program described above. |
| (ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | Does Not Meet.<br>• Voter registration forms and procedures being updated to require the matching of records | The State will meet this requirement upon implementation of the VRS program described above. |
| (C) who is-- | | |
| (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | N/A | The State procedure will recognize this exemption. |
| (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or | N/A | The State procedure will recognize this exemption. |
| (iii) entitled to vote otherwise than in person under any other Federal law. | N/A | The State procedure will recognize this exemption. |
| (4) CONTENTS OF MAIL-IN REGISTRATION FORM- | | |

| Requirement | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (A) IN GENERAL- The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: | | |
| (i) The question `Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | Meets. | No action planned. |
| (ii) The question 'Will you be 18 years of age on or before Election Day?' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on Election Day. | Does Not Meet.<br>• Updates necessary, planned in 2003 | The State will meet this requirement upon implementation of the VRS program described above. |
| (iii) The statement 'If you checked 'no' in response to either of these questions, do not complete this form.' | Partially Meets.<br>• Question of citizenship is asked; question of age to be added in 2003 | The State will meet this requirement upon implementation of the VRS program described above. |
| (iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | Does Not Meet.<br>• Updates necessary to meet requirement | The State will meet this requirement upon implementation of the VRS program described above. |
| (B) INCOMPLETE FORMS- If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | Partially Meets.<br>• LBEs obtain information missing or correct incomplete information on the form, but LBEs may not require re-submission of voter registration form. | The State will meet this requirement upon implementation of the VRS program described above. |

### 1.D §304, Minimum Requirements

The State understands that the requirements laid out in HAVA Title III are minimum requirements, and that the State may establish election technology and administration requirements that are more stringent. Any more stringent requirement that the State imposes will comply with all Title III requirements, as well as the laws described in HAVA §906. For example, the State has passed legislation requiring uniform statewide voting systems by 2006. HAVA does not require statewide voting system uniformity, and therefore the Maryland legislation could be considered more rigorous then HAVA. The State legislation is in full compliance with all HAVA requirements and with the relevant laws listed in HAVA §906.

### 1.E §305, Methods of Implementation Left to Discretion of State

The State chose various means to comply with the requirements of HAVA Title III. Specific details on the implementation methodology chosen can be found in Sections 1.A through 1.C of this State Plan.

### 1.F §311, Adoption of Voluntary Guidance by Commission

Once the federal Election Assistance Commission (EAC) has issued its voluntary recommendations with respect to Title III, the State will consider that guidance in updating the State Plan. The State will incorporate those recommendations deemed appropriate into subsequent versions of the State Plan.

### 1.G §312, Process for Adoption

The State will stay aware of the progress of the EAC on developing the Title III recommendations. If appropriate, the State will provide feedback during the public comment period after the recommendations are published in the Federal Register and participate in public hearings regarding the recommendations.

### 1.H HAVA §251(b) (2) – Other Activities

The State currently does not have the personnel and technical capacity required to fully achieve HAVA compliance. Ongoing operations and maintenance of the new capabilities required by HAVA cannot be supported with the current SBE and LBE technical infrastructure and resources. The State proposes to establish a solid foundation to build and sustain the people, processes, and technology necessary to maintain the new capabilities. The following activities are thus proposed to improve the election system:

- Conduct an assessment of the current technical infrastructure and establish a strategy to standardize technical infrastructure;
- Conduct process redesign;
- Research the possibility of integration of key election management systems;
- Continue expanding polling place accessibility; and
- Document job descriptions and staff positions with resources qualified to conduct election reform activities.

## 2. Maryland's Distribution of Requirements Payment

*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). -- HAVA §254 (a)(2)*

### 2.A Eligibility of local units to receive the payment

SBE will centrally manage initiatives funded by requirements payments. SBE will be responsible to account for all expenditures, funding levels, program controls, and outcomes. The State, in conjunction with the LBE director, will determine the appropriate level of support for special local initiatives. The State will follow applicable Maryland law regarding the distribution of federal reimbursements.

Note: The State will provide such support as is feasible and appropriate to the LBEs if they seek HAVA grants outside the scope of requirements payments.

### 2.B Performance measures for local units

Funds will be centrally managed as described in Section 2.A, and SBE will monitor the initiatives for which those funds are authorized.

SBE will monitor the performance of each initiative that is funded by requirements payments in three areas: financial controls, compliance with standards, and program results.

Financial Controls: SBE will develop and use standard financial reporting for all initiatives funded by requirements payments.

Compliance with Standards: SBE will develop and use standard program management reporting for all initiatives that are funded by requirements payments.

Program Results: SBE will develop key performance indicators (KPI) for each initiative funded by requirements payments. See Section 8 of this document for specific performance goals and measures.

## 3. Voter Education, Election Official Education and Training, and Poll Worker Training

*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. -- HAVA §254 (a) (3)*

Education and training are critical to a successful program of election reform in Maryland. The proposed milestones in this document will require change management to ensure that all stakeholders (poll workers, election officials, voters, etc.) are comfortable with the new processes and supporting technologies that HAVA requires.

Currently, training programs in the State are predominantly localized and, in some cases, informal. SBE distributes policies and procedures to each LBE, and the LBE director is then responsible for how the messages are delivered to staff members, poll workers, and the public. Often, knowledge is distributed informally, in meetings and at conferences, rather than in formal training sessions. There are no SBE personnel available to take sole responsibility for training. Training conducted at the State level is usually organized by each distinct area (provisional ballots, voter registration, voting systems, etc.). Formal training is usually presented in a paper-based, person-to-person format; there is little to no use of technology in creating or delivering training.

In general, voter outreach programs within the State are limited. Each voter receives a specimen ballot in the mail before each general election. Voters can also obtain voting information through the SBE website and other State websites, as well as through public service announcements. However, when new voting systems or regulations directly affect the voter, outreach increases exponentially. For example, in the recent implementation of the new DRE voting system in four State jurisdictions, SBE worked with the voting system contractor to produce cable commercials and radio spots advertising town meetings. SBE contracted for the development of a website specifically for the new voting system, targeting messages to individuals with alternative language needs and the disabled. Also, LBEs, sometimes with corporate assistance, conducted demonstrations of the new voting system to educate voters. This type and level of outreach is both cost and resource intensive.

A thorough and thoughtful training and outreach program increases the buy-in of all affected stakeholders. It is important to develop the training and outreach program with the participation of the LBEs, as they are a critical component to the current and future process and will provide valuable expertise on previous training initiatives. Also the program must account for the changing poll worker and election official workforce, so that training is effective for a group with diverse skills. Finally, HAVA brings increased accessibility to elections. Training and outreach programs must address the needs of the disabled community and individuals with alternative language considerations. These programs need to ensure that poll workers and other election personnel are fully aware of and sensitive to the needs of persons with disabilities, and that election materials and outreach include formats accessible to those persons. In collaboration with the LBEs, effective training and outreach will help provide for smooth implementation of the State Plan.

**Training and Outreach Program Milestones**

To ensure the success of election reform programs, SBE needs a standard and centralized approach to training and outreach. To this end, SBE will execute a three-step program:

1. Managing Training and Outreach Program
   - Establish a central training and outreach organizational unit within SBE. This organizational unit will serve as the liaison among all LBEs regarding training: ensuring LBE participation in training development, statewide standardization, coordination among LBEs and vendors responsible for new technologies, and general consistency of message and delivery across the State. This entity will also coordinate with the Election Reform Program Management Office (as described in Section 11 of this Plan) to track progress and report on effectiveness of training and outreach efforts.
   - Acquire necessary resources for training and outreach. The current resource levels at SBE cannot support this kind of comprehensive training program. SBE will bring on personnel qualified in the areas of adult education and marketing to coordinate the training and outreach efforts.
2. Planning Training and Outreach Program
   - Conduct a training needs assessment based on the actions planned to address HAVA requirements. The assessment will include identifying current stakeholders, and documenting current and desired skill levels for each stakeholder group. LBE training expertise will be leveraged in the development of this document.
   - Base training on research and proven methods. Research training delivery options and methods used in other organizations. HAVA compliance requires that the State use a training delivery method that is easily accessed and re-used by trainees, is flexible enough to accommodate updates and changes, and is effective in the trainee's retention of information. This research will help address the best means for adult learning, taking into consideration the wide variety of skill levels within the State's training audience.
   - Using the training needs assessment and research, create a user group of relevant stakeholders to develop a training approach document for election officials and poll workers. This document will establish a standard, yet flexible training approach that outlines a strategic direction for training over time, addressing both training content and delivery methods. The approach will cover a variety of topics: the identification of organizations responsible for developing training; a matrix of the stakeholders receiving training, the content to be delivered, and phases for training delivery; a discussion of training objectives; a description of the delivery methods for training; and an outline of the types of feedback mechanisms that SBE will use to evaluate the effectiveness of training.
   - Develop a State outreach and communication plan. Outreach actively provides the voter, the end recipient of State election services, information regarding new election procedures. Increased awareness (and ultimately ownership and sponsorship) on the part of voters will correspondingly increase the success of election reform programs. An outreach and communication plan will describe the strategy for developing and delivering messages to a variety of stakeholder groups. Specifically, the document will outline the proposed audience, the party responsible for delivery, the expected outcome, the key messages, the medium for delivery, and the timing of the communication event.
3. Implementing Training and Outreach Program
   - Design, build, test, and implement training delivery method, leveraging previous training experience. This method will vary dependent on approach determined in planning phase. Regardless of whether training is instructor-led, online, paper-based, etc., the training must still go through the design and build phases, and be subject to testing to ensure its success before it is delivered to trainees.
   - Implement outreach and communication plan. Those responsible for delivering various communication messages must ensure that events occur on a timely basis.

## 4. Voting System Guidelines and Processes

*How the State will adopt voting system guidelines and processes, which are consistent with the requirements of section 301. -- HAVA §254 (a) (4)*

The State has adopted legislation mandating uniform voting systems for polling place and absentee voting by 2006. These uniform systems will meet the requirements of HAVA §301. For the 2002 implementation of the HAVA-compliant DRE system, SBE established procedures for system certification and recounts. SBE also created operational standards for the system at that time. As the implementation of the new voting systems continues, SBE will maintain these and create any new guidelines and processes as necessary. New processes at SBE can take the form of either internal procedures, regulations in the Code of Maryland Regulations (COMAR), or State legislation. SBE will determine the appropriate method to publicize any new voting system guidelines and processes.

## 5. Maryland's HAVA Fund Management

*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. -- HAVA §254 (a)(5)*

Working with the legislature, SBE will establish a new program for election reform that is kept separate and distinct from all other programs within the agency. This program will contain both federal and general funds. The federal fund portion will be used to maintain federal fund receipts and to expend federal funds. The general fund portion will be used to budget and expend general funds representing the 5% match required under HAVA.

The SBE Administrator and Budget Officer will work with the State Comptroller and Department of Budget and Management to follow and enforce all mandated fiscal controls and policies.

## 6. Maryland's HAVA Budget

*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.*

*-- HAVA §254 (a)(6)*

At the time of the writing of this Plan, HAVA appropriations were significantly less than amounts authorized. The following table outlines the assumptions regarding federal funding that the State used in creating its budget for HAVA activities.

**Table 6.1: Federal Funding Assumptions for Maryland**

| Federal Fiscal Year* | Total Federal Funds | Maryland Share | 5% State Match Requirement** |
|---|---|---|---|
| Early Payments | $650 (appropriated) | $7.25 | n/a |
| 2003 | $833 (appropriated) | $15.16 | $0.8 |
| 2004 | $500 (President's Budget; authorized at $1,000) | $8.94 | $0.47 |
| 2005 | $600 (authorized) | $10.84 | $0.57 |
| **Total** | **$2,560** | **$42.2** | **$1.8** |

**5% State Match Requirement is calculated as 5% of the total of the State Match portion plus the federal requirements payment portion of cost. To determine the 5% State Match based on federal requirements payment amount, use .0526 as the multiplier (i.e., 5/95 = 0.0526). Example from Maryland FY 2003: $15.16M x 0.0526 = $0.8M

Based on these funding levels, the State HAVA budget is representative of the activities to implement and conduct operations and maintenance through calendar year 2005 for the HAVA Title III requirements and "other" activities. The budget will be revised over time based on the most current information available regarding federal funding.

The duration for the State's budget is based on HAVA deadlines and funding. The State is concerned, however, that beyond the three years of federal funding, the ongoing costs of operating and maintaining the new voting systems and statewide voter registration list will be considerably higher than the State's maintenance of effort level (see Section 7 of the State Plan). The operation and maintenance of the new systems will be the financial burden of the State when HAVA funding is no longer available.

The State made the following additional assumptions in preparing the budget:

- The State is planning to implement uniform voting systems.
- The cost for the statewide voter registration list (§303(a)) is presented as a range, because it is unclear if the State can upgrade its current system to meet HAVA requirements. If so, the cost will be in the lower end of the range. If not, the cost will be in the higher end. The higher end cost is based on the projected cost of the Pennsylvania system, adjusted based on the number of registered voters in Maryland compared to the number in Pennsylvania.
- The cost for education, training, and outreach (§254 (3)) is presented as a range due to the uncertainty of the State's approach for the statewide voter registration list. Additionally, the State anticipates concurrent initiatives to implement the voting systems and statewide voter registration list, which will overextend the State's current education, training, and outreach resources. The State will need to develop a core curriculum and central delivery capabilities (see Section 3 of this Plan) to respond to these increased demands on resources.
- One Presidential primary and general election are factored into the budget.

The State's budget to carry out activities to meet HAVA requirements is provided in table 6.2. Except for costs already incurred for the DRE implementation in four counties, the State's 2003 and 2004 budgets do not include the following costs:

**Table 6.2: Maryland's Budget for HAVA Activities**

| $ Millions<br>HAVA Requirements | Total Cost | Funding Source (note 1) | | | | | Duration (note 3) | |
|---|---|---|---|---|---|---|---|---|
| | | HAVA §101 | HAVA §102 | HAVA §252 & §257 | State 5% Match | Unfunded (note 2) | Implementation | Operations & Maintenance (note 4) |
| **Title III Requirements** | | | | | | | | |
| §301 Voting systems (note 5) | $57.5 | $2.2 | $2.05 | $26.07 | $1.37 | $25.81 | 5/2001 to 12/2005 | 9/2002 to 12/2005 |
| §302 Provisional voting and voting information requirements | $0.5 | - | - | $0.48 | $0.02 | - | 1/2001 to 12/2003 | 1/2004 to 12/2005 |
| §303 Computerized statewide voter registration list requirements and requirements for voters who register by mail | $6 to $12 | $1.0 | - | $4.7 | $0.25 | up to $6 | 1/2003 to 12/2005 | *Not included in budget.* |
| **Other Election Reform Activities** | | | | | | | | |
| §254 (3) Voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III | $3 to $5 | $1.0 | - | $1.85 | $0.10 | up to $2 | 5/2001 to 12/2005 | 1/2003 to 12/2005 |
| §402 State-based administrative complaint procedures to remedy grievances | $0.1 | - | - | $0.095 | $0.005 | - | 1/2003 to 9/2003 | 10/2003 to 12/2005 |
| *State Plan, Section 6* Budget and Fiscal Controls | $0.5 | - | - | $0.475 | $0.025 | - | 6/2003 to 12/2003 | 1/2004 to 12/2005 |
| *State Plan, Section 1.H* Technical Infrastructure Strategy | $0.1 | - | - | $0.095 | $0.005 | - | 6/2003 to 12/2003 | 1/2004 to 12/2005 |
| *State Plan, Section 1.H* End-to-End Process Redesign | $0.3 | - | - | $0.285 | $0.015 | - | 6/2003 to 12/2003 | 1/2004 to 12/2005 |
| *State Plan, Section 11* Election Reform Program Management | $2 to $3 | $1.0 | - | $0.9 | $0.047 | up to $1 | 6/2003 to 12/2003 | 1/2004 to 12/2005 |
| **TOTALS** | $70 to $79 | $5.2 | $2.05 | $34.94 | $1.84 | $25.92 to $34.92 | | |

**Notes:**

1. State's portion of HAVA funding is estimated based on the funding assumptions outlined in table 6.1. Source for the State's portion of these funds is the Congressional Research Service, *Funds Allocations to States Based on P.L. 107-252: the Help America Vote Act of 2002* (November 15, 2002).
2. Funding source options: State funding other than 5% match, local jurisdiction funding, and/or additional federal funding.
3. Duration for each budget activity is through calendar year 2005.
4. Operation and maintenance for the voting systems implemented in the four counties began in September 2002 (after the Gubernatorial Primary). The cost associated with this activity is factored into the total cost.
5. In 2001, Maryland implemented the HAVA-compliant statewide voting systems in four counties (representing 32% of the registered voters in the State). Included in the cost of the voting systems is $13.8 M that the State already expended in those four counties.

## 7. Maintenance of Effort

*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. -- HAVA §254 (a)(7)*

Consistent with HAVA §254(a)(7), in using any requirements payment, Maryland will maintain expenditures of the State for activities funded by the payment at a level equal to or greater than the level of such expenditures in State FY 2000 -- a total of $1,994,914.

As in many states, however, this level of funding represents only a small portion of the statewide aggregate operating budget expenditures needed to sustain elections in a given fiscal year, as the great majority of election administration resources have historically been allocated at the county level. Maryland's 24 local election office budgets typically support year-round core staff and operating expenses for continuous functions such as voter registration, information services, and IT support. In addition, LBEs provide the significant increase in funding associated with each specific election -- for poll workers, temporary office staff, ballot production, mass mailings, election day support (including personnel, equipment, and supplies), etc. In some cases, key election support resources provided at the county level may not even be included within election office budgets, but are provided through other county agencies and donations.

It is therefore important to note that the projected HAVA budget set forth in Section Six of this Plan is based on the critical budget assumption that the State will maintain this foundation of county-funded election operating expenditures at existing levels. Without this foundation in place, the short-term infusion of funds HAVA provides would not be sufficient to maintain the new State election environment in the long term.

## 8. HAVA Performance Goals and Measures

*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. -- HAVA §254 (a)(8)*

SBE, in collaboration with LBEs, will establish performance goals and will institute a process to measure progress toward the achievement of these goals. This process will provide LBEs with structure and continued measurable targets for accomplishment. The performance goals and measures will align with the State's "Managing for Results" initiative, which seeks to "establish and ensure accountability for results by setting targets for performance" (*Maryland Managing for Results Guidebook*, 2001).

As detailed in Section 11 of this document, SBE will establish an Election Reform Program Management Office (PMO) to oversee continuous management of the State Plan. This PMO, in coordination with SBE and LBE personnel, will be responsible for developing and monitoring a uniform performance evaluation process. In measuring progress, the PMO will continue to revisit original goals and objectives and make adjustments as appropriate.

Performance Goals

Performance goals provide a high-level view of a project's direction. The State's goal is to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in the State Plan. On the following page is a matrix that details each element of the Plan, the title of the official who is responsible for ensuring that each plan element is met, and the timeframe for meeting each of the elements of the Plan.

| Plan Elements | State Official | Time frame |
|---|---|---|
| **Voting Systems:**<br>-- §301 | David Heller, Project Manager, Voting Systems and Joe Torre, Procurement Officer | To be implemented by January 1, 2006 |
| **Provisional Voting:**<br>-- §302 | Ross Goldstein, Director, Candidacy and Campaign Finance Division | To be implemented by January 1, 2004 |
| **Voter Registration:**<br>-- §303(a)<br>-- §303(b) | Brad Barkey, Project Manager, Voter Registration Division | §303(a) to be implemented by January 1, 2006*<br>§303(b) to be implemented by January 1, 2004 |
| **Other Activities**<br>-- §101 (b)(1), §251(b)(2) | | |
| Technical Infrastructure | Pam Woodside, CIO | TBD by SBE |
| End to End Process Redesign | Tim Augustine, Deputy Administrator | TBD by SBE |
| Election Reform Program Management | Tim Augustine, Deputy Administrator | TBD by SBE |
| **Education and Training:**<br>-- §254 (a)(3) | Tim Augustine, Deputy Administrator | TBD by SBE |
| **Budget and Fiscal Controls:**<br>-- §254 (a)(6)<br>-- §254 (a)(2)<br>-- §254 (a)(7)<br>-- §254 (a)(10) | Rick Danaher, Budget Development, Fiscal Management Division | TBD by SBE |
| **Complaint Procedures:**<br>--Title II, §254 (a)(9)<br>--Title IV, §402 | Tim Augustine, Deputy State Administrator | TBD by SBE |
| | | *The State will certify good cause for a waiver. |

Performance Measures

The State will measure the following five critical areas of each project: scope, schedule, resources, quality, and risk. The appropriate SBE and LBE personnel will develop detailed metrics to collect data to report on performance. The measures will provide the State with the ability to understand, predict, and improve overall performance and communicate expectations at the State and local levels.

- **Scope:** measures internal or external events (resource changes, political decisions, changes to funding streams, etc.) that may affect cost, implementation schedule, or quality;
- **Schedule:** measures progress toward goals (target start and stop dates, actual start and stop dates, percent complete, etc.);
- **Resources:** measures personnel and financial investment to ensure that right people are on project at right time (estimated and actual cost, estimated and actual project resource needs);
- **Quality:** measures effectiveness of project to ensure that it meets expectations (error rates, deliverable quality, value to client); and
- **Risk:** measures likelihood and impact of certain events on operations.

| Requirement | | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| **SEC. 402. ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES** | | Meets. | No Action Required. |
| (a) ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES | | | |
| (1) ESTABLISHMENT OF PROCEDURES AS CONDITION OF RECEIVING FUNDS- If a State receives any payment under a program under this Act, the State shall be required to establish and maintain State-based administrative complaint procedures which meet the requirements of paragraph (2) | | Meets. | No Action Required. |
| (2) REQUIREMENTS FOR PROCEDURES- The requirements of this paragraph are as follows: | | | |
| | (A) The procedures shall be uniform and nondiscriminatory. | Meets. | No Action Required. |
| | (B) Under the procedures, any person who believes that there is a violation of any provision of title III (including a violation, which has occurred, is occurring, or is about to occur) may file a complaint. | Meets. | No Action Required. |
| | (C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint. | Meets. | No Action Required. |
| | (D) The State may consolidate complaints filed under subparagraph (B). | Meets. | No Action Required. |
| | (E) At the request of the complainant, there shall be a hearing on the record. | Meets. | No Action Required. |

**9. State-Based Administrative Complaint Procedures**

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. -- HAVA §254 (a)(9)*
*Deadline for Compliance: Prior to certification of State Plan, but no later than January 1, 2004; no waiver permitted.*

SBE has developed and adopted a procedure for complaints that meets HAVA requirements. Before the adoption of the procedures, State election laws provided for the processing of certain specific complaints, both at the administrative level and in court. These complaints were infrequent, as SBE received informal complaints mainly by phone, email, or the SBE website. Formal complaints will now follow the procedures adopted by SBE and codified as regulations in the Code of Maryland Regulations (COMAR).

The following matrix outlines HAVA requirements related to complaint procedures and the corresponding current status for the State.

## 10. Effect of Title I Payments

*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. -- HAVA §254 (a)(10)*

To date, the State of Maryland has not received Title I payments.

§101. Payments to States for activities to improve administration of elections.

Maryland is eligible for approximately $5.2M under §101. These funds will be used for activities to meet the following requirements:

| | |
|---|---|
| §301 Voting systems | $2.2M |
| §303 Voter registration system | $1.0M |
| §254 (3) Training & outreach | $1.0M |
| HAVA program management | $1.0M |
| **Total** | **$5.2M** |

§102. Replacement of punch card or lever voting machines.

Maryland is eligible for approximately $2.05 M under §102, as calculated in the following chart. The State understands that there may be a pro rata reduction to the maximum payment amount based on the total national participation under this section. State legislation makes local jurisdictions eligible to receive 50% of any federal funds "received for improvements in voting systems and equipment" under certain circumstances.

| Locality | Number of Precincts | Maximum Payment Amount ($1,000 per precinct) |
|---|---|---|
| Allegany County | 37 | $148,000 |
| Dorchester County | 38 | $152,000 |
| Montgomery County | 234 | $936,000 |
| Prince George's County | 204 | $816,000 |
| **Total** | **513** | **$2,052,000** |

| Requirement | | State of Maryland's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| | (F) If, under the procedures, the State determines that there is a violation of any provision of title III, the State shall provide the appropriate remedy. | Meets. | No Action Required. |
| | (G) If, under the procedures, the State determines that there is no violation, the State shall dismiss the complaint and publish the results of the procedures. | Meets. | No Action Required. |
| | (H) The State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period, which begins on the date, the complaint is filed, unless the complainant consents to a longer period for making such a determination. | Meets. | No Action Required. |
| | (I) If the State fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures. | Meets. | No Action Required. |

## 11. Maryland's HAVA State Plan Management

*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;*

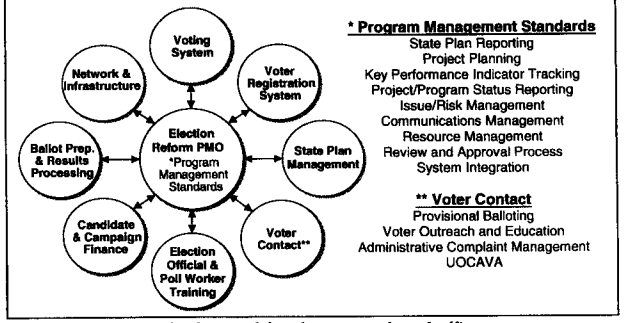
*(B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and*

*(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). -- HAVA §254 (a)(11)*

The State intends to use the State Plan as the foundation for its future strategic direction. Consequently, sound and responsible management of the State Plan will be an essential component of the State election community's future success.

Due to the complexity of HAVA and the potential variety of projects it encompasses, SBE will establish an Election Reform Program Management Office (PMO). The Election Reform PMO will conduct ongoing management of the State Plan, including project planning (for all HAVA-related and other election reform projects) and establishing and implementing program management standards (i.e. performance measures, review and approval processes, issue/risk management, etc.). The PMO will also be responsible for other election functions, including: budget and fiscal, personnel, and office support functions. The illustration in Figure 11.1 represents some of the projects that the PMO will coordinate to ensure the successful implementation of HAVA requirements.

**Figure 11.1: Centralized Election Reform Program Management**




The State understands and agrees to comply with HAVA requirements related to ongoing management of the State Plan. More specifically, the State agrees that it may not make any material change in the administration of the State Plan unless the change:

(A) is developed and published in the Federal Register in accordance with HAVA §255 in the same manner as the State Plan;

(B) is subject to public notice and comment in accordance with HAVA §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).

## 12. Changes to State Plan from Previous Fiscal Year

*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. -- HAVA §254 (a) (12)*

This FY 2003 Plan is the State's inaugural plan under HAVA. This section will be updated in the FY 2004 Plan, reflecting changes to the Plan, as well as a summary of 2003 successes.

## 13. State Plan Development and Committee

*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 255 and section 256. - HAVA §254 (a)(13)*

The State's committee consists of individuals representing a cross-section of election stakeholders. The State Plan Committee was selected by the chief State election official, Linda Lamone, State Administrator for SBE.

Members of the State Plan Committee, and the primary qualification of each for being a committee member, are as follows:

- Linda Lamone, State Administrator, State Board of Elections;
- William E. Anderson, Department of Aging ADA Coordinator, Anne Arundel County;
- Jacqueline McDaniel, Baltimore County Election Director;
- Margaret Jurgensen, Montgomery County Election Director;
- Robin Downs, Maryland Association of Election Officials (MAEO) President/ Prince George's County Election Director;
- Linda Pierson, League of Women Voters;
- Michael Sanderson, representative of Maryland Association of Counties (MACo);
- James McCarthy, representative of National Federation of the Blind; and
- Kibbe Turner, Registered Voter.

In creating the State Plan, the State Plan Committee worked with Accenture, a project management vendor. The vendor was contracted to facilitate working sessions and to offer a fair and balanced assessment regarding the impact of HAVA requirements and proposed compliance steps. Based on an objective analysis of the State's current status, this State Plan highlights necessary adjustments and potential next steps in Maryland's election reform process.

The State Plan Committee will comply with the requirements of §255 and §256 of HAVA.

The Preliminary State Plan was published on the Maryland State Board of Elections website, following a public notice in the Maryland Register. The Preliminary Plan was available for 30 days of public comment, as required by HAVA. This State Plan incorporates the feedback from the 30-day period, and the honorable Governor Ehrlich is submitting this Plan for the HAVA-required 45 day publication period in the Federal Register.

# COMMONWEALTH OF MASSACHUSETTS

## Presented by William Francis Galvin
## Secretary of the Commonwealth

# STATE PLAN

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# INTRODUCTION

## The Help America Vote Act of 2002

The Help America Vote Act (HAVA) was signed by President Bush in October 2002 in an effort to improve voting across the country and in response to the problems that arose in the 2000 presidential elections. (42 U.S.C. § 15301 *et seq.*). This federal legislation makes changes in the election process and applies to all federal elections in the United States. The most significant areas impacted by the legislation include voting equipment standards, including accessibility, provisional voting, voter registration, and voting, including voter education.

HAVA provides certain federal funding to meet the new requirements over the next three years. The availability of the money is, however, dependent upon federal appropriations and certain additional federal funding is dependent upon the appropriation of matching state funds. There are two types of funding that Massachusetts is eligible to receive—Title I and Title II funding.

The first type of funding, under Title I, has two components—Section 101 and Section 102 funding. The first component under Section 101 provided $325 million in funding for complying with the requirements of Title III.[1] The requirements under Title III include improving election administration, educating voters, training election officials and poll workers, developing the state plan for implementing HAVA, improving voting systems, and improving polling place accessibility. Massachusetts' share of the Section 101 funding is $6,590,381.

The funding available under Section 102 is to be used to replace lever machines and data-vote voting equipment as well as for acquiring accessible voting equipment.[2] The amount that Massachusetts is eligible to receive is based on the number of precincts that used lever and data-vote machines at the 2000 elections. Although HAVA authorizes an appropriation of $4,000 per precinct to replace lever and data-vote equipment, given the amount actually appropriated, this amount was reduced to $3,192.22 per precinct. Massachusetts' share of the Section 102 funding is $1,519,497.

The second type of funding--Title II funding--is to be used for continued implementation of the requirements of the act including poll worker training, providing voter education and improving the administration of federal elections.[3] This type of funding requires each state to provide matching funds, in the amount of 5 %, to those funds supplied by the federal government. Massachusetts could receive up to $69 million of the $3 billion available under Title II.

In order to receive funds under this provision, Massachusetts is required to submit a plan setting forth how it intends to comply with the act and will need to contribute $3.45 million in matching state funds.[4] The following is the Massachusetts state plan (hereinafter referred to as the "Plan") submitted pursuant to this requirement (Title II). The Plan was developed in an open manner and subject to public notice and comment by the State Steering Committee, which is comprised of state and local election officials as well as other special interest groups.[5]

The state must submit this Plan to the Election Assistance Commission (EAC)[6] and must submit similar plans in the future for each fiscal year to be eligible for a payment for that year. If the state intends to use the money for anything other than the federal requirements, the use must not be inconsistent with federal requirements. The submitted plan for each fiscal year must include the following provisions:

- How the requirements payment will be used;
- How the state will distribute and monitor the distribution of the payment to municipalities or "other entities" within the state (including the criteria for their eligibility for the funding);
- How the state will provide voter education and poll worker training;
- How the state will adopt voting system guidelines which are consistent with federal requirements;
- How the state will establish the funds to accept the federal dollars;
- What the state's budget is for activities;
- How the state will maintain their expenditure level so that it is not less than the expenditure level of the fiscal year ending prior to November 2000;
- How the state will measure performance to determine success for the state and for the local government in carrying out the plan such as timetables and outlining responsibilities;
- A description of the uniform, non-discriminatory state-based administrative procedure;
- If the state received the "early out money" to replace voting equipment, information on how it was used and the impact on the plan;
- How the state will conduct ongoing management of the plan;
- If applicable, any changes from the previous fiscal year's plan and a report on the success of the previous year's plan;
- A description of the committee who helped develop the state plan.

This plan must be completed by September 15, 2003, for public inspection and comment and thereafter published in the Federal Register no later than October 15, 2003.

The remainder of the funding outlined in HAVA will be directed towards other programs such as accessibility improvements including increased polling place access for voters with disabilities, research to improve voting technologies and pilot programs to test new voting systems and voting technology.[7]

## AN OVERVIEW OF ELECTIONS IN MASSACHUSETTS

In Massachusetts, the Secretary of the Commonwealth is the Chief Election Officer. As such, the Secretary's duties include the administration of federal and state elections, receiving nomination papers, printing ballots and tabulating election returns for federal and state elections as well as certification of voting equipment.

Federal and state elections are conducted at the municipal level. There are 351 municipalities within Massachusetts that each conducts elections. For towns, the local official responsible for conducting elections is the town clerk, and for cities, the city clerk or an election commissioner, as the responsible official, generally conducts elections.[8]

Each municipality is responsible for designating polling places, appointing and training poll workers, conducting voter registration sessions, and maintaining voter lists as well as management of elections themselves.[9]

Elections in Massachusetts are conducted in accordance with applicable federal law, the Massachusetts Constitution, the Massachusetts General Laws and the Code of Massachusetts Regulations. There is also a significant volume of case law relative to the election process in Massachusetts.

As of the November 2002 State Election, there were 3,972,622 registered voters. There were 2,220,301 ballots cast at the 2002 State Election.[10]

The Help America Vote Act provides Massachusetts with an opportunity to make significant improvements in the electoral process. The State Steering Committee will be responsible for developing the state plan that will be the foundation for Massachusetts' application for federal funding.

## PREPARATION OF STATE PLAN

The Secretary appointed a State Steering Committee to develop this Plan. The State Steering Committee was comprised of local election officials, representatives from the disability community, elected officials, and public interest groups. A listing of the Steering Committee members can be found at Attachment A. The Steering Committee held five (5) meetings.

The Steering Committee determined certain priorities to be addressed in the plan:

1. Purchase and implementation of new voting equipment in those municipalities that are currently using lever machines or datavote and reimbursements to those municipalities that have replaced lever machines and datavote systems since November of 2000.



2. Provide increased access to the elections process for people with disabilities through the use of specially designed Direct Recording Electronic (DRE) voting systems, improvements to facilities, training of elections staff, and enhanced public outreach.[11]

3. Modify the Central Voter Registry, the statewide database of registered voters, to comply with new requirements of HAVA.

4. Implement a comprehensive voter education program that informs voters about how to correct their ballots and how to request replacement ballots.

5. Implement a toll-free line that allows voters to check the status of their provisional ballots and determine whether or not their ballot was counted.

6. Train elections officials in Title III requirements of the Act.

The Steering Committee formed three sub-committees: Voter Identification and Provisional Voting, Voting Equipment and Accessibility, and Training and Education. Each of the sub-committees held public hearings at various locations around the state seeking public comment.

While HAVA provides increased responsibility for elections administration at the state level to achieve greater uniformity and consistency, municipal election officials are charged with the conduct of elections and are crucial to all aspects of the elections process. As Massachusetts continues to conform to HAVA requirements and standards, the Secretary will continue to work with the members of the Steering Committee, especially those local election officials, in the development of new procedures and technology to ensure compliance with HAVA.

This Plan represents the Commonwealth's initial response to the requirements of HAVA. This Plan will be revised as progress is made in compliance.

## ELEMENTS OF THE STATE PLAN

For each element required of the state plan, there is a summary of the HAVA requirements and then the Massachusetts response to those requirements.

---

**ELEMENT 1:**

**How the Commonwealth will use the requirements payment to meet the requirements of Title III and if applicable, under Section 251(a)(2) to carry out other activities to improve the administration of elections (Sec. 254, (a)(1).[12]**

Within Title III, there are three sections: Section 301—Voting system standards; Section 302—Provisional balloting; and Section 303—Statewide list of registered voters and requirements when registering by mail. Within each of those sections are various subsections. The information being provided for Element One will follow the structure of Title III.

### Voting System Standards—Section 301

HAVA requires that each voting system used in a federal election on or after January 1, 2006, meet each of the following requirements:

**(1) Balloting errors:**

(a) Voter verification of ballot selections (and correction)

The voting system must:

(i) permit the voter to verify privately and independently the votes selected before casting a ballot;

(ii) permit the voter privately and independently to change or correct a ballot before it is cast (including receiving a replacement ballot).

(Note that the requirement that a voting system permit the voter to verify the votes selected before casting a ballot may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the new requirements of HAVA.)

(b) Voter notice on overvoting (and correction)



The voting system must:

(i) notify the voter of an overvote (casting votes for more candidates than allowed);

(ii) notify the voter of the effect of overvoting (i.e. the vote for that office will not be counted);

(iii) provide the voter with the opportunity to correct the ballot, if he or she has overvoted.

(c) Paper-based voting systems compliance

Paper-based voting systems (including absentee balloting systems) may meet the above requirements with:

(i) voting-system specific voter education programs notifying the voter of the effect of overvoting;

(ii) instructions on how to correct a ballot before it is cast (including instructions on obtaining a replacement ballot);

(iii) system designs that preserve voter confidentiality.

**(2) Voting system audit requirements:**

The voting system must:

(a) produce a record with an audit capacity (The paper record produced shall be available as an official record for purposes of a recount.);

(b) produce a permanent paper record with a manual audit capacity;

(c) allow the voter to correct any error before the permanent paper record is produced.

**(3) Accessibility for individuals with disabilities:**

The voting system must:

(a) be accessible to voters with disabilities, including voters with visual impairment, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

(The above requirement is met by providing at least one DRE voting unit, or other voting system equipped for individuals with disabilities at each polling place.)

(All voting systems purchased with Title II funding after January 1, 2007, shall comply with these requirements.)

**(4) Alternative language accessibility:**

The voting system must:

(a) meet all requirements of alternative language access of Section 203 of the Voting Rights Act of 1965 (42 USC 1973aa-1a).

**(5) Error Rates:**

The voting system must:

(a) meet FEC guidelines (Section 3.2.1) for voting system error rates (errors attributable only to system errors, and not an act of the voter) in effect at the time of HAVA's enactment (October 29, 2002).

**(6) Definition of Vote:**

Each state shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.

**PROPOSED ACTION FOR HAVA COMPLIANCE WITH VOTING SYSTEMS STANDARDS:**

To comply with HAVA, the Secretary intends, through the regulatory, legislative, voting system certification and decertification processes, or otherwise, to replace voting systems that do not comply with the new standards. As of November 2000, 434 precincts used lever voting machines and 42 precincts used data-vote voting systems. No precincts used punchcard voting systems.[13] As of November 2002, 392 precincts used lever machines and 11 precincts used data-vote voting systems. Pursuant to HAVA, the Secretary will seek replacement of these systems.

As of November 2002, 1665 precincts used optical scanning systems—1042 precincts used Accu-Vote, 176 precincts used Optech, and 447 precincts used Optech Eagle. Additionally, in November 2002, 90 precincts used paper ballots. HAVA does not mandate the discontinuation of such systems, but



instead, certain additional steps will be required, including voter education. However, those municipalities that continue to use either paper ballots or optical scanning voting systems will still be required to provide at least one accessible unit per polling location by 2006.[14]

In an effort to retain the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the Commonwealth, under the direction of the Secretary of the Commonwealth, as Chief Elections Officer, will, in part:

(a) support, promote and encourage the use of direct recording electronic (DRE/touchscreen) voting systems, at polling places in Massachusetts;
(b) expeditiously certify new DRE voting systems that are compliant with state and federal laws;
(c) through existing state law, which authorizes the Secretary to certify and decertify voting systems, develop voting system standards and system audit requirements as required in HAVA and institute an ongoing process to manage changes to these standards and ensure uniform application of the standards for each voting system including those requirements for "second chance voting";[15]
(d) develop voting system standards requiring, as part of certification process, that the system demonstrate the ability to support a representative set of possible future ballot procedure changes, including instant runoff voting, as feasible, with an upgrade cost that is substantially less than the cost of complete system replacement;
(e) develop and distribute voter education materials as appropriate to meet the requirements of Section 301(a)(1)(B) of HAVA;
(f) with the assistance of the disability community, ensure compliance with the accessibility requirements for individuals with disabilities, including ensuring that at least one DRE/touchscreen voting system is used in each Massachusetts polling place pursuant to Section 301(a)(3)(B) and, with respect to in-person voting, that the voting system itself be located in a polling place that is accessible to voters with disabilities. Compliance efforts shall include monitoring polling places to determine accessibility and education of elections officials, poll workers, and voters with respect to the rights of all voters, including voters with disabilities;
(g) continue to ensure that all voting systems provide alternative language accessibility pursuant to the requirements of the Voting Rights Act of 1965;[16]
(h) regularly evaluate voting systems to assess error rates, reliability and accuracy factors, accessibility to voters with disabilities, language assistance needs and literacy needs, and ability to accommodate alternative voting systems; work with local elections officials to share information and make improvements;

(i) develop, by regulation and/or by statute, a uniform and nondiscriminatory definition of what constitutes a vote and what will be counted for each voting system.

The Secretary intends to leave decisions regarding specific replacement of voting equipment to each municipality, so long as such decisions are consistent with the requirements of HAVA and applicable state laws and regulations. The Secretary will work with municipalities to provide reimbursement for procuring upgraded voting equipment as well as the purchase or lease of accessible equipment prior to the 2006 HAVA deadline.

**Provisional Voting and Voting Information Requirements**

Section 302(a) of HAVA requires that "provisional voting" be permitted in federal elections on or after January 1, 2004. Under HAVA, if a voter's name does not appear on the official list, or the elections official asserts the voter is ineligible, the voter is entitled to cast a provisional ballot as follows:

(a) Elections officials at polling place notify voters of the provisional ballot option;

(b) Voter executes written affirmation stating:

He or she is a registered voter in the jurisdiction; and
He or she is eligible to vote;

(c) The voted ballot or written affirmation information is promptly transmitted to appropriate state or local elections official for verification;

(d) If the information is verified, the ballot shall be counted;

(e) At the time the voter casts the ballot, the voter shall be provided with information about the existence of a free access system (e.g. secure, confidential telephonic or Internet-based system) that restricts access to information on individual ballots, so that only the voter who casts the ballot may determine her or his individual ballot status;

(f) State or local officials shall establish the free access system.

HAVA also requires (Section 302(c)) that voters who cast ballots after the normal poll closing as a result of a Federal or state order, vote by provisional ballot that is segregated from regular provisional ballots.

Further, Section 302(b) requires that, with respect to federal elections held on or after January 1, 2004, elections officials post specified voting information at each polling place on Election Day, including:



(a) a sample ballot for that election;

(b) the election date and polling place hours;

(c) voting instructions, including provisional voting instructions;

(d) mail-in registrant and first-time voter instructions;

(e) general voting rights information, including the right to cast a provisional ballot and instructions on how to contact appropriate officials regarding allegations of violations;

(f) general information on legal prohibitions on fraud and misrepresentation.

**PROPOSED ACTION FOR HAVA COMPLIANCE WITH PROVISIONAL BALLOT AND VOTING INFORMATION REQUIREMENTS**

***Provisional Voting***

Massachusetts currently offers a type of provisional balloting known as escrow ballots.[17] Escrow ballots are offered to persons whose names do not appear on the list of registered voters, or in a primary, to those persons who claim a listing error (wrong party). Escrow ballots are reviewed only if they could possibly make a difference in the outcome of an election. If there is sufficient number of escrow ballots to make a difference in the outcome of an election, a hearing is held to determine whether the ballot should or should not be counted.

The escrow balloting procedure does not meet the requirements of provisional voting under Section 302 of HAVA. The Secretary, in consultation with local election officials and other interested persons, intends to:

(a) develop uniform information and procedures on provisional voting, and voting generally, as required by HAVA, and take steps to ensure that elections officials, poll workers and voters thoroughly understand provisional ballot rights and procedures;
(b) to the extent permitted by law, develop procedures allowing voters to cast a provisional ballot at the polling place upon signing a statement affirming the required information, without providing additional identifying documents;
(c) to the extent permitted by law, develop procedures whereby the information obtained to acquire a provisional ballot is sufficient to register the applicant to vote, if otherwise eligible, in future elections should it be determined that the person is not eligible to vote in the precinct for which the provisional ballot is sought or cast;

(d) develop procedures whereby a provisional ballot is counted provided that there is compliance with the verification procedures set forth in Massachusetts General Laws and regulations;
(e) consider sponsoring legislation amending the Massachusetts General Laws whereby a person's provisional ballot is counted with respect to those candidates and measures for which the person is entitled to vote even if the provisional ballot is cast in the incorrect precinct;
(f) create, or oversee the creation of, in conjunction with local elections officials, a secure and confidential free access system for a provisional voter to determine if his or her vote was counted, and, if it was not counted, the reason it was not counted **or** develop procedures whereby every person who casts a provisional ballot is notified as to the status of that ballot in terms of whether it was counted or not counted, and if not counted, why it was not counted;
(g) develop procedures for complying with the requirements that ballots cast after the close of the polls pursuant to a court order be provisional and be segregated;
(h) ensure compliance with Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-1a).

***Voting Information***

The Secretary currently provides local election officials with posters containing instructions on voting and penalties for voting offenses, which are required to be posted in each polling location. Also, "specimen ballots" are produced and required to be posted at each polling location.[18]

Additionally, the Secretary publishes and sends certain voting information to each household containing a registered voter.[19] This information is published in the "Information for Voters" booklet and is distributed before every state election. The booklet is also available on our website.[20] The booklet is published in English and Spanish and a large print and audio version are available.

To comply with HAVA, the Secretary will work with local election officials to make any necessary revisions to voting materials to ensure voters have proper instructions on:

- the date of the election
- the deadline for registering to vote
- due date/time of absentee ballots
- the hours and locations of polling places
- the location and address of local elections offices
- instructions on how to vote a ballot including how to use the voting equipment
- instructions on how to request a replacement ballot or provisional ballot and how to check the status of a provisional ballot
- instructions for first-time voters and identification requirements



- information on voting rights and what to do if these rights are alleged to have been violated
- general information on federal and state election laws regarding fraud and misrepresentation.

The Secretary intends to work with the disability community to develop alternative methods and standards for conveying this information at the polls to disabled individuals.

**Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail**

Section 303 of HAVA requires that the Secretary of State, as Chief Elections Officer, implement, in a uniform and nondiscriminatory manner, by January 1, 2004, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each such voter.

(1) The computerized list shall:
(a) be the official voter registration list for federal elections;
(b) serve as the single system for storing and managing the official list;
(c) contain the name and registration information of every registered voter;
(d) contain a unique identifier (DL#, partial SS#, or assigned number) for each voter;
(e) be coordinated with other state databases (Corrections, Health Services, DMV, other state social service agencies and Social Security);
(f) provide immediate, electronic access to any election officials in the state;
(g) allow for electronically entering data by any local election officials on an expedited basis;
(h) be supported by the State.

(2) Maintenance of the official list shall be performed on a regular basis as follows:
(a) voters names shall be removed in accordance with NVRA (42 U.S.C. § 1973gg, Section 8, (a)(4), (c)(2), (d) and (e);
(b) ineligible voters shall be removed in accordance with NVRA for felony status (42 U.S.C. § 1973gg, 6(a)(3)(B)); for death (6(a)(4)(A)); or in accordance with state law;
(c) each registered voter's name shall appear on the list;
(d) only ineligible voters or voters not registered shall be removed from the list;

(e) duplicate names shall be removed from the list;
(f) other reasonable efforts to remove ineligible voters, consistent with the NVRA (42 U.S.C. § 1973gg, et. seq.) that ensure eligible voters are not removed in error, including removing registrants who have not responded to a notice and who have not voted in two consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant shall be removed solely by reason of failure to vote.

Section 303(a)(5)(A)(i), requires applicants to provide certain information which must be verified for their voter registration to be processed. Specifically, an application for voter registration for a federal election may not be accepted or processed unless it includes:

(i) the driver's license number of an applicant who has been issued a current, valid driver's license; or, if a valid driver's license has not been issued;
(ii) the last four digits of an applicant's social security number.

However, if an applicant has not been issued a current, valid driver's license or a social security number, then:

(i) The State shall issue a unique identifying number.

To the extent the State has a computerized list, this unique identifying number shall be the number assigned to the applicant for purposes of the computerized list.

The State shall determine whether the information provided by the applicant (driver's license number or partial social security number (the last four digits)) is sufficient to meet the requirements of HAVA. [21]

The Secretary shall enter into a cooperative agreement with the Department of Motor Vehicles, and the Department of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security, to verify the accuracy of the information provided by the voter registration applicant, specifically:

(a) the applicant's name (first name and forename or surname);
(b) the applicant's date of birth;
(c) the applicant's social security number;
(d) whether such records show the applicant is deceased.

(Nothing shall be construed to require provision of applicable information under exceptional circumstances (e.g. personal safety or interference with an investigation).)





Beginning January 1, 2004, each State must, in a uniform and nondiscriminatory manner, require proof of residence from a registered voter for purposes of casting a ballot in a federal election, if the voter: (a) registered to vote in a jurisdiction by mail on or after January 1, 2003, **and** (b) has not previously voted in an election for federal office in the State, or voted in a jurisdiction and the jurisdiction is located in a State that does not have a HAVA-compliant statewide voter registration computerized list.

If the voter meets these conditions, and he or she **votes in person** (at a polling location), the voter shall, in order to vote, present to the appropriate elections official:

i. a current and valid photo identification, **or**
ii. a copy of one of the following that shows the name and address of the voter:
    (i) a current utility bill;
    (ii) a bank statement;
    (iii) a government check;
    (iv) a government paycheck;
    (v) a government document.

If the voter meets these conditions, and he or she **votes by mail** (absentee ballot), the voter shall, in order to vote, submit with his or her ballot to the appropriate elections official a copy of one of the following that shows the name and address of the voter:

(a) a current and valid photo identification, **or**
(b) a copy of one of the following that shows the name and address of the voter:
    (i) a current utility bill;
    (ii) a bank statement;
    (iii) a government check;
    (iv) a government paycheck;
    (v) a government document.

Any voter subject to these requirements who votes in person and who does not provide proof of residence as required shall be provided a provisional ballot.

Any voter subject to these requirements who votes by mail (absentee ballot) and who does not provide proof of residence as required shall have their ballot treated as a provisional ballot.

There are certain exceptions to this provision. Specifically, the identification requirements for first-time voters do not apply when:

(1) The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) and submits as part of the voter registration a copy of:
    (a) a current and valid photo identification, **or**;

(b) a copy of one of the following showing the name and address of the voter:

(i) a current utility bill;
(ii) a bank statement;
(iii) a government check;
(iv) a government paycheck;
(v) a government document.

(2) The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) and submits as part of the registration (subject to state verification of the information, including the applicant's name and birth date):

(a) a driver's license number, **or**
(b) at least the last four digits of their social security number.

(3) The voter is entitled to vote by absentee ballot under the Uniform and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff—1 et seq.).

(4) The voter is entitled to vote other than in person by Section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee—1).

(5) The voter is entitled under federal law to vote other than in person.

HAVA also requires changes to mail-in voter registration forms. Mail-in voter registration forms developed under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) must include the questions:

(1) Are you a citizen of the United States of America? (and)
(2) Will you be 18 years of age on or before election day?

The forms must also contain the statement: "If you checked "no" in response to either of these questions, do not complete this form."

New voter registration forms must request the applicant's drivers license number or last four digits of their social security number and must contain a statement informing the applicant that if the form is submitted by mail and the voter is registering for the first time, that additional information (a copy of documents for proof of residence; or a driver's license number or partial social security number) must be provided to avoid additional proof of residence requirements at the time of voting.

If an applicant fails to answer the question: "Are you a citizen of the United States of America?" the registrar shall notify the applicant of the failure to complete the form and provide an opportunity to the applicant to complete the form in a timely manner.



## PROPOSED ACTION FOR HAVA COMPLIANCE WITH STATEWIDE DATABASE REQUIREMENT AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL:

***Central Voter Registry of Massachusetts***

As part of the implementation of the National Voter Registration Act of 1993 (Motor Voter), Massachusetts developed the Voter Registration Information System (VRIS).[22] The VRIS is a statewide database that contains the name and address of every registered voter in Massachusetts. The system connects 350[23] municipalities and the Registry of Motor Vehicles. The VRIS is a closed system that does not provide for Internet or outside access. Each municipality is responsible for updating and maintaining information relative to registered voters in their municipality. [24]

The processing of voter registrations using the VRIS system allows for the detection of duplicates and allows for municipalities to communicate information electronically such as deletion of a voter in one municipality when they register in another.

The Secretary maintains a Help Desk to provide support for the system. The Help Desk runs periodic reviews of the system for possible duplicates not detected at the time of registration. The Help Desk also works with the Department of Public Health to obtain reported death information that is communicated to the local election officials.

The Voter Registration Information System:

- ✓ Is a secure statewide voter registration database that is a single, uniform, centralized, interactive system that is defined, maintained, and administered at the state level;
- ✓ Provides local elections officials with immediate access to the voter registration information;
- ✓ Serves as the official voter registration list for federal elections;
- ✓ Assigns every voter a unique identifier (voter identification number);
- ✓ Coordinates with the Department of Public Health to obtain death information;
- ✓ Provides for the removal of individuals who are clearly ineligible to vote, in accordance with all state and federal laws, while ensuring that eligible voters are not erroneously removed from the registration list;
- ✓ Provides a mechanism to notify an individual with respect to changes in status or failure in registration, or proposed purging of the individual from the database as an eligible voter and affording the individual a reasonable opportunity to present clarifying or correcting information.

The Secretary currently provides ongoing technical assistance to local elections officials regarding the VRIS and ensures that the database and the information contained therein are not subject to improper use.

To comply with HAVA, certain changes to the VRIS will be necessary. Those changes include modifications to allow the system to interface with other state agencies to coordinate records and to communicate with the Registry of Motor Vehicles to verify driver's license and social security number information.

The Secretary has already begun discussions with the Registry of Motor Vehicles to determine what modifications are necessary to both computer networks so that information can be verified in a timely manner. The discussions have included what information will be verified.

In complying with the requirements of HAVA, the Secretary will, in part:

(a) Consider whether an applicant's state identification card number issued by the Massachusetts Registry of Motor Vehicles is sufficient to meet the requirements of a driver's license number;[25]

(b) To the extent permitted by law, establish a procedure for and rules requiring local elections officials to provide any person whose voter registration application is not accepted with written notice and an opportunity to correct errors or provide missing information;

(c) Clarify, in legislation or otherwise, to local elections officials, poll workers, and voters, which documents are valid for identification purposes under this section.[26]

***Requirements for Voters Who Register by Mail***

The Secretary will comply with HAVA's requirements with respect to special requirements for certain voters who register by mail. In implementing these provisions, the Secretary will, in part:

(a) Ensure that elections officials, poll workers and voters understand clearly which voters are subject to the identification requirements; understand the procedures for soliciting, reviewing and processing identification; and advise individuals of their right to cast a provisional ballot when appropriate;

(b) Determine whether to apply the identification requirements only to those who meet the specific criteria set forth in Section 303(b)(1), namely those who register by mail on or after January 1, 2003, **and** who have not previously voted in an election for federal office in the jurisdiction or to seek legislation to require all voters to present identification;



(c) Clarify for voters, local election officials, and poll workers, in a uniform and nondiscriminatory way, which forms of identification are acceptable to be used as valid identification as permitted under Section 303(b)(2)(A), construing such provisions of law broadly in permitting the use of the identification to satisfy the requirements of HAVA;

(d) Monitor the application of the identification provisions, including providing instruction on how to report alleged illegal application of identification requirements;

(e) Ensure compliance with Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-1a).

The Secretary will work with local election officials to determine the most practical application of the HAVA requirements.

***Mail-In Registration Form Requirements***

The Secretary is working with local election officials to re-design the voter registration forms used in Massachusetts. Any new form will include the questions: "Are you a citizen of the United States of America?" and "Will you be 18 years of age or older on or before election day?". The new forms will also instruct the voter not to complete the form if they answered "no" in response to either of the questions. The new forms will be designed to instruct the voter to provide their driver's license number or, if they do not have a driver's license, to provide the last four digits of their social security number, and inform the voter that if they have neither, that they will be assigned a unique identifier.

The forms will also include information relative to identification requirements. For voters who do not submit identification with their registration, local election officials will take the following steps:

- Register the voter, inform the voter that their voter registration has been processed and request identification from the voter using a form letter which indicates that if they do not provide the identification before the next federal election, they will be required to present it at the polls on election day.
- If identification is not received prior to the next federal election, request identification at the polls on election day when the voter appears to vote.

**Use of Requirements Payment for Other Than Complying with Title III**

Section 251(b) permits the use of requirements payments only for complying with Title III, EXCEPT that a State may use a requirements payment

to carry out other activities to improve the administration of elections, if the state certifies that it has implemented the requirements of Title III **or** the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under Section 252(c) (1/2 of 1 percent of the total amount appropriated for requirements payments for the year).

**PROPOSED ACTION FOR HAVA COMPLIANCE WITH USE OF REQUIREMENTS PAYMENT FOR OTHER THAN COMPLYING WITH TITLE III**

The Secretary intends to, in consultation with local election officials and other interested persons, determine how any funds available pursuant to Section 251(b) should be spent in order to improve the administration of elections for federal office in the Commonwealth of Massachusetts.



**ELEMENT 2:**

**How the State will distribute and monitor the distribution of the requirements payments 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 payments; 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) (Sec. 254, (a)(2)).**

HAVA requires that payments available be used for the purposed described in Element One, or as otherwise authorized by HAVA. The Secretary of the Commonwealth, as Chief Elections Officer, is required to establish a procedure for distributing and monitoring payments to local governments and other entities. This procedure must be developed in consultation with local elections officials and other interested parties, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III.

To assist in this regard, the Secretary will work with the Steering Committee who will advise and make recommendations regarding the distribution of funds. After considering the advice and recommendations of the Steering Committee, the Secretary intends to:

(a) establish the procedure, including an application forms and process, for receiving funds;
(b) establish criteria for the distribution of funds, including identification of the types of individuals and entities eligible to receive funds;
(c) establish specific performance goals and measures to monitor the use of those funds, requiring periodic reports and accounting to the Secretary to ensure the funds are being spent in accordance with Title III and the application for funds, and to ensure that programs are meeting the performance goals and measures adopted by the Secretary;
(d) by general press release, by posting on the Internet, by communication to interested parties, and other appropriate methods, make the application for funds, the performance goals and measures, and other information regarding the procedure for the distribution of funds, publicly available.

As HAVA requirements result in significant changes on a municipal level, the Secretary will ensure that municipalities have an opportunity to seek funding to improve the election process. For funding to replace or obtain additional voting equipment, the Secretary intends to provide a reimbursement program. The municipality will be required to provide detailed information to the Secretary regarding the equipment as well as planned education for the new equipment.

The Secretary will also consider providing grant programs to other organizations for purposes of voter registration and voter education.



**ELEMENT 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.**

All participants in the elections process, including poll workers and voters, can benefit from instruction in elections law and procedure. The Secretary intends to provide programs for voter education, election official education and training and poll worker training. The Secretary intends to develop such programs in consultation with local election officials and other interested persons.

***Election Official Education and Training and Poll Worker Training***

As the chief elections officer of the state, it is the Secretary's responsibility to obtain and maintain uniformity in the application, operation, and interpretation of State election laws. However, as previously indicated, elections in Massachusetts are administered by local election officials, who are responsible for appointing and training poll workers.

The Secretary currently works with the local election official's organization to coordinate training. Both the City and Town Clerks' Associations hold meetings three times a year. During those meetings, the Secretary often teaches classes on various topics relating to elections. Additionally, the Secretary is available to assist with poll worker training upon request.

The Massachusetts Town Clerks' Association has also developed an educational and certification program to establish minimum standards of knowledge of the Massachusetts General Laws and regulations relating to elections, and to enhance the professionalism of the position. To be awarded the designation of "Certified Massachusetts Municipal Clerk," participants are required to pass a written examination based on the contents of the education programs. The Town Clerks' Association also offers scholarships and encourages clerks to further their education by participating in the educational program sponsored by the New England Municipal Clerks Institute (NEMCI) that is held at Salve Regina University.

To ensure compliance with Title III of HAVA and improve the overall administration of elections the Secretary will work with local election officials to:

(1) Sponsor annual election administration workshops, and require local election officials to participate, using federal funds, if available;
(2) Continue to attend and participate in City and Town Clerk Association meetings to communicate concerns, practices, and information;
(3) Produce separate training presentations for election officials, staff, and board workers on specific election practices and procedures;
(4) Consider developing statewide training videos or PowerPoint presentations for poll workers, including special instructions for various positions such as warden and clerk;

(5) Conduct and videotape a statewide training session on the needs of voters with disabilities for all local elections officials;
(6) Consider establishing, in conjunction with local elections officials, an on-line, interactive training seminar to train, educate and certify elections officials and poll workers while ensuring that such seminar is accessible to the widest possible audience, including bilingual poll workers and poll workers with disabilities;
(7) Ensure that any training provided to poll workers cover at least the following topics:
    (a) the proper operation and maintenance of voting systems and technology;
    (b) the rights of voters to cast provisional ballots and the proper processing and counting of those ballots;
    (c) the non-discriminatory application of HAVA's identification requirements for certain voters who register by mail;
    (d) the rights of minority language voters in jurisdictions covered under Section 203 of the Voting Rights Act of 1965 to receive language assistance at the polling place.

***Voter Education and Outreach***

The Secretary intends to embark on new voter education and outreach initiatives. Such programs will be designed after consultation with local election officials and other interested parties.

In the past, the Secretary has sponsored a grant program for voter registration organizations to conduct voter registration and promote voter education. The program was recently discontinued due to lack of funding. Using the monies from HAVA, the Secretary intends to reinstate the program.

Also, to meet the requirements of HAVA and to enhance the administration of elections, the Secretary intends to:

(1) establish an outreach and education program in the Office of the Secretary of State to educate local elections officials and voters, and to do the following:
    (a) to assist in meeting the goals and requirements of Title III;
    (b) to serve as a "clearinghouse" for the coordination of voter education;
    (c) to produce and place public service announcements relative to poll worker recruitment and voter education;
    (d) to design and post additional information on the website regarding the voting process;
    (e) to target younger voters and those not yet old enough to vote regarding the importance of and the mechanics of participating in the voting process;



    (f) to educate all eligible citizens as to the procedures relative to voting;
    (g) to work with federal, state and local governmental agencies, including the Registry of Motor Vehicles, to streamline the procedures to facilitate voter registration and voter participation;
    (h) to develop procedures for informing individuals whose attempted efforts to register to vote or to vote are defective, and to provide for the correction of such deficiencies;
    (i) to explore proposals that may facilitate the opportunity to participate in the voting process, including Election Day registration, on demand absentee voting, and Election Day Holiday voting;
    (j) to take all other appropriate action to educate elections officials and voters regarding the voting process.

(2) through the process for distribution of funds, provide funds to local election officials and other entities, including community-based, employee-based, campus-based, and similar organizations, to assist in voter education, election official education and training, and poll worker training;

(3) consider enhancing the existing toll-free telephone number and Secretary of the Commonwealth website to provide additional information to citizens on how to participate in the elections process and ensure that there are sufficient staff and resources to make the toll-free number and the website easily accessible to persons with disabilities and persons with language assistance needs;

(4) consider the development of public service announcements and other videos that would be available for local cable networks;

(5) develop for posting in polling places, on the Internet, and elsewhere, materials in appropriate languages and in alternate formats (Braille, large print, audio tape, or electronic computer disk) containing useful information regarding the election process and how to participate in it. The Secretary shall ensure that such materials are accessible to the widest possible audience, including persons with disabilities and language assistance needs;

(6) encourage voter education efforts conducted in connection with the foregoing activities to cover at least the following topics:
    (a) information on how to register to vote;
    (b) information on how voters can determine the location of their polling places and hours of voting;
    (c) information on absentee balloting;
    (d) the proper use of voting systems and technology;
    (e) the rights of voters to cast provisional ballots;

(f) the rights of minority language voters in jurisdictions covered under Section 203 of the Voting Rights Act of 1965 to receive language assistance at the polling place;
(g) the availability of the complaint procedure and toll-free numbers described in this State Plan;
(h) the rights of voters with disabilities in jurisdictions covered under the Voting Accessibility for the Elderly and Handicapped Act to receive assistance at the polling place.

(7) re-assess the information currently provided by the Secretary's office, including but not limited to, the Information for Voters guide. The informational material will be re-evaluated to determine what information needs to be modified and what additional information should be provided. The Secretary will direct sufficient resources towards strengthening existing publications and programs and establishing ones that will be the most effective in addressing voting issues in Massachusetts.



**ELEMENT 4:**

**How the State will adopt voting system guidelines and processes that are consistent with the requirements of Section 301.**

Section 254(a)(4) of HAVA requires the Commonwealth to describe how it plans to adopt voting system guidelines and processes that are consistent with the requirements of Section 301 of HAVA. The Secretary, under existing state law and regulation, certifies voting systems and equipment.[27] The procedures for the use of voting equipment is set forth in the general laws and in the Code of Massachusetts Regulations. The Secretary also has the authority to decertify voting systems and equipment, and the procedures for their use. No voting system may be used for any election without being certified.

The Secretary, through existing processes, after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, will certify and decertify voting systems, and the procedures for their use, to ensure that all voting systems and the procedures for their use comply with the requirements of Section 301 and other provisions of HAVA.

**ELEMENT 5:**

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

Section 254(b) of HAVA requires the Secretary to establish a fund to be used to administer the state's activities relating to its requirements payments. The election fund is to include:

(1) amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment [has been] made to the State. . .;
(2) the requirements payments made to the State;
(3) such other amounts as may be appropriated under law; and
(4) interest earned on deposits of the fund.

The Secretary of the Commonwealth has administratively established an Election Fund. The Secretary's fiscal, accounting, and budgeting offices will have overall responsibility, under the direction of the Secretary of the Commonwealth, for the administration of this fund. The administration of the fund will meet all requirements of federal and state law for fiscal management.



**ELEMENT 6:**

**The State's proposed budget for activities under Part II of HAVA, 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 such other activities.**

Section 254(a)(6) of HAVA requires the Secretary to describe in the state plan a budget for its proposed activities and anticipated expenditures for those activities.

HAVA creates additional requirements on states. The success of this reform effort is dependent upon adequate funding. It is important to realize that budgetary issues cannot be completely resolved until the amount of funds available is finally determined, the voluntary guidelines (Subtitle B of Title III) promulgated by the Commission can be considered, and the costs of actual implementation are ascertained. However, as the Election Assistance Commission has not yet been established to develop and announce specific funding and guidelines, no further funding has been determined. Accordingly, it is difficult to formulate a proposed budget. When the amount of funds are finally determined, the guidelines are promulgated, and the implementation costs can be ascertained, a detailed budget will be presented by the Secretary.

Section 253(b)(5) of HAVA requires that each state provide 5 % matching funds for the Title II funding. Massachusetts is working to appropriate such matching funds.

The general principles that are being followed in the budgeting process are set forth below:

(a) The Secretary of the Commonwealth will adopt policies and procedures to ensure that all funds received, including interest earned on those funds, with the exception of funds identified in Sections 251(b)(2)(A) and (B) from Title II allocations, will be used to accomplish the requirements of Title III.

(b) The Secretary will identify its "maintenance of effort" level for each of the requirements in Title III and will not use HAVA funds to supplant activities already funded.

(c) The State will use some of the monies received under Section 101 to supplement the monies received under Section 102 for reimbursing those municipalities that used either lever machines or punch card voting machines at the 2000 election.

(d) No funds received pursuant to Title II will be used for purposes of litigation or payment of judgment.

(e) The Secretary will administer the Election Fund described in Section 254(b) of the Act.

**SECTION 101 FUNDS BUDGET:**

| PURPOSE | AMOUNT |
|---|---|
| Statewide Voter Registration Database | $3,000,000 |
| Voting Equipment | $1,246,944 |
| Voter Education | $1,000,000 |
| Poll Worker Training | $750,000 |
| Alternative Language Assistance | $100,000 |
| Provisional Balloting Information | $200,000 |
| Administrative Expenses/Complaint Process | $200,000 |
| Disability Access/Accessibility | $100,000 |
| Miscellaneous/State Plan Expenses | $50,000 |
| TOTAL | $6,646,944 |

**SECTION 102 FUNDS:**

All monies received under Section 102 will be directed to the municipalities. Additionally, certain amounts received under Section 101, as noted above, will be used to supplement any amounts provided to municipalities that are required to replace voting equipment.

**TITLE II FUNDS:**

The Secretary of the Commonwealth, in administering the Election Fund, will provide funding for the following specific requirements of Title III:

**VOTING SYSTEMS STANDARDS**

The Secretary will allocate funds to meet the requirements of Section 301. This may include allocation of funds to local election officials, according to allocation criteria developed by the Secretary.

If federal standards or state standards are adopted that require retrofitting of existing equipment, funds may also be necessary for this purpose.

The Secretary shall establish a procedure to determine which local election jurisdictions require or request funds to meet the requirement of



Section 301(a)(3) for at least one accessible voting system in each polling place. There are approximately 2,158 precincts in the Commonwealth of Massachusetts.

The Secretary shall ensure that all voting equipment meets the provisions of Section 301, including, but not necessarily limited to: (1) permitting voters to verify and correct their ballots prior to casting the ballot; (2) providing notice of the fact and effect of overvotes and permitting voters an opportunity to correct an overvote before the ballot is cast; (3) producing a permanent paper record with a manual audit capacity; (4) providing a uniform definition of a vote cast on any voting systems; (5) ensuring accessibility to persons with disabilities; (6) ensuring accessibility for language minorities as required by the Voting Rights Act of 1965, as amended; and (7) meeting the "error rate" guidelines adopted by the Federal Election Commission.

100% of the Section 102 monies will be dedicated to this purpose. Additional funding from Section 101 monies will be used to supplement monies distributed to municipalities for purposes of acquiring new voting equipment. It is estimated that an additional 15% of Title II monies will be used to acquire accessible voting equipment for each polling location as well as for other municipal activities.

**PROVISIONAL VOTING**

Massachusetts law does not currently provide for provisional voting that complies with the requirements of Section 302. Legislation will be introduced and regulations promulgated which provide for provisional voting in compliance with the requirements of Section 302. The Secretary intends to disburse funds to ensure that the provisional voting requirements are implemented and that all notices required by HAVA are developed and included at each polling place. In addition, the Secretary will, in cooperation with local elections officials, define a "free access" system (or systems) to permit voters to determine if their provisional ballot was counted and if it was not, why not. The funds necessary for this "free access" system will depend on the design of the system (Internet, telephone, etc.), who operates and manages the system (one state system, or local systems), and the volume of inquiries made by voters for the required information or the volume of notices provided to provisional voters.

It is estimated that 5% of the Title II funding will be dedicated to this purpose.

**VOTER INFORMATION**

HAVA requires that certain information be provided to voters at the polling place. This information shall include a sample ballot, the date and hours of voting, how to vote, how to vote a provisional ballot, procedures for first time

registrants required to present identification, a listing of the rights of voters and other general information on other laws and protections for voters.

The Secretary will ensure that the necessary materials are developed, distributed and provided at all polling locations.

Preliminarily, it is estimated that 7% of the funds will be dedicated for this purpose.

**STATEWIDE DATABASE**

The Secretary is required to develop a single, uniform, official, centralized, and interactive database of registered voters that is defined, maintained, and administered at the state level. The database shall be the official list of voters for federal elections.

Massachusetts currently has a centralized database called the Voter Registration Information System. The system was developed in response to the National Voter Registration Act of 1993 and meets all requirements of that act. The system will, however, need to be modified to meet the new requirements of HAVA.

The costs associated with modifications of the system will include establishing further connections with the Registry of Motor Vehicles to facilitate the verification of driver's license number and social security number.

Preliminarily, it is estimated that 10% of the available funds be used for this purpose.

**REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL**

The Secretary will develop procedures for the uniform implementation of the requirements of Section 303(b).

It is estimated that 5% of the funds will be dedicated for this purpose.

**VOTER EDUCATION**

Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate voters to assist in meeting the requirements of Title III. Educating voters on the use of new voting equipment as well as new procedures will be critical to the success of the reforms in the election process.

The Secretary will allocate substantial funds to the education of voters concerning voter registration, voting, new voting equipment, voter rights, and other appropriate subjects.



These funds will provide for educational efforts in the minority language and disability communities, and will make a special effort to inform and educate young voters as they begin their careers as voters.

In addition to funds expended by the Secretary, funds may be allocated to local elections officials, individuals, organizations, and others for educational purposes. Funding allocation will be in accordance with criteria established by the Secretary.

Outreach methods may include: printed materials, radio and television announcements, mailings, newsletters, organizing community groups and utilizing their networks to extend into the community, or other means to effectively reach the target audience.

Preliminarily, it is estimated that 10% of the funding available be used for this purpose.

**ELECTIONS OFFICIAL EDUCATION**

Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate election officials. Local election officials are a key component of a successful election as they actually administer elections and interact with the voters.

The Secretary will work with local election officials to develop a plan for specific training of election officials. The funding required for this training program will depend on the curriculum and program design.

Preliminarily, it is estimated that 20% of the available funds be dedicated for this purpose.

**POLL WORKER EDUCATION**

Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate poll workers.

The Secretary will expend and allocate funds to assist local elections officials in programs to train poll workers. These programs will include, among other topics, instruction on the proper operation of voting equipment, applicable federal and state laws, the specific needs of minority language and disabled voters, voting provisionally in accordance with the HAVA, procedures for voters who register for the first time by mail, and the rights of voters.

Preliminarily, it is estimated that 15% of the funding be dedicated for this purpose.

## THE PORTION OF THE REQUIREMENTS PAYMENT THAT WILL BE USED TO CARRY OUT OTHER ACTIVITIES

**Complaint Procedure**

The Secretary will establish a complaint procedure that meets the requirements of Section 402. The funds necessary for administering this procedure will depend on the type and the number of complaints received and processed. Funding for administering the procedure is likely to come from the requirements payment. The Secretary would also use such funds for other administrative costs for implementation of HAVA.

It is estimated that 1.5% of the Title II funding would be dedicated to this purpose.

**Other Costs:**

Providing Grants to Organizations and Municipalities, including voter registration grants: 10%

Administrative Costs: 1.5%



## SUMMARY OF COSTS AND PORTIONS USED TO CARRY OUT ACTIVITIES

The chart below lists activities and costs of HAVA to be implemented in Massachusetts. Should Congress fail to provide amounts authorized by HAVA, funding amounts for each activity will be reduced proportionately based on the percentage of the total funding the activity represents.

| ACTIVITY | PERCENTAGE | PURPOSE |
|---|---|---|
| Voting Systems | 100% of Section 102 Monies and 15% of Title II Monies | For the purchase of new voting equipment, including accessible equipment |
| Provisional Voting Information | 5% | To establish a provisional ballot system and the required free access system |
| Voter Information | 7% | To provide the required information to voters |
| Voter Registration Database | 10% | Modifications to VRIS |
| Requirements for Voters Who Register by Mail | 5% | To implement procedures uniformly |
| Voter Education | 10% | Administered by state in coordination with municipalities |
| Election Officer Training | 20% | Administered by State to municipalities |
| Poll Worker Training | 15% | Administered by State in coordination with municipalities |
| Complaint Procedure | 1.5% | To ensure that HAVA is implemented fairly |
| Administrative Expenses/ Implementation Costs | 1.5% | For state personnel to administer HAVA and other costs for implementation |
| Grants | 10% | Includes activities such as voter registration |
| TOTAL | 100% | |

**ELEMENT 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.**

The Secretary of the Commonwealth, through the state's budgetary processes and the distributions of the requirements payment, intends to ensure that the expenditures of the state for activities funded by the payment will be maintained at a level that is not less than the level of such expenditures maintained by the state for the 1999-2000 Fiscal Year.



**ELEMENT 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 carrying out the plan, including the timetable 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.**

Section 254(a)(8) of HAVA requires the Secretary to describe how the state will adopt performance goals and measures to be used by the Commonwealth to measure Massachusetts' success in implementing this state plan.

To ensure continued implementation and monitor performance, the Secretary intends to assign at least one employee of the Elections Division to oversee the HAVA project. This employee would be responsible for coordination of efforts between the state and municipalities as well as reporting progress to the Secretary.

The Secretary intends to:

(a) develop performance goals and measures, with timetables, descriptions of criteria, the process used to develop the criteria, and identification of accountable officials, to determine the effectiveness of all programs and efforts receiving HAVA funds;

(b) monitor, through consultations with local elections officials and interested individuals and organizations, the performance of the state, units of local government and other entities with respect to reaching goals and each and every provision of HAVA.

Some planned performance goals include:

- ✓ Elimination of lever voting machines and punch card voting systems: November 2004
- ✓ Implementation of Updates to Central Voter Registry System: January 2004
- ✓ Implementation of Free Access System for Provisional Voting: February 2004

**ELEMENT 9:**

**A description of the uniform, nondiscriminatory state-based administrative complaint procedures in effect under section 402 of HAVA.**

Section 402 of HAVA requires each state to establish and maintain a state-based administrative complaint procedure that:

(a) is uniform and nondiscriminatory;

(b) allows any person who believes that there is a violation of any provision of Title III to file a complaint;

(c) requires that the complaint be in writing and be notarized;

(d) permits consolidation of complaints;

(e) requires that there be a hearing on the record if the complainant requests such;

(f) an appropriate remedy be provided if the State determines that there is a violation of Title III;

(g) the complaint be dismissed and that the results be published if it is determined that there is no violation;

(h) a final determination be made within 90 days from the date the complaint is filed unless the complainant consents to a longer period for making such a determination;

(i) alternative dispute resolution procedures be established for resolving the complaint within 60 days if the State fails to meet the 90 day deadline set forth above.

Under the current provisions of Massachusetts General Laws, any person may complain to the Secretary of the Commonwealth, as Chief Elections Officer, that a pattern of conduct, or a standard, practice or procedure of a local election official is contrary to the elections laws.[28]

The Secretary will establish a uniform, nondiscriminatory state-based administrative complaint procedure in compliance with Section 402 of HAVA by amending the Code of Massachusetts Regulations.[29] The procedure will provide individuals with a meaningful, expedited means of voicing a complaint concerning the implementation of Title III of HAVA and an appropriate remedy if a violation has occurred. The procedure will address the accessibility needs of minority language voters and individuals with disabilities.



The complaint procedure will authorize any individual residing in the Commonwealth of Massachusetts to file a written complaint with the Secretary alleging that Title III has been violated, is being violated or is about to be violated. Pursuant to HAVA, the complaint must be notarized. (The Complainant must sign the complaint after being sworn by a notary public.) The Secretary intends to develop forms for filing such complaints, but any other form that meets the specified requirements will be accepted. Forms prescribed by the Secretary will be translated into appropriate languages.

The complaint may be filed in person at any office of the Secretary of the Commonwealth or mailed to Secretary of the Commonwealth, Elections Division, HAVA Complaint, 1 Ashburton Place, Room 1705, Boston, MA 02108. The Secretary may consolidate complaints when appropriate. When a complaint is filed, the Secretary shall assign an investigator, who shall be an employee of the Elections Division. The process will allow for the complainant to request a hearing on the record. A final determination, in writing, must be made within 90 days of filing the complaint. An appropriate remedy must be provided if a violation is found.

The process will include provisions if a determination is not made within 90 days, that an alternative dispute resolution will be provided.

**ELEMENT 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 such plan, including the amount of funds available for such activities.**

Section 254(a)(10) of HAVA requires the Commonwealth to describe in its State Plan how funds that it has received under sections 101 or 102 of HAVA will affect the activities that the state plans to carry out under the State Plan. Section 254(a)(10) also requires the Secretary to state the amount of funds available for its proposed activities.

The Secretary intends to use the funding received by the Commonwealth under Title I of HAVA to assist the state and municipalities to implement the provisions of HAVA. The funding will be allocated as follows:

| PURPOSE | AMOUNT |
|---|---|
| Statewide Voter Registration Database | $3,000,000 |
| Voting Equipment | $1,246,944 |
| Voter Education | $1,000,000 |
| Poll Worker Training | $750,000 |
| Alternative Language Assistance | $100,000 |
| Provisional Balloting Information | $200,000 |
| Administrative Expenses/Complaint Process | $200,000 |
| Disability Access/Accessibility | $100,000 |
| Miscellaneous/State Plan Expenses | $50,000 |
| TOTAL | $6,646,944 |

All monies received under Section 102, will be dedicated to the replacement of lever voting machines and data-vote voting systems. The amount received for this purpose is $1,519,497.



**ELEMENT 11:**

**How the state will conduct ongoing management of the plan, except that a 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 as required in the same manner as the State plan;**

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

**(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 section 255 of HAVA.**

Section 254(a)(1) of HAVA requires the state to describe in its plan how it will conduct ongoing management of the plan.

The Secretary will provide ongoing monitoring and oversight of compliance with the requirements of HAVA. To facilitate such, the Secretary will require that:

(a) any official or other entity receiving any funds under HAVA will be required to make ongoing reports on progress of implementation;

(b) funds be awarded on a schedule or other basis that requires proof of satisfactory completion of one phase of a project before funds for the next phase are distributed;

(c) local election officials and members of the State Steering Committee be consulted on a continuing basis with respect to management of the State Plan and any perceived problems with its implementation and/or the need for material change;

(d) no material change be made in the administration of the State Plan prior to appropriate notice and publication in the *Federal Register*.

**ELEMENT 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.**

As this is the first year Massachusetts is submitting a plan, there is no response to this element. Any changes to the State Plan for future fiscal years will be forwarded as required, including documentation as to the success under the plan for the previous fiscal year.

The Secretary will also provide copies of the same to the Senate and House Ways and Means Committees as well as the Office of Administration and Finance.



**ELEMENT 13:**

**A description of the committee which participated in the development of the State Plan in accordance with section 255 of HAVA and the procedures followed by the committee under sections 255 and 256.**

As discussed above in the Introduction, this Preliminary Plan was developed through a State Steering Committee of twenty-eight individuals representing a cross-section of Massachusetts. As required by Section 255(a), the individuals included the chief elections officials of the two most populous jurisdictions conducting federal elections in Massachusetts (the cities of Boston and Worcester), other local elections officials, stakeholders (including representatives of groups of individuals with disabilities) and other persons. The list of the members and biographical information is included below as Attachment "A."

The Committee, as discussed in the Overview, held five (5) public meetings. The Committee formed three sub-committees: Voter Identification and Provisional Voting, Voting Equipment and Accessibility, and Training and Education. Each of the sub-committees held public hearings at various locations around the state, inviting and receiving comment from the public. The Committee thereafter met in Boston and the Chairs of each of the sub-committees provided their findings to the Secretary. Those findings were considered by the Secretary in drafting the Preliminary State Plan which was first provided to the Steering Committee for comment before being released for public comment.

**Attachment A**

**William Francis Galvin** was elected to the Commonwealth's third-ranking constitutional office in 1994 and was sworn-in as the 28th Secretary of the Commonwealth of Massachusetts on January 18, 1995. He is currently serving his third 4-year term having been re-elected in 1998 and 2002. Sensitive to the Commonwealth's rich and storied history, Secretary Galvin, Chairman of the Massachusetts Historical Commission, has overseen the award of more than $26 million in preservation grants to sites in over 150 communities, and a grant program that helps cities and towns preserve their historical records. Besides serving as the Commonwealth's chief elections officer, Galvin is one of the state's premier election law specialists, an experience that helped prompt him to decertify the Votomatic punch card system in Massachusetts three years before its notoriety in Florida. Overseeing the "Motor Voter Law" which made it more convenient for people to register to vote, Secretary Galvin implemented the Central Voter Registry, the first statewide network of election records and increased voter registration to a record number. Designated the state liaison with the U.S. Census Bureau, Secretary Galvin targeted traditionally undercounted populations in a campaign that saw the Massachusetts census count become larger than predicted. As the state's chief securities regulator, Secretary Galvin has aggressively protected investors against fraud and has recovered millions of dollars for victims of scam artists and rogue dealers. Secretary Galvin has been an active participant in the National Association of Secretaries of State, serving first as Chairman of the Standing Committee on Securities and currently as Chairman of the Committee on Presidential Primaries. Secretary Galvin was born in Boston where he lives today with his wife Eileen and daughter Bridget. He graduated from Boston College in 1972 and Suffolk University School of Law in 1975. He is a member of the Massachusetts and Federal Bars.

**Myra Berloff** is the Acting Director of the Massachusetts Office on Disability, the state agency that works to eliminate discrimination against people with disabilities. Under her leadership the agency handles over 15,000 requests annually for individual or systemic advocacy, technical assistance or information and referral. During her years at MOD she has held the positions of Deputy Director and Assistant Director for Community Services. She is well known for her expertise in providing training and technical assistance to state agencies, municipal officials, Community Access Monitors, persons with disabilities, social service providers, and businesses on the Americans with Disabilities Act and other disability related laws and regulations. She spends much time promoting disability awareness throughout the state in order to advance the civil rights of people with disabilities. She helped design and continues to promote the nationally acclaimed Cultural Access Initiative that has trained representatives from over 30 states to make systemic changes that influence the quality and accessibility of cultural resources. Her work in the disability community was recognized with the Manuel Carballo Governor's Award for Excellence in Public



Service. She has been involved in promoting disability awareness for over 17 years.

**Nancy Carapezza** is the immediate past President of the League of Women Voters of Massachusetts. The League of Women Voters (LWV) is a nonpartisan organization that encourages informed and active citizen participation in government through citizen education and voters service projects. The League serves the public with individuals and organizations by providing advice and training on how to make government responsive and accessible. Nancy has also served as LWVM Vice-President for Citizen Education/ Voters Service and Vice-President for Local League Services. A resident of Wayland, she has served the local League in numerous offices. She is involved throughout the Commonwealth moderating debates and forums, and speaking at events on topics such as voter registration and participation in the political process, ballot questions, current public policy issues and Making Democracy Work. In 1995, she worked on the implementation of the National Voter Registration Act (NVRA/Motor Voter) here in the Commonwealth, and was then appointed to the Voter Registration Reform Advisory Committee. She is also a director of the Boston Network for Women in Politics and Government, a division of the McCormack Institute of Public Affairs at UMASS Boston. Nancy has worked as a probation officer and social worker. She is currently the coordinator of her Church's Confirmation Program and Wayland Public Schools Program: "Just Like Me: Understanding People with Disabilities".

**Kathleen A. Casavant** is representing the Massachusetts AFL-CIO.

**Kim Charlson** is the director of the Braille and Talking Book Library at the Perkins School for the Blind in Watertown, Massachusetts. She is a recognized national and international expert on library services for people with disabilities, Braille literacy, adaptive technology and information access. She serves on a number of committees for the National Library Service for the Blind and Physically Handicapped of the Library of Congress, and serves as a national member of the Braille Authority of North America, which is the standard-setting body for Braille. She is an active consumer advocate in many other arenas including guide dog issues, arts access, voting access, information and adaptive technologies, and disability policy development. In the area of education, she serves as the chair of the Department of Education's Braille Literacy Advisory Council. In advocacy and civil rights efforts, she served as the lead consumer advocate in the Fleet and Sovereign Bank Talking ATM initiative, and is an appointed member of the Governor's Advisory Council on Disability Policy. She has served as president of the Bay State Council of the Blind, the Massachusetts affiliate of the American Council of the Blind (ACB), and she has served as president of two national organizations -- Guide Dog Users Inc. and the Braille Revival League.

**John Cloonan** served as the Director the Elections Division in the Office of the Secretary of the Commonwealth from 1983 to 1999. Prior to that, Mr. Cloonan was the Supervisor of Election Material and the Assistant Supervisor of Elections. Mr. Cloonan had a total of 31 years of service in the Elections Division prior to his retirement in 1999. During that time, he worked on the implementation of the "Motor Voter Law" in the Commonwealth of Massachusetts. Mr. Cloonan has 4 children and 4 grandchildren and is enjoying his retirement spending time with them.

**Diane Foley** is the West Springfield City Clerk. Ms. Foley was first appointed as Assistant Town Clerk in 1986 and then appointed as Acting Town in 1987 before being elected as Town Clerk in 1987. She has served as Census Director and Clerk to the Board of Registrars since 1987 and was an elected Town Meeting Member from 1987 to 1993. In 2000, the form of government changed from Representative Town Meeting to a city form of government at which time Ms. Foley became City Clerk. Ms. Foley served as Clerk to City Council from 2000 to 2001. Recently, Ms. Foley was re-appointed for another three-year term as City Clerk. Ms. Foley is a Certified Massachusetts Municipal Clerk and has an Associates Degree in Legal Secretarial Sciences.

**John Hanlon** has been the City Clerk in the City of Everett since January of 1989. John has been a contributing member of the International Institute of Municipal Clerks, the Massachusetts City Clerks' Association, the New England Association of City and Town Clerks, Middlesex Town and City Clerks' Association, the North Shore Municipal Clerks' Association and a recent Affiliate Member of the Massachusetts Town Clerks' Association. He is a member of the MCCA Legislative Committee and was the most recent President of the MCCA for a two-year period. Prior to becoming City Clerk, John was a member of the Everett Board of Alderman for twenty-two years. Mr. Hanlon, always a community and charitable citizen has, in his career, been a three time loaned executive to the United Way, the United Way community chairman for two years and many years as a United Way volunteer, a special events chairman for the American Red Cross, the chairman of the Italian Earthquake Victim fundraising event. A longtime member of the Everett Chapter of the GBARC, a Senior Advisor of the Immaculate Conception CYO, Quarter Master for the Immaculate Conception marching band and the Chairman of the Everett Kennedy Statute fundraising events. At present, Mr. Hanlon is also a member of the Board of Directors for the Everett Credit Union.

**Randall L. Hanson**, CMC, MCMC, has been Town Clerk in Andover, Massachusetts for the past 14 years. She has a B.S. in Education and has worked providing constituent services for a U.S. Senator and has also worked in the Public Relations department of a regional bank. A life long resident of Massachusetts, Mrs. Hanson is a member of the Massachusetts Town Clerks Associations where she has chaired and is still a member of their Legislative Committee. She was an active member of the Secretary of State's task force



that help draft legislation to implement the federal legislation in 1993 to allow residents to register to vote by mail and at the registry of motor vehicles. Mrs. Hanson is also a member of the New England Association of City and Town Clerks, the International Institute of Municipal Clerks, Vice President of the North Shore City and Town Clerk's Association and is an active member of the Greater Lawrence Kiwanis Club that provides services to disadvantaged children.

**Dominick Ianno** is a seasoned veteran of the Massachusetts Republican political scene. He has worked as a research and media operative for several statewide Republican campaigns in Massachusetts, most recently for the successful Romney-Healey ticket in 2002. In addition to his extensive campaign experience, he spent two years serving as the Communications Director for the Massachusetts Republican Party (1999-2000) and one year as Press Secretary in the Executive Office for Administration and Finance (2001), where he was the chief fiscal spokesman for Governors Cellucci and Swift. In February 2002, Chairman Darrell Crate nominated Mr. Ianno to become the Executive Director of the Massachusetts Republican Party, where he is responsible for overseeing the party's day-to-day operations, including candidate recruitment, media relations and financial management. Dominick Ianno is a native of New Hartford, NY and currently resides in Watertown, MA. He has earned a Bachelor of Arts degree in political science from SUNY Oswego in 1995 and a Juris Doctorate degree from the New England School of Law in 1998.

**Kamal Jain** has worked in various technical staff and management positions in the high-tech industry for over 13 years. He currently is the Manager of Hosting Services at BrassRing in Waltham, Massachusetts. Prior to high-tech, he spent a number of years involved in volunteer and professional emergency services, including working for 2 years as an Emergency Medical Technician. Kamal has studied finance and accounting at Bentley College. He is 33-year resident of Massachusetts, and currently serves as Chairman of the Massachusetts Libertarian Party. He ran for State Senator from the Middlesex and Worcester district in 2000 and for State Auditor in 2002.

**Philip W. Johnston** is Chairman of the Massachusetts Democratic State Committee.

**Peter Karg** is the Executive Secretary of the Newton Election Commission. Mr. Karg was appointed to his present position in February 2002. He previously served in several senior level positions in the executive branch of state government. He holds a Bachelor and Master's degree from Northeastern University. In his present position he is responsible for the city census, voter registrations, campaign and political finance reports and elections.

**Paul Lachelier** is the Massachusetts Green-Rainbow Party representative to the Massachusetts HAVA Committee. He is a PhD student in political sociology specializing in electoral and non-electoral political participation. Mr. Lachelier

was the 2002 Green Party candidate for State Representative in Massachusetts' 26th Middlesex District (East Cambridge and East Somerville), garnering 37 percent of the vote. He has been a political activist for 11 years in student, labor and third party politics. He lives in Somerville, MA.

**Nancy Lo** is Chairperson of the Boston Election Commission and has been since December of 1999. Prior to her appointment as Chairperson, Ms. Lo served as the Director of the Mayor's office of Consumer Affairs and Licensing for approximately three years. Ms. Lo was Senior Policy Advisor to the Mayor for four years and previously worked in the Massachusetts office of United States Senator John Kerry for three years. Ms. Lo has a B.A. from Regis College and a Masters degree in Public Administration from Northeastern University. Ms. Lo currently resides in Jamaica Plain with her husband and three children.

**Denise L. MacAloney**, CMMC/MMC, has served as the Elected Town Clerk of Westminster, MA for the past 19 years. She has a BS Degree in History from Fitchburg State College and a MA Degree in Public Administration from Framingham State College. Her professional accreditations and certifications include Massachusetts Certified Municipal Clerk (CMMC), Master Municipal Clerk (MMC through the International Institute of Municipal Clerks) and she serves as a Justice of the Peace and Notary Public for the Commonwealth of Massachusetts. She is a past president of the Massachusetts Town Clerks' Association and the Worcester County City and Town Clerks' Association and is currently on the Board of Directors for the International Institute of Municipal Clerks (IIMC). She has served on the Central Voter Registry User Advisory Board, the Central Voter Registry Software Development Committee, and the Municipal Permit Streamlining Committee under the direction of the Secretary of the Commonwealth and was appointed to the Special Commission on Clean Elections by Director of the Office of Campaign & Political Finance.

**Craig Manseau** is Executive Director for the Worcester Election Commission.

**John McGarry** is a life long resident of Brockton and a graduate of Brockton Hospital School of Nursing. He has been employed in the medical industries as a nurse, orthopedic specialist and certified renal lithotripsy specialist. Mr. McGarry served as Assistant Registrar of voters for several years before being elected Ward Three councilor, a position that he held from 1990 until 1999. Mr. McGarry served as City Council President in 1993 and 1999 and was then appointed as Executive Director of Registrar of Voters by the City Clerk in 2000, which later became the Election Commission, by vote of the City Council. Mr. McGarry has been married for twenty five years to his wife Jan, who is a school nurse working with three and four year old multiple handicapped children in an early intervention program. Mr. and Mrs. McGarry have a daughter, Katie who recently graduated from Marymount Manhattan College with



a degree in Technical Theater and has already stage-managed two off Broadway shows.

**Harry J. Petrucci** is currently the Director of Local Administrative Assistance for the Secretary of the Commonwealth. As an employee of the Secretary, Mr. Petrucci worked in the Elections Division for 32 years. During that time, he served as the Secretary's designee to Local Election Districts Review Commission. This Commission reviews and approves the redrawing of precinct lines following the federal census. On the local level, Mr. Petrucci served on the Wakefield Planning Board for 5 years and on the Finance Committee for 19 years and was Chair of the Finance Committee for 3 years. He is a graduate of Boston College and the University of New Hampshire. He currently resides in Northampton.

**Laurence R. Pizer** has served as appointed Town Clerk of Plymouth since 1992. He was elected President of the Massachusetts Town Clerks' Association from 2001 to 2003, and he was appointed to the Legislative Committee of that organization. He earned the position of Certified Massachusetts Municipal Clerk from the Massachusetts Town Clerks' Association and the position of Certified Municipal Clerk from the International Institute of Municipal Clerks. He received a Bachelor's degree from Brown University and a Master's degree from the University of Iowa, both with a concentration in American history.

**Senator Stanley Rosenberg** (D-Amherst) was named President Pro Tem of the Massachusetts Senate on January 8th, 2003, thus becoming the first senator in the state's history to hold this leadership position. This appointment came after he served seven years in other leadership posts: four as Assistant Majority Leader and three years as the first western Massachusetts legislator to chair the Senate Committee on Ways and Means. Prior to his most recent appointments, Stan served as chairman of the state's Redistricting Committee, which was responsible for redrawing the Commonwealth's state and federal districts, based on the 2000 census, and as chairman of the Banks and Banking Committee. Prior to that he served as co-chairman of the Legislature's Joint Committee on Election Laws, where he was a catalyst behind some fundamental changes in the Massachusetts political system. In 1993, the Committee's "motor voter" bill was signed into law, making Massachusetts one of the most convenient states in the nation for voter registration. Then in 1994, the Committee's campaign finance reform bill became law. This law reduces the influence of private money on public policymaking by placing tough restrictions on the amount of money lobbyists, political action committees and individuals may contribute to political candidates. Stan was elected to the state House of Representatives in 1986 and served as the representative for Amherst and Pelham until 1991 when he won a special election for the state Senate seat being vacated by Congressman John Olver.

**Judith L. St. Croix** is a life long resident of the Town of Wayland and a graduate of Wayland High School and Michigan State University. She has served as

elected Town Clerk since June 1986 having attained the following: CMC – Certified Municipal Clerk; CMMC – Certified Massachusetts Municipal Clerk; Notary Public; Justice of the Peace; and Commissioner to Qualify. Currently, Ms. St. Croix serves as First Vice President of the Massachusetts Town Clerk's Association and member of the Legislative Committee. Previously, she served on the Executive Board for three years; Treasurer for four years; and Second Vice President for two years. Ms. St. Croix is also a member of Middlesex County Town and City Clerk Association; New England Town Clerk Association; and the International Institute of Municipal Clerk's Association.

**Joseph Shea** is the City Clerk in the City of Quincy. Mr. Shea has been City Clerk since 1992 and prior to that served as Assistant Clerk beginning in 1990. Mr. Shea also served as Executive Secretary to the Mayor of Quincy in the 1970's. Mr. Shea graduated from Suffolk University with a B.A. in Government and is a recent graduate of the New England Municipal Clerk Institute. He has three children and one grandchild and lives in Quincy with his wife and daughter.

**Elisabeth C. Smith** served as the Deputy Field Director of the 2002 Romney-Healey campaign, where she coordinated the campaign's absentee ballot initiative and supervised the efforts of thousands of volunteers to get out the vote. Ms. Smith also worked with a team of attorneys and election officials to develop ballot security procedures and to ensure voters were informed of their rights to cast their votes on Election Day. Following the election of Governor Romney, Elisabeth Smith has held positions on the transition team and in the Administration, and is currently serving as Deputy Chief of Staff in the newly created Executive Office of Economic Development. Elisabeth Smith earned Bachelor's and Master's degrees in Economics from Utah State University, and a Juris Doctorate degree from Boston University School of Law. Before joining the campaign, Ms. Smith practiced corporate and securities law at a large Boston law firm.

**Representative Bill Straus** has been a member of the Massachusetts Legislature since 1992. He represents the Towns of Fairhaven, Marion, Mattapoisett, Rochester and Middleboro. Prior to his election, Representative Straus was a member of the Mattapoisett Conservation Commission and an appointee to the Massachusetts Hazardous Waste Facilities Site Safety Council on which he served for four years. Throughout his term he has served on a number of committees including the Joint Health Care Committee and as the Vice Chairman of the Joint Committee on Transportation. He currently is the House Chairman of the Joint Committee on Election Laws. Representative Straus was a member of the Rules Committee to the 2000 Democratic National Convention in Los Angeles, CA.

**Joseph Tringale** has been working in the field of independent living for nearly 20 years. He has recently assumed the role of Chair of the Statewide Independent Living Council. This statewide council represents Independent Living Centers,



consumer, and state agencies representing people with disabilities. He has completed extensive training by the Department of Justice in order to review the requirements of the Americans with Disabilities Act. Due to numerous trainings and years of hands-on experience, he has acquired a high level of expertise in the fields of physical and programmatic accessibility. Joseph has worked with the private and public sectors to disseminate this information and has participated in a number of projects, which require evaluating physical environments and consumer access. He has also provided workshops to municipal representatives and business owners explaining the state and federal requirements for accessibility. Currently Joseph is the Director of community services at the Stavros Center for Independent Living, which is the third oldest Center in the country.

**Patrick Joseph Ward** is currently serving his fourth elected three-year term as Town Clerk for the Town of Brookline. He is also a practicing attorney. Mr. Ward has over twenty-five years of legislative and election administration experience. Prior to his election as Town Clerk, he served as the Town of Brookline's Assistant Town Clerk and Chairman of the Board of Registrars of Voters. Mr. Ward also served as Legislative Director for the Office of the Secretary of the Commonwealth and is currently the Vice-Chair of the Massachusetts Town Clerks' Association's Legislative Committee. Mr. Ward is a graduate of Boston College and New England School of Law. He resides in Brookline with his wife Jennifer.

## ENDNOTES

[1] HAVA § 101, 42 U.S.C § 15301
[2] HAVA § 102, 42 U.S.C. § 15302
[3] HAVA § 251, 42 U.S.C. § 15401
[4] HAVA § 254, 42 U.S.C. § 15404.
[5] See Attachment A for a description of the State Steering Committee Members.
[6] HAVA § 201, 42 U.S.C. § 15321. The Election Assistance Commission (EAC) was established in the legislation. EAC will consist of four members appointed by the President with the advice and confirmation of the Senate and is empowered to hold hearings, take testimony, receive evidence, enter contracts, obtain information from other federal agencies, receive support and use the U.S. mail system.
[7] HAVA §§ 241, 242, 243, 244, 245, 246, 42 U.S.C. §§ 15381, 15382, 15383, 15384, 15385, 15386.
[8] M. G. L. c. 54, § 71A (2000 ed.).
[9] See e.g., M. G. L. c. 54, § 24; M. G. L. C. 54, §§ 11, 12; M.G. L. c. 51, § 42H (2000 ed.).
[10] See Public Document 43, Massachusetts Election Statistics, 2002 ed.
[11] In 1999, the Office of the Secretary of the Commonwealth and the Massachusetts Office on Disability worked together to conduct a survey of all polling places in Massachusetts. Since that time, certain polling places have changed and/or the Secretary has received access complaints regarding other polling locations. Therefore, it has been deemed necessary to re-survey certain polling places to determine accessibility.
[12] It is important to note that the methods of complying with the requirements of Title III are left to the discretion of the states. HAVA § 305, 42 U.S.C § 15485
[13] In 1998, the Secretary decertified the use of punch-card voting systems.
[14] HAVA defines an accessible unit as a DRE-Direct Recording Electronic unit or touchscreen.
[15] See M. G. L. c. 54, § 32 (2000 ed) (examination and approval of voting equipment); 950 CMR § 50.00.
[16] As of the 2000 federal census, six (6) communities in Massachusetts are required to provide election information in both English and Spanish. Those communities are Boston, Chelsea, Holyoke, Lawrence, Southbridge and Springfield.
[17] M. G. L. c. 51, §§ 59, 59A (2000 ed.).
[18] M. G. L. c. 54, § 48 (2000 ed.).
[19] Mass. Const. Amend. Art. 48, Sec. 4; M. G. L. c. 54, § § 53, 54 (2000 ed.).
[20] The 2002 edition is available at http://www.state.ma.us/sec/ele/elepdf/ifv02.pdf (English) and http://www.state.ma.us/sec/ele/elepdf/ifv02span.pdf (Spanish).
[21] HAVA § 303(a)(5)(A)(iii); 42 U.S.C. § 15483(a)(5)(A)(iii).
[22] M. G. L. c. 51, § 47C (2000ed).
[23] The town of Gosnold is not connected to the CVR system, as it is a small island off the coast of Cape Cod that does not have phone lines. However, the information of registered voters from Gosnold is entered into CVR using copies of registrations sent from the town clerk.
[24] 950 C.M.R. § 58.00
[25] The Registry of Motor Vehicles has indicated that a person must undergo the same application process when applying for a state issued identification card as they would when applying for a driver's license, except the applicant does not need to pass the examination. However, when applying for a state issued identification card, an applicant must provide their full social security number, which is verified against the Social Security Administration database.
[26] Currently, identification is define in regulation as "a driver's license, recent utility bill, rent receipt on a landlord's printed letterhead, lease, duplicate copy of a voter registration affidavit, or any other printed identification which contains the voter's name and address." 950 C.M.R. § 54.04(6B).
[27] See M. G. L. c. 54, § 32 (2000 ed) (examination and approval of voting equipment); 950 CMR § 50.00.



[28] M. G. L. c. 56, § 60 (2000 ed.).
[29] 950 CMR § 56.00 Administrative Proceedings Concerning Practices of Local Election Officials

# Help America Vote Act

# Michigan's
## STATE PLAN

As required by Public Law 107-252,
HELP AMERICA VOTE ACT OF 2002

TERRI LYNN LAND
Michigan Secretary of State
Lansing, Michigan 48901-0726
(517) 373-2540

December 19, 2003

Dear Michigan voter:

I am pleased to present Michigan's final State Plan for implementing the federal Help America Vote Act (HAVA) of 2002.

HAVA requires state and local governments to upgrade elections processes and systems. Every Michigan voter and election administrator has a stake in these enhancements. The changes will ensure the integrity of our voter registration process, increase privacy and independence for voters with disabilities, improve access for military voters stationed overseas, upgrade systems that support our elections process, and provide residents with better information on how to vote.

Equally important, HAVA provides critical federal funding to help implement these improvements. Michigan is fortunate it can build upon its record of election excellence despite lean budgetary times.

To access its share of the $1.5 billion authorized by Congress, each state must develop and submit a State Plan outlining how it will comply with the requirements. The completion of Michigan's plan caps a 9-month process that began with my appointment of a 30-member advisory committee. This diverse group of dedicated residents sought extensive public input and drafted a plan that truly reflects Michigan's voice. We are grateful for their service.

HAVA is without question the most sweeping federal voting reform measure in decades. Its successful implementation demands well-trained, dedicated election administrators who fulfill their responsibilities with the utmost integrity. We are fortunate to have administrators of this caliber at all levels of Michigan's election process. State and local election officials must forge a new level of cooperation to ensure a seamless integration of these comprehensive reforms. I have no doubt we will meet this challenge.

Please take time to review Michigan's plan. You can find it on the HAVA page of the Department of State Web site at www. Michigan.gov/hava. Printed copies are also being sent to each county clerk.

I look forward to continuing to work with you as we ensure Michigan's status as a national leader in election integrity, efficiency and innovation.

Sincerely,

Terri Land

Terri Lynn Land
Secretary of State

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# INTRODUCTION

## *An Era of New Expectations*

The November 7, 2000 presidential election marked a watershed event for election administrators throughout the country. Perhaps most significantly, the national news media's detailed coverage of the Florida vote recount (replete with animated "hanging, dimpled and pregnant" chads) engendered new levels of public awareness over the *mechanics* of the elections process. This, in turn, has accelerated public demand for improvements in the elections system and has driven new and heightened performance expectations for those who administer the system.

Michigan entered the new millennium "ahead of the curve" with respect to the management of the State's voter registration data. However, like many states, Michigan did not find itself in the best position to satisfy the post-2000 election demand for wide-scale improvements in its elections system due to the lack of available funding for such purposes. In addition, diversification in the processes and procedures employed by Michigan's local units of government to administer elections has markedly increased over the last 12 years due to the steady introduction of new voting technologies during the period. Consider: From the mid-1800s until the early 1970s when punch card voting was first introduced in Michigan, paper ballots and voting machines were exclusively used to conduct elections in the State. (Voting machines were approved for use in Michigan in 1893.) After punch card voting was introduced, no new voting systems were marketed in the State until 1991 when the Board of State Canvassers approved the State's first "optical scan" voting apparatus. Since 1991, ten *additional* systems have been approved for use in the State.

At the present time, Michigan's cities and townships are continuing to migrate away from mechanical voting machines, paper ballots and punch card voting systems that employ "central count" tabulation technology and are moving toward optical scan voting systems that employ "precinct based" tabulation technology. Jurisdictions of all sizes are participating in the migration, from Michigan's largest cities (e.g., City of Detroit, Wayne County: 606,900 registered voters) to Michigan's smallest townships (e.g., Warner Township, Antrim County: 225 registered voters).

While many cities and townships have been quick to embrace the new voting equipment technology marketed in Michigan over the last 12 years, a sizable number of jurisdictions still use outdated equipment to administer elections. As recently as the

November 5, 2002 general election, lever style voting machines were used in 445 of Michigan's 5,305 precincts (8.4%); paper ballots were used in 98 precincts (1.8%); and "central count" punch card systems were used in 866 precincts (16%). The resulting "technology gap" has created significant disparities in the measures implemented at the precinct level to protect voters from spoiling their ballots and losing votes.

The proliferation of different voting systems in the State has produced other concerns as well:

- The more balloting methods in operation in a county, the greater the administrative burden and cost at the county level. This is because county clerks are responsible for training the election workers appointed to serve throughout the county and the County Election Commissions are responsible for producing the ballots needed to conduct state and federal elections. In addition, the Boards of County Canvassers, responsible for certifying elections in the county, must review a variety of different Statement of Vote forms and Poll Book formats.

- The skills and experience of seasoned precinct inspectors who move within the State are often lost. This occurs in instances when the voting equipment used to conduct elections in their former jurisdiction of residence differs from the voting equipment used to conduct elections in their new jurisdiction of residence.

- Voters are frequently placed at a disadvantage when they change residence. There is a strong likelihood that an elector who moves will be confronted with an unfamiliar voting procedure the next time he or she attends the polls. At the same time, the coordination of voter education programs is increasingly difficult due to the multiplicity of voting systems in use.

- The ability of Michigan's county, city and township clerks to share information and offer peer support is diminished.

This same dynamic contributed to the problems Florida experienced in administering the 2000 presidential election as the local units were last in line for election reform support. Without State assistance, many local jurisdictions were not prepared to fund needed upgrades in their voting technology.



### *Building on a Tradition of Election Reform*

Of the eight states that administer elections on the local level, Michigan is the largest both in terms of its population and geography. Involving 83 county clerks, 272 city clerks, 1,242 township clerks, 261 village clerks and 580 school election coordinators (school board secretaries), Michigan's elections system is administered by a total of 2,438 county and local election officials. This makes it the most decentralized elections system in the nation. State and federal elections are administered by Michigan's county, city and township clerks.

Michigan's highly decentralized elections system was essentially designed to serve the needs of an earlier age when its population was smaller and less mobile.

However, two significant election reform measures put in place during the last several decades have kept the system in step with Michigan's population growth and mobility patterns:

***Michigan's Branch Office Voter Registration Program:*** The first reform measure came in 1975 with the introduction of the Secretary of State's Branch Office Voter Registration Program. This was the first "motor/voter" program established anywhere in the United States and the precursor to the motor/voter program mandated under the National Voter Registration Act of 1993. Nationally recognized for its performance and success, the program afforded Michigan electors the opportunity to apply for and update voter registrations in Secretary of State branch offices – a revolutionary concept at the time.

Prior to the program, many qualified electors had a difficult time determining where they should register to vote. Far worse, voters who had moved to a different jurisdiction within the State often failed to recognize that it was necessary to reregister to vote in his or her new city, township or village of residence.

With the introduction of the program, a resident could register to vote in any Secretary of State Branch Office in the State with the assurance that their application would be forwarded to the proper jurisdiction in a matter of days. In addition, as Michigan citizens were accustomed to visiting a Secretary of State Branch Office after moving to update the address appearing on their driver's license, the number of voters who also changed their voter registration address after moving was greatly increased.

***Michigan's Qualified Voter File System:*** Just as rapidly changing demographics prompted the development and implementation of the Branch Office Voter Registration Program, new pressures and demands placed on the State's voter registration system during the ensuing years created a critical need for a similarly innovative response. Pressure was exerted by public officials interested in enhancing the security and integrity of the system, advocacy groups promoting greater system flexibility and service, and political organizations searching for greater convenience in accessing data maintained on file under the system. While these pressures were compelling in and of themselves, the passage of the National Voter Registration Act of 1993 greatly heightened the urgency of a response.

Under the new Act, Michigan's cities and townships were required to absorb increased voter registration file maintenance costs, cope with new and highly detailed voter registration file maintenance procedures, and confront a sharp increase in unnecessary voter registration transactions due to overlapping voter registration programs.

To address these various needs, the Michigan Legislature initiated a second wave of voter registration reform through the enactment of PA 441 of 1994 - legislation that required the Secretary of State to establish and maintain a statewide Qualified Voter File (QVF) system. Placed in operation in 1998, the QVF is a distributed database that ties Michigan's city and township clerks to a fully automated, interactive statewide voter registration file to achieve a wide variety of significant advantages. Benefits include the identification and elimination of over 800,000 duplicate voter registration records in the system; the streamlining of the State's voter registration cancellation process; the elimination of registration forwarding errors; and the elimination of duplicative voter registration processing tasks.

With the implementation of the QVF, every motor/voter registration transaction executed in a Secretary of State Branch Office is electronically forwarded to the appropriate local election official. A paper copy of the transaction follows within days to confirm the electronic notification and supply the election official with the voter's signature. After receiving the electronic notification of the transaction and the paper voter registration application form executed by the applicant, the clerk reviews the information supplied by the applicant and renders a final determination on the acceptability of the voter registration. The clerk's role in determining the acceptability of the registration application effectively works to preserve the local control of Michigan's voter registration process.

Under a later amendment to the Michigan Vehicle Code (PA 118 of 1999), all drivers are now required to use their voter registration address for driver's license purposes. With this requirement, all voter registration address changes are automatically posted to the



driver file. The Department also supplies all voters who submit a new voter registration address with an address change sticker for their driver's license. This additional measure is notable as it is the first instance where a state has used voter registration address change data filed with local election officials to update driver's license records. A Michigan citizen is free to change his or her driver's license/voter registration address as frequently as may be needed without the imposition of any fees or transaction costs.

Nationally recognized for the innovation and efficiency of its design, Michigan's Qualified Voter File system was cited as a "best practice" in managing voter registration records under the Caltech/MIT Voting Technology Project (*Voting-- What Is, What Could Be*; released July 2001). It was also highlighted as an "outstanding model" under the report issued by the National Commission on Federal Election Reform (*To Assure Pride and Confidence in the Electoral Process*; released August 2001).

Ultimately, Michigan's Qualified Voter File system served as the inspiration for the statewide voter registration system requirements enacted under the Help America Vote Act of 2002 – an interesting parallel to the earlier inclusion of the "motor/voter" concept pioneered in Michigan in the National Voter Registration Act of 1993.

## *A New Vision for the Future*

With the Qualified Voter File system in place, the funding available under the Help America Vote Act of 2002 provides unprecedented opportunities for improvements in Michigan's elections system. Most important, Michigan will now have the means to satisfy public demand for increased efficiency, accuracy and convenience in the administration of elections; achieve new levels of consistency in the processes and procedures used to conduct elections; assure access to the State's election system for all voters; uniformly extend "second chance" voting throughout the State; and enhance the integrity of the elections process through the implementation of the "provisional" balloting process required under the Help America Vote Act. Many of the measures Michigan will implement to achieve these goals and objectives are detailed throughout this document.

# STATE PLAN REQUIRED ELEMENTS (HAVA 254(A))

The 13 specified elements that must be included in the State Plan pursuant to Section 254(a) of the Help America Vote Act of 2002 are addressed in the following section of this report.

*Each element is introduced with a title and a description of the requirements involved. Actions that the State of Michigan will take to fulfill the requirements are highlighted in bold.*



## I. Title III Requirements and Other Activities

***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. -- HAVA §254 (a)(1)***

***Section 301(a): Voting System Standards Requirements***

There are five different types of balloting methods employed throughout the United States to administer elections: (1) optical scan voting systems, (2) direct recording electronic (DRE) voting systems, (3) punch card voting systems, (4) mechanical lever voting machines, and (5) paper ballots. Michigan employs all five types. Within the optical scan, DRE and punch card balloting method categories, there is a certain degree of variety as the equipment involved is marketed and sold under different brand names by private sector firms. Mechanical lever voting machines were similarly produced and sold by a number of different manufacturers throughout the years.

By the mid-1990s, the unprecedented acceleration in the development and introduction of new voting systems in the State had created a series of issues that required a legislative response. Most critically, Michigan election law needed updating to ensure the comprehensive and meaningful evaluation of the technology built into the systems. In answer, PA 583 of 1996, an amendment to Michigan election law was enacted to:

- Stipulate all new voting systems used in Michigan be approved by an independent testing authority (ITA) to ensure the system's conformance with all federal voting system standards.
- Require vendors seeking approval of *a new voting system* to file a $1,500 application fee. Require vendors seeking approval of *a voting system upgrade* to file a $500 application fee.
- Require voting system vendors to submit on an ongoing basis: (1) information on other states using the system, (2) performance evaluations produced by any state or local governmental unit, (3) copies of all standard contracts and maintenance agreements, and (4) all changes made in standard contracts and maintenance agreements.

- Direct the Board of State Canvassers to field test under "simulated election day conditions" all new voting equipment as a part of the certification process. Require the vendor to pay for the cost of the testing.

- Require all governmental units to notify the Secretary of State within thirty (30) days before purchasing a new voting system. Require the Secretary of State to forward to any governmental unit providing such notification all information concerning the operation of the voting system in Michigan or any other state.

- Grant the Board of State Canvassers the authority to "decertify" voting systems.

As noted in the Introduction, Michigan's cities and townships are currently in the process of migrating from mechanical voting machines, paper ballots and punch card voting systems that use "central count" tabulation technology and are moving toward optical scan voting systems that use "precinct based" tabulation technology.

Jurisdictions of all sizes are participating in the migration from Michigan's largest cities (e.g., City of Detroit, Wayne County: 606,900 registered voters) to Michigan's smallest townships (e.g., Warner Township, Antrim County: 225 registered voters). Since the 1998 election cycle, cities and townships containing *over 1.5 million Michigan voters* have replaced their voting machines, paper ballots and punch card voting systems with updated optical scan voting technology.

Despite the fact that many cities and townships in the State have been quick to embrace the new voting equipment technology marketed in Michigan over the last 12 years, a sizable number of jurisdictions continue to use outdated equipment to administer elections.

As recently as the November 5, 2002 general election, lever style voting machines were used in 445 of Michigan's 5,305 precincts (8.4%); paper ballots were used in 98 precincts (1.8%); and "central count" punch card systems were used in 866 precincts (16%). The resulting "technology gap" has created significant disparities in the measures implemented at the precinct level to protect voters from spoiling their ballots and losing votes.



To address the emergent "technology gap" and associated concerns noted in the Introduction, the Michigan Legislature adopted legislation in 2002 – calling for the implementation of a statewide, uniform voting system (PA 91 of 2002).

The legislation directs the Secretary of State to convene an "advisory committee" for the purpose of selecting a "uniform voting system" for the State if and when funds are appropriated for selecting, acquiring and implementing a statewide, uniform voting system. It further directs the Secretary of State to proceed with the implementation of a statewide, uniform voting system after the selection of the voting system best suited for the State's needs.

The use of the funds available under the Help America Vote Act and how to proceed with the implementation of a statewide, uniform voting system was a primary topic discussed by the members of the Secretary of State's State Plan Advisory Committee. The committee's activities included the following:

- On April 17, 2003 the Secretary of State hosted a "Voting Equipment Technology Fair" in Lansing. It provided the public, members of the State Plan Advisory Committee, media and all interested parties with the opportunity to view the most recent voting technology developed by manufacturers throughout the country.

- The requirements of Public Act 91 of 2002 were reviewed and discussed.

- Optical scan, punch card and direct recording electronic (DRE) voting systems were demonstrated by local clerks who employ the systems.

- Presentations on the relative advantages and disadvantages of optical scan, punch card, and direct recording electronic (DRE) voting systems under recount conditions were offered.

- Public testimony on the implementation of a statewide, uniform voting system was accepted.

On June 20, 2003, the Secretary of State convened the State Plan Advisory Committee and obtained the members' agreement to also serve on a special advisory committee. The special advisory committee, a requirement under PA 91 of 2002, provided input on the selection of a statewide, uniform voting system. After receiving the committee's input, the Secretary of State announced on August 4, 2003, that optical scan voting equipment using "precinct based" tabulation technology had been selected for the implementation of Michigan's statewide, uniform voting system.

The implementation of PA 91 of 2002 in conjunction with the federal funding Michigan is eligible to receive provides the State with an excellent framework for ensuring timely compliance with Section 301 of the Help America Vote Act including all accessibility requirements. The following actions are planned:

- **Assessment of the voting system procurement options.**
- **Creation of a project management framework to guide the implementation of the statewide voting system and a successful transition to the system.**
- **Procurement of needed equipment and services pursuant to Michigan's procurement laws.**
- **Delivery of the equipment to the affected jurisdictions.**
- **Development and implementation of appropriate training programs.**

In addition to the voting system requirements, Section 301(a) of the Help America Vote Act requires states to define what constitutes a legal vote for each type of voting system used.

Michigan is fully compliant with this requirement at the present time as both Michigan election law and the rules promulgated to administer electronic voting systems clearly address what is and what is not a valid vote in specific terms.





***Section 302: Provisional Voting and Voting Information Requirements***

The Help America Vote Act provides a "provisional" balloting process to ensure that no individual who goes to the polls to vote is turned away without having the opportunity to obtain a ballot.

Prior to the passage of the Help America Vote Act, the Michigan Legislature addressed this issue through the enactment of PA 441 of 1994, an amendment to Michigan election law that established an "affidavit" balloting process for all elections conducted in the State.

The following compares and contrasts the "affidavit" balloting process currently established in Michigan and the "provisional" balloting process provided under the Help America Vote Act:

***Current Procedure ("Affidavit" Balloting Process):*** In an instance where (1) a voter who appears in the polls to vote cannot be found on the precinct's Qualified Voter File list, *and* (2) the voter is unable to demonstrate his or her registration status by producing a validated voter registration receipt, the voter can obtain a ballot if he or she:

(1) signs an "Affidavit of Voter Registration" affirming that he or she submitted a voter registration application through a Secretary of State branch office, a designated voter registration agency, the county clerk or the mail on or before the "close of registration" for the election at hand;

(2) provides identification to confirm his or her identity and residence within the jurisdiction and precinct where he or she has offered to vote; and

(3) completes and submits a new voter registration application.

Such voters are issued a paper, punch card or optical scan ballot. The election inspectors write the number appearing on the voter's ballot in pencil on the back of the ballot. If a punch card ballot is used, the election inspector writes the ballot number on the secrecy envelope. After writing the ballot number on the ballot, the election inspector conceals the number with tape and/or a slip of paper as directed by the election official administering the election.

After the ballot has been prepared in the above manner, the elector votes the ballot in a voting station. The ballot is then counted under routine procedure. The "Affidavit of Voter Registration" completed by the voter is forwarded to the

local clerk's office immediately after the election. Upon the receipt of the form, the clerk enters the voter in the Qualified Voter File system.

It merits emphasis that in all cases, the votes cast on a ballot issued under the above procedure are counted. If an interested party wishes to dispute the qualifications of a voter who cast a ballot under the above procedure, he or she must seek redress through the courts. (If the retrieval of the ballot is ordered by the courts, the ballot number concealed on the ballot is used to identify the ballot.) Unless a court order is obtained, a ballot cast under the above procedure cannot be retrieved for inspection or invalidated for any reason. It merits further note that if a recount is conducted, a ballot cast under the above procedure is recounted under the same procedures employed to recount any other ballots cast in the precinct. The fact that the ballot was cast under the above procedure is *not* a matter that can be questioned or disputed under the recount proceedings.

***Requirements Provided Under the Help America Vote Act ("Provisional" Balloting Process):*** In an instance where (1) a voter who appears in the polls to vote cannot be found on the precinct's registration list, *and* (2) the voter is unable to demonstrate his or her registration status by producing a validated voter registration receipt, the voter can obtain a ballot if he or she:

(1) asserts that he or she is a "registered voter in the jurisdiction"; and

(2) executes a "written affirmation" attesting that he or she is a "registered voter in the jurisdiction" and is eligible to vote in the election.

Such voters are issued a paper, punch card or optical scan ballot. The voter then votes the ballot in a voting station. After the voter returns the ballot, it is secured in an envelope for later disposition. Here, it merits observation that a voter who executes the above referenced "written affirmation" is eligible to receive and vote a "provisional" ballot *even in an instance where the election official administering the election "asserts that the individual is not eligible to vote."*

After the polls close, any ballots issued and voted under the above procedure are forwarded to the local election official for verification. If the election official determines the individual is eligible to vote, the ballot is counted. On the other hand, if the election official determines that the individual is *not* eligible to vote, the ballot is *not* counted.

The Help America Vote Act stipulates that in any instance where voters are permitted to vote after the close of the polls pursuant to a court order or other



order, the voters must cast "provisional" ballots. "Provisional" ballots cast in such instances must be kept separate from any other "provisional" ballots cast at the election.

The Help America Vote Act further stipulates that the State must establish "a free access system" which permits any individual who casts a provisional ballot to discover whether his or her ballot was counted and, if the ballot was not counted, the reason why the ballot was invalidated.

The Help America Vote Act provides that at the time an individual casts a "provisional" ballot, the election inspectors must give the individual written instructions for accessing the above referenced information system.

As the "provisional" balloting process provided under the Help America Vote Act differs in some respects from the current "affidavit" balloting process established in Michigan, it is Michigan's intent to modify its current law and processes as necessary. Through these modifications, the State will ensure full compliance with the "provisional" balloting process provided under the Help America Vote Act, establish the required "free access system" and arrange for the distribution of instructions for obtaining information through the "free access system." The following actions are planned:

- **Development of revisions to Michigan election law to authorize "provisional" balloting for all public elections. The "provisional" balloting process will supplement the current "affidavit" balloting process.**
- **Implementation of revised procedures to allow for the issuance of a "provisional" ballot in instances where the "affidavit" balloting procedure cannot be employed.**
- **Establishment of a "free access system" that any individual who casts a "provisional" ballot can use to discover whether his or her ballot was counted and, if the ballot was not counted, the reason why the ballot was invalidated.**
- **Development and implementation of a program to track and compile data on the "provisional" balloting process.**

In addition to the "provisional" balloting process, Section 302 of the Help America Vote Act stipulates that the information listed below must be posted in the polls whenever a federal election is conducted:

- A sample ballot.
- The date of the election and the hours the polls will remain open.
- Voting instructions.
- Instructions on voting a "provisional" ballot.
- The identification requirements that apply to voters who register to vote by mail.
- General information on voting rights including information on the right of an individual to cast a "provisional" ballot and instructions on how to contact the appropriate officials regarding alleged voting rights violations.
- General information on the laws that prohibit fraud and misrepresentation.

Michigan currently provides informational posters for display in the polls on Election Day. The Michigan Department of State's Bureau of Elections intends to modify the information provided on these posters as necessary to ensure compliance with the Help America Vote Act. The posters will be redesigned to prominently list pertinent information and clearly state "what every voter should know."

***Section 303: Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail***

As noted in the Introduction, the Michigan Legislature adopted legislation in 1994 that required the Secretary of State to establish a statewide Qualified Voter File (QVF) system (PA 441 of 1994). Placed in operation in 1998, the QVF is a distributed database that ties Michigan's city and township clerks to a fully automated, interactive statewide voter registration file. It provides a wide variety of significant advantages including the elimination of all duplicate voter registration records in the system; the streamlining of the state's voter registration cancellation process; the elimination of registration forwarding errors; and the elimination of duplicative voter registration processing tasks.

The QVF was populated with every registered elector appearing in the Department of State's driver's license/personal identification card file and the voter registration files held by the state's city and township clerks. Data on the voters is maintained on a UNIX-based computer located in Lansing.



The system also offers Michigan's election officials a full array of election management features including components created to assist with absent voter ballot processing; petition and candidate tracking; election planning; and election inspector tracking. The election management components, designed in consultation with a special task force of county and local election officials, have introduced a new level of convenience to the administration of elections in Michigan. The election management components have also standardized many of the election-related forms and procedures used throughout the State. Proper and consistent application of the state and federal laws that govern the voter registration process is essential given the various disenfranchisement protections provided under Michigan election law and the National Voter Registration Act of 1993.

Michigan's 83 county clerks and the clerks of all local jurisdictions with a voting age population over 5,000 were provided with the hardware and software needed to establish a direct link with the QVF. Smaller cities and townships (i.e., those with a voting age population under 5,000) have either purchased the hardware and software needed for a direct link with the QVF or access the QVF through their local county clerk's office.

The QVF system comprises three primary components:

***Lansing File Server:*** The heart of the QVF system is the file server located in Lansing, the state capital. The file server holds the voter registration database for the entire state. It also holds all system software (QVF application software and Oracle database software). The file server exchanges information with the driver file database (new registrations originating in branch offices) through a series of "server processes" (automated computer programs). The file server exchanges information with local system users through a data replication process.

To facilitate the exchange of data with the State's driver file database, every voter registration record is identified with the voter's driver license number or personal identification card number. (If the voter does not hold a driver license or personal identification card, a similar unique number is assigned to the voter's registration record.)

***County/Local QVF Installations:*** All of Michigan's 83 counties and 236 of Michigan's largest cities and townships (voting age population over 5,000) were provided with QVF installations at state expense. At their own expense, one hundred and forty-nine (149) additional cities and townships opted to purchase QVF systems.

*Telecommunications Network:* The QVF system uses the Internet as its telecommunications network. Each QVF jurisdiction was provided with an Internet account (Merit is the Internet provider) and an Internet browser that includes e-mail and web searching capabilities. The data replication process is automated and operates on a daily basis. Local QVF users may also establish an Internet connection if they wish to initiate a manual replication. Replication updates the Lansing server with new information provided by the local jurisdiction and updates the local jurisdiction with new information provided by the file server (usually branch office transactions). An average replication takes 10 to 15 minutes.

The Michigan Department of State's Bureau of Elections maintains a Help Desk to assist the county and local clerks throughout the State with any questions they have regarding the operation of the QVF. The Help Desk offers assistance in the following areas:

*Replications:* The replication process involves the transfer of data between the QVF server in Lansing and the remote QVF installations throughout the State. If there is a problem with the replication process, it generally stems from a user error, an equipment failure or a network failure. The Help Desk is able to trace such problems, find the source and offer corrective measures.

*Equipment Problems:* The Help Desk troubleshoots all equipment-related problems. In some cases, a contract vendor is sent to the site. In other cases, the Help Desk staff members pick up the equipment for in-house problem solving.

*Training:* The Help Desk provides training and on-site consultations to QVF users throughout the State. The Help Desk is also responsible for updating all user guides and training materials.

*Software Support:* The Help Desk offers QVF users advice and instruction on using the QVF software and documents requests for QVF software enhancements. The majority of all inquiries received by the Help Desk involve questions over the operation and functions of the QVF software.

While Michigan's Qualified Voter File system is in substantial compliance with the Help America Vote Act's requirements for a centrally administered statewide voter registration system, the following actions are planned to enhance the performance of the system:



- **Exploration of the potential for electronically exchanging data with Michigan's Family Independence Agency.**
- **Exploration of the potential for providing Michigan's smaller jurisdictions with additional methods of electronically accessing the QVF system.**
- **Use of GIS mapping technology to administer the street index built into the QVF system.**
- **Use digitized signatures in the QVF database which are already on the department's driver's license file.**
- **Development of a process that permits the QVF system to electronically remove voters who have not responded to notices pursuant to the National Voter Registration Act. (The review of the action by clerks will continue to be a requirement.)**
- **Development of new capabilities that permit the QVF system to store the last four digits of a voter's Social Security Number.**
- **Development of revisions to Michigan election law to provide for any additional processes needed to electronically verify new registrants who register to vote by mail.**
- **Establishment of an agreement with the Commissioner of Social Security to provide for the verification of voter identification information.**

Section 303 of the Help America Vote Act further addresses the identification of voters who register to vote by mail and the contents of mail-in voter registration application forms as indicated below:

- Stipulates that an individual who (1) submits a mail-in voter registration form, *and* (2) has never participated in a federal election conducted in the state must provide an identification document with the mail-in voter registration form. Provides that if the applicant does not submit an acceptable identification document with the mail-in voter registration form, he or she must produce identification *the first time* he or she attends the polls to participate in a federal election. It further provides that if such a voter wishes to cast an absentee ballot, he or she must submit an acceptable identification document when returning the absentee ballot.

- Provides that if a voter subject to the above identification requirements does not produce or submit an acceptable identification document, he or she may cast a "provisional" ballot in the polls or a "provisional" absentee ballot as desired.

- Provides that the above voter identification requirements are waived if (1) the voter registration applicant enters his or her driver license number or the last four digits of his or her Social Security Number on the mail-in voter registration form, and (2) the state or local election official has a program in place which permits the identification of the voter through the comparison of the entered number against another "State identification record" which bears the same number and the voter registration applicant's name and date of birth.

- Directs the Secretary of State to include the following two questions on the mail-in voter registration application form with "yes" and "no" checkoff boxes: (1) "Are you a citizen of the United States of America?" and (2) "Will you be 18 years of age on or before Election Day?" It further directs the Secretary of State to include the following statement on the form: "If you checked 'no' in response to either of these questions, do not complete this form."

- Stipulates that if a voter registration applicant fails to answer the citizenship question on the mail-in voter registration application form, the registrar must notify the applicant and provide him or her with an opportunity to complete the form no later than the voter registration deadline for the next federal election.

The following actions are planned to ensure compliance with the requirements associated with the identification of voters who register to vote by mail:

- **Implementation of the identification requirements imposed on individuals who (1) submit a mail-in voter registration form, and (2) have never participated in a federal election conducted in Michigan.**

- **Establishment of procedures that permit a voter who is subject to the identification requirements to obtain a "provisional" ballot if the voter is unable to produce or submit an acceptable identification document.**

- **Modification of Michigan's Mail-In Voter Registration Application form as necessary.**



- **Development and implementation of a process that provides individuals who (1) submit a mail-in voter registration, and (2) fail to respond to the citizenship question with an opportunity to complete the form no later than the voter registration deadline established for the next federal election.**

*Section 251(b)(2): Other Activities*

Michigan intends to use requirements payments to fund other activities to improve the administration of elections, including, but not limited to the following:

- **Establishment of a polling place accessibility program to ensure that all polling places in Michigan are and continue to be compliant with all applicable state and federal laws.**

- **Extension of necessary assistance to persons with limited proficiency in the English language as required by the Voting Rights Act.**

- **Implementation of a variety of voter education and outreach activities including public service announcements and voting equipment demonstrations.**

- **Development of election official and poll worker training initiatives.**

## II. Michigan's Distribution of Requirements Payment

***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). -- HAVA §254 (a)(2)***

***Eligibility of Local Units to Receive the Payment***

The Michigan Department of State's Bureau of Elections will centrally manage all initiatives funded by requirements payments and will be responsible for establishing all expenditure funding levels, program controls and outcomes. The State will follow applicable Michigan law regarding the distribution of federal reimbursements.

***Performance Measures for Local Units***

The Bureau of Elections will monitor the performance of each initiative funded by requirements payments in three areas: financial controls, compliance with standards, and program results.

***Financial Controls:*** The Bureau of Elections will develop and use standard financial reporting for all initiatives funded by requirements payments.

***Compliance with Standards:*** The Bureau of Elections will develop and use standard program management reporting for all initiatives funded by requirements payments.

***Program Results:*** The Bureau of Elections will develop key performance indicators for each initiative funded by requirements payments. See Section VIII of this document for specific performance goals and measures.



## III. Voter Education, Election Official Education and Training, and Poll Worker Training

***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. -- HAVA §254 (a) (3)***

### *Voter Education*

As voter turnouts continue to dwindle, voter education has become an increasingly important component of the elections process. At the present time, the majority of voter education efforts in Michigan for statewide and federal elections are coordinated through the Michigan Department of State's Bureau of Elections and the offices of Michigan's city and township clerks. The voter education initiatives currently in place include the following:

***Citizens Guide to Voting Systems:*** Internet-based instructional system where voters can learn what type of voting equipment is used in their jurisdiction of residence and how it operates. The site utilizes video clips, slides, audio and printed text.

***Electronic Voter Guide:*** Internet-based informational guide established for November general elections where voters can learn about the political parties, state level candidates and statewide ballot proposals on the ballot. Candidates and political parties are invited to post statements on the site. Candidates are also extended the opportunity to post a photograph on the site.

***Voter Information Center:*** Internet-based informational site where voters can preview their ballot for November general elections, confirm their registration status, obtain information on the location of their polling place (including a map), link to candidate websites and obtain other election-related information.

Both the Citizens Guide to Voting Systems and the Electronic Voter Guide are linked to the Voter Information Center. The Voter Information Center, in tandem with the Citizens Guide to Voting Systems and Electronic Voter Guide, provides Michigan voters with the most comprehensive on-line election information available in the nation.

*Voter Education (continued)*

***Secretary of State Web site:*** Provides dates for upcoming state and local elections, general information on the registration process, a mail-in voter registration form that can be printed for immediate use, information on obtaining an absent voter ballot and other general information on registering and participating in elections.

***Local Web sites:*** Many counties and local jurisdictions have established Web sites that provide information on registering to vote and participating in elections.

***Published Notices:*** All cities and townships publish two notices to announce each upcoming voter registration deadline and two notices to announce each upcoming election. As Michigan has 1,514 cities and townships, this results in the publication of over 6,000 election-related notices prior to each August primary and 6,000 additional notices prior to each November general election.

***Voter Instruction Placards:*** Prior to each August primary and each November general election, the Secretary of State produces and distributes over 10,000 voter instruction placards for display in the polling places located throughout the state.

***Ballot Proposal Information:*** When a statewide proposal is presented on Michigan's August primary ballot or November general election ballot, the Secretary of State produces and distributes over 10,000 informational posters on the proposals for display in the polling places. The information is also distributed to all newspapers, television stations and radio stations in the state. Information on the proposals is also distributed through the 173 Secretary of State branch offices operated and managed by the Michigan Department of State.

***Assistance in the Polls:*** Michigan election law stipulates that all election workers appointed to serve in the polls must ask each voter if he or she would like to receive instruction on voting the ballot. To assist with the instruction, "demonstration models" are placed in each polling place. Comprehensive voting instructions are also printed on each ballot.

***Voter ID Cards:*** Michigan's local clerks issue "Voter ID Cards" to all registrants which list their voting districts, their polling place location and a contact office for additional information.



***Absent Voter Ballot Application Distribution Lists:*** Many local clerks maintain lists of regular absentee voters that are used to mass mail absent voter ballot application forms prior to elections.

***Registration Reminder Cards:*** The Secretary of State sends all Michigan citizens a birthday greeting when they reach age 18 with a reminder that they are now eligible to register and vote. The postcard directs the newly eligible voter to the mail-in voter registration application form provided on the Secretary of State's Web site.

***University/College E-mails:*** The Secretary of State, in cooperation with the Presidents Council of State Universities of Michigan, the Association of Independent College and Universities of Michigan and the Michigan Community College Association, sends a specially developed e-mail message to all university and college students to provide them with pertinent registration and voting information.

***Public Service Announcements (PSAs):*** The Secretary of State regularly develops PSAs on registering and voting for distribution to all media outlets in the State.

***Informational Brochures:*** The Secretary of State prints and distributes a voter information brochure prior to every election cycle that provides concise information on registering to vote, obtaining absent voter ballots and voting in the polls.

Michigan recognizes the need to enhance its voter education programs to better inform voters and promote participation in the electoral process. In addition to the maintenance of the voter education programs detailed above, Michigan will pursue the following initiatives:

- **Establish a Voter Education and Outreach Fund. The fund will be used to support public and private sector programs designed to educate voters and promote electoral participation.**
- **Double the current efforts made to ensure that all voter outreach materials produced through the Department reflect and meet the needs of Michigan's diverse voting populations.**
- **Develop educational outreach initiatives designed to instruct voters on the operation of the voting equipment selected for the implementation of Michigan's uniform voting system.**

- **Coordinate voter education efforts with nonpartisan community organizations and advocacy groups committed to voter education including groups that provide services to individuals with disabilities.**
- **Encourage local jurisdictions to partner with nonpartisan community organizations and advocacy groups committed to voter education to promote voter registration and participation. Facilitate such efforts through the development and dissemination of voter outreach materials.**
- **Improve and increase public service announcements and informational materials.**
- **Expand and improve upon the use the Internet-based Voter Information Center and the voter instruction posters provided for display in the polls.**

## *Election Official Education*

Trained, professional election officials are essential to the administration of efficient and secure elections. At the present time, the Michigan Department of State's Bureau of Elections administers a variety of mandated and discretionary training programs. These programs are designed to familiarize the State's county clerks, city clerks, township clerks, village clerks and school election coordinators with the laws and processes that govern Michigan's elections system. Current election official training programs administered through the Bureau of Elections include the following:

***Election Officials Accreditation Program:*** Michigan election law, MCL 168.31(j), directs the Secretary of State to "Establish a curriculum for comprehensive training and accreditation of all county, city, township, village, and school election officials." Participation is mandatory. To date, over 3,700 county clerks, local clerks, school board secretaries and election assistants appointed on the county and local level have attended the accreditation program.

***County Clerk Training:*** Michigan election law, MCL 168.33(1), directs the State Elections Director to "...conduct training schools throughout this state preceding the general November election, and preceding such other elections as the director considers advisable, for county clerks and their representatives with respect to the conducting of elections in accordance with the election laws...."



The training programs are routinely conducted every two years in advance of the November general election.

***County Board of Canvasser Training:*** Conducted in conjunction with required County Clerk Training programs.

***City/Township Clerk Training:*** Conducted on a regional basis prior to the August primary. All city clerks and township clerks are encouraged to attend.

***School Election Coordinator Training:*** Conducted on a regional basis prior to the June school election. All school election administrators are encouraged to attend.

***Village Clerk Training:*** Conducted on a regional basis prior to the village primary election. All village clerks are encouraged to attend.

***New Clerk Training:*** Michigan election law, MCL 168.31(k), directs the Secretary of State to "Establish and require attendance by all new appointed or elected election officials at an initial course of instruction within 6 months before the date of the election." New Clerk Training is offered to new clerks on a regional basis. Participation is mandatory.

Michigan recognizes the need to enhance its training programs to better ensure that all election officials possess the training, tools and resources critical to the successful administration of elections. In addition to the maintenance of the programs detailed above, Michigan will pursue the following initiatives:

- **Improve training and accreditation materials to promote the retention of the information.**
- **Research and implement new and innovative training delivery methods such as interactive web-based training and video teleconferencing.**
- **Develop "training partnerships" with the various clerk associations established in the State, state universities and community colleges.**
- **Establish an advisory group to review and evaluate the training programs and materials developed to train election officials.**
- **Contract with training consultants to enhance the skills of the trainers.**

- **Develop educational programs designed to instruct election officials on the operation of the voting equipment selected for the implementation of Michigan's statewide, uniform voting system.**

### *Poll Worker Training*

Trained poll workers who have a full understanding of the laws and procedures that govern the administration of the polls on Election Day are critical to the successful conduct of elections. In view of this need, Michigan election law, MCL 168.683, directs the State's county clerks to provide the poll workers appointed in their respective counties with the training needed to perform their duties. MCL 168.683 further extends to a city or township, having a population of 10,000 or more, the option of conducting its own poll worker training if desired.

To ensure the quality of the training programs and the consistency of the instruction, Michigan election law, MCL 168.33(2), directs the State Elections Director to "... train all county, city and township clerks who are involved in the training of precinct inspectors ...." MCL 168.33(3) further directs the State Elections Director to conduct all poll worker training in counties where the county clerk has not been accredited to conduct the training programs.

The Bureau of Elections also provides a various materials and training aids to augment the materials developed at the county and local level. The training materials and aids available through the Bureau include the following:

- ***Training Outline*** – A general training outline developed for use by trainers conducting instructional programs for poll workers.
- ***Election Inspectors' Procedure Manual*** – A 24-page quick reference guide to the laws that govern the operation of polling places. Developed for use as a training aid and as a reference tool on Election Day.
- ***Training Video on the Management of Polling Places*** – Used to motivate poll workers and reinforce instruction on the state laws that govern the operation of polling places.
- ***Training Video on Accommodating the Needs of Voters Who Are Disabled*** – Used to heighten poll worker sensitivity to the needs of disabled voters.



- ***Video Exam*** – A self-administered test developed for use with the training video. Used to focus attention on the points of emphasis in the video.
- ***Technical Sheets*** – Step-by-step instructions on the operation of the various voting systems employed in Michigan to administer elections. Developed for use as a training aid and as a reference tool on Election Day. Used by trainers to instruct poll workers on the proper administration of the voting system they will use in the polls.
- ***Voting Equipment Q & A Exercises*** – Used by trainers to reinforce instruction on the operation of the voting equipment used by the jurisdiction involved.
- ***Model Overheads*** – Suggested overheads developed for use by trainers conducting instructional programs for poll workers. Used by trainers to instruct poll workers on the proper completion of the various forms and documents which must be completed in the polls on Election Day.

Michigan recognizes the need to continually improve the training programs for poll workers to promote the efficient operation of the polls and the effective administration of the laws that govern the voting process. In addition to the poll worker training programs and services detailed above, Michigan will pursue the following initiatives:

- **Improve the content of the "train the trainer" programs offered county, city and township clerks.**
- **Update and expand the materials provided county, city and township clerks to assist with the instruction of poll workers.**
- **Develop and produce an updated poll worker training video.**
- **Contract with training consultants to enhance the skills of the trainers.**

## IV. Voting System Guidelines and Processes

***How the State will adopt voting system guidelines and processes, which are consistent with the requirements of section 301. -- HAVA §254(a)(4)***

Michigan has adopted legislation that mandates the implementation of a statewide, uniform voting system (PA 91 of 2002). The voting system selected will meet the requirements of Section 301 of the Help America Vote Act, including all accessibility requirements.

The legislation directs the Secretary of State to convene an "advisory committee" for the purpose of selecting a "uniform voting system" for the State if and when funds are appropriated for selecting, acquiring and implementing a statewide, uniform voting system.

The legislation further authorizes the Secretary of State to proceed with the implementation of a statewide, uniform voting system after the selection of the voting system best suited for the State's needs.

Michigan election law currently provides procedures for the certification of new voting systems and the conduct of recounts. Operational standards for the administration of electronic voting systems have been promulgated under the State's Administrative Procedures Act (APA), PA 306 of 1969, as amended.

As the implementation of the statewide, uniform voting system progresses, the Michigan Department of State will create any new processes necessary to ensure the effective and efficient administration of the system. New processes adopted by the Department typically take the form of new legislation, internal procedures and promulgated rules. The Department will determine the appropriate method for publicizing new voting system standards and processes.



## V. Michigan's HAVA Fund Management

***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. -- HAVA §254(a)(5)***

Working with the Michigan Legislature, the Michigan Department of State's Bureau of Elections is establishing a new election reform fund that will be separate and distinct from all other agency funds. The election reform fund will contain both federal and general funds. The federal fund portion will be used to maintain federal fund receipts and expend federal funds. The general fund portion will be used to budget and expend general funds representing the 5% match required under Help America Vote Act.

The Director of the Michigan Department of State's Bureau of Elections and the Director of the Michigan Department of State's Bureau of Administrative Services will work with the Michigan Department of Treasury to follow and enforce all mandated fiscal controls and policies.

## VI. Michigan's HAVA Budget

***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. -- HAVA §254(a)(6)***

***Title I Funds: Election Administration and the Replacement of Voting Equipment***

Title I of the Help America Vote Act authorizes the General Services Administration (GSA) to administer $650 million in payments to (1) implement election administration improvements, and (2) replace punch card voting systems and lever voting machines.

***Election Administration Improvements ($325 Million):*** States are guaranteed a minimum payment of $5 million. The remaining funds are allocated according to the state's voting age population. Michigan is eligible for approximately $9.9 million.

***Replacement of Punch Card Voting Systems and Lever Voting Machines ($325 Million):*** The funds must be used to replace the State's punch card voting systems and lever voting machines in advance of the November 2, 2004 general election. An extension through the first federal election conducted after January 1, 2006, can be requested for good cause.

Each State is eligible to receive up to $4,000 for each "qualifying precinct." A "qualifying precinct" is a precinct that used a punch card voting system or lever voting machines to administer the November 7, 2000 general election.

Michigan is eligible for approximately $6.8 million. If the total claimed exceeds the $325 million appropriation, the payments will be proportionately reduced.



***Titles II and III: Election Assistance "Requirements Payments"***

The Election Assistance Commission is required to make election assistance "requirements payments" to qualifying States. Under this section, the Appropriations bill authorized payments of $1.4 billion for FY 2003, $1 billion for FY 2004 and $600 million for FY 2005. However, only $830 million was actually appropriated and made available for spending for FY 2003. The funds "authorized" for each fiscal year must be appropriated under separate action before the funds are available to the States.

The funds are allocated according to the State's voting age population with a guaranteed minimum payment equal to ½ of 1% of the total appropriation for each year. Michigan is eligible for approximately $28 million this fiscal year.

***Future Funding Assumptions***

The remaining federal funds available to Michigan through FY 2005 are calculated by multiplying the total available amount of federal funding in that year by 3.3%. These portions require a 5% State match for all funds spent in each fiscal year. However, the State may draw down funds each fiscal year without providing the match if the State's election plan accounts for the future expenditure of the matching funds.

The following table outlines the assumptions regarding federal funding that Michigan used in creating its budget.

| Federal Fiscal Year | Total Federal Funds Authorized [1] | Total Federal Funds Appropriated [2] | Michigan's Share |
|---|---|---|---|
| **Early Payments** | $650 million | $650 million (appropriated) | $6.8 million [3] |
| **2003** | $1.4 billion | $830 million (appropriated) | $28 million |
| **2004** | $1 billion | Pending | $33 million (estimated) |
| **2005** | $600 million | Pending | $16.5 million (estimated) |
| **Total** | **$3.65 billion** | | **$67.8 million** |

[1] "Authorized funds" represent the amount Congress recommended for the implementation of the Help America Vote Act when the Act was adopted.

[2] "Appropriated funds" represent the amount Congress has actually made available to the States for the implementation of the Help America Vote Act.

[3] Does not include $9.9 million Michigan is eligible to receive under Title I, Section 101, of the Help America Vote Act. The funds will be used to extend smaller jurisdictions access to the Qualified Voter File system, convert the street index to a GIS mapping system, add digitized signatures to the Qualified Voter File database and provide other technology enhancements.



### *Projected Budget*

Michigan's projected budget, based on the funding assumptions detailed above, represents the cost of implementing the requirements of Title I and Title III of the Help America Vote Act. The budget will be revised as appropriate to reflect the most current information available on federal funding, and any changes that may be made in the implementation schedule.

## OVERALL HAVA COMPLIANCE BUDGET

| HAVA Requirements | Estimated Total Cost | Source of Funding | | | Implementation Period |
|---|---|---|---|---|---|
| Title III Requirements | | §102 | Title II | State 5% Match | |
| (§301) Voting System | $55 million | $6.8 million | $45.45 million | $2.75 million | FY 2004 to FY 2006 |
| (§302) Provisional Voting and voting information requirements | $500,000 | | $475,000 | $25,000 | FY 2004 to FY 2006 |
| (§303) Computerized statewide voter registration list requirements and requirements for voters who register by mail | $5 million | | $4.75 million | $250,000 | FY 2004 to FY 2006 |
| *"Other" Activities* | | | | | |
| Programming software, ballot production licensing, service contracts and polling place accessibility supplements to HHS grants | $5 million | | $4.75 million | $250,000 | FY 2004 to FY 2006 |
| (§254 (3)) Voter education, election official education and training, and poll worker training which will assist the state in meeting the requirements of Title III | $5 million | | $4.75 million | $250,000 | FY 2004 to FY 2006 |
| (§402) Establish a State-based HAVA administrative complaint procedure to remedy grievances | $500,000 | | $475,000 | $25,000 | |



## FISCAL YEAR 2004 ESTIMATED BUDGET

| HAVA Requirements | Estimated Total Cost (3 Fiscal Years) | Source of Funding for FY04 Anticipated Disbursements | | |
|---|---|---|---|---|
| Title III Requirements | | §102 | Title II | State 5% Match |
| (§301) Voting System [1] | *$55 million* | $4 - 6.8 million | $11 million | $1 million |
| (§302) Provisional Voting voting information requirements [2] | *$500,000* | | *$300,000* | *$25,000* |
| (§303) Computerized statewide voter registration list requirements and requirements for voters who register by mail [2] | *$5 million* | | *$2 million* | *$100,000* |
| *"Other" Activities* | | | | |
| Programming software, ballot production licensing, service contracts and polling place accessibility supplements to HHS grants [2] | *$5 million* | | *$2 million* | *$150,000* |
| (§254 (3)) Voter education, election official education and training, and poll worker training which will assist the state in meeting the requirements of Title III [2] | *$5 million* | | *$1 million* | *$100,000* |
| *(§402) Establish a State-based HAVA administrative complaint procedure to remedy grievances* [2] | *$500,000* | | *$250,000* | *$10,000* |

## VII. Maintenance of Effort

[1] Determinations not yet made on prices for voting systems or number of precincts converting in FY04.

[2] The state procurement and bid process will determine actual costs for the contracts necessary to implement these requirements.

***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. -- HAVA §254(a)(7)***

Consistent with Section 254(a)(7), Michigan will maintain the same level of expenditures on activities funded by the requirements payments as was expended in the fiscal year that ended prior to November 2000 (October 1, 1999 through September 30, 2000). (Michigan expended $1.2 million on such activities during the period.)

As with many states, the amount spent by the State of Michigan to administer elections is only a small fraction of the aggregate amount spent on elections statewide as the majority of the costs involved are handled at the county and local level. In addition, many of Michigan's 83 county clerk offices and 1,514 city and township clerk offices employ year-round core staff for continuous functions such as voter registration, information services and IT support. When elections are conducted, Michigan's county and local clerks must budget for the additional costs associated with the rental of polling places, poll workers, temporary office staff, ballot production, mass mailings, election day support, etc.



## VIII. HAVA Performance Goals and Measures

***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. -- HAVA §254(a)(8)***

Performance goals provide a high-level view of a project's direction. The State's goal is to achieve election reform and compliance with the requirements of the Help America Vote Act through the successful implementation of the programs outlined in the State Plan.

***Performance Goal 1: Statewide Voter Registration System***

At this date, Michigan's Qualified Voter File (QVF) is in substantial compliance with the Help America Vote Act's requirements for a centrally administered statewide voter registration system. Michigan will use existing QVF data retrieval mechanisms to ensure that the system is as accurate as possible and includes every registered voter in the State at their proper address and removes voters who have died or moved out of the State. Michigan will make enhancements to the QVF to provide additional tools for election officials.

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| ***Performance Measure #1*** | ***The following statistics will be compiled to determine data accuracy and the effectiveness of voter outreach programs:***<br>• Number of registered voters in the State as a percentage of the State's voting age population.<br>• Number of registered voters in each county as a percentage of each county's voting age population.<br>• Number of registered voters in each jurisdiction as a percentage of each jurisdiction's voting age population.<br>• Number of digitized signatures captured. |

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| | • Number of voting histories captured for each statewide federal election.<br>• Number of driver license numbers or PID numbers captured.<br>• Number of duplicate driver license numbers or PID numbers. |
| ***Timetable*** | January 1, 2004, and annually thereafter. |
| ***Description of the criteria used to measure performance*** | Statistical reports should be generated from the QVF and measured against census data, voter turnout data and other reliable data sources. |
| ***Process used to develop criteria*** | Success of the effort will be dependent upon the performance of election officials statewide in updating the QVF and performing State prescribed "data scrubbing" initiatives. |
| ***Description of official to be held responsible for ensuring each performance goal is met*** | The Secretary of State and the Bureau of Elections, with the cooperation of all city, township and county election officials in the State, are responsible for ensuring that each performance goal is met. |



***Performance Goal 2: Training and Education***

Michigan state and local election officials realize that the effectiveness of the Help America Vote Act relies heavily on communication among or between the participants in the process. Opportunities for training exist for city, township and county election officials; for election inspectors; and for voters who may only interact with equipment and the voting process occasionally.

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| ***Performance Measure #2(a)*** | ***The following information will be collected to measure election official training performance:***<br>• Number of training classes/opportunities offered.<br>• Number of election officials receiving initial certification under the Bureau of Election's Clerk Accreditation Program.<br>• Number of election officials receiving ongoing certification under the Bureau of Election's Clerk Accreditation Program.<br>• Number of election officials attending New Clerk training programs.<br>• Number of election officials attending even-year training programs pursuant to MCL 168.33(1).<br>• Number of election officials attending election inspector training programs pursuant to MCL 168.33(2) and (3). |
| ***Timetable*** | January 1, 2004, and annually thereafter. |
| ***Description of criteria used to measure performance*** | The Secretary of State will prepare a report form for completion by Michigan's county and local elections officials. |
| ***Process used to develop the criteria*** | The State already provides training and accreditation programs for election officials. |
| ***Description of official to be held responsible for ensuring each performance goal is met*** | The Director of Elections through the Michigan Department of State's Bureau of Elections is responsible for election official training. |

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| *Performance Measure #2(b)* | *The following information will be compiled to measure the effectiveness of efforts to increase the number of available election inspectors for statewide federal elections:*<br>• Number of election inspectors trained by instructors in classroom.<br>• Number of new election inspectors recruited.<br>• Number of high school and college students contacted by election officials to work as inspectors.<br>• Number of complaints filed.<br>• Percentage of election inspectors who attended training. |
| *Timetable* | January 1, 2005, and every odd-year January 1 thereafter. |
| *Description of the criteria used to measure performance* | Local election officials will submit this information to the Michigan Department of State's Bureau of Elections following each federal election. |
| *Process used to develop criteria* | County and local election officials currently conduct election inspector training. The Bureau of Elections will rely on input from local election officials (and perhaps professional trainers) to develop both the content and evaluation criteria for the program. |
| *Description of official to be held responsible for ensuring each performance goal is met* | The Bureau of Elections establishes training guidelines and tools. Each county or jurisdiction (as permitted by law) will continue to oversee election inspector training. |



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| *Performance Measure #2(c)* | *The following information will be gathered to measure the effectiveness of voter education initiatives for statewide federal elections:*<br>• Number of public display sites for voter education.<br>• Number of PSAs (public service announcements).<br>• Number of Web hits on Secretary of State's Voter Information Center and/or other Web sites.<br>• Number of high schools and colleges contacted.<br>• Increase/change in percentage of voter turnout. |
| *Timetable* | January 1, 2005, and every odd-year January 1 thereafter. |
| *Description of the criteria used to measure performance* | Local election officials will submit information to the Michigan Department of State's Bureau of Elections following each federal election. The Bureau of Elections may also compile its own data. |
| *Process used to develop criteria* | These steps are being taken to ensure voters receive information on the Help America Vote Act and related election processes. |
| *Description of official to be held responsible for ensuring each performance goal is met* | The Bureau of Elections is responsible for developing the training tools. Local election officials will be responsible for implementation and reporting. |

*Performance Goal 3: Grievance System*

The Help America Vote Act requires the establishment of a state-based grievance procedure.

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| ***Performance Measure #3*** | ***The following information will be collected to measure the effectiveness of the grievance process:***<br>• The number of inquiries received.<br>• The number and nature of complaints filed.<br>• The number of complaints dismissed.<br>• The number of complaints resolved informally by the Michigan Department of State's Bureau of Elections.<br>• The number of complaints resolved by formal hearing.<br>• The average time for a complaint to be investigated and resolved. |
| ***Timetable*** | January 1, 2005, and every odd-year January 1 thereafter. |
| ***Description of the criteria used to measure performance*** | The Secretary of State will review the reports from the Bureau of Elections following each federal election cycle. |
| ***Process used to develop criteria*** | The Bureau of Elections will submit a report containing number of complaints received, number of complaints resolved and time required/used for resolution. |
| ***Description of official to be held responsible for ensuring each performance goal is met.*** | The Bureau of Elections is responsible for administering the statewide grievance procedure. |



*Performance Goal 4: Provisional Ballots*

The following will be measured with respect to provisional ballots: uniform processing, verification and status availability. Provisional ballot status reporting will be performed by each jurisdiction. The goal is to have uniform procedures in place in each jurisdiction for processing and verifying provisional ballots.

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| ***Performance Measure #4*** | ***The following information will be collected to measure the effectiveness and uniformity of the "provisional" balloting process for statewide federal elections:***<br>• Number of provisional ballots cast in each precinct.<br>• Number of voters in each precinct.<br>• Number of provisional ballots verified and counted for each precinct.<br>• Number of provisional ballots not counted in each precinct and reason. |
| ***Timetable*** | January 1, 2005, and every odd-year January 1 thereafter. |
| ***Description of the criteria used to measure performance*** | The election report from each jurisdiction will provide the Secretary of State with an indication of what additional tools may be needed for uniformity. |
| ***Process used to develop criteria*** | The Michigan Department of State's Bureau of Elections will enhance its election official training materials to include provisional ballot procedures and information. |
| ***Description of official to be held responsible for ensuring each performance goal is met*** | The Bureau of Elections will be responsible for uniform guidelines for processing and verifying provisional ballots. Local election officials will be responsible for provisional ballot verification, counting and reporting. |

*Performance Goal 5: Accessibility*

One of the Help America Vote Act's principal objectives is to make the election process more accessible. Michigan will address both voting equipment and polling place accessibility. Michigan will also utilize part of the remaining Help America Vote Act funds to address accessibility issues through training and to provide materials and web information in accessible formats.

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| ***Performance Measure #5*** | ***The following information will be collected to measure the effectiveness of the accessibility initiatives for statewide federal elections:***<br>• Number of military/overseas absentee applications.<br>• Number of military/overseas ballots cast.<br>• Number of military ballots rejected and associated reasons.<br>• Number of polling locations.<br>• Number of polling locations that are accessible.<br>• Number of polling locations with accessible devices.<br>• Number of polling locations without accessible devices.<br>• Number of accessibility brochures distributed.<br>• Number of accessibility complaints received and resolved.<br>• Whether Michigan Web site and materials are available in accessible formats. |
| ***Timetable*** | January 1, 2005, and every odd-year January 1 thereafter. |
| ***Description of the criteria used to measure performance*** | Local election officials will submit this information semiannually to the Michigan Department of State's Bureau of Elections. |
| ***Process used to develop criteria*** | Election officials will be required to certify polling place accessibility. |
| ***Description of official responsible for ensuring each performance goal is met*** | The local election officials will be responsible for certifying polling place accessibility. The Bureau of Elections will ensure that the Web site is in an accessible format. |



## IX. State-Based Administrative Complaint Procedures

***A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. -- HAVA §254(a)(9)***

The Michigan Department of State has agreed upon a uniform, non-discriminatory complaint procedure that meets the requirements of the Help America Vote Act. The complaint procedure will be adopted as a series of guidelines pursuant to the State's Administrative Procedures Act (APA), PA 306 of 1969, as amended.

The complaint procedure permits a person who believes that an election authority has violated or will violate a provision of Title III of the Help America Vote Act to invoke a formal investigation by submitting a sworn statement to the Michigan Department of State's Bureau of Elections. The statement must specify the election authority who is alleged to have violated Title III, the provision of Title III involved, how the violation is alleged to have occurred and whether the complainant personally witnessed or possesses first-hand knowledge of the alleged violation. The complainant may request a hearing on the matter. If the complaint is valid and a hearing is requested, the Bureau of Elections is required to proceed with the conduct of a hearing on the record.

The complaint procedure further directs the Bureau of Elections to resolve any formal complaints it receives within ninety (90) calendar days unless the complainant consents to an extension. If the Bureau of Elections determines that a violation of Title III occurred, it is authorized to order an appropriate remedy. If the Bureau of Elections is unable to render a final determination within ninety (90) calendar days, it is required to forward the record to the Department's Legal and Regulatory Services Administration for alternative dispute resolution. Upon the receipt of a referred complaint, the Legal and Regulatory Services Administration is required to conduct a review of the complaint and render a final determination within sixty (60) calendar days. If the Legal and Regulatory Services Administration determines a violation of Title III occurred, it is authorized to order an appropriate remedy. In such an instance, the Bureau of Elections is authorized to enforce any remedies ordered by the Legal and Regulatory Services Administration.

A copy of the complaint procedure is provided in the Appendix.

## X. Effect of Title I Payments

***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. -- HAVA §254 (a)(10)***

*Section 101: Election Administration Improvements*

Michigan is eligible for approximately $9.9 million under Section 101 of the Help America Vote Act.

*Section 102: Replacement of Punch Card Voting Systems and Lever Voting Machines*

Michigan is eligible for approximately $6.8 million under Section 102 of the Help America Vote Act. The funds will be used to purchase voting systems that are compliant with the requirements of the Help America Vote Act.



## XI. Michigan's HAVA State Plan Management

***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). -- HAVA §254(a)(11)***

Michigan will use the State Plan as the basis for managing the activities associated with the implementation of the Help America Vote Act. The Secretary of State, with guidance from the Help America Vote Act Steering Committee, will be responsible for the management and implementation of the State Plan. Michigan will conduct plan management at four levels:

***Secretary of State:*** In Michigan, the Secretary of State functions as the State's Chief Election Officer. Accordingly, the Secretary of State is ultimately responsible for the implementation of the State Plan. As a result, the Secretary of State will possess the final authority in decision-making and management of the State Plan.

***Help America Vote Act Steering Committee:*** A Steering Committee comprising the Secretary of State, the Department's Chief Operating Officer and the State Elections Director will be established to oversee all State Plan activities and provide necessary guidance, leadership and direction. The Steering Committee will meet on a regular basis to address compliance with the requirements of the Help America Vote Act and the implementation of the State Plan.

***Help America Vote Act Project Committees:*** The Project Committees will comprise Department staff selected on an ad hoc basis. The Project Committees will be responsible for research, analysis and the development of any needs associated with the implementation of the State Plan.

***Help America Vote Act Project Managers:*** Specified employees of the Michigan Department of State will be responsible for the day-to-day coordination and implementation of selected projects associated with the implementation of the State Plan. The Project Managers will be responsible for coordinating project activities; seeking the advice of county and local election officials, voter advocacy groups and other stakeholders in Michigan's elections process; reporting on the progress of the activities; and relaying any resource needs to the Steering Committee.

Michigan understands and agrees to comply with the requirements of the Help America Vote Act related to the ongoing management of the State Plan. More specifically, the State agrees that it may not make any material changes in the administration of the State Plan unless the change:

(1) is developed and published in the Federal Register in accordance with Section 255 of the Help America Vote Act in the same manner as the State Plan;

(2) is subject to public notice and comment in accordance with Section 256 of the Help America Vote Act in the same manner as the State Plan; and

(3) takes effect only after the expiration of the 30-day period that begins on the date the change is published in the Federal Register.



## XII. Changes to State Plan from Previous Fiscal Year

***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. -- HAVA §254(a)(12)***

The FY 2003 Plan is Michigan's initial plan under the Help America Vote Act. This section will be updated in the FY 2004 Plan to reflect the changes made in the Plan as well as a summary of the 2003 successes.

## XIII. State Plan Development and Committee

***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 255 and section 256. -- HAVA §254 (a)(13)***

A draft of the State Plan was created by the Department of State's Bureau of Elections with input from the Secretary of State's State Plan Advisory Committee and the public. The members of the committee conducted meetings on March 20, March 31, April 21, May 5, May 12, May 21, June 11 and June 20, 2003. The State Plan was distributed to the members of the Advisory Committee for review and discussion.

The preliminary version of the State Plan was released for public inspection and comment on June 17, 2003. The public comment period closed on July 31, 2003. All public comments submitted were taken into consideration when the final State Plan was prepared in accordance with Section 256 of the Help America Vote Act.



### *Committee Members*

The Secretary of State named the following individuals to serve on the State Plan Advisory Committee:

**Lynn Alexander**, Senior Citizen Advisor of Oakland County

**The Honorable Diane Byrum**, State Representative

**G. William Caddell**, Oakland County Clerk

**Robert Campau**, Michigan Republican Party

**Denise Cook**, Michigan State AFL-CIO

**The Honorable Maura D. Corrigan**, Chief Justice, Michigan Supreme Court

**The Honorable Mike Cox**, Attorney General

**Jackie Currie**, Detroit City Clerk

**A. Edwin Dore**, Representing the Public's Interest

**Kathryn Dornan**, Farmington Hills City Clerk

**Judy Elliott**, Branch County Clerk

**The Honorable Jennifer Granholm**, Governor

**The Honorable Beverly Hammerstrom**, State Senator

**Terri Hegarty**, Grand Rapids City Clerk

**Melvin Butch Hollowell**, Michigan Democratic Party

**Susan Kaltenbach**, Saginaw County Clerk

**Justin P. King**, Michigan Association of School Boards

**The Honorable Joseph Knollenberg**, U.S. Representative

**Terri Kowal**, Shelby Charter Township Clerk

**Robert LaBrant**, Michigan Chamber of Commerce

**The Honorable Carl Levin**, U.S. Senator

**Simone Lightfoot**, NAACP

### *Committee Members (continued)*

**Tom Masseau**, Michigan Protection & Advocacy Service

**Ruth Pruis**, Jamestown Township Clerk

**Robert Richards**, City of Escanaba Clerk

**The Honorable Mark Schauer**, State Senator

**Lucille Taylor**, Representing the Public's Interest

**Mercedes Toohey**, Former Director of Hispanic Community Center of Grand Rapids

**Janice Vedder**, Delta Charter Township Clerk

**The Honorable Chris Ward**, State Representative



## *Presentations and Statements*

The following individuals offered formal presentations and/or statements at the meetings conducted by the Secretary of State's State Plan Advisory Committee:

**Sandra Abrams**, Commerce Charter Twp. Clerk (on behalf of MI Assoc. of Municipal Clerks)

**William R. Barrett**, Fidlar Election Company

**Norma Bauer**, Citizen

**G. William Caddell**, Oakland County Clerk

**Charlene Corrigan**, Ingham Cty. Election Coordinator (on behalf of Mike Bryanton, Ingham Cty. Clerk)

**Jeff Delongchamp**, Sequoia Voting Systems

**Patricia Donath**, President, League of Women Voters

**Eric E. Doster**, Foster, Swift, Collins & Smith, P.C.

**Casey Dutmer**, Legislative Chairman, MI Council of the Blind & Visually Impaired

**Susan Fitzmaurice**, ADA Coordinator, Cty. of Dearborn Commission on Disability Concerns

**Richard C. Fox**, Election Systems & Software

**Michael F. Harris**, Deputy Executive Director, Paralyzed Veterans of America

**Terri Hegerty**, Grand Rapids City Clerk

**Michael J. Hodge**, Miller, Canfield, Paddock & Stone

**Rochel Jones**, City of Detroit/Department of Elections

**Robert Kakos**, Wayne State University

**Vincent Keenan**, President, Publius.org

**Terri Kowal**, Shelby Charter Twp. Clerk (on behalf of MI Assoc. of Municipal Clerks)

**Bud Kraft**, Citizen

**Gail Kundinger**, Muskegon City Clerk (on behalf of MI Assoc. of Municipal Clerks)

## *Presentations and Statements (continued)*

**John Anthony LaPietra**, Elections Coordinator, Green Party of Michigan

**Sally Lollie**, Intermediate School District Representative

**Alice Mailhot**, Citizen

**Tom Masseau**, Director of Public Policy, Michigan Protection & Advocacy Service, Inc.

**M. Catherine McAdams**, Chair, City of Dearborn Commission on Disability Concerns

**Barry Miller**, Miller Consultations

**William B. Milzarski**, Access Coordinator, Disability Advocates of Kent County

**Sue Morrow**, Plainfield Charter Township Clerk

**Dave Murley**, Michigan Department of State, Legal and Regulatory Services Admin.

**John D. Pirich**, Honigman, Miller, Schwartz & Cohn, LLP

**Lucia Rios**, Lakeshore Center for Independent Living

**Roy Sovis**, State Coordinator, Michigan Student/Parent Mock Election

**Aimee Sterk**, Lakeshore Center for Independent Living

**Mari Stone**, Vergennes Township Clerk (on behalf of Kent County Clerks Association)

**Bill Trevarthen**, Michigan Government Television

**Larry Wanger**, Disability Advocates of Kent County

**Prof. Franklin H. Westervelt**, Ph.D., P.E., Wayne State University

**Mile Wilkinson**, Sequoia Voting Systems

**E'Lon-Eloni Wilks**, Ph.D., Assistant to the Clerk, City of Detroit/Dept. of Elections

**Gloria Williams**, Director of Elections, City of Detroit/Dept. of Elections

**R. Anthony Wong**, Michigan Association of Centers for Independent Living

**Ray Ziarno**, M-FORE (Michigan Focus on Reforming Elections)

**Diana Zucker**, Clinton County Clerk





# APPENDIX

## Complaint Process

# COMPLAINT PROCESS

## I. *INTRODUCTION*

A. A person who believes that an election authority has violated or will violate a provision of Title III of the Help America Vote Act (42 U.S.C. 15512) that concerns an election for federal office may file a complaint with the Michigan Department of State's Bureau of Elections (Bureau) pursuant to these guidelines.

B. A person, before filing a complaint pursuant to these guidelines, should contact the election authority and attempt to resolve his or her concerns. However, failure to contact the election authority will not prevent a person from utilizing these complaint procedures.

## II. *COMPLAINT PROCEDURE*

A. Timing

1. If the complaint meets Section III's requirements, the Department shall forward the complaint to the named election authority in five (5) days for a response.

2. An election authority shall have thirty (30) days to provide a written response to the complaint.

B. Complaint consolidation/withdrawal

1. The Bureau may consolidate complaints filed pursuant to these guidelines. Complaints will be consolidated if they contain substantially similar allegations against an election authority. The Bureau will generally consolidate additional complaints with an original complaint.

2. The Bureau may consolidate two or more complaints filed by the same person. A person who files more than one complaint shall be deemed to have consented to waive any timing requirements for previous complaints filed with the Bureau.



3. The Bureau may consolidate a complaint with a complaint that has been subject to a final determination by the Bureau.

4. A complainant may withdraw his or her complaint at any time during the complaint process. A complaint, once withdrawn, shall not be re-filed.

## III. *COMPLAINTS*

A. Required Information

1. A complaint filed under these guidelines shall be in writing, notarized, signed and sworn by the person filing the complaint.

2. The complaint shall allege, with specificity, the following:

a) The election authority that has violated Title III

b) The Title III provision the election authority violated

c) An explanation of how the election authority named in (III)(2)(a) violated the Title III provision listed in (III)(2)(b)

d) A statement that the complainant either witnessed or possesses first-hand knowledge of the conduct alleged in (III)(2)(c)

B. Dismissal

1. Complaints that do not meet the requirements of III(A)(1) and III(A)(2) shall be dismissed without prejudice.

2. A person may re-file a complaint that has been dismissed without prejudice.

III. *COMPLAINTS (continued)*

C. Optional Information

The complaint may include the following information:

1. A request that the Bureau conduct a hearing on the record (See Section V below)

2. Notarized affidavits from a maximum of three (3) persons who witnessed the alleged violations.

IV. *RESPONSES*

A. Requirements

1. The response shall be in writing, notarized and signed by the chief election officer of the election authority.

2. The response shall confirm or deny the allegation (if known).

3. The election authority shall respond to the complaint within 25 days after receipt.

4. The election authority is not required to respond to a complaint.

B. Optional Information

1. The response may include notarized affidavits from a maximum of three (3) persons who have information that may assist the Bureau in determining whether the election authority violated Title III.



V. *HEARINGS*

A. Procedure

1. A complainant may request that the Bureau conduct a hearing on the record (hereafter "hearing") regarding an alleged violation of Title III.

2. A complainant who desires a hearing must make such a request in the complaint.

3. The Department will schedule a hearing only if it receives a valid complaint.

B. Notice & Appearance

1. The Bureau shall notify the election authority of the complainant's hearing request.

2. The election authority shall inform the Bureau within twenty-five (25) days whether it intends to appear at the hearing. If the election authority opts to forgo the hearing, the Bureau shall rely on the authority's written response to the complaint, if any.

3. A complainant who has requested a hearing, but fails to appear at the hearing, shall have his or her complaint dismissed with prejudice.

C. Witnesses

1. Complainant - The Complainant may call as witnesses only those persons who provided affidavits pursuant to Section III (C)(2).

2. Election Authority - The election authority may call as witnesses only those persons who provided affidavits pursuant to Section IV (B)(1).

3. Bureau of Elections

a. The Bureau shall review both witness lists to ascertain the nature of the testimony, and shall strike those witnesses it believes will offer irrelevant or redundant testimony. A witness excised from a witness list shall not testify at the hearing.

b. The Bureau shall not bar the testimony of the complainant or the election authority's chief election officer.

D. Procedures

1. A witness shall testify only to those Title III violations alleged in the complaint.

2. Absent extraordinary circumstances, the Bureau shall hold hearings in Lansing. The Bureau shall schedule the date and time of the hearing.

3. The Bureau shall make an audio recording of the hearing.

4. The complaint, the response, any valid accompanying affidavits, and the relevant hearing testimony shall constitute the record.

5. Hearings shall be informal, non-contested case hearings and shall not be governed by the Administrative Procedures Act (APA), 1969 P.A. 306, as amended.

6. The Bureau of Elections shall designate one or more persons to direct the hearing.

## VI. *DETERMINATION*

A. The Bureau shall review the record regarding the alleged Title III violations.

1. Procedures

a. The Bureau shall weigh written testimony—whether offered via complaint, response, or affidavit—equally with any oral testimony offered at a hearing.

b. The Bureau shall not draw any inference from a complainant's decision to request or not request a hearing or an election authority's decision to attend or not attend a hearing.

B. If, under the guidelines, the Bureau does not find reason to believe that the election authority has violated Title III, it shall dismiss the complaint and publish the results on its Web site.

C. If, under the guidelines, the Bureau has found reason to believe that the election authority has violated Title III, it shall, pursuant to Section 21 of the Michigan Election Law, 1954 P.A. 116, as amended, provides an appropriate remedy. The Bureau shall publish the results of its final determination on its Web site.



## VII. *REMEDY*

A. The Bureau shall have wide discretion to provide an appropriate remedy

1. A remedy may include, but is not limited to, the following:

a. Sending a written finding of a Title III violation to the authority

b. Requiring a written response from the election authority, detailing how it will remedy a Title III violation

c. Additional election training for the election authority

B. A remedy shall not, under any circumstances, include a financial penalty

## VIII. *TIMING*

A. The Bureau shall issue a final determination within ninety (90) days after it receives the complaint, unless the complainant consents to an extension or a complaint has been consolidated with another complaint.

1. If the Bureau fails to issue a final determination within ninety (90) days, it shall forward the record to the Department of State's Bureau of Legal Services for alternative dispute resolution.

## IX. *ALTERNATIVE DISPUTE RESOLUTION*

A. The Legal and Regulatory Services Administration shall appoint a hearing officer to review the record. The hearing officer shall render a final determination within sixty (60) days after receiving the record.

B. After reviewing the record, the hearing officer shall issue a final determination declaring whether there is reason to believe that the election authority has violated Title III.

1. If the hearing officer finds reason to believe that an election authority has violated Title III, he or she shall order an appropriate remedy. The Bureau of Elections shall enforce the remedy.

    a. The Bureau of Elections shall report the hearing officer's decision and remedy (if any) on its Web site.

# State of Minnesota

# Minnesota State Plan

*Developed pursuant to Public Law 107-252, Help America Vote Act of 2002, Section 253(b)*

"The Act appropriately respects the primacy of state and local governments in the administration of elections, while helping to ensure the integrity and efficiency of voting processes in federal elections by providing federal governmental support for that vital endeavor."

**PRESIDENT GEORGE W. BUSH**
THE WHITE HOUSE
October 29, 2002

"The four pillars of voter rights—access, accuracy, privacy, and integrity—need to be strong and in balance in order for the election system to be as good as it can be. HAVA is a major national reinforcement of those four pillars."

**MINNESOTA SECRETARY OF STATE**
**MARY KIFFMEYER**
ST. PAUL

**MINNESOTA STATE PLAN ADVISORY COMMITTEE**

| | |
|---|---|
| **Mary Kiffmeyer** | *Minnesota Secretary of State* |
| **Scott Simmons** | *Minnesota State Election Director* |
| **Bob Schroeder** | *Deputy Chief of Staff, Office of the Governor* |
| **Cal Larson** | *Minnesota Senate (R-Fergus Falls)* |
| **Chuck Wiger** | *Minnesota Senate (DFL-North St. Paul)* |
| **Jim Knoblach** | *Minnesota House of Representatives (R-St. Cloud)* |
| **Mary Ellen Otremba** | *Minnesota House of Representatives (DFL-Long Prairie)* |
| **Patrick O'Connor** | *Hennepin County Auditor* |
| **Dorothy McClung** | *Ramsey County Director of Property Records & Revenue* |
| **Roy Luukkonen** | *Crow Wing County Auditor* |
| **Fran Windschitl** | *Rice County Auditor/Treasurer* |
| **James Backstrom** | *Dakota County Attorney* |
| **Gene Short** | *Redwood County Commissioner / AMC President* |
| **Susanne Griffin** | *City of Minneapolis Director of Elections* |
| **Irene Bright** | *Kimberly Township, Aitkin County* |
| **Barb Welty** | *Kathio Township, Mille Lacs County* |
| **Margot Imdieke Cross** | *State Council on Disability* |
| **Pamela Hoopes** | *Minnesota Disability Law Center* |
| **Kathie Battle** | *African-American Community* |
| **Gabriela Mangieri Harper** | *Hispanic Communications Consultant* |
| **Stacy Doepner-Hove** | *League of Women Voters of Minnesota* |
| **Zachary Coelius** | *Votes for Students, University of Minnesota* |
| **Bruce Corrie** | *Concordia University, St. Paul* |
| **Cliff Olsen** | *Abelconn* |

## Introduction by Secretary of State Mary Kiffmeyer

St. Paul, Minnesota
July 2003

Fellow Minnesotans:

I am pleased to share this document, Minnesota's plan for implementing the Help America Vote Act, P.L. 107-252 (HAVA) of 2002.

HAVA—the federal response to the 2000 election—requires state and local governments to improve election processes and systems, and it provides federal funding to help with these improvements. I am grateful to President Bush and the U.S. Congress for making election improvement a priority and for getting this historic legislation passed. It was an honor to work with Senators Wellstone and Dayton and with the rest of Minnesota's congressional delegation in crafting HAVA.

Through the years, Minnesota has demonstrated excellence in citizen participation. Our young people, 18- to 24-years-old, typically participate at twice the national average for voters of that age. In 2000 and in 2002, we had the highest overall voter turnout in the nation. Additionally, in 2002 we had the highest voter turnout in our state in a non-presidential election year since 1954.

We are fortunate in Minnesota because our state also has demonstrated a commitment to voting system improvements to support the high citizen involvement. In 2000, the state legislature established a voting equipment grant account to encourage local governments to replace hand-count and central-count voting systems with modern optical-scan in-the-precinct tabulators.

The additional federal funds will enable us to provide Minnesota with a HAVA-compliant statewide system. We will be able to train election officials effectively, efficiently, and more cost-effectively with uniform systems and materials.

HAVA will allow us to enhance the integrity of our voter registration process, increase privacy and independence for voters with disabilities, improve the election systems that support the absentee voting process, and provide all Minnesotans with better information on how to vote.

The four pillars of voter rights—access, accuracy, privacy, and integrity—need to be strong and in balance in order for the election system to be as good as it can be. HAVA is a major national reinforcement of those four pillars.

We are on schedule to make sure Minnesota complies with federal HAVA deadlines. I thank the HAVA Advisory Committee members who committed considerable time and showed great dedication to giving input on this plan. Their involvement has helped to ensure that Minnesota will have an accessible, uniform, statewide voting system that strives to meet both the spirit and letter of the law.

Sincerely,

Mary Kiffmeyer

Mary Kiffmeyer
Secretary of State





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## Overview: State of Elections in Minnesota

Minnesota has a proud tradition of citizen participation, always ranking nationally at or near the top for voter turnout. Minnesota has a population of 4,919,479, according to the 2000 census. The state's rural population comprises about 28 percent of the total, and the urban population comprises about 72 percent. The largest cities are Minneapolis (population approximately 382,000), St. Paul (287,000), Rochester (89,000), Duluth (86,000), and Bloomington (85,000). Minnesota has 87 counties. By population, Hennepin is the largest (over 1 million) and Traverse is the smallest (4,100). By area, St. Louis is the largest (over 4 million acres) and Ramsey is the smallest (101,190 acres).

**2002 General Election Data:**
For the 2002 General Election, the Office of the Secretary of State estimated the voting age population to be 3,712,500. This is the voting age population (VAP) or the pool of potential voters. These voters are spread throughout Minnesota and vote in a variety of jurisdictions.

Minnesota Jurisdictions:

| | |
|---|---|
| 8 | Congressional Districts |
| 67 | Senate Districts |
| 87 | Counties |
| 134 | House of Representatives Districts |
| 425 | School Districts |
| 850 | Charter and Statutory Cities |
| 1800 | Townships |
| 4106 | Precincts |

Unorganized Territories:
Fifteen counties also have unorganized territories. Unorganized territories are portions of counties that do not fall inside the corporate boundaries of a city or an organized township. These areas do not have their own local government and fall under the direct control of the county board of commissioners.

Most unorganized territories are in Northern Minnesota with Cook, Lake, Koochiching, and Lake of the Woods Counties being comprised largely of unorganized territories. The most densely populated unorganized territory is West Crow Wing County unorganized territory, located directly north of the city of Baxter. The West Crow Wing unorganized territory is comprised of three precincts and has a total population of over 5,000 people. Hennepin County is the only metropolitan county with unorganized territory. The Fort Snelling unorganized territory is located directly south of Minneapolis and is in the vicinity of Fort Snelling, the VA hospital, and the Twin Cities Metropolitan Airport.





**Voter Turnout:**
For the 2002 General Election, the Office of the Secretary of State estimated the voting age population to be 3,712,500. With 2,282,860 ballots cast, the estimated voter turnout in Minnesota was 61.5 percent. This is the highest voter turnout for a mid-term (Minnesota constitutional offices and U.S. Congressional offices) election since 1952.

**Ballots Cast by Precinct:**
In 2002 there were 4,106 precincts in the state of Minnesota. The average precinct had 556 ballots cast. A majority of voters cast their ballot in large precincts. The five largest precincts account for 7.4 percent of all ballots cast, 13 percent from the ten largest, and 30 percent of all ballots cast were cast in the 25 largest precincts.

On the other hand, the 1,858 smallest precincts, accounting for over 45 percent of precincts, produced only 8.8 percent of ballots cast in 2002. The were 13 designated precincts with zero (0) ballots cast, 58 precincts with ten or fewer ballots cast, 394 with fifty or fewer, and 934 precincts with 100 or fewer ballots cast. Precincts with 250 voters or less cast 8.8 percent of ballots and 21 percent of ballots were cast in precincts with 556 or fewer voters.

In terms of the number of ballots cast, 24 precincts had over 2,500 ballots cast. There also were 101 precincts with over 2,000 ballots, 348 precincts with over 1,500, and 880 precincts with over 1,000 ballots cast in the 2002 General Election.

**Absentee Ballots:**
For each precinct, ballots may be cast in person at the polling place or by absentee ballot. There were 2,282,860 ballots cast at the 2002 General Election. Of those ballots, 2,169,556, or 95 percent, were cast by voters in the polling place and 110,885 (5 percent) were cast as absentee ballots. Of the absentee ballots 110,168 were regular absentee ballots and 717 were federal absentee ballots.

The average number of in-person ballots cast in a precinct was 528. The five precincts with the largest number of in-person voters had between 2,841 and 3,439 votes cast in the precinct. On the small end, there were 56 precincts with zero in-person voters and nearly 100 precincts with 10 or fewer in-person voters. In Minnesota nearly one-fifth of all precincts have 100 or fewer in-person voters.

**Pre-Registered Voters:**
In addition to the number of ballots cast statewide and in each precinct, important statistics include the number of registered voters, voters registering on Election Day, and voter turnout.

As of 7:00 on the morning of the 2002 General Election, the total number of pre-registered voters was 2,844,428. The average number of pre-registered voters in each precinct was 693.

**Election Day Registrations:**
The total number of persons registering on Election Day was 342,978. Election Day registrants accounted for approximately 15 percent of all ballots cast at the 2002 General Election. The average number of Election Day registrations in each precinct was 84 Election Day registrations.

Precincts with large college student populations have the largest number of Election Day registrations. The University of Minnesota, Midwest Bible College, the Minneapolis College of Art and Design in Minneapolis, St. Olaf College in Northfield, and the College of St. Benedict in St. Joseph are among the schools with the largest number of Election Day registrants.

A total of 28 precincts had 500 or more Election Day registrations, while 1,121 precincts had 10 or fewer Election Day registrations.





| County | Est. Voting Age Pop | 7:00 AM Registrations | Election Day Registrations | Absentee Ballots Cast | Total Ballots Cast |
|---|---|---|---|---|---|
| Aitkin | 12,618 | 9,974 | 804 | 709 | 8,106 |
| Anoka | 220,095 | 162,310 | 19,985 | 4,824 | 140,361 |
| Becker | 22,423 | 16,835 | 1,748 | 924 | 13,539 |
| Beltrami | 29,056 | 20,292 | 2,723 | 1,186 | 15,547 |
| Benton | 25,695 | 16,238 | 2,965 | 415 | 13,724 |
| Big Stone | 4,314 | 3,368 | 231 | 782 | 2,741 |
| Blue Earth | 44,398 | 28,718 | 4,918 | 961 | 24,306 |
| Brown | 20,172 | 15,485 | 1,202 | 484 | 11,560 |
| Carlton | 24,125 | 16,580 | 2,040 | 658 | 14,389 |
| Carver | 51,001 | 42,425 | 5,242 | 1,444 | 35,007 |
| Cass | 21,250 | 16,398 | 1,293 | 1,021 | 12,734 |
| Chippewa | 9,779 | 7,427 | 595 | 354 | 5,965 |
| Chisago | 30,183 | 27,436 | 3,885 | 805 | 22,253 |
| Clay | 38,478 | 27,520 | 3,109 | 863 | 20,722 |
| Clearwater | 6,290 | 4,598 | 514 | 183 | 3,717 |
| Cook | 4,344 | 3,329 | 190 | 175 | 2,909 |
| Cottonwood | 9,062 | 7,033 | 489 | 268 | 5,659 |
| Crow Wing | 43,168 | 32,469 | 3,345 | 2,507 | 26,882 |
| Dakota | 263,486 | 193,715 | 25,551 | 8,479 | 170,671 |
| Dodge | 12,683 | 9,528 | 1,588 | 288 | 8,302 |
| Douglas | 25,720 | 19,658 | 1,760 | 1,096 | 15,629 |
| Faribault | 12,177 | 9,824 | 693 | 439 | 7,753 |
| Fillmore | 15,710 | 12,110 | 1,293 | 334 | 9,450 |
| Freeborn | 24,792 | 18,512 | 1,925 | 1,072 | 15,987 |
| Goodhue | 33,018 | 26,935 | 3,442 | 865 | 20,859 |
| Grant | 4,809 | 4,140 | 409 | 186 | 3,325 |
| Hennepin | 858,579 | 679,019 | 82,719 | 28,287 | 521,318 |
| Houston | 14,573 | 11,602 | 1,013 | 302 | 8,857 |
| Hubbard | 14,445 | 11,090 | 1,113 | 663 | 9,360 |
| Isanti | 23,187 | 18,471 | 2,553 | 525 | 15,018 |
| Itasca | 34,009 | 25,400 | 1,987 | 914 | 20,009 |
| Jackson | 8,489 | 6,530 | 481 | 236 | 5,139 |
| Kanabec | 11,244 | 8,233 | 865 | 281 | 6,533 |
| Kandiyohi | 30,681 | 22,794 | 2,261 | 933 | 18,309 |
| Kittson | 3,894 | 3,008 | 155 | 161 | 2,467 |
| Koochiching | 10,672 | 8,031 | 757 | 355 | 6,155 |
| Lac qui Parle | 5,987 | 4,944 | 464 | 220 | 4,098 |
| Lake | 8,726 | 7,612 | 504 | 356 | 6,148 |
| Lake of the Woods | 3,490 | 2,496 | 127 | 145 | 2,234 |
| Le Sueur | 18,865 | 14,576 | 1,694 | 404 | 12,022 |
| Lincoln | 4,861 | 3,799 | 306 | 120 | 3,114 |
| Lyon | 18,895 | 13,834 | 1,561 | 482 | 10,154 |
| Mahnomen | 3,711 | 2,673 | 332 | 120 | 2,397 |
| Marshall | 7,511 | 5,871 | 484 | 181 | 4,923 |

| County | Est. Voting Age Pop | 7:00 AM Registrations | Election Day Registrations | Absentee Ballots Cast | Total Ballots Cast |
|---|---|---|---|---|---|
| Martin | 16,288 | 11,965 | 1,130 | 585 | 9,679 |
| McLeod | 25,673 | 19,806 | 1,840 | 513 | 14,503 |
| Meeker | 16,876 | 12,930 | 1,517 | 522 | 10,534 |
| Mille Lacs | 16,899 | 12,741 | 1,734 | 480 | 10,386 |
| Morrison | 23,281 | 17,999 | 1,721 | 669 | 14,676 |
| Mower | 29,091 | 20,296 | 1,619 | 891 | 16,489 |
| Murray | 6,836 | 5,342 | 710 | 251 | 4,767 |
| Nicollet | 22,711 | 18,204 | 2,733 | 666 | 14,651 |
| Nobles | 15,398 | 10,525 | 1,033 | 540 | 8,611 |
| Norman | 5,461 | 4,168 | 309 | 164 | 3,376 |
| Olmsted | 93,381 | 71,854 | 7,039 | 2,930 | 53,662 |
| Otter Tail | 43,993 | 33,608 | 2,940 | 1,621 | 26,500 |
| Pennington | 10,342 | 7,467 | 915 | 242 | 5,607 |
| Pine | 20,662 | 15,112 | 1,444 | 411 | 11,472 |
| Pipestone | 7,294 | 5,919 | 401 | 332 | 4,630 |
| Polk | 23,187 | 15,560 | 1,355 | 616 | 12,863 |
| Pope | 8,566 | 6,749 | 969 | 392 | 5,739 |
| Ramsey | 382,784 | 285,471 | 40,707 | 10,551 | 227,380 |
| Red Lake | 3,203 | 2,456 | 241 | 125 | 1,946 |
| Redwood | 12,323 | 8,864 | 764 | 305 | 7,110 |
| Renville | 12,555 | 9,321 | 879 | 282 | 7,459 |
| Rice | 43,509 | 33,503 | 5,034 | 1,016 | 25,161 |
| Rock | 7,182 | 5,454 | 494 | 328 | 4,597 |
| Roseau | 11,681 | 8,258 | 834 | 322 | 6,497 |
| Scott | 65,784 | 50,025 | 7,652 | 1,734 | 45,225 |
| Sherburne | 47,615 | 36,119 | 5,321 | 1,224 | 30,012 |
| Sibley | 11,250 | 8,571 | 698 | 253 | 7,204 |
| St Louis | 156,653 | 124,653 | 12,264 | 3,688 | 96,696 |
| Stearns | 101,388 | 77,162 | 10,071 | 1,700 | 57,951 |
| Steele | 24,710 | 17,789 | 2,704 | 860 | 15,819 |
| Stevens | 7,819 | 6,878 | 1,101 | 244 | 5,492 |
| Swift | 9,461 | 6,031 | 513 | 270 | 5,126 |
| Todd | 18,021 | 13,545 | 1,236 | 489 | 10,668 |
| Traverse | 3,042 | 2,379 | 144 | 94 | 1,959 |
| Wabasha | 16,079 | 12,233 | 1,251 | 347 | 10,233 |
| Wadena | 10,302 | 7,663 | 729 | 336 | 6,138 |
| Waseca | 14,785 | 10,239 | 1,181 | 303 | 8,697 |
| Washington | 149,771 | 126,345 | 15,450 | 5,596 | 104,759 |
| Watonwan | 8,632 | 6,417 | 422 | 316 | 5,034 |
| Wilkin | 5,098 | 3,693 | 320 | 132 | 2,915 |
| Winona | 39,038 | 28,859 | 3,165 | 763 | 20,235 |
| Wright | 65,062 | 53,038 | 8,572 | 1,591 | 45,167 |
| Yellow Medicine | 8,149 | 6,377 | 507 | 184 | 4,883 |
| **TOTALS** | **3,712,500** | **2,844,428** | **342,978** | **110,885** | **2,282,860** |





**The number of precincts in each county by voting system:**

| County | Central Count | Hand Count | Precinct Count | Total Precincts |
|---|---|---|---|---|
| Aitkin | 0 | 48 | 13 | 61 |
| Anoka | 0 | 0 | 120 | 120 |
| Becker | 31 | 7 | 8 | 46 |
| Beltrami | 55 | 0 | 7 | 62 |
| Benton | 4 | 7 | 19 | 30 |
| Big Stone | 0 | 23 | 0 | 23 |
| Blue Earth | 54 | 0 | 0 | 54 |
| Brown | 32 | 0 | 0 | 32 |
| Carlton | 38 | 0 | 1 | 39 |
| Carver | 0 | 0 | 33 | 33 |
| Cass | 66 | 0 | 6 | 72 |
| Chippewa | 19 | 0 | 4 | 23 |
| Chisago | 0 | 0 | 23 | 23 |
| Clay | 23 | 0 | 31 | 54 |
| Clearwater | 0 | 29 | 0 | 29 |
| Cook | 12 | 0 | 0 | 12 |
| Cottonwood | 29 | 0 | 0 | 29 |
| Crow Wing | 15 | 0 | 44 | 59 |
| Dakota | 0 | 0 | 135 | 135 |
| Dodge | 17 | 0 | 2 | 19 |
| Douglas | 0 | 0 | 36 | 36 |
| Faribault | 27 | 0 | 6 | 33 |
| Fillmore | 37 | 0 | 0 | 37 |
| Freeborn | 10 | 0 | 30 | 40 |
| Goodhue | 19 | 0 | 25 | 44 |
| Grant | 0 | 23 | 0 | 23 |
| Hennepin | 0 | 0 | 422 | 422 |
| Houston | 27 | 0 | 0 | 27 |
| Hubbard | 34 | 0 | 0 | 34 |
| Isanti | 0 | 0 | 17 | 17 |
| Itasca | 67 | 0 | 13 | 80 |
| Jackson | 30 | 0 | 0 | 30 |
| Kanabec | 21 | 0 | 0 | 21 |
| Kandiyohi | 47 | 0 | 0 | 47 |
| Kittson | 38 | 0 | 0 | 38 |
| Koochiching | 0 | 27 | 8 | 35 |
| Lac qui Parle | 0 | 33 | 0 | 33 |
| Lake | 18 | 0 | 0 | 18 |
| Lake of the Woods | 13 | 0 | 2 | 15 |
| Le Sueur | 29 | 0 | 0 | 29 |
| Lincoln | 20 | 0 | 0 | 20 |
| Lyon | 30 | 0 | 3 | 33 |
| Mahnomen | 0 | 19 | 0 | 19 |

| County | Central Count | Hand Count | Precinct Count | Total Precincts |
|---|---|---|---|---|
| Marshall | 0 | 60 | 0 | 60 |
| Martin | 29 | 0 | 8 | 37 |
| McLeod | 7 | 0 | 21 | 28 |
| Meeker | 29 | 0 | 1 | 30 |
| Mille Lacs | 23 | 0 | 2 | 25 |
| Morrison | 49 | 0 | 0 | 49 |
| Mower | 0 | 33 | 6 | 39 |
| Murray | 29 | 0 | 0 | 29 |
| Nicollet | 33 | 0 | 0 | 33 |
| Nobles | 40 | 0 | 0 | 40 |
| Norman | 0 | 31 | 2 | 33 |
| Olmsted | 1 | 0 | 74 | 75 |
| Otter Tail | 41 | 0 | 50 | 91 |
| Pennington | 21 | 0 | 13 | 34 |
| Pine | 0 | 45 | 2 | 47 |
| Pipestone | 19 | 0 | 3 | 22 |
| Polk | 75 | 0 | 7 | 82 |
| Pope | 0 | 20 | 10 | 30 |
| Ramsey | 0 | 0 | 178 | 178 |
| Red Lake | 0 | 21 | 0 | 21 |
| Redwood | 40 | 0 | 3 | 43 |
| Renville | 37 | 0 | 0 | 37 |
| Rice | 0 | 0 | 33 | 33 |
| Rock | 24 | 0 | 0 | 24 |
| Roseau | 0 | 40 | 4 | 44 |
| Scott | 0 | 0 | 40 | 40 |
| Sherburne | 0 | 0 | 29 | 29 |
| Sibley | 0 | 0 | 24 | 24 |
| St Louis | 19 | 80 | 88 | 187 |
| Stearns | 0 | 18 | 84 | 102 |
| Steele | 26 | 0 | 0 | 26 |
| Stevens | 0 | 20 | 5 | 25 |
| Swift | 0 | 29 | 2 | 31 |
| Todd | 38 | 0 | 0 | 38 |
| Traverse | 0 | 13 | 7 | 20 |
| Wabasha | 19 | 0 | 14 | 33 |
| Wadena | 0 | 14 | 10 | 24 |
| Waseca | 22 | 0 | 0 | 22 |
| Washington | 0 | 1 | 83 | 84 |
| Watonwan | 0 | 18 | 3 | 21 |
| Wilkin | 0 | 0 | 31 | 31 |
| Winona | 47 | 0 | 0 | 47 |
| Wright | 0 | 7 | 32 | 39 |
| Yellow Medicine | 0 | 28 | 5 | 33 |





**Voting Systems:**

The voting method used in each precinct at the 2002 General Election included central count optical scan, precinct tabulator optical scan, and hand-counted paper ballots.

Of Minnesota's 87 counties, seven were entirely hand-count, 24 were entirely central count optical scan, 14 were entirely precinct tabulator optical scan, and the remaining 42 used a mix of counting systems.

In terms of number and percent of precincts, with 1,882 or 46 percent of all precincts, precinct tabulator optical scan was the predominant voting system used in Minnesota. Central count optical scan was the second most prevalent system with 1,530 or 37 percent of precincts. The remaining 694 or 17 percent of precincts used hand-counted paper ballots.

At the 2002 General Election, there were 1,816,028 ballots cast on precinct tabulator optical scan machines. This amounts to 80 percent of all ballots cast. A total of 375,432 ballots, or 16 percent of all ballots, were counted on central count optical scan equipment. Four percent of ballots cast, or 91,400, were hand-counted on election night.

The largest precincts in the state used precinct tabulator equipment. Central count optical scan equipment and hand counting options are used in substantially smaller precincts.

The statewide average number of people voting in each precinct is 556. Precincts using precinct tabulator optical scan voting systems average 965 voters. Precincts using central count optical scan and hand-counted paper ballots are much smaller, at 245 and 132 respectively.

There are some fairly large hand-counted precincts. Pine City in Pine County is the largest hand-counted precinct with a total of 1,253 voters. Pine, St. Louis, Grant, Big Stone, Mower, and Roseau Counties all have hand-counted precincts with over 600 voters.

**Voting System Vendors:**

In terms of vendors and equipment used, the largest numbers of precincts are using Election System and Software (ES&S) equipment. A total of 2,897 precincts use some model of ES&S precinct tabulating or central counting optical scan voting equipment. A total of 515 precincts use precinct tabulating optical scan voting equipment produced by Diebold and 694 precincts are hand-counted and do not use any voting equipment.

**The Voting System Equipment:**

| # of precincts | Model | System Type |
|---|---|---|
| 853 | Model 100 | Precinct Tabulator |
| 515 | AccuVote | Precinct Tabulator |
| 300 | Optech IIIP Eagle | Precinct Tabulator |
| 214 | Optech IIIP | Precinct Tabulator |
| 529 | Model 150 | Central Count |
| 331 | Model 115 | Central Count |
| 234 | Optech IV | Central Count |

| # of precincts | Model | System Type |
|---|---|---|
| 130 | Model 315 | Central Count |
| 158 | Model 550 | Central Count |
| 148 | Various Precinct tabulators | Central Count |
| 694 | None | Hand Count |





## HAVA State Plan Development

The Federal Help America Vote Act (HAVA) of 2002, signed into law by President George W. Bush on October 29, 2002, provides the state of Minnesota an opportunity to enrich its already stellar election system. HAVA's purpose is to ensure fair elections and to empower voters to exercise their right to vote. HAVA embraces the goals of election improvement by expecting all levels of government to provide a process that:

- maintains an accurate list of citizens who are qualified to vote;
- encourages every eligible voter to effectively participate in the voting process;
- uses equipment that reliably enables voters to check their selections and registers the voter's choice;
- handles close elections in a predictable and fair way;
- operates with equal effectiveness for every citizen and community;
- displays limited and responsible federal participation; and
- requires providing voters with disabilities the ability to vote independently and in private.

The first step in the development of the State Plan was learning about HAVA and ensuring that everyone understood the federal mandates, the timeframes in which they were to be incorporated, and the resulting opportunities for Minnesota.

Office of the Secretary of State staff participated in workshops dedicated to the review and in-depth discussion of each Section of the Help America Vote Act. Staff also attended special sessions dedicated to HAVA, which were conducted by the National Association of Secretary of States (NASS) and the National Association of State Election Directors (NASED). Other states were consulted for advice and guidance to help assure that Minnesota's State Plan conforms to HAVA.

To inform the general public of HAVA, statewide press releases were distributed, and the topic of HAVA was discussed at various election official meetings.

A State Plan Advisory Committee was assembled pursuant to HAVA Section 255(a) with the role of reviewing the State Plan as it evolved, providing feedback on its content and offering their perspectives to election improvement in Minnesota. The committee consisted of a broad range of contributors representing counties, townships, municipalities, minority communities, disability communities, legislators, the governor's office, the League of Women Voters, students, and business.

On the topic of election accessibility improvements, Minnesota sought the insights, personal experiences, and suggestions from key stakeholders.

A listening session was conducted with the disabilities community to enlist and gather suggestions for ways in which Minnesota can meet the needs of voters with a full range of disabilities. Invitations were sent to over 30 agencies, and key points were gathered from various contributors including the National Federation of the Blind of Minnesota, the Minnesota State Council on Disability, Deaf & Hard of Hearing Services at the Minnesota Department of Human Services,

United Cerebral Palsy of MN, the Minnesota Commission Serving Deaf & Hard of Hearing People, and students from Blind, Inc.

HAVA Section 261 also has established a federal grant at the U.S. Department of Health and Human Services to establish, expand, and improve methods to ensure participation in the election process by people with disabilities. Minnesota has applied for this grant, and key points from the listening session were incorporated into the grant application.

A listening session was held with Minority communities. Some of the attendees included the Metropolitan Economic Development Association (MEDA), India Association of Minnesota, Council on Asian Pacific MN, as well as representatives from the African-American, Hispanic, and other Asian communities.

Legislation was passed creating an account in the state treasury into which all HAVA funds are being deposited and credited. (Laws 2003, First Special Session, Chapter 7) The benefits of this account are to house the funds separately to ensure it is used exclusively for election improvement and to assist the annual audit effort.

The State Plan was published and available for public comment during the comment period of June 9 through July 9, 2003, as required by HAVA, Section 256, which states:

For purposes of Section 251(a)(1)(C), a State plan meets the public notice and comment requirement of this Section if--

(1) not later than 30 days prior to the submission of the plan, the State made a preliminary version of the plan available for public inspection and comment;
(2) the State publishes notice that the preliminary version of the plan is so available; and
(3) the State took the public comments made regarding the preliminary version of the plan into account in preparing the plan, which was filed with the Commission.

Legislation was prepared during the 2003 legislature by the Office of the Secretary of State to conform Minnesota state election laws to the specific, applicable requirements of the HAVA federal election law. One of the objectives of the legislation is to establish a single voter registration and election administration process that applies to all elections conducted in the state, rather than a dual system with separate processes for elections of federal offices and those for non-federal offices, which might be required if no state HAVA-conformity legislation is enacted. The legislation, HF 1006, was passed by the State House of Representatives, but was not passed by the State Senate. This legislation can still be considered by the 2004 legislature, which convenes in February 2004. Passage would avoid or minimize voter confusion and the administrative complexity of maintaining two processes.

To define the details of the plan, work groups are being formed to give input to help to analyze, identify, and clarify the work effort. Various work groups may be established for the Statewide Voter Registration System, polling place ADA compliance, election judge training regarding disabilities, same-day registration, minority issues, and voter education.





## Implementation Components

### Section 1
### Use of Requirements Payment Funds to meet Title III

Section 1 of the Minnesota State Plan describes "how the State will use the requirements payment to meet the requirements of Title III, and, if applicable under Section 251(a)(2) *sic*, to carry out other activities to improve the administration of elections" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(1).

To meet the requirements of Title III, Minnesota will expend funds from the State HAVA account established by the 2003 Minnesota state legislature as directed by the legislature. (Laws 2003, First Special Session, Chapter 7, Sections 1 and 3)

Requirements payment expenditures will be used for the Title III purposes as described in State Plan Sections 1.1 through 1.7, by expenditures for:

- equipment, software, technical or physical infrastructures, materials, services, salaries, overhead;
- other expenses related to the activities described in this Section;
- planning, development, implementation, documentation, maintenance and operation, and administration of the activities; and
- outreach, education, and training to promote the activities.

After certification by the State of Minnesota to the Election Assistance Commission that the requirements described in Title III of HAVA have been met, requirements payments received and earnings accrued in the fund may be expended for other purposes related to the improvement of the administration of federal elections, HAVA Section 251(b)(2), subject to legislative appropriation.

1.1 Voting System Standards

Minnesota will use requirements payment funds for the implementation of a uniform, statewide voting system with locally-owned, precinct-based, optical scan equipment, and direct recording electronic voting technology or other voting system equipped for individuals with disabilities to bring each polling place into compliance with the voting system standards outlined in Title III of HAVA.

To meet Minnesota and HAVA voting system standards, Minnesota will:

- maintain certification standards to ensure that only systems meeting or exceeding the voting system standards in HAVA Section 301 may be certified for use in Minnesota;
- pursue legislation to codify the requirement that voting systems certified in Minnesota meet Federal Election Commission (FEC) standards, including FEC standards for error rates;
- pursue legislation to enable certification and use of direct recording electronic voting systems or other voting system equipped for individuals with disabilities that provide accessibility, privacy and independence for individuals with disabilities;
- use requirements payments funding to bring polling places into compliance with the voting system standards outlined in HAVA Section 301; and

- develop and distribute educational materials and voting instructions on voting procedures, voting rights, and voting technology.

1.2 Standards to Define Votes Counted by Equipment Type

For each category of voting system certified for use in Minnesota, the Office of the Secretary of State as required by HAVA Section 301(a)(6) will propose uniform and nondiscriminatory standards that define what constitutes a vote on each voting system and what will be counted as a vote.

1.3 Provisional Voting Requirements

Minnesota is exempt from the provisional voting requirements of the National Voter Registration Act (NVRA). Minnesota satisfies the requirements of HAVA, Section 302(a), through the use of election-day voter registration procedures established under Minnesota State law. (*Minn. Stat. Section* 201.061).

1.4 Voters Who Vote After the Polls Close

Minnesota State law (*Minn. Stat. Section* 204B.47) authorizes the Secretary of State to establish alternate procedures as necessary to administer a court order affecting the conduct of elections. The Secretary of State as required by HAVA Section 302(c) will develop procedures to administer voting in instances when voting hours have been extended by a court beyond the time established by Minnesota State law.

1.5 Voting Information Requirements

The Office of the Secretary of State will develop, produce, and distribute materials and example posters and make them available for posting on Election Day.

To the extent that additional, supplementary, or new materials are necessary to enable each polling place to meet voting information requirements mandated in HAVA Section 302(b), those materials will be developed, produced and distributed.

Minnesota is exempt from the requirements of 42 U.S.C.1973 aa-1a and 28 CFR Part 55 with respect to requirements to provide minority language materials and assistance, including election assistance, information, ballots and other materials in languages other than English. See Appendix to 28 CFR Part 55, which lists designated jurisdictions. Minnesota does not appear in that appendix as a designated jurisdiction.

1.6 Uniform Statewide Voter Registration System

The State of Minnesota will plan, develop, and implement a statewide voter registration system to meet all HAVA Title III requirements.

The system will, as required by HAVA Section 303:

- provide a unique identifier for every voter in the system;





- coordinate with other Minnesota State agencies databases to permit verification of registration data;
- identify ineligible registrants;
- provide increased system access for local election administrators;
- permit the administration of requirements for voters who register by mail; and
- accommodate the use of Minnesota driver license numbers and Social Security information as identifiers in voter records.

System development will also modify existing systems that interface with the statewide voter registration system elements and functionalities to preserve system integrity, ensure quality, and to be sufficiently robust to support increases in the number of users.

The Office of the Secretary of State will coordinate database information with other Minnesota State agencies, particularly the Minnesota Department of Public Safety to improve processing of voter registration applications, and the Minnesota Department of Health, to remove deceased registrants from voting rosters.

The Office of the Secretary of State will:

- provide information and training support to county officials for voter registration data entry;
- develop technology to process registration and voter history information in an expedited basis as well as training to use the technology:
- provide for security measures in the system to preclude unauthorized system access; and
- ensure that all applicable Minnesota State laws meet voter list maintenance requirements in HAVA Section 303.

1.7 Voter Registration Cards

Minnesota voter registration cards as required by HAVA Section 303(a)(5)(A)(i) will accommodate Minnesota driver license numbers and the last four digits of Social Security numbers and any other HAVA-required information. Minn. Stat. Section 201.071, subd. 1 already authorizes the use of NVRA forms for voter registration in Minnesota.

## Section 2
## Distribution and Monitoring Distribution of Requirements Payment

Section 2 of the Minnesota State Plan describes "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)" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(2).

### 2.1 Distribution and Monitoring Distribution of Requirements Payments

The Office of the Secretary of State as required by HAVA Section 254(a)(2) will develop statewide standards for complying with HAVA requirements. The expenditure of funds will be based on availability of State and federal funds deposited in the HAVA account. The Office of the Secretary of State will centrally administer expenditures funded through HAVA to meet the requirements of HAVA and fulfill initiatives in accordance with the State Plan. The use of funds will be consistent with the State budget plan described in HAVA Section 254(a)(6).

Requirements payment funds will be paid out based on the priorities referenced in Section 6.2 of the State Plan, with the funds distributed proportionately depending on the funding available and legislative authorization. Voter registration statistics and election-related expenditures at the time of 2002 General Election or the most recent State General Election, and for existing voting systems may be taken into consideration for any expenditure of funds for local governments and other entity's initiatives.

Any expenditure of funds for the initiatives of local governments or other entities in Minnesota will be in accordance with an agreement detailing the use of the funds. The Secretary of State may revise the State Plan as needed.

### 2.2 Method Used to Monitor the Performance of Recipients of Requirements Payments

If the units or other entities receive payments, the State will monitor the performance of the units or entities consistent with the performance goals and measures adopted under Section 8 of the State Plan.





## Section 3
## Training and Education

Section 3 of the Minnesota State Plan describes "how the State will provide for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(3).

Minnesota's HAVA funding will allow the state to increase its outreach and communications program to educate the voting public. The Office of the Secretary of State will utilize a multitude of media options in the method of voter education, including the following:

- public notices and public service announcements;
- publications (such as brochures);
- speeches and presentations;
- continuous direct contact with the statewide media;
- toll-free telephone system for voters to obtain their polling place location and other information; and
- electronic voter guides.

### 3.1 Programs for Voter Education

The Office of the Secretary of State will produce instructional posters for use in polling places and other educational materials containing instructions for voter registration and election procedures pursuant to Minnesota State Law *(Minn. Stat. Section 204B.27)* and HAVA Title III. Polling place materials will contain information needed by voters to cast their ballots and indicate the types of assistance available for elderly voters, voters with disabilities, and other voters needing assistance registering and voting.

Voter education information may be distributed by the Office of the Secretary of State using means such as public service announcements, brochures, posters, a toll-free telephone number, or a website (www.sos.state.mn.us).

The Office of the Secretary of State will ask system vendors to collaborate with staff in the production of clear, graphically driven pamphlets and brochures that will inform voters on how the voting devices work. The Office of the Secretary of State will investigate the idea of providing simulators and internet-based simulation of new voting devices to voters so they have an opportunity to view the new technology before they enter the voting booth to cast their official ballots on Election Day.

The Office of the Secretary of State will coordinate voter education and awareness efforts with Minnesota's Native Americans and other minority groups. The Office of the Secretary of State will target voter education efforts to address the needs of the disabled community, individuals with alternative language considerations, and the state's large college student population. The Office of the Secretary of State will enlist stakeholders to help work with media and community groups, political organizations, schools, and similar groups to communicate these changes and carry the state's messages about election improvements resulting from the implementation of HAVA.

Minnesota is exempt from the requirements of 42 U.S.C.1973 aa-1a and 28 CFR Part 55 with respect to requirements to provide minority language materials and assistance, including election assistance, information, ballots and other materials in languages other than English. See Appendix to 28 CFR Part 55, which lists designated jurisdictions. Minnesota does not appear in that appendix as a designated jurisdiction.

3.1.a Information on How to Cast a Vote

The voter education program will include information on how to cast a vote on the voting system used in the polling place. The polling place materials will:

- instruct voters of the effect of casting multiple votes for an office;
- provide instructions on how to correct a ballot before it is cast and counted; and
- include instructions on how to receive a replacement ballot if the voter is unable to correct the error.

The Office of the Secretary of State will:

- investigate the development of an Internet online tutorial (website application which would display a voter's precinct number, polling place location, offices and issues on the ballot, type of voting system, and instructions on how to use the voting system that exists in the precinct); and
- develop a program for each type of voting system to educate the voter on what constitutes a legal vote for each type of voting system, and how to cast a ballot correctly for each type of voting system, and to provide on the Secretary of State website an interactive county map with specific county information.

3.1.b Information on Absentee Balloting

The Office of the Secretary of State will modify example instructions to absentee voters to include information from the voter education program. Under Minnesota State law (*Minn. Stat. Section* 203B.07), instructions provided by the Office of the Secretary of State must also be provided to voters who vote by absentee ballot.

3.1.c Information on Election Procedures

The Office of the Secretary of State will develop and provide educational materials and instructions or example educational materials and instructions for display in polling places. Materials suitable for posting will contain information for voters including:

- an example version of the ballot used for that election;
- the date of the election and the hours during which the polling place is open;
- instructions on how to register to vote;
- instructions for mail-in registrants and first-time voters under HAVA Section 303(b);
- instructions on how to vote, including how to cast a vote and the Election Day registration process;
- general information on voter rights under applicable federal and Minnesota State laws, including information on the right of an individual to register on Election Day by using the Election Day registration process and information on how to contact the proper officials if these rights are alleged to have been violated; and





- general information on federal and Minnesota State laws prohibiting voter fraud and misrepresentation.

3.1.d Review of Voter Education Efforts

Understanding more about voter behavior and non-voter behavior is a proactive step to fully embrace the spirit, intent, principles and objectives of the Help America Vote Act. Innovation is important to understand voter needs and to view our election process through the eyes of the "consumer." Information will be collected from sample voters to guide the development of relevant and meaningful training materials for election officials and poll workers and in developing voter education materials for future elections. Research suggests that get-out-the-vote messages are rendered more effective when they include voter education components—e.g., information on the technical aspects of how to cast a ballot.

Therefore, the Office of the Secretary of State will:

- create public service announcements designed specifically to entice first-time voters to the polls and to educate them on what to expect;
- collaborate with researchers to conduct communication and voter behavior research aims to learn more about people's decisions to participate or not to participate in the election process and to determine if there are programs and initiatives that can be implemented, messages conveyed, or means of communicating that entice people to the polls and prepare them for the voting experience;
- share findings nationally as potential best practices to assist other state election administrators in understanding what messages and strategies are most effective; and
- promote elementary and high school civic education.

3.2 Election Official Education and Training

The Office of the Secretary of State will produce materials for dissemination to local government officials outlining the new requirements established by HAVA. The Office of the Secretary of State will also incorporate information on procedural and legal changes resulting from the requirements of HAVA and changes in Minnesota Election Law into the Election Training Program and supporting materials.

Pursuant to Minnesota State Law (*Minn. Stat. Section* 204B.25 and *Minn. Rules chapter* 8240), county auditors, municipal clerks, and school district clerks will be trained and certified to administer elections. The Office of Secretary of State will provide direct consultation and support for the training of municipal and school district election administrators.

The Office of the Secretary of State will produce and distribute, example educational materials for use in training programs for local election officials.

The Office of the Secretary of State will provide:

- conferences and updated materials for county auditors and county election staff;
- periodic training for city, township, and school district clerks responsible for the conduct of elections; and
- direct consultation and support for the training of city, township, and school district clerks.

The Office of the Secretary of State will develop and provide example training and educational materials suitable for use in training programs for local election officials that contain information on:

- how to use the statewide voter registration system;
- how to conduct voter and election judge training;
- voting system equipment and software operation, maintenance, storage, and programming;
- ballot testing, logic and accuracy testing, and information related to the implementation of new and additional optical scan and direct recording electronic voting systems or other voting system equipped for individuals with disabilities;
- how to set up, prepare for use, operate, troubleshoot, and close voting systems on Election Day;
- the responsibility of local election officials to provide election judges with the materials specified in Section 3.1 of the State Plan and that are to be posted in polling places on Election Day; and
- how to use technology to process registration and voter history information in an expedited basis.

3.3 Election Judge Training

Pursuant to Minnesota State Law (*Minn. Stat. Section* 204B.25 and *Minn. Rules chapter* 8240), election judges who work in polling places on Election Day are required to be trained and certified to administer elections.

County auditors and city clerks will train election judges to administer elections in the manner required by HAVA and Minnesota State law. The Office of the Secretary of State will produce election judge training materials for use by election judge trainers. The Office of the Secretary of State will provide direct consultation and support for the training of election judges.

The Office of the Secretary of State will develop and provide HAVA-compliant example training and educational materials suitable for use in election judge training programs conducted by local election officials. These materials will contain the following information and instructions:

- how to setup, prepare for use, initiate, operate, troubleshoot, and close voting systems on Election Day;
- how to instruct voters in the operation of voting equipment in the polling place;
- the posting of materials, specified in Section 3.1 of the State Plan, that are required to be posted in the polling place on Election Day;
- how to assist voters with disabilities;
- how to assist new voters; and
- how to address issues surrounding the need for accurate understanding of the voting process with individuals who lack experience in voting, limited proficiency in the English language, cultural diversity or other matters.

3.4 Election Judge Trainee

The Office of the Secretary of State will promote and provide materials and resources for an election judge training program.





## Section 4
## Adoption of Voting System Guidelines and Processes

Section 4 of the Minnesota State Plan describes "how the State will adopt voting system guidelines and processes that are consistent with the requirements of Title III" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(4).

4.1 Voting System Guidelines and Certification Processes

Minnesota will implement voting system certification standards that are consistent with requirements outlined in HAVA Section 301(a)(1)(A) and (C) and Section 301(a)(2) and (3). Those Sections read:

> SEC. 301. VOTING SYSTEMS STANDARDS.
> (a) REQUIREMENTS.—Each voting system used in an election for Federal office shall meet the following requirements:
> (1) IN GENERAL.—
>
> (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall—
> (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;
> (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and
> (iii) if the voter selects votes for more than one candidate for a single office—
> (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot;
> (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and
> (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.
>
> * * *
>
> (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.
>
> (2) AUDIT CAPACITY.—
> (A) IN GENERAL.—The voting system shall produce a record with an audit capacity for such system.
> (B) MANUAL AUDIT CAPACITY.—
> (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system.
> (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.

(iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.

(3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.— The voting system shall—

(A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;
(B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and
(C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph).

Under current Minnesota State law (*Minn. Stat. Sections* 206.57–206.58 and *Minn. Rules chapters* 8220–8230), voting systems must be examined and certified by the Office of the Secretary of State before being adopted for use in Minnesota. An application for voting system examination must be accompanied by a certification from an approved Independent Testing Authority attesting to the conformance of the system to the standards for voting equipment issued by the Federal Election Commission (including standards for error rates).

Applications for examination must also be accompanied by:

- complete specifications for system hardware, firmware, software, related services that may be purchased separately or bundled as part of a purchased package, materials and supplies;
- all system documentation including technical manuals and instructional materials;
- vendor past history in implementation, installation and use of equipment;
- a current list of all jurisdictions where the equipment has been used or certified;
- all information, materials, and procedures required by Minnesota Statutes and Rules; and
- all other information and materials as requested by the Office of the Secretary of State.

Before certification of any voting system in Minnesota, designees of the Office of the Secretary of State must attend an acceptance demonstration conducted by the vendor to verify that the system operates in compliance with Minnesota State law and procedures. The designees of the Office of the Secretary of State must observe the system in operation under conditions closely simulating an election. The Office of the Secretary of State may impose additional testing and technical evaluation.

4.2 Current Voting System Requirements - Paper Ballots

Minnesota law currently sets a number of specific requirements for voting systems in statute and rule.

Under Minnesota Statutes, Sections 206.55 to 206.90, all voting systems that are not traditional, manually counted paper ballot systems must be certified in advance for use by the Office of the Secretary of State. At the current time, only optical scan systems have been so certified.





Changes from the current voting system requirements must be approved by the legislature as an amendment to current Minnesota law before they can be implemented. To permit a non-paper ballot direct recording electronic voting system, the legislature must approve language amending Minnesota Statutes, Chapter 206 and Minnesota Rules, Chapter 8220.

All votes in Minnesota, other than those in pilot projects specifically authorized under Section 206.81, are currently required to be cast by marking paper ballots of one kind or another.

All optical scan voting systems in use in Minnesota are required to use ballot cards in connection with voting. Current law requires that all electronic voting systems in Minnesota are voted by marking a paper ballot card (Section 206.56, subd. 5).

4.3 Current Voting System Requirements: Audit Trail

Existing Minnesota law also sets forth strict requirements as to audit trail for ballots.

Minnesota Rules, part 8220.0250, Subp. 1a, defines the audit trail as including:
"any documentation of changes made to voting system programming, the incident report, and the report generated by an electronic voting system on election day. "

Furthermore, Rule 8220.0450 more specifically requires the following features on each and every voting system in Minnesota:

C. full audit capability, with an audit trail, which includes a printout of overvotes and undervotes for each office and issue, and with the undervotes recorded directly from the ballots and not determined by subtraction of totals from ballots that were not overvoted; ...

G. the production of reports, which include vote totals and all statistics and other information required by the secretary of state;

H. simulation of vote counting involving a configuration of the largest number of voters, precincts, offices, and candidates with which the system is expected to be used, which vote counting includes ballots showing overvotes, undervotes, and invalid votes as well as those with no overvotes or stray marks, in many different combinations, and demonstrates rotation sequences and the ability to count votes cast on the partisan, nonpartisan, and proposal sections of the ballot independently;

I. accuracy of vote counting and procedures or process for testing accuracy;

J. provisions for maintaining the security and integrity of elections.

Minnesota Rules, Chapter 8220 sets forth numerous other requirements for electronic voting systems, which would include all voting systems proposed to be purchased under this Plan, including Part 8220.0750, which regulates the computer program to be used in counting the votes.

Any changes from the current voting system audit trail requirements must be adopted in rule or approved by the legislature as an amendment to current Minnesota law before they can be implemented.

4.4 Voting System Administrative Processes

The Office of the Secretary of State will adopt voting systems guidelines and processes consistent with the voting systems standards required by HAVA Section 301 as well as state law.

4.5 Direct Recording Electronic Voting System Simulation Project

HAVA, Section 301(a)(3)(b) has mandated that direct recording electronic voting systems, or other voting system equipped for individuals with disabilities (assistive voting technology or AVT), be added to each polling place in Minnesota for elections for federal office occurring after January 1, 2006.

All election administration procedures must be in place prior to complete implementation of direct recording electronic or AVT voting systems in polling places by 2006. A simulation election is planned for November 2003 to replicate the election administration processes and procedures necessary for the incorporation of direct recording electronic or AVT voting systems in Minnesota elections. The simulation election will be overseen by the Office of the Secretary of State and conducted by local election officials. The simulation election will include all administrative steps necessary for inclusion of direct recording electronic or AVT voting systems in Minnesota elections. The simulation election will not accumulate actual votes but will allow voters to operate voting equipment in the polling place to cast simulation ballots. The simulation will be used to evaluate election administration procedures, including polling place procedures, for using direct recording electronic or AVT voting systems.

The processes and procedures used in Minnesota elections assure the election integrity and accuracy. The direct recording electronic or AVT voting systems will provide for voter access and privacy for voters with disabilities, including visually impaired voters and voters with low vision.





## Section 5
## State Fund for Administering Minnesota's Activities

Section 5 of the Minnesota State Plan describes "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" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(5).

5.1 Establishment of State Election Fund

The Minnesota legislature created an account in law to receive federal funds transferred to Minnesota under HAVA. The account is specifically for HAVA purposes only, is specifically compliant with Section 254(b), and is in effect as of the time of the submission of the State Plan. (See Laws 2003, First Special Session, Chapter 7.) HAVA provides that the funds deposited in the account and earnings accrued may be used for a variety of election purposes, including training election officials, educating voters, developing and implementing a HAVA-compliant statewide voter registration system and buying or developing voting systems. The account will also contain any State funds appropriated for HAVA purposes.

The State law establishes that funds previously expended on compliant voting equipment constitute the five percent match requirement that applies to the requirements payments of the HAVA authorized federal funds.

5.2 Fund Management

Laws 2003, First Special Session, Chapter 7 appropriates to the Office of the Secretary of State funds to be used for election administration purposes set forth in that legislation that are consistent with HAVA and the State Plan certified by the Governor. Federal money deposited in the account, and earnings accrued, carries over from one fiscal year to the next. The account is effective retroactively to the full extent permitted by HAVA.

## Section 6
## Minnesota's Proposed Budget

Section 6 of the Minnesota State Plan describes "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 that will be used to carry out other activities" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(6).

### 6.1 Minnesota's Anticipated Federal and State Funds

| Fiscal Year | Federal Funds Authorized | Federal Funds Appropriated | Minnesota Share* | 5% Match |
|---|---|---|---|---|
| 2003 Title II | $1,400 million | $830 million | $14.2 million | $712,000 |
| 2004 | $1,000 million | $500 million** | $8.5 million*** | $410,000*** |
| 2005 | $600 million | Unknown | *** | *** |

* Minnesota's share is based on a HAVA formula using a voting age population of 1.71 percent of total US voters. Figures are estimates.
**For federal fiscal year 2004, the President's budget proposal includes a placeholder of about $500 million for all HAVA activities.
***Figure will change depending on the actual appropriation, the proportional funding of Title III requirements, and the MN State match.

Federal funds listed above include all money available to the 50 states, U.S. territories, and other entities with funding authorization through HAVA. Early payments and fiscal year 2003 values include the funds appropriated in 2002.

### 6.2 Costs of Activities Required by Title III

The State will use requirements payment funds to meet the requirements of HAVA Title III. These funds will be expended to develop or purchase uniform statewide voting equipment and systems, including related expenses, and the purchase of county-owned, optical scan precinct tabulators, voting equipment and direct recording electronic or AVT recording technology voting system equipped for individuals with disabilities.

It is recognized that accessible, accurate, and efficient election administration and the voter registration system in Minnesota requires the coordinated resources and efforts of the state, counties, cities, towns, and school districts. Because of this, it is further recognized that funds received under HAVA will be used to assist all jurisdictions to achieve the goals specified by HAVA and the Minnesota State Plan.

Funds will be used for HAVA-compliant voter registration system development. These funds will be used to plan, develop, and implement a statewide voter registration system that meets HAVA





Title III requirements, including all the items specified in Section 1 of the State Plan and items required by Minnesota Election Laws.

Funds will be used to update and conduct the Election Training Program as described in Section 3 of the State Plan. Educational and training materials and information developed and distributed to election administrators and election judges as required by HAVA, and materials and information about changes in Minnesota Election Law as the result of changes required by HAVA, will be included in the expenditures of requirements payment funds as described in Section 3 of the State Plan. The voter education programs necessary to implement new voting technology are included in this category of requirements payment expenditures.

As described in Section 1 of the State Plan, administrative costs will cover:

- changes due to the requirements in HAVA;
- technology planning and improvements;
- changes to the Election Night Reporting System to make that system compatible with the HAVA-compliant voter registration system;
- polling place infrastructure upgrades;
- other expenditures to implement the requirements of Title III of HAVA; and
- voter information and education programs as described in Section 3 of the State Plan.

| Activity | Estimated Cost |
|---|---|
| Voter registration system enhancements | $5 – 10 million |
| Election official training, election judge training, and voter education | $2 – 5 million |
| Administrative costs | $1.25 million |
| Technology planning and improvements | $0.6 – 1.1 million |
| Voter information and education program | $0.5 – 1 million |
| Vote tabulating equipment and systems | $30 million |
| **Total** | $39.35 – 48.35 million |

As mentioned in Section 2.1 of the State Plan, funds will be paid out based on these priorities, with the funds distributed proportionately depending on the funding available.

### 6.3 Portion of Requirements Payments for Other Activities

An amount up to one-half of one percent may be reserved for activities that are consistent with other laws and requirements as provided in HAVA Section 101(c). The use of these funds will be determined by the Office of the Secretary of State and will be used to pay for expenses related to the improvement of the administration of federal elections and to fulfill initiatives in accordance with the State Plan. These may include any expenses for the planning, development, implementation, documentation, maintenance and operation, and administration of election activities, and for outreach, education, training, and promotion of election activities.

Funding shall be provided for an increased outreach and education effort to encourage voters to register prior to the pre-registration cutoff date and/or Election Day, thus easing the administrative work involved with processing Election Day information on an expedited basis as required in HAVA (Section 303, Section (a)(1)(vi)).

6.4 Use of Requirements Payment after Certification that Minnesota Has Met the Requirements Described in Title III of HAVA

After certification by the State of Minnesota to the Election Assistance Commission that the requirements described in Title III of HAVA have been met, requirements payments received or remaining, and earnings accrued in the fund, may be expended for other purposes related to the improvement of the administration of federal elections.

Requirements payment expenditures will be used subject to legislative approval for equipment, software, technical or physical infrastructures, materials, services, salaries, overhead, and any other expenses related to the activities described in Section 1 of the State Plan. This may include any expenses for the planning, development, implementation, documentation, maintenance and operation, and administration of the activities, for outreach, education, and training to promote the activities, and for other purposes related to the improvement of the administration of federal elections.

6.5 Use of Earnings Accrued on Requirements Payment in State Election Fund

Earnings accrued on requirements payment deposited in the State Election Fund as described in Section 5 of the State Plan may be used subject to legislative approval for other purposes related to the improvement of the administration of federal elections including expenditures for equipment, software, technical or physical infrastructures, materials, services, salaries, overhead, and any other expenses related to the activities described in Section 1 of the State Plan to fulfill initiatives in accordance with the State Plan.

These additional expenses may include any expenses for the planning, development, implementation, documentation, maintenance and operation, and administration of the activities, for outreach, education, training, and promotion of the activities, and for other purposes related to the improvement of the administration of federal elections.





## Section 7
## Maintenance of Effort

Section 7 of the Minnesota State Plan describes "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" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(7).

7.1 State Maintenance of Effort

State funding for activities for which requirements payments are used will not be reduced below the fiscal year 2000 State expenditure level. In addition, the State will expend funds above that base expenditure level generally to meet the requirements of HAVA Title III and improve the administration of federal elections.

The maintenance of effort amount is based on expenditures in fiscal year 2000 for items or activities now required by HAVA Title III including:

- those activities in 2000 necessary to meet the requirements including expenditures for equipment, software, technical and physical infrastructures, materials, services, salaries, overhead; and
- other expenses in 2000 related to the requirements including expenditures for the planning, development, documentation, maintenance and operation, administration of the requirements, and for outreach, education, and training to promote the items and activities now required by HAVA Title III.

## Section 8
## Development and Adoption of Performance Goals and Measures

Section 8 of the Minnesota State Plan describes "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" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(8).

8.1 Development and Adoption of Performance Goals

The Office of the Secretary of State will develop and adopt performance goals for the implementation of the requirements of HAVA Title III and the various elements of the State Plan. The Office of the Secretary of State will collect input from county auditors and municipal election officials in the development of the goals. The goals will be reviewed and edited to reflect collected input, successes and completion of elements of the State Plan, and the availability of State and federal funds.

The goals will be set to measure successes related to the voting system standards, voting information requirements, the uniform statewide voter registration system, voter registration cards, voting system guidelines and certification processes, voting system administration processes, programs for voter education, election official education and training, and election judge training.

The Office of the Secretary of State will develop measures to evaluate the performance and successes toward meeting goals. The measures will contain criteria by which to evaluate the correct, complete, and timely performance of each goal. Tasks will be allocated to state or local officials as provided in Minnesota Election Law, if the responsible official is specified in law. Where responsible officials are not specified, the Office of the Secretary of State will solicit input from county auditors and municipal election officials and will specify the responsible official.

The performance goals will include specific deadlines for the completion of various tasks and goals to meet the requirements of HAVA Title III and the various elements of the State Plan.





## Section 9
## Administrative Complaint Procedures

Section 9 of the Minnesota State Plan provides "a description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(9).

9.1 Establishment of Uniform, Nondiscriminatory State-based Administrative Complaint Procedure

A uniform, nondiscriminatory, state-based complaint system is being administered by the Office of the Secretary of State.

9.2 Overview of Complaint Procedure

The Office of the Secretary of State administers the complaint procedure, enacted in Laws 2003, First Special Session, Chapter 7, Section 2 and which is now in effect. The procedures provide for the review of complaints related to:

- voting system standards;
- computerized statewide registration lists and equipment;
- voter registration requirements; and
- other features of State implementation of Title III of the Help America Vote Act of 2002.

The Office of the Secretary of State will provide forms on which complaints may be filed. The forms require the signature of the complainant, an affidavit and notarization, and the attachment of supporting documentation.

The Office of the Secretary of State will process notarized, written complaints. The complaint must be signed and sworn to by the person filing the complaint. The Office of the Secretary of State will review the notarized, written complaints. Election judges are to be deemed notaries public for purposes of this complaint procedure.

9.3 Procedure for Complaints Concerning a Town, City, School, or County Employee or Official

If the person files a complaint concerning a town, city, school, or county employee or official the procedure is:

1. A complaint is filed with the Office of the Secretary of State;
2. The Office of the Secretary of State sends a copy of the complaint to the election official in the town, city, school district, or county named;
3. The election official, receiving the copy, either:
    a. reaches an agreement with the complainant within 20 days; or
    b. files a response to the complaint with the Office of the Secretary of State;
4. If the election official cannot reach an agreement and files a response to the complaint, then:
    a. the Office of the Secretary of State will provide a copy of the response to the person filing the complaint; and
    b. will provide the person filing the complaint an opportunity for hearing on the record. If a hearing is requested, the election official is notified and given an opportunity to participate;

5. The Office of the Secretary of State shall issue a final ruling, and, if necessary, a remedial plan within 90 days of receipt of the initial complaint;
6. If the Office of the Secretary of State does not issue a ruling within 90 days of receipt of the initial complaint, the Office of the Secretary of State will provide alternative dispute resolution;
7. The alternative dispute resolution process must be completed within 60 days of its commencement; and
8. Determinations by the Office of the Secretary of State or in alternative dispute resolution involving local election employees or officials may be appealed to the district court for the county in which the local election employee or official is employed.

9.4 Procedure for Complaints Concerning the Office of the Secretary of State

If the person files a complaint concerning the Office of the Secretary of State, the general procedure is:

1. A complaint is filed with the Office of the Secretary of State;
2. The Office of the Secretary of State sends a copy of the complaint to the Office of Administrative Hearings (OAH);
3. The Office of the Secretary of State either:
   a. reaches an agreement with the complainant within 20 days; or
   b. files a response to the complaint with the Office of Administrative hearings;
4. If the Office of the Secretary of State cannot reach an agreement and files a response to the complaint, then:
   a. the OAH will provide a copy of the response to the person filing the complaint; and
   b. provide the person filing the complaint an opportunity for a hearing. If the informal hearing is requested, the Office of the Secretary of State is notified and given an opportunity to participate;
5. The OAH shall issue a final ruling, and, if necessary, a remedial plan within 90 days of receipt of the initial complaint;
6. If the OAH does not issue a ruling within 90 days of the initial complaint, the OAH will provide alternative dispute resolution;
7. The alternative dispute resolution process must be completed within 60 days of its commencement; and
8. Determinations by the OAH involving the Office of the Secretary of State are subject to appellate review.





**Section 10**
**Title I Payments**

Section 10 of the Minnesota State Plan provides, "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" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(10).

10.1 Use of Title One Payments

The State of Minnesota will use HAVA Title I funds to plan, develop, and implement a uniform statewide voter registration system to meet HAVA Title III requirements.

Minnesota's Anticipated Federal and State Funds:

| Fiscal Year | Federal Funds Authorized | Federal Funds Appropriated | Minnesota Share* | 5% Match |
|---|---|---|---|---|
| 2003 Title I | $650 million | $650 million | $5.3 million | Not required |

* Minnesota's share is based on a HAVA formula using a voting age population of 1.71 percent of total US voters. Figures are estimates.

The system will:

- provide a unique identifier for every voter in the system;
- coordinate with other State agency's databases to permit verification of registration data;
- identify ineligible registrants;
- provide increased system access for local election administrators;
- permit the administration of requirements for voters who register by mail; and
- accommodate the use of Minnesota driver license numbers and Social Security information as identifiers in voter records.

System development will also modify existing system elements and functionalities to preserve system integrity, ensure quality and be sufficiently robust to support increases in the number of users.

Minnesota also will use the funds under HAVA Title I to carry out one or more of the activities delineated in Section 101 of HAVA, and, if funds remain, HAVA Title III requirements.

## Section 11
## Ongoing Plan Management

Section 11 of the Minnesota State Plan describes "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)" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(11).

### 11.1 Ongoing Management of the Plan

The Office of the Secretary of State will conduct ongoing management of the State Plan. The Office of the Secretary of State will review the State Plan each fiscal year. The State Plan will be evaluated on the ability of the State to meet objectives in Section 1 of the State Plan, based on the availability of State and federal funds, and the extent to which the budget defined in the State Plan reflects available funds.

The Office of the Secretary of State will establish and implement management standards such as the adoption of goals and performance measures, and review and approval processes. The Office of the Secretary of State also will be responsible for other election functions, including budget and fiscal, personnel, and office support functions.

The Office of the Secretary of State will periodically collect input from county auditors and municipal election officials to review progress and outcomes and to assess and recommend revisions to the State Plan. Based on input provided, the Office of the Secretary of State may make non-material changes in the State Plan without additional notice.

### 11.2 Material Changes to the State Plan

When a material change in the administration of the Plan is deemed necessary, the Office of the Secretary of State will assure the change:

- is developed and published in the Federal Register in accordance with HAVA Section 255 in the same manner as the State Plan;
- is subject to public notice and comment in accordance with HAVA Section 256 in the same manner as the State Plan; and
- 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 item (A).





## Section 12
## State Plan Changes and Successes in Previous Fiscal Year

Section 12 of the Minnesota State Plan provides, "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" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(12).

### 12.1 2003 Minnesota State Plan

This State Plan is the 2003 version of the State Plan established under the Help America Vote Act of 2002 (HAVA). There are no changes from the previous fiscal year. As this version is the initial State Plan, there are no specific successes in carrying out any previous State Plan.

## Section 13
## Minnesota's State Plan Advisory Committee

Section 13 of the Minnesota State Plan provides "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 255 and Section 256" as required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(13).

13.1 Description of the State Plan Advisory Committee

Pursuant to Section 255 of the Help America Vote Act of 2002 (HAVA), on January 31, 2003, the chief state election official, Secretary of State Mary Kiffmeyer, appointed the State Plan Advisory Committee. Secretary Kiffmeyer invited Governor Tim Pawlenty to appoint two members to the committee. The President of the Minnesota State Senate, Honorable James Metzen and Speaker of the Minnesota House of Representatives, Honorable Steve Sviggum, each designated two members of different political parties.

The State Plan Advisory Committee included the Secretary of State (chief state election official), election officials from the two most populous jurisdictions, other local election officials, stakeholders and citizens to represent a broad spectrum of Minnesota voters. The committee appointments made by Secretary Kiffmeyer included a cross-section of Minnesotans, a representation of individuals with disabilities, a representation of ethnic minority groups, and a representation of the geographic distribution of citizens in Minnesota.

13.2 Procedures followed by the Committee

The State Plan Advisory Committee met on March 20, May 7, and May 21, 2003. The preliminary State Plan was posted on the Office of the Secretary of State website (www.sos.state.mn.us) and made available for public review and comment for a period of 30 days pursuant to HAVA Section 256(3). The State took the public comments made regarding the preliminary version of the plan into account in preparing the plan, which was filed with the Commission.

The Office of the Secretary of State announced through a notice in the State Register of June 9, 2003, and a statewide press release, the web location where the preliminary State Plan was available for public review and comment. Media outlets were requested to publish the preliminary State Plan and/or announce its availability as a public service announcement.

13.3 Minnesota State Plan Advisory Committee Membership Roster

See page 2 of the State Plan.





## Glossary

The following definitions are used throughout this document for words and phrases drawn from State and federal laws.

AVT: assistive voting technology

County Auditor: person in each county with responsibility for the administration of elections

DRE: direct recording electronic voting system

Election Assistance Commission: board of advisors established by HAVA Section 201

Election Judge: individuals who administer election activities in the polling place on Election Day

HAVA: Public Law 107-252, also known as the Help America Vote Act of 2002

Local Government: counties, municipalities, and school districts

Municipal: cities, townships, and unorganized territories in which the county is responsible for the administration of elections

NVRA: National Voter Registration Act of 1993

Requirements Payment: federal funds, and matching state funds, deposited into the state election fund. The requirements payment funds are those monies specifically authorized by HAVA Title II for the purpose of meeting the requirements specified in HAVA Title III

State Plan: Plan developed pursuant to Public Law 107-252, Help America Vote Act of 2002, Section 253(b)

The State: Minnesota State government, generally the Office of the Secretary of State, but occasionally the Minnesota legislative process

Federal Register

Wednesday,
March 24, 2004

## Part II—Continued

# Election Assistance Commission

**Publication of State Plans Pursuant to the Help America Vote Act; Notice**

# STATE OF MISSISSIPPI
## PLAN FOR COMPLIANCE WITH THE HELP AMERICA VOTE ACT OF 2002

**ERIC CLARK**
**SECRETARY OF STATE**

**Respectfully submitted August 12, 2003**

**ERIC CLARK**

**Mississippi Draft State Plan**
**for**
**HAVA Compliance**

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## PUBLIC COMMENT ON DRAFT STATE PLAN

A draft of the Mississippi State Plan for HAVA Compliance was released on June 25, 2003. A hard copy of the document was distributed to the following:

- Members of the Mississippi HAVA Advisory Committee
- Members of the Mississippi Statewide Voter Registry Advisory Committee
- Mississippi Circuit Clerks (82)
- Mississippi Election Commissioners (410)
- Mississippi County Supervisors (410)
- Members of the Mississippi Legislature (174)
- Citizens and interested parties who had signed up for HAVA updates

A press release was issued to all media in the state, directing reporters to a copy of the Plan available on the web site of the Secretary of State's Office. That site was included in media reports to the public about the posting.

Comments were received in the Secretary of State's Office until 5:00 p.m., Monday, July 28. Comments came by mail and e-mail. All comments were reviewed and considered in the finalization of Mississippi's Plan for HAVA Compliance.

A meeting of the Mississippi HAVA Advisory Committee took place on Friday, July 11. Members of the Committee discussed the various points of the Plan and ultimately supported the broad goals expressed therein.

The Secretary of State wishes to express his gratitude to the members of the Mississippi HAVA Advisory committee (listed on page 26 of this Plan) for their contributions to the construction of these ideas and their commitment to the continuing improvement of elections. He also wishes to thank those Mississippian who took the time to review and comment on the Plan.





## STATE PLAN APPROACH

The Mississippi Secretary of State is the state's chief elections official. In that capacity, he is responsible for National Voter Registration Act coordination among state registrar agencies and distribution of NVRA registration forms. Under state law, the Secretary of State's Office certifies the annual training and qualifications of local election officials and party executive committee chairs to conduct primary and general elections. In addition, the Secretary of State is the candidate qualifying office for certain judicial offices and all independent candidates for state, state district and legislative district offices. The Secretary of State is a member of a three (3) person State Board of Election Commissioners which meets to certify certain candidates' eligibility for placement on general election ballots and to adopt an official sample ballot. Finally, the Secretary of State totals certified local election returns and certifies election results for statewide, state district and legislative district offices.

Within the Secretary of State's Office, there is a permanent elections staff of fourteen (14) including an Assistant Secretary of State for Elections who can legally act for the Secretary.

Under state law, elections in Mississippi are very decentralized. In each county and municipality, local election commissioners conduct special and general elections and local party executive committees conduct primaries. Local governments are responsible financially for the full cost of these elections. Collaboration between the Secretary of State's Office and local election officials is essential to the conduct of successful elections. The State's elections community works cooperatively to serve local governments and Mississippi's approximately one million, eight hundred and sixty thousand (1,860,000) registered voters.

Since 2001, Mississippi has taken significant steps toward election reform through new programs that encourage voter participation, education, a centralized voter registration system, better reporting of election results such as residual vote counts and other legislative changes. Implementing these state legislative reforms and the Help America Vote Act of 2002 (HAVA) will require considerable effort and resources from both the Secretary of State's Office and the local election officials.

In developing the State Plan, the Secretary of State's Office formed a State Plan Committee, pursuant to HAVA §255. In bringing this group together, the Secretary of State relied on the cooperative effort of a variety of election officials and stakeholders to guide the themes and intent of the Plan. Particular attention was paid to accessibility issues, specifically for individuals with disabilities and alternative language groups. More general themes of authority, accountability, uniformity, and centralization emerged with additional discussion and feedback.

This State Plan is organized as specified in HAVA §254. Each section of this document corresponds to a subsection of §254 and addresses a State Plan requirement specified in HAVA. The Plan outlines program milestones to address large-scale system or procedural changes.





## STATE PLAN REQUIRED ELEMENTS (HAVA §254)

### 1. Title III Requirements and Other Activities

*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. -- HAVA §254 (a)(1)*

### 1.A §301(a), Voting Systems Standards Requirements

*Deadline for Compliance: January 1, 2006; no waiver permitted.*

The State currently uses seven different polling place voting systems in its eighty-two (82) jurisdictions, including eight (8) lever systems, eleven (11) punch card systems, one Opscan (combination OMR and punch card) system, eight (8) precinct optical mark reader systems, fifty-one (51) central optical mark reader systems, one (1) direct recording electronic (DRE) device system and two (2) Shouptronic systems. Absentee balloting is done either by paper ballot or by the system in place for election day voting in the jurisdiction in question.

Assuming full federal funding of HAVA, Mississippi plans to use some fifteen ($15) million of its federally authorized thirty-four ($34) million to replace all non-DRE (direct recording electronic) voting devices with DRE devices of some sort. Mississippi will purchase centrally at the state level some five thousand (5000) DRE devices for use by all present non-DRE counties by the first federal election of 2006.

The advantages of a uniform statewide DRE voting system are numerous and include the following:

- Training for and by election officials and voters will be easier and simpler due to devotion of resources to a single technology.
- The end of voter confusion when moving from one local jurisdiction within the state to another as no change in voting technology will be encountered. Affidavit and absentee balloting procedures, complicated by the use of different technologies across the state, will be simplified and consistent.
- Avoid the use of at least two (2) technologies or voting systems at precincts, which would result if only one DRE device is coupled with another technology or system in each precinct, and avert the abundant legal and practical problems associated with such a set-up.
- Procurement at a state level of a single technology will allow the state to maximize the federal dollars it receives by ensuring bulk purchase discounts.
- DRE error rates, based on studies to date, are very low. The state believes the system it procures will meet or exceed the error rate standard set by the FEC and/or EAC.

The State will adopt a funding formula to determine an equitable distribution of DRE's to each county. The formula will take into consideration factors including, but not limited to, the following:

- county population
- county voting age population (VAP)
- number of registered voters per county
- number of precincts per county
- geographic size of the county, in square miles
- voter turnout per county in the previous two (2) statewide (Gubernatorial) elections and the previous two (2) federal (Presidential) elections

The formula will result in the state's providing a sufficient number of DRE devices to adequately serve each county's voters, regardless of the number of precincts in the county. The county will be charged with deciding how best to distribute the devices among its present or reduced number of precincts, as appropriate. If a county wishes to retain a number of precincts higher than suggested by the formula, the county may purchase additional DRE devices at its own expense.

The state procurement of voting devices will be preceded by a Memorandum of Understanding (MOU) between the local governing authority and the Secretary of State. This MOU will specify that acceptance of the devices will constitute a commitment by the local governing authority to utilize the DREs in all elections in the county; that changes in the technology (hardware or software) will require advance approval by the Secretary of State and any violation of these terms will result in repayment by the local government to the Secretary of State the cost of the devices. In this way, Mississippi will receive the best possible assurance that local governments will participate in creation of a uniform statewide voting system.

The state will embark on its procurement of a uniform statewide system of DRE voting devices after a very thorough process of specification development, including extensive local government and stakeholder input, and a Request for Proposals (RFP) process. Specifications will include the following key components:

- All DRE voting devices to be purchased will meet HAVA's §301(a)'s requirements.
- Voter verification of ballot changes will be required for the state's procurement.
- The DRE system will be required to produce a record of each vote cast.
- Voting records will be available for any court ordered election recount under state law.
- The DRE system to be purchased will be technologically sophisticated to provide maximum disability access, including the same opportunities for privacy and independence in voting provided to non-disabled voters.





- The DRE system will be required to allow for multiple language ballots as presently required for some nine Mississippi local jurisdictions under §203 of the Voting Rights Act of 1965.
- The ability to integrate future election reforms such as non-geographic voting that may come in the future.
- The DRE equipment to be purchased will be "fully loaded" and include all required disability accessibility technology, multi-language capabilities, installation, training and computation software and hardware required to give Mississippi counties a "turnkey" operation.

A scoring committee will review all voting device RFP's and recommend a top choice to the Secretary of State and he will award a contract. Following the contract award, the state will begin implementation in 2005 (a municipal and not a state or federal election year) for roll out to the voters in the 2006 federal primary election. (A project procurement plan for the statewide uniform DRE voting device system is attached hereto as Exhibit "A".)

Mississippi law does not now provide a standard for defining what constitutes a vote and what will be counted as a vote for DRE technology. At present, Mississippi has only one jurisdiction using DRE voting devices. In either the 2004 or 2005 session of the Mississippi Legislature the Secretary of State will seek passage of a law setting forth this required standard for DRE devices.

**1.B §302, Provisional (or Affidavit) Voting and Voting Information Requirements**
*Deadline for Compliance: January 1, 2004; no waiver permitted.*

HAVA addresses the process of provisional or affidavit voting to ensure that no individual who goes to the polls intending to cast a ballot is turned away without having the opportunity to do so. Long before passage of HAVA, Mississippi had enacted a system of affidavit balloting that complies with most of HAVA's requirements. In developing the State Plan, the State of Mississippi assessed its present affidavit ballot statute to determine those elements needing modification in order to fully comply with HAVA.

Currently, the State's affidavit voting laws allow a voter whose name does not appear on the precinct pollbook to cast an affidavit ballot, provided the voter completes a certification in which he or she affirms that he or she is entitled to vote or has been legally denied registration. In any election conducted under Mississippi state law, election officials must provide such voters with affidavit ballots.

The intent of the State's existing affidavit voting law - to reduce the number of individuals unable to participate on election day - is similar to the intent of HAVA §302. However, the new HAVA requirements differ in some respects from the State's procedure, so the State will seek legislative modifications to its present statute. At the same time, the State will immediately implement the new federal affidavit ballot requirements for its 2004

federal election. Through these modifications, the State will provide a private "free access" system for affidavit voters to learn about the status of their affidavit ballot and will provide an informational sheet to affidavit voters about how to vote by affidavit and how to contact the free access system. Finally, the State will comply immediately for federal elections, and upon state law revisions in all state elections, with HAVA's §302 (b) requirements for the posting of information at each polling place on election day.

HAVA §302 further requires that voters who vote under a court or other order during extended hours, after the normal close of a polling place, cast affidavit ballots. These ballots must be kept separate from other affidavit ballots. The State will comply with this federal requirement in its 2004 federal election. The Secretary of State will propose this change in the law in 2004 legislation.

**1.C §303, Computerized Statewide Voter Registration (SWVR) System Requirements and Requirements for Voters Who Register by Mail**
*Deadline for Compliance: January 1,2004; State can submit a certification stating "good cause" that will move the deadline for §303(a) compliance to January 1, 2006.*

Currently, official State voter registration records are created and maintained at the local jurisdiction level. Local election officials update and separately maintain voter registration records for their jurisdiction, with all eighty-two (82) jurisdictions using customized systems.

As explained above, the State does not have a "single, uniform, official, centralized, interactive, computerized statewide voter registration list" required by HAVA. Moreover, information gathered and maintained on State voters does not uniformly include driver's license numbers or partial social security numbers, as required by HAVA.

However, in 2002, Mississippi anticipated the federal mandate in this regard and passed legislation authorizing creation of a HAVA-compliant statewide voter registry (SWVR) system. The implementation of the system has awaited receipt of federal funds. This legislation creates an advisory committee of interested stakeholders that has been appointed and is working with the Secretary of State on implementation (the project plan for procurement of the SWVR system is attached hereto as Exhibit B).

As outlined in the project plan, the State has already begun the steps to procure a centralized voter registration system through an RFP process. The development of specifications is proceeding with the input of both local government officials and other stakeholders. A scoring committee will review all responses to the RFP and will identify the top scoring vendors based on their technical responses and costs. These vendors will be required to participate in a presentation/interview process that will also be scored and added to their proposal score. A recommendation will then be made to the Secretary of State as to the highest scorer and he will award a contract. Following the contract award, the state will begin implementation in 2004. Mississippi is on track in meeting project





plan deadlines and if HAVA is fully funded, will be in a position to procure and implement the system on time.

Mississippi's current state mail-in voter registration process differs from HAVA requirements. The mail-in voter registration form requires redesign to accommodate information required by HAVA. These revisions to the NVRA and state mail-in voter registration applications have been made, along with the minor changes needed on the state's non-mail in application to capture driver's license or social security numbers. Also, the voter registration and polling place voter qualification processes will be modified to allow for the verification of identification provided by first-time voters who register by mail.

At present, local voter registrars have begun to identify post January 1, 2003, mail-in, first-time voters and are providing the information to the Secretary of State. Prior to the federal primary election in March, 2004, the Secretary of State's Office will have in place an electronic link to the state Department of Public Safety (Mississippi's driver's license bureau) for record matching purposes. Those first-time voting, mail-in registrants whose identifying information does not match the state DPS record will be required to provide one of the HAVA-specified forms of identification when they vote in the 2004 federal election.

**1.D §304, Minimum Requirements**

The State understands that the requirements laid out in HAVA Title III are minimum requirements, and that the State may establish election technology and administration requirements that are more stringent. Any more stringent requirements that the State imposes will comply with all Title III requirements, as well as the laws described in HAVA §906.

**1.E §305, Methods of Implementation Left to Discretion of State**

The State chose various means to comply with the requirements of HAVA Title III. Specific details on the implementation methodology chosen can be found in Sections 1.A through 1.C of this State Plan.

**1.F §311, Adoption of Voluntary Guidance by Commission**

Once the federal Election Assistance Commission (EAC) has issued its voluntary recommendations with respect to Title III, the State will consider that guidance in updating the State Plan. The State will incorporate those recommendations deemed appropriate into subsequent amended versions of the State Plan.

**1.G §312, Process for Adoption**

The State will stay aware of the progress of the EAC on developing the Title III recommendations. If appropriate, the State will provide feedback during the public comment period after the recommendations are published in the Federal Register and participate in public hearings regarding the recommendations.

**1.H §251(b) (2), Other Activities**

The State currently does not have the personnel and technical capacity required to fully achieve HAVA compliance. Ongoing operations and maintenance of the new capabilities required by HAVA cannot be supported with the current state and local elections technical infrastructure and resources. The State proposes to establish a solid foundation to build and sustain the people, processes, and technology necessary to maintain the new capabilities. The following activities are thus proposed to improve the election system:

- Conduct an assessment of the current technical infrastructure and establish a strategy to standardize technical infrastructure;
- Conduct process redesign;
- Research the possibility of integration of key election management systems;
- Continue expanding polling place accessibility; and
- Document job descriptions and staff positions with resources qualified to conduct election reform activities.





**2. Mississippi's Distribution of Requirements Payment**

*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). -- HAVA §254 (a)(2)*

**2.A, Eligibility of local units to receive the payment**

The State of Mississippi, through its chief State elections official, the Secretary of State, will centrally manage initiatives funded by requirements payments. The funding formula to be developed for voting device distribution is described in section 1.A above. Distribution of State (centrally) purchased statewide voter registration hardware and software will be nearly identical in each registrar office in all eighty-two counties. Difference in current technology in those offices may necessitate some difference in installation, but the end product will be identical in each office.

The Secretary of State will be responsible to account for all expenditures, funding levels, program controls, and outcomes.

**2.B, Performance measures for local units**

Funds will be centrally managed as described in Section 2.A, and the Secretary of State will monitor the initiatives for which those funds are authorized.

The Secretary of State will monitor the performance of each initiative that is funded by requirements payments in three areas: financial controls, compliance with standards and program results.

Financial Controls: The Secretary of State will develop and use standard financial reporting for all initiatives funded by requirements payments.

Compliance with Standards: The Secretary of State will develop and use standard program management reporting for all initiatives that are funded by requirements payments.

Program Results: The Secretary of State will develop key performance indicators (KPI) for each initiative funded by requirements payments. See Section 8 of this document for specific performance goals and measures.

**3. Voter Education, Election Official Education and Training, and Poll Worker Training**

*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. -- HAVA §254 (a)(3)*

**3.1, Voter Education**

State-level voter education in Mississippi is limited and not standardized. Information is made available by request, or voters may get information on elections from the Secretary of State's Office's web site (www.sos.state.ms.us). Most voter education is developed and takes place on the local level, through county and municipal clerks and election commissioners, political parties, and local media outlets.

The Secretary of State's Office, with the assistance of local election officials and representatives of advocacy and interest groups, will develop a comprehensive, statewide voter outreach program. The primary goal of the program will be to increase voter turnout. Voter turnout in Mississippi has stayed below fifty percent (50%) of registered voters for several elections. The Secretary of State's Office will measure turnout as a long-term indicator of the success of voter education programs it develops and implements.

The issues that should be covered in the comprehensive voter education program include the following:

- Rights of voters (including an emphasis on voters with disabilities)
- Second-chance voting
- Federal voter identification requirements
- Military and Overseas voters programs
- Dates of elections and applicable qualification deadlines
- Voter registration deadlines
- Change of address/name requirements for voters
- Use of voting technology
- Absentee voting procedures
- Affidavit balloting procedures
- Uses and availability of sample ballots
- Primary elections vs. general elections
- How to locate your polling place

The voter outreach program will reach the largest number of potential voters through the use of multiple channels, including mass media. Dissemination of voter information will take place by the following methods:

- Print media
  i. wider distribution of the "Voter Information Guide."





  ii. development of standard voter information posters for polling places.
  iii. development of voter education materials in alternative languages, including Braille.
  iv. development of standard advertisements for local print outlets.
  v. cooperation with local print media to highlight voter education prior to election day.
- TV and Radio
  i. development of PSA's to be run on local channels.
  ii. development of a statewide "speaker's bureau" for appearances on local shows.
- Internet
  i. ongoing development of resources on the Secretary of State's Office's web site.
  ii. development of voter information content and specifications to be used as guides for county and municipal level web sites.
  iii. use of the Internet to disseminate voter information through list serves.
- Personal Contact
  i. development of a statewide speaker's bureau on election issues.
  ii. coordination with state civic organizations, to include voter education in annual conferences.
- Telephone
  i. use of the Secretary of State's Office's "Elections Answerline" (1-800 number) as an ongoing source of election information.
  ii. installation and use of 1-800 numbers on the county-level as a new source of election information, including affidavit balloting results.

While the intent of the voter outreach program will be to educate all Mississippians, certain demographic groups will be targeted because of special needs and/or traditionally low turnout. Those groups would include:

- Persons with disabilities
- Alternative language populations
- 18-30 year olds
- Persons new to Mississippi

All agencies charged with any election duties, including NVRA registration agencies, will be required to participate in voter outreach programs.

**3.1 Election Official Education and Training**

The Secretary of State's Office will enhance the current election officials training program to include all HAVA-related activities. Moreover, the current training requirement will be expanded to make certification a more formal process.

The training materials and programs will include (but not be limited to) the following topics:

- Federal and state law and rule changes
- Reporting requirements
- Overseas and military voting
- Recruiting and training of poll workers
- Working with voting technology
- Working with voter registration technology
- Election day procedures
- Absentee balloting; affidavit balloting
- Working with persons with disabilities (including accessibility requirements)
- Working with alternative language populations
- Identification requirements for first-time, mail-in registrants
- Other items as deemed useful by the Secretary of State's Office and assisting local officials.

First-time, newly-elected county Election Commissioners will be required to attend ten (10) hours of training in the calendar year immediately following their election. Training will be developed by the Secretary of State's Office, in conjunction with local election officials. An official will be certified only after attending the ten (10) hours of training and successfully completing a skills assessment inventory. After meeting the first year's requirements, Election Commissioners will be required to attend five (5) hours of training per calendar year and successfully complete a skills assessment inventory to maintain their certification.

First-time, newly-elected county Circuit Clerks will be encouraged to attend a ten (10) hour training session following their election. All clerks will be encouraged to attend Election Commissioner training to stay abreast of federal and state election law changes.

Executives with each of the state party organizations will be invited to attend the same training as county Election Commissioners and Circuit Clerks. The Secretary of State's Office will work with the parties to ensure that training materials are available for their use in training their executive committee members.

Municipal Clerks and municipal Election Commissioners will be required to attend a special five (5) hour training session offered six (6) months prior to the municipal political primaries.

The Secretary of State's Office will produce a quarterly "Mississippi Election Update" newsletter for all of the officials mentioned above, to keep them aware of changes in federal and state election law and rules.





**3.2 Poll Worker Training**

Currently, poll worker training is handled on the local level, primarily using locally developed training materials. The Secretary of State's Office will work with local election officials to develop a single, comprehensive poll worker training program. Training materials and methods of instruction will be made available to municipal and county clerks and party executive committees. All poll workers will be required to attend training and successfully complete a skills assessment inventory prior to their being certified to work the election for which they have been hired. Certification results from each jurisdiction will be submitted to the Secretary of State's Office.

The training materials and programs will include (but not be limited to) the following topics:

- Working with voting technology
- Questions/issues of tabulation
- Second-chance voting
- Voter identification requirements for first-time, mail-in registrants
- Handling affidavit ballots
- Poll watching
- Working with persons with disabilities
- Working with alternative language populations
- Other items as deemed useful by the Secretary of State's Office and assisting local officials.

The Secretary of State's Office will supervise poll worker training and monitor its conduct to be certain that consistent poll worker training occurs statewide.

A "Mississippi Poll Worker Guide" will be developed to serve as an on-site resource for poll workers on election day.

Through functionality included in the Statewide Voter Registration System, the Secretary of State's Office will maintain a list of poll workers, through the input of municipal and county clerks and party executive committees. The poll workers will also receive the "Mississippi Election Update" newsletter mentioned above, to stay informed of changes in federal and state election law.

The Secretary of State's Office will work with municipal and county election officials, civic groups, secondary schools, colleges and universities, and media outlets to recruit poll workers.

**4. Voting System Guidelines and Processes**

*How the State will adopt voting system guidelines and processes that are consistent with the requirements of section 301. -- HAVA §254 (a)(4)*

As outlined in our response to section 301(a), the State is moving ahead with plans to procure a uniform voting system by January 1, 2006. The RFP that will be written and released to procure this system will be consistent with HAVA's §301 requirements and the Secretary of State will seek passage of a law to set forth required voting system standards for DRE devices.

Prior to the implementation of a uniform system, the State will publicize the rights and responsibilities of voters regarding their votes (i.e., casting multiple votes for a single-vote election). The State will also continue to work with local election officials to document their accounting of all ballots and votes, and their treatment of provisional (or affidavit) ballots and ballots with possible errors (resolution board ballots).

Education will be ongoing to inform persons with disabilities and alternative language populations of their rights, and to keep state and local election officials mindful of those groups in planning elections.

The Secretary of State's Office will continue to collect data from local election officials regarding residual votes to determine error rates per county and for the entire State. This data will be collected for every election, in anticipation of the minimum acceptable error rate to be established by the FEC.





**5. Mississippi's HAVA Fund Management**

*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. -- HAVA §254 (a)(5)*

Working with the State Department of Finance and Administration, the Secretary of State has established a HAVA Election Fund, #3115, which is separate and distinct from all other programs and funds within the agency. This fund will contain both federal and matching state general funds. The federal fund portion will be used to maintain federal fund receipts and to expend federal funds. The general fund portion will be used to budget and expend general funds representing the five percent (5%) match required under HAVA. The Secretary of State has requested and received approval for state matching funds from the State legislature for state fiscal year 2004 that will meet the five percent (5%) match requirement.

The Secretary of State and Department of Finance and Administration will work with the State Department of Audit and the State Treasurer to follow and enforce all mandated fiscal controls and policies.

**6. Mississippi's HAVA Budget**

*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.*

*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.*

*-- HAVA §254 (a)(6)*

At the time of the writing of this Plan, HAVA appropriations were significantly less than amounts authorized. The state's budget assumes full funding of HAVA by Congress according to amounts authorized for appropriation. If full funding is not forthcoming, Mississippi will amend its plan in subsequent years as necessary to accommodate these changes.

Based on these funding levels, the State HAVA budget is representative of the activities required to implement and conduct operations and maintenance through calendar year 2005 for the HAVA Title III requirements and other activities. The budget will be revised over time based on the most current information available regarding federal funding.

**Federal Funding Assumptions for Mississippi**

| Description | Federal Authorized Payment | State Match Payment (actual and anticipated | Total Authorized Amounts (all sources) |
|---|---|---|---|
| Early Payments | $5.460 Million | | $5.460 Million |
| Title III Payment 2003 | $13.283 Million | $750,000 | $14.033 Million |
| Title III Payment 2004 | $9.488 Million | $500,000 | $9.988 Million |
| Title III Payment 2005 | $5.693 Million | $300,000 | $5.993 Million |
| **TOTALS** | **$33.924 Million** | **$1.550 Million** | **$35.474 Million** |

*Based on Mississippi percent of national VAP of .009488%*

The State of Mississippi estimates it will spend:

- approximately ten ($10) million on the SWVR system/election management system.
- approximately fifteen ($15) million on the procurement of a statewide uniform DRE voting system





- approximately nine point two ($9.2) million on other federal compliance efforts, including, but not limited to, voter, poll worker and local elections official training and state administrative costs of HAVA implementation.

The duration for the State's budget is based on HAVA deadlines and funding. The State is concerned, however, that beyond the three years of federal funding, the ongoing costs of operating and maintaining the new voting systems and statewide voter registration system will be considerably higher than the State's maintenance of effort level (see Section 7 of the State Plan). The operation and maintenance of the new systems will be the financial burden of the State when HAVA funding is no longer available.

**7. Maintenance of Effort**

*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. -- HAVA §254 (a)(7)*

The largest single appropriation for elections in Mississippi is the funding of the Secretary of State's Office. That appropriation for fiscal year 2000 (ending June 30, 2000) was $8,093,200. Of that amount, $789,952 was directed to elections activities. The Mississippi Legislature is aware of the expenditure maintenance requirement of HAVA, and the Secretary of State's Office anticipates full funding on a yearly basis.

The larger portion of the funds appropriated on a yearly basis in Mississippi are on the county level. Mississippi's eighty-two (82) local election office budgets typically support year-round staff and operating expenses for continuous functions such as voter registration, information services, and IT support. In addition, local governments bear the largest cost increases associated with each specific election – poll workers, temporary office staff, mass mailings, election material production and procurement, polling place rental, and election day support (including personnel, equipment, and supplies). While county funds may be allocated within the budget specifically for elections, many costs may be "in-kind" assistance from other county agencies.

The Secretary of State's Office will work with local governments to determine their funding for the 2000 fiscal year. All local governments that receive the benefit of HAVA funding, through equipment, services, or grants, will be required to maintain funding at the level determined. Exceptions will be made for expenditures that are replaced by materials provided by the State (ex. – a county should not be expected to appropriate money for a voter registration system lease, when a new system will be provided by the State).





**8. HAVA Performance Goals and Measures**

*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. -- HAVA §254 (a)(8)*

The basic elements of HAVA that require performance monitoring are listed below, along with the official(s) responsible and the timeline.

| GOAL | OFFICIAL RESPONSIBLE | TIMETABLE |
|---|---|---|
| Voting System Standards, §301 | Chief Election Official and staff<br>County Supervisors<br>Local Election Officials | To be implemented by January 1, 2006 (with waiver) |
| Provisional (or Affidavit) Voting, §302 | Chief Election Official and staff<br>Local Election Officials | To be implemented by January 1, 2004 |
| Voter Registration System, §303(a) | Chief Election Official and staff<br>SWVR Advisory Committee<br>County Supervisors<br>Local Election Officials<br>Dept. of Public Safety<br>Dept. of Health<br>Admin. Office of Courts | To be implemented by January 1, 2006 (with waiver) |
| Voter Registration System, §303 (b) | Chief Election Official and staff<br>Local Election Officials<br>Dept. of Public Safety | To be implemented by January 1, 2004 |
| Education and Training, §254 (a)(3) | Chief Election Official and staff<br>Local Election Officials | To be implemented by January 1, 2006 |
| Budget and Fiscal Controls, §254 (a)(2, 6, 7, 10) | Chief Election Official and staff<br>Department of Audit<br>Treasurer's Office<br>County Supervisors | Ongoing |
| Complaint Procedure, §254 (a)(9), and 402 | Chief Election Official and staff | Ongoing |
| Expansion of polling place accessibility, §261 | Chief Election Official and staff<br>County Supervisors<br>Disability Advocacy Groups | Ongoing |
| Military and Overseas Voting, Title 7 | Chief Election Official and staff<br>Voting Assistance Officers<br>Local Election Officials | Ongoing |

| | | |
|---|---|---|
| Maintenance of Effort, §253 (a)(7) | Chief Election Official and staff<br>Legislative Budget Office<br>County Supervisors | Ongoing |
| Alternative Language Accessibility, §301 (a)(4) | Chief Election Official and staff<br>Designated Alternative Language Groups<br>Local Election Officials | Ongoing |

Criteria to determine the success of implementation will focus on timeliness of completion and ease of installation of the product or program. More specific criteria will be developed for each particular project. The Secretary of State will work with the official(s) responsible for implementation and other stakeholders will develop criteria for success.

Each entity or official involved in the implementation of HAVA elements will have individual performance goals to meet. The ability of participants to successfully meet those goals will be reported annually to the chief State election official, the Mississippi Legislature, county supervisors, local election officials, the public, and the media.





**9. State-Based Administrative Complaint Procedures**

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. -- HAVA §254 (a)(9) Deadline for Compliance: Prior to certification of State Plan, but no later than January 1, 2004; no waiver permitted.*

The Secretary of State has developed and proposed an administrative rule creating an administrative complaint procedure that meets HAVA requirements. Before the adoption of the procedures, State election laws contained no provision for the processing of election complaints at the administrative level. Informal complaint handling by state and local authorities by telephone or e-mail has existed for many years, with state law providing for judicial remedies where parties were dissatisfied with results. Formal complaints will now follow the procedures to be adopted by the Secretary of State and codified as Mississippi administrative rules and regulations.

Mississippi's administrative complaints procedure will be uniform and nondiscriminatory. They will allow any person who believes there is a HAVA Title III violation (including a violation which has occurred, is occurring or is about to occur) to file a written complaint with the Secretary of State's Office. The complaint must be notarized, signed and sworn to by the complainant. The Secretary of State may consolidate complaints filed under the state's administrative complaint procedure.

At the complainant's request, there will be a hearing on the record regarding the complaint. The Secretary of State will provide an appropriate remedy if it finds any Title III violation exists. If the Secretary of State finds no such violation exists, the complaint will be dismissed and notification will be sent to the complainant accordingly.

The Secretary of State will make a final determination regarding each complainant prior to ninety days after receipt of the complaint unless the complainant agrees to an extension of the ninety-day period. If the Secretary fails to meet the ninety-day deadline, the complaint will be referred for alternative dispute resolution to a arbitrator. Any record compiled by the Secretary of State during its review of the complaint will be provided to the arbitrator.

**10. Effect of Title I Payments**

*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. -- HAVA §254 (a)(10)*

The state of Mississippi received $5.4 Million dollars in Title I payments. These funds will be spent pursuant to Sections 101 and 102, as a part of the State's centralized procurement of a statewide DRE voting system. As a part of this procurement, the State will replace all of its punch card and lever voting machines and replace them with DRE devices. This process will be completed by January 1, 2006, with the HAVA waiver of the January 1, 2004, deadline.





**11. Mississippi's HAVA State Plan Management**

*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).*

*-- HAVA §254 (a)(11)*

The State intends to use the State Plan as the foundation for its future strategic direction. Consequently, sound and responsible management of the State Plan will be an essential component of the State election community's future success.

Due to the complexity of HAVA and the potential variety of projects it encompasses, the Secretary of State's Office has established a Federal Compliance Unit within the agency's Elections Division. This unit's staff will conduct ongoing management of the State Plan, including project planning (for all HAVA-related and other election reform projects) and establishing and implementing program management standards (i.e. performance measures, review and approval processes, issue/risk management, etc.). The Federal Compliance Unit will also be responsible for other election functions, including: budget and fiscal, personnel, and office support functions. These include ADA, NVRA, and VRA oversight as they relate to the state's compliance responsibilities.

The State understands and agrees to comply with HAVA requirements related to ongoing management of the State Plan. More specifically, the State agrees that it may not make any material change in the administration of the State Plan unless the change:

(A) is developed and published in the Federal Register in accordance with HAVA §255 in the same manner as the State Plan;

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

(C) takes effect only after the expiration of the forty-five (45) day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

**12. Changes to State Plan from Previous Fiscal Year**

*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. -- HAVA §254 (a) (12)*

This FY 2003 Plan is the State's inaugural Plan under HAVA. This section will be updated in the FY 2004 Plan, reflecting changes to the Plan, as well as a summary of 2003 successes.





**13. State Plan Development and Committee**

*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 255 and section 256.*
*-- HAVA §254 (a)(13)*

The State's committee consists of individuals representing a cross-section of election stakeholders. The State Plan Committee was selected by the chief State election official, Eric Clark, Secretary of State.

Members of the State Plan Committee, and the primary qualification of each for being a committee member, are as follows:

Eric Clark, Secretary of State, Mississippi's chief election official;
Dora Blakeney, Smith County Election Commissioner;
Michael Boyd, Policy and Planning Director, Office of the Governor;
Senator Hob Bryan, State Senator;
Eugene Bryant, President, Mississippi NAACP;
Bill Chandler, Mississippi Immigrants Rights Alliance;
Gary Dearman, Greene County Supervisor;
Barbara Dunn, Circuit Clerk, Hinds County (chief election official of largest local jurisdiction);
James Dunn, Tunica County Supervisor;
Johnny Dupree, Mayor, City of Hattiesburg;
Rebecca Floyd, Mississippi Protection and Advocacy Systems;
Senator Hillman Frazier, State Senator;
Jim Fraiser, Legal Counsel, Mississippi Band of Choctaw Indians;
Earline Hart, President, Mississippi Circuit Clerks Association;
Representative Roger Ishee, State House of Representatives;
Fran Leber, League of Women Voters;
Dora McKenzie, Clarke County Election Commissioner;
Arlelia Moreland, Washington County Election Commissioner;
Larry Otis, Mayor, City of Tupelo;
Gayle Parker, Circuit Clerk, Harrison County (chief election official of second largest local jurisdiction);
Marsha Peters, City of Lucedale, Municipal Election Commissioner;
Representative Tommy Reynolds, State House of Representatives;
Jimmy Smith, Lauderdale County Supervisor;
Larry Swales, Rankin County Supervisor;
Dale Thompson, Circuit Clerk, Desoto County;
Mary Troupe, Council on Citizens with Disability; and
Tommy Walman, Mayor, City of McComb.

In creating the State Plan, the State Plan Committee worked with the Stennis Institute of Government at Mississippi State University, which assisted the Secretary of State in conducting four public meetings concerning plan development. Documents from those meetings may be found in Exhibit C.



**Mississippi State Plan**
**for**
**HAVA Compliance**

**APPENDIX A**

*Appendix A*

**EXHIBIT A**
**Mississippi Secretary of State's Office**
**Voting Systems Procurement Project**

| ID | Task Name | Duration | Start | Finish | Resources |
|---|---|---|---|---|---|
| 1 | Kick-Off Meeting | 1 day | Tue 6/1/04 | Tue 6/1/04 | |
| 2 | Develop functional specs | 50 days | Wed 6/2/04 | Tue 8/10/04 | |
| 3 | Review sample RFPs | 3 days | Wed 6/2/04 | Fri 6/4/04 | SOS |
| 4 | Conduct county surveys | 7 days | Mon 7/12/04 | Tue 7/20/04 | SOS,Counties |
| 5 | Research county requirements | 2 days | Wed 7/21/04 | Thu 7/22/04 | SOS |
| 6 | Write specifications | 5 days | Mon 7/26/04 | Fri 7/30/04 | SOS |
| 7 | Distribute and review draft | 5 days | Mon 8/2/04 | Fri 8/6/04 | SOS,ITS |
| 8 | Edit draft | 2 days | Mon 8/9/04 | Tue 8/10/04 | SOS |
| 9 | Prepare scoring methodology | 2 days | Mon 8/16/04 | Tue 8/17/04 | SOS,ITS |
| 10 | Deliver final document to ITS | 1 day | Mon 8/30/04 | Mon 8/30/04 | SOS |
| 11 | Review and edit final RFP | 7.5 days | Tue 8/31/04 | Thu 9/9/04 | SOS,ITS |
| 12 | RFP release process | 43 days | Tue 9/14/04 | Thu 11/11/04 | |
| 13 | Advertise RFP | 1 day | Tue 9/14/04 | Tue 9/14/04 | ITS |
| 14 | Release RFP | 42 days | Wed 9/15/04 | Thu 11/11/04 | ITS |
| 15 | Advertise RFP | 1 day | Tue 9/21/04 | Tue 9/21/04 | ITS |
| 16 | Mandatory Bidders Conference | 1 day | Wed9/29/04 | Wed 9/29/04 | SOS,ITS |
| 17 | Bidders Q&A deadline | 1 day | Fri 10/1/04 | Fri 10/1/04 | SOS,ITS |
| 18 | Bid opening | 1 day | Thu 11/11/04 | Thu 11/11/04 | SOS,ITS |
| 19 | Review and scoring of proposals | 25 days | Mon 11/15/04 | 12/17/04 | |
| 20 | Distribute to scoring team | 1 day | Mon 11/15/04 | Mon 11/15/04 | SOS |
| 21 | Provide review schedule | 1 day | Mon 11/15/04 | Mon 11/15/04 | SOS |
| 22 | Clarification memos to vendors | 1 day | Wed 12/1/04 | Wed 12/1/04 | SOS,ITS |
| 23 | Score and tabulate results | 10 days | Mon 12/6/04 | Fri 12/17/04 | SOS |
| 24 | Invite top vendors for demos | 22 days | Mon 1/3/05 | Tue 2/1/05 | |
| 25 | Schedule demos | 1 day | Mon 1/3/05 | Mon 1/3/05 | SOS |
| 26 | Prepare scoring for demos | 1 day | Tue 1/4/05 | Tue 1/4/05 | SOS |
| 27 | Conduct demos | 6 days | Mon 1/10/05 | Mon 1/17/05 | SOS |
| 28 | Tabulate results of scoring | 11 days | Tue 1/18/05 | Tue 2/1/05 | SOS |
| 29 | Award Process | 24 days | Wed 2/2/05 | Mon 3/7/05 | |
| 30 | Prepare contract | 15 days | Wed 2/2/05 | Tue 2/22/05 | SOS,ITS |
| 31 | Sign contract | 5 days | Mon 2/28/05 | Fri 3/4/05 | SOS,ITS,Vendor |
| 32 | Receive CP-1 | 1 day | Mon 3/7/05 | Mon 3/7/05 | ITS |
| 33 | Begin installation | 1 day | Fri 4/1/05 | Fri 4/1/05 | SOS,Vendor |



**Mississippi State Plan**
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**APPENDIX B**

**EXHIBIT B**
**Mississippi Secretary of State's Office**
**SWVR Procurement Project**

| ID | Task Name | Duration | Start | Finish | Resources |
|---|---|---|---|---|---|
| 1 | Develop procurement plan | 3 days | Thu 4/3/03 | Mon 4/7/03 | SOS |
| 2 | Develop CP-28 | 1 day | Tue 4/8/03 | Tue 4/8/03 | SOS |
| 3 | SOS planning meeting | 1.25 days | Tue 4/8/03 | Wed 4/9/03 | |
| 4 | Schedule meeting | 1 day | Tue 4/8/03 | Tue 4/8/03 | SOS |
| 5 | Prepare agenda | 1 day | Tue 4/8/03 | Tue 4/8/03 | SOS |
| 6 | Conduct meeting | 2 hrs. | Wed 4/9/03 | Wed 4/9/03 | SOS |
| 7 | Kick-off meetings with ITS & DPS | 5 days | Thu 4/10/03 | Wed 4/16/03 | |
| 8 | Schedule meeting | 1 day | Thu 4/10/03 | Thu 4/10/03 | SOS |
| 9 | Contact ITS/DPS | 1 day | Thu 4/10/03 | Thu 4/10/03 | SOS |
| 10 | Prepare agenda | 1 day | Wed 4/16/03 | Wed 4/16/03 | SOS |
| 11 | DPS/SOS planning meeting | 1 day | Tue 4/22/03 | Tue 4/22/03 | |
| 12 | HAVA overview | 1 day | Tue 4/22/03 | Tue 4/22/03 | SOS,DPS |
| 13 | DPS responsibilities | 1 day | Tue 4/22/03 | Tue 4/22/03 | SOS,DPS |
| 14 | ITS planning meeting | 1 day | Thu 4/24/03 | Thu 4/24/03 | SOS,ITS |
| 15 | Review timeline | 1 day | Thu 4/24/03 | Thu 4/24/03 | SOS,ITS |
| 16 | Discuss roles | 1 day | Thu 4/24/03 | Thu 4/24/03 | SOS,ITS |
| 17 | Discuss networking needs | 1 day | Thu 4/24/03 | Thu 4/24/03 | SOS,ITS |
| 18 | Deliver CP-28 to ITS | 1 day | Thu 4/24/03 | Thu 4/24/03 | SOS |
| 19 | Develop county functional specs | 50 days | Tue 4/8/03 | Mon 6/16/03 | |
| 20 | Review sample RFPs | 3 days | Tue 4/8/03 | Thu 4/10/03 | SOS |
| 21 | Conduct county surveys | 7 days | Tue 4/29/03 | Wed 5/7/03 | SOS,Counties |
| 22 | Research county requirements | 2 days | Thu 5/8/03 | Fri 5/9/03 | SOS |
| 23 | Clerks prioritize requirements | 5 days | Fri 5/23/03 | Thu 5/29/03 | Counties |
| 24 | Write specifications | 5 days | Fri 5/30/03 | Thu 6/5/03 | SOS |
| 25 | Distribute and review draft | 5 days | Fri 6/6/03 | Thu 6/12/03 | SOS,ITS |
| 26 | Edit draft | 2 days | Fri 6/13/03 | Mon 6/16/03 | SOS |
| 27 | Develop State functional specs | 12 days | Tue 6/17/03 | Wed 7/2/03 | |
| 28 | Review sample RFPs | 2 days | Tue 6/17/03 | Wed 6/18/03 | SOS |
| 29 | Research federal compliance | 1 day | Thu 6/19/03 | Thu 6/19/03 | SOS |
| 30 | Write specifications | 3 days | Fri 6/20/03 | Tue 6/24/03 | SOS |
| 31 | Distribute and review draft | 5 days | Wed 6/25/03 | Tue 7/1/03 | SOS,ITS |
| 32 | Edit draft | 1 day | Wed 7/2/03 | Wed 7/2/03 | SOS |
| 33 | Prepare scoring methodology | 2 days | Thu 6/26/03 | Fri 6/27/03 | SOS,ITS |
| 34 | Develop networking specs | 23 days | Thu 7/3/03 | Mon 8/4/03 | |
| 35 | Contact communication vendors | 2 days | Thu 7/3/03 | Fri 7/4/03 | SOS |
| 36 | Review current infrastructure | 1 day | Mon 7/7/03 | Mon 7/7/03 | SOS,ITS |
| 37 | Networking consultant review | 9 days | Tue 7/8/03 | Fri 7/18/03 | SOS |
| 38 | Write specifications | 5 days | Mon 7/21/03 | Fri 7/25/03 | SOS |
| 39 | Distribute and review draft | 5 days | Mon 7/28/03 | Fri 8/1/03 | SOS,ITS |
| 40 | Edit draft | 1 day | Mon 8/4/03 | Mon 8/4/03 | SOS |





| | | | | | |
|---|---|---|---|---|---|
| 41 | Develop general EIS specs | 10 days | Tue 8/5/03 | Mon 8/18/03 | |
| 42 | Write specifications | 4 days | Tue 8/5/03 | Fri 8/8/03 | SOS,ITS |
| 43 | Distribute and review draft | 5 days | Mon 8/11/03 | Fri 8/15/03 | SOS |
| 44 | Edit draft | 1 day | Mon 8/18/03 | Mon 8/18/03 | SOS,ITS |
| 45 | Deliver final document to ITS | 1 day | Fri 8/22/03 | Fri 8/22/03 | SOS |
| 46 | Review and edit final RFP | 5 days | Mon 9/8/03 | Fri 9/12/03 | SOS,ITS,SAC |
| 47 | RFP release process | 43 days | Tue 9/23/03 | Thu 11/20/03 | |
| 48 | Advertise RFP | 1 day | Tue 9/23/03 | Tue 9/23/03 | ITS |
| 49 | Release RFP | 42 days | Wed 9/24/03 | Thu 11/20/03 | ITS |
| 50 | Advertise RFP | 1 day | Tue 9/30/03 | Tue 9/30/03 | ITS |
| 51 | Mandatory bidders conference | .67 days | Wed 10/8/03 | Wed 10/8/03 | SOS,ITS,SAC |
| 52 | Bidders Q&A deadline | 1 day | Wed 10/15/03 | Wed 10/15/03 | SOS,ITS |
| 53 | Bid opening | 1 day | Thu 11/20/03 | Thu 11/20/03 | SOS,ITS |
| 54 | Review and scoring of proposals | 19 days | Tue 11/25/03 | Fri 12/9/03 | |
| 55 | Distribute to scoring team | 1 day | Tue 11/25/03 | Tue 11/25/03 | SOS |
| 56 | Provide review schedule | 1 day | Tue 11/25/03 | Tue 11/25/03 | SOS |
| 57 | Clarification memos to vendors | 1 day | Fri 12/5/03 | Fri 12/5/03 | SOS,ITS |
| 58 | Score and tabulate results | 19 days | Tue 11/25/03 | Fri 12/19/03 | SOS |
| 59 | Invite top vendors for interviews | 20 days | Mon 1/5/04 | Fri 1/30/04 | |
| 60 | Schedule interviews | 1 day | Mon 1/5/04 | Mon 1/5/04 | SOS |
| 61 | Prepare scoring for interviews | 1 day | Tue 1/6/04 | Tue 1/6/04 | SOS |
| 62 | Conduct interviews | 2 days | Tue 1/13/04 | Wed 1/14/04 | SOS,ITS,SAC |
| 63 | Tabulate results of scoring | 11 days | Fri 1/16/04 | Fri 1/30/04 | SOS |
| 64 | Award process | 38 days | Mon 2/9/04 | Wed 3/31/04 | |
| 65 | Prepare award documentation | 3 days | Mon 2/9/04 | Wed 2/11/04 | ITS,SOS |
| 66 | ITS Board for approval | 1 day | Fri 2/20/04 | Fri 2/20/04 | SOS,ITS |
| 67 | Prepare contract | 15 days | Mon 2/23/04 | Fri 3/12/04 | SOS,ITS |
| 68 | Sign contract | 5 days | Mon 3/15/04 | Fri 3/19/04 | SOS,ITS,Vendor |
| 69 | Receive CP-1 | 1 day | Wed 3/31/04 | Wed 3/31/04 | ITS |
| 70 | Begin installation | 1 day | Thu 4/1/04 | Thu 4/1/04 | SOS,Vendor |

**Mississippi State Plan**
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**APPENDIX C**

*Appendix C*

# Public Meetings on the "Help America Vote Act"

## Purpose

In generating Mississippi's response to the recently enacted federal Ney-Dodd-Hoyer-McConnell "Help America Vote Act of 2002" (HAVA), the Secretary of State, as the state's chief election official, is actively seeking public input on election-related issues. Sponsored by the HAVA State Plan Advisory Committee and moderated by the John C. Stennis Institute of Government, these meetings are designed to educate the public on the specific requirements of HAVA and to receive input on how these requirements may be implemented best at the state and local levels.

## Agenda

Overview of HAVA Legislation
Overview of Required State Plan Elements
Moderated Discussion of Local Issues Relating to HAVA Implementation

## Meeting Dates and Locations*

**Tuesday, April 15, 2003** ..... **Congressional District 1**
4 p.m. – 6 p.m.
Yerby Center Auditorium
University of Mississippi, Oxford

**Thursday, April 17, 2003** ..... **Congressional District 2**
4 p.m. – 6 p.m.
Fine Arts Building
Holmes Community College – Goodman Campus, Goodman

**Tuesday, April 22, 2003** ..... **Congressional District 4**
4 p.m. – 6 p.m.
Polymer Science Building Auditorium
University of Southern Mississippi, Hattiesburg

**Thursday, April 24, 2003** ..... **Congressional District 3**
4 p.m. – 6 p.m.
George Wynne Building, Lecture Hall
Hinds Community College – Rankin County Campus, Pearl

***Accommodations will be provided for the sight- and hearing-impaired.**

Information on meeting dates, locations, and times will be made available through a wide range of formats to the public, county and municipal election personnel, and local leaders. To be added to a public, moderated e-mail list for HAVA-related announcements, please send a short e-mail to hava@sig.msstate.edu with your name and e-mail address.

# SUMMARY OF "THE HELP AMERICA VOTE ACT" OF 2002

In response to the controversial 2000 Presidential Election, Congress passed "The Help America Vote Act of 2002," known as HAVA. This significant piece of national election reform affects nearly every facet of elections in the United States. Congress also recommended appropriating more than $3.6 billion dollars to fund the reforms mandated in HAVA.

This document contains a section-by-section summary of HAVA, with notes in some areas about the status of those items in Mississippi. The second section contains additional information about some of the more significant elements of HAVA.

## *Section-By-Section Summary*

**TITLE I – Payments to States Election Administration Improvement and Replacement of Punch Card and Lever Voting Machines.**

- $325 million dollars is authorized nationally to buy-out punch card and lever machines. States that apply for this program must complete the device replacement by the 2004 General Election, or apply for a waiver. The waiver gives states until January 1, 2006 to complete the replacement. The State may receive approximately $4000 per qualifying precinct under this program (the amount of the appropriation, and the number of states electing to participate in the program, may change this amount)

  *Mississippi has approximately 550 precincts that used punch card or lever machines during the 2000 Presidential Election, which would qualify for this program.*
- $325 million dollars is authorized nationally for states to improve the administration of elections.

  *Mississippi may use its share of these funds to improve elections in the state, so long as those activities are not inconsistent with HAVA or other relevant Federal laws.*

**TITLE II – Election Assistance Commission**

- A new Federal Commission is established, consisting of 2 Republican and 2 Democratic appointees.
- The Commission has no rulemaking authority, but will issue voluntary guidelines for voting systems and other HAVA requirements.
- The Commission will provide for the certification and testing of voting systems, will study election issues, and will administer grant programs in the following areas: Requirements Payments, Disability Access grants, Voting Technology Research grants, Pilot Program grants, Protection and Advocacy Systems Payments, and the National Student/Parent Mock Election.
- Each state must be represented by a state election official and a local election official, of different political parties, on the Election Assistance Commission Standards Board, which will be involved with review of voting systems and the establishment of voluntary guidelines.

  *Mississippi's representatives on the EAC Standards Board are Secretary of State Eric Clark (D) and Hinds County Election Commissioner Marilyn Avery (R).*
- Apart from the funds authorized under Title I, the following funds have been authorized for distribution to the states by the EAC
  - Fiscal Year 2003 – $1.4 billion
  - Fiscal Year 2004 -- $1 billion
  - Fiscal Year 2005 -- $600 million





*The amount authorized and the amount appropriated may not be the same. For FY 2003, the amount authorized was $1.4 billion, but Congress only appropriated $800 million. It is unclear if the difference will be made up in supplemental appropriations.*

- States may be eligible for the Requirements Payment only after submitting a State Plan, which must include the following:
  1. How the requirements payment will be used.
  2. How the state will distribute the benefits of the funding to other entities within the state.
  3. How the state will provide for voter education and election official/poll worker training.
  4. How the state will adopt voting system guidelines that are consistent with federal requirements.
  5. How the state will establish a fund to accept Federal dollars.
  6. What the state's budget for required HAVA activities is.
  7. How the state will maintain its expenditure level so that it is not less than the expenditure level for the fiscal year ending prior to November, 2000.
  8. How the state will measure performance to determine success for the state and for local government in carrying out elements of HAVA and the Plan.
  9. A description of the uniform, non-discriminatory state-based administrative complaint procedure.
  10. If the state accepted any Title I money, how it was used and the impact on the Plan.
  11. How the state will conduct ongoing management of the Plan.
  12. If applicable, changes from the previous FY State Plan and a report on the previous FY State Plan success (for State Plans submitted in later fiscal years)
  13. A description of the committee that advised in the development of the State Plan.

**TITLE III – Requirements**

Each state must:

- Provide voters an opportunity to check for and correct ballot errors in a private and independent manner.

  *This is also called "second chance voting." If a voter mistakenly over votes, or forgets to cast a vote in an election, the device will notify him/her in a private manner and allow for ballot correction.*
- Have a voting system with manual audit capacity.
- Provide at least 1 voting device per precinct that is accessible to the disabled.

  *All voters, including individuals with disabilities, must be able to cast their votes unassisted and in private. Curb-side voting and voter assistance will not meet the requirements set in this section of HAVA.*
- Provide alternative language accessibility pursuant to the Voting Rights Act.

  *Mississippi currently has 9 counties that have been identified by the U.S. Justice Department as requiring this type of action.*
- Have a voting system whose error rate does not exceed the existing rate established by the FEC Office of Election Administration.

*No such rate has been established. The EAC must issue guidance by January 1, 2004.*

****NOTE*** All states must meet Voting System Requirements by January 1, 2006. Any equipment purchased with funds received or appropriated under HAVA, and purchased after January 1, 2007, must meet ALL Voting System Standards requirements.*

- Define what constitutes a legal vote for each type of voting machine used in the state.

  *With the exception of the new touch-screen DRE voting devices, this has been done in Mississippi.*
- Provide provisional ballots to ensure no individual is turned away at the polls. Counties must also provide a "free access system" by which voters who cast provisional ballots may find out

if their vote counted.

*Provisional balloting is done in Mississippi, and is known as "affidavit balloting." There is no uniform method of free-access to affidavit balloting information currently prescribed in Mississippi.*

- Implement a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the state. This database will be used to ensure accurate voter registration lists for use at all elections. This list must be in place by January 1, 2004, unless the state applies for and receives a waiver to January 1, 2006.

*Mississippi passed enabling legislation in 2002 to begin work on such a system. The specifications for such a system prescribed by Mississippi's Select Task Force on Election Procedures and Technology predated HAVA, but were nearly identical.*

Ensuring system integrity:

- When registering to vote, individuals must provide a driver's license number or, if the voter does not have a driver's license, the last 4 digits of the Social Security number. If an individual does not have either number, he or she will be assigned a unique identifier. This must be in place by January 1, 2004.
- First-time voters who register to vote by mail are required to provide identification when they cast their ballots. Jurisdictions must comply with this by January 1, 2004.

*This requirement is for Federal elections only.*

- States are obligated to maintain clean and accurate voter registration lists.

*HAVA requires that the state office that maintains the state list must enter into agreements with other state agencies that provide information relevant to keeping voter information accurate. Data-sharing must take place among these agencies. In addition, the Mississippi Department of Public Safety will have to enter into an agreement with the Social Security Administration to share data that is relevant to the maintenance of accurate voter records.*

**TITLE IV – Enforcement**

- The U.S. Department of Justice may seek injunctive or declaratory relief for violations of HAVA.
- Each state receiving funds under HAVA must establish a state-based Administrative Grievance Procedure for hearing complaints. Citizens who feel that there has been a violation of the standards set under Title III of HAVA may file a complaint. The State will have to conduct hearings and, where appropriate, provide remedy.

*There is no such procedure established under Mississippi law.*

**TITLE V – Help America Vote College Program**

$5 million dollars authorized to encourage college students to participate in the political process by volunteering as poll workers.

**TITLE VI – Help America Vote Foundation**

$5 million dollars authorized to encourage high school students to participate in the political process by volunteering as poll workers.

*Mississippi law was changed in 2002 to allow jurisdictions to create a Poll Worker Intern program, where 16- and 17-year-old students may be selected to serve as assistants at the polls on election day. No jurisdiction is required to participate in this program, and each jurisdiction may set up the program according to its own priorities.*





**TITLE VII – Military**

Provisions to improve ballot access for military and overseas voters.

**TITLE VIII – Transition Provisions**

Transfer of responsibilities and oversight of particular activities to new entities.

**TITLE IX – Miscellaneous**

- The Commission is authorized to conduct audits, including special audits, of all entities receiving funds.
- Criminal penalties are established for conspiracy to deprive voters of a fair election, and for providing false information in registering and voting.

## *Significant Elements*

### Enhancing Voting for Persons with Disabilities

By building on provisions found in the Americans with Disabilities Act (ADA) and the Voting Accessibility for the Elderly and Handicapped Act (VAEHA), HAVA makes it easier for persons with disabilities to vote independently and privately. This legislation ensures that persons with disabilities have the same access to voting as other citizens. The "Help America Vote Act":

- Requires that every precinct across the nation have at least one voting machine or system that is accessible to individuals with disabilities by January 1, 2006.
- Authorizes $100 million in grants to improve polling place access for disabled voters.
- Authorizes an additional $40 million to improve State Protection and Advocacy systems. Beginning in 2003, the Secretary of Health and Human Services will award this money in four allotments of $10 million per year. The grants will be presented to entities in each state that represent persons with disabilities, and will be used to provide services that enable these individuals to participate fully in the electoral process.

### Voter Rights

- Second-Chance Voting – Each voter will be given an opportunity to check for and correct ballot errors in a private and independent manner.
- Provisional Ballots – An individual whose name does not appear on the official voter registration list will be given the opportunity to cast a provisional ballot, thereby ensuring that no individual is turned away at the polls.
- Access for Individuals with Disabilities – Each precinct will be required to provide at least 1 voting machine that allows individuals with disabilities to vote in a private and independent manner.

### Voting System Standards

- Audit Capacity – Each voting system must produce a permanent paper record with a manual audit capacity.
- Error Rates – Each voting system must comply with the existing error rate established by the FEC Office of Election Administration.
- Uniform Standard of What Constitutes a Vote – Each state must define what constitutes a legal vote for each type of voting machine used in the state.
- Multilingual Accessibility – Each voting system must provide alternative language accessibility pursuant to the Voting Rights Act.

### Computerized Statewide Voter Registration List

Each state must implement a single, uniform, official, centralized, interactive computerized statewide voter registration list to ensure accurate lists.

### Voting Information Requirements

By January 1, 2004, election officials must publicly post the following information at each polling place on election day:

- A sample ballot.
- The hours during which the polling place will be open.
- Instructions on how to cast a ballot or provisional ballot.
- Instructions for mail-in registrants who are first-time voters.
- General information on voting rights under federal and state laws.
- General information on prohibitions on fraud and misrepresentation.





### Assistance for Military and Overseas Voters

"The Help America Vote Act" contains provisions to improve ballot access for military and overseas voters. Both the Department of Defense (DOD) and states have requirements under these provisions.

*Requirements for the DOD*

- Military Voting Assistance Officers must be guaranteed the time and resources they need to help military personnel vote.
- The DOD must make certain that all military ballots have postmarks (or other official proof of mailing date) to ensure that no ballots are disqualified for this reason.
- The DOD must provide military personnel with applicable deadlines and other timely information on registration and voting.
- New military enlistees must be given a voter registration form.

*Requirements for States*

- States must establish a single state office mandated to provide information on registration and absentee voting, to make it easier for military personnel to access such information.
- States must report the number of military and overseas applications and ballot received to the Federal government.
- States must provide overseas absentee ballots for two Federal general elections to voters who request them. The current Mississippi absentee ballot application is good for only 1 year.
- States must accept a standard oath for verifying election materials.
- States may not refuse ballots for being submitted too early. Many military personnel are isolated for long periods of time (ex., submariners). This must be in place by January 1, 2004.
- States must notify overseas and military voters whose applications have been rejected. This requirement applies to both voter registration and absentee ballot applications.
- All items above are effective immediately, unless another effective date is listed.

## FREQUENTLY ASKED QUESTIONS REGARDING *"The Help America Vote Act of 2002"*

**What is the "Help America Vote Act"?**

The Help America Vote Act is the common title for a federal act signed into law by the President on October 29, 2002. Officially, it is Public Law 107-252, or codified as U.S.C. 15301-15545. Sometimes, it is also referred to as "The Help America Vote Act" for its principle authors, or as H. R. 3295, which was its designation as Congress finally enacted it.

**What is the purpose of the Act?**

After the problems seen in some other states during the 2000 Presidential Election, Congress recognized a need to standardize some elements of federal elections, and appropriated federal funds to help states make those reforms. The Act is the result of the negotiation between the House and Senate on exactly how those reforms should occur.

The Act refers specifically to federal elections, but because state and federal elections are usually conducted simultaneously, it will impact almost all Mississippi elections. The Act applies to all states and territories, and all of these areas must submit a plan that explains how the Act will be implemented locally.

The Act does not shift the control of elections to the federal level. Instead, it shifts responsibility for complying with federal election reform laws from the local to the state level, and sets a number of ground rules that states should follow to provide some uniformity in elections. For instance, one of the provisions of the Act specifies that each state must determine exactly what constitutes a legal vote on a ballot.

**Will the Act dramatically change the way local elections are conducted?**

The Act contains a number of provisions that are designed to make elections easier to understand, easier to access for people with disabilities, and easier to audit after the votes have been counted. One recent report noted that no single state in the nation met all the provisions of the Act, but some states will have more difficulty than others in complying, depending on their individual election systems.

Mississippi, for instance, already has state level enabling legislation for a statewide, centralized voter registry, which is one of the key components of the Act. Because the Legislature passed that in the 2002 session, Mississippi is ahead of many other states in planning how that provision of the Act can be implemented.

**What exactly does the Act do?**

Essentially, the Act sets up a system where every state and territory generates a roadmap – the statewide plan – that will be used to bring the state in conformity with the provisions of the Act. The provisions of the Act are generally designed to ensure that voters are capable of voting easily, privately, and independently, and sets up mechanisms where they can be sure their votes are counted, if there is any doubt.





First, the Act sets standard requirements for actual voting devices that are designed to make them easier to use: (a) voters must be able to review their ballot before it is cast to ensure they correctly voted for the right candidate, (b) voters must be able to change their selections on a race before the ballot is cast, and (c) the voting machine must provide some mechanism to notify voters when they accidentally vote for more than one candidate in a single race (and allow them to correct the error).

Additionally, voting systems must be able to produce a manual audit trail of those ballots that are processed, and this audit trail must be able to help local election officials determine error rates in processing ballots. The total error rate for a system should not exceed the Election Assistance Commission's specifications for the machine.

Secondly, the Act mandates statewide, centralized voter registration systems, that can be used at the local level to make sure that voter rolls are accurate and valid. As local election personnel enter registration information, that information automatically is double-checked against other registration entries (to determine if the applicant is registered in another jurisdiction), and is checked against other state databases (to ensure that the voter has not been convicted of a disenfranchising crime, and that the driver's license or social security number provided matches records for him). Further, the system will have the capability to interface with records at the Department of Health and other systems to determine if a particular entry is for a deceased person (and should be removed).

Third, the Act ensures that all people who believe they are eligible to vote in a jurisdiction but whose names do not appear on the poll books, can vote there by way of an affidavit ballot. The eligibility of the voter will be determined before the votes are finally totaled. Finally, the Act mandates that each person who votes an affidavit ballot be provided a free access system for determining if his or her vote was counted (and if not, why).

These elements constitute the major mandates of the bill. Details about how these requirements are to be implemented are largely left to the discretion of the state's chief election official, who must submit a statewide plan of action to the federal government.

**Will my county have to replace its voting equipment?**

In general, if a county has voting equipment that does not meet the requirements of the Act, those voting devices must be replaced or upgraded to meet the requirements of the Act by January 1, 2006. Specific funds are authorized in the Act to assist with the replacement of punch card and lever-based systems. States that receive those specific funds must replace their punch card and lever devices by the 2004 General Election, or by the 2006 General Election, if the state receives a waiver of the first deadline. Other funds may, at the discretion of the state's Chief Election Official, help defray costs of voting device purchases by local governments.

**If my county has already replaced its systems with compliant voting machines, will we be reimbursed by funds from the Act?**

The Act provides funds earmarked for defraying costs associated with replacing punch card and lever machines with compliant voting equipment. That program includes jurisdictions that used punch card and lever machines during the November 2000, election

and replaced those devices after that date. Until the entire plan is finalized and the state determines how much new equipment Mississippi needs to comply with HAVA, it is impossible to say if, or how much, each county may be reimbursed for equipment.

**How will I know if the machines my county purchases are compliant with the Act?**

One of the things the Act does is establish the Elections Assistance Commission, which will issue non-binding guidelines about how different machines conform to the requirements of the Act. Unfortunately, the Commission is not yet fully constituted, so there is no definitive source of information in the meantime, except for the Act itself. However, the Secretary of State's Office, national organizations, and many other resources are available to help a county make an educated decision about what types of voting equipment to purchase.

**Will all the counties purchase equipment separately, or will the state do it in bulk?**

It is not known at present exactly how much money is required to bring Mississippi counties into full compliance with HAVA Voting System Standards and the Statewide Voter Registry mandate. Until the state plan process is complete, no decision on how to allocate funds among the federal mandates will be made.

Because the current fiscal year appropriation from the federal government is less that the money authorized under HAVA, and because there is no guarantee that future authorized appropriations will be met, great care should be taken with the funds the state does receive. As a part of the plan process, all opportunities to "stretch" these dollars will be considered, including centralized purchasing.

**Will the statewide voter database mean that election rolls are maintained centrally from Jackson?**

The HAVA Act and the accompanying state legislation mandate that there will be a centralized voter registry, but that it will be designed so that local election officials have access to it to make additions, changes and deletions, as allowed by law. The purpose of the centralized registry is to better inform local election commissioners and circuit clerks about potential problems, duplicate entries, or other issues that should be acted on at the local level. The decision about whether a particular person should or should not be added to a jurisdiction's election roll is up to local election officials; the database will just be an added tool that will help ensure the rolls are accurate and up to date.

**Will the centralized system replace my current local voter registry?**

The centralized system has yet to be fully developed, but as a centralized system, data that is currently in your local system will be converted over to the new system, and the new system will then become the primary tool for managing election rolls at the local level.

**How much money is being made available through the Act?**

Although Congress passed and the President signed the Act, money must be separately appropriated to fund its provisions. Some $1.5 billion dollars was appropriated in the FY03 budget, much of it designated for specific programs. Since this bill was a high priority for





Congress, it is possible that additional monies will be made available in subsequent funding cycles, as states face compliance with the Act's expensive mandates. It is important to realize, though, that this is essentially one-time money – after the timetables specified by the Act expire, there are no additional funds that will be available under the Act. Moreover, the actual appropriation of funds has no bearing on a state's obligation to meet the requirements of the Act – little or no money does not mean that Mississippi can pick and choose which elements of HAVA it wishes to implement.

Most initial estimates predict that Mississippi will receive a total amount of approximately $34 million dollars, over a three-year period, and assuming that Congress fully funds HAVA. This provides a significant window of opportunity for state and local officials to work together to make improvements in elections-related infrastructure, while federal funding is available.

**Are there provisions in the Act that will require a voter to show a picture ID at the polling place?**

The issue of voter id has been one that has captured a great deal of press within Mississippi, as the Mississippi Legislature debated the issue as one element of an overall, comprehensive HAVA compliance bill. HAVA is very specific in its ID requirements: voters who register by mail (and do not include copies of one of several different kinds of identification with their registration), and who are voting for the first time in a jurisdiction (or state, once the state implements a centralized registry), must show one of a number of different types of ID when they go to the polling place. That ID could include a photo ID driver's license, a paycheck, a utility bill, or other government document that includes a name and address. There is an exception for voters whose driver's license or social security number match a state record containing this verifying information. In addition, some military personnel and people over sixty-five are exempt from this requirement entirely.

**Is HAVA only going to be used in years that there are candidates for federal office?**

HAVA requirements only apply to elections for federal offices, but most states, including Mississippi, will likely pass state statutes or promulgate administrative rules, or both, that make HAVA requirements applicable to all elections. Without a single set of rules for federal, state, and local elections, Mississippi would have different rules in non-federal election years only. This type of dual system is confusing to voters and election officials alike.

**What is the timetable for submitting the statewide plan?**

Public hearings are being held during the month of April to receive input from people at the local level. In addition, the entire plan is being developed with the input from the HAVA Advisory Committee, which has many representatives from the local level.

After a draft version of the plan is produced with the aid of the advisory group, it will be advertised and made available for public comment for thirty days. At the end of that time, it may be revised to accommodate the public comments that were received, and must eventually be published in the *Federal Register*.

The preliminary plan will be published in Mississippi for comment on or around July 1, 2003, and the final plan will be submitted to the federal government in early August.

**How can I continue to be a part of the plan formulation process?**

A number of methods are available:

- Stay in touch with your representatives on the HAVA Advisory Committee.
- Communicate with the staff at the Elections Division of the Office of the Secretary of State (elections@sos.state.ms.us or 1-800-829-6786)

**Help America Vote Act**
**State Plan**

*INTRODUCTION*

a. **Description of Missouri's present system as it relates to HAVA:**
   i. **Statutory and administrative framework;**
   ii. **State and local roles/responsibilities;**
   iii. **Voting age population;**
   iv. **Voting eligible population;**
   v. **Turnout;**
   vi. **Number and percent of absentee ballots cast;**
   vii. **Number of punch card, optical scan & accessible DRE systems;**
   viii. **Voting registration systems.**

b. **Statement of goals or mission statement reflecting intent of State Plan.**

**Introduction**

State and local governments will be faced with a dramatic shift in elections responsibility as a result of the federal Help America Vote Act of 2002 (HAVA), public law 107-252. Meeting many of HAVA's requirements is mandatory regardless of the availability of federal funds. Following is a brief overview of Missouri's present elections system.

**Statutory and Administrative Framework**

Election authorities and the conduct of elections in Missouri are governed by Chapter 115 of the Revised Statutes of Missouri (RSMo), known as the "Comprehensive Election Act of 1977", as amended. Missouri election laws establish comprehensive procedures to conduct full and fair elections, including provisions on the Intent of the Act and Definitions (sections 115.001-115.013); Election Authorities (sections 115.015-115.077); Election Judges (sections 115.079-115.103); Challengers and Watchers (sections 115.104-115.111); Precincts and Polling Places (sections 115.113-115.119); Elections, When Held—Notice, How Given (sections 115.121-115.129); Qualifications of Voters and Registration (sections 115.133-115.223); Automated Voting Equipment (sections 115.225-115.273); Absentee Voting (sections 115.275 to 115.304); Political Parties and Nomination of Candidates (sections 115.305-115.405); Polling Places and Voting Procedures (sections 115.407-115.445); Counting of Votes (sections 115.447-115.525); Election Contests (sections 115.526-115.601); Political Party Committees (sections 115.603-115.627); Election Offenses (sections 115.629-115.646); Mail-In Ballots, Certain Elections (sections 115.650-115.660); Local Issues-Petition (section 115.700); and Presidential Primary (sections 115.755 to 115.785).

In addition, pursuant to statutory authority the Secretary of State has promulgated administrative rules on Voter Identification (15 CSR 30-3.010); Postcard Voter Application and Forms (15 CSR 30-4.010); Mail Ballot Election Procedures and Forms (15 CSR 30-5.020); Provisional Voting Procedures (15 CSR 30-8.010-15 CSR 30-8.020); Uniform Counting Standards (15 CSR 30-9.010-15 CSR 30-9.040); and Voting Machines (Electronic) (15 CSR 30-10.010-15 CSR 30-10.120).

**State and Local Roles/Responsibilities**

The Secretary of State is the Chief State Election Official whose responsibilities for state and federal elections include, but are not limited to, the following:

1. Certification of voting and ballot counting systems used in Missouri;
2. Design and maintenance of the Centralized Voter Registration Database;
3. Candidate filing and ballot certification for the six constitutional state offices, U.S. Congress, the General Assembly, and circuit judges not covered by the non-partisan court plan;
4. Canvassing and certification of votes, and publishing of election results;
5. Rulemaking authority in the following areas related to HAVA;
   a. Ballot counting procedures, including uniform counting standards for each voting system approved for use in Missouri;
   b. Voter registration forms;
   c. Provisional voting and ballots;
   d. Machine certification
   e. Voter identification requirements; and
   f. Centralized Voter Registration Database;
6. Development and distribution of training materials for local election officials and poll workers; and
7. Assisting the 116 local election authorities interpret and administer state election laws.

The Secretary of State cooperates with other officials, schools, and civic organizations to provide materials supporting voter registration, responsibility and education. A high priority of the Secretary of State is to work with local election officials, the media and other groups to increase voter participation.

In Missouri, there are 116 local election authorities. Election authorities are responsible for supervising the voter registration process, maintaining the voter registration rolls for its jurisdiction, and conducting all public elections for the State and all political subdivisions within its jurisdiction. This includes all federal, state, county, municipal, school district, fire district, water district, and any other special district elections. Any election administration duty not specifically assigned by statute to the Secretary of State is the responsibility of the local election authorities.

**Voting Age Population**

According to 2000 Census figures, there are 4,167,519 Missourians of voting age. This is up from 1990, when Missouri's voting age population totaled 3,801,603.

**Voting Eligible Population**

Currently, Missouri has over 3.6 million registered voters. In the November, 2000 general election, 2.3 million voters went to the polls. In the November, 2002, nearly 1.9 million Missourians cast ballots.

**Turnout**

50.9 percent of Missouri's registered voters participated in the November, 2002 general election, a number higher than the estimated national average of 39 percent. Turnout for the November, 2000 general election , a presidential election year, was even higher, with over 60 percent of Missouri's registered voters casting ballots.

**Number and Type of Voting Systems in Missouri**

There are three voting systems currently approved for use and used in Missouri: (1) Manual (paper ballot); (2) punch card; and (3) optical scan. Following is a chart showing the type of voting system used by each Missouri County, the total number of registered voters by voting system, and the total jurisdictions by voting system:

| County | Manual | Punch Card | Optical Scan |
|---|---|---|---|
| Adair | | 18467 | |
| Andrew | | | 10523 |
| Atchison | | | 4914 |
| Audrain | | 16329 | |
| Barry | | | 21399 |
| Barton | | | 9204 |
| Bates | | | 10948 |
| Benton | | | 13055 |
| Bollinger | | | 9535 |
| Boone | | | 93722 |
| Buchanan | | | 54358 |
| Butler | | 35318 | |
| Caldwell | | 6109 | |
| Callaway | | 23874 | |
| Camden | | 28400 | |
| Cape Girardeau | | 42017 | |
| Carroll | | 7328 | |
| Carter | 5082 | | |
| Cass | | | 62000 |
| Cedar | | 10266 | |
| Chariton | 6881 | | |
| Christian | | | 48080 |
| Clark | | | 5098 |
| Clay | | | 104613 |
| Clinton | | | 14741 |
| Cole | | 49463 | |
| Cooper | | | 10448 |
| Crawford | | 17237 | |
| Dade | 6108 | | |
| Dallas | | | 9864 |
| Daviess | | | 5416 |
| DeKalb | | | 6110 |
| Dent | | 7580 | |
| Douglas | | | 9884 |
| Dunklin | | | 23510 |
| Franklin | | 61937 | |
| Gasconade | | 10266 | |
| Gentry | | | 5228 |
| Greene | | 177209 | |
| Grundy | | | 6276 |

| | | | |
|---|---|---|---|
| Harrison | 6483 | | |
| Henry | | | 16053 |
| Hickory | | | 6137 |
| Holt | | | 4477 |
| Howard | | | 7400 |
| Howell | | | 19828 |
| Iron | | | 6646 |
| Jackson | | 202229 | |
| Jasper | | 72656 | |
| Jefferson | | 111352 | |
| Johnson | | | 22953 |
| Kansas City | | 276694 | |
| Knox | | | 3215 |
| Laclede | | | 20733 |
| Lafayette | | | 20522 |
| Lawrence | | 22787 | |
| Lewis | | | 6951 |
| Lincoln | | | 27554 |
| Linn | | 9605 | |
| Livingston | | 9794 | |
| Macon | | | 10261 |
| Madison | | | 9378 |
| Maries | | | 6622 |
| Marion | | 19921 | |
| McDonald | | 12933 | |
| Mercer | 2828 | | |
| Miller | | | 16315 |
| Mississippi | | | 9898 |
| Moniteau | | | 9233 |



| | | | |
|---|---|---|---|
| Monroe | | | 6291 |
| Montgomery | | | 8031 |
| Morgan | | | 12425 |
| New Madrid | | | 11507 |
| Newton | | | 39684 |
| Nodaway | | | 12899 |
| Oregon | | | 6907 |
| Osage | | | 8719 |
| Ozark | | | 7078 |
| Pemiscot | | 16855 | |
| Perry | | 11975 | |
| Pettis | | 25433 | |
| Phelps | | 23906 | |
| Pike | | | 11130 |
| Platte | | | 55025 |
| Polk | | 15108 | |
| Pulaski | | | 20983 |
| Putnam | | | 4044 |
| Ralls | | | 7400 |
| Randolph | | 16498 | |
| Ray | | 17022 | |
| Reynolds | 6888 | | |
| Ripley | | | 10208 |
| Saline | | | 17939 |
| Schuyler | | | 3516 |
| Scotland | 3306 | | |
| Scott | | | 26154 |
| Shannon | 6787 | | |
| Shelby | | | 4591 |

| | | | |
|---|---|---|---|
| St. Charles | | 172524 | |
| St. Clair | | | 6512 |
| St. Francois | | | 37637 |
| St. Louis County | | 618149 | |
| St. Louis City | | 193274 | |
| Ste. Genevieve | | 11029 | |
| Stoddard | | | 21377 |
| Stone | | | 22906 |
| Sullivan | | | 5214 |
| Taney | | 30623 | |
| Texas | | | 14981 |
| Vernon | | | 11631 |
| Warren | | 17343 | |
| Washington | | | 15876 |
| Wayne | | | 9278 |
| Webster | | | 20092 |
| Worth | 2206 | | |
| Wright | | | 12628 |
| **TOTAL REGISTERED VOTERS BY VOTING SYSTEM** | **46569** | **2419510** | **1215765** |
| **TOTAL JURISDICTIONS BY VOTING SYSTEM** | **9** | **37** | **70** |

Of the 70 optical scan counties, 7 have precinct scanners in every polling place, 23 have precinct scanners in some polling places, and 40 have only a central count optical scan.

**Voter Registration Systems**

Local. Current Missouri law provides that local election authorities are responsible for registering voters and maintaining the voter registration rolls in their jurisdictions.

State. By statute, the Secretary of State maintains a centralized voter registration database (CVRDB). It is a three-part system, consisting of (1) the CVRDB; (2) a stand alone local voter registration system for 111 county election authorities (LEMS—a comprehensive voter registration software); and (3) an interface capability for 5 election authorities that use and maintain their own individual systems (Interface Counties).

The current statewide CVRDB does not comply with HAVA. It will have to be upgraded, or a new system developed, to comply with the HAVA requirements.

**Mission Statement**

The mission statement of Missouri's State Plan Committee is to provide advice and to assist the Secretary of State in developing Missouri's State Plan, a comprehensive report detailing the steps Missouri will take to improve its election services and how Missouri will spend any federal dollars received to comply with the requirements of the Help America Vote Act of 2002 (HAVA).

*Section 1*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

**(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.**

**TITLE III REQUIREMENTS**

On October 29, 2002, President Bush signed HR 3295, the Help America Vote Act of 2002 (HAVA), a federal election reform bill that provides significant funding to the States for the improvement of elections.

The requirements of title III of HAVA for Missouri are as follows:

1. Voting Systems Requirements
   - Second chance voting
   - Audit trail for each machine
   - Accessible to voters with disabilities
   - Alternate language accessibility (not applicable to Missouri)
   - Meet voting system error rate standards
   - Uniform counting standards

2. Provisional Voting Requirements
   - Notify individual that the individual may cast provisional ballot if name does not appear in poll book
   - Provide for prompt verification
   - Count provisional ballot if it is determined that individual was eligible
   - Establish free access system that any individual who casts a provisional ballot may access to discover whether the individual's vote was counted, and if not counted, the reason the vote was not counted
   - Give individuals who cast provisional ballots information about the free access system at the time they cast their provisional ballots
   - Provide separate provisional ballots for ballots cast pursuant to court order or other order extending the time established for closing the polls



3. Voting Information Requirements
   - Post voting information at polling place

4. Computerized Statewide Voter Registration Database
   - Establish single, uniform, official, centralized, interactive computerized voter registration list maintained and administered at the state level
   - Establish standards for accuracy of voter registration records
   - Establish standards for regular updates of voter registration records

5. Requirements For Voters Who Register By Mail
   - Require first time voter who registers by mail to present valid identification
   - Provide opportunity to vote a provisional ballot if such individual fails to provide proper identification
   - Revise mail-in voter registration application to include questions about whether applicant is a United States citizen and whether applicant will be 18 years of age on election day

Missouri is already in a good position to comply with the title III requirements of HAVA. Following the November, 2000 general election, Secretary Blunt assembled a bipartisan commission of local election officials from across the State to review current laws, seek public input, and make recommendations for changes in Missouri's elections statutes and rules. As a result, in 2002 the General Assembly passed Senate Bill No. 675, a comprehensive election reform package, which was signed into law by the Governor. Several provisions in Senate Bill No. 675 are similar to provisions in HAVA, such as provisional voting, computerized voting systems, and voter identification. To address the remaining HAVA compliance issues, another elections bill, House Bill No. 511, has been passed by the General Assembly and signed into law by the Governor. The main purpose of the bill specifically is to ensure that Missouri fully complies with HAVA. A copy of the most current version of House Bill No. 511 can be found on the internet at <http://www.house.state.mo.us/bills03/biltxt/senate/1632S.07F.htm> and is incorporated by reference herein.

HAVA provides significant funding to Missouri for improving the elections process. Assuming full funding, Missouri can expect to receive up to $8.9 million for election administration improvement (section 101 money); up to $10.5 million for punch card replacement (section 102 money); and up to $57.3 million to meet the requirements of title III (sections 252 and 257 requirements payments).

The title III funding is expected to be distributed over the next three fiscal years. If fully funded, the $57.3 million requirements payments will be made available to local election authorities either through grants or a revolving loan program to upgrade their voting systems and administration so that they fully comply with HAVA, and ongoing

maintenance of the statewide voter registration database to keep it in compliance with HAVA.

**Voting Systems**

Second Chance Voting. Section 301 of HAVA requires voting systems in Missouri to meet three requirements: (i) allow voters to verify their votes in a private and independent manner; (ii) allow voters the opportunity to correct any errors in a private and independent manner; and (iii) notify voters if they have cast multiple votes for one office (known as over voting) and allow the opportunity to correct the error. Under current Missouri law and practice, Missouri already complies with (i) and (ii) and some jurisdictions using precinct registers with optical scan voting systems comply with (iii). However, those jurisdictions using a punch card voting system, a central count optical scan system, of paper ballots, do not comply with (iii). To ensure uniformity throughout the State, the Secretary of State will develop education plans for each type of voting system used in Missouri to comply with the second chance voting requirement for over vote correction and notification. These plans will be made available to local election authorities that choose to meet the over vote notification and correction requirement through education. Local election authorities also will have the option to provide scanners or other mechanical or computerized equipment at the polling place to satisfy this requirement.

Audit Trail. Current state law requires all computerized voting systems in Missouri to have the ability to provide a paper audit trail. The Secretary of State will not approve the use of any computerized voting systems in Missouri unless it can produce a paper audit trail that complies with HAVA and current FEC accessibility standards.

Accessibility. Following are the guidelines and criteria that the Secretary of State will use to ensure that the accessibility requirements for voting systems are met:

1. The accessible machine will be defined as one that meets the current federal accessibility standards in section 2.2.7 and has been certified by an ITA as conforming to those technical standards.

2. A usability task force made up of a variety of people with disabilities including those who primarily use large print, those who primarily use audio output, and those who need alternative input mechanisms should be established to provide non-technical usability reviews of products that have been certified as meeting the FEC 2002 accessibility standards. A standard set of descriptors should be developed for this group to implement in their usability review. The consumer usability review should assist with product purchasing decisions as described in #4 below.



3. It is anticipated that the State will allocate sufficient funds to pay for 100% of the costs associated with the purchase of the one required accessible voting system per polling place as outlined in #5 below.

4. Two contracts may be established to implement the most cost effective approach to delivering the required accessible voting systems.

   - A multi-vendor state contract should be established with "discount off retail" prices that can be used at the option of local election officials for equipment purchases. If a local jurisdiction is converting to accessible DRE systems, they should be able to select and purchase the accessible DRE system and required accessible systems from such multi-vendor state contract or negotiate their own contract. (Such contract could also be used by counties to purchase only the required accessible voting systems, but would probably not be as cost effective as the following.)

   - A single state contract for accessible voting systems should be established based on interested counties who are not converting to accessible DRE systems and are only purchasing the one required accessible system per polling place. To maximize cost savings, an RFP should be done to secure the lowest and best offer for that number of accessible systems.

5. Those local election authorities participating in the central purchase of accessible machines will be provided with one machine per polling place and sufficient back up equipment. Those local jurisdictions who purchase off the state multi-vendor contract and convert all voting equipment in a polling place will be funded at 100% of the costs for the accessible machines. Those local election authorities that purchase only accessible machines off the state multi-vendor contract will be funded at 100% of the costs for that number of machines as if they had been purchased under the central state contract.

Error Rate Standards. Missouri does not currently comply with the April 2002 FEC counting standards. We will be reliant on vendors to resubmit for certification equipment currently used in Missouri for counting. Equipment not resubmitted and/or failing to meet the standards will need to be replaced prior to January 1, 2006. Because of this, payments under Section 252 and 257 possibly will need to be allocated to meet this potential liability.

To facilitate certification, in our proposed budget described in section 6 of this State Plan we are including grants to Missouri college engineering schools for the purpose of becoming certified as Independent Testing Authorities (ITA's) for voting equipment standards.

Uniform Counting Standards. The Secretary of State has already promulgated administrative rules defining what constitutes a vote for the three types of voting systems approved and in use in Missouri: punch card voting systems (15 CSR 30-9.010), optical

scan voting systems (15 CSR 30-9.020), and paper ballots (15 CSR 30-9.030). The Secretary of State will promulgate administrative rules defining what constitutes a vote for any additional voting systems approved for use in Missouri in the future.

**Provisional Voting**

Pursuant to election reform legislation passed by the General Assembly in 2002, provisional voting was used in the November, 2002 general election. Missouri's current provisional voting law already complies with many HAVA provisional voting requirements. To comply with the additional requirements in HAVA, House Bill No. 511 modifies Missouri's provisional voting law by expanding the definition of those individuals who are eligible to cast a provisional ballot; establishing a free access system for individuals to discover whether their provisional votes were counted, and if not, why not; providing education and information to voters on provisional balloting and the free access system; and providing for separate provisional ballots for ballots cast pursuant to court order or other order extending the time established for closing the polls. Furthermore, the law authorizes the Secretary of State to promulgate administrative rules as necessary to implement provisional voting that complies with HAVA.

**Voting Information**

As set out in more detail below under Section 3 of this State Plan, Missouri will implement a comprehensive, uniform voter education and information program by utilizing pamphlets, posters, video segments, internet web sites, and newspaper and television spots. Vendors of voting systems will also be required to make training materials available.

**Computerized Statewide Voter Registration Database**

As noted above in the Introduction Section of this State Plan, the Secretary of State currently maintains a Centralized Voter Registration Database (CVRDB) that is not compliant with HAVA. Missouri's plan is to upgrade the existing CVRDB or obtain a new system through the competitive bidding process to comply with HAVA. The objectives of the database include:

- Establish a single statewide voter registration system that meets all federal requirements.
- Address error handling by increasing the accuracy of voter registration records.
- Provide a system that allows for immediate electronic access to the system by local election officials.
- Ensure that the system is secure.
- Build interfaces for Department of Revenue (driver's license and social security number information for matching purposes under HAVA); Department of Health (death records); and the Department of Corrections (felony records). Consideration should also be given to coordinating a link between the local election authorities and voter registration agencies as defined under the National Voter Registration Act (NVRA) to facilitate voter registration.
- Standardize voter registration practices to ensure uniformity throughout the State
- Upgrade or replace CVRDB.
- Options for connection to the Counties.

The Secretary of State also plans to provide internet connectivity between the Secretary of State and local election authorities to comply with the interactive and immediate access requirements of HAVA. The State currently pays approximately $7,000 per month for dial up for the counties. DSL will run approximately $34 – 59/month per county, but the Secretary of State will still need to address a back-up system. Currently the Secretary of State's Technology Trust Fund pays for the internet access and the maintenance on the LEMS software. The maintenance costs are around half a million dollars per year.

**Mail-In Voter Registration Requirements**

Current Missouri Law already requires all voters, whether voting in person or by absentee ballot, to present identification before casting a ballot. Missouri has already modified the mail-in voter registration applications to comply with HAVA.

*Section 2*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

**(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).**

House Bill No. 511 establishes two new funds in the state treasury: (1) the "Election Administration Improvements Fund"; and (2) the "Election Improvements Revolving Loan Fund". This legislation gives the Secretary of State the authority and flexibility to distribute funds to local election authorities either through grant or revolving loan programs or a combination of both.

**Grant Programs**

State statutes require the Secretary of State to administer the grant programs created by the statutes to distribute the requirements payments to the local election authorities for carrying out the activities necessary to comply with HAVA. Senate Bill No. 675, passed by the General Assembly and signed into law by the Governor in 2002, establishes four grant programs, all subject to the appropriation of federal funds: (1) Section 115.074, RSMo Supp. 2002, provides that the Secretary of State shall administer a grant program for the purposes of providing funds to election authorities to upgrade or improve the voting process or equipment. Section 115.074 further authorizes the Secretary of State to promulgate administrative rules to facilitate the administration of the grant program. (2) Section 115.076, RSMo Supp. 2002, provides that the Secretary of State shall administer a grant program for the purposes of providing funds to election authorities to purchase voting machines that are accessible to individuals with disabilities, to make polling places accessible to individuals with disabilities, and provide individuals with disabilities with information about accessibility issues. Section 115.076 further authorizes the Secretary of State to promulgate administrative rules to facilitate the administration of the grant program. (3) Section 115.098, RSMo Supp. 2002, provides



that the Secretary of State shall administer a grant program for the purpose of increasing the compensation of election judges. Section 115.098 further authorizes the Secretary of State to promulgate administrative rules to facilitate the administration of the grant program. (4) Section 115.801, RSMo Supp. 2002, provides that the Secretary of State shall administer a grant program for the purpose of allowing election authorities to receive federal funds to involve youth in the election process and improve the election process in federal elections. Section 115.801 further authorizes the Secretary of State to promulgate administrative rules to facilitate the administration of the grant program. These four statutory grant programs will be the vehicles used by the Secretary of State to distribute the requirements payments to local election authorities.

The Elections Division of the Secretary of State will develop and manage grant programs funded by the requirements payments. The Secretary of State will develop a Guidebook and Application for local election authorities to use in applying for grants. The Local Records Division of the Secretary of State has experience in administering federal grant programs to local government entities and has developed a detailed and comprehensive Guidebook and Application for its FY 04 Missouri Local Records Preservation Grant Program. A copy of the Guidebook and Application can be found on the Secretary of State's internet web page at <http://www.sos.state.mo.us/archives/localrecs/grants/FY04grantpacket.pdf> and is incorporated by reference herein. The Guidebook and Application developed by the Elections Division will be similar in scope and format to the Local Records Guidebook and Application.

One requirement for local election authorities to receive federal funds will be to comply with a maintenance of effort requirement similar to the one that the State must meet to receive title III requirements payments. The exact details of the local maintenance of effort requirements and calculations on how to figure local maintenance of effort levels will be determined in the process of developing the grant application and guidelines.

**Revolving Loan Programs**

The Elections Division of the Secretary of State will develop a Guidebook and Application for the Revolving Loan Programs similar to the one it will develop for the Grant Programs.

**Criteria**

Pursuant to the statutory authority granted by Senate Bill No. 675, the Secretary of State will promulgate administrative rules to facilitate the administration of the grant programs, including but not limited to the criteria for determining the eligibility of entities for receiving funds. These administrative rules will be promulgated in accordance with the Missouri Administrative Procedure Act, Chapter 536, RSMo.

The Elections Division of the Secretary of State will manage the programs and projects funded by the requirements payments. The Secretary of State will be responsible for accounting of all expenditures, funding, controls and performance in accordance with

state and federal laws. The Secretary of State anticipates using a variety of audit practices, including on-site visits and requiring local election authorities to file written reports detailing their progress in meeting the title III requirements.

The performance measures listed in Section 8 of this State Plan will be used as the benchmarks to monitor performance and compliance with the title III requirements.





*Section 3*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

**(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.**

## VOTER EDUCATION

Education and training are the most crucial elements of a voter education plan. An informed electorate increases the probability of conducting successful elections exponentially with each knowledgeable voter. The traditional concept of voter training/education will be expanded with the implementation of HAVA in Missouri. The breath of the program will include three components, -- Voter Education, Voter Information, and Voter Participation.

The objective of the Voter Education/Information Program is to develop confidence in the election system and the outcome of elections in Missouri. It should illustrate that election officials have the information that voters and potential voters need. It should assure understanding of electoral processes and procedures, create an awareness of the election system, and develop positive attitudes towards it.

**Voter Education Program** -- The Voter Education Program will be a long-term program designed to educate, inform and change attitudes of voters. It will be a crucial element for election authorities changing from one system or process to another.

Currently voter education programs in Missouri are very limited and come under the purview of local election officials. The State Plan will expand, formalize and stabilize the program to ensure uniformity in information delivered to the public. A variety of methods will be used to enhance existing materials and develop tools to meet the requirements of HAVA, including:

1. Pamphlets containing information about voting history, the electoral college, when elections occur in Missouri, voter registration, how to cast a ballot,

including a provisional ballot, a Voters' Bill of Rights, re-enfranchisement, election offenses, contact information when rights have been violated, absentee voting, voter ID requirements, post card registration, and voting options for voters with disabilities, along with other information, will be made available in the Offices of the Secretary of State (SOS) and local election officials. The information provided to the voter will include information on how to verify the votes selected by the voter and how to correct any errors before the ballot is cast and counted. Information about the availability of such pamphlets will be posted on the SOS' website.

2. Posters containing the above information will be developed and displayed at each polling place in conformance with HAVA. Missouri law currently meets the HAVA requirement to post sample ballots in each polling place.
3. Similar pamphlets will be developed and distributed to elementary and secondary schools.
4. Two to three minute video segments demonstrating how to cast a ballot using each type of voting equipment in the state will be developed. The videos will be distributed to local media outlets and local public libraries prior to federal, and major elections in the state and made available to the public upon request. Audio and written PSAs and/or ads may be created and distributed to newspapers and radio stations throughout Missouri. The information provided to the voter will include information on how to verify the votes selected by the voter and how to correct any errors before the ballot is cast and counted.
5. Election authorities upgrading to new voting equipment will be provided with a comprehensive implementation guide that contains, but is not limited to, the following components: (a) policy and legal requirements associated with the change; (b) logistics of the physical change; (c) procedural changes required; (d) personnel requirements; (e) internal training needs; (f) external training methods, including city-wide demonstrations and coordinating demonstrations with various organizations such as the NAACP and Kiwanis Clubs; (g) publicity campaigns; and (h) test elections.
6. Little change is needed in the state to comply with HAVA **military and overseas voting** requirements. Early applications are currently accepted from this population and pending legislation will enable the state to be in compliance with reporting guidelines, distribution of ballots for the next two federal general elections, accepting Presidential designees oaths, and providing explanations for rejecting applications. The SOS and local election officials will post this information on their websites.

**Second Chance Voting** – To ensure uniformity throughout the State, the Secretary of State will develop education plans for each type of voting system to comply with the second chance voting requirement for over vote notification and correction. These plans will be made available to local election authorities that choose to meet the over vote notification and correction requirement through education.

**Voter Information Program** – In order to give full effect to the intent of HAVA and to achieve greater participation in the election process, it is essential that we have a



population that receives accurate, updated and uniform information regarding their rights and responsibilities as voters. The Voter Information Program is intended to be election specific and communicated prior to each election with the following non-exclusive information:

- Election dates and times
- Registration dates
- Who is eligible to vote absentee
- Location of polling sites
- Availability of sample ballots
- Guidelines for primary elections (such as the need to select a party ballot)
- Change of address requirements for voters
- Change of name requirements for voters

The data will appear on the SOS' and local election officials' websites, in local newspapers and, when possible, on local television stations. In addition, the SOS and local election officials' websites will be equipped with audio capability to service hearing impaired voters.

**Voter Participation Program** -- This component is targeted specifically toward college students and is designed to teach the value or benefit of voting and why they should participate in the process. In many instances courses in government and education do not cover the election process. Through the **College Poll Worker Program**, title V grants will be used so that students will have the opportunity to obtain first hand knowledge of the voting process through their experiences serving as poll workers or assistants.

To ensure the success of the program, the SOS will establish a unit within the SOS office to develop, oversee and monitor the statewide program. Colleges and universities will be asked to include information about the program in their course catalogs and on their website. The program will offer a stipend to any student, in cooperation with an institution of higher learning, who is willing to (i) apply for a grant and become a spokesperson within the school, and/or to a group of schools, and (ii) maintain records and forward reports as required.

## ELECTION OFFICIAL EDUCATION AND TRAINING

Frequent changes in legal requirements and ever evolving practices, processes and technology make it imperative that election officials throughout the state be equipped with the tools and knowledge to conduct successful elections. As the state's chief election official, the SOS has the responsibility to insure the development of a comprehensive training package for this group of administrators. This plan will be developed using state academicians, election administrators and SOS staff in association with the certification program offered by the Missouri Association of County Clerks and Election Authorities. Elements of the training will include:

1. A core curriculum containing historical information about elections, federal and state legal requirements, management development courses, technical aspects of elections, and the role of technology in the election process.
2. Links to national, state and local election education organizations.
3. An ongoing review, evaluation and revision provision.

**POLL WORKER TRAINING**

The most critical component of election reform is the development of a comprehensive training and education component for poll workers, who are the front line of the election process. This program must incorporate every facet of the balloting process performed at the polling place and focus on basic customer servicing skills to be effective. If funding is made available, the SOS, in conjunction with the University of Missouri Outreach and Extension program and election administrators, will develop a comprehensive statewide training program designed to develop competent poll workers including, but not limited to the following elements:

- Basic customer servicing techniques -- a necessity for a cadre of individuals who will have direct contact with over 2.5 million citizens during a presidential election. No other government function has this level of contact with citizens in such a short time span.
- Sensitivity training -- poll workers encounter a diverse citizenry on election day. The public expects positive interactions with each voter, regardless of the poll worker's background.
- Services to voters with disabilities and special needs -- only a fraction of our poll workers have been exposed to training at any level that teaches how to service this ballooning population.
- Civil rights -- poll workers may have little or no understanding of the rights of voters and what steps must be taken to protect those rights. Often voters who encounter a problem with voting are treated as having done something wrong.
- Accounting/ballot security -- ballots are, in essence, like money, since any lost vote or ballot could potentially jeopardize an election. Ballot security and tracking of ballots are essential to the conduct of accurate and fair elections.
- Polling place procedures --a step-by-step methodology for processing voters.
- Technical training -- as we move toward implementation of multiple types of equipment at polling places, training materials must reflect information on how to set up, operate, troubleshoot and maintain the equipment, in language that is easily readable and understood.
- Training for election judges who deliver absentee ballots as part of bipartisan teams,

The training program developed will also contain evaluation materials to ascertain program and poll worker effectiveness. The program developed will utilize multiple training methods such as videos, interactive internet applications, hands on and role playing techniques. Evaluation of the training program will be accomplished also by the use of surveys and questionnaires completed by poll workers after receiving the



training. Voter surveys or questionnaires will be made available whereby voters will be encouraged to provide feedback on poll worker effectiveness.

Implementation of each of the aforementioned facets of The State Plan for voter education, election official education and training and poll worker training will assist the state in meeting the requirements of title III.

*Section 4*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

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

Missouri law provides that before use by election authorities in this state, the Secretary of State shall approve electronic and/or computerized voting systems, and may promulgate administrative rules to carry out this function. § 115.225.1, RSMo Supp. 2002.

No electronic or computerized voting system shall be approved unless it:

(1) Permits voting in absolute secrecy;

(2) Permits each voter to vote for as many candidates for each office as a voter is lawfully entitled to vote for;

(3) Permits each voter to vote for or against as many questions as a voter is lawfully entitled to vote on, and no more;

(4) Provides facilities for each voter to cast as many write-in votes for each office as a voter is lawfully entitled to cast;

(5) Permits each voter at a general election to vote for all candidates of one party by one punch or mark or to vote a split ticket, as a voter desires;

(6) Permits each voter in a primary election to vote for the candidates of only one party announced by the voter in advance;

(7) Permits each voter at a presidential election to vote by use of a single punch or mark for the candidates of one party or group of petitioners for president, vice president and their presidential electors;



(8) Accurately counts all proper votes cast for each candidate and for and against each question;

(9) Is set to reject all votes, except write-in votes, for any office and on any question when the number of votes exceeds the number a voter is lawfully entitled to cast;

(10) Permits each voter, while voting, to clearly see the ballot label;

(11) Has been tested and is certified by an independent authority that meets the voting system standards developed by the Federal Election Commission or its successor agency. The provisions of this subdivision shall not be required for any system purchased prior to August 28, 2002.

§ 114.225.2, RSMo Supp. 2002. Furthermore, all computerized voting systems must provide a paper audit trail. § 115.225.3, RSMo Supp. 2002.

The Secretary of State, consistent with statutory authority, promulgated administrative rules to adopt uniform voting systems guidelines and processes consistent with the voting systems standards in section 301 of HAVA.

Moreover, the Secretary of State has already promulgated administrative rules defining what constitutes a vote for the three types of voting systems approved and in use in Missouri: punch card voting systems (15 CSR 30-9.010), optical scan voting systems (15 CSR 30-9.020), and paper ballots (15 CSR 30-9.030). The Secretary of State will promulgate administrative rules defining what constitutes a vote for any additional voting systems approved for use in Missouri in the future.

Missouri requires the testing of systems against the standards by independent testing authorities (ITAs) designated by the National Association of State Election Directors (NASED) and meets the standards set forth by the Federal Election Commission.

Currently, Direct Recording Electronic (DRE) voting systems are not certified for use in Missouri. The Secretary of State will work to certify such voting systems as soon as it is feasible.

*Section 5*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

**(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.**

As described in Section 2 of this State Plan, in 2002 the election reform legislation passed by the General Assembly established four grant programs to be administered by the Secretary of State subject to receipt of federal funds: (1) a program for the purpose of providing funds to election authorities to upgrade or improve the voting process or equipment (§ 115.074, RSMo Supp. 2002); (2) a program to provide funds to election authorities to improve accessibility of polling places and voting machines to disabled voters, as well as provide information about accessibility to disabled voters (§ 115.076, RSMo Supp. 2002); (3) a program to provide funds to election authorities to involve youth in the election process and improve the election process in federal elections (§ 115.801, RSMo Supp. 2002); and (4) a program to increase compensation of election judges (§115.098, RSMo Supp. 2002) In addition, House Bill No. 511 passed by the General Assembly and signed into law by the Governor in 2003 creates two new funds in the state treasury, both to be administered by the Secretary of State: (1) the "Election Administration Improvements Fund"; and (2) the "Election Improvements Revolving Loan Fund". These grant programs and funds give the Secretary of State much flexibility in distributing the federal money received pursuant to HAVA either through grants or low interest loans to local election authorities for meeting the requirements of HAVA.

The funds will be managed by the State Treasurer according to generally accepted accounting principles. Disbursements of funds will be managed and tracked by the Secretary of State, according to generally accepted accounting principles and auditing standards.





*Section 6*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

**(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.**

Revenue Sources

Based on full appropriation of Federal Funds of 76.5 million dollars; 5% state match; maintenance of effort; local match; and SOS Technology fund.

Expenditures

Mandates ranked by priority

1) 10 million - Central Data Base funds
   -combination of Title I, Title II, and State Tech Fund
2) 15 million – 1 accessible DRE per polling place
   -Title II and (Title I Buyout money for participating jurisdictions)
3) 13 million – Second chance voting, precinct counters
   -Title II Funds
4) 2.5 million - Poll worker education/ poll worker equipment training
   -Title II Funds
5) 1.5 million – Voter education

-Title II Funds

6) 7 million – Continuing education, technical support, upgrades of equipment and software for local jurisdictions

-Title II Funds

Non Mandated proposals

7) 100 million – Purchase of statewide voting equipment ( based on one device per 150 voters )

10 million Title II Funds

10.5 million punch card buyout

10 million local match

64.5 million annual appropriations bonds

Funds established in Sec 115.077 of HB 511 will be used as revenue source to pay off bonds

8) .5 million – Polling Place accessibility survey with cost estimate

-Sec. 261 Funds, Additional Title II Funds (only after full compliance of Title III has been reached

9) 3 million – Early voting, equipment and personnel

-Title II Funds

10) 100,000 – Grants for college workers

-Title V Funds

11) 750,000 – voting system development/testing grants

-Title I funds





*Section 7*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

**(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.**

Under current law, Missouri has a "State Election Subsidy Fund" in the state treasury that is funded by appropriations from the General Assembly for the purpose of the State making advance payments of election costs to local election authorities. House Bill No. 511, passed by the General Assembly and signed into law by the Governor, would expand this fund to meet the State's funding obligation to maintain expenditures pursuant to HAVA. The proposed legislation requires the commissioner of administration to transfer annually to the State Election Subsidy Fund an amount not less than the amount expended in the fiscal year that ended June 30, 2000. At the end of each fiscal year, any amounts in the State Election Subsidy Fund not expended or obligated to meet the State's obligation for election costs to local election authorities shall be transferred to the Election Administration Improvements Fund and used to meet the maintenance of effort funding requirement of HAVA.

Missouri also will meet the maintenance of effort requirement by maintaining expenditures for the Elections Division of the Office of the Secretary of State at the same level or greater than for the state fiscal year ending June 30, 2000.

*Section 8*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

**(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.**

### Statewide Database/Provisional Voting

| | |
|---|---|
| Performance Element | Statewide Voter Registration Database |
| Performance Goal | Implementation of a single, uniform, official, centralized, interactive, computerized statewide voter registration list that is defined, maintained and administered at the state level.. |
| Performance Measures | Accuracy of voter registration roll |
| Performance Outcomes | • Increase accuracy of voter registration roll<br>• Decrease voter fraud |
| Timetable | Complete by January 1, 2004. |
| Criteria Used to Measure Performance | Number of problems encountered with voter registration on election day. |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State |

| | |
|---|---|
| Performance Element | Provisional Voting |
| Performance Goal | Implementation of a free access system for provisional voters to determine whether their provisional votes counted, and if not, why not. |
| Performance Measures | Percentage of provisional ballots counted to voter registration. |
| Performance Outcomes | • Lessen confusion at polling places<br>• Educate provisional voters about proper voter registration<br>• Increase voter satisfaction |
| Timetable | Complete by January 1, 2004. |
| Criteria Used to Measure Performance | • Step one – The State will provide the election authority provisional ballot envelopes that are preprinted with sequential numbers and a tear-off system. The tear-off portion must identify in writing a manner in which the voter can validate whether their vote was counted, and if not, why not. The tear-off is given to the voter at the polling places and if desired, the election authority may also give the voter a handout with instructions. The projected cost for 150,000 envelopes is $18,564 - $5,354 or 30% higher than the original provisional ballot envelope.<br>• Step two – The election authority counts provisional ballots. The election authority documents provisional ballots not counted and why. The State will clarify rules for counting provisional ballots.<br>• Step three – The State will establish an 800 number that forwards all calls to the local election authority. The local election authority will answer phone calls from voters and verify the voter's identity using the pin# that they were given on the tear-off. Election authorities may provide additional information to provisional voters by giving local election jurisdiction web pages or local 800 numbers, if available. The projected cost will be 7 cents/minutes for the phone calls, a minimal or no set up fee, and staff time to answer calls which is undetermined at this time. |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State |

### Equipment/Accessibility

| | |
|---|---|
| Performance Element | Accessibility for individuals with disabilities |
| Performance Goal | Implementation of at least one accessible DRE in each polling place in Missouri. |
| Performance Measures | Number of polling places equipped with complying voting systems by deadline set by law |
| Performance Outcomes | • Increase accessibility for voters with disabilities<br>• Increase voter satisfaction |
| Timetable | Complete by January 1, 2006. |
| Criteria Used to Measure Performance | Functional machine in each polling place |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State in conjunction with local election authorities. |

| | |
|---|---|
| Performance Element | Statewide Grievance System |
| Performance Goal | Implementation of uniform, nondiscriminatory State-based administrative complaint procedures. |
| Performance Measures | Grievances handled within time limits set by law |
| Performance Outcomes | • Increase voter confidence in voting process<br>• Resolve disputes<br>• Increase voter satisfaction |
| Timetable | Complete by January 1, 2004 |
| Criteria Used to Measure Performance | Number of grievances with successful resolution |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State |

### Training/Education

Performance goals and objectives for the education and training portion of the State Plan will be developed by a committee of statewide stakeholders in the elections process appointed by the Secretary of State: i.e., state election administrators, election workers, elected officials, special interest groups and voters (The State Plan Committee). As the chief election official in the state, the Secretary of State (the "SOS") will assume the responsibility of ensuring that each performance goal is met. State Election Directors will have the ongoing task of monitoring, evaluating and revising the performance

evaluation process. Elements of the Plan, performance goals, performance measures, timetables and criteria used to measure performance follow.

| Performance Element | Voter Education |
|---|---|
| Performance Goal | Develop voter education pamphlets for distribution to election authorities, elementary and secondary schools and the public. |
| Performance Measures | • Pamphlets printed by January 1, 2004<br>• Notice of availability posted on the SOS's and local election authorities' websites by January 15, 2004<br>• Distributed to local election authorities by March 15, 2004<br>• Distributed to schools by April 1, 2004 |
| Performance Outcomes | After reading the pamphlet, elementary and secondary students will have a better understanding of<br>• The electoral college<br>• The history of voting, including the struggles of many groups to gain the right to vote<br>• The history of voting equipment<br>• The Voter's Bill of Rights<br>• The purpose of registering to vote<br>• The Secretary of State's role in administering elections |
| Timetable | Complete by April 1, 2004. |
| Criteria Used to Measure Performance | • Election officials will complete a reporting form developed by the SOS's office indicating: (1) initial date website posted with information; (2) initial date pamphlets were received; (3) number of pamphlets distributed; and (4) number of pamphlets distributed biennially.<br>• Number of new voter registrations<br>• Number of pamphlets requested by voters or potential voters<br>• Number of schools participating<br>• Number of calls to election authorities |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State in conjunction with local election authorities |

| Performance Element | Voter Education |
|---|---|
| Performance Goal | Display posters containing required HAVA information at the polls. |
| Performance Measures | • Posters available by June 1, 2004<br>• Number of polling places and number of posters displayed in August primary and November general elections |
| Performance Outcomes | • Decrease confusion at the polls<br>• Decrease voter complaints<br>• Increase voter awareness<br>• Increase voter satisfaction<br>• Increase voter turnout |
| Timetable | Posters developed, designed and printed by June 1, 2004 |
| Criteria Used to Measure Performance | Following each federal election, election officials will complete a reporting form developed by the SOS's office indicating: (1) initial date posters were available; (2) number of polling places in which posters were displayed; and (3) number and type of posters displayed. |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State in conjunction with local election authorities |

| Performance Element | Voter Education |
|---|---|
| Performance Goal | Develop two to three minute "How to Cast a Ballot" video segments and written and audio PSAs. |
| Performance Measure | • Videos and PSAs available by June 1, 2004.<br>• Number and type of media outlets (newspapers, radio, TV) airing videos prior to August primary and November general elections. |



| Performance Outcomes | • Increase voter awareness<br>• Decrease confusion at the polls<br>• Decrease voter complaints<br>• Increase voter satisfaction<br>• Increase voter turnout |
|---|---|
| Timetable | Complete production of videos and PSAs by June 1, 2004 |
| Criteria Used to Measure Performance | • Media will be asked to report to the SOS the dates and times videos air.<br>• Election officials will report to the SOS the dates and times videos were viewed.<br>• Feedback from public |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State in conjunction with local election authorities |

| Performance Element | Voter Education |
|---|---|
| Performance Goal | Develop "Voting Equipment Installation Guide." |
| Performance Measure | Guide available by January 1, 2004 or upon certification |
| Performance Outcomes | • Decrease voter complaints<br>• Increase poll worker expertise<br>• Decrease troubleshooting jobs |
| Timetable | Complete by January 1, 2004 or upon certification |
| Criteria Used to Measure Performance | Following installation of new voting equipment, for three succeeding elections, election officials will report to the SOS:<br>• Adequacy of Guide and recommendations for revisions<br>• Number of voters trained, by venue<br>• Number of demonstrations scheduled and completed<br>• Number and type of publicity campaigns used<br>• Number of election judges trained<br>• Number of test elections held<br>• Outcome of voter surveys |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State in conjunction with local election authorities |

| Performance Element | Voter Education |
|---|---|
| Performance Goal | Monitor Military and Overseas Voting ("MOV") Activity. |
| Performance Measure | Sixty days following each federal election, election authorities will report to the SOS:<br>• Number of MOV applications received early<br>• Number of absentee ballots sent to/received from MOV<br>• Number of oaths administered by Presidential designee<br>• Number of applications rejected and the reason for each |
| Performance Outcomes | • Decrease voter complaints<br>• Increase voter participation by military and overseas voters |
| Timetable | Initially complete by October 4, 2004, and January 2, 2005; biennially thereafter. |
| Criteria Used to Measure Performance | Timeliness of reports received. |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State in conjunction with local election authorities |

| Performance Element | Voter Information |
|---|---|
| Performance Goal | Provide election specific information to the voting public. |
| Performance Measure | Provide all information in a timely manner:<br>• Election dates, registration dates, absentee voting information and sample ballots available 6 weeks prior to federal elections.<br>• Location of polls and primary election procedures available two weeks prior to election.<br>• Instructions on change of address and procedures for re- |

| | |
|---|---|
| | registering to vote |
| Performance Outcomes | • Increase voter participation<br>• Decrease voter complaints |
| Timetable | Complete by January 1, 2004 |
| Criteria Used to Measure Performance | Each election official will report to the SOS the adequacy and timeliness of information and the media outlets used prior to each federal election. |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State in conjunction with local election authorities |

| | |
|---|---|
| Performance Element | Voter Education |
| Performance Goal | Develop voter education materials on change of address |
| Performance Measures | Available by June 1, 2004 |
| Performance Outcomes | • Decrease number of changes filed at polling place on election day<br>• Decrease number of voters being directed to another polling place<br>• Decrease number of calls to election authority on election day<br>• Decrease number of provisional ballots being cast |
| Timetable | Developed by June 1, 2004 |
| Criteria Used to Measure Performance | • Number of changes filed at polls on election day<br>• Number of phone calls to election authority on election day |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State in conjunction with local election authorities |

| | |
|---|---|
| Performance Element | Voter Participation |
| Performance Goal | Create College Poll Worker Program. |
| Performance Measure | • Develop by January 1, 2005<br>• Distribute to colleges and universities by March, 2005 |
| Performance Outcomes | • Provide new source of poll workers and assistants<br>• Provide forum for students to learn about citizenship and their rights and responsibilities as voters<br>• Encourage young people to register and vote |
| Timetable | Complete program development by January 1, 2005 |
| Criteria Used to Measure Performance | Following each federal election:<br>• Election officials will report to the SOS the number of college poll workers used.<br>• School coordinators will report to the SOS the number of college poll workers recruited. |
| Process Used to Develop Criteria | Criteria developed by State Plan Committee. |
| Responsible Official | Secretary of State in conjunction with local election authorities |

| | |
|---|---|
| Performance Element | Election Official Education and Training |
| Performance Goal | Develop Election Official Training Package. |
| Performance Measure | • Develop by January 1, 2004<br>• Conduct initial session by March 1, 2004<br>• Evaluate and revise by May 1, 2004 |
| Performance Outcomes | • Increase election official expertise and knowledge about federal, state and local election laws<br>• Increase knowledge about basic voter information<br>• Increase service to voters<br>• Increase voter satisfaction<br>• Decrease voter complaints |
| Timetable | Complete program development by January 1, 2004. |
| Criteria Used to Measure Performance | The SOS will maintain records on the number of election officials attending training sessions and the number completing the certification process on an ongoing basis. |
| Process Used to Develop Criteria | Criteria developed by State Plan Committee. |



| | |
|---|---|
| Responsible Official | Secretary of State in conjunction with local election authorities |

| | |
|---|---|
| Performance Element | Poll Worker Training |
| Performance Goal | Develop Poll Worker Training Package. |
| Performance Measure | • Develop by January 1, 2004<br>• Conduct testing by March 1, 2004<br>• Evaluate, revise and retest by May 1, 2004 |
| Performance Outcomes | • Increase expertise and knowledge of poll workers<br>• Increase service to voters<br>• Decrease voter complaints<br>• Improve the voting process<br>• Increase voter satisfaction |
| Timetable | Complete program development by January 1, 2004 |
| Criteria Used to Measure Performance | • Number of election officials trained in advance of 2004 primary and general elections<br>• Number and nature of polling place complaints received relative to election judge performance<br>• Percent of accuracy in polling place reports completed by election judges<br>• Number of positive comments received from voters<br>• General assessment by election authorities about election judge performance compared to previous elections |
| Process Used to Develop Criteria | Criteria developed by the State Plan Committee. |
| Responsible Official | Secretary of State in conjunction with local election authorities |

*Section 9*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

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

HAVA and House Bill No. 511 require the Secretary of State to establish state-based administrative complaint procedures to remedy grievances concerning a violation of title III of HAVA. These procedures shall:

(1) Require complaints to be in writing and notarized, and signed and sworn by the person filing the complaint;

(2) Allow complaints to be consolidated;

(3) At the request of the complainant, require a hearing on the record which may be conducted exclusively by written testimony and information;

(4) Provide an appropriate remedy for any substantiated violation of Title III of the Help America Vote Act of 2002;

(5) Dismiss the complaint and publish the results of the procedures when there is a determination of no violation;

(6) Require a final determination with respect to the complaint before the expiration of the ninety-day period which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination; and

(7) If the final determination is not completed within ninety days, resolve the complaint within sixty days under alternative dispute resolution procedures. The record and any other materials from proceedings conducted pursuant to this subsection shall be made available for use under the alternative dispute resolution procedures.



The Secretary of State is authorized to promulgate rules to execute these procedures. Therefore, the Secretary of State will promulgate rules to develop a uniform statewide complaint system that is consistent with State and Federal law.

Elements of Missouri's uniform statewide complaint system include the following:

- Who may file a grievance;
- What is the proper subject for a grievance;
- Grievance must be filed (notarized and in writing) with the Secretary of State within 30 days after the certification of the election;
- The Secretary of State shall designate a hearing officer;
- The hearing officer shall provide each party an opportunity to explain their positions in writing or, if the circumstances so dictate, a hearing on the record, within ten days of the filing of the complaint;
- The hearing officer shall issue a decision in writing;
- Any nonprevailing party may request a review of the hearing officer's decision by the Secretary of State or his designee and that review and determination will be final, to be judicially reviewable only through Chapter 536, RSMo.

*Section 10*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

**(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.**

As noted earlier, Missouri is eligible to receive two types of title I payments: (1) payments for election administration improvements (section 101 money); and (2) payments for punch card replacement (section 102 money).

**Section 101 Money**

Missouri plans to use the section 101 money it receives to carry out the following activities:

1. Comply with the requirements of title III of HAVA, including but not limited to:
   - Develop and administer a statewide voter registration database;
   - Provide all polling places with at least one accessible direct recording electronic (DRE) voting system or other voting system equipped for individuals with disabilities;
2. Develop and administer this State Plan;
3. Provide for voter education;
4. Provide training and materials for election personnel;
5. Improve the administration of elections for federal office;
6. Improve, acquire, lease, modify or replace voting systems and technology and methods for casting and counting votes;
7. Improve the accessibility and quantity of polling places. House Bill No. 511 provides that after all of the requirements of HAVA have been met, any remaining section 101 money may be used to make polling places more accessible to individuals with disabilities.



**Section 102 Money**

Missouri plans to participate in the punch card replacement program. Statewide there are 3,594 qualifying precincts that use punch card voting systems. Local election authorities have expressed an interest in using the section 102 money to upgrade to optical scan systems or accessible DRE systems. Missouri will not require local election authorities to participate; however, Missouri understands that it must repay the funds back to the federal government in an amount equal to the noncompliant precinct percentage of the funds provided to Missouri under the program.

*Section 11*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

**(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).**

Day-to-day management of the State Plan will be the responsibility of the Elections Division of the Secretary of State. The Elections Division will work closely with local election authorities to implement all of the requirements and provisions of HAVA.

In addition, the State Plan Committee will meet once each year to review the progress of the provisions of the State Plan. The State Plan Committee will also review the State Plan and recommend any needed changes or improvements. The Secretary of State may call additional meetings of the State Plan Committee as deemed necessary to carry out the provisions of the State Plan.



Office of the Secretary of State, Matt Blunt

Help America Vote Act
State Plan

*Section 12*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

**(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.**

This State Plan is the initial plan required under HAVA, so no updates or changes are necessary. The Secretary of State will update this section in the next fiscal year to comply with this section.

*Section 13*

**SEC. 254. (a) In General.--The State plan shall contain a description of each of the following:**

**(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.**

## Missouri State Plan Committee Members

**Representatives to the Election Assistance Commission Standards Board**

- State election official: Terry Jarrett, General Counsel, SOS (Republican)
- Local election official: Mary Berry, DeKalb County (Democrat)

**Statewide Database/Provisional Voting/Voter Identification Subcommittee**

- Co-Chair: Richard Struckhoff, Greene County
- Co-Chair: Pat Conway, Buchanan County
- David Welch, St. Louis County
- Charlene Davis, Jackson County
- Wendy Flanigan, Platte County
- Carol Bennett, Phelps County
- Kelly Christopher, Livingston County
- Dennis VonAllmen, Howell County
- Senator Maida Coleman, St. Louis
- Representative Bob May, Rolla
- Representative Jim Seigfreid, Marshall
- Glenn Nielsen, Libertarian Party
- Janice Brand, MO Dept. of Health
- Estil Fretwell, MO Farm Bureau
- Mark (Thor) Hearne, MO Republican Party
- Dennis Bax, MO Dept. of Social Services
- Robert Honan, Governor's Council on Disability
- Rob Heggie, MO Democratic Party
- Mary Ratliff, NAACP
- Norma Hensiek, John Sappington, Ruth Redel, MO Dept. of Revenue
- Jim Kistler, Associated Industries of MO

**Equipment/Accessibility Subcommittee**



- Co-Chair: Judy Taylor, St. Louis County
- Co-Chair: Gilbert Powers, Johnson County
- Tom Herbst, former clerk, Franklin County
- Jim Sears, Randolph County
- Randy Taylor, Perry County
- Bob Nichols, Jackson County
- Glenda Mott, Laclede County
- Stan Whitehurst, Webster County
- Cindy Beale, MO Republican Party
- Diane Golden, MO Assistive Technology
- Dennis Miller, MO Council of the Blind
- Brian Wekamp, Natl. Federation of the Blind
- Jim Dejong, ADA Project
- Erica Stephens, Protection and Advocacy

**Training/Education Subcommittee**

- Co-Chair: Sharon Turner Buie, Kansas City
- Co-Chair: Gary Stoff, St. Louis City
- Rosemary Kochner, former election official, St. Louis County
- Mary Berry, DeKalb County
- Wendy Noren, Boone County
- Charles Isbell, Dunklin County
- Anita Groepper, Moniteau County
- Dave Berry, MO Press Association
- Gail Willis, MO State Teachers Association
- Daniel (Duke) McVey, MO AFL-CIO
- Kris Morrow, Dept. of Elementary & Secondary Education
- Laura Worstell, MO League of Women Voters
- Alyce Zerr, MO Farm Bureau
- Kay Roberts, poll worker, Columbia
- Carl Poehlman, AARP Missouri
- Dolores Hampton, MO Planning Council
- Tom Stevens, Natl. Federation of the Blind of MO
- Kelly Anthony, Paraquad
- Reid Forrester, MO Republican Party
- Michael Ferguson, MO Libertarian Party
- Jim Kottmeyer, MO Democratic Party
- Lee Biernbaum/Khandicia Randolph, Assoc. Students of the Univ. of MO
- Rita Valenciano, Coalition of Hispanic Organizations
- Thomas W. Mayer, MO Fraternal Order of Police

## State Plan Committee Meeting Schedule

The schedule below lists the dates, times, and locations of the committee meetings and regional public hearings in which the state plan was discussed. All of the committee meetings and regional hearings were open meetings. All interested parties were encouraged to attend as many of these meetings as possible. Individuals interested in making public comments for the record were encouraged to attend one or more of the regional public hearings. Transcripts were prepared with the testimony of all witnesses that testified at the public hearings and made available to all committee members.

**Help America Vote Act of 2002**
**Missouri State Plan Committee**
**Meeting Schedule**

**Wednesday, February 26** — **10:00 am** — **State Plan Committee Meeting**
Interpretive Center, JCKSIC
600 West Main Street, Jefferson City

* All subcommittees will hold organizational meetings following the State Plan Committee meeting

**Thursday, March 6** — **4:30-7:30 pm** — **Kansas City Public Hearing**
Paseo High School — **Public Comments Accepted**
4747 Flora, Kansas City 64110

**Monday, March 10** — **2:00-5:00 pm** — **St. Louis Public Hearing**
Century Room A, Millennium Center, UMSL — **Public Comments Accepted**
8001 Natural Bridge Road, St. Louis 63121

**Wednesday, March 19** — **1:00-4:00 pm** — **Jefferson City Public Hearing**
Interpretive Center, JCKSIC — **Public Comments Accepted**
600 W Main St, Jefferson City

*Public Hearing will be followed by subcommittee meetings.

**Thursday, March 20** — **10:00 am** — **State Plan Committee Meeting**
Interpretive Center, JCKSIC
600 W Main ST. Jefferson City

**Wednesday, March 26** — **2:30-5:30 pm** — **Springfield Public Hearing**
The Library Center — **Public Comments Accepted**
Meeting Room A&B
4653 South Campbell, Springfield

**Thursday, March 27** — **2:00-5:00 pm** — **Poplar Bluff Public Hearing**
Butler County Courthouse — **Public Comments Accepted**
100 North Main, Poplar Bluff



**Tuesday, April 15** — **10:00 am** — **Subcommittee Meetings**
**1:00 pm** — **State Plan Committee Meetings**
Interpretive Center, JCKSIC
600 W Main St, Jefferson City

**Tuesday, May 13** — **10:00 am** — **Subcommittee Meetings**
**11:00 am** — **State Plan Committee**
Interpretive Center, JCKSIC
600 W Main St, Jefferson City

**Tuesday, May 28** — **10:00 am** — **State Plan Committee**
Roy Blunt Conference Room,
JCKSIC, 600 W Main St,
Jefferson City

# PRELIMINARY STATE PLAN

# HELP AMERICA VOTE ACT OF 2002 (HAVA)

Montana
SECRETARY OF STATE
BOB BROWN

June 4, 2003

Dear Fellow Montanans:

Last year, Congress passed the Help America Vote Act (HAVA) to ensure that voters across the United States are treated equally. The significant changes brought about by HAVA will make the elections process even better; and, in bringing about these changes, my office is keeping the Montana voter in mind every step of the way.

HAVA brings with it many changes in our state election process. It requires us to replace punch-card ballots, make specialized voting equipment available in every precinct, and implement new statewide systems to address voter grievances, voter registration, and provisional balloting. These are all daunting tasks that bring powerful new responsibilities.

HAVA also requires Montana to adopt a state plan that identifies the priorities and specific steps our state will take to address election reform and bring Montana into compliance with the federal law.

It is with great pleasure I present the 2003 Preliminary State Plan for election reform. It was developed with the important assistance of an Election Reform Advisory Commission made up of 20 interested citizens. A list of these citizens and the organizations they represent is included in the plan. HAVA increases the state's responsibility for election administration in order to establish consistency across the state. Nonetheless, I realize the importance of our county election officials as they are charged with the conduct of elections. As we move forward to improve elections, I will continue to encourage coordination, cooperation, and collaboration between state and local officials.

Within this preliminary state plan, Montana encourages election accessibility for individuals with disabilities and those that speak other languages. We will continue to strive for integrity and accessibility in all aspects of the election process.

This plan is a living, breathing document. We will need to update and refine it as necessary over time, to reflect new election reforms. Overall, with funds appropriated by Congress, Montana is in a good position to meet the HAVA requirements. I welcome the challenges of HAVA and look forward to working with all Montanans to improve our elections.

Sincerely,

Bob Brown

Bob Brown
Secretary of State

***Montana Secretary of State*** 5/27/03
Room 260, State Capitol
P.O. Box 202801
Helena, MT 59620-2801
Telephone: (406) 444-2034 Fax: (406) 444-2023

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**For immediate release**
**January 24, 2003**

# Brown Appoints Election Reform Advisory Committee

Secretary of State Bob Brown has appointed 20 Montanans to help him implement the federal Help America Vote Act, which Congress passed last fall.

The advisory committee members come from throughout the state and represent several interest groups and government entities that will be affected by the act.

"The Help America Vote Act stems from one of the biggest election controversies in recent history - the 2000 presidential race," Brown said. "And it represents the biggest overhaul of the nation's election laws in recent history. I think it's important to involve the public in implementing something so fundamental and far-reaching."

Members of the committee are:
**Peggy Beltrone**, Cascade County commissioner, Great Falls
**Rita Blouke,** League of Women Voters, Helena
**The Rev. Phillip Caldwell,** Chairman, State Advisory Commission on Civil Rights, Great Falls
**John Collins,** Project Vote Smart, Anaconda
**Jean Corbett,** AARP, Helena
**Major Janet Creelman,** Installation voting officer, Malmstrom Air Force Base, Great Falls
**Jamie Doggett,** Meagher County commissioner, White Sulphur Springs
**Constance Enzweiler,** State coordinator, Americans with Disabilities Act, Helena
**Bernie Franks-Ongoy,** Montana Advocacy Program, Helena
**Cyndy Maxwell,** Big Horn County clerk and recorder, Hardin
**Rep. Bernie Olson,** House District 76, Lakeside
**Sen. Carolyn Squires,** Senate District 34, Missoula
**Ellen Swaney,** Director of American Indian Minority Achievement, Office of the Commissioner of Higher Education, Helena
**Betty Vantighem,** Montana Deaf and Hard of Hearing Services, Great Falls
**Myrle Tompkins,** Montana Association for the Blind, Helena
**Shelley Vance,** Gallatin County clerk and recorder, Bozeman
**Dr. Craig Wilson,** Professor of political science, MSU-Billings
**Justus Wendland,** Carroll College student, Helena
**Duane Winslow,** Yellowstone County clerk and recorder, Billings
**Vickie Zeier,** Missoula County clerk and recorder, Missoula

The Help America Vote Act calls for a congressional appropriation of $3.9 billion over three years to overhaul elections in the United States. The money will go to state and local governments to replace antiquated voting machines and to improve election administration. Among other things the act calls for:

- Better access to polling places for disabled voters;
- Specialized voting equipment for disabled voters;
- Replacement of punch-card voting machines;
- Provisional voting; and
- Voting systems that allow voters to correct ballot errors.

A budget bill to pay the costs of the Help America Vote Act is pending in Congress.

***###***

***Help America Vote Act of 2002***

***Public Law 107-252 - October 29, 2002***

***(HAVA)***

SEC. 254. STATE PLAN.
(a) IN GENERAL. - The State plan shall contain a description of each of the following:

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

**Section # 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).

**Section # 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.

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

**Section # 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.



**Section # 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.

**Section # 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.

**Section # 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.

**Section # 9**
A description of the uniform, nondiscriminatory Statebased administrative complaint procedures in effect under section 402.

**Section # 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.

### Section # 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).

### Section # 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.

### Section # 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.



## Section 1

***Sec 254. (a) IN GENERAL - The State plan shall contain a description of each of the following:***

***(1) How the State will use the requirements payment to meet the requirements of title III (equipment and administration), and, if applicable under section 251 (a)(2), to carry out other activities to improve the administration of elections. (Sec. 254, (a) (1))***

### *Recommended Language:*

**Section 301 Voting System Standards.**

Section 301 of the Help America Vote Act (HAVA) requires that voters have the opportunity, in a private and independent manner, to verify the votes they have selected, to change their ballot or correct any errors. It also requires election officials to notify the voter of the effect of selecting more than one candidate for a single office before a ballot is cast and counted. HAVA also directs states to adopt uniform and non-discriminatory standards that define what constitutes a vote, requires manual audit capacity and error rates standards of voting systems, and mandates access to the elections process by people with disabilities.

The state of Montana currently meets the private and independent provision for verifying votes, the opportunity for voters to change their ballot or correct any errors, and our voting systems preserve the privacy of the voter and confidentiality of the ballot (except for the visually impaired). These high standards will not waiver under HAVA. The state currently has no system in place to check ballots before being cast. Since the vast majority of Montana's counties use a paper ballot and central count voting system, the state of Montana will embark on a statewide voter education project, which will include the following:

- All voter education materials will be made available to the public in multi-accessible formats (formats, available upon request, include large print, talking book, and Braille).

- HAVA information will be available on the secretary of state's website.

- The secretary of state's office will work with tribal governments to meet the needs of Montana's Native American population.

- The secretary of state's office will work closely with the Montana Association of Counties (MACO) and the Montana Association of Clerk and Recorders in implementing HAVA.

- The state and counties will review and revise ballot materials and implement voter outreach programs with special emphasis on information to the specific voting systems to be used county to county.

- Voter Education information will be included in our Voter Information Pamphlet (VIP) that is mailed to each registered voter in the State who is on the active voter list, except that two or more voters with the same mailing address and the same last name may be counted as one voter. This will happen 30 days before an election.

- The state will consider sending a special mailing to every postal patron explaining the HAVA changes.

- Information will be posted in polling places notifying voters about the effects of casting multiple votes for a single office and how to correct a ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

Most Montana voting systems produce a record with an audit capacity and the Secretary of State's Office will ensure any new systems have this ability. Under HAVA voting systems will produce a permanent paper record with a manual audit capacity and shall provide the voter with an opportunity to change the ballot or correct any error before the permanent record is produced. The paper record shall be available as an official record for any recount conducted with respect to any election in which the system is used. The State will guarantee this by drafting rules that require these provisions on a statewide level.

The state of Montana has 56 counties with 694 polling places covering 146,000 square miles. In the 2000 general election six Montana counties used punch-card voting systems (12 percent) and the remainder used optical scan voting systems (80 percent) and paper-ballot systems (8 percent).Under HAVA Montana will be replacing punch-card voting systems in five counties (one county replaced their system after the 2000 election).

With the passage of HAVA, the state is also required to purchase DRE units or other accessible systems for each established polling location. The state of Montana will work with surrounding states to see if we can establish a "buying pool" to purchase the required machines. Due to quantity price breaks the state of Montana plans to purchase all of its machines at the same time. In order to thoroughly test their compatibility with current systems, our goal is to order our machines early in 2004. The state of Montana will purchase each DRE unit complete with a combination carrying case/booth. The state will contract for 710 DREs in order to have a few extras for training and educational purposes.



Purchasing 710 DREs and training staff on how to use and maintain the machines will require substantial funding. The vendor who is awarded the contract for the purchase of these machines will be required to provide training and technical support.

Public outreach/training will also be required to familiarize local elections staff, people with disabilities and the elderly about the new voting system. Montanans will be informed of the availability of these systems in each polling place through our educational efforts (done in accessible formats), through information at the polling place and in coordination with agencies that provide services for the disability community and the elderly.

The state of Montana will be purchasing the 710 DREs but the storage of the DREs will be the responsibility of each county. After initial training from the vendor, it will also be the responsibility of each county to enter into a maintenance agreement with a vendor.

Although the DREs will meet some of the accessibility for individuals with disabilities requirements under HAVA, they will not meet all of our state needs. Currently, the state of Montana has curb-side voting which includes taking a ballot to an elector with a mobility disability. This is done by the chief election judge who appoints two election judges who represent different political parties to take a ballot to an elector able to come to the premises where a polling place is located but unable to enter the polling place because of a disability. The elector may request assistance in marking his ballot as provided in state law. Most of our polling places meet ADA requirements for physical access. In addition, the state of Montana also allows absentee voting for ***any*** reason. Both of these conditions benefit people with disabilities. We will explore other options and opportunities to increase access for individuals with disabilities and access for the elderly.

Montana has met the requirements for alternative language accessibility by providing interpreters in two counties (Rosebud County and Big Horn County) that meet the federal requirements for such accessibility. We have no further alternative language requirements at this time.

Our error rates currently comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission. The state will continue to make sure the error rates are complied with under HAVA.

The Election Task Force Committee made up of county election officials and staff from the secretary of state's office has already begun work on rules to define "what constitutes a vote." This committee is also working on new Montana registration forms that meet HAVA requirements.

For those statutory and regulatory changes required, the secretary of state has successfully passed legislation to bring state terminology and procedures into conformance with HAVA. To that end, the 2003 Legislature passed House Bills 155, 190, 201 and 548 (copies of which are attached as Appendix B).

HB 155 and HB 190 specifically deal with this section of the statewide plan.

HB 155 is legislation allowing counties to choose voting systems that have been approved by the secretary of state. It directs the secretary of state to adopt benchmark performance measures that must be met by any voting system before it can be approved. The bill sets the parameters for determining what constitutes a valid vote - the secretary of state is required to adopt rules in accordance with those parameters. The primary considerations in counting a vote are the voter's intent and the fact that rules governing vote counts are consistently applied. The bill also cleans up language in Title 13 (Montana's Election Law) that is inconsistent, outdated and confusing.

HB 190 establishes election reforms mandated by HAVA. HB 190 defines "legally registered voter" and "statewide voter registration list" and other terms. The bill identifies the secretary of state as the contact point for a statewide voter registration list. It also establishes the parameters for the voter registration database and information sharing agreements between the motor vehicle licensing database and the social security administration information database. Montana went the extra step in requiring every voter to provide a form of identification at the polling place when voting. Since the vast majority of our voters register by mail, the secretary of state's office did not want to further burden our elections officials by having them identify first time voters and ask them for identification. The intent of HB 190 is to further meet the HAVA goals of providing a uniform and nondiscriminatory voting process. Montana's first time and transfer voters will not be treated differently.

**Section 302: Provisional Voting and Voting Information Requirements**
HB 190, mentioned above, defines provisional voting and the procedures for casting provisional ballots. It also gives the secretary of state's office rule-making authority for provisional voting. The state of Montana now requires everyone to show proof of identification to vote. The ID can be a photo identification or a current utility bill, bank statement, paycheck, tribal ID, Voter Registration Confirmation Card (due to redistricting, every registered voter will receive this card before January 1, 2004), government check or other government document, that shows the name and address of the voter. All voters will be treated fairly and uniformly. Under the legislation, all voters who claim they are registered to vote are allowed to vote provisionally. The ballots will be handled separately and later verified. Once our rules are written and adopted, the county election administrator will be able to use the statewide voter database to verify provisional voters. It is then up to the county election administrator to inform the voter whether or not their vote counted and to provide access to that information on an expedited basis to the proactive provisional voter who contacts the county election official. The method of notifying the provisional voter will be up to the county's discretion but must comply with the rules adopted by the secretary of state.



The state will develop informational posters and flyers for polling locations to include the following:

- How to cast a vote
- How to cast a provisional ballot
- Instructions for mail-in registrants
- The ID requirement for all voters
- General information on voting rights/provisional balloting and general information on federal and state laws.

A pamphlet will also be developed to hand out to provisional voters explaining their rights and responsibilities.

**Section 303: Computerized Statewide Voter Registration List**
Section 303 of HAVA requires states to implement a "single, uniform, official, centralized, interactive, computerized statewide voter registration list that is defined, maintained, and administered at the state level." The list must contain the name and registration information of every legally registered voter in the state and must assign a unique identifier to each voter in the state.

Montana currently has a central database but not all of the information required under HAVA is in our database. In addition, official voter registration records are created and maintained at the county level. Each county election official updates and separately maintains voter registration records. Software and vendors differ from county to county. Montana will establish a single, statewide voter management system with integrated election management capabilities for all 56 counties and the secretary of state's office. The needed legislation has already been passed by Montana's 2003 Legislature (in HB 190) that will greatly enhance our ability to establish the statewide management system.

The state of Montana will issue an RFP for a vendor to develop or enhance current existing systems for the statewide voter management system. The RFP will include training for elections officials on how to use the system as well as an extensive maintenance contract. The Montana secretary of state's office is highly sensitive to making sure we contract with a competent vendor who will help us through the process for the long haul.

The state of Montana will use requirements payments to the extent possible to accomplish this goal. Payments may be used for software, hardware for the statewide management system, hardware for local election officials to run the system, and connectivity between the counties and the state. Montana's statewide voter management system will contain the following:

• The voter system will be a centrally administered election management system maintained and administered by the Office of the Secretary of State which will interact with commercial election management systems (EMS) operating at the county level. The new system, under HAVA law, needs to replace current diverse county management systems.
• The system will ensure that names and registration information of every validly registered voter appear on the state's computerized list and will ensure, in coordination with county election officials, that only voters validly registered on the state list will be eligible to vote.
• The system will allow any election official in the state to obtain information contained in the computerized list and to update the registration information related to voters residing in their jurisdiction.
• The system will allow voter registration information obtained by any election official to be entered into the state computerized list on an expedited basis. Duplicate voter records and verification of driver's license numbers or the last four digits of social security numbers will be identified on an expedited basis as well.
• The system will authenticate new registration applications, using the driver's license number or last four digits of the social security number in coordination with the Department of Justice's Motor Vehicle Division. In addition, the system will provide for on-going verification of valid registrations by coordinating with computerized lists provided by the Department of Corrections to remove incarcerated felons, and computerized lists provided by the Department Public Health and Human Services to remove deceased voters.
• The system will ensure that invalid registrations are removed in a timely manner. (i.e., the system will prevent or remove "moved out of state," duplicate, deceased, and incarcerated felon registrations from voter lists.)
• The system will assign a unique voter identifier number to each registered voter.
• The system will track and report changes made to voter records, as well as the voting history for each voter.
• The system will verify voter status to differentiate between active, inactive, canceled/ suspended, and pending registrations.
• The system will track statistical data about voter registration activity at the state, county and precinct level including statistics required by the National Voter Registration Act of 1993.
• The system will provide adequate technological security measures to prevent unauthorized access to the system and the computerized voter list.
• The system will be implemented through a partnership between the counties, the Technical Advisory Committee and the secretary of state.
• The system will be designed around applicable state laws.



**Section 303 (b): Requirements for Voters Who Register by Mail**
**This section of HAVA includes new identification requirements for voters who register by mail and who have not previously voted in an election for federal office. These requirements took effect January 1, 2003. As part of the mandate, states must develop new voter registration forms that include:**

- **The question, "Are you a citizen of the United States of America?"**
- **The question, "Will you be 18 years of age on or before election day?"**
- **The statement, "If you check 'no' in response to either of these questions, do not complete this form."**
- **A statement informing the individual that if the form is submitted by mail, the individual is required to submit their driver's license number; or the last four digits of their social security number if they do not have a driver's license. Identification will be required at the poll and can include a valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.**

***Recommended Language***
The Montana secretary of state's office has been given rule-making authority to meet these requirements. Our office along with the Election Task Force Committee has created a new voter registration card to reflect the needed changes and will create a process for ensuring registration and voting are handled properly under the new law. Identification will be required of all voters in Montana.

## Section 2

**Sec 254. (a) IN GENERAL - The State plan shall contain a description of each of the following:**
**(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).**

***Recommended Language***

The secretary of state's office will manage the activities and projects funded by the HAVA requirements payments. The state will be responsible for accounting of all expenditures, funding levels, program controls and outcomes in accordance with state and federal laws.

Funds will be distributed based on availability and set to the priorities established in this state plan. The secretary of state will use the funds to buy out punch card systems, buy DREs, establish a statewide voter election management system and carry out educational efforts. The state and/or counties will be responsible for the five percent match. If the available funds do not cover the costs of the DREs, management system and educational efforts, the state may consider a proportionate distribution of funds based on the number of polling places and registered voters. If we need to distribute funds proportionately, county voter registration statistics at the time of the 2002 General Election will be taken into consideration for proportionate distribution of any funds to counties.

Counties will submit to the secretary of state the portion of their county budgets that contain the 2000 election cycle maintenance of effort to establish baseline amounts for efforts already in place. All expenditures beyond the maintenance of effort will be coordinated with statewide efforts to be eligible for reimbursement of such efforts.

The explicit method of funding is described in section 6 (State's Proposed Budget). In general, the state will use the funds at the statewide level with as little cost, if any, to counties. The state has established a federal special revenue account to the credit of the secretary of state for money received under HAVA (HB 548). Funds will be spent in accordance with state and federal law and will come directly from this account.

The state may revise the state plan, using the procedures identified in section 11, to adjust the budget at any time.

The performance measures detailed in section 8 of this State Plan will be used to monitor compliance with the mandate of the Act. When the deadlines have passed, the secretary of state will produce a report on how the performance goals have been met.

## Section 3

**Sec 254. STATE PLAN (a) IN GENERAL - The State plan shall contain a description of each of the following:**



**(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.**

***Recommended Language***

- Poll workers and elections officers will be kept abreast of changes in the law, including new laws. To maintain uniformity, the secretary of state will offer continuing education programs to election officials.
- Workshops will be provided at conventions and election information will be mailed or distributed in a timely manner. Workshops will cover the areas of voting system requirements, statewide voter management system requirements, methods of poll worker training, election recounts, accessibility for individuals with disabilities and alternative language requirements.
- The Election Judges Handbook will be updated to include HAVA information - with emphasis on implementing poll worker training and public display of HAVA information requirements at each polling place. A training video will be considered to help with these educational requirements.
- Marketing at county fairs and regional shows and will add marketing items to inform the public of the changes under HAVA. In addition, we will make presentations to students at the high school and collegiate level.
- The secretary of state's office will work with organizations that serve low-income and homeless Montanans to get the word out.
- The secretary of state's office will work with community based organizations including election administrators and county commissioners to define and identify groups that are effective in each community.
- The secretary of state's office will consider a contract with the Montana Historical Society to develop a history "trunk" on the history of elections including the historic changes under HAVA that can be used in our presentations to civic groups and schools.
- The secretary of state's office will consider working with the Office of Public Instruction and school boards on an election training module for high schools.
- The secretary of state's office will continue to use our website as an effective and efficient way to disseminate election information.
- The secretary of state's office will consider inserts in utility bills as a way of getting the word out about the HAVA changes.

- The secretary of state's office will adopt voter education guidelines to inform voters that if they fail to cast a vote for a candidate or issue, the voter will not be notified of the undervote but may correct their ballot.
- The secretary of state's office plans on making presentations to local county commissioners and all other interested parties about the statewide plan and changes under HAVA.
- The secretary of state will use public service announcements as a way to inform voters of their rights and responsibilities under HAVA. These announcements will be in audio or video format.
- The secretary of state will consider taking out newspaper and magazine ads regarding the HAVA implementation.
- The secretary of state's office will prepare Media Kits for Montana media to use when reporting on all of the activities surrounding the implementation of HAVA. The secretary of state will also actively conduct interviews, write letters to the editor and prepare press releases to inform the public about the HAVA implementation process.
- The secretary of state will consider providing grants to entities to aid us with our educational efforts on a nonpartisan basis.
- The secretary of state will consider sending a flyer/letter to every postal patron in Montana explaining the requirements of HAVA and state law.
- The secretary of state will provide HAVA information in our Voter Information Pamphlet (VIP) at least 30 days before the election.

## *Section 4*

**Sec 254. (a) IN GENERAL - The State plan shall contain a description of each of the following:**
**(4) How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.**

### *Recommended Language*

The state of Montana currently meets most of the voting system requirements required under HAVA as outlined on the first three pages of the attached table (Appendix A). For those areas that we do not meet, the 2003 legislature passed legislation giving the secretary of state rulemaking



authority to make the necessary changes/updates (Appendix B). As the state implements a new voting system, we will maintain the current procedure and create new procedures, guidelines and processes as necessary.

In addition the state must provide DREs for every polling place and adopt language on what constitutes a vote.

## Section 5

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**
**(5) How the State will establish a fund described in subsection (b) (Elections Fund) for purposes of administering the State's activities under this part, including information on fund management.**

### *Recommended Language*

House Bill 548 passed by the 2003 Legislature and signed into law by the governor creates a federal special revenue account to the credit of the secretary of state (Appendix B). The secretary of state shall be the single signing authority for administration of these funds, in compliance with HAVA. There is no appropriation identified with this legislation. It simply creates a mechanism to receive money. Funds will be spent in accordance with state and federal law.

## Section 6

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**
**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.**

### *Recommended Language*

The state of Montana's proposed budget appropriation, subject to full federal funding of the Help America Vote Act of 2002 (HAVA), includes the appropriations to fund programs to conform to the requirements of Title III. Montana has already received its "small state minimum" payment of $5 million which is not subject to a 5 percent match. We currently expect additional payments of $4.1 million under HAVA which will require a 5 percent match of $205,000. **Subject to complete federal funding of HAVA, our current budget figures will be based on a total budget of $9,305,000.**

**Voting Accessibility**

Montana will be replacing voting systems in counties where punch card systems were used in the 2000 general election. There are five counties in the state requiring new voting systems (one county replaced punch card systems after the 2000 election and will be reimbursed). The secretary of state will lead a statewide procurement effort to acquire these systems. The secretary of state will work with county election officials to ensure that all needs are met, including but not limited to:

- device acquisition;
- system maintenance;
- election preparation services; and
- election tabulation services.

The secretary of state will act as contract administrator to maximize the purchasing power. The counties will own, operate, and work with the vendor to maintain the new voting systems and will retain control of election services at the county level. Eligibility to participate in complete voting system replacement and to receive funds from the state election fund will require participating counties to:

- have operated punch card systems in the 2000 general election; and
- . agree to have the state purchase replacement systems on their behalf.

Our estimated total cost to replace our punch card voting systems is approximately ***$350,000.***

The next budgetary item will include the purchase of 710 Direct Recording Electronic (DRE) devices *or other voting system equipped for individuals with disabilities* at each polling place to meet the accessibility requirements of Title III. We estimate the cost of this portion to be **$2.8 million**.

**Provisional Balloting**

Provisional Balloting by this term is something new for Montana. Montana had a challenge voting process before the enactment of HB 190. The requirement to build a free



access system for the voter to determine the status of their provisional ballot is a new requirement that carries a cost with it. At this time, the secretary of state envisions this function as one that requires the state to develop rules and processes for counties to follow. However, we view the costs associated with this function to be the responsibility of the counties. Counties, within the statewide rules adopted, may choose the form in which they will provide access to their provisional voters. The counties will use the statewide voter management system to verify the status of provisional voters.

**Voter Education, Election Official and Poll Worker Training**

Some voter education is already a responsibility, and included in the maintenance of effort, of the secretary of state and county election officials. However, HAVA is going to require extensive educational efforts at the state and local level in a state as rural and large as Montana. Additional voter education will be funded at a rate of up to 10 percent of the state election fund. These funds will be used for various projects on a local and statewide level. **The total for this component is approximately $930,500.**

**Statewide Voter Management System**

The secretary of state will implement a statewide voter management system to comply with HAVA Title III. The state of Montana will be applying for a waiver to have the system up and running by January 1, 2006. Working with county election officials and state information technology officials, the secretary of state will define functional requirements, roles and responsibilities of carrying out the functions of voter registration within the principles that the:

- Secretary of state shall acquire, maintain and support the statewide system;
- . Counties will remain responsible for the operations of voter registration, including but not
- limited to: voter registration information maintenance, borders and boundaries of
- jurisdictions, poll resource management, local registration list information, and candidate
- registration for local contests;
- . Counties will remain responsible for furnishing lists, reports, and other printing
- requirements, however the state will consider entering into a statewide contract to
- maximize purchasing power;
- . Official voter registration list will remain under the central control of the secretary of state;
- . Secretary of state will make the registration list available by request for a reasonable fee;
- Counties will be responsible for voter registration operations, printing, and legal
- requirements for supporting the statewide system as well as storage of voting systems;
- . Counties and the state will initially maintain the statewide system with HAVA funds;
- counties will eventually be responsible for on-going maintenance costs.

The state of Montana will fund the management system program including software, hardware and initial maintenance. ***We estimate the cost to be 35 percent of our total***

*monies for a figure of $3,256,750.*

**Precinct Counters Matching Funds**
The state of Montana will be looking at a matching grants program to help counties with the purchase of precinct counters to aid in the HAVA requirements for under-voting and over-voting. These grants would be based on registered voters and would involve a direct county match. ***We estimate the cost to be up to 6 percent of our total monies for a figure of $558,300.***

**Administration costs**
To fulfill the requirements of Title III, the secretary of state will have to provide for the coordination, planning, operations and reporting on these programs. The secretary of state will use funds to administer the implementation of HAVA above the current maintenance effort for elections. ***Montana will use its match money ($205,500) to pay for administrative costs and will consider using additional HAVA funds for administrative costs if needed.***

***Maintenance of Systems and the "What-Ifs"***
Because HAVA money is "no year" money we plan on retaining some funds to take care of future year maintenance and systems replacement. Any money left over from the budgeted items above will be set aside for these purposes.

**BUDGET BREAKDOWN:**
**Voting Accessibility: $3,150,000**
**Voter Education, Election Official and Poll Worker Training: $930,500**
**Statewide Voter Management System: $3,256,750**
**Precinct Counter Matching Funds: $558,300**
**Administration Costs: $205,500 (matching funds)**
**TOTAL ESTIMATED BUDGET EXPENSES: $8,101,050**
**MONEY TO BE LEFT IN ACCOUNT (for future needs): $1,203,950**

## *Section 7*

***Sec. 254 (a) IN GENERAL -The State plan shall contain a description of each of the following:***
***(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.***

### *Recommended Language*

The secretary of state will maintain expenditures of the state for activities funded by the payment at a level equal to or greater than the level of such expenditures in state FY 2000.

The secretary of state and counties shall continue to provide maintenance of effort, as required in the Help America Vote Act of 2002 (HAVA), in providing election and voter education.

## Section 8

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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.**

### *Recommended Language*

The secretary of state is responsible for ensuring the success in meeting each performance goal. Each county election official has a substantial responsibility in meeting performance goals by monitoring performance measures and reporting to the state at a time to be determined. The reporting will occur after the deadline for implementation of each HAVA requirement has passed.

When the deadlines have passed, the secretary of state in cooperation with the counties will produce a report on how performance goals have been met. The report will include specific data to disclose the successes and failures of counties in the implementation of the Help America Vote Act of 2002 (HAVA). The secretary of state will compile the data in the reports and create a statewide report on the programs. The report will include an indication of whether each county met the performance goals and where improvements can be made.

The performance goals are as follows:

**Performance Goal 1: Elimination of punch card voting machines.**
Eliminating punch card voting machines requires two things once the appropriate funds are available: 1) development by the secretary of state of a statewide Request for Proposal (RFP) to contract for replacement voting systems with successful award of contracts, and 2) requisition and use by counties of alternative voting systems under the contracts. The measure of success for both elements is the successful replacement of all punch card voting machines by the 2004 General Federal election.

| | |
|---|---|
| Performance measure 1 | Number of counties using punch card voting machines in the 2004 General Federal election |
| Timetable | January 1, 2003 to General Federal election 2004 |
| Description of the criteria used to measure performance | Six Montana counties had qualifying precincts in the 2000 General Federal election according to HAVA descriptions of replacement voting systems. |
| Process used to develop the criteria | Success of meeting the performance goal will be based upon the number of punch card voting systems still in use by the General Federal election 2004. |
| Description of official to be held responsible for ensuring each performance goal is met | While each county election official is responsible for implementing the replacement voting system in their county, the secretary of state is leading the statewide effort for replacement and is therefore ultimately responsible for meeting this performance measure. |

**Performance Goal 2: Voting Accessibility**
In addition to assisting counties in assuring the elections process is in compliance with the American's with Disabilities Act, the secretary of state is committed to improving voting accessibility. As required by HAVA, this shall include accessibility for individuals with disabilities and alternative language accessibility as determined in Title III, Section 301 of HAVA, this will be accomplished by the secretary of state and county election officials in two steps once the appropriate funds are available: 1) development by the secretary of state of a statewide Request for Proposal (RFP) to contract for DREs and/or addendum voting system devices with successful award of contracts, and 2) requisition and use by counties of DRE's and/or addendum voting system devices under the contracts. The measure of success for both elements is the successful acquisition and deployment of accessible voting machines by the 2006 General Federal election.

| | |
|---|---|
| Performance measure 2 | Compliance of counties using voting accessible compliant devices in the 2006 General Federal election January 1, 2003 to General Federal election 2006 |
| Timetable | January 1, 2003 to General Federal election 2004 |
| Description of the criteria used to measure performance | Six Montana counties had qualifying precincts in the 2000 General Federal election according to HAVA descriptions of replacement voting systems. |
| Process used to develop the criteria | All 56 Montana counties will require alternative voting accessibility devices in the 2006 General Federal election according to HAVA. Two counties need alternative language voting accessibility. |



| | |
|---|---|
| Description of official to be held responsible for ensuring each performance goal is met | While each county election official is responsible for implementing the voting system in their county, the secretary of state is leading the statewide effort for acquisition and is therefore ultimately responsible for meeting this performance measure. |

**Performance Goal 3: Centralized Statewide Voter Management System**
The state will have a centralized statewide voter management system operational by January 1, 2006 (Montana will be applying for a waiver to have the later deadline). The development of the central statewide voter management system is a new system of online voter registration and updates via online driver license renewal and address changes. The goal is to meet the requirements of HAVA, but also enhance the activities of the county election officials and the experience of the voter.

| | |
|---|---|
| Performance measure 3a and b | a) Implementation of a " single, uniform, official, centralized, interactive, computerized statewide voter registration list that is defined, maintained, and administered at the state level. "<br>b) Number of counties with procedures in place to update the centralized voter registration database using the scale:<br>0 - Not updating<br>1 - updating on weekly batch mode<br>2 - updating on daily batch mode<br>3 - updating upon new information (batch mode)<br>4 - updating real-time<br>5 - using the management system for all voter registration processing |
| Timetable | Timetable January 1, 2003 to January 1, 2006 |
| Description of the criteria used to measure performance | a) Having a system that is operational at the secretary of state's office<br>b) Participation is measured on the scale of interaction, whereas a county that does not participate causes the score to be significantly low. Higher degrees of interaction result in higher scores on performance. |
| Process used to develop the criteria | a) System needs to be up and running by January 1, 2006 to meet HAVA requirement.<br>b) Once developed the success of the system will be dependent upon the actual usage of the system. |
| Description of official to be held responsible for ensuring each performance goal is met | The secretary of state is responsible for implementing the statewide voter management system and coordinating the efforts of all 56 county election officials to meet this performance measure. |

**Performance Goal 4: Provisional Ballots**
There are many requirements for provisional balloting in HAVA that need measuring: provisional ballot uniform processing, verification, and status availability. Our goal is to have the secretary of state's centralized voter management system designed to allow counties to verify provisional voter status to determine whether a vote should count or not. The goal is to have the uniform procedures in place, have each county in compliance and have the statewide system reporting back status of the provisional ballots. Data gathered on provisional balloting will be used to identify and remove barriers that result in uncounted provisional ballots.

| | |
|---|---|
| Performance measure 4 | With respect to the voter registration of each county, the following information will be collected to measure compliance performance:<br>• The number of provisional ballots in each precinct<br>• The number of voters in each precinct<br>• The number of provisional ballots that were verified and counted in each precinct<br>• The number of provisional ballots not counted in each precinct and the reason<br>• for not counting<br>• Whether each voter was notified of the status of their ballot<br>• Whether the uniform procedures were followed for determining whether a provisional ballot is counted or not counted |
| Timetable | December 31, 2004 |
| Description of the criteria used to measure performance | The data in the report will provide specific information relating to how many provisional ballots are voted and provide a means for verifying the procedures for establishing whether the ballots are counted. HAVA requires uniform procedures for checking and verifying provisional ballots. The data in the report will provide specific information for the secretary of state to determine the success of implementation. |
| Process used to develop the criteria | The secretary of state is in the process of making needed changes in our rules regarding provisional balloting. |
| Description of official to be held responsible for ensuring each performance goal is met | County election officials are responsible for provisional ballot verification and compliance to procedures established by the state. Therefore the secretary of state is responsible for establishing the procedures, compliance requirements, reporting requirements and ultimately the success of this performance measure. |

**Performance Goal 5: Voter Education, Election Official and Poll Worker Training**
The goal of education and training is to lower the incidence of mistakes and lack of understanding. Measuring the success of such activities is subjective and difficult to analyze. The secretary of state will be looking at a lot of variables to determine our success in this arena.

| | |
|---|---|
| Performance measure 5 | With respect to the voter registration of each county, the following information will be looked at to measure performance (these measures are not in any order and may or may not imply success in and of themselves):<br>• Voter turnout - including absentee and provisional<br>• Number of public service announcements<br>• Number of seminars providing voter education<br>• Number of locations where voting equipment is on public display<br>• Number of voter education and voter outreach initiatives<br>• A comparison of voter turnout in a federal election with the voter turnout in the immediately preceding four-year cycle<br>• Actual posting of voter information materials at each polling place<br>• Annual questionnaire to determine how aware the public is of their voting rights and responsibilities |
| Timetable | January 1, 2004 |
| Description of the criteria used to measure performance | The information will summarize the voter outreach and voter education methods employed by each county and state. |
| Process used to develop the criteria | The state and counties already provide voter education. By the 2004 Federal election, additional steps will be taken to ensure voter knowledge of changes in voter registration and voting caused by this act. The counties will include details of their efforts in the report they file with the secretary of state certifying their election results and process. Success will be measured in terms of how smoothly the election goes given all the changes. |
| Description of official to be held responsible for ensuring each performance goal is met | The secretary of state and the county elections officials are all responsible for ensuring the success of voter education; however, the secretary of state is responsible for the success of all statewide coordinated efforts for voter education. |

## Section 9

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

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

### *Administrative Complaint Procedures under the Help America Vote Act*

A. Administrative Complaint Procedures

1. The procedures in this section shall be uniform and nondiscriminatory.
2. Under these procedures, any person who believes that there is a violation of any provision of title III (including a violation which has occurred, is occurring, or is about to occur) may file a complaint.
3. Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint, and include the full name, telephone number, and mailing address of the complainant.
4. The Secretary of State may consolidate complaints filed under this section.
5. The Secretary of State shall designate a presiding officer for any complaint under this section. The Secretary of State may, upon agreement of all the parties, resolve the complaint informally, and issue a final determination without a formal proceeding.

6. At the request of the complainant, there shall be a hearing on the record. If a hearing on the record is requested, the complainant must so state. Any such hearing shall be held at a date and time and place determined by the Secretary of State and at the discretion of the Secretary of State the hearing may be conducted by telephone or upon written documentation. If the hearing is on consolidated complaints, then the complainants shall designate a single representative party to advocate for the consolidated complaint. If the presiding officer permits witnesses to testify, then they must be sworn in prior to their testimony being given. If a complainant fails to pursue a complaint, then the complaint shall be dismissed with prejudice.
7. If, under these procedures, the Secretary of State determines that there is a violation of any provision of title III, the State shall provide an informal opinion.
8. If, under these procedures, the Secretary of State determines that there is no violation or that the complainant did not follow the above procedures in filing the complaint or the complaint does not on its face allege a violation of Title III with regard to a federal election, the Secretary of State shall dismiss the complaint and publish the results of the procedures.
9. The Secretary of State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period that begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination.
10. If the Secretary of State fails to meet the deadline applicable under this section, the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures.
11. If a final determination of a complaint was not made within ninety (90) days of the filing of the complaint and the complainant did not agree in writing to an extension, then the complaint shall be referred to a review panel comprised of three staff members of the office of the Secretary of State. The three-member review panel shall issue a final determination on the complaint within sixty (60) days of the referral. The review panel shall make its determination on the record of the hearing and shall not conduct any further proceedings, if the hearing was held and completed. If the hearing was not held or completed, then the review board shall conduct the hearing as prescribed above.
12. At any time before, during or prior to this process the complainant retains the right to file an action in any court of appropriate jurisdiction or to withdraw the complaint. No exhaustion of this administrative remedy is required.

## Section 10

**Sec. 254 (a) IN GENERAL -The State plan shall contain a description of each of the following:**

**(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.**



***Recommended Language***

Pursuant to the Act and in anticipation of receiving full funding for Title I, money will be distributed to provide for punch card replacement for each county that was using a punch card voting system in the 2000 general election. Section 6 details how the federal funds will be spent to meet the requirements of Section 301 of the Help America Vote Act of 2002 (HAVA).

There are five counties in the state that will require new voting systems (one additional county that will be reimbursed). The secretary of state will lead a statewide procurement effort to acquire these systems. The secretary of state will work with county election officials to ensure that all needs are met, including but not limited to:

- device acquisition;
- system maintenance;
- election preparation services; and
- election tabulation services.

The secretary of state will act as contract administrator to maximize the purchasing power. The counties will own, operate, and work with the vendor to maintain the new voting systems and retain control of election services at the county level.

The secretary of state will implement a statewide voter management system to comply with the HAVA Title III. Working with the county election officials and state officials, the state will define functional requirements, and roles and responsibilities of carrying out the functions of voter registration. The system will serve as the single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level. This is a priority of the state's activities that is second only to the removal of all punch card systems. Should any Title I funds remain after the replacement of punch card systems, those funds may be allocated to other priorities as described in section 6.

## Section 11

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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).**

***Recommended Language***

- The secretary of state shall conduct annual meetings with county elections officials to review standards and assess the goals and objectives of the HAVA State Plan.

- If the secretary of state determines the State Plan requires material change, the secretary of state shall:
  1. propose the recommended changes within 60 days of the annual meeting;
  2. allow for public comment not less than 30 days; and
  3. publish in the federal register upon submitting the revised plan to the Election Assistance Commission.

## Section 12

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**
**(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.**

This State Plan is the Preliminary State Plan required under the Help America Vote Act of 2002 (HAVA). This section will be updated in the next fiscal year, reflecting changes to the State Plan, as well as a summary of the 2003 successes.

## Section 13

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**
**(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.**

### *Recommended Language*

Pursuant to Section 255, on January 24, 2003, the chief state election official, Bob Brown, Montana Secretary of State, appointed a citizen advisory committee to help in the development of the State Plan (see press release page 4). The citizen advisory committee was named the Montana Election Reform Advisory Committee. Pursuant to Section 255 of the Help America Vote Act of 2002 (HAVA), the committee included the chief state election official, the election officials from the two most populous jurisdictions, other local election officials, stake holders and citizens. Secretary Brown made committee appointments including a cross-section of people throughout Montana, with representation of groups of individuals with disabilities and minority representation.

The State Planning Committee held open public meetings in compliance with the *Open Meeting Laws of the State of Montana* on April 14 and May 20, 2003. On June 2, 2003, the "preliminary" State Plan will be posted on the secretary of state's website and be made available for public review and comment for a period of 30 days. The secretary of state will announce through a statewide press release after June 2, 2003, the locations where the preliminary State Plan is available for public review and comment. Various media outlets will be requested to publish the preliminary State Plan and/or announce its availability as a public service announcement.
Montana Election Reform Advisory Committee Membership list:



| *MEMBER NAME* | *OFFICE / REPRESENTING* |
|---|---|
| Peggy Beltrone | Cascade County Commissioner, Great Falls |
| Rita Blouke | League of Women Voters, Helena |
| Bob Brown | Montana Secretary of State |
| Rev. Philip Caldwell | State Advisory Commission on Civil Rights, Great Falls |
| John Collins | Project Vote Smart, Anaconda |
| Jean Corbett | AARP, Helena |
| Jamie Doggett | Meagher County Commissioner, White Sulphur Springs |
| Constance Enzweiler | State Coordinator, Americans with Disabilities Act, Helena |
| Bernie Franks-Ongoy | Montana Advocacy Program, Helena |
| Major Daniel Keder | Installation Voting Officer, Malmstrom Air Force Base, Great Falls |
| Cyndy Maxwell | Bighorn County Clerk and Recorder, Hardin |
| Rep. Bernie Olson | House District 76, Lakeside |
| Sen. Carolyn Squires | Senate District 34, Missoula |
| Ellen Swaney | Director of American Indian Minority Achievement, Helena |
| Betty Vantighem | Montana Deaf and Hard of Hearing Services, Great Falls |
| Myrle Tompkins | Montana Association for the Blind, Helena |
| Shelley Vance | Gallatin County Clerk and Recorder, Bozeman |
| Dr. Craig Wilson | Professor of political science, MSU-Billings |
| Justus Wendland | Carroll College Student, Helena |
| Duane Winslow | Yellowstone County Election Administrator, Billings |
| Vickie Zeier | Missoula County Clerk and Recorder, Missoula |

| Requirement | State of Montana's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 301. VOTING SYSTEMS STANDARDS** | | |
| (a) REQUIREMENTS- Each voting system used in an election for Federal office shall meet the following requirements | | |
| (1) IN GENERAL- | | |
| (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall | | |
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | Meets | More education and training provided to the voter on this self-regulating portion. |
| (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | Meets<br>• Up to three mistakes allowed per voter | More education and training provided to the voter on this self-regulating portion. |
| (iii) if the voter selects votes for more than one candidate for a single office-- (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.. | Does Not Meet<br>• No system in place to check ballot before being cast | We have central count system so we will be doing the education component option. |
| (B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by | | |

# APPENDIX A

| Requirement | State of Montana's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Does Not Meet | The state and counties will review and revise ballot materials and implement a voter outreach program with special emphasis on this requirement. |
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error) | Does Not Meet | The state and counties will review and revise ballot materials and implement a voter outreach program with special emphasis on this requirement. |
| (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | Meets. | No action needed. |
| (2) AUDIT CAPACITY- | | |
| (A) IN GENERAL- The voting system shall produce a record with an audit capacity for such system. | Meets. | No action needed. |
| (B) MANUAL AUDIT CAPACITY- | | |
| (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | Meets. | No action needed. |
| (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | Meets. | No action needed. |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | Meets. | No action needed. |
| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES- The voting system shall- | | |



| Requirement | State of Montana's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | Partially Meets.<br>• Visually impaired voters do not currently have access to service specifically designed for them.<br>• Two elections officials representing different political parties can assist the voter at the voter's request.<br>• ADA requirements met at most polling places | The state will meet this requirement through the purchase of DRE machines for use in each of its 56 counties. |
| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Does not meet. | The state will meet this requirement through the purchase of DRE machines for use in each of its 56 counties. |
| (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph). | N/A | The state will meet this requirement upon implementation of the voting system standards referenced above. |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY- The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | Meets. | No action needed. |

| Requirement | | State of Montana's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| | (5) ERROR RATES- The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | Meets. | No action needed. |
| | (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE- Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | Does Not Meet | Legislation already passed giving us rule-making authority (HB 155 Subsection 2). Secretary of State and Election Task Force Committee to further define. |



# APPENDIX B

2003 Legislation to implement HAVA in Montana (HB 155, HB 190, HB 201 and HB 548) can be viewed in their entirety at Montana Secretary of State's website at: **sos.state.mt.us**

# Help America Vote Act

***John A. Gale***
***Secretary of State***

*State of Nebraska*
*Final State Plan*

August 1, 2003



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**A Message from Secretary of State John Gale**

In October of 2002, Congress passed and President George Bush signed the Help America Vote Act. This Act is the beginning point in a new era of election administration in the United States.

The Act is uniquely American: it contains federal mandates to the states, but it doesn't federalize the system; it provides funding to the states, but the funding is not entirely just federal money due to the match requirement; the Act requires reporting and accounting but generally relies on the State Election Officers to carry out the goals of the Act in cooperation with local authorities.

In February 2003, the U.S. Congress in its Omnibus Appropriations bill included some $1.5 billion to begin funding the reforms mandated under HAVA. In order to access its share, each State needs to create a State Plan Commission, which is broad-based, inclusive, and provides a voice for the various groups of citizens who have expressed concerns that their communities have not been well served. Those from the visually impaired and physically handicapped communities particularly come to mind.

This is truly an historic task. For the past century, the battle that has been fought has been over the issue of WHO shall vote. When our nation was founded, only white male adult landowners could vote. We have come a long way. The struggles to outlaw slavery and enfranchise blacks as citizens, to allow women to vote, and to reduce the voting age to 18 to give our youth a voice in their democracy, were tremendous struggles, finally leading to the Voting Rights Act of 1965, and the Civil Rights Act of 1974.

They were battles over inclusiveness in our democracy.

Now the struggle has shifted to issues of the fairness of the election system and the machinery of elections...the process of registering voters, casting ballots, and counting votes. What each State Commission does will be historic, and is part of the dynamic of changing the face of elections in America.

For the first time in 100 years, we have an opportunity to review and make significant improvements in our election systems. It's time to invest some money where our ballot boxes are. These federal dollars will help strengthen our elections process by improving access at the polls, increasing our technology levels, and helping us educate and train voters and poll workers alike.





The responsibility placed by the Federal government onto state election officials must be taken very seriously. The U.S. Congress has allocated unprecedented levels of funding to improve the machinery of elections nationwide, in order to accomplish a new level of fairness, reliability and inclusiveness, nearly uniform across the country. I approach this task as a clear mission delegated to my office, which we will not fail. We will use the funds wisely and meet the goals squarely. It will require a new form of relationship between state and local election officials, a new level of cooperation that will maintain the fair and uniform election process that Nebraska has developed, while effectively and efficiently developing processes to encourage every eligible citizen to participate in our system of democracy.

The first step in this journey was the appointment of the State Plan Commission. I convey my warmest thanks to those members who participated in the process. The long days and numerous hours spent discussing the intricacies of election administration were invaluable in the preparation of this Plan. I would be remiss if I did not acknowledge the efforts of Ms. Martha Gadberry, who as facilitator of the Commission meetings, was successful in getting the group to function not only as advocates for their particular constituency, but as a team working together to improve the election process.

The attached Plan was intended to be and should be treated as a living document. It will serve as a changing road map that will track not only the successes but also the failed initiatives along the way. To that end, I welcome everyone's input, not only during the 30 day comment period mandated by the Act, but at any time as this path is traveled. Please don't hesitate to contact my office with comments, suggestions or criticisms. Help us to make our democratic system be the best it can be to serve America.

With Best Wishes,

John A. Gale
Secretary of State
State of Nebraska

**Executive Summary**

The Help America Vote Act of 2002, Public Law 107-252, 42 U.S.C. 15301-15545 ("HAVA") following passage by the U.S. Congress was signed into law by the President of the United States George Bush on October 29, 2002. This legislation marks a significant step toward major change in our election systems nationwide. Each participating state is required to appoint a citizen advisory committee to advise the Chief Election Officer in the development of a State Plan to implement HAVA, which Plan is to be available for public comment and input before adoption.

Secretary of State John A. Gale, Chief Election Officer for the State of Nebraska, appointed a sixteen-member citizen advisory commission on February 28, 2003, to help in the development of the State Plan. The Commission is called the Nebraska State Plan Commission. Members include the election officials from Nebraska's two largest counties, a mid-size county election official, President of the Nebraska County Clerks Association, a representative from the Secretary of State's office and representatives from various advocacy organizations including the disabled community. Secretary Gale took recommendations for these appointments so that the Commission is representative of a wide cross-section of Nebraskans, including those with disabilities and minority designation.

In addition to the role played by Secretary of State Gale and the State Plan Commission, the public will have an opportunity for input in the process. In accordance with the Act, there will be a 30 day comment period, and those comments will be considered prior to publication of the plan in the Federal Register. Written comments may be submitted either through the web site www.sos.state.ne.us/election/HAVA, which contains details of Nebraska's efforts under the Help America Vote Act or by writing to the Secretary of State. There will also be a public hearing on the proposed plan during the 30 day comment period.

The State Plan has as its' foundation several basic principles that were adhered to in the drafting. These principles include:

Nebraska's Plan should comply with all federal requirements in the Help America Vote Act of 2002 (HAVA).

The plan should not pass initial costs of the implementation of HAVA on to the counties.

Allocation of adequate funds to purchase equipment to implement the central voter registration system, DRE requirements, and training mandates should be the primary objectives.





The State Plan consists of 13 sections on topics ranging from voter education and outreach to administration and budgeting for the plan. Section 1 describes the use of the Title II funding for the mandates in the Act. Included are descriptions of the mandates contained in Title III such as a centralized voter registration database, provisional voting, voter identification, and changes to the voter registration process. Several of these, provisional voting, voter identification and voter registration form changes, were addressed through state legislation during the 2003 legislative session.

Section 2 addresses how the funding will be distributed to local election officials or others. The proposal in this section calls for a grant program for voter education and outreach efforts. Section 3 addresses the issues surrounding voter and election official education and training. Notable components of this section include creation of a panel to examine voter turnout issues, an increased role for the Secretary of State's office in training local officials, and a more aggressive approach to ensuring that voters with disabilities are accommodated.

Section 4 outlines the requirements for vote tabulation equipment. The section outlines a plan to place a DRE or other disabled accessible device in each polling site, while maintaining the current central scan and hand count procedures historically used in Nebraska, these processes, coupled with an education effort, will address second chance voting issues; this approach was used due to future funding concerns and may be altered as the funding picture becomes clearer.

Section 5 describes the fund established to administer the program funding and Section 6 provides a general budget for the implementation effort. Section 7 addresses maintenance of effort requirements of the Act.

Section 8 describes performance measures for the various elements of the State Plan. Section 9 provides a description of the Administrative Complaint Procedure required by the Act.

Section 10 addresses the Title I or "early out" money and its uses. The current Plan anticipates using those funds to supplement the Title II funding to meet the mandates of the Act.

Section 11 addresses the State Plan Commission and how the Plan will be amended in the future. Section 12 is not applicable at this time as the purpose is to describe changes from the previous plan. Section 13 lists the members of the State Plan Commission and their procedures used to develop recommendations for this Plan.

This document will be made available for public comment for a thirty day period beginning on June 9, 2003. A public hearing on the State Plan will be held at the

State Capitol on June 25, 2003. Any person wishing to comment on the plan may either write the Secretary of State at Suite 2300, State Capitol, Lincoln, Nebraska 68509. Comments may also be made on the website, www.sos.state.ne.us/election/HAVA.

Following the 30 day comment period, any comments will be reviewed and a final version of the State Plan be published in the Federal Register for a 45 day period in mid-July of 2003.





**Introduction**

The following constitutes the State Plan for the implementation of the Help America Vote Act for the State of Nebraska. The federal statute requires addressing thirteen issues within the plan. Each required item is identified by a separate section.

**Sec 254. (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**Section 1**

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

It is currently estimated that the requirements payment (Title II) to the State of Nebraska will be approximately $4.9 million for federal fiscal year 2003. At this time it appears necessary that the entire amount of the requirements payment will be dedicated to two of the more expensive mandates contained in Title III: the interactive Voter Registration System (Section 303) and providing a Voting System within each polling site that allows members of the disability community to vote in private and unassisted (Section 301(a)(3). It is also anticipated that at least a portion Title I funds will be necessary to meet these two requirements.

The requirements of Title III include the following:

Sec. 301 This section describes the requirements for voting systems used at the polling sites. Details of these requirements are contained in below in Section 4.

Sec. 302 This section describes the requirements for what has been termed provisional voting and other voting information.

Through the 2002 election cycle Nebraska statute (Neb. Rev. Stat. 32-914.01 et seq.) provided for a process where a person who had previously registered to vote, but whose name did not appear on the list of eligible voters, could cast a ballot through either the use of a "conditional ballot" used to accommodate fail-safe voting under NVRA, or a provisional ballot for someone who had not changed their residence but for some reason their name did not appear on the list.

These provisions do not completely meet the requirements of Sec. 302, as there were no provisions for allowing the individual to ascertain the disposition of the conditional or provisional ballot.

LB 358, introduced and passed in 2003, combines the conditional and provisional processes into one procedure and provides for the development of a website and toll free line to determine whether the provisional ballot was counted and if not, why.

LB 358 also contains requirements that voter information be posted in each polling location including information on polling hours, instructions on how to vote, voting rights, instructions for certain voters that are required to provide identification, and sample ballots. While some of this information had been required to be posted previously, the provisions of LB 358 meet the requirements of Sec. 302.

Sec. 303 This section describes the requirements for a statewide interactive voter registration database. Among the requirements are that the system utilize driver's license numbers and the last four digits of the social security number or in the alternative assign a unique identifier. Other requirements include coordination with other state agency databases and list maintenance procedures as outlined in the National Voter Registration Act.

While Nebraska currently has a state voter registration database in place, it does not meet the requirements contained in Sec. 303. The state will need to explore either the modification of the current system or a replacement system that meets the requirements. A substantial amount of Title III monies (as well as Title I monies) will be necessary to meet this mandate. See Section 6 (budget information) for additional detail. The deadline for meeting this requirement is January 1, 2004, although a waiver until January 1, 2006 is available. It is anticipated that the state will apply for such a waiver.

Sec. 303 further requires that various changes be made to the voter registration process including the design of the voter registration form and the confirmation of the last four digits of the social security number. In addition, agreements with the Department of Motor Vehicles and other state databases are required to provide for list maintenance purposes. LB 359, passed and signed during the 2003 legislative session, contains the required changes and mandates the agreements with other state agencies.

The section also provides that first time voters, who register by mail, are required to produce identification prior to casting a ballot. This mandate was also met in LB 359.





**Section 2**

**(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*

Should funds be available after meeting voting system mandates, the Secretary of State should develop a grant program to encourage voter participation and education among population groups that historically have not been participating in the voting process, including but not limited to youth, disabled persons and minority populations. Such grants should be limited to non governmental, not for profit organizations serving affected voters. No individual grant should exceed $60,000 per year and preference should be given to organizations that demonstrate an ability to attract other financial resources to maintain programs into the future.

*(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).*

Any entity receiving grant monies under (2)(A) will comply with any or all federal reporting requirements. Any entity receiving grant monies under (2)(A) should be required to submit a report to the Secretary of State within 12 months after receiving such a grant, that details the activities funded by the grant and a financial audit.

**Section 3**

**(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.**

The Secretary of State's Office understands the importance of education and training to a successful implementation of HAVA reforms in Nebraska.

The Secretary of State will initiate and plan for centralized, uniform training statewide. This may include but is not limited to providing election officials the training standards, including maintenance of current training efforts; a training

manual (both electronic and hard copy) regarding the HAVA requirements; a video with basic information about HAVA to inform county clerks and poll workers; and information about increasing diversity of poll workers and election officials. This will be done by using regional networks for training election officials, such as NACO annual meetings and involving the vendor to provide training on specific election equipment. The Secretary of State's Office will also seek opportunities to collaborate with advocacy and community groups in an effort to inform not only election officials but the general public as well regarding voter accessibility and procedural changes. This includes but is not limited to the grant program described in Section 2.

Currently, elections and election training are handled mainly at the local level. Training on election issues is provided twice yearly to the County Clerks by the Secretary of State's Office. County officials will continue to bear responsibilities to disseminate training materials and conduct training events within the counties to their poll workers. Content of the training will include, but not be limited to, accessibility issues (especially for the physically and visually impaired); identification requirements for certain first time voters as described in HAVA; changes to provisional voting for HAVA compliance; and information on the complaint procedure.

Voters with disabilities should be made aware of the new accessibility requirements and instructed on how to use the new DRE equipment. The Secretary of State's office will do this in a variety of ways, which may include but will not limited to, producing a Braille brochure for statewide distribution; making DRE's available in places where people with disabilities or the elderly can get hands-on experience; showing DRE's in higher education student unions, high schools and nursing homes and assisted-living facilities; coordinating voter education projects with advocacy and community groups; educating the media through press releases, public access and service announcements; producing video or power point for presentations by advocacy groups for civic group meetings; improving signage at the polling place to indicate accessibility; and establishing an "Elections Information" website to inform the voters of changes before statewide elections.

County clerks will provide information to the voters regarding the identification requirements for first time voters who register by mail. When students are on college campuses, information on voting place options may be given during orientation activities. College students may also be recruited as poll workers, along with high school students, pursuant to new statutory allowances passed by the Nebraska Legislature.

The Secretary of State is committed to making voting more attractive and accessible to Nebraska's citizens. Registration forms will be revised to ensure compliance with HAVA reforms and user-friendliness to encourage voter registration. These forms will continue to be distributed in many places, such as the phone book, county clerk visits to high schools, and college voter drives. The





Secretary of State will also focus on improving the process of reporting registrations from collaborating agencies, such as Health and Human Services.

Pursuant to LB 569, Nebraska will also establish a Blue Ribbon Panel to monitor the progress of HAVA election reforms.

**Section 4**

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

**The requirements of section 301 include the following:**

**Sec. 301 Voting Systems Standards**
**(a)(1)(A)(i) permit the voter to verify ( in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;**

Currently Nebraska local jurisdictions use one of two methods for tabulating votes: hand counting of paper ballots or a central optical scan system for paper ballots. Either of these two systems meet the requirement that permits the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted.

**(a)(1)(A)(ii) provide the voter with the opportunity to (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was other wise unable to change the ballot or correct any error); and**

The voting systems currently in use meet this requirement. Neb. Rev. Stat. 32-917 allows a voter to receive a replacement ballot should the ballot be spoiled or an error occur.

**(a)(1)(A)(iii) if the voter selects more than 1 candidate for a single office—**
**(I) notify the voter that the voter has selected more than 1 candidate for a single office on the ballot;**

**(II) notify the voter before the ballot is cast and counted of the effect of casting multiple for the office;**

The current vote tabulation systems currently used by Nebraska jurisdictions do not meet this requirement. Potential solutions to meeting this requirement (other than the provisions of (B)) would require the use of precinct level optical scanners or the expanded use of DRE's at the polling sites. However, at this time the cost of such equipment on a statewide basis would require a disregard for one of the basic tenets of this plan: that costs not be passed onto the local jurisdictions. It is recommended that the current systems in use in the local jurisdictions continue to be used under the provisions of (B), but that this issue be revisited as continued federal funding of the Act becomes clearer.

**(a)(1)(B) A state or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central county voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by—**
**(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for and office; and**
**(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error)**

The current federal funding level is insufficient to completely replace the paper ballot and central optical scan systems currently in use. In light of this observation, a voter education program should be developed to meet the requirements of this subsection. The Secretary of State will develop materials that can be provided to each voter. Additional notices will be posted within the polling site and assistance will be provided if requested.

**(a)(1)(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.**

Any voter education developed under this subsection (B) should provide instructions and other information to each individual voter so that they may review the information in private and cast their ballot appropriately.

Should funding become available and it is feasible to provide DRE's or precinct level optical scan system, the system should provide a mechanism to preserve the privacy of the voter.





**(a)(2) Audit Capacity**
**(A) The voting system shall produce a record with an audit capacity for such system.**

The voting systems in place in Nebraska currently (hand count and central optical scan) currently meet this requirement. Any future equipment purchases to comply with (a)(1)(A)(iii) or (a)(3) shall meet the requirements of this section.

**(a)(2)(B) Manual Audit Capacity**
**(i) The voting system shall produce a permanent paper record with a manual audit capacity for such system.**

The voting systems in place in Nebraska currently (hand count and central optical scan) meet this requirement. Any future equipment purchases to comply with (a)(1)(A)(iii) or (a)(3) shall meet the requirements of this section.

**(a)(2)(B)(ii)The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.**

The voting systems currently in place in Nebraska (hand count and central optical scan) meet this requirement. Current state statute (32-917) allows a voter to receive a new ballot for any corrections that are necessary. Any future equipment purchases to comply with (a)(1)(A)(iii) or (a)(3) shall meet the requirements of this section.

**(a)(2)(B)(iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.**

The voting systems currently in use n Nebraska (hand count and central optical scan) meet this requirement. Any future equipment purchases to comply with (a)(1)(A)(iii) or (a)(3) shall meet the requirements of this section.

**(a)(3) The voting system shall**
**(a)(3)(A) be accessible for individuals with disabilities, including nonvisusal accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for others;**

The voting systems currently in place in Nebraska (hand count and central optical scan) do not meet this requirement. The Secretary of State will

purchase equipment for use by the counties that meet the requirements of this section. The purchase will be completed so that installation and training in the local jurisdictions can be accomplished in 2005.

**(a)(3)(B) satisfy the requirement of subparagraph (A) through the use of 1 direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and**

The voting systems currently in place in Nebraska (hand count and central optical scan) do not meet this requirement. The Secretary of State will purchase enough units to allow the placement of at least one voting station in each precinct. The Secretary of State may recommend the consolidation of polling sites, not only for the purposes of this section but also to ensure that all polling sites are AD compliant.

**(a)(3)(C) if purchased with funds made available under Title II on or after January 1, 2007, meet the voting systems standards for disability access (as outlined in this paragraph).**

Any equipment purchased, either by the counties or by the State, after January 1, 2007 shall meet the disability standards as outlined in (A).

**(a)(4) The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights of 1965 (42 U.S.C. 1973aa-1a).**

Currently, two Nebraska jurisdictions are required to provide alternative language accessibility. Colfax County is required to provide materials in Spanish and Sheridan County is required to provide assistance in Lakota Sioux. The current voting systems in place in Nebraska are capable of meeting the language accessibility requirements. Any new system purchased by either the local jurisdictions or the state will be capable of meeting not only the current required languages, but such additional languages as may be necessary in the future.

**(a)(5) The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate established under 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act.**





The voting systems currently in place in Nebraska meet this requirement. Any future purchases of vote tabulation equipment whether by the state or local jurisdictions should not only meet the error rate standards but any additional standards issued by the Federal Election Commission or by the Election Administration Commission.

**(a)(6) Each state shall adopt uniform and nondiscriminatory standards that define what constitutes a vote...**

Current Nebraska statute (32-901) defines a valid vote for each of the systems currently in use in Nebraska. The statute was amended through LB 358 to define a valid vote for the anticipated DRE's that will be placed at each polling site pursuant to (a)(3)(B).

**Section 5**

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

Legislative Bill 14, signed into law on February 20, 2003, creates the Election Administration Fund. The Election Administration Fund consists of federal funds, state funds, interest, gifts, and grants appropriated for the administration of elections. The Secretary of State shall use the fund for voting systems, provisional voting, computerized statewide voter registration lists, voter registration by mail, training or informational materials for election officials and for the general public related to elections, and any other costs related to elections or to implementation of the Help America Vote Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Section 6**

**(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.*

*Anticipated Revenue

*These numbers are based on actual receipts (FY'03 Title I and State Match), appropriated amounts (FY'04 Title II) and estimates based on currently proposed funding levels (FY'04 &'05 State Match and FY'05 &'06 Title II). **Fiscal years are based on state fiscal years that run from July 1 to June 30.** While proposed funding levels are substantially below authorization levels in HAVA, this budget is based on conservative estimates.

| | Fiscal Year 2003 | Fiscal Year 2004 | Fiscal Year 2005 | Fiscal Year 2006 |
|---|---|---|---|---|
| **Title I Funding** | $5,000,000 | $0 | $0 | $0 |
| **Title II** | | $4,900,000 | $2,800,000 | $2,800,000 |
| **State Match** | $260,000 | $150,000 | $150,000 | |
| **Subtotal** | $5,260,000 | $5,050,000 | $2,950,000 | $2,950,000 |
| ***Other State Funding** | $241,000 | $251,000 | $251,000 | $251,000 |
| **Total** | **$5,501,000** | **$5,301,000** | **$3,201,000** | **$3,201,000** |

*This amount is similar to previous appropriations for election administration. FY'99-'00 expenditures for election administration totaled $138,905. Maintenance of effort requirements in section 7 require a state to maintain the level of expenditures made for the purposes of the requirements payments. As the bulk of the requirements were not addressed or met by the state prior to HAVA, it is believed that no state funds were expended in FY'99-'00 that meet the requirements of section 7. The "Other State Funding" category is included to show that the state has maintained the historical level of election administration funding. See Section 7 of this plan for further information.





| **Expenditures** | | | |
|---|---|---|---|
| **Title III Requirements** | **Fiscal Year 2003** | **Fiscal Year 2004** | **Fiscal Year 2005** |
| **Disability Equipment** (Section 301) | | 50,000 | 5,250,000 |
| **Central VR** (Section 303) | 50,000 | 3,200,000 | 250,000 |
| **Training and Ed.** (Sec. 302, 303 ) | | 250,000 | 250,000 |
| **Administration** (State Plan Committee, staffing, overhead) | 50,000 | 230,000 | 230,000 |
| **Total** | **100,000** | **3,730,000** | **5,980,000** |

**Section 7**

**(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.**

For Fiscal Year '99-'00, total state expenditures for elections were $138,905. While none of these funds were used for activities specifically mandated by Title III of the Act, it should be noted that appropriations for Fiscal Years '03-'04 and '04-'05 (LB 407, 2003) for elections (Agency 09, Program 45) were for $250,797 for each of the two fiscal years. This amount is an increase over total election expenditures for FY '99-'00.

**Section 8**

**(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.**

The Secretary of State's office is responsible for the success of HAVA implementation and the meeting of performance goals. Local election officials also play a vital role in keeping information current and monitoring performance goals. The performance goals and specific instructions will be included in the elections manual. The counties will report their success with the HAVA implementation to the Secretary of State's Office, and the Secretary of State's Office will make these results available to the public.

Performance Goal 1: Central Voter Registration Database
This database will fully comply with the HAVA guidelines. It will be interactive between the counties and the Secretary of State's Office and will be compatible for updates with the Department of Motor Vehicles and Vital Statistics.

| Performance Goal | Central Voter Registration Database |
|---|---|
| Timetable | 303a to be implemented by January 1, 2006<br>303b to be implemented by January 1, 2004 |
| Criteria used to measure performance | Compliance with HAVA requirements |
| Officials monitoring goal | Secretary of State, Deputy Secretary for Elections and Elections staff |

Performance Goal 2: Voter Accessibility
Improving voter accessibility, as required by HAVA, shall include accessibility for individuals with visual and physical impairment and with alternative language issues as determined by Title III, Section 301.

| Performance Goal | Improving Voter Accessibility |
|---|---|
| Timetable | Implemented by January 1, 2006 |
| Criteria used to measure performance | Compliance with HAVA requirements |
| Officials monitoring goal | Secretary of State, Deputy Secretary for Elections and Elections staff |





Performance Goal 3: Provisional Ballots

The Secretary of State will set uniform procedures for provisional ballots to be in compliance with HAVA requirements. This procedure will be included in the elections manual.

| Performance Goal | Provisional Ballots |
|---|---|
| Timetable | Implemented by January 1, 2004 |
| Criteria used to measure performance | Compliance with HAVA provisions |
| Officials monitoring this goal | Secretary of State, Deputy Secretary for Elections and Elections staff and local election officials |

Performance Goal 4: Voter Education

The Secretary of State's Office is committed to educating the voter regarding changes in election law and plans to implement the ideas expressed in section 3 of the State Plan.

| Performance Goal | Voter Education |
|---|---|
| Timetable | Ongoing implementation to be completed January 1, 2006 |
| Criteria used to measure performance | Compliance with measure described in elections manual. County officials will report any problems to the Secretary of State's Office. |
| Officials monitoring this goal | Secretary of State, Deputy Secretary for Elections and staff and County Election Officials. |

Performance Goal 5: Poll worker training

The Secretary of State will define uniform procedures for poll worker training by local election officials. These standards and processes will be provided in the elections manual.

| Performance goal | Poll worker training |
|---|---|
| Timetable | Implementation beginning January 1, 2004 and ongoing |
| Criteria used to measure performance | Survey will be sent to poll workers to measure knowledge of new standards and procedures |
| Officials monitoring this goal | Secretary of State, Deputy Secretary for Elections and staff, Local election officials |

Performance Goal 6: Election Official Training

The Secretary of State will perform extensive training session for local election

| Performance goal | Election Official Training |
|---|---|
| Timetable | Implemented January 1, 2004; ongoing |
| Criteria used to measure performance | Election officials will be surveyed to measure knowledge of new standards and procedures |
| Officials monitoring this goal | Secretary of State, Deputy Secretary for Elections and staff |

officials using such regional networks as NACO (Nebraska Association of County Clerks). The Secretary of State's Office will also provide staff and procedures for training of election officials.

**Section 9**

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

An Administrative Complaint Procedure has been developed by the Secretary of State that includes the following provisions:

**I. Filing of Complaint and Response**

Any person may file a complaint with the Secretary of State believes that a violation of Title III of the Help America Vote Act or corresponding sections of state statute has occurred, is occurring or is about to occur. Such complaint shall be filed on a form developed by the Secretary of State and shall contain the





name, address and phone number of the person making the complaint, the nature of the violation of Title III of the Help America Vote Act or corresponding state statutes, the date of the violation if the violation had preciously occurred and other information deemed necessary by the Secretary of State. The form shall also allow the person making the complaint to indicate whether he or she desires a hearing on the record regarding the complaint. The complaint form shall be signed by the person making the complaint and shall indicate that the person believes the facts contained on the form to be true. The completed form shall be notarized.

The Secretary of State may, prior to hearing, respond to the complaint based upon the complaint and the Secretary of State's own investigation. Such response shall be in writing and may include a remedy. The complainant may waive the request for a hearing upon review of the Secretary of State's response. If the hearing request is not waived the hearing shall be held as described below. The response from the Secretary of State, whether or not favorable to the complainant, shall in no way effect the complainant's right to a hearing under these procedures.

**II. Hearing Procedure**

If a hearing is requested, the Secretary of State shall appoint a hearing officer to conduct a hearing on the record. Complaints of a similar nature may be combined for purposes of a hearing on the record. If the hearing officer determines that the complaint has merit, the hearing officer shall prepare a written finding and suggest potential remedies to the Secretary of State. The Secretary of State shall take action to ensure the violation is corrected. If the hearing officer determines that there is no violation, the hearing officer shall issue a written finding dismissing the complaint.

If no public hearing is requested, the Secretary of State shall investigate the complaint. If the Secretary of State finds that the complaint has merit, the Secretary of State shall issue a written finding and take action to ensure the violation is corrected. If the Secretary of State determines that there is no violation, the Secretary of State shall issue a written finding dismissing the complaint.

Any written finding, whether by the hearing officer or the Secretary of State, shall be issued within 90 days of the filing of the complaint. This deadline may be waived in writing by the person making the complaint.

**III. Alternative Dispute Resolution Process**

Should the finding not be issued within 90 days of the filing of the complaint, the complaint shall be submitted to a dispute resolution center approved by the office

of Dispute Resolution pursuant to the Dispute Resolution Act (Neb. Rev. Stat. §25-2901 et. seq.) for mediation. Any fees associated with such mediation shall be paid be the Secretary of State. The alternative dispute resolution process shall be completed within 60 days. Any records relating to the complaint shall be made available for the alternative dispute resolution process.

**Section 10**

**(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.**

As Nebraska had no qualifying punch card precincts, all Title I monies received were under Section 101. At the present time, it appears that the bulk ( or perhaps all) of this payment will be needed to meet the mandates of Title III. (See Sections 1 and 6 for further information.) However, smaller amounts were used to fund the State Plan development. It is anticipated that some Title I monies will be available to conduct voter education and outreach efforts.

**Section 11**

**(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**

The State Plan Commission will continue to exist after the development of this plan and will meet at least once each year to evaluate and make necessary changes to the State Plan. The State Plan Commission will continue to exist until such time as the Title I and Title III monies are exhausted.

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

Upon review or suggestion by the State Plan Commission, any material changes to the State Plan shall be published in the Federal Register,

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





Upon review or suggestion by the State Plan Commission, any material changes to the State Plan shall be published and a period of public comment of not less than thirty days shall be provided.

*(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).*

No material changes to the State Plan shall be effective until at least 30 days after the date of publication in the Federal Register.

**Section 12**

**(12) In the case of a Sate 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.**

This State Plan is the Preliminary Plan required under the Help America Vote Act of 2002. There was no plan in fiscal year 2001. This section will be updated in the next fiscal year to reflect changes made to the State Plan as well as summary of the successes in this first year.

**Section 13**

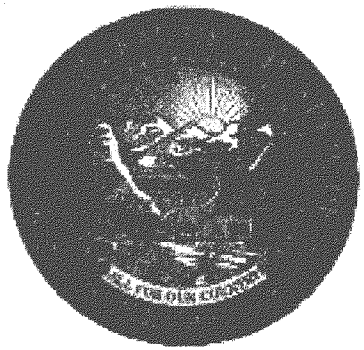
**(13) A description of the commission which participated in the development of the State Plan in accordance with section 255 and the procedures followed by the commission under such section and section 256.**

On February 28, 2003, Secretary John A. Gale, chief election officer for the state of Nebraska, appointed a sixteen member citizen advisory commission to help in the development of the State Plan. The Commission is called the Nebraska State Plan Commission. Members included the election officials from Nebraska's two largest counties, a mid-size county election official, president of the Nebraska County Clerks Association, a representative from the Secretary of State's office and representatives from various advocacy organizations. Secretary Gale took recommendations for these appointments so that the Commission was representative of a wide cross-section of Nebraskans, including those with disabilities and minority designation.

The State Plan Commission held meetings on March 18 and 26, April 7 and 21, and May 12. Following the May 12 meeting, the recommendations of the Commission will be posted at the Secretary of State's website at http://www.sos.state.ne.us/election/HAVA. The State Plan developed from the recommendations of the Commission will be released on June 9, 2003. The Plan will be open for public comment and review for 30 days. The Plan will also be the subject of a Public Hearing held on June 25, 2003. In addition to the public hearing, written comments on the Plan shall be solicited, either via a website or by other means. Media outlets will be contacted to announce the completion of the Plan and the Public Comment period.

**Members of the State Plan Commission:**

| Member Name | Office/Group Represented |
|---|---|
| Mike Scarpello | Acting Douglas County Election Commissioner Office |
| David Shively | Lancaster County Election Commissioner Office |
| DiAnna Schimik | State Senator/Chair of Government Committee |
| Paulette Gerver | President/Nebraska Clerks Association |
| Carlos Servan | Nebraska Commission of the Blind and Visually Impaired |
| Kathy Hoell | Statewide Independent Living Council |
| Lois Poppe | League of Women Voters |
| Wayne Houston | NAACP |
| Steve Virgil | Nebraska Appleseed Center |
| Amy Bracht | Assistant Secretary of State |
| Dr. D'Andra Orey | Professor/University of Nebraska—Lincoln |
| Dale Baker | Hall County Election Commissioner |
| Holly Burns | Hispanic Community Center |
| Dr. Sara Crook | Professor/Peru State College |
| Tim Shaw | Nebraska Advocacy Services |
| June Remington | Aging Services |



# State of Nevada

# Fiscal Year 2003-04 State Plan

**As required by Public Law 107-252**
***Help America Vote Act 2002*, Section 253(b)**

**Nevada Secretary of State's Office**
**101 N. Carson Street, Suite 3**
**Carson City, NV 89701**
**June 16, 2003**

## STATE OF NEVADA FISCAL YEAR 2003-04 STATE PLAN

### I. INTRODUCTION

On October 29, 2002, President Bush signed the Help America Vote Act (HAVA) into law. HAVA is a response to the irregularities in voting systems and processes unveiled during the 2000 Presidential Election. HAVA requires each state to develop a comprehensive plan for implementing the mandatory changes to the administration of elections that are called for in the legislation. HAVA will effect virtually every element of the voting process, including requiring a statewide voter registration system, replacing punch card voting machines, improving voter education and poll worker training, requiring provisional ballots, and requiring at least one voting machine available per polling place for voters with disabilities. HAVA will dramatically change the way future elections throughout the nation are conducted.

The following State Plan for the state of Nevada, developed in accordance with Section 254 of the Act, was created under the direction of Secretary of State Dean Heller through a State Plan Advisory Committee (Advisory Committee). Nevada's plan establishes a framework for the State to continue progress that has already been made in election reform and to achieve compliance with HAVA.

Because HAVA will have a profound impact on virtually every element of the voting process in our State, we anticipate that this plan will be updated and refined over the coming years to ensure the continued health of our democracy.

### II. THE BACKDROP FOR NEVADA'S STATE PLAN

The Secretary of State is the Chief Officer of Elections for the state of Nevada, and, as such, is responsible for the execution and enforcement of state and federal laws relating to elections. Although HAVA dramatically increases the election administration responsibilities for the State, the efficient functions and cooperation of local governments continue to be critical to ensure elections are successfully conducted. Considerable time, effort and resources on the state and local level will be necessary for the State to meet HAVA's requirements.

Nevada is one of the fastest growing states in the country. Based on figures obtained from Census 2000, Nevada's population increased by 796,424 persons between 1990 and 2000. In addition, Nevada's largest county, Clark County, continues to add approximately 4,000 new citizens per month. Currently, the State has approximately 1,000,000 registered voters spread throughout its 17 counties and more than 1,500 state, county and municipal political campaigns come under the jurisdiction of local or state election officials during each election cycle.

Of the 17 counties in the State, seven (7) currently use punch card machines, nine (9) use optical scan machines, and one (1) uses direct record voting machines[1]. Due to requirements outlined in HAVA, the State will need to substantially upgrade systems,

[1] This county uses punch cards for absentee ballots.

redesign processes and provide updated and continual training for election administrators and the citizens of the State. In addition, Nevada does not currently have a statewide voter registration system in place. Based on the foregoing, meeting the requirements of HAVA and its ambitious timelines will be difficult, if not impossible, to achieve without adequate support, resources and funding from both the federal government and the Nevada Legislature.

In developing Nevada's State Plan, the Advisory Committee used as guidance the goal of developing and implementing a plan that delivers a timely, accurate and accessible voting process for all Nevadans. The strategies for achieving this goal were to: (1) obtain initial federal funding; (2) implement legislation fostering voter participation and compliance with HAVA; (3) conduct an assessment of the condition of the statewide voter registration process given these standards; and (4) develop and implement follow through accountability activities and feedback mechanisms for complaints.

Nevada's State Plan as presented herein is limited to the extent state appropriations are made available and based on the assumption that adequate federal funding will be appropriated and, while the State intends to fully comply with the Help America Vote Act, if adequate federal funding is not made available, the manner in which the funds are disbursed or dedicated may be altered from the information contained in this State Plan.

## III. NEVADA'S STATE PLAN

**1. Use of Requirements Payments**

*Section 254(a)(1) requires a description of how the State will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2)[2], to carry out other activities to improve the administration of elections. Title III requires the establishment of certain voting system standards, provisional voting, public posting of voting information, a computerized statewide voter registration list, and voter registration application modifications.*

**A. Voting Systems Standards**

*Section 301(a) establishes several voting system standards which must be met by January 1, 2006. Under this section, no waiver of the requirements is permitted.*

HAVA requires each voting system in the state to: (a) permit voters to verify whom they have voted for and make changes to their vote in a private, secret and independent manner; (b) notify voters if they have overvoted, what happens in instances of an overvote, and provide the opportunity to correct the ballot; (c) ensure that any notification to the voter maintains the privacy, secrecy and independence of the voter's ballot; (d) produce a permanent paper record with manual audit capacity; (e) be accessible for the disabled through the use of at least one (1) Direct Recording Electronic (DRE) voting system placed at each polling place; (f) provide alternative language accessibility pursuant to Section 203 of the Voting Rights Act of 1965; (g) comply with error rates in effect by the Federal Elections Commission (FEC); and (h) have a definition of what constitutes a vote and what will be counted. Most of these

[2] Reference should be to Section 251(b)(2).



requirements are already addressed either in existing Nevada statute or regulation or have been requested to be included in pending state legislation.

Nevada's 17 counties currently use a combination of punch card, optical scan and (DRE) voting systems.[3] The seven (7) counties currently using punch card systems[4], contain 83,031 registered voters and have a total combined population of 175,869. The nine (9) counties using optical scan systems[5], contain 233,636 registered voters and have a total combined population of 446,626. Only one (1) county, Clark County, uses DRE, but that county uses punch cards for its absentee ballots. Clark County contains 571,215 registered voters, with a total combined population of 1,375,765.

Most of the federal funding that has been appropriated to date will be needed to upgrade voting systems throughout the State and to purchase new systems in order to meet the requirements of Title III. If adequate federal funding is available, the State's ultimate goal is to implement a uniform voting system for polling places throughout the state and a uniform system for absentee voting throughout the state. DRE touch screen voting systems are the preferred system, as such systems appear to meet all requirements of Section 301(a). Based on the current level of federal funding available, it appears more likely that the State will use requirements payments to replace all punch card voting systems in the State with touch screen DRE systems that meet the requirements of Section 301(a), and to provide at least one DRE touch screen system equipped for individuals with disabilities in each polling place in counties that continue to use optical scan voting systems. These voting system replacements will be accomplished by January 1, 2006.

To ensure proper training for election administrators and the voting citizens of Nevada, the State will use requirements payments to help educate those individuals about the proper use of the new voting systems. Requirements payments will also be used for maintaining, modifying and improving all voting systems in the State to ensure compliance with HAVA Section 301(a) standards.

**B. Provisional Voting and Voting Information Requirements**

*Section 302 requires the establishment of provisional voting and the posting of voting information at polling places by January 1, 2004. Under this section, no waiver permitted.*

HAVA requires provisional voting procedures in all states to ensure that no voter who appears at the polls and desires to vote is turned away, for any reason. The State does not currently have procedures for provisional voting in place. The Secretary of State submitted legislation, which was ultimately passed by the state Legislature and signed by the Governor (the "HAVA Legislation") to enact procedures to allow for

[3] See Appendix A for a summary of voting systems used throughout the State.
[4] Carson City, Churchill County, Douglas County, Lincoln County, Lyon County, Humboldt County, and Storey County.
[5] Elko County, Esmeralda County, Eureka County, Lander County, Mineral County, Nye County, Pershing County, Washoe County, White Pine County.

provisional voting[6] throughout the State by January 1, 2004. These procedures meet the requirements of Section 302.

The State anticipates using requirements payments to create the free access system required by HAVA to provide voters who cast provisional ballots the ability to discover whether or not their ballot was counted. We may also use requirements payments to provide training and outreach concerning the ability to receive and cast a provisional ballot. Finally, if adequate federal funding is available, the State may use requirements payments to assist the local governments with funding offsets necessary to prepare and process provisional ballots.

In addition to provisional balloting requirements, Section 302 of HAVA mandates that a sample ballot and other voting information be posted at polling places on Election Day. Each registered voter currently receives a sample ballot in the mail prior to Election Day. In addition, the State requires some voting information be displayed at each polling place, but it does not require the extensive information contained in Section 302. The Secretary of State's HAVA Legislation ensures that state law requires all materials required by federal law be posted at each polling place[7]. The State, in cooperation with county clerks, will design the materials to be posted. We anticipate using requirements payments to defray the cost of developing, printing and posting this information.

**C. Computerized Statewide Voter Registration List and Requirements for Voters Who Register by Mail**

*Section 303 requires the establishment of a computerized statewide voter registration list, first time voters who register by mail to provide identification when they cast their ballots, and changes to be made to the voter registration application by January 1, 2004. A waiver is permitted to extend compliance with Section 303(a) to January 1, 2006.*

Section 303 of HAVA requires that all states establish a statewide computerized registration list of all eligible voters. This "single, uniform, official, centralized, interactive, computerized statewide voter registration list" must be administered at the State level and is considered the official list of legally registered voters in the State. The State does not currently have a statewide voter registration list and voter registration records are created and maintained separately by each local jurisdiction.

The State will be purchasing a compliant voter registration system from one vendor to be implemented statewide and administered by the Secretary of State. The State is currently in the process of creating the requirements for the system and selecting the vendor. It is our goal to have all counties on-line and trained by January 1, 2004. The chosen system will comply with Section 303(a) of HAVA and will have the ability to interface with the State Department of Motor Vehicles and other appropriate agencies, as required by HAVA.

[6] Senate Bill 453

[7] Assembly Bill 235 and Senate Bill 453



The State will expend a large portion of its requirements payments and Title I payments to fund the creation and maintenance of the statewide voter registration system. Specifically, in addition to the basic costs of the system, the State anticipates paying for all hardware and software necessary in connection with implementing the system as well as required training for county and city officials in the use of the system.

With respect to requirements for voters who register by mail, the State revised its voter registration form in January 2003 to meet the requirements of Section 303(b). The State may use requirements payments to defray the costs to the counties, the Department of Motor Vehicles and other agencies that are associated with printing these new forms.

The Secretary of State's HAVA Legislation modified the processes associated with voter registration and verification of identification at the time of registration, or at the polls for first-time voters who register by mail[8].

**D. Other Activities to Improve the Administration of Elections (Section 251(b)(2))**

The State intends to use requirements payments to fund other activities to improve the administration of elections, including, but not limited to: (a) establishing a polling place accessibility program to ensure that all polling places in the state are and continue to be ADA compliant; (b) providing necessary assistance to persons with limited proficiency in the English language; (c) engaging in a variety of voter education and outreach activities including public service announcements, voting machine demonstrations, mass mailings and other related media avenues; (d) providing election official and poll worker training initiatives; and (e) establishing poll worker recruitment programs.

The State currently does not have the personnel and technical capacity required to fully achieve HAVA compliance. Ongoing operations and maintenance of the new requirements cannot be supported with the current State and local technical infrastructure and resources. The State anticipates the need for additional technology and elections personnel in the office of the Secretary of State to ensure continued compliance with HAVA. The State may use requirements payments to fund these positions.

**2. Distribution of Requirements Payments & Eligibility for Distribution**

*Section 254(a)(2) of the act requires a description of 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 Section 254(a)(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*

[8] Senate Bill 453

*to whom the payment is distributed, consistent with the performance goals and measures adopted under Section 254(a)(8).*

The Office of the Secretary of State will centrally manage activities funded by requirements payments. The Secretary of State will be accountable for all expenditures, funding levels, program controls and outcomes. The Secretary of State, in conjunction with local election officials, will determine the appropriate level of support for local activities.

The criteria to be used for determining eligibility include, but are not limited to: (a) the priority of the project to which the distribution is intended to be applied as it relates to complying with HAVA; (b) the extent to which the recipient is in compliance with Title III of HAVA and all other state and federal election laws; (c) the recipient must maintain its current level of funding for its elections budget outside of any HAVA funds received; (d) the recipient must cooperate with the State in maintaining the statewide voter registration list and must timely implement list purging activities and reporting as required by the Secretary of State; (e) the need for the payment to ensure continued compliance with state and federal elections laws; (f) the availability to the recipient of other funding sources, including other HAVA related grants; (g) the recipient must acknowledge that it will be required to reimburse the State for all federal funds received if it does not meet the deadlines for compliance in HAVA; and (h) the recipient must develop a comprehensive accounting plan in accordance with federal criteria for separately identifying and tracking any federal funds received. The criteria for receipt of requirements payments will be agreed to in writing in advance by the Secretary of State and the unit or entity receiving the payment.

The Secretary of State will monitor the performance of each activity funded by requirements payments on a case-by-case basis. The methods to be used by the State to monitor the performance of the payment recipients include: (a) requiring the recipient to prepare and submit comprehensive monthly reports to the Secretary of State detailing the expenditures and their relation to complying with Title III of HAVA; (b) implementing financial controls that establish financial reporting methods; and (c) developing performance indicators on a case-by-case basis for all activities funded.

**3. Voter Education, Election Official and Poll Worker Training**

*Section 254(a)(3) of the Act requires a description of 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.*

**A. Voter Education**

The Secretary of State has long believed that voter education is essential to ensuring a healthy democracy. Voters that are educated on the process and the issues remain involved in the process. As voter education spreads, voter registration and voter participation increases. In order to foster civic action, it is imperative that voters be educated about the proper procedures and about their rights. Currently, organized voter outreach programs within the State are limited due to fiscal restraints, and remain primarily within the purview of the main political parties in the State.



However, by law, each registered voter in the State receives a sample ballot in the mail before each election. In addition, the Secretary of State's Elections Division publishes a monthly *Elections Update* newsletter and throughout the year creates informative brochures designed to better educate Nevada's citizens. The Secretary of State's website also contains extensive information for voters.

During an election cycle, the Secretary of State issues many media advisories and news releases in an attempt to increase voter awareness and participation. The Secretary of State also holds public forums throughout the state relating to statewide ballot questions. Some of the larger counties in the State issue public service announcements, provide system demonstrations and issue other publications.

To expand voter education efforts in the State, the Secretary of State intends to create a voter outreach and education initiative, Nevada Voter Information Project (NVIP), in conjunction with local election officials, private businesses, political groups and other interested parties. NVIP will educate voters on the process, their rights as voters, the candidates and the issues, while at the same time reaching out to everyone in the community to encourage voter participation, and ensuring that historically disenfranchised groups such as college students, the elderly, disabled and minority groups are included.

**B. Election Official and Poll Worker Training**

Adequate training for election officials and poll workers is critical to any election being conducted successfully. It becomes even more crucial when election reform occurs. Currently, training programs in the State are predominantly localized and, in some cases, informal. The State does not have personnel available to take on the sole responsibility for providing training. Nevertheless, the Secretary of State will work with local election officials to produce training standards to be implemented statewide for training election officials and poll workers. All poll workers will be required to be trained against these standards.

**4. Voting System Guidelines and Processes**

*Section 254(a)(4) requires a description of how the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.*

As stated above, Section 301 requires each voting system in the state to: (a) permit voters to verify whom they have voted for and make changes to their vote in a private, secret and independent manner; (b) notify voters if they have overvoted, what happens in instances of an overvote, and provide the opportunity to correct the ballot; (c) ensure that any notification to the voter maintains the privacy, secrecy and independence of the voter's ballot; (d) produce a permanent paper record with manual audit capacity; (e) be accessible for the disabled through the use of at least one (1) DRE voting system placed at each polling place; (f) provide alternative language accessibility pursuant to Section 203 of the Voting Rights Act of 1965; (g) comply with error rates in effect by the FEC; and (h) have a definition of what constitutes a vote and what will be counted.

Existing Nevada law already provides for many of the voting system guidelines and processes set forth in HAVA. Legislation has been approved which modifies state law to

adopt all voting system guidelines and processes to be consistent with the requirements of Section 301, where such changes are needed.

In addition, the Secretary of State is responsible for certifying voting systems for use in the State. The Secretary of State, in accordance with state law, cannot certify any voting system in the State unless is meets or exceeds the standards for voting systems established in 2002 by the FEC. The Secretary of State will create new guidelines and processes as necessary to ensure all voting systems in the State are in compliance with Section 301.

**5. Establishment of Election Fund**

*Section 254(a)(5) requires a description of how the State will establish a fund described in Section 254(b) for purposes of administering the State's activities under this part, including information on fund management.*

*(b) Requirements for Election Fund—*

*(1) Election Fund Described.—For purposes of subsection (a)(5), a fund described in this subsection with respect to a State is a fund which is established in the treasury of the State government, which is used in accordance with paragraph (2), and which consists of the following amounts:*

*(A) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment is made to the State under this part.*

*(B) The requirements payment made to the State under this part.*

*(C) Such other amounts as may be appropriated under law.*

*(D) Interest earned on deposits of the fund.*

The Governor authorized the State Budget Office to submit legislation on behalf of the Secretary of State in order to create a special election fund in the state treasury that provides the Secretary of State with the authority to receive into this fund all federal HAVA dollars and any state matching funds appropriated[9]. On April 25, 2003, the Governor signed the legislation into law. The Secretary of State is working with the State Budget Office and the State Controller's office to follow and enforce all fiscal controls and policies required by both state and federal law.

**6. Nevada's Proposed HAVA Budget**

*Section 254(a)(6) requires a description of 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.*

To assist states with meeting the new mandates imposed by HAVA, Congress authorized a total of $650 million in Title I payments and $3 billion in Title II requirements payments to be distributed over the next three years. More than half of the funding was to be distributed in FY 2003. Unfortunately, less than one-third of that sum was actually appropriated for FY 2003. In addition, as for FY 2004, the President's budget only calls for $490 million for requirements payments, rather than the $1 billion authorized in HAVA. To date, FY 2005 funding is unknown. Based on the foregoing, the State has created its HAVA budget assuming the following levels of funding:

| Federal Fiscal Year | Appropriations | State's Share | 5% Match |
|---|---|---|---|
| Title I Early Payments | $650 Million | $5 Million | n/a |
| 2003 | $833 Million | $5.7 Million | $300,000 |
| 2004 | $490 Million | $3.3 Million | $180,000 |
| 2005 | $600 Million | $4.0 Million | $210,000 |
| Total | $2.573 Billion | $18 Million | $690,000 |

Because the actual level of funding that will be authorized through fiscal year 2005 is currently unknown, the State's proposed HAVA budget will be revised over time as actual federal funding becomes known. Following is the State's budget through FY 2005, based on our best estimates of the costs of such activities and the amount of funding as discussed herein:

**Title III Requirements**:

*Voting System Purchases/Upgrades:*
--$6.5 million to replace all punch card and optical scan voting systems in the State with new DRE touch screen systems, and to provide for optical scan absentee systems and tabulation compatibility.
--$2 million to provide additional touch screen systems for Clark County.
-- To be funded with Title I early payments, Title II requirements payments and state matching funds.

*Establishing and Maintaining a Statewide Voter Registration List:*
--$3 to $4 million base cost, plus ongoing maintenance costs of approximately $100,000 per year.
--To be funded with Title I early payments, Title II requirements payments and state matching funds.

*Provisional Voting and Voting Information Requirements:*
--$150,000 to create the free access system, provide necessary training and outreach, and develop voting information.
--To be funded with Title II requirements payments and state matching funds.

*Voter Registration Form Revisions:*
--$60,000 to reimburse counties, and other agencies for revisions to voter registration form.
--To be funded with Title II requirements payments.

[9] Senate Bill 417

**Other Activities**:

*Ongoing assessment of polling place accessibility and ADA compliance*
--$$ To be determined based upon adequate funding.

*Voter education and outreach activities*
--$$ To be determined based upon adequate funding.

*Election official and poll worker training initiatives*
--$$ To be determined based upon adequate funding.

*Additional technology and elections personnel in the office of the Secretary of State*
--$ To be determined based upon adequate funding.

**7. Maintenance of Effort**

*Section 254(a)(7) requires a description of 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.*

Consistent with the maintenance of effort requirement contained in HAVA, in using any requirements payments, the State will maintain expenditures of the State for activities funded by the payment at a level equal to or greater than the level of such expenditures maintained by the State for its fiscal year that ended prior to November 2000. The fiscal year that ended prior to November 2000 was fiscal year 2000, which began July 1, 1999 and ended on June 30, 2000. The total expenditures attributable to the Secretary of State's Elections Division for FY 2000 were $151,207. The total expenditures attributable to the Division increased in FY 2001, 2002 and are anticipated to increase in FY 2003.

To maintain the level of funding required by HAVA, the Secretary of State's proposed budget for fiscal years 2004 and 2005 requests funding for the Elections Division of approximately $280,000 in FY 2004 and $294,000 in FY 2005. This request includes additional funding for the Division in excess of FY 2003 levels. The State Legislature has the ultimate power to approve these funding levels, and has been apprised of the maintenance of effort requirements contained in HAVA. In the event the additional funding request is denied, the projected state funded expenses for fiscal years 2004 and 2005 will still exceed $250,000.

**8. Performance Goals and Measures**

*Section 254(a)(8) requires a description of 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.*



The Secretary of State, in collaboration with local election officials, will establish performance goals and will institute a process to measure progress toward the achievement of these goals. This process will provide local election officials with structure and continued measurable targets for accomplishment. In addition, each local election official will be required to report the progress of such local jurisdiction in meeting the performance goals and measures to the Secretary of State within 60 days after every general election held in the State.

**Performance Goals**

The State's primary goal is to achieve election reform and compliance with HAVA through the successful implementation of the programs outlined in the State Plan. Following is a description of the timetable for meeting each element of the Plan and the title of the official responsible for ensuring each such element is met:

| Element | State/County Official | Timetable |
|---|---|---|
| Voting Systems | State Elections Deputy<br>County Election Official | By January 1, 2006 |
| Voter Registration | State Elections Deputy<br>County Election Official | By January 1, 2004* |
| Provisional Voting | State Elections Deputy<br>County Election Official | By January 1, 2004 |
| Additional Personnel | State Elections Deputy | By January 1, 2004 |
| Polling Place Accessibility | State Elections Deputy<br>County Election Official | By January 1, 2004 |
| Voter Education/Outreach | State Elections Deputy<br>County Election Official | Ongoing |
| Poll Worker Training | State Elections Deputy<br>County Election Official | Ongoing |
| Complaint Procedures | Deputy Attorney General | By Certification of State Plan |

*if the State certifies good cause for waiver, then by January 1, 2006

**Performance Measures**

The State will use the following criteria to measure performance:
--voter turnout
--functionality of voting systems
--accuracy of the date contained in the statewide voter registration list
--voter satisfaction with equipment (accomplished through surveys)

--complaints against poll workers
--complaints versus complaints resolved
--ADA compliance issues

These criteria were developed through the State Planning Process.

**9. State-Based Administrative Complaint Procedure**

*Section 254(a)(9) requires a description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. This state-based administrative complaint procedure must be in effect prior to certification of the State Plan, but no later than January 1, 2004; no waiver of the procedure is permitted.*

The Advisory Committee has developed and adopted a procedure for complaints that meets HAVA requirements[10]. The Secretary of State intends on adopting emergency regulations to place these procedures into the State Administrative Code prior to certification of the State Plan.

In summary, the procedure provides a uniform, nondiscriminatory procedure for the resolution of any complaint alleging a violation of any provision of Title III of HAVA, including a violation that has occurred, is occurring, or is about to occur. Any person who believes a violation of any provision of Title II has occurred may file a complaint with the Secretary of State. The complaint must be written, signed, sworn to and notarized. At the request of the complainant, the Secretary of State will conduct a hearing on the record that will be conducted in accordance with HAVA requirements. The Secretary of State will provide the appropriate remedy and will provide a final determination within the timeframes specified in HAVA. The procedure provides for alternate dispute resolution if the Secretary of State does not make a timely final determination. Finally, the procedure requires the Secretary of State to make reasonable accommodations to assist persons in need of special assistance for utilizing the complaint procedure.

**10. Effect of Title I Payments**

*If the State received payment under Title I, Section 254(a)(10) requires a description of how such payment will affect the activities proposed by the State to be carried out under the plan, including the amount of funds available for such activities.*

On April 30, 2003, the State received $5,000,000 in Title I payments. The affect this funding will have on the activities proposed by the State in this plan has been previously discussed throughout this plan. Section 6 of this Plan specifically sets forth the State's intended use for these funds.

**11. Ongoing Management of the State Plan**

*Section 254(a)(11) requires a description of 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;*

[10] See Appendix B for copy of Administrative Complaint Procedure.



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

*(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 State intends to use the State Plan as the foundation for its goals in achieving election reform and compliance with HAVA. To achieve these goals, the Secretary of State will appoint an internal committee in his office to be overseen by the Deputy Secretary for Elections. This committee will be responsible for conducting ongoing management of the State Plan. To carry-out this function, the committee will be required to hold monthly meetings and to hold at least three (3) meetings each fiscal year with local election officials. The Deputy Secretary for Elections will be required to report to the State Advisory Committee the activities involved with the ongoing management of the Plan. The Secretary of State will hold an annual meeting of the State Advisory Committee to review and update the State Plan, as necessary. The Secretary of State may also convene the State Advisory Committee at other times during the year as deemed necessary.

**12. Changes to the State Plan from the Previous FY**

*In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, Section 254(a)(12) requires 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 State Plan contained herein is the first State Plan for the state of Nevada under HAVA.

**13. Committee Description and Development of State Plan**

*Section 254(a)(13) requires 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's Advisory Committee consists of fourteen (14) members including the Secretary of State, local election officials from the two largest counties in the State and a variety of other election stakeholders[11]. The Secretary of State selected the committee membership and acted as Chairman for each meeting held.

Members of the State Advisory Committee and their qualifications are as follows:

Jonathan Andrews, Special Assistant Attorney General (Appointee of Attorney General, Brian Sandoval)
LaVonne Brooks, Executive Director, High Sierra Industries
Dan Burk, Washoe County Registrar of Voters
Joseph Catania, Political Director, State Republican Party (Appointee of Senate Majority Leader, William Raggio)
Jan Gilbert, Northern Nevada Coordinator for Progressive Leadership Alliance of Nevada (PLAN)
Dean Heller, Secretary of State

[11] See Appendix C for Advisory Committee biographies and party affiliation.

# APPENDIX A – VOTING SYSTEMS/STATE OF NEVADA

| COUNTY | VOTING SYSTEM | TABULATION SYSTEM | VOTER REGISTRATION SYSTEM | SIGNATURE VERIFICATION PROGRAM / SYSTEM |
|---|---|---|---|---|
| CARSON | PUNCH CARD 218 Units<br>228 VOTOMATIC BRC / ES&S<br>Year Purchased: 1995 Last Modified: 2000 | SEQUOIA PACIFIC SYSTEMS<br>TEAMWORK MODEL 25<br>Year Purchased:<br>Last Modified: | ES&S Oracle<br>In-House Server | ES&S |
| CHURCHILL | PUNCH CARD 78 Units<br>SEQUOIA PACIFIC DATA VOTE<br>Year Purchased: 1978 Last Modified: 2000 | DOCUMENTTEN CARD READER<br>Year Purchased:<br>Last Modified: | IBM AS400 with<br>ADS software | NONE |
| CLARK | DIRECT RECORDING EQUIPMENT<br>2186 UNITS<br>SEQUOIA PACIFIC AVC ADVANTAGE<br>Year Purchased: 1994 Last Modified: 2000 | SEQUOIA PACIFIC<br>TEAMWORK MODEL 25/ WINEDS<br>Year Purchased:<br>Last Modified: | VOTEC ELECTION<br>MANAGEMENT &<br>COMPLIANCE SYSTEM | VOTEC ELECTION<br>MANAGEMENT &<br>COMPLIANCE SYSTEM |
| DOUGLAS | PUNCH CARD 200 Units<br>228 VOTOMATIC BRC / ES&S<br>Year Purchased: 1972 Last Modified: 1997 | BRC<br>PERSONAL COMPUTER BALLOT<br>TABULATION (PC/BT)<br>Year Purchased:<br>Last Modified: | ES&S Oracle<br>In-House Server | ES&S |
| ELKO | OPTICAL SCAN 2 Units<br>AIS 15 Series Model 150<br>Year Purchased: 1997 (No Modifications) | BRC<br>PERSONAL COMPUTER BALLOT<br>TABULATION (PC/BT)<br>Year Purchased:<br>Last Modified: | COUNTY<br>MAINFRAME<br>AS-400 | ADS |

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Brian Kagele, Director of Technology, Office of the Secretary of State
Larry Lomax, Clark County Registrar of Voters
Barbara Reed, Douglas County Clerk
Tony F. Sanchez, III, President, Latin Chamber of Commerce; Partner, Jones Vargas Law Firm
Dr. Richard Siegel, President, ACLU of Nevada
Monica Simmons, City Clerk, City of Henderson
Vicky Thimmesch Oldenburg, Senior Legal & Policy Analyst to the Governor (appointee of Governor Kenny Guinn)
Scott Wasserman, Chief Deputy Legislative Counsel (appointee of Assembly Speaker Richard Perkins)

Advisory Committee Staff and their qualifications are as follows:

Renee L. Parker, Esq., Chief Deputy Secretary of State
Ronda L. Moore, Esq., Deputy Secretary of State for Elections
Patricia Blasius, Committee Secretary, Administrative Assistant in the office of the Secretary of State

To develop the State Plan, the State Advisory Committee met two to three times each month beginning in February 2003[12]. Initially, the Advisory Committee discussed the requirements of HAVA and the various methods for achieving compliance. During the month of March, the Committee began working from a draft plan that incorporated requirements they had already approved and allowed for discussion and analysis of the remaining items. Committee meetings were publicly held and noticed in accordance with the State's Open Meeting Law[13].

A preliminary version of the State Plan was made available for public inspection and comment for a 30-day period prior to submission of the plan. The Secretary of State published notice of such availability in his offices and on his website and in the Nevada State Library, all main County Libraries throughout the State, all City and County Clerk's offices throughout the State, and at various other agencies throughout the State. The Secretary of State also announced that he would take public comment in the form of e-mails, letters, faxes, etc. No public comments were received.

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[12] See Appendix D for schedule of meeting dates and corresponding meeting agenda.
[13] Chapter 241 of the Nevada Revised Statutes.

| COUNTY | VOTING SYSTEM | TABULATION SYSTEM | VOTER REGISTRATION SYSTEM | SIGNATURE VERIFICATION PROGRAM / SYSTEM |
|---|---|---|---|---|
| EUREKA | OPTICAL SCAN 1 Unit<br>AIS 15 Series Model 150<br>Year Purchased: 1996 (No Modifications) | AIS / 3 Series Model 150<br>Year Purchased: 1996 (No Modifications) | COUNTY MAINFRAME AS-400 | NONE |
| HUMBOLDT | PUNCH CARD 69 Units<br>SEQUOIA PACIFIC DATA VOTE<br>Year Purchased: 1986 Last Modified: 1996 | SEQUOIA PACIFIC<br>TABULATOR MODEL 25<br>Year Purchased:<br>Last Modified: | IBM AS-400 with ADS software | DIS<br>ROSETTA-S |
| LANDER | OPTICAL SCAN 1 Unit<br>AIS 15 Series Model 150<br>Year Purchased: 1996 (No Modifications) | AIS / 3 Series Model 150<br>Year Purchased: 1996<br>(No Modifications) | IBM AS400 with ADS software | NONE |
| LINCOLN | PUNCH CARD 25 Units<br>228 VOTOMATIC BRC / ES&S<br>Year Purchased: pre-1986<br>(No Modifications) | BRC<br>PRECINCT BALLOT COUNTER (PBC) MODEL 6<br>Year Purchased:<br>Last Modified: | IBM AS400 with ADS software | NONE |
| LYON | PUNCH CARD 163 Units<br>228 VOTOMATIC BRC / ES&S<br>Year Purchased: 1985<br>Last Modified: 1999 | BRC<br>PERSONAL COMPUTER BALLOT TABULATION 500 (PC/BT)<br>Year Purchased:<br>Last Modified: | IBM AS400 with ADS software | ADS |
| MINERAL | OPTICAL SCAN 1 Unit<br>AIS Series Model 150<br>Year Purchased: 1993<br>Last Modified: 1995 | AIS Series Model 150<br>Year Purchased: 1993<br>Last Modified: 1995 | IBM AS400 with ADS software | NONE |

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| COUNTY | VOTING SYSTEM | TABULATION SYSTEM | VOTER REGISTRATION SYSTEM | SIGNATURE VERIFICATION PROGRAM / SYSTEM |
|---|---|---|---|---|
| NYE | OPTICAL SCAN 2 Units<br>AIS Series Model 150<br>Year Purchased: 1996 (No Modifications) | AIS Series Model 150<br>Year Purchased: 1996<br>(No Modifications) | IBM AS400 with ADS software | ADS |
| PERSHING | OPTICAL SCAN 1 Unit<br>AIS Series Model 150<br>Year Purchased: 1995 (No Modifications) | AIS Series Model 150<br>Year Purchased: 1995<br>(No Modifications) | IBM AS400 with ADS software | NONE |
| STOREY | PUNCH CARD 16 Units<br>228 VOTOMATIC BRC / ES&S<br>Year Purchased: 1997 (No Modifications) | SEQUOIA PACIFIC<br>TABULATOR MODEL 25<br>Year Purchased:<br>Last Modified: | BRC<br>PERSONAL COMPUTER BALLOT TABULATION (PC/BT) | NONE |
| WASHOE | OPTICAL SCAN 143 Units<br>GES ACCU-VOTE ES 2000<br>Year Purchased: 1995 Last Modified: 2000 | GES<br>ACCU-VOTE ES 2000<br>Year Purchased: 1995<br>Last Modified: 2000 | DIMS | DIMS |
| WHITE PINE | OPTICAL SCAN 1 Unit<br>AIS Series Model 150<br>Year Purchased: 1995<br>(No Modifications) | DOCUMENTATION COUNTER<br>BRC/M300<br>Year Purchased:<br>Last Modified: | IBM AS400 with ADS software | NONE |

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# Appendix B

STATE OF NEVADA

SECRETARY OF STATE

**Help America Vote Act Administrative Complaint Procedure**

*(Provisions in italics are those required by Title III of the Help America Vote Act of 2002)*

.01 Scope.

*This chapter provides a uniform, nondiscriminatory procedure for the resolution of any complaint alleging a violation of any provision of Title III of the Help America Vote Act of 2002, including a violation that has occurred, is occurring, or is about to occur.*

.02 Definitions.

In this chapter, the following terms have the meanings indicated, unless the context otherwise requires:

(1) "Complainant" means the person who files a complaint with the Secretary of State under this chapter.

(2) "Respondent" means any State or local election official whose actions are asserted, in a complaint under this subtitle, to be in violation of Title III.

(3) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code §§15481-15485.

.03 Who May File.

*Any person who believes that there is a violation of any provision of Title III may file a complaint.*

.04 Form of Complaint.

*A. Writing and Notarization. A complaint shall be in writing and notarized, signed and sworn by the Complainant.*



B. The Secretary of State may prescribe a form to be used in filing a complaint.

.05 Filing of Complaint

A. Place for Filing. A complaint shall be filed with the Secretary of State's Office in Carson City.

B. Time for Filing. A complaint shall be filed within 60 days after the occurrence of the actions or events that form the basis for the complaint, including the actions or events that form the basis for the Complainant's belief that a violation is about to occur, or, if later, within 60 days after the Complainant knew or, with the exercise of reasonable diligence, should have known of those actions or events.

C. Copy for Respondent. The Complainant shall mail or deliver a copy of the complaint to each Respondent.

D. Screening of Complaint. The Secretary of State or his designee shall screen all complaints to determine if they state a violation of Title III. If a complaint clearly on its face does not state a violation of Title III, it shall be dismissed without further action, with notice to the Complainant. A Complainant whose complaint has been dismissed for failure to state a violation may refile a complaint one time in order to state a violation.

.06 Processing of Complaint.

A. Consolidation. *The Secretary of State may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.*

B. Record. The Secretary of State shall compile and maintain an official record in connection with each complaint under this subtitle.

C. Hearing.

(1) *At the request of the Complainant, made at the time of filing the complaint, the Secretary of State shall conduct a hearing on the record.* This hearing is not intended to be a "contested case" within the meaning of the Nevada Administrative Procedure Act, Chapter 233B of Nevada Revised Statutes.

(2) The hearing shall be conducted no sooner than 10 days and no later than 30 days after the Secretary of State receives the complaint. The Secretary of State shall give at least 5 business days' advance notice of the date, time, and place of the hearing:

(a) By mail, to the Complainant, each named Respondent, and any other interested person who has asked in writing to be advised of the hearing;

(b) On the Secretary of State website; and

(c) By posting in a prominent place, available to the general public, at the office of the Secretary of State.

(3) The Secretary of State or his designee shall act as hearing officer.

(4) The Complainant, any Respondent, or any other interested member of the public may appear at the hearing, in person or by teleconference, and testify or present tangible evidence in connection with the complaint. Each witness shall be sworn. The hearing officer may limit the testimony, if necessary, to ensure that all interested participants are able to present their views. The hearing officer may recess the hearing and reconvene at a later date, time, and place announced publicly at the hearing.

(5) A Complainant, Respondent, or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

(6) There shall be no right of cross-examination, but a person may testify or present evidence to contradict any other testimony or evidence. If a person has already testified or presented evidence at the hearing and wishes to contradict testimony or evidence subsequently presented, that person is not entitled to be heard again, but may make a written presentation to the hearing officer.

(7) The proceedings shall be tape-recorded by and at the expense of the Secretary of State. The recording shall not be transcribed as a matter of course, but the Secretary of State, a local board of elections, or any party may obtain a transcript at its own expense. If a board or party obtains a transcript, the board or party shall file a copy as part of the record, and any other interested person may examine the record copy.

(8) Any party to the proceedings may file a written brief or memorandum within 5 business days after the conclusion of the hearing. No responsive or reply memoranda will be accepted, except with the specific authorization of the hearing officer.



D. Final Determination.

(1) If there has been no hearing under §C of this regulation, the Secretary of State or his designee shall review the record and determine whether, under a preponderance of the evidence standard, a violation of Title III has been established.

(2) At the conclusion of any hearing under §C of this regulation, the hearing officer shall determine, under a preponderance of the evidence standard, whether a violation of Title III has been established.

(3) Form of Determination.

(a) *If the Secretary of State or his designee, whether acting as hearing officer or otherwise, determines that a violation has occurred, the Secretary of State shall provide the appropriate remedy.* The remedy so provided may include an order to any Respondent, commanding the Respondent to take specified action, or prohibiting the Respondent from taking specified action, with respect to a past or future election; however, the remedy may not include an award of money damages or attorney's fees.

(b) If the complaint is not timely or not in proper form, or if the Secretary of State or his designee whether acting as hearing officer or otherwise, determines that a violation has not occurred or that there is insufficient evidence to establish a violation, the Secretary of State shall dismiss the complaint.

(4) The Secretary of State or his designee shall explain in a written decision the reasons for the determination and for any remedy selected.

(5) *Except as specified in subsection 6 of this section, the final determination of the Secretary of State shall be issued within 90 days after the complaint was filed, unless the Complainant consents in writing to an extension.* The final determination shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final determination. *It shall also be published on the Secretary of State website and made available on request to any interested person.*

(6) *If the Secretary of State cannot make a final determination within 90 days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be referred for final resolution under §E of this regulation.* The record compiled under §B of this regulation shall be made available for use under §E.

E. Alternate Dispute Resolution.

(1) If, for any reason, the Secretary of State or his designee does not render a final determination within 90 days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be resolved under this section.

(2) On or before the 5th business day after a final Secretary of State determination was due, the Secretary of State shall designate in writing to the Complainant the name of an arbitrator to serve on a panel to resolve the complaint. Within 3 business days after the Complainant receives this designation, the Complainant shall designate in writing to the Secretary of state the name of a second arbitrator. Within 3 business days after the Complainant's designation, the two arbitrators so designated shall select a third arbitrator to complete the panel.

(3) The arbitration panel may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence. In exceptional cases, the panel may request that the parties present additional briefs or memoranda.

(4) The arbitrators shall determine the appropriate resolution of the complaint by a majority vote.

(5) The arbitration panel must issue a written resolution within 60 days after the final Secretary of State determination was due under §D of this regulation. This 60-day period may not be extended. The final resolution of the panel shall be transmitted to the Secretary of State and shall be the final resolution of the complaint. The final resolution shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final resolution. It shall also be published on the Secretary of State website and made available on request to any interested person.

.07 Appeal. The final determination of the Secretary of State under Regulation .06D, or the final resolution of an arbitration panel under Regulation .06E of this chapter, shall not be subject to appeal in any State or federal court.

.08 Accommodation. The Secretary of State shall make reasonable accommodations to assist persons in utilizing this complaint procedure.



# *APPENDIX C*

## ADVISORY COMMITTEE BIOGRAPHIES AND PARTY AFFILIATIONS

| NAME | TITLE / ORGANIZATION | PARTY AFFILIATION | BIOGRAPHY |
|---|---|---|---|
| Brooks, LaVonne | Executive Director, High Sierra Industries (HSI) | Democrat | *Bachelors and Masters in Organizational Management and Development. First Hispanic female appointed to serve as a City of Reno Planning Commissioner and appointed to serve as Vice Chair on the Governor's Task Force for Provider Rates in 2001 & 2002. Prior to joining HIS, LaVonne worked for an international consulting firm for 2 years and spent 14 years with a computer manufacturing company. She then owned her own training & development company specializing in improving performance through computer upgrades.* |
| Burk, Dan | Registrar of Voters, Washoe County | Nonpartisan | *B.A. in Public Administration, U of Northern Texas (1970). M.A. in History, U of Northern Colorado (1977). Worked over 20 years in all aspects of election procedures in Oregon, from Director of Records and Elections, Liaison Officer in the Archive Division to membership on the committee for the implementation of the ADA (American Disabilities Act) regarding Oregon's standards for handicapped access to polling locations.* |
| Gilbert, Jan | Northern Nevada Coordinator PLAN | Democrat | *B.A. Economics from UCLA. She co-founded the Progressive Leadership Alliance of Nevada (PLAN) and the Nevada Empowered Women's Project, a non-profit organization. Representing low-income women. Prior to working on economic and environmental justice issues at the state legislature for 19 years, she began advocacy work for the League of Women Voters. She has received several Humanitarian Awards including the Women's role Model Award from the Attorney General and the Hannah Humanitarian Award from the Committee to Aid Abused Women. She also served on the Department of Human Resources Block Grant Commission for 7 years and was Chairman for two of those years.* |
| Guinn, Kenny C. | Governor | Republican | *Undergraduate degree in Physical Education from Fresno State University, doctorate in Education from Utah State University. In 1964 he began working for the Clark County School District and shortly was named Superintendent of Schools for Clark County. He served as Superintendent until 1978 and then began applying his management skills in business for Nevada Savings and Loan in Las Vegas, which later became PriMerit Bank. He soon was appointed Chairman of the Board of Directors of the Las Vegas-based bank and was also recruited to the energy business as the President of Southwest Gas Corporation becoming the Chairman of the Board of Directors of that utility in 1993. In 1994, Guinn was recruited by the University of Nevada Board of Regents to serve as interim president of the University of Nevada-Las Vegas. He was elected Governor of Nevada in 1998.* |

| NAME | TITLE - ORGANIZATION | PARTY AFFILIATION | BIOGRAPHY |
|---|---|---|---|
| Appointment of Governor: *Vicky Thimmesch Oldenburg, Esq.* | Senior Legal & Policy Analyst to Governor Guinn | Appointee: Nonpartisan | *Vicky joined the Governor's Office in April 2001. She earned her J.D. degree and Certificate in Environmental and Natural Resources Law, Lewis and Clark college, in 1992. Vicky is a member of the Cornelius Honor Society, and received the American Jurisprudence award for her achievement in the 1991-1992 Environmental Law Natural Resources Attorney for the City of Reno. She subsequently became an associate at the Nevada law firm of McDonald, Carano, Wilson, McCune, Bergin, Frankovich & Hicks, focusing on issues relative to the proposed high-level nuclear waste repository at Yucca Mountain and is the Governor's liaison to the Nevada Department of Conservation and Natural Resources, and the Nevada Department of Business & Industry.* |
| Heller, Dean | Secretary of State | Republican | *B.A. in Business Administration, specializing in finance and securities analysis from USC in 1985. Assemblyman in the Nevada Legislature from 1990-1994. First elected Secretary of State in 1994 and re-elected in 1998 and 2002. He serves on several boards including the Board of Examiners, State Prison Board, and the Tahoe Regional Planning Agency. Additionally, he holds the position of Western Region Vice President on the National Association of Secretaries of State (NASS) and is the Chair of NASS' Securities Committee.* |
| Kagele, Brian | Director of Technology, Secretary Of State | Republican | *B.S. in Business from Chadwick University. Over 25 years of IT (Information Technology) Experience including operations, programming, internal auditing, and project management. Prior to his current position as Director of Information Technology for the Secretary of State, Brian worked as the Quality Assurance Manager for the Department of Information Technology (DOIT) for two years.* |
| Lomax, Larry | Registrar of Voters, Clark County | Nonpartisan | *B.A. in English Literature, Stanford University (1967) and Master of Business Administration from University of North Dakota (1977). He was a Distinguished Graduate From the Air Force's Officer Training School and as a pilot flew over 4,000 hours in a 30 year career. He served on the Joint Staff in Washington D.C. and had the opportunity to work with legislators and staff members on a wide range of issues. He began his career as Assistant Registrar for Registrations in January of 1998 overseeing the training of 7,000 election board officers, processing of petitions, and election night logistics and was appointed Registrar of Voters with full responsibility for the County's Election Department in March of 1999.* |
| Perkins, Richard | Assembly Speaker | Democrat | *University of Nevada, Las Vegas, B.A., Criminal Justice, B.A., Political Science. Deputy Police Chief. Speaker of the House. Nevada Assembly 1993-2003.* |
| Appointment by Speaker:: Scott Wasserman | Chief Deputy Legislative Counsel | Appointee: Nonpartisan | *B.A. University of Connecticut (1981) and J.D. University of Pacific, McGeorge School of Law (1985). Chief Deputy Legislative Counsel for the Nevada Legislature. Counsel to the Senate Committee on Government Affairs having jurisdiction over election laws in the Nevada Senate. Past two sessions served as the Committee counsel to the Assembly Committee on Elections, Procedures and Ethics, and Legal Adviser to the Committee on Reapportionment matters since 1987.* |

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| NAME | TITLE - ORGANIZATION | PARTY AFFILIATION | BIOGRAPHY |
|---|---|---|---|
| Raggio, William | Senator | Republican | *Louisiana Tech: University of Oklahoma: University of Nevada, Reno, B.A.; University of California, Berkeley, Boalt Hall School of Law. Senator. Attorney at Law.* |
| Appointment by Senator: *Joseph Catania* | Political Director, Nevada State Republican Party | Appointee: Republican | *B.A. History, University of Nevada Las Vegas (2001). Interned with the Venetian Hotel Casino government relations office for one year. He was M.I.S. Director in charge of providing database and I.T. services to Governor Guinn's re-election along with other state and local election races. He is currently Political Director for the Nevada State Republican Party.* |
| Reed, Barbara | County Clerk, Douglas County | Republican | *Barbara was first elected Clerk-Treasurer in 1986 but has worked in the Douglas County Clerk-Treasurer's office since November of 1973. Her key interest and commitment is the election process and the advancements currently being taken to allow voters easy accessibility to vote.* |
| Sanchez, Tony F. III | Attorney, Jones Vargas President, Latin Chamber of Commerce | Democrat | *B.A. UNLV (1988), Arizona State University College of Law (J.D. 1991). Served as Assistant Legislative Counsel to U.S. Senator Richard H. Bryan (1992-1995), Assistant General Counsel for the NV Public Utilities Commission (1995-1998) and Executive Assistant to Governor Bob Miller (1998-1999). President, Latin Chamber of Commerce 2002 and 2003; Trustee, Las Vegas Chamber of Commerce (2001-Present); Clark County Early Advisory Board 2001 and Vice President, Latino Bar Association 2000-01. Partner, Jones Vargas Law Firm with emphasis in Legislative and Government Relations, Utility And Transportation Law, Administrative Law, Planning and Zoning and Civil Litigation.* |
| Sandoval, Brian | Attorney General | Republican | *Graduated from the University of Nevada and the Ohio State University College of Law. He served two terms in the Nevada Legislature before receiving an appointment to the Nevada Gaming Commission in 1998. One year later, he was named by Governor Guinn as Chairman of the Commission. Sandoval also spent three years as the Nevada at-large member of the Tahoe Regional Planning Agency Governing Board. He is a member of the Nevada State Board of Pardons, Prisons, Examiners, Transportation, Domestic Violence and Private Investigators and on the Boards of Trustees for Children's Cabinet of Reno, KNBP Channel 5, St. Jude's Ranch and the Washoe County, Nevada Law Library. He was sworn in as Nevada's Attorney General on January 6, 2003.* |
| Appointment by Attorney General: *Jonathan Andrews* | Special Assistant Attorney General | Appointee: Democrat | *B.A. English Literature, University of Nevada-Reno; J.D., McGeorge School of Law. One year private law practice. (1981-2000) Nevada Attorney General's Office; (1990-2000 Chief, Civil Division), (2000-2003 Nev. Dept. of Human Resources, Deputy Director) and (2003-Present), Special Assistant Attorney General.* |

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| NAME | TITLE - ORGANIZATION | BIOGRAPHY | |
|---|---|---|---|
| Siegel, Dr. Richard | President, ACLU of Nevada | *Political Scientist at the University of Nevada, Reno since 1965. His academic specialties are foreign policy and international human rights. He served on the National Board of Directors of the American civil Liberties Union from 1975-1988 and currently is President of the ACLU of Nevada. He is also active with the Nevada Faculty Alliance, the Nevada Committee on Foreign Relations, and the Progressive Leadership Alliance of Nevada.* | |
| Simmons, Monica | City Clerk, City of Henderson | *Appointed City Clerk for the City of Henderson in 1998, her responsibilities include Administration of municipal elections. Monica began her tenure with the City of Henderson City Attorney's Office in 1979 serving through her appointment as City Clerk. Having completed Seattle University's Northwest Academy in 2002, she was accepted into the post-certification Master Municipal Clerk Academy. She received her business accreditation from Southern Utah University in 1977 and is currently completing a degree in Public Administration. She serves as a member of the Clark County Election Department Accuracy & Certification Board and Early Voting Board. She chairs the City of Henderson Latino Advisory Board and remains active in the Election Center, IIMC, Nevada Municipal Clerks Association, and League of Cities. She maintains her legal administrator accreditation and associate membership with the American Bar Association.* | |

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## APPENDIX D

## ADVISORY COMMITTEE

## SCHEDULE OF MEETINGS

| Meeting Locations | Locations | Videoconferencing |
|---|---|---|
| Department of Education (DOE)<br>700 East Fifth Street<br>Carson City, NV<br>State Board Conference Room 101 | | Department of Education<br>1820 East Sahara<br>Las Vegas, NV<br>Suite 205 |
| Public Utilities Commission (PUC)<br>1150 East William Street<br>Drive Suite 250<br>Carson City, NV | | Public Utilities<br>101 Convention Center<br>Las Vegas, NV |
| Hearing Room A | | Room A |
| Legislative Counsel Bureau (LCB)<br>Bureau (LCB)<br>401 South Carson Street<br>Building<br>Carson City, NV<br>Room 2144 & LCB INTERNET<br><br>INTERNET | | Legislative Counsel<br>Grant Sawyer Office<br>555 East Washington<br>Las Vegas, NV<br>Room 4406 & LCB |

# CALENDAR of MEETINGS

*(ALL MEETING TIMES ARE SCHEDULED 9 A.M. – NOON)*

| FEBRUARY | LOCATION |
|---|---|
| *Tuesday, February 4, 2003* | *Old Supreme Court Chamber Room* |
| *(Formation of Advisory Committee)* | |
| *Thursday, February 20, 2003* | *DOE* |
| MARCH | |
| *Thursday, March 6, 2003* | *DOE* |
| APRIL | |
| *Tuesday, April 1, 2003* | *DOE* |
| *Tuesday, April 15, 2003* | |
| *Tuesday, April 29, 2003* | *DOE* |
| JUNE | |
| *Monday, June 16, 2003* | *PUC* |



AGENDA

# HELP AMERICA VOTE ACT OF 2002 *(HAVA)*

## Formation of Advisory Committee

**February 4, 2003 9 a.m.**
**Old Supreme Court**
**3rd Floor – Chamber Room**

**I. Welcome**
*Dean Heller, Secretary of State*

**II. Formation of Advisory Committee Membership**
*Dean Heller, Secretary of State*

**III. Informational Presentation on HAVA**
*A. Renee Parker, Chief Deputy Secretary of State*
*B. Susan Bilyeu, Deputy Secretary for Elections*

**IV. Review of HAVA Material**
*Susan Bilyeu, Deputy Secretary for Elections*

**V. Establishment of Meeting Schedule**
*Dean Heller, Secretary of State*

***This notice of meeting has been posted at the following locations:***
The Capitol Building, 101 North Carson Street, Carson City, NV
Grant Sawyer State Office Building, 555 East Washington Street, Las Vegas, NV
The State Legislative Building, 401 South Carson Street, Carson City, NV

***We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. Please notify the Election's Division at the Secretary of State's office by calling (775) 684-5705.***

AGENDA

# HELP AMERICA VOTE ACT
## Advisory Committee

**Thursday, February 20, 9:00 a.m.**
Department of Education
700 East Fifth Street
Carson City, NV
State Board Conference Room 101

I. **Introduction and Welcome**
*Dean Heller, Secretary of State*

II. **Overview of State Plan Requirements**
*Dean Heller, Secretary of State*
*Renee Parker, Chief Deputy Secretary of State*

III. **Establishing Committee Procedure**
a. Public Notification of Meetings
b. Public Comment Period During Meetings
c. Public Notice of State Plan
d. Public Comment on State Plan
e. Publication of State Plan in Federal Register

IV. **Approval of Committee Description**

V. **The State-based Administrative Complaint Procedure**
a. Current Process
b. Alternatives
c. Committee Recommendation

VI. **Public Comment**

VII. **Adjournment**

***This notice of meeting has been posted at the following locations:***
The Capitol Building, 101 North Carson Street, Carson City, NV
Grant Sawyer State Office Building, 555 East Washington Street, Las Vegas, NV
The State Legislative Building, 401 South Carson Street, Carson City, NV

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AGENDA

# HELP AMERICA VOTE ACT
## Advisory Committee

**Thursday, March 6, 2003 9:00 a.m.**
Department of Education
700 East Fifth Street
Carson City, NV
State Board Conference Room 101

I. **Introduction and Welcome**
*Dean Heller, Secretary of State*

II. **Approval of Minutes from February 20, 2003 Meeting**
*Dean Heller, Secretary of State*
- **Action to be taken.**

III. **Final Approval of Committee Description**
*(Item returned from February 20, 2003 Advisory Meeting)*
- **Action to be taken.**

IV. **The State-based Administrative Complaint Procedure**
*a.* Proposed Procedure – *Jonathan Andrews*
*Special Assistant Attorney General*
*b.* Committee Recommendations
- **Action to be taken.**

V. **Report on Establishment of State Fund** - - §254(a)(5)
*Renee Parker, Chief Deputy Secretary of State*

VI. **Maintenance of Expenditures Report** - §254(a)(7)
*Renee Parker, Chief Deputy Secretary of State*
*Peter Harrington, Accounting Secretary of State's Office*

VII. **Public Comment**

VIII. **Adjournment**

***This notice of hearing has been posted at the following locations:***
The Capitol Building, 101 North Carson Street, Carson City, NV
Grant Sawyer State Office Building, 555 East Washington Street, Las Vegas, NV
The State Legislative Building, 401 South Carson Street, Carson City, NV

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AGENDA

# HELP AMERICA VOTE ACT
## Advisory Committee

**Tuesday, April 1, 2003 9:00 a.m.**
Department of Education
700 East Fifth Street
Carson City, NV
State Board Conference Room 101

I. **Introduction and Welcome**
*Dean Heller, Secretary of State*

II. **Approval of Minutes from March 6, 2003 Meeting**
*Dean Heller, Secretary of State*
- **Action to be taken.**

III. **Election Day Registration**
A. Committee Discussion
*B.* Committee Recommendation
- **Action to be taken.**

IV. **Review Proposed State Plan**
A. Committee Discussion
*B.* Committee Recommendation
- **Action to be taken.**

V. **Committee Members' Comments**

VI. **Public Comment**

VII. **Adjournment**

***Notice of this meeting has been posted at the following locations:***
The Capitol Building, 101 North Carson Street, Carson City, NV
Grant Sawyer State Office Building, 555 East Washington Street, Las Vegas, NV
The State Legislative Building, 401 South Carson Street, Carson City, NV
The State Library and Archives, 100 North Stewart Street, Carson City, NV

***Notice of this meeting was posted on the following website:*** http://sos.state.nv.us

***We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. Please notify the Election's Division at the Secretary of State's office by calling (775) 684-5705.***



AGENDA

# HELP AMERICA VOTE ACT
## Advisory Committee

**Tuesday, April 15, 2003 9:00 a.m.**
Public Utilities Commission (PUC)
1150 East William Street
Carson City, NV
Hearing Room A

I. **Introduction and Welcome**
*Dean Heller, Secretary of State*

II. **Approval of Minutes from April 1, 2003 Meeting**
*Dean Heller, Secretary of State*
- **Action to be taken.**

III. **Update on Status of HAVA Legislation**
A. Committee Discussion
*B.* Committee Recommendation
- **Action to be taken.**

IV. **Review and Approve Proposed State Plan**
A. Committee Discussion/Proposed Amendments
*B.* Committee Recommendation
- **Action to be taken.**

V. **Comments of Committee Members**

VI. **Public Comment**

VII. **Adjournment**

***Notice of this meeting has been posted at the following locations:***
The Capitol Building, 101 North Carson Street, Carson City, NV
Grant Sawyer State Office Building, 555 East Washington Street, Las Vegas, NV
The State Legislative Building, 401 South Carson Street, Carson City, NV
The State Library and Archives, 100 North Stewart Street, Carson City, NV

***Notice of this meeting was posted on the following website:*** http://sos.state.nv.us

***We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. Please notify the Election's Division at the Secretary of State's office by calling (775) 684-5705.***

AGENDA

# HELP AMERICA VOTE ACT
## Advisory Committee

**Tuesday, April 29, 2003 9:00 a.m.**
Department of Education (DOE)
700 East Fifth Street
Carson City, NV
State Board Conference Room 101

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I. **Introduction and Welcome**
*Dean Heller, Secretary of State*

II. **Approval of Minutes from April 15, 2003 Meeting**
*Dean Heller, Secretary of State*
- **Action to be taken.**

III. **Update on Status of HAVA Legislation**
A. Committee Discussion
*B.* Committee Recommendation
- **Action to be taken.**

IV. **Review and Approve Proposed State Plan**
A. Committee Discussion/Proposed Amendments
*B.* Committee Recommendation
- **Action to be taken.**

V. **Comments of Committee Members**

VI. **Public Comment**

VII. **Adjournment**

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AGENDA

# HELP AMERICA VOTE ACT
## Advisory Committee

**Monday, June 16, 2003 10:00 a.m.**
***Public Utilities Commission (PUC)***
1150 East William Street
Carson City, NV
***Hearing Room B***

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I. **Introduction and Welcome**
*Dean Heller, Secretary of State*

II. **Approval of Minutes from April 29, 2003 Meeting**
*Dean Heller, Secretary of State*
- **Action to be taken.**

III. **Review Public Comment on Proposed State Plan**
A. Committee Discussion
*B.* Committee Recommendation
- **Action to be taken.**

IV. **Review and Approve State Plan**
A. Committee Discussion/Proposed Amendments based on
Public Comment
*B.* Committee Recommendation
- **Action to be taken.**

V. **Discussion Regarding Legislative Action and HAVA Compliance**
- **Action to be taken.**

VI. **Comments of Committee Members**

VII. **Public Comments**

VIII. **Adjournment**

***Notice of this meeting has been posted at the following locations:***
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Grant Sawyer State Office Building, 555 East Washington Street, Las Vegas, NV
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# State of New Hampshire

## State Plan

As required by Public Law 107-252,
Help America Vote Act 2002, Section 253 (b)

**William M. Gardner**
**Secretary of State**
**State House, Room 204**
**Concord, NH 03301-4989**

**September 30, 2003**



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## Introduction by the Secretary of State (State Administrator of Elections)

I am pleased to offer the New Hampshire State Plan for implementing the Help America Vote Act of 2002 (HAVA). This State Plan, developed in conjunction with the State Plan Committee, establishes a framework for achieving compliance with HAVA. The committee and several task forces are comprised of a cross-section of New Hampshire election officials from town, city, and State government, individuals with disabilities and other interested citizens.

This new Federal law requires each state to develop a long-range plan for implementing the Act. The State Plan is organized as specified in HAVA, Section 254. It provides a description of current election procedures used in New Hampshire and outlines how New Hampshire will meet the new requirements mandated by HAVA. We will update and refine the State Plan as necessary over time, to reflect election law changes and future plans.

New Hampshire has long maintained a high level of participation in elections. Our election procedures rely in large part on local election officials and their knowledge of their citizens and communities. As our State has grown, increasing demands have been placed on local election officials to serve as a resource for voters with disabilities and as the primary defenders against voting fraud.

HAVA will help fund a statewide electronic voter registration database, voting machines that will enable voters with disabilities to vote privately and independently, and educational and administrative support provided by the State. HAVA requires some alterations to current election processes and systems, but with the appropriate Federal financial support, the State of New Hampshire will bring local election officials the necessary training and equipment.

Local election officials played an integral role in the development of New Hampshire's State Plan. Implementation of HAVA will be a collaborative effort between the State and the towns and cities of New Hampshire.

I would like to thank the volunteers who served on the State Plan Committee and its task forces, who donated many hours to help ensure the successful implementation of HAVA.

William M. Gardner
Secretary of State





## Background

In New Hampshire, local election officials are responsible for conducting the voting process in their communities for all Federal, State and local elections. Town and city clerks receive and process voter registration applications. Elected supervisors of the checklist also receive and process applications for voter registration and are responsible for approving all additions, changes, and deletions to the voter checklist. Moderators, with the help of town, city and ward clerks, selectmen, supervisors of the checklist and other appointed election officers, are responsible for overseeing the conduct of voting. Town and city budgets substantially fund elections in New Hampshire.

In Federal and State elections, the Secretary of State is responsible for the following:
(a) designing, printing and distributing ballots,
(b) tallying and certifying the vote, and
(c) conducting recounts as needed.

This plan will describe the additional responsibilities imposed by HAVA.

New Hampshire has ten local jurisdictions which are subject to Section 5 of the Voting Rights Act of 1965, which requires pre-clearance for any changes in the electoral process.

New Hampshire's voting age population reported in the 2000 Federal census was 911,000. There were 856,516 registered voters at the time of the presidential election in November, 2000.[1]

A qualified individual may register to vote at the town or city clerk's office, with the supervisors of the checklist in each voting precinct at their regular meetings, or at the polling place on election day. Qualified individuals may register to vote in person. Qualified individuals may register by mail if they:
[a] are temporarily residing in another location and do not intend to be present in the city or town in which they are eligible to vote on election day,
[b] have a disability that prevents registering in person,
[c] are absent due to military service, or
[d] are prevented from registering in person due to a religious belief.

Eligible voters may walk into the polls on election day, register, and vote on the same day. This election day registration system is only available in four other states. [2]

[1] Federal Election Commission, Voter Registration and Turnout 2000, printout dated April 29, 2003
[2] Minnesota, Wisconsin, Wyoming and Idaho have election day registration procedures similar to New Hampshire's. Other similar states include North Dakota, which has no voter registration requirement, and Maine, which offers election day registration, but does not require it at the polling place.

If a voter's registration application is incomplete, the town or city clerk or the supervisors of the checklist notify the voter and provide the voter an opportunity to properly complete the application.

New Hampshire has 13 cities, 223 towns[3] for voting purposes and 309 polling places.

In the 2000 presidential election, voter turnout was 62.5% of the voting age population, compared with a national average of 51.3% - the sixth highest state turnout in the nation.

In the 2002 Federal and State elections, 162 polling places utilized optical scanners to count ballots, and 147 polling places hand counted their ballots. Towns and cities choose from among approved optical scanning devices and are responsible for purchasing and maintaining them. Currently, there are no polling places utilizing direct recording electronic (DRE) voting systems in New Hampshire. A significant component of HAVA is to replace punch card voting systems. New Hampshire eliminated punch card machines when the Ballot Law Commission decertified them in 1986.

Voting absentee by mail is an alternative voting method available to New Hampshire voters who are unable to be present to vote at their assigned polling place. Any qualified voter in New Hampshire may apply to receive an absentee ballot by mail if he/she will be absent from their town or city on election day, is disabled and unable to vote in person, or if religious observance prevents the voter from being in public on election day. A new absentee ballot application must be completed for each election. Absentee ballots are available from town or city clerks prior to an election. Voters must request the absentee ballot application from the clerk or submit a request in writing, which must include the voter's name, voting address, mailing address and signature. Clerks may accept completed absentee ballots submitted in person by the voter until 5 p.m. the day before an election or until 5 p.m. on election day if received through the mail.

Individuals seeking to cast ballots are subject to challenge by another voter. An individual so challenged, voting in person, will be allowed to vote provided he/she signs a challenged voter affidavit attesting to his/her identity and qualifications as a voter. The ballot of an absentee voter who is challenged will be cast and counted if the appropriate election official determines the challenge is not well grounded. Otherwise, the ballot is preserved with other ballots, but not counted.

In recent years, regular improvements in the laws have been enacted and carried out for persons with disabilities. Surveys of polling place compliance with accessibility laws were conducted by the Voting Rights Access Committee and the Attorney General's office between 1996 and 2002. Further survey work will be planned to establish the baseline of compliance statewide. With HAVA, the State will continue to be proactive in affording people with disabilities an equal opportunity to vote.

[3] The number of towns reflects 2 unincorporated places organized only for the purpose of voting.





## Section 1: Use of Requirements Payments to Meet Title III

**Sec 254. (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(1) How the State will use the requirements payment to meet the requirements of Title *III (equipment and administration)*, and, if applicable under Section 251 (a)(2), to carry out other activities to improve the administration of elections.**

The Help America Vote Act of 2002 (HAVA), public law 107-252, establishes minimum election administration standards for votes cast in Federal elections. HAVA provides election reform across the nation with an objective of ensuring that the right to vote has an equal meaning throughout each State. It specifically requires the State of New Hampshire to:

- Provide at least one voting machine in each polling place in the State to enable most voters with disabilities to vote privately and independently;
- Create a new uniform centralized statewide database of registered voters that shall be the source for the official checklist for each town and city;
- Assist towns and cities in ensuring their polling places are accessible for people with disabilities and the elderly;
- Certify new and existing voting systems according to national standards;
- Ensure each qualified individual has an equal right to register and vote through statewide uniform election procedures and standards;
- Provide voter and election official education; and,
- Maintain a statewide complaint system for the uniform, nondiscriminatory investigation and resolution of complaints.

New Hampshire's election law has long established a uniform procedure for registering to vote and casting votes. The Secretary of State is designated as the chief election officer for the State. The Secretary of State publishes an election procedures manual which provides guidance to local election officials regarding: voter qualification; voting system certification; what constitutes a vote; procedures for military or absentee ballots; tabulating and reporting election results. New Hampshire has adopted election day registration.

Legislation is pending before the New Hampshire Legislature to implement those changes in New Hampshire election law required by HAVA. The Secretary of State is revising the State election procedures manual to reflect these changes to New Hampshire law and to ensure election procedures conform to HAVA.

The Federal government is providing funding to the State of New Hampshire for the implementation of HAVA. Congress has authorized $20 million over three years for New Hampshire, however, currently $5.0 million in early monies and $4.2 million in matching funds have actually been appropriated. In order to qualify for funding, the State must meet the

requirements of Title III, maintain the same level of expenditures in the areas funded with HAVA monies as were funded in State fiscal year 2000 and provide five percent matching funds for a portion of the Federal money.

The State has legislation pending that will establish a State election fund, in which monies from HAVA will be deposited. The State has legislation pending that will appropriate 5% of the total Title II funds to be deposited in the State election fund for State fiscal years 2004-2005. State and Federal funds in the election fund are restricted to be used for the purposes allowed by HAVA. The State will certify the establishment of the State election fund and the appropriation of matching funds upon enactment of the pending legislation.

New Hampshire will implement the most comprehensive program of election enhancements possible based on the level of future Federal funding provided. Except for the 5% match required by HAVA, New Hampshire will endeavor to fund the programs set forth in this plan and their future maintenance without seeking additional State funds. This plan calls for limiting the economic effect of HAVA's mandates on New Hampshire's cities and towns, where possible requiring only the shifting of existing resources.

## Major HAVA Programs:

HAVA will include the following major programs:

- STATEWIDE DATABASE. The Secretary of State will establish in a uniform and nondiscriminatory manner a single, uniform, official, centralized, interactive computerized statewide voter registration list which he will define, maintain, and administer. The centralized checklist will contain the name and registration information of every legally registered voter in the State. The Secretary of State will work with local election officials and other departments of the State to define the functional requirements of the statewide registration list and the responsibilities of each participant in the system. The system will allow local election officials to register voters easily and conveniently, will emphasize ease of registration for voters, and will incorporate all practical means of detecting and deterring voter fraud.

- ACCESSIBILITY OF THE BALLOT MARKING PROCESS. Both HAVA and New Hampshire law requires that the voting process be accessible to persons with disabilities. New Hampshire will engage in a statewide effort to ensure the accessibility of voter registration, voting systems, voting information, and voting locations. The prime component of the HAVA accessibility program will be to provide each polling place in New Hampshire with an electronic voting machine or system equipped to enable most persons with disabilities to vote independently and privately. New Hampshire plans to select one or more devices that will produce a printed paper record, possibly in the form of a pre-printed ballot that has been marked by the machine at the direction of the voter, for each voter who uses the system. Implementation of HAVA will not require towns or cities to change the manner in which they count ballots,





although it could impose a need to upgrade equipment in certain cases. The HAVA accessibility program will also include expansion of voter and election official education and a structured program for ensuring compliance with accessibility requirements.

- ACCESSIBILITY OF THE POLLING PLACE. The New Hampshire Constitution, as well as State and Federal laws, requires that polling places be accessible for individuals with disabilities. HAVA will provide the State with funds to monitor and ensure that towns and cities maintain accessible polling places. HAVA funds will be used for accessibility equipment for polling places, assessment of compliance, education, and if sufficient Federal funds are made available, assistance for local governments.

- VOTER AND ELECTION OFFICIAL EDUCATION.
HAVA funds will be used to establish and maintain training programs and tools for use in educating both voters and election officials. The State will prepare and distribute training resources that will include an expanded election procedure manual, a 1-800-help line number for election officials and a 1-800-voter complaint line for voters. Training resources may include short video instruction tapes on how to vote, how to conduct the polling place, and how to count ballots, informational posters, brochures, and public service announcements.

- ELECTION LAW ENFORCEMENT.
HAVA funds will be used to establish a formal complaint procedure to investigate and resolve allegations that voting rights protected by Title III of HAVA have been violated. Resources will be allocated to the Attorney General's Office for investigatory, prosecutorial, and educational services in support of ensuring compliance with Federal and State election law.

To ensure that HAVA reform is sustained, the State will also simplify and extend reporting requirements to gauge performance of the State and local officials. These reports will not only provide public access to information on election process performance, but will also be the foundation to determine future modifications required in law, training, or the State election procedures manual.

## State role in the administration of elections.

The New Hampshire Secretary of State, several Department of State employees who allocate a portion of their time to elections, and the Attorney General are responsible for administering and supervising State elections conducted by the 236 towns and cities.[4] The local election officials and their respective local governments have the majority of legal and fiscal responsibility for elections. Collaboration between the local officials and the Secretary of State is essential to the conduct of successful elections. In addition to fulfilling Federal election

[4] This number reflects two unincorporated places in New Hampshire which are organized only for the purpose of voting.

responsibilities, the State's elections community works cooperatively to serve State government and, ultimately, the voters.

New Hampshire law assigns responsibility for establishing polling places, registering voters, and conducting balloting in local, State, and Federal elections to the towns and cities. Local government bears the expenses of personnel, equipment, and polling places. The Secretary of State is the chief election officer for the State. The Department of State, with cooperation from local government, manages the filing of State and Federal candidates and preparation of ballots for State and Federal elections. It also tallies the results of voting for State and Federal elections. The Secretary of State publishes an election manual that sets forth guidelines for the election process. The Attorney General is responsible for enforcement of the election laws.

This State Plan is organized as specified in HAVA Section 254. Each section of this document corresponds to a subsection of 254 and addresses a State Plan requirement specified in HAVA. The Plan outlines program milestones to address large-scale system or procedural changes. Additionally, where appropriate, compliance matrices are appended to outline the detailed requirements of HAVA, describe the State's current status in regard to those requirements, and define the actions planned to help the State meet those requirements.

In developing the New Hampshire State Plan, the State Plan Committee used the following themes as a guide:

- Emphasize collaboration with those affected by Federal and State elections;
- Where answers are not known, identify the steps necessary to obtain answers.





## Section 301(a), Voting Systems Standards Requirements

*Deadline for Compliance: January 1, 2006; no waiver permitted.*

In the 2002 Federal and State elections, 147 polling places hand counted their ballots and 162 polling places used optical scanning machines to count votes. For local elections, some towns with optical scanning machines switch to hand counts. In 2002, 39 polling places utilized the Optech IIIP model of scanners and 123 used the Accuvote OS ES-2000 model. The new accessible voting machines will not change how jurisdictions count most of their ballots.

Cities and towns spend an estimated $400 or more to program an optical scanning machine for each election. In an effort to provide ballots which do not jam or stick in the optical scanning machines, cities and towns using optical scanners purchase heavy paper to print their ballots on, often spending $0.20 cents or more per printed ballot. There may be ways to reduce such expenditures.

The accessible voting machines will produce a paper record, possibly by marking a pre-printed ballot, that may be counted by hand or by using an optical scanner.

The State anticipates equipping polling places with at least one voting machine accessible to voters with disabilities. To achieve economies of scale and minimize the burden on towns, the State anticipates managing the maintenance of the accessible machines. The State will work with towns and cities to determine the most cost-effective means of programming these machines. In doing so, it must determine whether to centralize programming at the State level, or to provide programming mechanisms to the towns and cities. The programming process may yield efficiencies, such as:

1) by producing the lay-out design for printing of paper ballots for the State and the towns and cities;

2) by programming optical scanning equipment for the towns and the cities.

**I. Voting Systems Standards**

**A. Voter verification**

The paper ballot allows voters to verify what they have marked by using their eyes to review the completed ballot. Accessible voting machines would allow voters to verify how they voted in different ways, depending on the media used.

**B. Ballot correction and replacement ballots**

New Hampshire will continue to use paper ballots. HAVA requires additional voter education focused on how to correct errors made when marking a ballot, for example when to request a replacement ballot. New Hampshire will engage in direct voter education and will provide

local election officials with additional voter education resources. Educational materials may include pamphlets, posters, websites, and public service announcements.

Optical scanning devices in use in New Hampshire have the capability to detect and report over votes - ballots where the voter has voted for more candidates than allowed. The optical scanners will be set to reject such ballots, affording voters the opportunity to correct over votes.

**C. Manual audit capacity**
New Hampshire citizens are accustomed to seeing close races resolved by recounts that rely on hand counts. New Hampshire RSA 656:41 and 656:43-a require that no voting machine or device shall be used unless it reads the voter's choice on a paper ballot.

**D. Privacy and Independence**
New Hampshire intends to purchase direct recording equipment (or the equivalent) voting machines for each polling place so that most voters with disabilities may cast their vote independently and privately.

**E. Define what constitutes a legal vote**
New Hampshire's Statutes, as interpreted by the New Hampshire Supreme Court and the New Hampshire Ballot Law Commission, define what constitutes a legal vote in New Hampshire. The Secretary of State summarizes these findings in the Election Procedures Manual and provides examples of how to count ballots with common mis-markings.

**II. Uniform State Voting Systems Program Milestones**

The State is taking actions to ensure full compliance with HAVA Section 301(a) requirements. **Phase I** of the State voting systems program is in progress:

1) Plan voting system compliance
   - Assess procurement options;
   - Establish user group of relevant internal affected participants to discuss next phase of implementation, lessons learned, and guide the voting system program through planning, managing and implementing phases;
   - Create schedules and work plans.
2) Manage the implementation effort through a standardized project management framework
   - Develop reporting structures and performance measures to track progress;
   - Track issues and risks to ensure smooth transition to new uniform voting systems.
3) Implement compliant voting systems
   - Procure equipment and services pursuant to the State's procurement law;
   - Deliver equipment and services;





   - Ensure proper training and change management for affected participants using new uniform systems.

**Phase II** of the State's voting systems program will be operations and maintenance:

1) Operating & Maintaining new uniform State voting systems
   - Maintain and improve voting system software
   - Maintain technical infrastructure for software

The matrix in Appendix A outlines the HAVA Section 301(a) requirements, the State's current status with regard to these requirements and actions planned, where applicable.

## Section 302, Provisional Voting and Voting Information Requirements

### Provisional Voting

HAVA Section 302 addresses the process of provisional voting to ensure that no individual who goes to the polls intending to cast a ballot is turned away without having the opportunity to vote. New Hampshire law allows election day registration. This enables an individual eligible to vote to register at the polls on election day and then vote in that election.

New Hampshire, pursuant to HAVA Section 302 (a), is exempt from the requirement for provisional voting.

The State's laws allow a voter to be challenged. However, the voter will be allowed to vote provided they sign a challenged voter affidavit.

Details on the current status of challenged balloting and actions planned are found in the compliance matrix in Appendix A.

### Posting of Statutes

In addition to provisional voting requirements, HAVA Section 302 mandates that states publicly post specific information at the polls on election day. The State currently displays voting information at each polling place. Legislation has been adopted that would require that the postings comply with HAVA requirements.

The Secretary of State, in cooperation with the Attorney General, will comply with HAVA requirements for voting information by preparing posters containing the information required by HAVA and distributing adequate posters to each polling place.

The HAVA requirement that certain laws be posted will be incorporated into training and educational materials will be provided to election officials. The Department of State intends to track and report on the success of posted voting information.

Details on the current status of voting information and actions planned are found in the compliance matrix in Appendix A.

### Extended Hours Voting

HAVA Section 302 further provides that voters who vote (pursuant to a court or other order), during extended hours after the normal close of a polling place, cast provisional ballots. Under HAVA, these ballots must be kept separate from other ballots.

New Hampshire is otherwise exempt from the requirement that there be a system of provisional voting. Legislation is pending that will satisfy the intent and purpose of this HAVA requirement. The legislation requires that, in the event that a court orders a polling place to remain open during extended hours, ballots shall be marked on the back with the letters "EH"





and segregated in storage. This procedure will afford the opportunity for the ballots cast during extended hours to be retrieved, counted, and deducted from the election results should a court determine that these ballots should not have been cast.

The compliance matrix in Appendix A includes the specific requirements of HAVA Section 302, the current status and actions planned.

## Section 303, Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail

*Deadline for Compliance: January 1, 2004; State can submit a certification stating "good cause" that will move the deadline for Section 303(a) compliance to January 1, 2006.*

Official State voter registration records are created and maintained at the local jurisdiction level. Local election officials update and separately maintain voter registration records for their jurisdictions. The Secretary of State does not maintain an aggregate list in database format. After each State and Federal election, local election officials send paper checklists to the Secretary of State's Division of Records Management and Archives and these are scanned and organized in a read-only database of images. This list of images is accessible to persons who approach the Secretary of State to examine the checklists or obtain copies. Because information is not organized according to database fields, the Secretary of State is unable to perform checks for voter registration duplicates from this file.

The State's file of checklist images is not the "single, uniform, official, centralized, interactive, computerized statewide voter registration list" required by HAVA. Moreover, information gathered and maintained on State voters does not uniformly include driver's license numbers or partial social security numbers, as required by HAVA.

The mail-in voter registration form requires redesign to accommodate information on proof of identity, age, and domicile, as required by HAVA. Voter registration processes must be modified to allow for the verification of identification for first-time voters who register by mail.

### Statewide Registered Voter Database. Program Milestones

The Secretary of State's Statewide Registered Voter Database program (hereinafter "Statewide Database") will ensure HAVA compliance in both technical and procedural areas of voter registration data management. The Secretary of State, with the assistance of the State Plan Committee and a task force on the Statewide Database, has started the planning and RFP development process.

Planning, using the following steps:

- Assess HAVA Section 303 to determine requirements for system and necessary changes in procedures and regulations/legislation;
- Establish a user group of key participants to guide the Statewide Database program through all phases and milestones;
- Develop a training plan, leveraging expertise from the local election officials. (Note: refer to Section 3 Voter Education, Election Official Education and Training, and Poll Worker Training);
- Research and assess Statewide Database options (Commercial software packages, custom programmed software, synergy of paralleling the vital records system);
- Determine options for development of data verification between Secretary of State and Department of Health and Human Services (DHHS), Department of Safety (DOS), and the Department of Safety's data verification with the U.S. Social Security Administration;
- Determine the personnel required by the Department of State to maintain the Statewide Database.





Managing the voter Statewide Database effort through a standardized project management framework:

- Create a comprehensive resource plan, schedule, and work plan;
- Develop reporting structures and performance measures to track progress;
- Monitor issues and risks to ensure smooth rollout of the transition from local records systems to the new Statewide Database.

Implementing the new Statewide Database:

- Implement necessary changes to procedures and regulations/legislation;
- Select and procure software and services;
- Design, build, test, and deploy the Statewide Database;
- Develop and deliver appropriate training and support to ensure successful Statewide Database implementation.

Operating and Maintaining the Statewide Database:

- Maintain and improve Statewide Database software;
- Utilize a user group to assist Secretary of State in maintaining and improving voting system software;
- Maintain the communications infrastructure between the Statewide Database and towns and cities;
- Ensure electronic access as required by Section 303 (a)(1)(A)(v).[5]

The compliance matrix in Appendix A includes the specific requirements of HAVA Section 303, the current status and actions planned.

[5] It is anticipated that electronic access will be provided through the computer installed in the town or city clerk's office by the Vital Records program. The current plan does not provide for the statewide database to be available at each polling place.

## Section 2: Monitoring the Distribution of Requirements Payments

**Sec 254. (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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).**

There may be a few circumstances in which the State would pay local governments to carry out some of the responsibilities of HAVA. No such areas have been identified. It is expected that the State will implement HAVA by providing equipment, supplies, and services to the towns and cities. In certain circumstances, however, payments to local governments may be appropriate and necessary. This Section describes generally how they would be carried out.

New Hampshire will fulfill its obligations under Title III using federal and State funds deposited in the State Election Fund. The State will administer contracts and disbursements consistent with the State budget plan described in Subsection 6 of HAVA Section 254 (a).

The process for uploading existing data to the statewide database has yet to be established, but may include making a payment to town or city clerks or supervisors of the checklist for keying data maintained on paper records or making a payment for technical services provided by towns or cites whose data is uploaded from an electronic record. It is expected that towns and cities would be afforded the option of having the State send personnel to their offices to perform these functions.





## Section 3: Providing for Education of Voters and Election Officials

**Sec 254. STATE PLAN (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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.**

The Secretary of State in cooperation with the Attorney General will enhance the existing system of providing regular training to local election officials. HAVA funds will be used to provide regular regional training programs, to produce and distribute training materials, and to establish other training resources. For State fiscal year 2004 and in preparation for the 2004 first-in-the-nation presidential primary, the Secretary of State and the Attorney General will conduct at least 12 regional training programs throughout the State.

The Secretary of State may use public service announcements in the major media markets in the State as a forum to conduct voter education.

The Secretary of State will include additional training on the Help America Vote Act requirements in the election officer training program. The Secretary of State will include material in the procedures manual for implementing poll worker training and accessible voting systems.

The Secretary of State will adopt voter instructions that will inform each voter that if he or she fails to cast a vote for a candidate or issue, the voter will not be otherwise notified of the under vote (when a voter casts votes for fewer than the permitted number of candidates that he or she is entitled to).

The successful implementation of HAVA, in particular the first use of accessible voting machines, will require comprehensive public education and election official training programs. The proposed educational programs seek to ensure that voters and election officials accept these changes and understand the benefits of the enhancements HAVA brings to voting in New Hampshire.

Currently, training programs in the State are predominantly localized. The Secretary of State distributes an election procedures manual to each town and city. The moderators and town and city clerks are then responsible for how the information is delivered to staff members, poll workers, and the public. Often, knowledge is distributed informally, in meetings and at conferences, rather than in formal training sessions. Turnover of election officials is significant for each biennial election. The Department of State has limited human resources available to support training missions. The Secretary of State provides extensive one-on-one telephone consultation on election procedures, operating what is in effect an election official help line.

The Department of State also maintains a web site providing access to information on registering, voting, polling places, and election laws as well as most public filings related to elections. Training conducted at the State level is usually organized by each distinct area (voter registration, voting systems, etc.). Formal training is usually presented in a paper-based, person-to-person format, with limited use of technology in creating or delivering training.

New Hampshire recognizes that extensive election official and voter education will be required leading up to the first use of accessible voting machines. The State intends to monitor the experiences of those States that use these devices now and adopt as an element of a future New Hampshire State Plan the best practices derived from their experience. This State Plan budgets funds for personnel to research the experiences of other jurisdictions and start development of a New Hampshire program. Emphasis will be placed on a collaborative process that draws from the experience and expertise of local election officials and members of the disabilities community. The training program will also recognize the unique character of New Hampshire's election officials and poll workers.

**Training and Outreach Program Milestones**
Standardized training and support will help ensure the successful implementation of HAVA.

**Managing Training and Outreach Program**
The Department of State, with assistance from the Attorney General, will train personnel and develop resources for initial training and ongoing support of local election officials. HAVA funds are budgeted for the Departments of State and Justice for this purpose. The Secretary of State plans to utilize State or private sector personnel qualified in the areas of adult education to assist in developing and implementing training and support efforts.

**Planning Training and Outreach Program**
Conduct a training needs assessment based on the actions planned to address HAVA requirements. The assessment will include identifying current election officers and documenting current and desired skill levels for voters and election officials.

Training will be based on research and proven methods. New Hampshire's approach to training and support will emphasize web-based and live one-on-one support designed to answer questions and address complaints when the issues surface on election days. HAVA funds are budgeted to establish and maintain toll-free phone numbers for election officials and for voters. New Hampshire plans to staff these help lines with sufficient personnel to satisfy election day demand. For elections occurring during the period covered by this Plan, the Departments of State and Justice along with trained volunteers will staff these help lines in anticipation of a large volume of calls as election law changes prompted by HAVA are implemented.

**Implementing Training and Outreach Program**
Design, build, test, and implement training. The training method will vary dependent on the approach determined in the planning phase. Regardless of whether training is instructor-led,





on-line, paper-based, etc., the training must still go through the design and build phases and be subject to testing to ensure its success before it is delivered to trainees.

**Implement Support and Communication Plan**
The Secretary of State and the Attorney General will deliver various training or training resources on a timely basis.

**Voter Education Program may include the following:**

- Improved web site and other free access systems for voters to obtain voter registration and election information. The web site will include information on or links to local web sites with information on polling place locations, hours, etc.
- Increased delivery of election information through public and commercial television.
- Coordinated voter education and awareness efforts with organizations such as Kids Voting and National Parent/Student Mock Election and community groups, including groups providing services to individuals with disabilities.
- Targeted voter education efforts to address the needs of the disabilities community.
- Improved and increased public notices, public service announcements, and posters used in the polling places.

## Section 4: Adopting Voting Machine Guidelines and Processes

**Sec 254. (a) IN GENERAL - The State plan shall contain a description of each of the following:**

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

The State currently meets some of the voting system requirements required under HAVA as outlined in the matrix in Section 1 of Appendix A. The State has procedures established for conducting recounts on a statewide level. The State has a procedure established for voting machine certification. Refer to RSA 656:41. As the State implements a new voting system including incorporation of accessible machines, it will maintain the current procedure and create new procedures, guidelines and processes as necessary. New processes and guidelines may take the form of internal procedures, regulations, changes to Ballot Law Commission rules or State law. Legislation will be proposed to amend RSA 656:41 to allow the use of voting machines designed to assist persons with disabilities casting votes privately and independently, as required by HAVA.





## Section 5: Establishing an Elections Fund

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

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

House Bill 577 pending before the 2003 legislative session establishes the Elections Fund to implement HAVA. The proposed legislation limits use of election fund monies, consistent with the limitations on use of these funds established by HAVA. New Hampshire plans to ensure the continued maintenance of equipment and programs established to implement HAVA by preserving sufficient monies in the Elections Fund so that interest from the Fund will, over time, fund annual maintenance expenses.

## Section 6: Cost of Meeting Title III Requirements

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following: (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.**

### A. Voting Machines for Persons with Disabilities.

The Secretary of State will utilize HAVA funds to achieve the following:

- Plan and design new voting systems, including upgrading existing systems to interface efficiently with the new systems required by HAVA;
- Purchase, own, maintain and program at least one direct recording machine (DRE), or its equivalent, in each of the polling places in the State;
- Ensure voting machines programming process to be compatible with existing ballot design, printing, and counting;
- Train election officials and voters to utilize the new voting machines;
- Employ management for project implementation;
- Employ ongoing program management.

Subject to complete Federal funding for HAVA, this program will be funded at a rate of 25 percent of the State Election Fund (10 percent for acquisition and 15 percent for operation).

### B. Voter Registration New Hampshire (Statewide Database)

The Secretary of State will implement a Statewide Database of registered voters to comply with HAVA Title III.

- Secretary of State shall plan for, acquire, maintain and support a Statewide Database;
- Working with town and city clerks, State election officials, and other participants, the State will define functional requirements, roles and responsibilities of carrying out voter registration data management;
- Plan, purchase and execute installations of communications and security systems that allow the towns and cities to access the Statewide Database;
- Enable towns and cities to interact with the Statewide Database to register voters, import and input voter registration information to the Statewide Database, delete voter registration information, poll resource management, and enable candidate registration for local contests;





- Enable towns and cities to continue to be the point of contact for public access to information on registered voters, the point of purchase for checklists of registered voters in their jurisdictions;
- Enable towns and cities to print checklists from the Statewide Database for use at elections;
- Establish and maintain a system to allow a match of Database records with the motor vehicle records maintained by the Department of Safety and other agencies as required by HAVA;
- Prompt local election officials to complete tasks assigned by law to local elections officials, and will be used by the Attorney General to ensure compliance with those laws;
- Implement training program for election officials and voters in order to communicate HAVA procedural, technological, and legal changes and minimize risks to voting process;
- Enable data entry by city and town clerks into module which permits the State, towns and cities to monitor the degree of their success in fulfilling HAVA requirements – to be used by the Attorney General to ensure compliance with HAVA;
- Employ management for project implementation;
- Employ ongoing program management.

Subject to complete Federal funding of HAVA, the Statewide Database program will be funded at a rate of 60 percent of the State Election Fund (16 percent for acquisition and 44 percent for operation).

### C. Voter, Election Official and Poll Worker Training

Voter, election official and poll worker training is already a responsibility, and included in the maintenance of effort for the Secretary of State. Implementation of HAVA will require significant enhancement of the training effort. The existing training program will be augmented with a statewide voter education program as described elsewhere in the Plan. Subject to complete Federal funding of HAVA, additional election official training will be funded at a rate of 4 percent of the State Election Fund (0.7 percent for initial administration and 3.3 percent for operation). Election official and voter education is also included under Section 301 (Voting Machines) and Section 303 (Statewide Database) above.

### D. Administrative Complaint Procedures

The Attorney General will implement a statewide administrative complaint procedure to comply with HAVA Title IV. Working with the town and city clerks, moderators, State election officials, and the Secretary of State, the Attorney General will define functional requirements, roles and responsibilities of complaint procedures as defined in Section 9 of the State Plan. Subject to complete Federal funding of HAVA, the Grievance System will be funded at a rate of 6 percent of the State Election Fund (1.2 percent for initial administration and 4.8 percent for operation).

## E. Physical Accessibility of Polling Places

HAVA Section 261 provides for use of monies to improve physical accessibility to polling places. The State management of funds to be distributed by the U.S. Secretary of Health and Human Services has not yet been established. Subject to this Plan complying with Federal regulations yet to be published, New Hampshire may use Fiscal Year 2003 physical accessibility funds to provide improved illumination and vision aids for polling booths. New Hampshire is also planning to provide assistance to towns and cities whose polling places require modification to be fully accessible in the form of either direct equipment and services or grants based on need. Physical accessibility funds managed by the U.S. Department of Health and Human Services will be managed by the State in compliance with HHS regulations, which are yet to be published. New Hampshire plans to spend 100% of those funds on equipment or services.

Most of the money New Hampshire will spend on this program will derive from a portion of HAVA spending which is allocated to the U.S. Department of Health and Human Services in a grant program to make polling place facilities accessible to voters with disabilities. There is no state match requirement. In addition to the latter funds, New Hampshire expects to utilize up to $20,000 initially from the Section 101 payments for this purpose. Subject to complete Federal funding of the HAVA and receipt of monies from the U.S. Department of Health and Human Services, State spending on disability access will be funded at a rate of 1 percent of the State Election Fund (0.8 percent for initial administration and 0.2 percent for operation).

## F. HAVA Program Administration Costs

To fulfill the requirements of Title III, the Secretary of State will have to provide for the coordination, planning, operation and reporting on these programs. Subject to complete Federal funding of HAVA, the Secretary of State will use funds to administer the implementation of HAVA above the current maintenance effort for Federal elections at a rate of 4 percent of the State Election Fund (0.8 percent for initial administration costs and 3.2 percent for operation).

HAVA appropriations, to date, are significantly less than the amounts authorized. The following table outlines the assumptions regarding Federal funding that the State used in creating its budget for HAVA activities.





**Table 6.1: Federal Funding Assumptions for New Hampshire**

| Federal Fiscal Year | Total Federal Funds | New Hampshire Share | 5% State Match Requirement*** | Federal Funding Yet? |
|---|---|---|---|---|
| Early payments | $650,000,000 | $5,000,000 | 0 | Yes* |
| 2003 | $833,000,000 | $4,165,000 | $219,211 | Yes* |
| 2004 | $783,500,000 | $3,917,500 | $206,184 | No** |
| 2005 | $783,500,000 | $3,917,500 | $206,184 | No** |
| Total | $3,650,000,000 | $20,000,000 | $789,474 | |

* Federal money has been appropriated.
** Federal money has been authorized but not appropriated.
***5% State Match Requirement is calculated as 5% of the total of the State Match portion plus the Federal requirements payment portion of cost. To determine the 5% State Match based on Federal requirements payment amount, use .052632 as the multiplier (i.e., 5/95 ~ 0.052632).

Based on these funding levels, the State HAVA budget is representative of the activities necessary to implement and conduct operations and maintenance through calendar year 2005 for the HAVA Title III requirements and "other" activities. The budget will be revised in future State plans based on the most current information available regarding Federal funding. If it is necessary to revise the percentage allocations, priority will be given to equipping each polling place with an accessible voting machine and establishing the Statewide Database.

The duration for the State's budget is based on HAVA deadlines and funding. The State is concerned, however, that beyond the three years of Federal funding, the ongoing costs of operating and maintaining the new voting system and Statewide Database will be considerably higher than the State's maintenance of effort level (see Section 7 of the State Plan). New Hampshire plans to retain in the election fund sufficient funds so that the interest earned on those funds, over time, fund annual maintenance costs for all new programs implemented to comply with HAVA. HAVA was presented as a funded Federal program, not an unfunded

mandate. It is New Hampshire's plan to endeavor to avoid seeking State tax dollars to support Federally mandated programs, except for the 5% matching funds.

The State's proposed budget for activities to meet HAVA requirements is provided in Table 6.2. These numbers will ultimately be determined with the Legislature. Pending legislation appropriates the aggregate Federal and State monies in the election fund for the purposes of implementing HAVA:





**Table 6.2: New Hampshire's budget for HAVA Activities (in millions)**

| HAVA Requirements | Total Cost | Total Federal Funds | HAVA 101 | HAVA 252, 257 | HAVA 261 | State 5% match | Implementation | Operations & Maintenance |
|---|---|---|---|---|---|---|---|---|
| Title III Requirements | | | | | | | | |
| A) 301 Voting system requirements | 5.20 | 5.00 | 1.21 | 3.79 | 0 | .20 | 1/2003 to 12/2005 | 1/2006 indefinitely |
| B) 303 Computerized statewide voter registration list requirements and requirements for voters who register by mail | 12.48 | 12.00 | 2.91 | 9.09 | 0 | .48 | 1/2003 to 12/2005 | 1/2006 indefinitely |
| C) 254(3) Voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III | .82 | .79 | .29 | .50 | 0 | .03 | 10/2003 to 11/2006 | 12/2006 indefinitely |
| Other Election-related Activities | | | | | | | | |
| D) 402 State-based administrative complaint procedures to remedy grievances | 1.26 | 1.21 | .28 | .93 | 0 | .05 | 1/2003 to 10/2003 | 11/2003 indefinitely |
| E) State Plan, Section 6 Physical access to polling places by disabled voters | .21 | .21 | .02 | 0 | .19 | 0 | 1/2003 to 10/2003 | 11/2003 indefinitely |
| F) State Plan, Section 11, Program Management | .82 | .79 | .29 | .50 | 0 | .03 | 1/2003 to 11/2006 | 12/2006 indefinitely |
| TOTALS | 20.79 | 20.00 | 5.00 | 14.81 | .19 | .79 | | |

**Note:**

1. State's portion of HAVA funding is estimated based on the funding assumptions outlined in Table 6.1. Source for the State's portion of these funds is the Congressional Research Service, *Funds Allocations to States Based on P.L. 107-252: the Help America Vote Act of 2002* (November 15, 2002).





## Section 7: Maintaining the State Elections Expenditures

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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 State Fiscal Year 2000, New Hampshire conducted one statewide election, the presidential primary. This is a once-every-four-years event; therefore to maintain this effort, the State will expend this level of funding only during each year when a presidential primary is held. New Hampshire conducts a statewide primary and general election which includes Federal offices every two years. During those years New Hampshire anticipates spending more than the amount set forth below to maintain its efforts relative to activities funded by HAVA.

Consistent with HAVA Section 254(a)(7), in using any requirements payment, New Hampshire will maintain expenditures of the State for activities funded by the payment at a level equal to or greater than the level of such expenditures in State FY 2000. In State fiscal year 2000, New Hampshire expended $275,541 for activities that will be, or could be, funded with requirements payments.

| | |
|---|---|
| • Statewide Database | $0 |
| • Accessibility of the balloting process | 0 |
| • Accessibility of the polling place | 0 |
| • Election official education | 2,200 |
| • Ballots, forms, postage, envelopes, telephone, printing | 167,126 |
| • Temporary personnel, benefits and travel | 63,515 |
| • Full-time personnel, benefits | 30,000 |
| • Election law enforcement | 12, 700 |
| TOTAL | $275,541 |

New Hampshire will expend no less than $ 275,541 in State funds to maintain the State's fiscal year 2000 level of effort during comparable fiscal year periods in each year in which a presidential primary is held.

## Section 8: Adopting Performance Goals and Measures

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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.**

The Secretary of State and the Attorney General, in collaboration with local election officials, will establish performance goals and will institute a process to measure progress toward the achievement of these goals. The Secretary of State and the Attorney General will develop and monitor a uniform performance evaluation process. The process will include self-monitoring by the cities and towns. The Secretary of State, the Attorney General, and the cities and towns will create a report that will include specific data to disclose each jurisdiction's degree of success with HAVA compliance. The Attorney General will also use these reports to help ensure compliance with State and Federal election laws.

The Secretary of State, the Attorney General and local election officials, as designated by State law, are responsible for ensuring the success in meeting each performance goal and objective. The Moderator, Selectmen, Supervisors of the Checklist and the Town Clerk or the equivalent officials in the cities also have a substantial responsibility for meeting performance goals and objectives. Towns and cities will monitor performance measures and will report to the State on a periodic basis. The performance goals and measurement guidelines will be included in the State's election procedures manual. The process will provide local election officials with measurable goals.

The report will be completed for each election and will be filed with the Secretary of State within a certain number of days after each election. The Secretary of State will compile the data in the reports and create a statewide report on election law compliance and the success of implementation of HAVA. The report will include an indication of whether each town or city met the performance goals and objectives.

The Secretary of State has worked with the local election officials and representatives of other affected groups to establish mission, vision, goals, objectives and measurements for HAVA implementation. The HAVA State Plan Committee and four task forces listed below have held a total of seven meetings and a trade fair displaying accessible voting machines:

- Statewide Centralized Voter Registration Database Task Force
- Disabilities Access and Voting Systems Task Force





- Election Officials Education Task Force
- Voter Education Task Force

Summarized results, supplemented by the Secretary of State, are set forth in the table below.

### Performance Goal 1: Voting Accessibility

Improving voting accessibility, as required by HAVA, which shall include accessibility for individuals with disabilities as determined in Title III, Section 301 of HAVA, will be accomplished by the Secretary of State and town and city election officials in two steps once the appropriate funds are available:

1) Development by the Secretary of State of a statewide Request for Proposal (RFP) to provide accessible voting machines, and

2) Distribution of machines and implementation. The measure of success for both elements is the successful acquisition, deployment, and use by voters of accessible voting machines by the 2006 Federal election.

| | |
|---|---|
| Performance measure 1.a | Compliance of cities and towns using accessible voting machines in the 2006 Federal elections |
| Timetable | January 1, 2003 to Federal election 2006 |
| Description of the criteria used to measure performance | All 305 New Hampshire polling places will require accessible voting machines in the 2006 Federal elections. Success of meeting the performance goal will be based upon the number of registered voters at polling places using voting accessible machines in the 2006 Federal elections. |
| Process used to develop the criteria | The Attorney General and the Secretary of State adopted this criteria based on advice from the HAVA State Plan Committee and the Disabilities Access and Voting Systems Task Force. |
| Description of official to be held responsible for ensuring each performance goal is met | Attorney General; Secretary of State. |

## Performance Goal 2: Centralized Statewide Voter Registration Database System ("Statewide Database")

The State will have a centralized statewide voter registration database ("Statewide Database") operational by January 1, 2006. The Statewide Database will provide towns and cities with a convenient and efficient means to maintain records on registered voters, conduct purges, and produce election day checklists while providing voters with a uniform and user-friendly voter registration process and deterring voter fraud by detecting duplicates and information inconsistent with motor vehicle records.

| | |
|---|---|
| Performance measure 2.a | The number of registered voters in towns and cities who are utilizing the Statewide Database over the statewide total number of registered voters. |
| Timetable | January 1, 2003 to the 2006 Federal Election |
| Description of the criteria used to measure performance | Participation is measured on the scale of interaction. A town or city that does not participate causes a low performance score. Higher degrees of interaction result in higher scores on performance. Success of the Statewide Database will be dependent upon the successful capture, migration and standardization of voter registration information into the central voter registration database as a percentage of the total number of registered voters statewide. |
| Process used to develop the criteria | The Attorney General and the Secretary of State adopted this criteria based on advice from the HAVA State Plan Committee and the Statewide Voter Registration Database Task Force. |
| Description of official to be held responsible for ensuring each performance goal is met | The Secretary of State is responsible for implementing the statewide database and coordinating the efforts of all 318 town, city and ward clerks to meet this performance measure. |

## Performance Goal 3: Statewide Administrative Complaint Procedure

The Department of Justice will implement a statewide administrative complaint procedure. Working with the moderators, town and city clerks, State election officials, and the Secretary of State, the Department of Justice will define functional requirements, roles and responsibilities of the participants. The measurement of success of the statewide administrative complaint procedure will be the ease of access to the process and the timeliness of complaint resolution.





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|---|---|
| Performance measure 3.a | With respect to the voter registration of each town or city, the following information will be collected to subjectively measure performance:<br>• Number of complaints resolved<br>o Number of complaints resolved in 30 days or less<br>o Number complaints resolved in 60 days<br>o Number of complaints resolved in 90 days<br>• Number of complaints unresolved<br>• Description of reason complaint was left unresolved |
| Timetable | December 31, 2003 and biennially thereafter |
| Description of the criteria used to measure performance | The Attorney General will review the total number of complaints received and resolved. Success of the program may be determined by percentage of resolution of all complaints. A formal complaint process will be set up by the 2004 Federal Election. To measure performance, data will be provided covering the number of complaints received, the number of complaints resolved and the timeframe for resolution of complaints. |
| Process used to develop the criteria | The Attorney General and the Secretary of State adopted this criteria based on advice from the HAVA State Plan Committee. |
| Description of official to be held responsible for ensuring each performance goal is met | The Department of Justice is responsible for ensuring each performance goal is met, with the assistance and cooperation of each town or city clerk and local election official. |

## Performance Goal 4: Physical Accessibility

One of the primary goals of HAVA is to improve accessibility of the voting process. This goal is to monitor and report the level of compliance with the physical accessibility standards.

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| Performance measure 4.a | Towns and cities will report the number of polling places that are 100 percent accessible pursuant to guidelines in the State election procedures manual. For those polling places that are not in compliance, list the number of registered voters, reason for non-compliance, and the steps taken to bring polling place into compliance. |
| Timetable | January 1, 2004 to December 31, 2004, biennially thereafter. |

| | |
|---|---|
| Description of the criteria used to measure performance | Moderators will complete an inspection of their polling places and determine the accessibility for each polling place. Accessibility requirements for polling places will be included in the State election procedures manual. It is the duty of selectmen to establish accessible polling places. Success will be measured by compliance with the law on physical accessibility. Cities and towns will describe measures taken to bring inaccessible polling places into compliance. |
| Process used to develop the criteria | The Attorney General and the Secretary of State adopted this criteria based on advice from the HAVA State Plan Committee and the Disabilities Access and Voting Systems Task Force. |
| Description of official to be held responsible for ensuring each performance goal is met | Attorney General; Secretary of State; Selectmen. |

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|---|---|
| Performance measure 4.b | The Secretary of State, Attorney General and the Governor's Commission on Disability, using internal staff and trained volunteers, will conduct an inspection of all polling places in New Hampshire on the date of the presidential primary in 2004. Compliance with accessibility laws will be assessed. |
| Timetable | January 2004 |
| Description of the criteria used to measure performance | Each polling place will be scored for compliance with all applicable accessibility laws. Disability access compliance instruments currently in use by the Governor's Commission on Disability/Attorney General will be used. |
| Process used to develop the criteria | The Attorney General and the Secretary of State adopted this criteria based on advice from the HAVA State Plan Committee and the Disabilities Access and Voting Systems Task Force. |
| Description of official to be held responsible for ensuring each performance goal is met | Attorney General; Secretary of State; Selectmen. |

## Performance Goal 5: Voter Education

Measuring the success of voter education is more complicated than just measuring voter participation. Variables that dictate voter participation range from weather, uncontested races, and controversial ballot measures, causing highly subjective results.





| | |
|---|---|
| Performance measure 5.a | With respect to the voter registration of each town and city, the following information will be measured by exit polling and direct observation:<br>• Number of public service announcements<br>• Compliance with the statutory information posting requirements.<br>• Number of voter education and voter outreach initiatives, including:<br>o Description<br>o Estimated costs<br>o Participation<br>• A comparison of voter turnout in a Federal election with the voter turnout in the immediately preceding four-year cycle |
| Timetable | January 1, 2004 and biennially thereafter |
| Description of the criteria used to measure performance | The information will summarize the voter outreach and voter education methods employed by the State and each town and city. The cities and towns, with the cooperation of the State, already provide some voter education. By the 2004 Federal Election, additional steps will be taken to ensure voter knowledge of changes in voter registration and voting caused by this act. These steps will be incorporated into the State election procedures manual. The cities and towns will include details of their efforts in the report they file with the Secretary of State certifying their election results and process. Success will be local compliance with the State election procedures manual sections on voter education. |
| Process used to develop the criteria | The Attorney General and the Secretary of State adopted this criteria based on advice from the HAVA State Plan Committee and the Voter Education Task Force. |
| Description of official to be held responsible for ensuring each performance goal is met | The Secretary of State, the town and city clerks and other local election officials are all responsible for ensuring the success of voter education. However, the Secretary of State is responsible for the success of all statewide coordinated efforts for voter education. |

## Performance Goal 6: Election Official Training

Election official training results in positive experiences and smooth elections for voters and the State of New Hampshire. The performance goal is to measure election official training in respect to HAVA.

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|---|---|
| Performance measure 6.a | With respect to the voter registration of each town and city, the following information will be collected to measure election official training performance:<br>• The percentage of people who are authorized to receive voter register applications who have received training.<br>• The percentage of people who serve as an election official at a polling place who have received training. .<br>o % trained directly by State trainers<br>o % trained by other local election officials<br>o % trained by other means (video, website interactive, CD rom) |
| Timetable | December 31, 2003 and biennially thereafter |
| Description of the criteria used to measure performance | Completion of training. The cities and towns, with the cooperation of the State, already provide some election official training. By the 2004 Federal election, additional steps will be taken to ensure election official knowledge of changes in voter registration and voting as it relates to HAVA. |
| Process used to develop the criteria | The Attorney General and the Secretary of State adopted this criteria based on advice from the HAVA State Plan Committee and the Election Officials (Poll Workers) Task Force. |
| Description of official to be held responsible for ensuring each performance goal is met | The Secretary of State is responsible for election official training and reporting, as well as the responsibility of establishing the guidelines, reporting requirements and ultimately the success of this performance measure. Each moderator is responsible for ensuring that all poll workers have adequate training. |





## Section 9: Administrative Complaint Procedures

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

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

New Hampshire will modify its existing administrative complaint procedure to comply with HAVA. The Department of Justice will be the agency designated to receive administrative complaints. A 1-800 number and an internet/e-mail address will be established and publicized for individuals to initiate the process of filing an administrative complaint.

Administrative complaints related to future or ongoing conduct, for example denial of registration or voting on election day will be immediately assigned to an Assistant Attorney General or paralegal who will make all reasonable efforts to determine if the complaint is valid and if so to correct the situation prior to the close of the pertinent polling place.

Formal administrative complaints, those received in writing which are properly notarized, will be assigned to an Assistant Attorney General. The Attorney General will appoint a hearing officer to conduct the hearings required by HAVA. Pending legislation authorizes the Attorney General to issue State administrative rules defining the administrative complaint procedure and establishing that the Ballot Law Commission shall serve as the alternative dispute resolution body. If the complaint is not resolved by the Attorney General within the timeframe required by HAVA the complainant will be entitled to bring the matter to the Ballot Law Commission for resolution.

The Attorney General is currently drafting administrative rules and plans to initiate the statutory rule adoption process upon enactment of the pending legislation.

## Section 10: How Title I payments will be spent

**Effect of Title I Payments**
**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. -- HAVA Section 254 (a) (10)**

### Section 101. Payments to States for activities to improve administration of elections.

New Hampshire is eligible for and has received $5 million under Section 101. These funds will be used for implementation and maintenance for activities to meet the following requirements:

| | |
|---|---|
| 301: Accessible voting machines, | $1,210,000 |
| 303: Statewide centralized database system | 2,910,000 |
| 254(3), 301, 302, 303: Voter education, election official training | 290,000 |
| 402: Administrative complaint procedure | 280,000 |
| Physical accessibility of polling places | 20,000 |
| Program management | 290,000 |
| Total | $5,000,000 |

Any activities carried out under the Plan will be aimed at improving the administration of elections for Federal office, and the election process as a whole. Subsequently, all activities undertaken by the Division with Title I monies will comply with the requirements under Title III.

Upon receipt of Title I monies, it is the intent of the Secretary of State to use the funds for one or more of the following:

**A. Section 301: Improving, acquiring, leasing, modifying or replacing voting systems and technology and methods for casting and counting votes. Establishing voting system standards.**





- Establish management staff to plan, implement and manage the programs required for HAVA compliance.
- The Department of State will undertake studies and analysis and hire consultants as required to prepare a Request for Proposal for the purchase of voting systems accessible to the disabled for each polling place in the State and integrated with existing voting systems.
- The State will induce vendors to develop test sites to permit evaluation.
- Purchase accessible voting machines.
- Educate voters concerning voting procedures, voting rights, and voting technology.
- Train election officials, poll workers, and election volunteers.
- Develop improved training systems with the goals of training more election officials and poll workers close to the election.
- Establish voting system standards consistent with HAVA Section 301.

**B. Section 303: Planning, designing the statewide centralized database system**

- Conduct studies and analysis, hire consultants as required to prepare for Request for Proposal for statewide centralized database system.
- Establish management staff to plan, implement and manage the programs required for HAVA compliance.
- Engage town and city clerks or supervisors of the checklist to enter and upload data as required for the new system. The process and personnel to be used for data entry will be designed to ensure the accuracy and reliability of the statewide database and will recognize the authority of the supervisors of the checklist to make all final determinations as to entering or deleting any person from the checklist.
- Acquire and implement centralized database system.
- Educate voters concerning voting procedures, voting rights, and voting technology. A preliminary investment is needed to increase voter outreach through voter education, public service announcements. Modifications of the Department of State forms, web site, free-access system and training materials used by voters are necessary to comply with the Act.

- Develop improved training systems with the goals of training more election officials and poll workers close to the election about changes in election law, registration requirements, etc.

- Train election officials, poll workers, and election volunteers.

**C. Section 402: Begin planning process and engage legal staff to establish administrative complaint procedures.**

- Administrative rules will be drafted to implement an administrative complaint procedure that is compliant with HAVA.

- The draft will be reviewed by the HAVA State Plan Committee.

- The rules will be submitted to the Joint Legislative Committee on Administrative Rules (JLCAR) for revision and approval.

- Upon receipt of JLCAR approval, the administrative rules will be adopted and published.





## Section 11: Plan Management

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**
**(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 will manage the implementation of the New Hampshire State Plan in the manner described elsewhere in this document. New Hampshire will not make any material changes in the administration of the plan unless the change is adopted in conformance with the requirements for changes set forth in Section 254 (a)(11) of HAVA.

- The Secretary of State shall conduct meetings with the HAVA State Plan Committee and Task Forces as necessary to review standards and assess progress in meeting the goals and objectives of the HAVA State Plan.

- The Secretary of State, with the cooperation of the HAVA State Plan Committee and HAVA Task Forces will comply with HAVA deadlines for submitting HAVA State plans in subsequent years.

- The Secretary of State will comply with State planning requirements for implementing new information technology.

## Section 12: How the Plan Reflects Changes from the Previous Year

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**
**(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.**

This State Plan is the State Plan required under the Help America Vote Act of 2002 (HAVA). This section will be updated in the next fiscal year, reflecting changes to the State Plan, as well as a summary of the 2003 successes.





## Section 13: Description of the HAVA State Plan Committee

**Sec. 254 (a) IN GENERAL - The State plan shall contain a description of each of the following:**

**(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.**

Pursuant to Section 255 of the Help America Vote Act of 2002, on February 7, 2003, the chief State election official, William M. Gardner, New Hampshire Secretary of State, appointed a citizen advisory committee to help in the development of the State Plan. The citizen advisory committee, named the New Hampshire HAVA State Plan Committee, established four task forces listed below to make recommendations on their assigned subject to the HAVA State Plan Committee:

- Voter Registration Database Task Force
- Disabilities Access and Voting Systems Task Force
- Poll Worker Education Task Force
- Voter Education Task Force

Pursuant to Section 255 of HAVA, the HAVA State Plan Committee and its task forces include the chief State election official, the election officials from the two most populous jurisdictions, other local election officials, stake holders and citizens. Committee and task force membership includes a cross-section of people from throughout New Hampshire, including representation of groups of individuals with disabilities.

On March 6, 2003, the Secretary of State established the website at http://www.nh.gov/sos/HAVA/index.htm as an open forum for public review and comment of the HAVA State Plan Committee meeting agendas, minutes of meetings, and back-up material for the State Plan. This information has been available for public inspection during the duration of time the public meetings were held.

The HAVA State Plan Committee held an organizational meeting on February 7, 2003, in compliance with New Hampshire's Open Meeting Laws RSA 91-A:2, and established the four task forces above. Subsequently, the HAVA State Plan Committee's task forces held six public meetings and voting machines trade fair. The HAVA State Plan Committee met again on May 1, 2003 and June 23, 2003 to review versions of the State Plan.

The State Plan has been posted on the Secretary of State's website and made available for public review and comment for a period of more than 30 days. A statewide press release announced the locations where the State Plan was available for public review and comment. Public

hearings on the State Plan were held on August 19, 2003 in Concord and on August 28, 2003 in North Conway.

**New Hampshire State Plan Committee** membership list:

| MEMBER NAME | |
|---|---|
| | |
| David M. Scanlan, Chair | Deputy Secretary of State |
| | |
| Paul R. Bergeron | Nashua City Clerk |
| Michael P. Dennehy | Citizen member |
| Christine Dupre | Candia, Town Clerk, Legislative Committee of NH City and Town Clerks Association |
| Orville B. (Bud) Fitch II | Department of Justice |
| Hon. Natalie S. Flanagan | Atkinson, State Representative, House Committee on Election Law |
| Jay W. Flanders | Senate Majority Policy Director; Past Chair, Durham Supervisors of the Checklist |
| Gary R. Gilmore | Dover, Supervisor of Checklist |
| William M. Gardner | Secretary of State (ex-officio member) |
| Linda S. Jette | Atkinson, Town Clerk, Executive Committee, NH City and Town Clerks Association |
| Leo R. Bernier (Alternate: Carol A. Johnson, Deputy City Clerk) | Manchester City Clerk |
| Hon. Lionel W. Johnson | Manchester Ward 4, Selectman, State Representative, Hillsborough – 51, Founder and President, Manchester Black Scholarship Foundation, Past President, Manchester N.A.A.C.P. |
| Carol A. Nadeau | Governor's Commission on Disability |
| Anthony B. Stevens | Assistant Secretary of State |
| Hon. Eric G. Stohl | Columbia, Selectman, State Representative, Coos - House Committee on Municipal and County Government |
| C. Donald Stritch | Auburn, Moderator; Member, Standards Board of Federal Election Assistance Commission; Past Chair, House Election Law Committee, (ex-officio member) |
| Sarah H. Swenson | Bow, Supervisor of Checklist, Budget Committee |
| Peter M. Thomson | Orford, Moderator; Coordinator, Highway Safety Agency |





The HAVA State Plan Committee assigned work to four task forces, which held meetings on the dates identified below:

| | |
|---|---|
| Statewide Voter Registration Database Task Force | February 28, 2003<br>March 7, 2003 |
| Disabilities Access and Voting Systems Task Force | March 14, 2003<br>March 28, 2003 |
| Election Official (Poll Worker) Task Force | March 21, 2003 |
| Voter Education Task Force | April 4, 2003 |

On April 15, 2003, the HAVA State Plan Committee and the Disabilities Access and Voting Systems Task Force hosted a Voting Machines Trade Fair, which featured displays by seven vendors and the New Hampshire Association for the Blind. Attendees included the Governor, and members of the House of Representatives and its leadership, the House Election Law Committee, the Ballot Law Commission, the HAVA State Plan Committee, the Disabilities Access and Voting Systems Task Force, local election officials, and the general public.

## APPENDIX A:

## Compliance with HAVA Title III Requirements

The following chart provides a point-by-point summary of how New Hampshire will satisfy every requirement in Title III of HAVA.

| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action planned |
|---|---|---|
| **SEC. 301. VOTING SYSTEMS STANDARDS** | | |
| (a) REQUIREMENTS- Each voting system used in an election for Federal office shall meet the following requirements | | |
| (1) IN GENERAL- | | |
| (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall | | |
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | Meets requirement. | Additional voter education and instructions planned. See 301 (a)(1)(B). |



| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action planned |
|---|---|---|
| (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | Meets requirement. | Additional voter education and instructions planned. See 301 (a)(1)(B). |
| (iii) if the voter selects votes for more than one candidate for a single office-- (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | Partially Meets.<br>Non-compliant. Systems identify over-voting. Require poll workers to inform voter of the error.<br>The Systems do not show error to voter directly. | The State will partially meet this requirement through installation of accessible voting machines.<br>The State will require optical scanning systems to reject ballots with over votes. |
| (B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by | | |
| (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Partially meets requirement. | Addition voter education and instructions planned. |

| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action planned |
|---|---|---|
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error) | Meets requirement. | Additional voter education planned. |
| (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | Partially Meets requirement. | Uniform use of privacy envelopes for optical scan envelopes will be required. Additional election official education is planned. |
| (2) AUDIT CAPACITY- | | |
| (A) IN GENERAL- The voting system shall produce a record with an audit capacity for such system. | Meets requirement. | No action needed. |
| (B) MANUAL AUDIT CAPACITY- | | |
| (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | Meets requirement. | No action needed. |
| (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | Meets requirement. | No action needed. |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | Meets requirement. | No action needed. |



| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action planned |
|---|---|---|
| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES- The voting system shall- | | |
| (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | Does not meet. **Optech IIIP** does not meet requirements; requires human assistance. **Accuvote OS ES-2000** does not meet requirements; requires human assistance. | Acquire at least one accessible voting machine, certified to meet applicable standards, per polling place. |
| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Does not meet. | Acquire at least one accessible voting machine, certified to meet applicable standards, per polling place. |
| (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph). | N/A | The State plans to be fully compliant prior to January 1, 2007. |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY- The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | Currently not applicable, no New Hampshire communities are subject to the language requirement. | New Hampshire plans to purchase only disabled accessible voting machines with a foreign language capacity. |

| Requirement | New Hampshire's Status (Meets requirement, Partially meets, Does not meet) | Action planned |
|---|---|---|
| (5) ERROR RATES- The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | Partially meets. Optech IIIP optical scanners are not certified by NASED. Accu-Vote optical scanners are certified by NASED. | Both Accu-Vote and Optech IIIP should be certified by Federal Elections Assistance Commission. |
| (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE- Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | Partially Meets requirement. New Hampshire statutes and case law define what constitutes a vote. The Election Procedure Manual, "Guidelines in Determining Legal Ballots" summarizes the law, providing guidelines on what constitutes a legal vote. | New Hampshire will expand the Election Manual guidelines for determining voter intent, consistent with State Supreme Court decisions. |



| Requirement | New Hampshire's Status (Meets requirement, Partially meets, Does not meet) | Action needed |
|---|---|---|
| **SEC. 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.** | | |
| (a) PROVISIONAL VOTING REQUIREMENTS- If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows: | | |
| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | New Hampshire is exempt pursuant to HAVA section 302 (a). New Hampshire's election day registration law obviates the need for provisional voting. | No action needed. |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is-- | New Hampshire is exempt pursuant to HAVA section 302 (a). New Hampshire's election day registration law obviates the need for provisional voting. | |

| Requirement | New Hampshire's Status (Meets requirement, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (A) a registered voter in the jurisdiction in which the individual desires to vote; and | New Hampshire is exempt pursuant to HAVA section 302 (a). New Hampshire's election day registration law obviates the need for provisional voting. | No action needed. |
| (B) eligible to vote in that election. | New Hampshire is exempt pursuant to HAVA section 302 (a). New Hampshire's election day registration law obviates the need for provisional voting. | No action needed. |
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4). | New Hampshire is exempt pursuant to HAVA section 302 (a). New Hampshire's election day registration law obviates the need for provisional voting. | No action needed. |
| (4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | New Hampshire is exempt pursuant to HAVA section 302 (a). New Hampshire's election day registration law obviates the need for provisional voting. | No action needed. |



| Requirement | New Hampshire's Status (Meets requirement, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (5)(A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted. | New Hampshire is exempt pursuant to HAVA Section 302 (a). New Hampshire's election day registration law obviates the need for provisional voting. | No action needed. |
| (B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | Not applicable. | Refer to (5)(A) above. |

| Requirement | New Hampshire's Status (Meets requirement, Partially meets, Does not meet) | Action needed |
|---|---|---|
| States described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot. | Meets requirement.<br><br>New Hampshire is exempt from NVRA, and therefore has an exemption from the provisional voting requirement. | No action needed. |
| (b) VOTING INFORMATION REQUIREMENTS- | | |
| (1) PUBLIC POSTING ON ELECTION DAY- The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for federal office. | New Hampshire law requires posting of State statutes related to purity of elections. Partially meets requirement. | Legislation is pending to amend this statute to include the HAVA requirements for posting Federal laws. |
| (2) VOTING INFORMATION DEFINED- In this section, the term 'voting information' means-- | | |
| (A) a sample version of the ballot that will be used for that election; | Meets requirement. | No action needed |



| Requirement | New Hampshire's Status (Meets requirement, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (B) information regarding the date of the election and the hours during which polling places will be open; | Meets requirement. | No action needed |
| (C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; | Partially Meets.<br><br>New Hampshire is exempt from the provisional ballot requirement. | The State will enhance the voter instruction card to address over votes. |
| (D) instructions for mail-in registrants and first-time voters under section 303(b); | Does Not Meet.<br>Information not included in current posting | Legislation is pending to amend the State posting statute to include the HAVA requirements for posting this information. |
| (E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and | Partially Meets.<br>Need more detail for full compliance | Legislation is pending to amend the State posting statute to include the HAVA requirements for posting this information. |
| (F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | Partially Meets.<br>Federal statutes not listed on the current purity of elections posters. | Legislation is pending to amend the State posting statute to include the HAVA requirements for posting this information. |

| Requirement | New Hampshire's Status (Meets requirement, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (c) VOTERS WHO VOTE AFTER THE POLLS CLOSE- Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order. | Does not meet. | Under HAVA, these ballots must be kept separate from other provisional ballots. Pending legislation will require: such ballots to be counted, but requires the ballots be marked with the letters ("EH"), indicating a court had ordered "extended hours". |



| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| **SEC. 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.** | | |
| (a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS- | | |
| (1) IMPLEMENTATION- | | |
| (A) IN GENERAL- Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the computerized list), and includes the following: | Does Not Meet.<br>No registration data exists in a central database.<br>236 towns and cities – non-uniform local systems, using different data fields, and many different applications, including paper.<br>Official voter registration records are those maintained at the local level. | The State will meet this requirement upon implementation of the Statewide Database program described above. Pending legislation will establish the necessary statutory authorization. |

| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State. | Does Not Meet.<br>Official voter registration records are those maintained at the local level.<br>Individual checklists are submitted to State Archives after an election, but no central database is created from such lists. Checklist data is managed locally. | The State will meet this requirement upon implementation of the Statewide Database program described above. Pending legislation will establish the necessary statutory authorization. |
| (ii) The computerized list contains the name and registration information of every legally registered voter in the State. | Does not meet.<br>New Hampshire currently does not have a database that collects voter registration information at the State level. | The State will meet this requirement upon implementation of the Statewide Database program described above. Pending legislation will establish the necessary statutory authorization |
| (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | Does Not Meet. | The State will meet this requirement upon implementation of the Statewide Database program described above. |



| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (iv) The computerized list shall be coordinated with other agency databases within the State. | Does Not Meet.<br>No direct coordinated link with the Department of Motor Vehicles.<br>No direct coordinated link with the Division of Vital Records, although municipal clerks can obtain up-to-date death records on-line, or upon request. | Secretary of State will work with other State agencies to meet this requirement. |
| (v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | Does Not Meet. | The State will meet this requirement upon implementation of the Statewide Database program described above. |
| (vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | Does Not Meet. | The State will meet this requirement upon implementation of the Statewide Database program described above. |
| (vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). | Does Not Meet. | The State will meet this requirement upon implementation of the Statewide Database program described above. |

| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | Does Not Meet. Official list currently created and maintained at the local level. | The State will meet this requirement upon implementation of the Statewide Database program described above. Pending legislation will establish the necessary statutory authorization. |
| (B) EXCEPTION- The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office. | Not applicable. | |
| (2) COMPUTERIZED LIST MAINTENANCE- | | |
| (A) IN GENERAL- The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows: | | |
| (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6). | Not applicable. | No action needed. |



| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (ii) For purposes of removing names of ineligible voters from the official list of eligible voters-- (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death | Partially Meets. Convictions not periodically sent to local election officials, or methodically processed against voter registration rolls. Death information database sent from Division of Vital Records to municipal clerks upon request. | SOS will work with other State agencies to meet this requirement. |
| (iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. | Applicable to NH. State law calls for removal of names of ineligible voters at least once every ten years, but permits more "purges" if deemed necessary. | New Hampshire is a state described in 4(b) of the NVRA. New Hampshire's database purges must reflect State law requirements. |
| (B) CONDUCT- The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that- | | |

| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (i) the name of each registered voter appears in the computerized list; | Does not meet.<br><br>No computerized list. | The State will meet this requirement upon implementation of the Statewide Database program described above. |
| (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | Does not meet.<br><br>No computerized list. | The State will meet this requirement upon implementation of the Statewide Database program described above. |
| (iii) duplicate names are eliminated from the computerized list. | Does not meet.<br>Data entry methods of names not standardized. Date-of-birth not consistently entered in database field. | The State will meet this requirement upon implementation of the Statewide Database program described above. |
| (3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST- The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | Does not meet.<br>Each municipality establishes its own process for administering security | The State will meet this requirement upon implementation of the Statewide Database program described above. |



| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS- The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following: | | |
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg *et seq.*), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | Not applicable. | No action needed. |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | Meets. | No action needed. |
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION- | | |
| (A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS- | | |

| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (i) IN GENERAL- Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes-- (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | Does Not Meet.<br>No procedures for this currently. | The State will meet this requirement upon implementation of the Statewide Database program described above. |



| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER- If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | Does Not Meet. | The State will meet this requirement upon implementation of the Statewide Database program described above. |
| (iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED- The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | Does not meet. | Pending legislation establishes that an applicant for registration must provide the information required by this subparagraph . |
| (B) REQUIREMENTS FOR STATE OFFICIALS- | | |

| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (i) SHARING INFORMATION IN DATABASES- The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | Does Not Meet. | SOS will work with DMV to meet this requirement. |
| (ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY- The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). | Does not meet. | The State will meet this requirement upon implementation of the Statewide Database program described above. |
| (b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL- | | |
| (1) IN GENERAL- Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if-- | See below. | |
| (A) the individual registered to vote in a jurisdiction by mail; and | See below. | |



| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (B)(i) the individual has not previously voted in an election for Federal office in the State; or | See below. | |
| (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | See below. | |
| (2) REQUIREMENTS- | See below. | |
| (A) IN GENERAL- An individual meets the requirements of this paragraph if the individual-- | See below. | |
| (i) in the case of an individual who votes in person-- (I) presents to the appropriate State or local election official a current and valid photo identification; or (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; | Partially meets. Current voter registration and polling place voter identification procedures are established by the supervisors of the checklist in each town and city, most require proof of identity, age, citizenship and domicile. | The State will meet this requirement upon implementation of the Statewide Database program described above. |

| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (ii) in the case of an individual who votes by mail, submits with the ballot-- (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. | Partially meets.<br>Current voter registration and absentee voting procedures require an affidavit that these proofs would be provided were the voter to vote in person. | The State will meet this requirement upon implementation of the Statewide Database program described above. |
| (B) FAIL-SAFE VOTING- | | |
| (i) IN PERSON- An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a). | Not applicable.<br>As an Election Day registration state, NH is exempt from 302(a).<br><br>Provisional ballot not applicable; person may follow existing Election Day registration procedure. | An applicant for election day registration may register and vote without proofs required by (A)(i) provided they swear to required affidavit(s). |
| (ii) BY MAIL- An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | Not applicable.<br>As an Election Day registration state, NH is exempt from 302(a).<br>Provisional balloting not applicable. | Under proposed legislation, this will result in a challenged ballot cast but not counted, unless a court determines ballot shall be counted. |
| (3) INAPPLICABILITY- Paragraph (1) shall not apply in the case of a person-- | | |



| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either-- | | |
| (i) a copy of a current and valid photo identification; or | Not applicable, because New Hampshire is exempt from the NVRA. | No action needed. |
| (ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | Not applicable, because New Hampshire is exempt from the NVRA. | No action needed. |
| (B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either-- (I) a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and | Does Not Meet.<br>Voter registration forms and procedures are being updated to collect the appropriate numbers. | The State will meet this requirement upon implementation of the Statewide Database program described above. |
| (ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | Does Not Meet.<br>Voter registration forms and procedures being updated to require the matching of records. | The State will meet this requirement upon implementation of the Statewide Database program described above. |
| (C) who is-- | | |

| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | Partially meets, New Hampshire law exempts UOCAVA voters who are qualified voters from certain pre-registration requirements. | No action needed. |
| (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or | Partially meets, current law allows a qualified absentee voter to register if they attest that if they registered in person they would produce the referenced proofs. | New Hampshire requires that every polling place be accessible, therefore, the referenced exemption is never utilized. |
| (iii) entitled to vote otherwise than in person under any other Federal law. | N/A | The State procedure will recognize this exemption. |
| (4) CONTENTS OF MAIL-IN REGISTRATION FORM- | | |
| (A) IN GENERAL- The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: | | |
| (i) The question `Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | N/A New Hampshire is exempt from the NVRA. | No action planned. |



| Requirement | New Hampshire's Status (Meets requirements, Partially meets, Does not meet) | Action needed |
|---|---|---|
| (ii) The question 'Will you be 18 years of age on or before Election Day?' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on Election Day. | N/A | No action planned. |
| (iii) The statement 'If you checked 'no' in response to either of these questions, do not complete this form.' | N/A | No action planned. |
| (iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | N/A | No action planned. |
| (B) INCOMPLETE FORMS- If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | N/A. | No action planned. |

**INTRODUCTION**

It is fundamental to a free and democratic society that elections are conducted in a fair manner, with all qualified citizens having an equal opportunity to vote and to have their votes counted. It is for this reason that as the Chief Election Official of New Jersey, I welcome the unprecedented federal support that the states will receive under the "Help America Vote Act of 2002" (HAVA). Enacted on October 29, 2002, HAVA is intended to provide federal monies to assist in the upgrading of a state's voting equipment and to provide for the implementation of procedures that will protect each citizen's right to vote, while maintaining confidence in the integrity of the state's election system.

HAVA provides, among other things, for the replacement of the antiquated lever voting machines and punch card machines. It sets forth voting system standards to assure accurate vote counts. It mandates the creation of a statewide voter registration system. It sets forth identification requirements for first-time mail registrants and for the use of provisional ballots, with the provisional ballot voter to be given the opportunity to ascertain the disposition of her or his ballot. Polling places will have additional notices to inform voters as to voting procedures and rights. It is further intended that voters with disabilities will be able to vote confidentially and independently in fully accessible polling places.

Under Section 101 of Title I of HAVA, states can receive funds for a broad range of activities for the overall improvement of their election structure and administration. Section 102 of Title I provides for funding for the replacement of lever and punch card machines. Title II of HAVA of establishes the Election Assistance Commission, a federal agency charged with a variety of election-related responsibilities. For example, it will act as an informational resource, conduct studies relating to voting technology and promulgate guidelines and recommendations to the states.

Title III of the Act sets forth substantive electoral requirements for the states, such as statewide voter registration systems, provisional balloting, identification requirements for first-time mail registrants and additional notices in polling places of voter rights. Title III also provides for the largest portion of federal funding to assist the states in implementing HAVA. Title III provides for a three-year plan for receipt of federal funds. To receive a share of section 252, Title III monies, commonly referred to as "requirements payments", a state must submit a written plan known as a State Plan, setting forth the manner in which the State intends to comply with Title III and detailing the contemplated use of the federal funds. Funds distributed to a state pursuant to HAVA can be used for the Title III requirements relating to voting systems, statewide voter registration, provisional balloting and can also be used for voter education efforts, election official training and overall improvement of a state's election administration.

States also will receive under section 261 of Title III monies to be used for voters with disabilities, for the purpose of polling place accessibility, equal access to voting, voting information and sensitivity training for district board workers.



New Jersey has a strong record of commitment to the election process through the efforts of its election officials and the interest and participation of our voters and various constituency groups. It has been a long-standing requirement to send sample ballots to registered voters before each election. New Jersey has used provisional ballots since the 1996 General Election and in 2001, it replaced punch card voting machines that had been used for decades in two counties. HAVA will now provide the State with the ability to further strengthen its electoral commitment. New Jersey has already received $16,836,817 under Title I. A large portion of Title I monies will be used for the replacement of the lever voting machines that are now used in seven counties. Under Section 252 of Title III, it is estimated that the State is eligible to receive, for the federal fiscal year of 2003, approximately $23 million. Under Section 261 of Title III, New Jersey will be eligible to receive $352,485.00. The State applied for Section 261 funds on July 7, 2003.

This State Plan details how New Jersey intends to further comply with HAVA requirements in order to receive Title III funds. It specifically addresses the thirteen requisite categories, in accordance with Section 254 of Title III of HAVA. In accordance with HAVA, in my capacity as New Jersey's Chief Election Official, I appointed a diverse group of election officials and other citizens to assist in the preparation of the State Plan. I asked this group, the New Jersey State Plan Committee ("SPC"), to take this opportunity to not only consider how New Jersey can meet the specific mandates of HAVA, but how we can provide for even greater improvement in the manner in which elections are conducted. We are particularly mindful that one of the fundamental goals of HAVA is to promote statewide uniformity and that this goal can be met if we move toward a more coordinated and centralized system at the state level.

As further required by HAVA, there was a public comment period. Although the federal law only required a 30-day public comment period, we decided to extend this time by an additional 15 days, from June 20 through August 4. The Preliminary State Plan was posted on the State's website. I further directed that "we take the plan to the people" by way of pubic hearings of which there were eight, conducted throughout the State. We heard a variety of comments, particularly from members of advocacy groups for persons with disabilities as well as persons with disabilities. They expressed the need for their direct input on such matters as polling place accessibility and district board worker training. This proposal had already been stated in the Preliminary Plan. It remains in the final State Plan and will be the cornerstone of New Jersey's efforts to ensure that all persons with disabilities have equal and fair access to each aspect of the electoral process. It need not be stated that the efforts to improve such access will have a positive effect for all voters, as noted by one of the members of the SPC.

The two most common themes heard throughout the public hearings, as well as the SPC work sessions, were: one, the necessity for continued and effective communication between and among all election officials, from the municipal clerks to State officials, and interested members of the public; and two, the need for effective voter education that reaches all segments of our society. These interests are reflected in the State Plan and will be the guiding principals as we move forward into the implementation phase of HAVA.

That being said, we are mindful that the changes required under HAVA will not occur overnight. All states, including New Jersey, will have until no later than January 1, 2006 to replace antiquated lever voting machines and implement a statewide voter registration system. The required "free access system," which will enable provisional ballot voters to check the disposition of their ballots, will be available in New Jersey as of the 2004 June Primary. Some of the changes proposed for our State will require legislation and regulatory changes. Our ability to fully realize all of the contemplated modifications to our electoral system is dependent upon full federal funding over the next three year period, as set forth in HAVA. You have our assurances, however, that we will work to achieve these goals to better serve our citizens, as we appreciate that an informed and involved citizenry is an indispensable part of a viable election process.

Peter C. Harvey
Attorney General
State of New Jersey



## Section 1

How the State will use the requirements payments to meet the requirements of Title III to improve the administration of elections.

**Voting Systems**

Section 301 of Title III of HAVA sets forth the standards for voting equipment and voting procedures to be used in federal elections, for the purpose of protecting the individual right to vote and assuring the accuracy of, and confidence in, the electoral process.

First, all voting systems in the United States must provide for the following: 1) a system which allows voters to review the accuracy of their selections indicated on the voting machine before the ballot is finally cast; 2) a means to allow the voter to correct any votes, including any overvotes; 3) the provision of an audit of the votes cast, or a "permanent paper trail" of the votes cast, which would facilitate a more efficient and reliable recount; 4) a means to ensure that voters with disabilities, including voters with visual impairments, will be able to vote independently without third party assistance by providing each polling place with at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities; 5) the furnishing of multi-lingual ballots in required election districts; 6) a system which produces an error rate that does not exceed the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission; 7) establishment of uniform and non-discriminatory standards as to what constitutes a "vote."

These voting system requirements must be achieved no later than January 2006. If a state applies for funds under Title I to replace lever and punch card voting machines, it must replace them in time for the November 2004 general election, unless the state applies for a waiver until January 1, 2006.

Although HAVA provides that no state is necessarily required to replace any existing lever machines or punch card machines used in the polling places, New Jersey, like other states, has determined that the lever machines will be not able to meet the new federal standards and, therefore, must be replaced. While no punch card machines are in use in the polling places in New Jersey, some counties use them for counting absentee ballots.

Under Title 19, Election Laws of New Jersey, the current statutory authority for the purchase and maintenance of voting machines in New Jersey lies with each of the State's twenty-one counties. An individual county can purchase a machine that is on the list certified by the Attorney General. Once a voting machine has been subjected to examination by a Committee appointed by the Attorney General and approved by this Office, the machine may legally be used in any election within the State.

As of this date, there are seven counties in New Jersey that use lever voting machines: Camden, Cape May, Cumberland, Essex, Hudson, Mercer[1] and Monmouth Counties. Currently, these counties own a total of approximately 3,581 voting machines, corresponding to 2,295 election districts total. These seven counties use a total of 1,376 polling places.

([1] Mercer County has contracted to purchase electronic voting machines, which shall be in use in 2004.)

| COUNTY | NUMBER OF REGISTERED VOTERS | NUMBER OF ELECTION DISTRICTS | NUMBER OF POLLING PLACES | TYPE OF VOTING MACHINE | NUMBER OF VOTING MACHINES |
|---|---|---|---|---|---|
| Atlantic | 136,660 | 161 | 125 | Electronic | 230 |
| Bergen | 476,631 | 554 | 394 | Electronic | 1200 |
| Burlington | 237,903 | 359 | 170 | Electronic | 500 |
| Camden | 292,658 | 331 | 219 | Mechanical | 730 |
| Cape May | 63,823 | 131 | 50 | Mechanical | 167 |
| Cumberland | 74,663 | 93 | 68 | Mechanical | 110 |
| Essex | 382,443 | 568 | 335 | Mechanical | 695 |
| Gloucester | 154,273 | 231 | 115 | Electronic | 510 |
| Hudson | 265,323 | 452 | 258 | Mechanical | 530 |
| Hunterdon | 72,888 | 111 | 43 | Electronic | 127 |
| Mercer | 186,200 | 284 | 170 | Mechanical | 599 |
| Middlesex | 405,706 | 597 | 245 | Electronic | 662 |
| Monmouth | 370,189 | 437 | 302 | Mechanical | 757 |
| Morris | 288,085 | 395 | 198 | Electronic | 805 |
| Ocean | 319,803 | 326 | 346 | Electronic | 704 |
| Passaic | 228,206 | 288 | 170 | Electronic | 420 |
| Salem | 39,051 | 45 | 132 | Electronic | 160 |
| Somerset | 149,266 | 277 | 132 | Electronic | 290 |
| Sussex | 79,746 | 107 | 78 | Electronic | 351 |
| Union | 257,300 | 443 | 190 | Electronic | 500 |
| Warren | 56,327 | 85 | 49 | Electronic | 95 |
| Total | 4,537,144 | 6,275 | 3789 | ----- | 10,142 |

As previously indicated, there are no counties that currently use punch card machines in the polling places. Salem and Sussex Counties had used such machines up until the November 2001 General Election. After the 2000 Presidential Election, the New Jersey Legislature determined that the use of punch card machines should no longer be permitted in the polling places, and opted to purchase electronic voting equipment for those two counties. There are still two New Jersey counties, Cape May and Somerset[2], that continue to use punch card machines for absentee ballots. These machines should also be replaced.

([2] While Mercer County currently has a punch card system for absentee ballots, it has just purchased an optical scan system which will be in use for the November 2003 general election.)

In terms of an accessible voting system for voters with disabilities, including voters with visual impairments, Salem and Sussex Counties are the only two counties in the State that are fully compliant. Each of the voting machines in those two counties is fully accessible for voters with disabilities.



In compliance with Title I and Title III of HAVA, all lever machines will be replaced with voting machines capable of meeting all of the federal standards. Furthermore, Atlantic County has older electronic voting equipment, which is in constant need of repair and for which some of the parts can no longer be obtained. Therefore, this is an appropriate time for that county's voting systems to be replaced. Atlantic County currently owns 230 voting machines for 161 election districts. It now has 125 polling places.

The remaining eleven counties in the State have electronic machinery. Nine of these counties have the capability to modify their existing systems to accommodate voters with disabilities, including the capacity to install audio assistance. These include Bergen, Burlington, Gloucester, Hunterdon, Middlesex, Morris, Ocean, Somerset and Union Counties. There are currently a total of 10,398 voting machines owned by these counties for a total of 3,293 election districts. There is a total of 1,833 polling places in these counties.

Passaic County and Warren County have voting machines that cannot be retrofitted to fully accommodate voters with disabilities, particularly voters with visual impairments. Passaic County currently owns 420 voting machines for 288 election districts and has 169 polling places. Warren County owns 95 voting machines for 85 election districts and has 49 polling places.

It will have to be determined if these two counties should obtain a new set of voting machines or whether they can continue to use their current machines in conjunction with a separate accessible voting system for each election district. There is legitimate concern as to whether using a different voting machine for voters with disabilities, in particular voters with visual impairments, will compromise the secrecy of their votes. There is also the administrative concern of having to program and set up two types of voting machines for each election district. These issues will require further study and input from all interested persons, including members of the disability community. Any decision must be based on the overriding interest in assuring voters with disabilities the realization of their rights as protected under HAVA. The cost differential between the two proposals should not determine the outcome of this decision.

Funds should also be dedicated for the replacement the punch card absentee ballot counters.

Because the replacement and/or modification of the above-noted affected voting machines is one of the highest priorities under HAVA, and because of the number of voting machines involved, it is anticipated that a significant amount of the replacement monies will need to be dedicated to this purpose. While the State has already received close to $17 million of Title I funding, it is believed that amount will not be sufficient to fully cover the cost of voting machine replacement. Accordingly, a portion of Title III funds will be required for voting machine replacement and adaptation purposes. The Attorney General will develop a formula, in a manner to be determined, which will be based upon appropriate need factors to allocate a fair proportional share of federal funds. Dependent upon full federal funding over the three year period for which monies have been authorized under HAVA, it is anticipated that dedicated-HAVA funds can absorb, at a minimum, half of the counties' voting machine replacement and adaptation expenses.

It is the further intention of the Attorney General to undertake a study of the recent national discussion by computer scientists regarding the security of software programs for voting systems and the capability of a voter to view a "paper verification" of his or her votes before casting the ballot. To elaborate, there is an articulated position that all voting machines should be capable of allowing the voter to see his or her votes on a secured piece of paper. The voter would only be allowed to view this document, but not to take it out of the polling place. The document would remain in the custody of the election officials. Any such procedure would have to appropriately safeguard the secrecy of the ballot. Congressman Rush Holt of New Jersey has recently introduced federal legislation on this matter.

**Statewide Voter Registration**

Section 303 of Title III requires that each state implement a "single, uniform, official, centralized, interactive, computerized state-wide voter registration list that is defined, maintained and administered at the state level." Such a system must provide for the elimination of duplicate registrations and the purging of ineligible voters, in accordance with the National Voter Registration Act, 42 U.S.C.A. 1973gg-1 et. seq. ("NVRA").

The system must interface with the computerized records of other State agencies, such as the New Jersey Motor Vehicles Commission ("MVC") for verification of driver's license numbers and the New Jersey Department of Health and Senior Services for decedent verification. There must also be an appropriate interface with those agencies which can provide criminal history information, as any person who is currently serving a sentence of incarceration, on parole or on probation as the result of a conviction for an indictable offense is disqualified from voting under State law. The system will also be connected to the Social Security Administration for verification of the last four digits of a registrant's social security number.

The system must be in place by January 2004, unless a state seeks a waiver until January 2006.

New Jersey does not now have a state-wide registration system, as defined by HAVA. In accordance with NVRA, in 1996 New Jersey did establish an interconnecting computer system among the twenty-one offices of the County Commissioners of Registration and the Division of Elections, through which counties provide the State with their master voter registration lists.

The purpose of the system is to allow the State to fulfill its reporting requirements to the Federal Election Commission with respect to the number of voter registrations received by mail and those collated from the designated voter registration agencies (such as the MVC), public assistance agencies, social service agencies, and agencies that serve people with disabilities. The State must also report the number of active, inactive and deleted voters, as defined by the NVRA.

By way of the current system, New Jersey is also able to notify the counties of duplicate registrations. Duplication can occur when a currently registered voter re-registers in a new county.



To meet the new requirements under HAVA, however, it will be necessary for New Jersey to make a major capital investment in its registration infrastructure. It will be necessary to develop and purchase all required components to have an interconnecting system among, at a minimum, the offices of the Division of Elections, the twenty-one County Commissioners of Registration, the MVC, the Department of Health and Senior Services, the Social Security Administration and those agencies with criminal history information. The twenty-one County Clerks and the 566 Municipal Clerks, who are also election officials, will need access to the system as well. There should also be consideration of interfacing with all of the other voter registration agencies in the State, so designated under the NVRA and which are identified above.

It is anticipated that this will require significant funding, although the final outlay will likely depend upon whether it is deemed appropriate to retain an outside vendor to create the system, or to have the project developed completely in-house by State Information Technology personnel. The cost factor may also vary depending upon whether maintenance and service of the system will require a vendor or will be done in-house. In any event, it is likely that a full-time technical support unit within the Department will be needed.

It will also be necessary to dedicate funds for initial training of the offices of the County Commissioners of Registration regarding the new state-wide voter registration system.

During the course of the SPC work sessions and public hearings, there were a number of discussions on the possibility of New Jersey enacting a same-day voter registration system. While there were varying opinions expressed on this matter, it was fairly understood that any rational consideration of this procedure would be dependent upon a viable statewide voter registration system. Same-day voter registration, therefore, is a concept for a later time. The enactment of a statewide voter registration system may also lead to consideration of the viability of an Internet-based voter registration system. This, too, is a concept for future consideration.

**Provisional Balloting and Voting Information at the Polling Place**

Section 302 of Title III creates the right of voters in federal elections to cast provisional ballots if they fail to provide the required identification information, or if they are voting after the polls close by way of a federal or state court order. New Jersey has provided for provisional balloting since 1996. The procedure originated by way of a federal consent decree for the 1996 Presidential Election. Since 1999, these original procedures have been codified into law in New Jersey. Provisional ballots are utilized for any voter who moves to another address within the county of registration and fails to notify the county commissioner of registration of the move. These ballots are also utilized if there is deficient information in the poll book for the voter, such as a missing signature. At the polling place, the provisional ballot voter is provided with a ballot and envelope on which there is a detachable affirmation statement. The provisional ballot voter completes the statement by providing his or her name, current address, former address and the reason why this ballot is being used (i.e., either because of a move within the county or because the registration information in the poll book is not complete). All of the provisional ballots are secured at the polling place in a provisional ballot bag, and are returned, at the close of the polls, to the appropriate County Commissioner of Registration for verification. If it is determined that the person is not a registered voter, the ballot is not counted. It is common practice to send the unregistered individual a voter registration form so that he or she can register to vote in future elections.

It has been suggested that the provisional ballot law be further amended so that the provisional ballot affirmation statement could constitute a voter registration form in cases where it is determined that the person is not currently registered to vote. In other words, instead of sending the person a voter registration form to complete, the County Commissioner of Registration could use the information contained on the affirmation statement for registration purposes. This idea on its face appears to be valid, but will require further study. At a minimum, the information required on the affirmation statement would have to be expanded to include all of information required on the voter registration form.

To comply with HAVA, New Jersey will need to expand its use of provisional ballots in several ways. First, HAVA provides that any voter who casts a ballot after the close of the polls under state law pursuant to a federal or state court order, in effect ten days before a federal election, shall be voting by provisional ballot. In New Jersey, there has been a longstanding practice for the State courts to issue orders permitting a voter to cast an absentee ballot in a cases where the person is deemed eligible to vote by the court but, because of the hour of the court's ruling, is unable to timely return to the polling place. State legislation should be enacted to provide for the use of provisional ballots in all cases where a court rules on election day that a person is qualified to vote but is not able to vote in the polling place because of time constraints (e.g., the polling place is closed). Second, provisional ballots are to be used for voters who do not provide the requisite identification information as detailed below.

It is not expected at this time that the expanded use of provisional ballots will cause a significant increase in expense for the County Clerks, who are responsible for the printing of all the ballots, or for the County Superintendents of Elections or County Boards of Election who process those ballots.

**Requirements for first-time Voters who Register by Mail**

Section 303(b)(1) of HAVA provides that any person who, on or after January 1, 2003, registers to vote for the first time by mail shall have to provide identification. HAVA further requires all states to be prepared to accept this identification information as of January 2003, with enforcement authority to commence as of January 2004. [Note: These HAVA identification requirements will have no force or effect for any election held in New Jersey in 2003, but will be in force for such mail-in registrants beginning with the June 2004 primary election.]

If a state does not have statewide voter registration, the identification requirement also applies to a new registration in a county. At present, New Jersey does not have a statewide voter registration system. Therefore, the identification requirement will apply to any voter registering in a county for the first time, even if that person had previously voted for any length of time in another county of the State.

Except as provided below, under HAVA, such voters will have to provide a form of identification at the polling place the first time they appear to vote in the county. The federal law specifies the types of acceptable identification as follows: "a current and valid photo identification," or "a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter." If the first-time voter votes by absentee ballot, a copy of one of the above identifying documents must be provided with the ballot.



The requirement to provide identification at the polling place does not apply if: 1) the state requires the registrant to provide a copy of one of the above-noted identifying documents with the voter registration form; 2) the registrant provides, along with the registration form, the driver's license number or the last four digits of the social security number, and the state is able to verify such information. If the registrant does not have a driver's license or a social security number, he or she would be able to provide a copy of one of the above-specified identifying documents; or 3) the voter is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C.A. 1973ff-1, et seq.; the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C.A. 1973ee-1(b)(2)(B)(ii); or is entitled to vote otherwise than in person under any other federal law.

Beginning with the June 2004 Primary Election, if a first-time voter who has registered by mail for the first time in the applicable jurisdiction (which, in New Jersey, is the county, as stated above) and has not previously submitted the identification information required by HAVA, the person will be asked to present a copy of an identifying document at the polling place. If such voters do not present an identifying document, they will not be permitted to vote in the voting machine, but instead will be provided a provisional ballot. If an absentee ballot voter who was required to provide identifying information did not do so by the time of the submission of the absentee ballot, that person's absentee ballot will be processed as a provisional ballot.

Several related issues which merit consideration were raised by members of the State Plan Committee. One issue concerns the extent of the applicability of the identification requirement. Current New Jersey law imposes no identification requirement as part of the registration process or for first-time voters. Support was expressed for the position that this requirement not be extended beyond the requirements of HAVA to apply to those voters who do not use the mail for delivery of their registration application. Concern has been expressed that extending the identification requirement could have the effect of frustrating voter registration.

In addressing the State's interest in enhancing accountability in the registration process, consideration should be given to requiring an appropriate third party certification in cases where an application is delivered by a person other than the applicant.

A second issue concerns the point in the election process at which the requisite voter information should be requested, i.e., at the polling place or at the time of registration. As a matter of convenience for the affected voters who must present identification in accordance with HAVA, as well as for the convenience for the other voters who will appear to vote at the polling place on an election day and who might otherwise be delayed, the identifying information should be requested during the registration process.

The final issue concerns the types of identifying documents that should be accepted from those registrants who are unable to provide either a driver's license number or the last four digits of their social security numbers. New Jersey should take an expansive view of this requirement, so that no qualified registrant is unduly burdened because he or she does not possess conventional identifying documents. Recognizing that not every appropriate document can be legislatively enumerated, the Attorney General should be accorded the authority to issue an expansive and comprehensive list that may be updated to include credible and reliable documents that are issued or identified in the future.

**"Free Access" System**

There is another Title III provision regarding provisional ballots, however, which will require the establishment of a procedure new to New Jersey. Each voter who casts a provisional ballot, as of the 2004 Primary Election, will be entitled to make use of a "free access" system, to be established by the Attorney General, to ascertain whether his or her ballot was counted and, if not, the reason for rejection. This could be accomplished by way of a toll-free telephone number or by the Internet, to establish such notification process for provisional ballot voters, as well as for absentee ballot voters. Such a procedure will likely require the expenditure of federal funding. This system must also be accessible to voters with disabilities. For example, any telephone system must include a TTY phone number and any Internet-based system must be similarly accessible to voters with disabilities. It is anticipated that Title III funds will be used for this purpose.

New Jersey also will be required, under Title III, to expand the number of notices provided in a polling place on election days. There will be a cost factor for such implementation. Under New Jersey's current practice, sample ballots, which include the hours and day of the particular election, must be posted in every polling place. There is also the required notice of the challenge procedure, voting machine instructions, and the availability in the polling places of complaint forms with stamped return envelopes pre-addressed to the applicable County Commissioner of Registration.

In accordance with Title III, as of the June 2004 Primary Election, each polling place will also be required to provide a notice of the identification requirements for first-time voters, and a Notice of Rights to all voters, which identifies the office to contact with any complaints or questions and provides general information regarding federal and state laws concerning electoral fraud and misrepresentation.

The Attorney General will design these new notices to ensure uniformity and consistency. The Attorney General will incur administrative costs, including personnel, to perform this task. Therefore, some Title III money will be expended on this statutory requirement.

Voter Registration Application and other Election Forms

Pursuant to Section 303 of HAVA, all mail voter registration forms must include check-off boxes as to minimum age and citizenship of the applicant. If the applicant answers "no" to either being 18 years of age or having United States citizenship, there is to be a statement on the form advising the applicant not to submit the document. The voter registration form should also have a provision for the registrant to provide his or her driver's license number or last four digits of the social security number. There must also be notice requirements regarding identification requirements for first-time voters who register by mail.

Such items are not currently included on New Jersey's form, which is used for all registration purposes whether it be a mail-in or an in-person process. Any legislation to authorize the Attorney General to redesign the form should specify that the form should be fully inclusive as to the type of identifying document that will be acceptable so that no qualified registrant is disenfranchised because he or she may not have common identifying documents. The absentee and provisional ballot materials will also need to be revised to include the information relating to identification requirements. Consideration should also be given to developing a standardized format for voting machine ballots.



**Modification of Forms for Voters with Disabilities**

Consistent with one of the principal purposes of HAVA to allow for full access to the electoral process by voters with disabilities, election forms, such as the voter registration application, the sample ballot as well as the absentee and provisional ballot materials, must be provided in alternative forms, such as large print, braille and audio. It has also been suggested that the voter registration application could include provisions to permit an applicant to "check-off" if he or she requires accommodations or alternate forms of election materials, or to indicate that he or she uses a rubber signature stamp in lieu of a handwritten signature. Accordingly, it is anticipated that a portion of Title III funds will be utilized for the design and printing of these materials.

**Education and Training**

As detailed in Section Three of the Plan, New Jersey intends to formalize its training for election officials, in particular, the County Boards of Election, the County Clerks and the County Superintendents of Elections, along with key personnel in those offices, to ensure consistent and informed application of law. Section Three of this Plan also details the manner in which New Jersey plans to upgrade and expand its voter outreach to increase electoral participation for all voters. It is anticipated that increased training and public outreach will require the expenditure of public funds, including Title III monies, and that such funds will also be required to employ and train sufficient support staff at the State level to monitor and oversee these activities.

## Section 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) of Section 254 (a) of Title III, 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) of Section 254 (a) Title III.

**Distribution and Eligibility for Requirements Monies:**

**Voting Systems**

Any county that does not have a fully HAVA-compliant voting system, including an accessible voting system for individuals with disabilities in each polling place, will be eligible to receive a portion of Title I and Title III monies. Any county that purchased HAVA-compliant voting systems after the November 2000 election will also be eligible to apply to the State for a portion of the federal funds for reimbursement purposes. For example, as noted in Section One of the Plan, Mercer County recently entered into a contract to replace its lever voting machines with electronic machinery for use in the 2004 elections. As further noted in Section One of the Plan, the State paid for the replacement of the punch card voting machines which were used in the polling places in Salem and Sussex Counties up until the November 2001 election.

Six remaining counties will need to move forward on a plan to replace their lever voting machines, Atlantic County will need to obtain more up-to-date voting machines and decisions need to be made on the voting systems for Passaic and Warren Counties. As set forth in Section One of the Plan, the current law bestows upon the counties the exclusive authority to purchase voting machines for use in their respective jurisdictions. The sole legal limitation is that the voting machine must be a model that has been certified for use by the Attorney General. Accordingly, the certified list of voting equipment issued by the Attorney General must be revised to reflect that all future purchases must be restricted to HAVA-compliant equipment. In addition, it may be appropriate to consider State legislation to condition the disbursement of any federal monies to the counties upon the purchase of HAVA-compliant equipment. Receipt of funds could further be conditioned upon the counties having a program for voter education, subject to the approval of the Attorney General, on the use of the new voting system.

There has been discussion of having the State, rather than the individual counties, contracting for the purchase of the voting equipment that would be used and maintained by the counties. It has been suggested that such approach could have cost-savings benefit and would further uniformity of the State's electoral process by resulting in the purchase of the same voting machines in the affected counties. Because such contract would be for goods (i.e., voting equipment) which are not used by State government, but rather are used by a local governmental unit (the county), legislation would be required to alter the current purchasing authority set forth in Title 19.

Another alternative would be for the affected counties themselves to act in concert as a single purchasing unit. This would likely not require legislative approval, as the counties would be retaining their current purchasing power. As with a State contract, this approach could further uniformity and enhance the ability to get the best contract in terms of price and other negotiable issues, such as servicing and maintenance of the machines, but would require cooperation and ultimate consensus among the counties.

In order to complete the acquisition of HAVA-compliant voting equipment for the entire State and meet the other requirements of Title III, it is estimated that it will require a combination of federal, state and county monies. The federal and State monies will be deposited in the "Election Assistance Fund" (hereinafter referred to as the "Fund") that has been established by the State Treasurer. The Attorney General will determine, in an appropriate and informed manner, the portion of the Fund that each county will receive. It is anticipated that there will be insufficient monies in the Fund to fully cover the cost of all of the required voting equipment for the polling places. As the counties have the existing statutory fiscal obligation for the purchase of voting machines, it is expected each county will provide for the remaining funds, after its allocation from the Fund, to pay for its voting equipment.



To provide for fully compliant voting systems throughout the State, there must be a comprehensive plan, with appropriate allocation of funds, to accomplish the following tasks: (1) the replacement of the oldest lever voting machines in the State which are now in use in the Counties of Camden, Hudson and Monmouth. The votes from these older machines must be manually transcribed by the district board workers at the close of the polls; (2) the replacement of the other type of lever machine, which is used in the Counties of Cape May, Cumberland and Essex. The votes on this machine are on a print-pak. There is no need for the district board workers to transcribe the votes; (3) the replacement of Atlantic County's voting machines; (4) the implementation of an effective compliance plan for Passaic and Warren Counties' voting systems; (5) the provision of all the required equipment for the affected counties to retrofit existing voting machines so that there will be at least one fully accessible voting system for individuals with disabilities in each polling place; (6) the replacement of the punch card voting systems for absentee ballots in the two counties; and (7) a reimbursement scheme for the HAVA-compliant voting machines purchased since the 2000 November election.

**Statewide Voter Registration System**

Federal funds will be used for the State to develop and maintain a HAVA-compliant statewide voter registration system. Development of such a system will require the State to survey the individual counties to evaluate the current county systems and the extent of the local needs to bring the State system into HAVA compliance. The State will also need to survey the needs of the other other governmental offices identified above.

Because HAVA requires that the State develop and maintain the statewide voter registration system, it is not expected, at this time, that any HAVA-dedicated monies will be directly distributed to the county or local election offices for this initial purpose. The final plan for the system will determine whether it will be necessary to disburse any such monies to other State agencies, such as the MVC, Department of Health and Senior Services or criminal history information offices, for the start-up of the program.

It is further recognized that there will be ongoing maintenance and servicing requirements at the State and local levels. This would be a negotiable issue for a State contract. If the State opts to develop the system in-house, it should then consider whether any requirements monies will be distributed to the counties to defray their costs for maintenance and servicing or whether that responsibility for bearing the costs for those functions will remain with the counties, as under current law.

**Voter Education and Election Officials' Training**

It is anticipated that the State will use HAVA funding for a statewide marketing campaign for voter education and to develop uniform training programs. Depending upon the amount of funding that may be available after the effectuation of these State initiatives and following determination of the final costs for voting machine replacements and the statewide voter registration system, and further dependent upon full three-year federal funding, some of the monies may be distributed to the counties for voter education and training.

**Monitoring of the Disbursements**

The State will develop an effective system for monitoring of the counties, primarily to ascertain that the voting systems are HAVA-compliant and that the statewide voter registration system is being properly maintained and utilized. There should be a requirement for the counties on a biannual basis (after the June primary and November general elections) to report on the performance of the voting systems, with the emphasis on identifying any malfunctions or any other problems with the use of the voting machines at the polling place on election day. As for the statewide voter registration system, its maintenance and functionality will necessitate on-going interaction between the Division of Elections and those agencies that will be inputting information (such as MVC and the County Commissioners of Registration) and the agencies that will be providing identification information (MVC, Department of Health and Senior Services, criminal history information agencies and the Social Security Administration), as well as those other governmental offices that will have access to the system. The State will develop a reporting system to ensure that all voter registrations are being properly recorded and maintained and that confirms that continued access is provided to the required agencies to verify identification information.

## Section 3

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

**Voter Education**

**General Outreach**

The fundamental goal of any electoral process, at any level of government, is to have the largest number of qualified voters turn out to vote, whether it be for the filling of public elective offices or the decision-making on public referenda. The more inclusive and participatory the process is, the stronger and more secure is our democratic form of government. This is clearly one of the goals of HAVA, to engage as many qualified voters in exercising the franchise. One of the ways to achieve this goal is through education. In New Jersey, there are currently some methods in place to reach out to voters. There are required newspaper notices to inform the electorate of an upcoming election, the related deadline for voter registration, the availability of absentee ballots and the challenge procedures in the polling places. Voters are also sent sample ballots immediately before each election: school, non-partisan municipal, primary and general. It has been suggested, however, that the sample ballot be redesigned to attract the attention of the voter. In the polling places on election day, State law requires that sample ballots be posted, and there must be written instructions outside of the voting machine for the voter to review before entering the booth.

While the current statutory procedures serve the public interest, voter education and outreach must be expanded to better utilize current mass marketing techniques and to do so on an uniform, statewide basis. It is a common practice for some of the counties to take advantage of free access cable television to disseminate electoral information. For example, some counties have utilized cable television to recruit district board workers and have also relied upon this medium to demonstrate the use of a voting machine that is being introduced into a county. The State will use public service announcements on the radio to advise the public of registration deadlines for upcoming elections.



This use of mass media, however, needs to be done on a broad, uniform basis throughout the entire State. Therefore, the Attorney General will promulgate guidelines regarding the use of public service announcements in various media and produce model announcements so that every citizen will receive notice no matter where he or she lives in the State. Such guidelines should also encourage the development of innovative outreach programs by county and local election officials, who will be most familiar with communication modes that may be unique to their populace.

The State, in conjunction with county election officials, could also provide voter information in such public forums as shopping centers, libraries and other facilities that are commonly frequented by our citizens. Eye-catching posters that are strategically placed in such areas can be an effective, yet relatively inexpensive means by which the State can advise the public of how to register to vote and the office to contact with any election-related questions or problems. Advertising on buses and trains can also be an effective media outreach to a large portion of our citizens.

There is also need for more-readily located and easier-to-read election websites at the State and local levels and for statewide use of cable television access. An "800" number should be established to provide voter information. The State should also design an official elections "logo" that can be used for "advertising" purposes. The State should also encourage and support programs, such as Freedom's Answer, which are committed to educating and engaging our children, from grammar school through high school, in the electoral process. Several persons who spoke at the public hearings also advocated for better educating our school children, through civic courses in the schools, on the importance of active participation in the electoral process.

A comprehensive education and outreach program must also encompass the needs of those citizens with limited, or no, English language proficiency. The bottom line is that an effective voter education program must be framed within the various lifestyles and daily lives of our citizens. Also, it may be appropriate to consider if voter turn-out could be increased by providing for all mail-in voting for municipalities with a de minimis number of voters or for certain elections of narrower scope.

**Outreach for Voters with Disabilities**

There needs to be effective and appropriate outreach to individuals with disabilities. Any such program must be developed with the input of disability advocacy groups and other interested persons, to ensure that all stages of the voting process from registration to casting ballots will be fully accessible to individuals with disabilities. This sentiment was expressed repeatedly by speakers at the public hearings. The State may consider contracting with appropriate disability organizations to achieve these goals. Effective outreach may be done in a number of ways. First, election forms and notices must be available in alternate formats, such as large print, braille and TDD. Newspaper notices as to upcoming elections or absentee ballot availability should include a telephone number where voters can get information as to alternate formats of election materials.

It has also been suggested that such notices be provided to interested organizations that have regular dealings with persons with disabilities. As detailed in Section One of this Plan, the voter registration application should be modified to accommodate the needs of voters with disabilities. Sample ballots should not only be available in alternate formats, but should include information about the availability of absentee ballots or how a voter can be assigned to an accessible polling place if the polling place for her election district is not currently accessible. Some of these recommendations may require legislative enactments.

**Notice for Persons With Restored Voting Rights**

There should also be a requirement that any person whose voting rights have been restored, because that person is no longer subject to a criminal disqualification to voting, should be specifically advised of the right to register to vote. Under current law, if a person is serving a sentence of imprisonment or is on probation or parole as a result of a conviction for an indictable offense under any State or federal law, that person cannot register to vote or, if registered, is automatically removed from the registry list. There is currently no requirement of notice of the restoration of the right to participate in the electoral process after such person is no longer subject to disqualification upon completion of the criminal penalty.

Legislation should be enacted to require the appropriate public officials to so notify these individuals as part of the State's effort to further the goal of HAVA to enable and encourage all qualified citizens to exercise their right to vote. Specific notice should be provided to these citizens who may otherwise believe themselves still excluded from the electoral process. Such notice would also serve the State interest of having such individuals fully re-enter and assimilate back into society. At one of the public hearings, this procedure was endorsed by a constitutional lawyer who has represented clients in such situations.

**New Voting Systems Education**

In anticipation of new voting systems being introduced into several counties, an organized and broad-reaching plan must be developed and implemented to educate voters on the proper use of the machines before their first official use. At the local level, there will need to be public demonstrations of the new machines at such locations as schools, municipal buildings and shopping malls. In addition, there will need to be voting system demonstrations provided with the coordination of such non-profit groups as the League of Women Voters, senior citizen groups such as the AARP, and other civic groups. Such demonstrations may be particularly critical for some long-time voters who have been voting on the antiquated lever machines for all of their voting years and who may be uncomfortable with computerized technology. For voters with disabilities, alternate forms of communication must be developed which will enable them to independently use the new voting systems.

**Election Official Training**

In New Jersey, primary responsibility for the conduct of elections lies in several different offices at the county level. In each county, it is the County Clerk who designs and prints the ballot and who is responsible for the review and issuance of absentee ballots applications and the issuances thereof. The County Clerk is also the filing officer for nomination petitions for county offices in the June primary election, as well as for independent petitions for local and county offices for the November general elections. The office of the County Clerk is an elected position.

By law, in ten of the State's counties, there is an office of County Superintendent of Elections. This official is appointed by the Governor with the advice and consent of the State Senate for a five-year term. The County Superintendent serves as the Commissioner of Registration and custodian of the voting machines and is vested with law enforcement powers regarding any violations of election law.



In each of the twenty-one counties, there is a County Board of Election, which is comprised of four members on an even bipartisan basis. These Boards appoint the district board workers (also commonly known as poll workers), certify the use of polling places; count the absentee and provisional ballots, and act as the County Board of Canvassers to generally certify county and municipal election results. Board of Election members are typically appointed by their respective county political party leaders, whose two-year appointments are then commissioned by the Governor.

None of these county election officials or their staff currently receives formal, certified training. This contrasts with the municipal clerks, who must be certified under State law through a series of educational classes on all subject matters for which they are responsible. This education requirement is an ongoing obligation, conducted on a yearly basis. The county election officials, however, through their respective State organizations, do regularly convene for educational conferences. The Attorney General, who, on a daily basis, represents the County Superintendents of Elections and the County Boards of Election, routinely has members of his legal staff lecture at such gatherings, which are statewide as well as regional. In addition, the Attorney General, as required, issues instructional memoranda to these county officials on a general basis and to individual offices, as necessary.

To better prepare election officials to carry out their statutory duties, however, the State must develop and implement educational programs for these officials and key administrative support staff in the election offices, similar to that which is now required for municipal clerks, county tax board members and housing authority board members and executive directors. Any training program should include both initial training and provisions for continuing education to maintain qualifications and to keep up with new developments and requirements. Training materials and programs must include information about disability issues developed with input from appropriate disability organizations.

The Attorney General intends to advocate for legislation that would establish a mandatory certification program for election official training.

**Poll Worker Training**

Pursuant to current State law, all poll workers are required to receive training every two years. The respective County Boards of Election are responsible to carry out this mandate. The County Board must develop its own individual program, as there are no uniform, statewide procedures for training.

The training is typically offered in a classroom format, with the workers receiving lectures on election law and procedures. There are also voting machine demonstrations. The size of the class and the style of presentation are determined by the individual County Board. For example, some Boards use power point slides along with a lecture, while other County Board classes are strictly tutorial. Each County Board issues its own board worker manual which the workers will usually have with them in the polling place on an election day.

In order to determine whether the County Board training for the district board workers is sufficient, the Attorney General intends to develop, with input from the county election officials, uniform guidelines for training. The Attorney General will also prepare a standard manual to be provided to all board workers in the State, with the one exception to uniformity being the section on voting machines, as not all the Counties presently or in the future will have the same voting system. As with proposed county election officials' training, the training for board workers must include information about voters with disabilities as provided by input from appropriate disability organizations.

There must also be consideration of amending the law to mandate annual training for board workers.

## Section 4

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

**Voting Systems**

As set forth in Section One of the Plan, HAVA establishes specific standards for all voting systems in the United States, which must be in effect no later than January 1, 2006. It is fair to say that these standards are intended to ensure that the ballots cast accurately reflect each voter's true, intended choice and that those votes are cast in a private and secure manner. These standards particularly safeguard the rights of voters with disabilities, and facilitate the full participation in the electoral process of certain groups of voters with limited, or no, English language proficiency.

New Jersey has had long-standing statutory requirements for voting machines, some of which mirror the HAVA requirements. Voting machines must be certified before being used in any election in New Jersey, and no voting machine may be certified unless it meets the following standards

1) assuring voter privacy;
2) preventing overvoting:
3) permitting the voter to cast votes for all offices for which he or she is entitled to vote;
4) allowing for write-in voting, except for the party offices of delegates to national conventions;
5) protecting accurate vote counts;
6) having integrity mechanisms, such as locking capability and protective and public counters; and
7) affixing an emergency ballot box to each machine for use of paper ballots in cases of machine malfunctions.

These standards have applied equally to mechanical and electronic (including optical scanning systems) voting machines. As stated in Section One of the Plan, a voting machine must first be certified by the Attorney General before it may be used in an election. Title 19 requires the convening of a three-member Committee to be composed of a patent attorney and two mechanical voting machine experts. In practice, the Committee, now convened by the Division of Elections when requested, does consist of a patent attorney, one voting machine expert and an information technology expert. This Committee requires a demonstration of the machine to determine if it meets the current statutory requirements, as noted above. The Committee further requires that the machine has been approved and certified by a recognized Independent Testing Authority (ITA), which will test voting equipment for compliance with the voluntary standards developed by the Federal Election Commission. Copies of such certifications must be provided to the Committee.



Once a voting machine is certified and purchased by a county for use, the law further requires that it be subject to public inspection and testing before an election day. Pursuant to Title 19, it is the legal responsibility of the County Commissioner of Registration to have all voting machines prepared in working order for an election and thereafter to make them subject to inspection. Notice of the place and time of the inspection is required to be given to the political party county committee chairs and, typically, the candidates on the ballot.

In order to come into compliance with HAVA, which envisions the abolition of the lever voting machines, it will be necessary for the Attorney General to promulgate rules and regulations that comport with the latest technology of voting machines. The current voting machine examination committee must formally be redefined to include individuals with the expertise to properly analyze electronic machinery and to address other issues that may arise, such as security of software and access for voters with disabilities. The request for ITA certification must also be formalized.

Further, explicit power should be granted to the Attorney General, on the basis of the voting machine committee recommendation, to de-certify any voting system that is shown to not meet HAVA requirements. In short, current law has been outpaced by the growing technological advances and must be revised. Any such revision to statutes or regulations should be flexible enough to consider the capability of a voting system to adapt to changes in voting procedures, such as proportional or cumulative voting, which are concepts being considered in other jurisdictions.

**Definition of "Vote"**

HAVA further requires each state to define what constitutes a vote; what will count and what will not count. There are longstanding provisions in Chapter 16 of Title 19 that define the validity and non-validity of a paper ballot vote. Again, new definitions are required to comport with the emerging voting technology. This will require legislation.

**Polling Place Accessibility in Relation to Voting Systems**

As stated above, HAVA requires that there be at least one accessible voting system in each polling place for voters with disabilities. The voting system must be able to accommodate voters with a range of disabilities, such as the mobility-impaired voter, including those who use wheelchairs, to the voter with visual impairment who may require audio assistance to vote independently. Access to such systems for voters with disabilities is unattainable, however, if the voter is denied physical access to the polling place in the first place. Therefore, the issue of accessible voting systems is intrinsically tied to the issue of accessible polling places.

In New Jersey, the County Boards of Election, which certify polling places, are mandated to locate voting facilities that are physically accessible. The New Jersey Division of Elections distributes the reporting forms and checklists that are to be used to determine if a polling place is accessible.

The polling place accessibility standards are based upon the State's Uniform Construction Code, Barrier Free Subcode, N.J.A.C. 5:23-7. In order to make an informed assessment, there must be a physical inspection of the site. The review must be from the parking lot to the entrance into the building and straight into the voting machine. Under current law, if it is determined that there is no accessible polling site for an election district, the County Board may apply to the Attorney General for a waiver. Because 100% accessible polling places are the commitment and goal of the Attorney General and the State, waivers are disfavored; any such request is now carefully scrutinized and requires photographic documentation and a review of alternate locations investigated in order to allow the Division of Elections to better assess the request.

Achieving this goal will require a multi-faceted approach. First, there must be adequate training for those individuals charged by the County Boards of Election with the duty to inspect polling sites and those county representatives charged with the duty to review the findings, as to the variables of accessibility. For example, this requires an understanding of the various types of motorized equipment and their individual access requirements. This training must be standardized and uniform throughout the State, and will necessarily require the input of disability advocacy groups and those with specialized knowledge in this field. It has been suggested that the Advisory Groups should be reconstituted in the various Counties. Creative ways of accessibility that are not cost-prohibitive, such as portable ramps, also must be explored.

Fundamental to this mission, however, is enforcement. The State must provide the oversight and monitoring of this statutory duty, by dedicating necessary resources. This must be a component of the State's management of HAVA compliance. It should also be considered as to whether criminal penalties should be imposed, by way of legislative enactment, for willful failure to ascertain accessible polling places. It has been further suggested that the statutory distance restriction of going beyond the boundaries of an election district be relaxed to allow for more location options that may be fully accessible for voters with disabilities.

It was suggested that consideration be given to closing public schools on the day of a general election, in order for the schools to be more fully available for election use. It was articulated that this proposal would also alleviate school safety concerns. Conversely, it may be argued that closing the schools on general election day could reduce voter turnout, as parents may be unable to arrange child care on election day to facilitate their ability to go to the polls.

In consideration of the importance of providing polling place access to voters with disabilities, the above recommendations and proposals should receive all due attention.

## Section 5

How the State will establish an elections fund for purposes of administering the State's activities under HAVA, including information on fund management.

The State has already created a separate fund in the State Department of Treasury for the deposit of federal monies received under HAVA. All federal monies received under HAVA, along with appropriated state monies, will be deposited into this account. The interest accrued on these monies will also be deposited into this account. The fund will be managed by the Department of Law and Public Safety.



## Section 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 specified 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 payments which will be used to meet such requirements; and

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

**Title III Requirements: Estimated Costs for each Item; Portion of requirements money to be allocated.**

At the outset, it must be stated that the following projections and estimates of the use of requirements money are based on the information the State currently possesses regarding the amount of Title III funds New Jersey will receive. For the federal fiscal year of 2003, it is estimated that New Jersey will receive approximately $23 million. Following the commentary is a chart of the projected or estimated costs for the Title III requirements and the other activities under HAVA. We add the caveat, as other states have provided in their State Plans, that the ability of New Jersey to succeed in the goals envisioned by HAVA will require federal funding for the two succeeding fiscal years of 2004 and 2005. If New Jersey does not receive federal monies for those years, it would cause an undue burden not only on the State but on the counties.

**Voting Systems**

In order to meet the voting system standards of Title III of HAVA, and as set forth in Section One of the Plan, lever voting machines must be replaced and otherwise accessible voting machines in other counties must be retrofitted to accommodate voters with visual impairments. It has also been determined that the electronic voting machines of Atlantic County must be replaced, along with the punch card absentee ballot counters in two counties. Further, there needs to be a determination on whether the voting machines in Passaic and Warren Counties are to be replaced or augmented with an additional accessible voting system. If there were to be full replacement of those two counties' machines along with all the other replacement and adaptation needs, the estimated cost is approximately $39 million.

As noted in Section One of the Plan, the State received close to $17 million of Title I monies. Even if all of these funds were used for voting equipment, it clearly would not be a sufficient amount. The voting system needs of New Jersey, therefore, will require a substantial portion of Title III monies. Dependent upon full three-year federal funding, it is anticipated that the affected counties could receive at least 50% of the cost of their voting machine replacement and adaptation expenses.

**Statewide Voter Registration**

As stated in Section One of the Plan, New Jersey does not have a statewide voter registration system, as defined by HAVA. The registration system will have to include a central computer mainframe at the State level. It will be necessary to establish connectivity with the governmental offices identified in Section Two of the Plan. The State will need to contract for this

system, which, at a minimum, will entail the purchase of software and hardware. It is estimated that the cost could be approximately $20 million.

**Provisional Balloting**

New Jersey has had provisional balloting since 1996. This provisional balloting is currently funded and managed at the county level. While HAVA will likely result in the some increase in the use of provisional balloting, it is estimated that the cost will be minimal and will likely may not require the expenditure of any Title III monies. As for the free access system that the Attorney General must establish, it is estimated that this system can be initiated with the minimal investment in a toll-free telephone access number, with the State studying the feasibility of eventual Internet access. The sum of $1 million is estimated to be needed to fully develop an Internet-based system.

**Election Forms and Documents**

To meet the requirements of HAVA, New Jersey will need to revise its voter registration forms and its absentee and provisional ballot materials. It is estimated that the initial costs for reprinting will be approximately $500,000.

**"Other Activities" for Which the Use of Requirements Payments is Anticipated.**

**Voter Education**

Currently, in accordance with New Jersey election law, the public receives electoral information by way of legal notices in the newspapers and sample ballots which are sent to the registered addresses of voters in anticipation of upcoming elections. In addition to these legally mandated notices, election officials at the State and county levels will, at individual discretion, communicate with the electorate through additional resources such as cable television access, the Internet, and public service announcements on the television and radio. Counties will also expand voter education efforts when a new voting system is being introduced into a county, by way of public demonstrations at a number of locations, and will likewise utilize cable television and the Internet.

It is intended that the State will expand voter education and outreach with the use of modern marketing techniques to reach all qualified citizens. There needs to be special emphasis on reaching voters with disabilities to encourage their full participation in elections. It is estimated that $3 million will be needed for this purpose.

**Disability Access**

In addition to the installation of accessible voting systems, voter education and outreach for voters with disabilities, it is expected that there will be costs involved in assuring polling place accessibility and providing election materials in alternate forms. It is estimated that, in addition to the Section 261 funds, $750, 000 will be needed for this purpose.

**Election Officials' Training**

The Attorney General will develop formal training curricula and will provide classroom instruction for the county election officials and chief administrative support staff in those offices. The Attorney General also will develop a uniform training program, including a statewide board worker manual and classroom instruction, for district board workers. It is estimated that such programs could cost $1 million, depending upon the selected method of financing. It would be appropriate to consider cost-sharing at all levels of government to enable the provision of continued training programs for future election officials and personnel.



**Administrative Complaint Procedure**

In accordance with Section 402 of HAVA, the State must establish an administrative complaint procedure for any alleged violations of HAVA. This will require New Jersey to expand the administrative procedure it developed under NVRA. This can be accomplished either by legislation or through administrative rulemaking. It is estimated that the expansion of this procedure will cost $250,000 to implement this procedure.

**State Management Costs**

It is estimated that it will cost an estimated $3 million for the State to undertake the management of a statewide voter registration system, to monitor the implementation of HAVA and to initiate standard educational criteria for election officials.

**Allocation of Title III Funds**

The estimated costs set forth in the above Chart amount to roughly $68 million. For federal fiscal year 2003, it is anticipated that the State will receive approximately $23 million, based upon the Congressional appropriation. We do not know with any certainty at this point if there will in fact be any future appropriations, although HAVA authorizes an appropriation of $1 billion for fiscal year 2004 and an appropriation of $600 million for fiscal year 2005.

The State will allocate a significant portion of the Title III funds to comply with the mandated requirements of Title III: compliant voting systems; a statewide voter registration system; a "free access" system for provisional ballot voters; and the revised voter registration form. Because of the significant portion of funds that will be required for the voting systems and the statewide voter registration system, the estimates for the "Other Activities" are conservative because of the present uncertainty of future federal funding. Funding for the "Other Activities" will increase if there is future funding.

CHART OF ESTIMATED COSTS

The following is subject to full federal funding:

| HAVA Requirements<br>I. Title III requirements | Estimated Costs* | Deadline |
|---|---|---|
| A. Voting Systems (Sec. 301) | | |
| 1. Replacement of lever machines | $25.8M | 2006 |
| 2. Replacement of Atlantic County machines | $2.3M | |
| 3. Replacement of punch card absentee ballot counters | $75,000 | |
| 4. Adaptations for Accessibility | $3M | |
| 5. Replacement of voting machines in Passaic County | $6M | |
| 6. Replacement of voting machines in Warren County | $1.5M | |
| B. Statewide Voter Registration (Sec. 303) | $20M | 2006 |
| C. Provisional Balloting Free-access System (Sec.302) | $1M | 2004 (Mandatory) |
| D. Revised Forms and Notices (Sec. 302/303) | $500,000 | 2004 (Mandatory) |
| II. "Other" Activities | | |
| A. Disability Access (excluding voting systems) | $750,000 | |
| B. Administrative Grievance Procedure | $250,000 | 2004 (Mandatory) |
| C. Voter Education | $3M | |
| D. Election Officials' Training | $1M | |
| E. State Management | $3M | |
| *Funding Sources | | |
| 101 $8,141,208 102 $8,695,609 | 258 + 5% ** $24.2M (fy 2003) | 261** $352,485 |

**Pursuant to Section 258 (requirements payments) and Section 261 (access for voters with disabilities payments) there should be an appropriations under these Sections for fiscal years 2004 and 2005. We do not know at this time the amounts of funding New Jersey will receive in those years.



**Section 7**

How the State, consistent with HAVA, will maintain expenditures of the State for activities funded by the payments at a level equal to or greater than the level of such expenditure in State FY2000.

In New Jersey, the bulk of fiscal responsibility for the conduct of general and primary elections falls upon the counties. Each county pays for its voting equipment, ballot printing, administrative election offices, and a portion of the district board workers' salary. Election expenses at the State level are primarily related to the State Division of Elections, which is housed in the Department of Law and Public Safety. In light of this State/county allocation of fiscal responsibilities relating to elections, in order to satisfy the mandate of HAVA that no state appropriation for elections be less that the amount expended for fiscal year 2000, all counties and the State must maintain at a minimum the level of operating expenses for elections that was incurred in fiscal year 2000, in addition to any federal funding received.

**Section 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 processes used to develop such criteria and a description of which official is to be held responsible for ensuring that each performance goal is met.

The Attorney General will be the State official responsible for the monitoring of the implementation of the State Plan and assuring all required implementation by State officials, including those NVRA designated voter registration agencies, and county election officials. In order to provide for accountability, the Attorney General will develop a performance management program. It will include regular reporting requirements from election officials and staff members working at the county and state level, evaluations from field studies and analysis of data collected from individuals involved in elections.

In order to assess the performance of voting systems and the statewide voter registration system, the Attorney General will develop reporting requirements from the counties and develop a format for State evaluations on a case-study basis. The contemplated performance assessments will be conducted after the June and November elections, and should include review of any voting machine malfunctions, any difficulties in using the machines and any problems related to the voter registration system. It is the Attorney General's intention to seek legislation that would mandate this type of reporting system.

Because of the number of voting systems that need to be replaced or modified and because the State has to create a statewide voter registration system, it is anticipated that New Jersey may need to seek waivers for the specified deadlines related to voting systems and implementation of the statewide voter registration system. However, this is not to suggest that New Jersey will not expend its best efforts to meet the initial 2004 deadlines.

The overall goals of the State Plan and the criteria to determine compliance are as follows:

| A. Voting Systems | Goal | Timetable | Criteria to Measure Goal | Responsible Official |
|---|---|---|---|---|
| 1. Lever Machines | Replacement of all lever machines in polling places | January 2004, unless a waiver is required until January 2006 | There are seven counties in the State that currently use lever machines. Success will be based upon how many counties are no longer using lever machines as of January 1, 2006. | The Attorney General will provide the oversight for statewide replacement. |
| 2. Absentee Ballot Counters | Replacement of punch card absentee ballot counters | January 2004, unless a waiver is required until January 2006 | There are two counties in the State that use counters. Success will be measured by the number of counties that do not have this type of counter by January 1, 2006. | The Attorney General will provide the oversight for statewide replacement. |
| 3. Accessible Voting Systems for Disabled Voters | Accessible voting systems for voters with disabilities | January 1, 2006 | The number of accessible systems purchased and in use, relative to the number required. | The Attorney General will provide the oversight for statewide replacement. |
| B. Statewide Voter Registration System | Goal | Timetable | Criteria to Measure Goal | Responsible Official |
| | A fully integrated, functional single and centralized statewide voter registration system that is administered at the state level and connected with all requisite governmental offices. | January 2004, unless a waiver is required until January 2006 | The number of required governmental offices that will be connected to the statewide system and the operation of the system, as intended under HAVA. | The Attorney General will be responsible to oversee the development and start-up of the system, and will be responsible for monitoring its operation, and all connected governmental offices with related duties, will be subjected to oversight. |
| C. Provisional Balloting | Goal | Timetable | Criteria to Measure Goal | Responsible Official |
| | New Jersey has | June 2004 | Implementation of | Attorney General |



| | | | | |
|---|---|---|---|---|
| | had provisional balloting in the polling places since 1996. The goal is to expand the process to include voters who lack the requisite identification requirements or who vote by court order after polling hours; and to provide a free access system to ascertain the disposition of such ballots. | Presidential Primary Election | free-access system at each county board of election office and the number of provisional ballots issued to voters at the polling place who did not have the requisite identification. | will be responsible for the set-up of the free access system and the county boards for the implementation of the system and training and supervision of the board workers regarding the identification requirements and the expanded use of the provisional ballots. |
| D. Posting of Notices in Polling Places | Goal | Timetable | Criteria to Measure Goal | Responsible Official |
| | Post notices in every polling place in the State, the required notices set forth in Title III. | June 2004 Presidential Primary Election | Number of polling places in State with required notices as of the June 2004 Primary Election. | The Attorney General will design and provide to the county boards of election the requisite signs. The county boards will be responsible to ensure that the district board workers post the signs. |
| E. Voter Registration Form | Goal | Timetable | Criteria to Measure Goal | Responsible Official |
| | A revised voter registration form in conformance with HAVA requirements. | January 1, 2004 | A revised form that is printed, distributed and in use as of the above date. Further, the number of revised forms submitted in comparison to old forms. | The Attorney General will be responsible for the printing and distribution of the voter registration forms. The registration agencies will be responsible for use. |
| | | | | |
| Performance Goals and Measures | | | | |

| II. "Other Activities" under HAVA | | | | |
|---|---|---|---|---|
| A. Voter Education and Outreach | Goal | Timetable | Criteria to Measure Goal | Responsible Official |
| | Expand the number of outlets to inform the public of voter registration requirements and other election matters. | January 1, 2004 | The number of outlets used for the 2004 Primary Election in comparison to the number used for the 2003 General Election; voter turnout. | The Attorney General and the designated Voter registration agencies will be responsible. |
| B. Election Official Training | Goal | Timetable | Criteria to Measure Goal | Responsible Official |
| 1. County Election Officials | Formalize a training program for county election officials and critical support staff. | January 2005 | The development and implementation of a training program. A certified program will require legislation. | Attorney General and County Election Officials. |
| 2. District Board Workers | A uniform statewide training program. | January 2005 | The implementation of a program, including a standard manual and classroom instruction. Success will be reduction of election day problems. | The Attorney General in conjunction with the County Boards of Election and County Superintendents of Elections will be responsible. |
| C. Administrative Complaint Procedures | Goal | Timetable | Criteria to Measure Goal | Responsible Official |
| | An administrative grievance procedure in conformance with Section 402 of HAVA. | January 1, 2004 | Success of the procedure will be measured by the number of complaints received; their disposition and the time it took for resolution. | The Attorney General will be responsible for the intake of the complaint and to assure proper resolution, which may require the involvement of another election office. |



## Section 9

A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under Section 402.

Under the current rules and regulations of the Attorney General, consistent with the NVRA, there is a citizen complaint procedure relating to voter registration. Pursuant to the New Jersey Administrative Code, N.J.A.C. 13:17-1.9, any person who believes that he or she has been denied the opportunity to register, or to decline to register, to vote, or to choose a political party preference, may file a complaint with the Attorney General. The complaint must be in writing, signed and dated by the complainant. The Attorney General is obligated to review the complaint and refer it to the appropriate office for action as deemed necessary.

There is a 90-day deadline for administrative handling of the matter. If the violation is not corrected by this deadline, or within 20 days if the violation occurred within 120 days of a federal election, the complainant can file suit in federal district court. A complainant has the right to file suit in federal district court, without first providing any notice to the Attorney General, if the alleged violation occurs within 30 days of a federal election. There is no provision for attorneys fees, costs or damages with the regulatory process.

HAVA requires that there be an administrative complaint procedure to address any alleged violations of Title III as follows. First, the subject matters of the complaint process will include the requirements and rights provided for in HAVA, and therefore, not be limited to the registration process for voting as the above State procedure now encompasses. Second, the complaint will need to be notarized and sworn to by the complainant. Third, the Attorney General, as the chief election official, will have the authority to consolidate complaints. Fourth, the complainant will have the right to request a hearing. Fifth, the Attorney General must establish an "alternate dispute resolution procedure" for those complaints which are not resolved within 90 days. This alternate procedure must be concluded within 60 days.

The HAVA-mandated administrative complaint procedures could be incorporated into New Jersey's electoral process by way of legislation or through supplementation of the existing regulations noted above.

Either way, the institution of the HAVA administrative complaint procedure, as with the current citizen complaint procedure, should not affect the current statutory procedures relating to election recounts or contests, as set forth in Title 19. It has also been suggested that consideration be given to providing information on the availability of legal resources when a person submits a complaint.

## Section 10

A description of how the State's receipt of Title I funds will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

Pursuant to Title I of HAVA, the State of New Jersey timely applied for and received from the General Services Administration a total of $16,836,817 in Title I funds.

It is anticipated that the majority of these funds will need to be dedicated to voting machine replacement, as nearly half of the State's counties currently have voting systems in the polling places that do not meet all of HAVA's voting standards and, as stated in Section Six of the Plan, the replacement costs are substantial.

A portion of the Title I monies may also be dedicated to assist in the start-up costs for the state-wide voter registration system.

## Section 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 Attorney General, in his capacity as the State's chief election official, will determine if there needs to be a material change to the State Plan. Any individual will have the right to request a material change. This request will need to be submitted in writing to the Attorney General. Furthermore, the Attorney General will solicit, in a manner he deems appropriate, the input of the county and local election officials and members of the Legislature regarding the implementation of the Plan. If the Attorney General determines that a material change to the Plan is necessary, he will proceed to change the Plan in accordance with the procedures set forth in Section 255 of HAVA. Thereafter, the Attorney General will provide for public comment and publication in the Federal Register. Only after these steps are taken, would any material change to the Plan be effected.

## Section 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 for the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such fiscal year.

New Jersey had no State plan, as such term is described in HAVA, for the previous fiscal year.



## Section 13

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

As New Jersey's Chief Election Official, Attorney General Peter C. Harvey undertook to form a diverse committee of individuals with a demonstrated commitment to the State's election process and who are notably interested in improving elections for the benefit of all of our citizens. Selection decisions were made in conformance with the criteria set forth in HAVA. First, the chief election officials for the two largest jurisdictions in the State were appointed. In New Jersey, these officials are Carmine Casciano, the Essex County Superintendent of Elections, and Patricia DiConstanza, the Bergen County Superintendent of Elections. Superintendent Casciano has been in office for the past 13 years and is a former Essex County Freeholder. Superintendent DiConstanza has been an election official for the past 17 years, having previously served as a member of the Bergen County Board of Election.

HAVA further required that representatives of disability groups be on the SPC. Attorney General Harvey appointed Sheri-Rose Rubin, Esq., of the New Jersey Protection and Advocacy, Inc., a private, non-profit, consumer-directed corporation dedicated to protecting the civil, human, and legal rights of individuals with disabilities, which is the designated protection and advocacy system for individuals with disabilities in New Jersey. On election days, this office places attorneys in the counties to assist any voter with disabilities. Ethan Ellis, of the Monday Morning Project, was also appointed. This group promotes registration, education and accessibility for voters with disabilities.

Section 254 of the Act further required that local election officials be on the SPC. The following individuals come within this category. Joanne Armbruster, the Atlantic County Superintendent of Elections, is also the newly-elected President of the New Jersey State Association of Election Officials and was chosen by her county election official colleagues to be one of the two New Jersey representatives for the yet-to-be established federal Standards Board. She brings over 30 years of experience as a County Board of Election member and Superintendent of Elections. James Parent, the Chief Clerk of the Cumberland County Board of Election, has been in the election field for close to 30 years. Mr. Parent is also a former President of the New Jersey League of Municipalities. Jane Williams-Warren is the Municipal Clerk of the City of Paterson, Passaic County, which has non-partisan municipal elections in May and for which the Clerk has substantial electoral duties. Ms. Warren-Williams is chiefly responsible for the development and teaching of an innovative master board worker program in Passaic County, which has been most effective in assisting voters and board workers on election days. Union County Clerk Joanne Rajoppi heads an election division in her office that is responsible for the printing of election ballots and absentee ballot applications. Union County has used electronic voting equipment for elections for the past seven years, so her expertise in this area assisted one of the core missions of HAVA.

The Act also mandated the chief election official to appoint a variety of citizens to the SPC. Attorney General Harvey chose Juan Cartagena, Esq., a New Jersey resident and a public interest lawyer who works for the Community Service Society of New York. Mr. Cartagena has been involved with some of the most significant lawsuits relating to the conduct of elections in New Jersey, one of which was the catalyst for statutory reform protecting the right of any voter not to be challenged on his or her right to vote on racial, ethic or political preference grounds. Mr. Cartagena was also instrumental in developing the voter registration and voting procedures for qualified voters residing in state psychiatric hospitals. Mr. Cartagena is also a member of the Hispanic Bar Association of New Jersey.

Two other members of the SPC are associated with Rutgers University, the State University of New Jersey. Ernest Reock, a retired Professor, is affiliated with the Rutgers Center for Government Services, whose mission is to conduct educational courses for such governmental officials as county tax board members, housing authority board members and municipal clerks. Part of the curriculum for the clerks encompasses their election duties. Professor Reock is also noted for his expertise in redistricting. Ingrid Reed is with the Eagleton Institute of Politics, which studies a variety of public issues and conducts public opinion polls. Ms. Reed, whose specific interests relate to campaigns and elections from the point of view of the voter, recently completed a study of the 2001 New Jersey election.

The following members of the SPC are members of public interest organizations that promote voter participation. Sandra Matsen is a past President of the New Jersey League of Women Voters, a non-partisan group, nationally-renowned for voter education, in part, by the sponsorship of pre-election candidate forums. Marilyn Askin is the President of the New Jersey AARP, which represents senior citizens, a segment of society with a strong record of voter participation. Lionel Leach, a New Jersey resident, is the East Coast Regional Director for the NAACP National Voter Fund. Throughout the country, the NAACP has long stood for protecting the right of all citizens to have a voice in the democratic process. Mr. Leach has also been directly involved in educational programs for young voters. That is the core mission of the national organization known as Freedom's Answer and for which SPC member Cole Kleitsch spearheads the New Jersey Chapter. Mr. Kleitsch has recently been involved in the implementation of a recent state law that permits 16 and 17 year old students to act as board workers. Charles Wowkanech is the President of the New Jersey AFL-CIO, which has long been involved in voter registration. Denise Velazquez-Marrero worked as the South Jersey representative for the office of Puerto Rico Federal Affairs, which conducts voter registration drives within the Hispanic communities in the State. She is now with the New Jersey Division of Motor Vehicles, which is a voter registration agency.

The SPC held its organizational work session on May 12, 2003 and met thereafter on a regular basis. Commencing with the third session, the sessions were open to the public to observe the discussion. Eight public hearings were held in various locations around the State. During the course of its work sessions, the SPC posted information regarding its work on the Department of Law and Public Safety website, in which it invited written public comment. The Preliminary Plan was made available for public comment on June 20, 2003. The comment period ended on August 4, 2003.



## Concluding Remarks

This State Plan was developed to provide the citizens of New Jersey with notice as to how the State will comply with the requirements of HAVA and how it intends to use all of the federal funds that will be provided to the State. We have attempted to provide this information in a straightforward manner and to provide as much detail as we reasonably could. It has also been our intent to provide reasonable expectations as to what the State will be able to do to improve its election process.

As was stated in the Introduction, change will not occur overnight. We are confident that what has been proposed in the Plan, however, can be accomplished with the continued, selfless commitment of our State's election officials at all levels and the willingness of all interested constituencies, from public interest groups to elected officials and the public at large, to work together to achieve these goals. No Plan can be realized without such joint effort.

The SPC's deliberations have been a learning process for all directly involved. Each member offered their unique insight and perspective into the election process and how it can be improved. For example, the county election officials were an invaluable resource regarding the intricacies of election administration and the members of public interest groups offered insight regarding individual voter concerns and the dynamics of voter registration drives. Such discussions imparted a deeper appreciation for the need to balance the fundamental interest of expanding the voting process while safeguarding its integrity. I wish to extend, on behalf of the Department, my deepest appreciation to each member of the SPC for his or her time, commitment and expertise.

I am also appreciative of the members of the public who attended the public hearings, whether they publicly commented or simply came to listen. Because of the varied perspectives of the members of the SPC and their attention to detail during their deliberations, a number of issues raised by members of the public, particularly those pertaining to voters with disabilities, were already addressed in the Preliminary Plan. The comments from members of the public also were a reaffirmation of the SPC's stance that the electoral process in New Jersey can be improved by way of a strong uniform commitment to voter education to all segments of the public. HAVA has presented us with the unprecedented opportunity to entertain creative and unique ways to encourage our citizenry's fuller and better informed participation in our democratic form of government.

Public input also underscored the value of providing a forum for our citizens to address matters of concern to us all. While the formal HAVA public comment period may be over, the opportunity for public comment to this Department is not. I invite anyone to reach out through the Department's website or by letter if they wish to offer further thoughts and comments as it relates to elections in New Jersey. Although we cannot promise that all of your ideas can be realized, they will be given due consideration and they may lead to further study. For example, while the SPC was specifically charged under HAVA to address the thirteen points that are in the Plan, we also had the opportunity to raise additional concepts for future consideration such as Internet-based voter registration systems, voter-verified paper trails for voting systems and same-day voter registration.

It is fair to say that the implementation of HAVA will be a work in progress. We need to remain committed to the goals of this new federal law in terms of upgrading the infrastructure of elections and safeguarding the votes of all qualified citizens. We will need to be responsive to making necessary adjustments and modifications as we strive toward achieving these goals. The continued interest of the citizens of New Jersey will be an invaluable component in this effort.

Peter C. Harvey
Attorney General
State of New Jersey

# NEW MEXICO STATE PLAN

Rebecca Vigil-Giron, Secretary of State
Santa Fe, New Mexico

As Required by Public Law 107-252
Help America Vote Act 2002, Section 253(b)

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# NEW MEXICO STATE PLAN

## Introduction

This New Mexico State Election Plan is proposed in accordance with Public Law 107-252, Help America Vote Act 2002, Section 253(b). The Help America Vote Act (HAVA) was signed into law on October 29, 2002 and was enacted to assist States in the administration of Federal elections and to "establish minimum standards for States and units of local governments with the responsibility for the administration of Federal elections." The Act includes provisions for statewide voter files, voting systems that are accessible to the disabled and language minorities, provisional voting, voter education, and election official training. The Act requires each State to submit a Plan that meets the requirements of the Act.

In January of 2003, Secretary of State Rebecca Vigil-Giron began the process of appointing a HAVA Advisory Commission comprised of county clerks, legislators, representatives from the disabled community, language minorities, and other stakeholder advocacy groups. Meetings of the Commission were held in April and May of 2003. This Plan incorporates comments and ideas developed by the Commission on how the Secretary of State should proceed in implementing the provisions of the Help America Vote Act.

Because of New Mexico's progressive leadership in the administration of elections, it is in a unique position to implement HAVA. Many of the provisions of the Act are already in State law and the State was in the process of instituting certain portions of HAVA prior to its eventual enactment. The Plan identifies those areas of HAVA where New Mexico is already in compliance. It also identifies those areas where the State does not comply and addresses steps needed to bring the State into compliance. The Plan will also address those areas where there is technical compliance, but where there is still room for improving the process.

The public comment period was from June 23, 2003 through July 23, 2003. Public notice was provided through the media, on the agency web page and press releases. Copies of the plan were available at all county clerk's offices, on the agency web page, at the Office of the Secretary of State and through dissemination to Advisory Commission members. Twenty-five written comments were received and all but six of these were received by e-mail. There were approximately 20 telephone comments. Two written comments were received from Advisory Commission members and several suggestions have been incorporated into this final plan. The final Plan will be submitted for inclusion in the Federal Register in compliance with the provisions of HAVA.

## Preliminary State Plan Summary

The Plan recommends that New Mexico adopt the following action items in response to the Help America Vote Act:

1) complete the installation of a computerized statewide voter registration file that is a single, interactive database of all registered voters;

2) purchase and install in each polling place in New Mexico a HAVA compliant voting device with audio assist for persons with disabilities and alternate language speakers;

3) increase access to the elections process for all voters of the state through the design and dissemination of election information, necessary improvements to polling places, voter education and election official training;

4) formulate a comprehensive and intense informational program informing voters on how to receive provisional and replacement ballots and on the use of the toll-free telephone line for determining provisional ballot status;

5) establish an intensive certification training program for local election officials; and

6) gradually replace the state's current inventory of older direct recording electronic voting systems.

New Mexico has certified that it has established a State Election Fund that is separate from the General Fund and has included provision for an administrative complaint procedure in statute. The Plan will be updated over time to reflect the state's progress and, with appropriate support through federal funding, will comply with all of the required mandates of HAVA.

## Background

The State of New Mexico has continuously improved its election process over the past twenty years. Beginning in the mid-1980's, New Mexico began its transition from lever voting machines to direct recording electronic and optical scan voting systems. In recognition of the cost of voting systems acquisition, the state established the Voting Machine Revolving Fund, which is a no-interest funding mechanism that counties may use to purchase new systems. Gradually, the debt ceiling of the fund has been raised to $6.5 million, of which a portion is New Mexico's HAVA matching funds. New Mexico began acquiring touch-screen voting devices for use in the 2002 primary election.

New Mexico adopted the Federal Election Commission's Voting Systems Standards in 1993 and State law requires that all systems certified by the State must be independently tested and meet federal performance and test standards.

In the late 1980's New Mexico installed its statewide automated records system, which included an integrated voter registration system. The State was made responsible for the integrity of the voter file. In 1999, the legislature approved funding and the Office of the Secretary of State began the process towards installation of a new and more interactive system that incorporates voter registration with election management. The new system has been installed now in over half of the state's 33 counties and will be enhanced to meet HAVA requirements with a portion of the requirements payment.

New Mexico's Election Code is uniformly applied in all thirty-three counties and the code requires that a uniform ballot be used throughout the entire state. In order to maintain uniformity, the Office of the Secretary of State approves all ballot content and layout.

In 1991, four years prior to the effective date of the National Voter Registration Act, New Mexico began registering voters at motor vehicle offices.

Recognizing the need to expand opportunities for voting, the legislature approved "early voting" in 1993. Since then, beginning three weeks prior to an election, New Mexico's voters have been able to cast their ballots in person on a voting machine at alternate locations. Early voting has

become popular for the convenience it provides the voter.

In 1998 New Mexico began the use of an electronic election canvassing system to ensure accuracy of results and elimination of manual entry and mathematical errors. New Mexico is only one of three states nationally, which has a triple audit of election returns. After counties audit the canvass, the state audits each county's returns through a system of duplicate returns that are forwarded directly from the precinct to the Office of the Secretary of State. After the Bureau of Elections completes its audit, independent auditors contracted by the state again examine the returns. Through this triple audit process, New Mexico can ensure that the integrity and accuracy of its canvass is maintained at the highest level.

Finally, since statehood, New Mexico's constitution and statutes have been committed to providing all of its election materials in both English and Spanish. In addition, in the late 1980's the Office of the Secretary of State established the Native American Election Information Program. This program is staffed with two full time employees who are fluent in Native American languages. They ensure the translation of ballots into eight native languages for radio broadcast and provide assistance to county coordinators in compliance with the language provisions of the Voting Rights Act.

## Voting System Standards

Section 301 of the Help America Vote Act sets forth specific standards for voting systems. HAVA requires each voting system to: (a) permit voters before casting their vote to verify the candidates or questions they have voted for; (b) allow voters to change or correct their vote in a private and independent manner, inform voters if they have overvoted (voting for more than one candidate for a single office) and provide information to the voter on the opportunity to receive a replacement ballot; (c) have the capacity to produce a paper record with a manual audit capability; (d) be accessible for the disabled through the use of at least one HAVA compliant voting system located at each polling place; (e) provide alternative language accessibility pursuant to Section 203 of the Voting Rights Act of 1965; and (f) comply with error rates established under the provisions of HAVA. In addition, each State is required to adopt uniform and non-discriminatory standards that define what constitutes a vote and what will be counted as a vote for each voting system used in the State.

VOTE VERIFICATION

The Direct Recording Electronic voting systems in use in New Mexico provide a full face ballot so voters can verify their ballot before it is cast and counted.

BALLOT CORRECTION, OVERVOTE NOTIFICATION AND REPLACEMENT BALLOTS

Direct Recording Electronic voting systems in New Mexico already provide an opportunity for voters to correct their ballots.

HAVA provides an opportunity for States using optical voting systems to comply with the requirements of the Act by establishing a voter education program specific to each voting system that notifies voters of the effect of overvoting. This notification requirement includes providing voters with instructions on how to correct the ballot.

New Mexico has long had both statutory language and administrative procedures in place for voters voting on optical scan voting systems at the polls. Additional instructional signs will be placed in all polling places. Instructions on obtaining a replacement ballot for absentee voters will be included in the ballot materials and the Secretary of State will post instructional materials for all voting systems on its web page. The State will also instruct county clerks to post the information on their web pages. Instructional materials and the information presented in signs at polling places will be made available in alternative, accessible formats for persons with disabilities.

MANUAL AUDIT CAPACITY

New Mexico statute requires that every voting system must have a manual audit capacity and the ability to produce a paper record. Other statistical information required is election date, precinct number, polling place, number of voters and number of votes cast, precinct board members, opening and closing of polls.

DISABILITY ACCESS

The Help America Vote Act requires voting systems to be accessible to voters with disabilities and senior citizens needing special assistance. There must be the same opportunity for access, privacy, participation and independence as all other voters enjoy.

New Mexico will use federal funding provided under HAVA to purchase one HAVA compliant voting system with audio assist for each polling place in the State.

This purchase will be one of the highest priority items and will include training counties in programming and maintenance. A voter education program will also be developed to ensure disabled voters are fully educated on the use of the new HAVA compliant voting systems. Poll worker training programs will also be developed to provide workers with the necessary skills to operate the system on Election Day.

Also, New Mexico has long recognized the importance of providing accessible polling places as part of its voter outreach efforts. Since 1979, New Mexico has required that all polling places be accessible to the mobility impaired and also requires a physical inspection of polling places by county clerks prior to each primary election. To ensure compliance, the Office of the Secretary of State has provided instructional materials to county clerks to enable them to evaluate polling place accessibility. In keeping with this program, the state intends to collaborate with New Mexico Protection and Advocacy System in updating all instructional materials and finding ways to encourage those with disabilities to exercise their right to vote in a private and secure manner. Contingent on additional funding, a variety of methods, including the use of independent consultants and local disability groups, will be used to assure that each polling place in New Mexico is surveyed for disability access, and a remedial plan is developed to address any deficiencies.

The State's voting system certification process will require that any voting system purchased for use by the State will meet all federal and state standards.

ALTERNATIVE LANGUAGE ACCESSIBILITY

The Help America Vote Act requires voting systems to provide alternative language accessibility pursuant to the requirements of Section 203 of the Voting Rights Act of 1965.

New Mexico has provided, under both Constitution and statute, that all election materials be provided in both Spanish and English. Where a minority language is historically unwritten, all proclamations, registration or voting notices, instructions, assistance or other information

relating to the electoral process shall be made available orally in the respective minority language, through the media when practicable, in public meetings and on election day at the polls.

The Office of the Secretary of State created its Native American Education Information Program in 1988. Two Native American Bureau of Election employees provide intensive and detailed election information to tribes in the State. Election Proclamations and the content of proposed ballot questions are translated into 9 native languages and radio broadcast in counties with pueblo and tribal citizens to inform them of the intent and effect of these questions.

In addition, counties with large native populations have local programs and Native American staff members who serve the surrounding populations and provide registration and election information programs. The Office of the Secretary of State provides training and assistance to local Native American coordinators. Counties with native populations provide translators at polling places on election day and the same voting system which will provide audio assistance to the visually impaired will also provide alternative language accessibility.

ERROR RATES AND DEFINITION OF VOTE

HAVA requires that the error rate of all voting systems used to conduct federal elections shall comply with the current error rate standards established by the Federal Election Commission. These error rates are errors attributed to the voting system, not to actions attributed to individual voters.

All voting systems certified in New Mexico are required to meet the federal standards under state statute. Any future systems acquired in compliance with HAVA requirements will also meet established federal error rates.

HAVA also requires that States adopt "uniform and non-discriminatory standards" for what constitutes a vote and what will be counted as a vote. Because New Mexico has seen an extraordinary increase in the use of absentee ballots by voters, the state has established by statute, a uniform, statewide definition of what constitutes a vote on paper ballots. The state has also defined a vote on each of its direct recording electronic systems.

## Provisional Voting and Voting Information

PROVISIONAL VOTING

HAVA requires every State to provide a provisional ballot (also referred to as "fail safe voting" under the National Voter Registration Act) to any individual who declares that they are a registered voter and are eligible to vote in a federal election. The Act also requires the State to provide a "free-access" system so that an individual who casts a provisional ballot may determine whether or not their vote was counted.

New Mexico has used the "fail safe" voting provisions of the National Voter Registration Act of 1993. Provisional Voting has been enacted into state law and will be a welcome expansion of "fail safe" voting. New Mexico will develop a provisional voting program, with all election materials necessary to allow voters to take full advantage of provisional ballots. In order for voters to determine the disposition of their provisional ballot, the Office of the Secretary of State will make available its toll free phone line. County election officials will provide a report on the disposition of each provisional ballot to the Secretary of State's Bureau of Elections. An administrative rule has been enacted which establishes procedures for provisional voting.

VOTING INFORMATION

HAVA requires certain voting information to be posted at every polling place on election day, including a sample ballot; instructions on how to vote and cast a provisional ballot; instructions for mail-in registrants and first time voters; and general information on voting rights and voter fraud. This notice will be developed with the assistance of the state's HAVA commission and each voter will be given the Secretary of State's toll free number. Informational materials, and the information presented in signs at polling places, will also be made available in alternative, accessible formats for persons with disabilities.

New Mexico currently posts and publishes voter information in a variety of media at a variety of locations. Election Proclamations are published in legal notices for five consecutive days and constitutional amendments are published in legal notices, in every county, four times, in weeks prior to an election. These notices are also posted on the Secretary of State Rebecca Vigil-Giron's web page and broadcast in Native American languages. The Office of the Secretary of State also publishes a voter guide with a listing of offices and candidates on the ballot and the content (including pro and con arguments) of each constitutional amendment or general obligation bond. The Office of the Secretary of State has had a toll free telephone number for over 25 years so all voters of the state can receive voting assistance, inquire about the electoral process, or report irregularities at the polls.

In addition to the information currently provided, New Mexico is making plans to comply with all other voting information requirements of the Help America Vote Act.

## Computerized Statewide Voter Registration System and Requirements for Voters Who Register by Mail

VOTER REGISTRATION SYSTEM

HAVA requires States to establish a "single, uniform, official, centralized, interactive, computerized state voter registration list defined, maintained and administered at the State level..."

In 1989, the New Mexico Election Code was amended to include the Automated Voter Records System Act, which requires the Office of the Secretary of State to establish a statewide computerized voter registration system. Office Information Systems staff coordinated with counties in monthly reports which noted any addressing errors or discrepancies; duplicate social security numbers (New Mexico is permitted under the Privacy Act of 1974 to require the entire social security number for voter registration); duplicate voters between counties; and deletions from county to county.

In 1999, the Secretary of State's office received legislative funding and began working with a committee of county clerks and data processors to establish a new statewide Voter Registration and Election Management System (VREMS). The committee developed system requirements, interviewed vendors, sought references from other states and worked with the State Purchasing Department in development of the Request for Proposals. After a selection was made by the committee, installation in the pilot county began in early 2000. Since then 16 counties have been fully converted, the state system is in the process of installation and all other counties are in various stages of data conversion and installation.

It is the intent of the Office of the Secretary of State that all counties will be converted and the system will be in statewide use for the 2004 Presidential Election. The system will meet all HAVA standards and is designed to meet the list maintenance requirements of the National

Voter Registration Act. It will be centrally administered by the Office of the Secretary of State.

MAIL-IN VOTER REGISTRATION

Section 303 of the Help America Vote Act requires that first time voters who register by mail are required to submit documentation such as a valid photo identification, copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. HAVA also requires that the mail-in voter registration form ask separate "yes" or "no" questions regarding citizenship and age. The form also must contain a statement that informs voters that if they respond "no" to either question, then they are not to complete the form. The Act also requires that the form contain language informing the first time registrant by mail of the identification requirements.

The State of New Mexico has created a new registration form in compliance with these requirements and a process so the county clerks properly process these registrations and inform the first time applicants when they have failed to file the required documents.

## Training and Voter Outreach

HAVA requires States to provide training programs for local election officials and poll workers. States are also required to-+
establish programs for voter education.

TRAINING

Currently, the Secretary of State, as the chief election officer of the State, is required by the election law to "obtain and maintain uniformity in the application, operation and interpretation of the Election Code." As such, the Secretary of State has been required to conduct schools of election for all counties and to supervise the training of poll workers in the largest counties. In addition, the Secretary of State develops, prints and distributes precinct board manuals. State law provides that all forms and instructions used must be prescribed by the Secretary.

The Secretary of State conducts election schools for county clerks prior to each statewide election. These 2-3 day schools cover many aspects of election administration and include the training of voting machine technicians. Additional technician training is also made available upon request. In addition, the Secretary's Bureau of Elections regularly attends county clerk affiliate meetings to inform local election officials of their duties and of any changes to state or federal law.

The Office of the Secretary of State intends to expand training for both local election officials, as well as poll workers throughout the state. The Secretary of State will develop an election official certification program in conjunction with the New Mexico County Clerk's Affiliate, whereby county election officials may earn credit for classroom training, on-the-job experience and attending seminars and meetings on election administration. Certification may include a process for the testing of election officials and on-site reviews of county election practices and procedures. After completion of sufficient credit hours, a certificate will be awarded. Ongoing certification will require continuous training and the attendance at seminars and meetings, as well as regular evaluation of administrative practices.

The Secretary of State also plans greater emphasis on training for voting machine technicians to assure that counties do not rely on vendors for the operation and programming of their voting systems.

As a part of the state's training requirements, precinct board manuals will be updated regularly and, if sufficient funding is available, video instructional materials will be developed appropriate to each voting system in use. Also being considered, is the use of role playing in the training of poll workers; the use of visual aids; the self-testing of poll workers following various training sessions; and ways of dealing with the shortage of poll workers in certain areas.

Training will be provided to poll workers and election officials on the needs and legal rights of persons with disabilities, senior citizens, and others with special needs as they relate to the registration and voting process. In consultation with Protection and Advocacy System, the Governor's Committee on Concerns of the Handicapped, the New Mexico Commission for the Blind, American Association of Retired Persons, and other interested groups, training materials for this purpose will be developed and provided. As funds permit, a training video on these topics will be developed and used for such training.

The Bureau of Elections, within the Office of the Secretary of State, as part of its mission, provides training and technical assistance and responds to queries from both county clerks and poll workers. The bureau's staff will monitor and supervise poll worker training across the state.

VOTER EDUCATION

User-friendly, non-technical voter outreach materials are important to inform voters of the requirements for registration, use of voting systems and their rights as a voter. One tool used in New Mexico is the Secretary of State's Voter Guide, published prior to General Elections, which includes a listing of offices and candidates on the ballot; a list of ballot questions; and an analysis of ballot questions in both English and Spanish. Similar information is provided to non-written Native American language speakers through radio broadcast.

The pamphlet is provided on the Secretary of State's web site. Depending on funding availability, it is hoped that the Voter Guide can be mailed to every household in the state.

Registration instructions and requirements are included on the certificate of registration and on the Secretary of State's web page. Instructions to voters on the operation of voting systems are posted inside the privacy booth and absentee ballot instructions are included in the materials sent to voters. The Office of the Secretary of State intends to enhance its web page with the creation of a web-based voter query system with information on polling places, sample ballots and instructions on the voting system in use at each polling place. Instructions on provisional balloting will be placed on the web page and signs posted at the polls. Other web-based enhancements will be additional information provided to military and overseas voters, instructions for compliance with federal identification requirements for registration by mail, how to vote absentee, how to obtain a replacement absentee ballot, how to report suspected fraud, and how to file an administrative complaint. Informational materials will also be provided in alternative, accessible formats for persons with disabilities. The Secretary of State will remind relevant state agencies of their obligation to provide information about the voter registration and the opportunity to register through the state agency. This effort will include state agencies serving persons with disabilities.

The agency's Native American Election Information Program will coordinate with Navajo and Pueblo tribal administration to make native language video presentations of all materials.

Other voter outreach programs being considered is a contest among the State's school children to develop a slogan and logo that can be used as part of a statewide effort to increase voter turnout; poll site information in alternative formats; access to polling place location information; the use of local access television and radio; recognition of voters with perfect

voting records for an extended period of time; and the development of programs to encourage greater youth participation in the voting process.

Additional voter outreach will be undertaken to make sure the elections process is accessible and will always take into account the voter's needs, including curbside voting and ballot access for those with medical emergencies on Election Day. To promote access for the deaf and hard of hearing, the offices of the Secretary of State and the county clerks will obtain TDDs if they do not have and use them already, provide training to their staff on the use of these devices, and install separate communication lines for them if necessary. Through direct publicity campaigns and through state and community-based-disability organizations, the state will undertake outreach efforts designed to educate people with disabilities about their right to register and vote, and how and where to do so.

Counties will be encouraged to apply for grants, under Section 261 of the Help America Vote Act, to upgrade facilities for better voter access.

## Administrative Complaint Procedure

HAVA § 402(a)(1) requires New Mexico to establish and maintain a state-based administrative complaint procedure to remedy grievances under HAVA Title III, i.e. regarding voting systems standards, provisional voting and voting information requirements, and computerized statewide voter registration list requirements and requirements for voters who register by mail. HAVA sets forth the specific requirements of this administrative complaint procedure, and N.M. law [Laws 2003, Ch. 356, § 5 ("Ch. 356")] essentially mirrors these requirements. Following the development of the HAVA State Plan, the Secretary of State will adopt rules for this administrative complaint procedure in accordance with the State Rules Act [NMSA 1978 §§ 14-4-1 through 14-4-11 (1995)].

The administrative complaint procedure is intended both to be informal in nature and to work toward an administrative, not a judicial, resolution of the problem, in this case a complaint that there is a violation of HAVA Title III. The procedure will be flexible in addressing and resolving such complaints at the administrative level.

New Mexico's Election Code has long been structured and implemented to, in most instances, prevent or minimize the occurrence of voting problems. If any voting problems do occur, the State's Bureau of Elections and its county clerks all strive to immediately address and remedy the problem. Over the years, these election officials have been very successful in doing just that. Thus, New Mexico is in a good position to build upon its current problem-solving process through the implementation of the administrative complaint procedure envisioned by HAVA. New Mexico currently complies with most of the HAVA Title III requirements and has enacted changes to its Election Code to meet the Title III requirements that are new to the State. Consequently, New Mexico anticipates very few allegations of Title III violations that cannot be resolved informally as election officials have been doing for years.

The State anticipates that all aspects of its administrative complaint procedure will be open to the public. To meet the specific requirements of both HAVA and Ch. 356, New Mexico will adopt rules implementing an administrative complaint procedure as follows:

A. Any complaint filed under the procedure must be limited to alleging a specific violation of Title III. In educating its voters, New Mexico will inform all voters about not only Title III's provisions but the procedures for filing a complaint. To ensure that the procedure is uniform and nondiscriminatory, both the information provided to voters and the administrative complaint procedure itself will be available in alternative languages and formats. HAVA § 402(a)(2)(A).

B. As they have always done, the county clerks and the Secretary of State will continue to address oral complaints in an attempt to resolve the problem informally and quickly. However, a formal complaint alleging a Title III violation must be submitted in writing to the Secretary of State's Bureau of Elections. A complaint form will, at minimum, be available from any county clerk and the Secretary of State, and be accessible on-line. HAVA § 402(a)(2)(B); Ch. 356, § 5(B).

C. A formal complaint alleging a Title III violation must be submitted to the Secretary of State's Bureau of Elections in writing, must be signed and sworn by the complainant, and must be notarized. HAVA § 402(a)(2)(C); Ch. 356, § 5(C).

D. If the Secretary of State receives duplicative or repetitive complaints alleging Title III violations, the Secretary may consolidate these for assessment, investigation and resolution. HAVA § 402(a)(2)(D); Ch. 356, § 5(B).

E. If the Secretary of State determines that a written complaint alleges an actual Title III violation and the complainant requests a hearing on his complaint, the Secretary of State will appoint a hearing officer to conduct a hearing on the record. If the complaint is directed at a county election official, the hearing officer may be an employee of the Secretary of State, or another person selected at the Secretary's discretion. If the complaint is directed at the Secretary of State, the Secretary shall appoint a neutral hearing officer with no working or personal relationship with the Office of the Secretary of State. The record will include, at minimum, the written complaint, any written response to the complaint, all documentation provided in support of or in defense of the complaint, and the written or audio record of any formal proceedings conducted with regard to the complaint. HAVA § 402(a)(2)(E); Ch. 356, § 5(D).

The investigation and resolution process may include, among other things, the following steps or actions by the Secretary of State, as she deems appropriate under the circumstances:

(1) send an acknowledgement letter to the complainant, and notify him that he is entitled to a hearing on the record;

(2) make an initial assessment of the complaint and determine whether it alleges a bonafide Title III violation;

(3) seek a response from the election official against whom a complaint is made;

(4) provide the complainant with a copy of any response received from the election official against whom a complaint is made and give the complainant an opportunity to reply;

(5) engage in informal resolution with the parties through a meeting, teleconference, or other means; or

(6) dismiss the complaint based on its clear failure to allege a Title III violation.

F. If the Secretary of State determines that a Title III violation has in fact occurred, the State shall provide a remedy appropriate to the violation. Any remedy shall be in compliance with the provisions of the New Mexico Election Code. Because neither HAVA nor Ch. 356 defines what an "appropriate remedy" might be for a Title III violation, the State has the flexibility not only to fix the problem, but to ensure that the problem does not recur. In no event shall the remedy involve either the payment of money to the complainant or a finding that an election official is subject to civil penalties. An appropriate remedy may include a written finding that Title III has been violated and the plan for rectifying the particular violation, an assurance that additional training will be provided to election officials so as to ensure compliance with HAVA and the New Mexico Election Code, a commitment to better inform voters of their rights, etc. By posting a notice on its website, and by distributing news releases as it deems appropriate, the Secretary of State's Office shall publicize the results of its assessment

and investigation of the complaint that results in a finding that a Title III violation has occurred. HAVA § 402(a)(2)(F); Ch. 356, § 5(E).

G. If the Secretary of State determines that Title III has not been violated, the State shall dismiss the complaint. By posting a notice on its website, and by distributing news releases as it deems appropriate, the Secretary of State's Office shall publicize the results of its assessment and investigation of the complaint that results in a finding that no Title III violation has occurred. HAVA § 402(a)(2)(G); Ch. 356, § 5(E).

H. The Secretary of State shall make a final determination regarding a written complaint within 90 days after the complaint has been filed with the Secretary of State, unless the complainant consents to extending the deadline. This final determination shall be in writing, and will be provided to the complainant and the election official against whom the complaint was made. All efforts will be made to ensure that this 90-day timeline is met, but if additional time is needed, the State must request an extension of time from the complainant. If the complainant refuses to consent to an extension, either the State must make its final determination or the complaint will automatically proceed to alternative dispute resolution. HAVA § 402(a)(2)(H); Ch. 356, § 5(F).

I. If the Secretary of State fails to make a final determination within the 90-day timeline or as extended by consent of the complainant, the complaint shall be resolved pursuant to the procedures set forth in the New Mexico Governmental Dispute Resolution Act [NMSA 1978 §§ 12-8A-1 through 12-8A-5 (2000)]. This Act provides that the parties shall develop an agreement which will govern the alternative dispute resolution process. All the records and materials from the hearing shall be made available for use in the alternative dispute resolution procedure. The Secretary of State must adopt the agreement reached by the parties to the alternative dispute resolution procedure within 60 days after the complaint is referred for resolution under the New Mexico Governmental Dispute Resolution Act. HAVA § 402(a)(2)(I); Ch. 356, § 5(F).

HAVA gives the State the discretion to choose what it deems to be the most appropriate methods of complying with the elements of its HAVA State Plan. HAVA § 253(c). Generally, the right to judicial review is specifically provided by statute. Neither HAVA nor Ch. 356 provides a statutory right to judicial review of a determination made by the State pursuant to the administrative complaint procedure. The New Mexico Administrative Procedures Act only "appl[ies] to agencies made subject to coverage by law," NMSA 1978, § 12-8-23 (1969), and because Ch. 356 does not make the Secretary of State subject to this Act, the HAVA administrative complaint procedure need not comply with the Administrative Procedures Act requirements. New Mexico's administrative complaint procedure will build upon existing law and procedures, thus providing an informal and flexible approach to resolving Title III violations and, therefore, this procedure will not include judicial review provisions.

## Funding Distribution and Controls

The Help America Vote Act requires States to include in their Plans information on how they plan to establish funds used to make expenditures to meet the various requirements of the Act; information on fund management; and information on estimated costs.

The Secretary of State intends to use federal funds first to address the requirements placed on the State and counties by the Help America Vote Act and any discretionary election improvements will be funded later.

Because New Mexico has no punch card or lever voting systems, federal replacement funds are not available to the state. It is anticipated that the initial $5,000,000 requirements payment will be used to complete installation of the statewide voter file and begin to purchase HAVA compliant voting systems with audio assist for each polling place in the State.

New Mexico has established an election fund account, separate from the State's General Fund and interest earned will be credited to this fund. The Secretary of State will centrally manage projects funded by HAVA requirements payments. Depending on the eventual level of federal funding, it may be possible to pay the costs of maintenance and ongoing improvements required by HAVA. To ensure uniformity in training and education, it is envisioned that the State will prepare all materials for dissemination to counties.

Estimated cost of HAVA activities is as follows:

- Statewide Interactive Voter Registration System
  - Implementation Phase $4,197,413
  - Year 1 $ 841,973
  - Year 2 $ 910,934
  - Year 3 $ 980,346

  Yearly expenses include maintenance contracts, support services and redundancy hosting.

- Title III Voting System Requirements
  - One HAVA Compliant Voting Machine Per Polling Place $6,267,500
  - Software $1,925,000

- Voter Education Programs $5,585,000
  (Video production/distribution, web page up-grades, printing, radio broadcasts, mailing)

- Polling Place Improvements/Increased Accessibility $1,750,000
  (Anticipated in addition to improvements done with accessibility grants. Enhancement of media appropriate training for disabled and/or visually impaired).

- Training $4,400,000
  (Poll Workers/Election Administrators Certification Program/Standardized Media Training).

The State of New Mexico also anticipates additional costs to upgrade certain of its voting systems. Because the state did not qualify for punchcard or lever machine buyouts, it will be necessary to begin to replace some of the state's first generation DRE machines with systems that are more accessible to the disabled. Replacement cost is estimated at $6,657,000.

No funds will be made available to private organizations.

## Audits and Internal Controls

The State Auditor conducts audits of the Office of the Secretary of State and its programs. Audits conducted by the State Auditor will be conducted according to generally accepted auditing standards for financial audits issued by the Comptroller General of the United States.

The Secretary of State will ensure that all records are maintained and available for audit.

## Maintenance of Effort

The Help America Vote Act requires a State that receives "requirements" payments to maintain the expenditures of the State 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. This portion of the Act is often referred to as the "maintenance of effort" clause.

In New Mexico, HAVA funding will be used for new programs or enhanced efforts permitted under the Act, not for normal operating funding at the state or county level. The New Mexico State Legislature is aware of HAVA's maintenance of effort clause.

## Performance Goals and Measures

The Secretary of State will, in collaboration with county clerks, establish performance goals and institute a process to measure progress. Activities include, but are not limited to:

| | |
|---|---|
| Voter Education Materials | January 1, 2006 |
| One HAVA Compliant DRE per Polling Place | January 1, 2006 |
| Provisional Voting Requirements | September 1, 2003 |
| Computerized Statewide Voter Registration System | January 1, 2004 |
| Revised Mail-in Voter Registration Form | January 1, 2003 |
| Election Official Training | January 1, 2006 |
| Poll Worker Training | January 1, 2006 |
| Administrative Complaint Procedure | January 1, 2004 |

The following areas of each project will be measured and performance data will be collected for each: Scope (measure events affecting cost, implementation, schedule or quality); Schedule (progress toward goals); Resources (measures personnel and financial investment); Quality (measures effectiveness); and Risk (measures impact of certain events on operations). New Mexico has already enacted performance-based budgeting for all state agencies.

## Ongoing Plan Maintenance

HAVA requires States to include in their Plan comments on how they will conduct the ongoing management of the Plan.

The New Mexico Secretary of State is the "chief state election official" responsible for the coordination of all State responsibilities under the Act. This Plan will be an essential component in New Mexico's continuing effort to improve the elections process and comply with the provisions of the Help America Vote Act. While this Plan is meant to meet the requirements of HAVA, it is also a matter of policy that the Plan be considered a living, flexible, working document designed to assist New Mexico in the management of the elections process.

The Secretary of State understands and agrees to comply with HAVA requirements related to the ongoing management of the Act. The Secretary of State will not make any material change to this Plan unless the change:

- is developed and published in the Federal Register in accordance with Section 255 of the Act;
- is subject to public notice and comment in accordance with Section 256 of the Act in the same manner as the State Plan; and
- takes effect only after the expiration of the 30-day period that begins on the date the change is published in the Federal Register.

*NEW YORK STATE*
*HELP AMERICA*
*VOTE ACT*

# STATE IMPLEMENTATION PLAN

**NEW YORK STATE BOARD OF ELECTIONS**
***AUGUST, 2003***



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## New York State HAVA State Plan Introduction

For the first time in the history of the United States, the federal government has committed to fund sweeping election reforms which enhance the voting process in this country. The Help America Vote Act, (HAVA) of 2002, requires all states to meet minimum standards for voting systems and for the administration of the electoral process, from voter registration to the casting of the ballot.

HAVA is the result of 18 months of negotiations between congressional representatives and members of the elections community, advocates for persons with disabilities, and members of ethnic and language minority groups. The problems surrounding the 2000 Presidential election were the catalyst for this legislation. In order to guarantee the intended results, HAVA leaves very little discretion to the states in enacting the changes mandated by the legislation. For example, while states may decide which voting system(s) it wishes to use, the system selected must meet the stringent minimum standards set out in the federal legislation.

The implementation of HAVA in New York State requires several changes which will improve the conduct of elections and our voter registration procedures. Among the major changes required by HAVA are:

- replacement of 19,843 lever machines used in 15, 571 election districts in the November 2000 election with voting system(s) which increases the accessibility for persons with disabilities; provides alternate language accessibility as required by the Voting Rights Act of 1965; and gives all voters an opportunity to assure the accuracy of their vote before it is cast;
- establishment of a single, interactive computerized statewide voter registration list, maintained by the state, which will enable the elimination of duplicate registrations;
- verification of voter identification information, enhancing New York's ability to maintain complete and correct voter registration lists;
- creation of a state-based administrative procedure for hearing and resolving citizen complaints involving violations of HAVA provisions, and
- use of provisional ballots.

HAVA provides significant federal funding for the many mandates placed upon the states, including replacement of lever machines and punch card voting devices, the training of election officials and workers, the education of the general public, and the creation of a statewide voter registration system. The statute requires each State intending to use these funds to apply for and certify that the funds will be used for the purposes outlined in the statute. Additionally, the law requires the submission of a plan which outlines how the State will use the funds to meet the requirements of the law, and how it will monitor and disperse those funds. The procedure for developing the state plan, as well as the contents of the plan, are set out in detail in the statute.

Because federal money has been appropriated in the 2002-2003 federal fiscal year budget which ends in September of 2003, New York needs to submit its plan before the end of that fiscal year to ensure our fair share of federal money. New York is meeting the requirements of

HAVA through the development of this plan through the HAVA Task Force. The Task Force, through five public meetings, where an open and free discussion of members and the public ensued, defined issues, posited alternative methods for resolving those issues and established priorities for the State in implementing HAVA.

This State Plan is the result of the work of the Task Force and the supplemental groups which provided information and advice to the Task Force. It provides a framework within which the State of New York will work to meet the statutory requirements of HAVA. That framework includes goals and a time frame for meeting them, as well as standards for determining the success of our progress. While this plan provides the framework to allow New York access to its fair share of federal money, it is not intended to provide definitive answers to all of the questions which need to be addressed for the implementation of HAVA. The federal law provides for a three-year implementation period and ongoing discussions and decisions in New York are needed to fully implement this important piece of legislation. We are committed to engaging in these discussions with all interested parties, as we have throughout this initial process.





## Outline of the State Plan

Section 254 of the Help America Vote Act of 2002 outlines the required elements for the State Plan. New York's State Plan follows the 13 subsections found in Section 254 and uses them as a series of questions which the State Plan then addresses in detail.

The State Plan contains a description of each of the following:

**Section (1):** How the State will use the requirements payment to meet the requirements of title III; (Voting Systems Standards(§301); Provisional Voting and Information Requirements (§302); Computerized Statewide List and Voters who Register by Mail (§303), and to carry out other activities to improve the administration of elections.

**Section (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 Section (1), including a description of—
– The criteria to be used to determine the eligibility of such units or entities for receiving the payment; and
– 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 Section (8).

**Section (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.

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

**Section (5):** How the State will establish a fund for the purposes of administering the State's activities under this part, including information on fund management.

**Section (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 —
– The costs of the activities required to be carried out to meet the requirements of Title III;
– The portion of the requirements payment which will be used to carry out activities to meet such requirements; and
– The portion of the requirements payment which will be used to carry out other activities.

**Section (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.

**Section (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.

**Section (9):** A description of the uniform, nondiscriminatory state-based administrative complaint procedures in effect under Section 402.

**Section (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.

**Section (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 —
– is developed and published in the Federal Register in accordance with Section 255 in the same manner as the State plan;
– is subject to public notice and comment in accordance with Section 256 in the same manner as the State plan; and
– takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

**Section (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.

**Section (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.





## Section 1: How the State Will Use the Requirements Payment

OBJECTIVE:

Describe how the State will use the requirements payment to meet the requirements of Title III (Voting Systems Standards(§301); Provisional Voting and Information Requirements (§302); Computerized Statewide List and Voters who Register by Mail (§303)), and to carry out other activities to improve the administration of elections.

GOAL:

The Help America Vote Act of 2002 (HAVA), public law 107-252, establishes minimum election administration standards for states. It specifically requires the State of New York to:

- Replace all lever machines and punch card voting devices used by counties for elections;
- Certify new and existing voting systems according to national standards;
- Improve voting equipment accessibility, to include physical and language accessibility;
- Enhance existing provisional voting system requirements;
- Establish a statewide complaint system;
- Provide training for election officials and poll workers;
- Increase voter education for new voting systems; and,
- Create a new uniform statewide voter registration list.

PRESENT STATUS:

The State of New York, while facing significant challenges in upgrading its voting systems, is in a relatively good position to implement the requirements of HAVA. Many standards or activities required in HAVA are already in place and being successfully executed. Uniformity across New York is achieved through state statute and rules and regulations covering topics surrounding elections, including: voter qualification; voting system certification; what constitutes a vote; election official and poll worker training; alternative language requirements; uniform provisional ballot procedures; procedures for military and absentee ballots; and tabulating and reporting of votes cast. The State is in compliance with the National Voter Registration Act of 1993, and therefore already has sound procedures for voter registration and maintenance of the voter registration rolls.

PROPOSED PLAN:

### A. Voting Systems Standards (§301)

The State Board of Elections has certified two lever machines and three DRE systems for use in the State. Presently, voting machines are owned by cities, towns, and villages, with the exception of the City of New York and the counties of Monroe, Nassau and Suffolk, where the boards of elections own the voting machines. In the federal election of November 2000, there were 15, 571 election districts in New York State. The vast majority of voters in those districts

voted on one of the 19, 843 lever machines in use at that time. Absentee voting systems are owned by the local boards. There are three absentee voting systems certified for use in New York State.

New York will undertake a statewide effort to facilitate replacement of voting systems in counties where lever machines are used. The procurement effort will also ensure that voting accessibility standards for persons with disabilities are met. This effort will comply with all state procurement rules and laws.

Accessibility, whether a physical disability or a language barrier, is addressed in state law and is largely maintained under the current efforts of the State Board and county election officials. However, given the intent of HAVA to further enhance accessibility, the state will engage in statewide efforts to ensure accessibility to voting systems and all procedures directly connected to the election process.

To ensure that HAVA reform is sustained, the State Board will also extend current reporting requirements to gauge performance of county election officials. These reports will be the foundation to determine future modifications required in law or state election procedures.

To meet these efforts, the State Board will incur administrative costs associated with the coordination, planning, operations and reporting on these programs. In addition, the State Board will need to expand its voting system certification efforts and election official training, as well as develop uniform guidelines for all training relative to election processes. These costs, along with portions of infrastructure and support systems, will be funded through the state election fund.

**B. Provisional Voting and Information Requirements (§302)**

**(i) Provisional Voting**

Provisional ballots, called affidavit ballots in New York, are currently provided for in statute. They are a fail-safe option for voters whose name does not appear in a poll book, for those who have moved but not yet notified their respective board of elections, or in Primary elections for voters for whom their stated enrollment does not match the enrollment specified in a poll book. The current statute requires that a notice, with a registration form, be sent to each person who cast an affidavit ballot which was deemed invalid and was, thus, not canvassed.

New York intends to enhance existing statutory requirements for provisional (affidavit ) ballot voting, to encompass offering said ballot to those voters for whom identification must be provided at the time one votes, but who fail to present identification. The notification process will be amended to provide for notice of the disposition of each affidavit ballot cast to those respective voters. Additionally, the affidavit ballot envelope will be amended to reflect appropriate selection by the voter as to the reason for the casting of the affidavit ballot.





**(ii) Information Requirements**

1 - 800 - FOR VOTE is the State Board's current toll-free election information line. This system will be expanded to implement the initial call-in element of a statewide complaint tracking system. The statewide complaint system will allow for the comprehensive coordination of response by the State Board and county election officials with the initial complaint handled by phone call with an avenue for a written process when needed.

The State Board shall develop the "Voter's Bill of Rights" to be posted in each polling place and provided to each voter, upon request ,which describes: information regarding the date of the election and the hours during which polling places will be open; instructions on how to vote, including how to cast a vote and when and how to cast a provisional ballot; instructions for mail-in registrants and first-time voters under Section 303(b); general information on voting rights under applicable Federal and State laws, including information on how to contact the appropriate election officials if these rights are alleged to have been violated; and general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

**C. Computerized Statewide List, Voters who Register by Mail and Voter Identification (§303)**

**(i) New York Voter Registration List**

Pursuant to the State Constitution, Article II, §6, a voter's registration is valid as long as they reside in the jurisdiction where they registered. There are 62 county boards of elections which have responsibility for the registration of voters in their respective counties. One central board of elections serves the City of New York, with offices in each of the five boroughs (counties). Each board is responsible for, among other things: keeping the registration list accurate and current; removing individuals who are no longer eligible to vote in their jurisdiction; and notifying voters of the dates and times of all elections and the location of their polling place. The voter registration list maintained by the county boards is also used by school districts, villages, towns and other special districts for their particular elections.

All New York State counties use some type of computerized system for storing voter registration information. The boards of elections use different types of computer platforms to maintain their registration lists and perform various other functions. Network servers are used by 45 boards; 8 boards use a mini mainframe system; 4 use personal computers and NYC uses a combination mainframe and network. The software packages that runs these various systems were developed by the local board in 19 instances; 32 boards use one vendor; and 7 boards use another vendor. Although most of the local boards, (34), house, manage and maintain their computer systems at their offices, 23 systems are located in county information/technology centers, and the NYC system is housed and maintained at the City data processing center.

As of November 5, 2002, county boards maintained records for 11, 246, 262 registered voters in the state of New York. The number of registered voters within these county jurisdictions

ranges from just over 5,000 to 1.2 million. Those voters were either enrolled in one of eight recognized political parties as follows: Republican: 3,132,161; Democrat: 5, 255, 521; Independence: 257, 281; Conservative: 163, 314; Liberal: 86, 242; Right-to-Life: 49, 482; Green: 29, 528; and Working Families: 15, 763, or opted not to enroll in any recognized political party. Those voters numbered 2, 257, 070.

The State Board will implement a statewide voter registration list. The State Board's goal is to meet the requirements of HAVA, while maintaining the current level of election services at the local level, and at the same time enhancing the administration of voter registration and the election process for the citizens of New York. Working with the county boards of elections, the State Board will define functional requirements, roles and responsibilities of carrying out the functions of voter registration to enhance the operations of these offices. In order to comply with the requirements of Title III of HAVA, the State Board "shall implement, in a uniform and non-discriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list."

The State Board will determine, define and establish all technical and functional requirements and shall establish the hierarchy of responsibilities for the implementation and administration of the list.

The State Board shall develop the list and make it available to county election officials for the registration of voters and for the maintenance and retrieval of voter information.

Registration information for all currently registered voters will be incorporated into the list. Duplicate voter registrations will be identified and voting residency will be resolved.

The official voter registration list will be maintained by the State Board according to industry standards and best practices for information management and security.

Counties will remain responsible for all related aspects of voter registration. This shall include, but not be limited to, the receipt and processing of voter registration applications, registering qualified voters, maintaining voter registration information, and maintaining the borders and boundaries of jurisdictions within their purview.

Counties will be responsible for maintaining local infrastructure components relative to the list.

The State Board will develop and implement a Memorandum of Understanding with the New York State Department of Motor Vehicles for the use of their database, which includes access to the Social Security Administration, for verification of voter registration identification.

The State Board will seek access to other statewide databases for the purposes of verification of voter registration identification. These databases will be evaluated for the ability to assist in the verification of voter identification, while realizing that privacy laws may prevent access to some records.





**(ii) Voters who Register by Mail and Voter Identification**

HAVA requires, in very specific language, that all new applicants provide one's driver's license number or the last four digits of their social security number. The enacted legislation also requires first-time applicants who register by mail to provide identification when they register and for voters who do not provide ID at the time they register, ID must be presented at the time one casts their first vote. New York is strongly committed to diminishing the number of persons required to provide ID when they vote, by contacting those voters by mail, prior to election day, to provide another opportunity to submit identification information, and by utilizing access to Department of Motor Vehicles files and related databases to verify the information provided on registration applications.

Voter Identification only applies to:

- mail registration applications,
- voters who have not voted in a prior federal election,
- registrants who do not supply either a driver's license number or the last four digits of their social security number.

For those who need to provide identification, they can supply it either at the time of registration or when they first vote. HAVA specifically provides that acceptable voter identification includes any current and valid photo ID, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

Anyone who needs to provide identification at the polling place but does not do so, may vote by provisional (affidavit) ballot.

The State will assess the reliability and accuracy of available social security information. In conjunction with this proposal, the State will explore the use of other databases to accomplish the goal of verifying voter data.

New York shall develop an avenue for first time applicants who register by mail and do not provide identification at that time, and for whom no match could be made in the state database verification program, to present that identification at the time of their first vote. New York currently provides for a voter to sign in when they vote, in a designated box which appears next to a facsimile of their signature, in digitized poll books. At present, messages can appear in the signature box, which direct inspectors to be aware that the voter has voted an absentee ballot. New York intends to upgrade message capabilities in poll books, to include an advisory to the inspector that a particular voter will be required to present identification when they present themselves to vote for the first time.

Instructions for election inspectors will be provided in each poll book. The instructions will include a list of the types of identification that may be presented to the inspectors and a

reminder for inspectors to provide the voter with the "notice to voters." The "notice" will contain the options the voter may choose from, in order to cast their vote at that election, including casting a provisional ballot. The inspector handbook will be amended to reflect this new requirement.

PERFORMANCE GOALS AND MEASURES: (also repeated in Section 8)

- Replacement of lever voting machines and punch card voting devices.

New York will undertake a statewide effort to facilitate replacement of voting systems in counties where lever machines are used. The procurement effort will also ensure that voting accessibility standards for persons with disabilities are met. This effort will comply with all state procurement rules and laws. The measure of success is the replacement of all lever machines and punch card voting devices.

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| Process used to develop the criteria | Establish number of counties using lever voting machines and punch card voting devices in the 2000 Federal election. |
| Description of the criteria used to measure performance | 62 New York counties had qualifying precincts in the 2000 Federal election according to HAVA descriptions of replacement voting systems. |
| Performance measure | Number of counties using lever machines and punch card voting devices in the 2004 Federal election. |
| Timetable | January 1, 2003 to January 1, 2006 |
| Description of official to be held responsible for ensuring each performance goal is met | Each county board of elections is responsible for implementing the replacement voting system in their county, however, the State Board is leading the statewide effort for replacement and is therefore ultimately responsible for meeting this performance measure. The State Board is responsible for the certification of all new voting equipment. |

- Voting Equipment Accessibility

Improving voting equipment accessibility, as required by HAVA, shall include accessibility for individuals with disabilities and alternative language accessibility as determined in HAVA and the Voting Rights Act of 1965. The measure of success for both elements is the successful acquisition and deployment of accessible voting machines by the 2004 Federal election.

The State Board will encourage private-public partnerships to enhance the voting participation of all voters with disabilities in coordination with the Help America Vote Foundation established by HAVA. While beyond the scope of this state plan, activities of such groups may be incorporated into





performance reporting to complement physical accessibility goals.

Cities and towns currently designate and inspect all polling places for physical accessibility. Beginning with the 2004 Federal election, and with an eye toward monitoring and uniformly addressing physical accessibility in the polling place, the inspection results will be added to a report that counties already file with the State Board. Success will be measured by compliance with the state and federal laws and regulations on physical accessibility. County reports on accessibility will include data from on-site inspections of polling places, the number of polling places that are accessible, and will describe measures taken to bring inaccessible polling places into compliance.

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| Process used to develop the criteria | Establish number of counties using accessible devices in the 2000 Federal election. |
| Description of the criteria used to measure performance | All 62 New York counties will require alternative voting accessibility devices in the 2004 Federal election according to HAVA. |
| Performance measure | Number of counties using voting accessible compliant devices in the 2004 Federal election |
| Timetable | January 1, 2003 to Federal election 2004 |
| Description of official to be held responsible for ensuring each performance goal is met | The State Board is responsible for the certification of HAVA compliant voting equipment in the state. |

- Alternative Language Accessibility

The goal of providing useful and ample language accessibility has always been, and continues to be, compliance with the Voting Rights Act of 1965. The entire election process, from voter registration to casting the ballot, is enhanced with providing alternative language accessibility. Voters requiring alternative languages are represented in percentages based on census figures. Success will be determined by the provision of types and quantities of materials available in required alternative languages.

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| Process used to develop the criteria | The state and counties already provide language accessibility as required by the Voting Rights Act of 1965. By the 2004 Federal election, the State Board will ascertain that jurisdictions identified by U.S. Department of Justice requiring alternative language accessibility are in compliance. |
| Description of the criteria used to measure | Counties will provide the state with a report of alternative language capabilities with reference to ballots, publicity pamphlets, voter |

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| performance | registration forms and voter education materials. The data provided will allow the State Board to determine if the uniform procedures for providing alternative language accessibility have been successful. |
| Performance measure | With respect to each county, information will be collected to measure the number of languages required and the number of languages provided for alternative language accessibility for publicity pamphlets, ballots, voter registration forms and voter education materials. |
| Timetable | Federal election 2004 and annually thereafter. |
| Description of official to be held responsible for ensuring each performance goal is met | The county boards are responsible for ensuring each performance goal is met, with the assistance and cooperation of the State Board. |

- Provisional Ballots

Provisional ballots, called affidavit ballots in New York, are currently provided for in statute. They are a fail-safe option for voters whose names do not appear in a poll book, for those who have moved but not yet notified their respective board of elections, or in Primary elections for voters for whom their stated enrollment does not match the enrollment specified in a poll book. The current statute requires that a notice, with a registration form, be sent to each person who cast an affidavit ballot which was deemed invalid and was thus, not canvassed.

New York intends to enhance existing statutory requirements for provisional (affidavit) ballot voting, to encompass offering said ballot to those voters for whom identification must be provided at the time one votes, but who fail to present identification. The notification process will be amended to provide for notice of the disposition of each affidavit ballot cast to those respective voters. Additionally, the affidavit ballot envelope will be amended to reflect appropriate selection by the voter as to the reason for the casting of the affidavit ballot.

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| Process used to develop the criteria | The State Board will review the current statutes and county board procedures and make any changes needed for provisional (affidavit) balloting. |
| Description of the criteria used to measure performance | Modify the current notice to voters to: add an explanation of instances where failure to present ID can be overcome by the casting of an affidavit ballot; add the phone number of county board of elections, to ensure toll-free access for voters to follow-up on their ballots; and create a voter's bill of rights, for distribution and posting in all poll sites |





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| Performance measure | Each county board will report the following information:<br>• The distribution of revised notices in election day supplies.<br>• The addition of revised procedures to any state or local inspector and voter education initiatives.<br>• A review of amended processes added to inspector training curriculum. |
| Timetable | Notices to be modified and documents to be distributed by May 2004, to inaugurate the process and to ensure full implementation by the 2004 Federal election. |
| Description of official to be held responsible for ensuring each performance goal is met | County election officials are responsible for provisional ballot distribution verification and compliance with procedures established by the State Board. The State Board is responsible for reviewing compliance reports submitted by counties. |

- Centralized Statewide Voter Registration List

The State Board will implement a statewide voter registration list. The State Board's goal is to meet the requirements of HAVA, while maintaining the current level of election services at the local level, and at the same time enhancing the administration of voter registration and the election process for the citizens of New York. Working with the county boards of election, the State Board will define functional requirements, roles and responsibilities of carrying out the functions of voter registration to enhance the operations of these offices. In order to comply with the requirements of Title III of HAVA, the State Board "shall implement, in a uniform and non-discriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list."

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| Process used to develop the criteria | Evaluation of the legislation, Task Force sessions, in-house work sessions with appropriate staff, consultation with other state agencies having related expertise, and on-site visits to other states and county boards to review voter registration systems. |
| Description of the criteria used to measure performance | Implementation of a single, uniform, statewide voter registration list accessible to all counties and having appropriate verification capabilities. |
| Performance measure | The State Board has identified three stages for the creation of the statewide list.<br>Stage 1: Planning:<br>- Completion of business analysis.<br>- Establishment of database architecture.<br>Stage 2: Development:<br>- Development of the database model. |

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| | - Determination of hardware and software components of the database architecture.<br>- Acquisition of the requisite hardware and software components of the database.<br><br>- Development of a single statewide uniform user interface.<br>- Development of the necessary computer network with local boards of elections.<br>- Testing with regards to all of the above.<br>Stage 3: Implementation:<br>- Migration of local voter registration data into statewide list.<br>- Training of appropriate personnel.<br>- Rollout of the system to local boards of elections.<br>- Troubleshooting with regards to items outlined in Stage 2.<br>- Establishment of fully operational system.<br>- Testing with regard to all of the above. |
| Timetable | January 1, 2003 to Federal election 2004 |
| Description of official to be held responsible for ensuring each performance goal is met | The State Board is responsible for implementing and operating the statewide voter registration list. |

- State Board Administrative Complaint Procedure

The State Board will implement a statewide complaint procedure. Measurement of the success of the statewide procedure will be the availability and performance of the system, as well as the experience for the voter.

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| Process used to develop the criteria | Evaluation of the legislation, Task Force sessions, in-house work sessions, with appropriate staff. |
| Description of the criteria used to measure performance | Measurement of successes of the statewide complaint system will be the availability and performance of the system, as well as the experience for the voter. |
| Performance measure | The State Board will review the total number of complaints received and resolved. The following information will be collected to objectively measure performance:<br>• Number of complaints received<br>• Number of complaints resolved<br>• Number complaints resolved in 60 days |





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| | • Number of complaints resolved in 90 days<br>• Number of complaints unresolved<br>• Description of reason complaint is left unresolved |
| Timetable | January 1, 2004. |
| Description of official to be held responsible for ensuring each performance goal is met | State Board of Elections. |

## Section 2: How the State will Distribute and Monitor Requirements Payments

OBJECTIVE:

Describe 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 Section (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 Section (8).

GOAL:

To have the State Board centrally manage initiatives funded by requirements payments for the purpose of maintaining uniformity of voting equipment purchases and other expenditures.

PRESENT STATUS:

Currently the State of New York does not provide any funding to county boards of elections.

PROPOSED PLAN:

The State Board will administer the resulting contracts and disbursements consistent with state budget plan described in Section 6 of this plan. The commitments under Title III will be based on federal and state funds deposited in the state election fund.

Funds will be distributed based on availability and the priorities established in this state plan. County voter registration statistics may be taken into consideration for any proportionate distribution of funds to counties for which they qualify under the various elements of distribution. County boards of elections will submit their county budgets that contain the 2000 election cycle maintenance of effort, to establish baseline amounts for efforts already in practice. All expenditures beyond the maintenance of effort will be coordinated with statewide efforts to be eligible for reimbursement of such efforts.

The explicit method and eligibility for each element of distribution is described in Section 6. In general, the distribution of funds to county boards of elections will be in accordance with Memorandums of Understanding (MOU). Each MOU will be the contract between the state and the county to enable payment from the state election fund, and therefore all service levels or compliances required by the MOU will dictate disbursement. Upon receipt and validation of documentation of compliance with the MOU, the State Board will issue disbursements from the





state election fund.

The State Board will require, as part of the MOU, that each county use established accounting practices for all aspects of project management to monitor the implementation of the elements in Section 6. Project management and time schedules for these efforts will be conducted by the State Board in coordination with the county election officials. Compliance with the terms of any applicable MOU and with the project management and time schedules established for each element in Section 6 will establish eligibility to receive payments from the state election fund. Any portions not in compliance, or not completed on the time schedule, will delay payments until such time as the county has complied with the necessary requirements. If a county has failed to comply on an effort that prohibits other counties, or the state, to proceed with the time schedule of that same effort, the State Board may postpone all other payments to that county until such time of compliance.

The performance measures detailed in Section 8 of this state plan will be used to evaluate participation and effectiveness of disbursements. Monitoring performance measures will be completed annually during the filing of detailed reports required by the State Board. The reports will include specific data to disclose each county's performance as it relates to the implementation of HAVA.

## Section 3: Voter Education, Election Official and Poll Worker Training

OBJECTIVE:

Describe how the State will provide 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.

GOAL:

The goal of providing voter education has always been foremost with the State Board, as well as with county boards of elections. The State Board views education of the voter as a key component in the entire election process. Voter education is particularly important in the implementation of HAVA which includes the introduction of new voting systems. The State anticipates devoting significant resources available under HAVA to voter education efforts. The proposed plan delineated below provides initial components of a voter education program necessary to successfully implement HAVA in New York. Additionally, New York recognizes the value of and intends to develop a uniform, statewide comprehensive training program for poll workers and election officials.

PRESENT STATUS:

The county boards of elections administer local, county, state and federal elections. They recruit, hire and train election inspectors and voting machine custodians. Local election officials administer their own training for staff and poll workers. The State Board provides each county with a "Guide to Operating a Board of Elections" for training of board staff. The State Board supplies county boards with Election Inspector Handbooks for use in their training and on Election Day. The State Board supplies local boards of elections with educational brochures for the public on various aspects of the voting process. Voting system vendors are required to provide training for election officials, voting machine custodians and election day workers, as part of their contractual obligations.

The State Board takes pride in the working relationship it has with the county boards of elections. The Board has been successful in launching new forms and procedures, due to its policy of empaneling focus groups of election commissioners, who assist in evaluating all aspects of the concept or form being discussed. Additionally, the State Board includes other experts, such as postal officials, literacy and forms experts, and others who lend their skills and talents to the discussion and production phases of these efforts. The State Board intends to continue to utilize all the expertise available to it, to ensure a full analysis of any initiative and/or any forms which are a result of that initiative.





PROPOSED PLAN:

The State Board intends to contract with a professional training organization to develop training curriculum and methodology for the delivery of a statewide training program to be made available to all county boards of elections. Topics for the training program shall include, but not be limited to, use of the new voting machines, sensitivity in dealing with voters with disabilities, the elderly, and those voters with accessibility issues.

The State Board of Elections will develop a statewide training program which will provide for the uniform and nondiscriminatory treatment of voters in determining: a) who is offered a provisional ballot, b) whose provisional ballots are counted, c) who may provide assistance to voters in the polling booth, d) who is asked for identification at the polls, e) what forms of identification are accepted upon registration, f) how registration applications are processed and approved, g) how voters' names are removed from the list because of ineligibility or duplication and h) how voter education requirements are carried out.

The State Board will provide through this statewide training process that the same procedures are used in all polling places.

The State Board will work with voting system vendors to enhance and deliver required training programs to election officials, voting machine custodians, election day workers and voters.

The State Board plans to develop and deliver a voter outreach/education campaign, via media and direct mail, to every registered voter, with information on the use of new voting machines and election day processes (available in multiple languages, including Braille). Outreach efforts shall include ample opportunities for voters to become familiar with new voting machines. The program will include contacts with state associations, community and/or private companies, and corporations, to further distribute voter outreach/education materials. A component of the program will be the development of a voter's handbook with information on registration, voting machines, ballot layouts, and how and where to obtain assistance. The handbook will be available in multiple languages and distributed through boards of elections, schools, community groups, libraries, government agencies, television, radio, videotape(s) and websites.

The State Board expects to explore new and innovative poll worker recruitment programs, including the utilization of the "Help America Vote College Program."

Each county board of elections is urged to have a website that provides information and which links voters to comprehensive, useful and downloadable election information and forms. The State Board will develop a model website which would be available for utilization by county boards of elections.

PERFORMANCE GOALS AND MEASURES: (also repeated in Section 8)

- Voter Education

The goal of providing useful and ample voter education has always been a priority of the State Board and county election officials. The State Board views the entire election process, from voter registration to casting the ballot, as voter education. Therefore, success will be determined by the subjective inspection of many factors revolving around the voter.

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| Process used to develop the criteria | The counties and certain community/political groups already provide voter education opportunities. By the 2004 Federal election, additional steps will be taken to ensure voter knowledge of changes in voting systems and election day procedures required by this Act. The counties will include details of their efforts in the annual reports they file with the State Board. |
| Description of the criteria used to measure performance | The assimilation by the voter of new election day processes will be determined by the number of problems occurring on election day. |
| Performance measure | With respect to each county, the following information will be collected to measure performance:<br>• Number of public service announcements,<br>• Number of locations where voting equipment is on public display,<br>• Number of other voter education and voter outreach initiatives, including:<br>• Description of initiative<br>• Estimated costs<br>• Participation in initiative<br>• Number and nature of problems on election day. |
| Timetable | January 1, 2004 and annually thereafter. |
| Description of official to be held responsible for ensuring each performance goal is met | The State Board and the county boards are all responsible for ensuring the success of voter education; however, the State Board is responsible for the success of all statewide coordinated efforts for voter education. |





- Election Official and Poll Worker Training.

The State Board is committed to effective election official and poll worker training which will result in positive voter experiences and fair and orderly elections. Poll workers will be trained in new procedures and the operation of new voting equipment. Significant HAVA resources will be devoted to the training of poll workers and election officials to ensure the successful introduction of new voting systems and procedures in New York. In addition, the State Board will develop a model training program for use by county boards of elections. Poll worker training is essential to the successful implementation of HAVA in New York State. Each person should be provided with sufficient knowledge and information to intelligently perform their role in the process whether as a voter or election worker.

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| Process used to develop the criteria | Evaluate existing training programs and corresponding manuals in conjunction with new HAVA requirements. |
| Description of the criteria used to measure performance | Analyzing the number of election officials/poll workers trained in each county will allow the State Board and county boards to determine whether the uniform training, as implemented, was successful. |
| Performance measure | With respect to each county, the following information will be collected to measure election official/poll worker training performance:<br>• The number of election officials to be trained in each county.<br>• The total number of poll workers to be trained in each county.<br>• The number of election officials that are trained in each county.<br>• The total number of poll workers that are trained in each county. |
| Timetable | Spring 2004 training on new election day processes; training on new equipment when acquired by locality. |
| Description of official to be held responsible for ensuring each performance goal is met | County election officials are responsible for poll worker training and reporting, however, the State Board is responsible for establishing the guidelines, reporting requirements and ultimately the success of this performance measure. |

## Section 4: Voting System Guidelines and Processes

OBJECTIVE:

Describe how the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.

GOAL:

New York intends to replace all lever voting machines used in the state, which numbered 19,843 at the 2000 Presidential Election, with voting systems which are HAVA-compliant, under the provisions of the most recent and adopted Federal Voting System Standards.

New York intends to replace its two remaining county-based punch-card, absentee voting systems.

PRESENT STATUS:

- New York currently has voting system rules and regulations in place, and was one of the first states in the country to address this issue, by developing and adopting rules in the mid 1980's.
  - The State Board of Elections has adopted the existing federal voting system standards as its own, which specifically address issues of accessibility, secrecy, prevention of over votes, review of one's ballot prior to casting, and the accurate counting of every vote cast.
- National Association of State Election Directors (NASED) certification, which tests to federal standards, is required before certification in New York can be sought.
- Current statute and regulations in New York require additional certification testing of NY-specific aspects of the voting process, which are not addressed in the NASED certification program, namely multiple party endorsements for a single candidate. This is currently accomplished within the State Board's Election Operations Unit, in consultation with an independent testing consultant.
- New York's current statute defines what constitutes a vote.
- The performance of logic and accuracy tests is required before each election, and is conducted at the county level, pursuant to formulas and procedures developed and distributed by the State Board, thus ensuring consistent correct vote counts for all offices and uniformity throughout the state.
- Current statute and/or regulations require the conduct of acceptance testing of each piece of voting equipment purchased in the State, under the guidance and with the participation of State Board personnel.





PROPOSED PLAN:

- The State Board will develop, in consultation with county election officials, strategies for the purchase and statewide implementation of new election day voting systems which are HAVA-compliant.
- The State Board will work with the two remaining counties using punch card technology for absentee ballot purposes, to replace these systems with optical scan technology.
- The State Board will also develop procedures to review and decertify systems that no longer meet adopted Voting System Standards.

PERFORMANCE GOALS AND MEASURES: (also repeated in Section 8)

- Replacement of lever voting machines and punch card voting devices.

New York will undertake a statewide effort to facilitate replacement of voting systems in counties where lever machines are used. The procurement effort will also ensure that voting accessibility standards for persons with disabilities are met. This effort will comply with all state procurement rules and laws. The measure of success is the replacement of all lever machines and punch card voting devices.

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| Process used to develop the criteria | Establish the number of counties using lever voting machines and punch card voting devices in the 2000 Federal election. |
| Description of the criteria used to measure performance | 62 New York counties had qualifying precincts in the 2000 Federal election according to HAVA descriptions for replacing voting systems. |
| Performance measure | Number of counties using lever machines and punch card voting devices in the 2006 Federal election. |
| Timetable | January 1, 2003 to January 1, 2006. |
| Description of official to be held responsible for ensuring each performance goal is met | Each county board of elections is responsible for implementing the replacement voting system in their county, however, the State Board is leading the statewide effort for replacement and is therefore ultimately responsible for meeting this performance measure. The State Board is responsible for the certification of all new voting equipment. |

## Section 5: How the Election Fund will be Established and Managed

OBJECTIVE:

Describe how the State will establish an Election Fund for purposes of administering the State's activities under this part, including information on fund management.

GOAL:

To establish a state fund for the purposes of administering the receipt and distribution of funds under HAVA.

PRESENT STATUS:

Separate funds are established in New York by legislation, allowing state agencies overseeing a federally funded program to establish guidelines for distribution of monies to local governments. Since neither the State nor the Federal government has ever distributed funds to localities for election purposes, no such program currently exists.

PROPOSED PLAN:

As part of the Governor's 2003-2004 proposed budget, over $70 million was earmarked for the State Board. Of that money, $3 million was targeted for the preliminary development of a statewide voter registration list, and $65 million was to be placed in a separate fund in anticipation of federal monies for HAVA-related implementation of new voting systems and related administrative initiatives. The State will establish the mechanism to distribute the money as outlined in Section 2 of this plan.





## Section 6: Budget for Title III Requirements

OBJECTIVE:

Describe 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.

GOAL:

Provide for effective and efficient use of available federal funds, to implement election reforms required by HAVA.

PRESENT STATUS:

Separate funds are established in New York by legislation which allows state agencies overseeing the program to establish guidelines for distribution of monies to local governments. Since neither the State nor the Federal government has ever distributed funds to localities for election purposes, no such program currently exists.

PROPOSED PLAN:

New York's proposed budget outlined below, subject to federal funding of HAVA, includes funding for programs to conform the State to the requirements of Title III. In order to qualify for funding, the State must: meet the requirements of Title III; provide the same maintenance of effort for election operations as in the budget year prior to the 2000 general election; and provide matching funds of five percent of the federal dollars. Funding under HAVA also provides funding under Section 101 for the Administration of Elections and under Section 102 for Lever Machine and Punch Card Replacement. All of the funds provided under HAVA are "no year" money, meaning that they are not required to be expended by the close of the specific federal fiscal year.

| Proposed Budget for State Plan for Fiscal years 2003-2005(dollars in millions) | | | | | | |
|---|---|---|---|---|---|---|
| A total of $55 million (Sections 252 and 257 for fiscal year 2003 only) and $67 million as early monies (Sections 101 and 102) is projected. | | | | | | |
| Program Area | Total Proposed Budget | From Section 101 | From Section 102 | From Sections 252 & 257* | % of Title I money (§101, 102) | % of Title II money (§252, 257) |

New York State Help America Vote Act Plan

| | | | | | | |
|---|---|---|---|---|---|---|
| **Voting Accessibility - Lever Voting Machine Replacement program** | 140 | | 50 | 90 | 75.8 | 53 |
| **New York State Voter Registration List** | 20 | 3 | | 17 | 4.5 | 10 |
| **Physical Accessibility** | 10 | | | 10 | | 6 |
| **Provisional Balloting** | 0 | | | | | |
| **Voter Education** | 20 | 9 | | 11 | 14 | 6 |
| **Poll Worker and Election Official Training** | 2.5 | 0.9 | | 1.6 | 1 | 1 |
| **Statewide Complaint System** | 0.1 | 0.1 | | | 0.2 | |
| **Election Administration Grant Program** | 40 | | | 40 | | 24 |
| **Administration costs** | 3 | 3 | | | 4.5 | |
| **TOTALS** | 235.6 | 16 | 50 | 169.6 | 100** | 100** |

* subject to 5% matching funds

** some rounding is necessary to equal 100%

**Voting Accessibility**

New York will initiate a program to facilitate lever machine and punch card replacement. All 62 counties in New York currently use lever voting machines and 2 counties still use punch card systems for absentee ballot purposes. The State Board will explore a procurement effort to acquire new voting systems. The State Board will work with county election officials to ensure that all needs are met, including but not limited to: device acquisition; system maintenance; election preparation services; and election tabulation services.

The plan proposes that counties own and operate the systems and work with vendors to maintain the new voting systems and retain control of election services at the county level.

**New York State Voter Registration List**

The State Board will implement a statewide voter registration list to comply with HAVA Title III. Working with county election officials, the State Board will define functional requirements and roles and responsibilities of carrying out the functions of voter registration. The State Board shall develop, maintain and support the statewide list as the official voter registration list. County boards will remain responsible for the operations of voter registration, including but not limited to: maintaining voter registration information, borders and boundaries of political subdivisions, poll resource management, registration list information, and ballot access filings. County boards will also remain responsible for furnishing their lists, reports, and other printing requirements. Counties will be responsible for common infrastructure requirements for supporting the statewide list. Counties and the State Board will maintain the statewide list through existing maintenance of effort appropriations.



New York State Help America Vote Act Plan

**Physical Accessibility**

The State will provide funds through a grant program administered by the State Board, to be used by localities to improve the physical accessibility of polling places. Additionally, HAVA provides for other monies to improve physical accessibility of polling places. Counties may apply for funds for this purpose under Section 261 of HAVA.

**Provisional Balloting**

Provisional balloting is already a county board responsibility, and is included in the maintenance of effort of the county election officials as prescribed in law.

**Voter Education , Poll Worker and Election Official Training**

Voter education is already a county board responsibility, and included in the maintenance of effort of county election officials. Because all jurisdictions will be changing voting technology, there will be costs associated with voter education above the current maintenance of effort.

Poll worker training is already a county board responsibility, and included in the maintenance of effort of county election officials. Because all jurisdictions will be changing voting technology and election day procedures, there will be costs associated with poll worker training above the current maintenance of effort.

Election official training is already a State Board responsibility, and included in the maintenance of effort of the State Board. Due to changes in voting technology and election day procedures, there will be costs associated with election official training above the current maintenance of effort.

**Statewide Complaint System**

The State Board will implement a statewide complaint system to comply with HAVA Title IV, in order to qualify for Title III funding. Working with the county election officials, the State Board will define functional requirements, roles and responsibilities of complaint procedures as defined in Section 9 of the State Plan.

Subject to federal funding of HAVA, the complaint procedure will be funded for development and additional efforts for maintaining the system.

**Election Administration Grant Program**

The State will develop the Election Administration Grant Program, to be utilized by counties for the improvement of electoral processes. All grants are subject to a five percent match by the receiving entity. The State Board will develop a mechanism to evaluate grant applications and the related distribution of funds.

**Administration Costs**

To fulfill the requirements of Title III, the State Board will provide for the coordination, planning, operation and reporting on these programs. Subject to federal funding of HAVA, the State Board will use funds to administer the implementation of HAVA above the current maintenance effort.





## Section 7: Maintenance of Effort

OBJECTIVE:

Describe 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.

GOAL:

Meet statutory mandate for maintenance of effort.

PRESENT STATUS:

The State Board does not provide funds for any activities identified in Title III. Costs for voting systems, provisional balloting, voting information requirements, voter registration lists, and registration by mail are borne by county boards of election.

PROPOSED PLAN:

County boards shall continue to provide maintenance of effort in providing election and voter education as required in HAVA.

## Section 8: Performance Goals and Measures

This section represents a consolidation of performance goals and measures found in other parts of this plan.

OBJECTIVE:

Describe 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 carrying out the plan. This plan includes 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.

GOAL:

HAVA establishes minimum election administration standards for states. It specifically requires New York to:

- Replace all lever machines and punch card voting devices used by counties for elections;
- Certify new and existing voting systems according to national standards;
- Improve voting equipment accessibility, to include physical and language accessibility;
- Enhance existing provisional voting system requirements;
- Establish a statewide complaint system;
- Provide training for election officials and poll workers;
- Increase voter education for new voting systems; and,
- Create a new uniform statewide voter registration list.

PROPOSED PLAN:

The State Board is ultimately responsible for ensuring the success in meeting each performance goal. Each county election office also has a substantial responsibility in meeting performance goals in that the counties will monitor performance measures and will report to the state annually.

The State Board and the counties will enhance current reporting requirements to include specific data to disclose the successes and failures of their jurisdiction as it relates to the implementation of HAVA. The State Board will compile the data in the reports, and create and distribute a statewide report on the programs on an annual basis.





- Replacement of lever voting machines and punch card voting devices.

New York will undertake a statewide effort to facilitate replacement of voting systems in counties where lever machines are used. The effort will also ensure that voting accessibility standards for persons with disabilities are met. This procurement effort will comply with all state procurement rules and laws. The measure of success is the replacement of all lever machines and punch card voting devices.

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| Process used to develop the criteria | Establish the number of counties using lever voting machines and punch card voting devices in the 2000 Federal election. |
| Description of the criteria used to measure performance | 62 New York counties had qualifying precincts in the 2000 Federal election according to HAVA descriptions of replacement voting systems. |
| Performance measure | Number of counties using lever machines and punch card voting devices in the 2004 Federal election. |
| Timetable | January 1, 2003 to January 1, 2006. |
| Description of official to be held responsible for ensuring each performance goal is met | Each county board of elections is responsible for implementing the replacement voting system in their county, however, the State Board is leading the statewide effort for replacement and is therefore ultimately responsible for meeting this performance measure. The State Board is responsible for the certification of all new voting equipment. |

- Voting Equipment Accessibility

Improving voting equipment accessibility, as required by HAVA, shall include accessibility for individuals with disabilities and alternative language accessibility as determined in HAVA and the Voting Rights Act of 1965. The measure of success for both elements is the successful acquisition and deployment of accessible voting machines by the 2004 Federal election.

The State Board will encourage private-public partnerships to enhance the voting participation of all voters with disabilities in coordination with the Help America Vote Foundation established by HAVA. While beyond the scope of this state plan, activities of such groups may be incorporated into performance reporting to complement physical accessibility goals.

Cities and towns currently designate and inspect all polling places for physical accessibility. Beginning with the 2004 Federal election, and with an eye toward monitoring and uniformly addressing physical accessibility in the polling place, the inspection results will be added to a report that counties already file with the State Board. Success will be measured by compliance

with the state and federal laws and regulations on physical accessibility. County reports on accessibility will include data from on-site inspections of polling places, the number of polling places that are accessible, and will describe measures taken to bring inaccessible polling places into compliance.

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| Process used to develop the criteria | Establish number of counties using accessible devices in the 2000 Federal election. |
| Description of the criteria used to measure performance | All 62 New York counties will require alternative voting accessibility devices in the 2004 Federal election according to HAVA. |
| Performance measure | Number of counties using voting accessible compliant devices in the 2004 Federal election |
| Timetable | January 1, 2003 to Federal election 2004 |
| Description of official to be held responsible for ensuring each performance goal is met | The State Board is responsible for the certification of HAVA compliant voting equipment in the state. |

- Alternative Language Accessibility

The goal of providing useful and ample language accessibility has always been, and continues to be, compliance with the Voting Rights Act of 1965. Voters requiring alternative languages are represented in percentages based on census figures. The entire election process, from voter registration to casting the ballot, is enhanced with providing alternative language accessibility as required by the Voting Rights Act of 1965. Success will be determined by the provision of types and quantities of materials available in required alternative languages.

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| Process used to develop the criteria | The state and counties already provide language accessibility as required by the Voting Rights Act of 1965. By the 2004 Federal election, the State Board will ascertain that jurisdictions identified by U.S. Department of Justice requiring alternative language accessibility are in compliance. |
| Description of the criteria used to measure performance | Counties will provide the state with a report of alternative language capabilities with reference to ballots, publicity pamphlets, voter registration forms and voter education materials. The data provided will allow the State Board to determine if the uniform procedures for providing alternative language accessibility have been successful. |





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| Performance measure | With respect to each county, information will be collected to measure the number of languages required and the number of languages provided for alternative language accessibility for publicity pamphlets, ballots, voter registration forms and voter education materials. |
| Timetable | Federal election 2004 and annually thereafter. |
| Description of official to be held responsible for ensuring each performance goal is met | The county boards are responsible for ensuring each performance goal is met, with the assistance and cooperation of the State Board. |

- Provisional Ballots

Provisional ballots, called affidavit ballots in New York, are currently provided for in statute. They are a fail-safe option for voters whose name does not appear in a poll book, for those who have moved but not yet notified their respective board of elections, or in Primary elections for voters for whom their stated enrollment does not match the enrollment specified in a poll book. The current statute requires that a notice, with a registration form, be sent to each person who cast an affidavit ballot which was deemed invalid and was thus, not canvassed.

New York intends to enhance existing statutory requirements for provisional (affidavit) ballot voting, to encompass offering said ballot to those voters for whom identification must be provided at the time one votes, but who fail to present identification. The notification process will be amended to provide for notice of the disposition of each affidavit ballot cast to those respective voters. Additionally, the affidavit ballot envelope will be amended to reflect appropriate selection by the voter as to the reason for the casting of the affidavit ballot.

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| Process used to develop the criteria | The State Board will review the current statutes and county board procedures and make any changes needed for provisional (affidavit) balloting. |
| Description of the criteria used to measure performance | Modify the current notice to voters to: add an explanation of instances where failure to present ID can be overcome by the casting of an affidavit ballot; add the phone number of county board of elections to ensure toll-free access for voter to follow-up on their ballots; and create a voter's bill of rights for distribution and posting in all poll sites. |
| Performance measure | Each county board will report the following information:<br>• The distribution of revised notices in election day supplies.<br>• The addition of revised procedures to any state or local inspector and voter education initiatives. |

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| | • A review of amended processes added to inspector training curriculum. |
| Timetable | Notices to be modified and documents to be distributed by May 2004, to inaugurate the process and to ensure full implementation by the 2004 Federal election. |
| Description of official to be held responsible for ensuring each performance goal is met | County election officials are responsible for provisional ballot distribution verification and compliance with procedures established by the State Board. The State Board is responsible for reviewing compliance reports submitted by counties. |

- State Board Administrative Complaint Procedure

The State Board will implement a statewide complaint procedure. Measurement of the success of the statewide procedure will be the availability and performance of the system, as well as the experience for the voter.

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| Process used to develop the criteria | Evaluation of the legislation, Task Force sessions, and in-house work sessions with appropriate staff. |
| Description of the criteria used to measure performance | Measurement of success for the statewide complaint procedure will be the availability and performance of the system, as well as the experience for the voter. |
| Performance measure | The State Board will review the total number of complaints received and resolved. The following information will be collected to objectively measure performance:<br>• Number of complaints received<br>• Number of complaints resolved<br>• Number complaints resolved in 60 days<br>• Number of complaints resolved in 90 days<br>• Number of complaints unresolved<br>• Description of reason complaint is left unresolved |
| Timetable | January 1, 2004. |
| Description of official to be held responsible for ensuring each performance goal is met | State Board of Elections. |





- Election Official and Poll Worker Training

The State Board is committed to effective election official and poll worker training which will result in positive voter experiences and fair and orderly elections. Poll workers will be trained in new procedures and the operation of new voting equipment. Significant HAVA resources will be devoted to the training of poll workers and election officials to ensure the successful introduction of new voting systems and procedures in New York. Poll worker training is essential to the successful implementation of HAVA in New York State. Each person should be provided with sufficient knowledge and information to intelligently perform their role in the process whether as a voter or election worker.

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| Process used to develop the criteria | Evaluate existing training programs and corresponding manuals in conjunction with new HAVA requirements. |
| Description of the criteria used to measure performance | Analyzing the number of election officials/poll workers trained in each county will allow the State Board and county boards to determine whether the uniform training as implemented, was successful. |
| Performance measure | With respect to each county, the following information will be collected to measure election official/poll worker training performance:<br>• The number of election officials to be trained in each county.<br>• The total number of poll workers to be trained in each county.<br>• The number of election officials that are trained in each county.<br>• The total number of poll workers that are trained in each county. |
| Timetable | Spring 2004 training on new election day processes; training on new equipment when acquired by locality. |
| Description of official to be held responsible for ensuring each performance goal is met | County election officials are responsible for poll worker training and reporting, however, the State Board is responsible for establishing the guidelines, reporting requirements and ultimately the success of this performance measure. |

- Voter Education

The goal of providing useful and ample voter education has always been a priority of the State Board and county election officials. Measuring the success of voter education, however, is complicated and includes variables such as uncontested races, controversial ballot measures, and complicated ballot layouts. The State Board views the entire election process, from voter registration to casting the ballot, as voter education. Therefore, success will be determined by

the subjective inspection of many factors revolving around the voter.

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| Process used to develop the criteria | The counties and certain community/political groups already provide voter education opportunities. By the 2004 Federal election, additional steps will be taken to ensure voter knowledge of changes in voting systems and election day procedures required by this Act. The counties will include details of their efforts in the annual reports they file with the State Board. |
| Description of the criteria used to measure performance | The assimilation by the voter of new election day processes will be determined by the number of problems occurring on election day. |
| Performance measure | With respect to each county, the following information will be collected to measure performance:<br>• Number of public service announcements,<br>• Number of locations where voting equipment is on public display,<br>• Number of other voter education and voter outreach initiatives, including:<br>• Description<br>• Estimated costs<br>• Participation<br>• Number and nature of problems on election day. |
| Timetable | January 1, 2004 and annually thereafter. |
| Description of official to be held responsible for ensuring each performance goal is met | The State Board and the county boards are all responsible for ensuring the success of voter education; however, the State Board is responsible for the success of all statewide coordinated efforts for voter education. |

- Centralized Statewide Voter Registration List

The State Board will implement a statewide voter registration list. The State Board's goal is to meet the requirements of HAVA, while maintaining the current level of election services at the local level, and at the same time enhancing the administration of voter registration and the election process for the citizens of New York. Working with the county boards of elections, the State Board will define functional requirements, roles and responsibilities of carrying out the functions of voter registration to enhance the operations of these offices. In order to comply with the requirements of Title III of HAVA, the State Board "shall implement, in a uniform and non-discriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list."





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| Process used to develop the criteria | Evaluation of the legislation, Task Force sessions, in-house work sessions with appropriate staff, consultation with other state agencies having related expertise, and on-site visits to other states and county boards to review voter registration systems. |
| Description of the criteria used to measure performance | Implementation of a single, uniform, statewide voter registration list accessible to all counties and having appropriate verification capabilities. |
| Performance measure | The State Board has identified three stages for the creation of the statewide list.<br>Stage 1: Planning<br>– Completion of business analysis<br>– Establishment of database architecture<br>Stage 2: Development<br>– Development of the database model<br>– Determination of hardware and software components of the database architecture<br>– Acquisition of the requisite hardware and software components of the database<br>– Development of a single statewide uniform user interface<br>– Development of the necessary Wide Area Network (WAN) with local boards of elections<br>– Testing with regards to all of the above<br>Stage 3: Implementation<br>– Migration of local voter registration data into statewide list<br>– Training of appropriate personnel<br>– Rollout of the system to local boards of elections<br>– Troubleshooting with regards to items outlined in Stage 2<br>– Establishment of fully operational system<br>– Testing with regard to all of the above |
| Timetable | January 1, 2003 to Federal election, 2004 |
| Description of official to be held responsible for ensuring each performance goal is met | The State Board is responsible for implementing and operating the statewide voter registration list. |

## Section 9: Administrative Complaint Procedure

OBJECTIVE:

Provide a description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under Title IV.

GOAL:

New York shall develop a procedure for the processing of any complaints for alleged violations of Title III of HAVA.

PRESENT STATUS:

The State Board currently provides the opportunity for any person to file a complaint about provisions of the Election Law, election day procedures, election administration and voter registration. This includes complaints relating to the National Voter Registration Act. In addition, complaints may be also made to any county board of elections.

PROPOSED PLAN:

Initially, any complaints made at the local level may be resolved there in an informal manner. Thus, the officials closest to the problem may correct it in the most efficient and timely way possible.

1 - 800 - FOR VOTE is the State Board's current toll-free election information line (with TDD capability). This system will be expanded to implement the initial call-in element of a statewide complaint procedure. The statewide procedure will allow for the comprehensive coordination of response by the State Board and county election officials with the initial complaint handled in person or by phone call and progressing to a written process when needed.

The State Board will set up a method for processing written complaints received in compliance with HAVA requirements. The State Board will assist any person with disabilities in making a complaint.

As required by HAVA, the process will provide for an opportunity for any complainant to request a hearing on the record. The procedure will also provide that the State Board will make a final determination of a complaint within 90 days, unless the time limit is waived by the complainant. If the State Board fails to meet this deadline, an alternative dispute resolution procedure will be used to resolve the complaint within 60 additional days.





PERFORMANCE GOALS AND MEASURES: (also repeated in Section 8)

The State Board will implement a statewide complaint procedure. Measurement of the success of the statewide procedure will be the availability and performance of the system, as well as the experience for the voter.

| | |
|---|---|
| Process used to develop the criteria | Evaluation of the legislation, Task Force sessions, and in-house work sessions with appropriate staff. |
| Description of the criteria used to measure performance | Measurement of success for the statewide complaint procedure will be the availability and performance of the system, as well as the experience for the voter. |
| Performance measure | The State Board will review the total number of complaints received and resolved. The following information will be collected to objectively measure performance:<br>• Number of complaints received<br>• Number of complaints resolved<br>• Number complaints resolved in 60 days<br>• Number of complaints resolved in 90 days<br>• Number of complaints unresolved<br>• Description of reason complaint is left unresolved |
| Timetable | January 1, 2004. |
| Description of official to be held responsible for ensuring each performance goal is met | State Board of Elections. |

## Section 10: Title I Payments

OBJECTIVE:

Describe how any payment under Title I will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

GOAL:

Provide for effective and efficient use of available federal funds.

PRESENT STATUS:

The Federal government has never distributed funds to New York State for election purposes.

PROPOSED PLAN:

Pursuant to HAVA and in anticipation of receiving full funding for Title I, money will be distributed to provide for lever machine replacement for each county where a lever machine system is in use. Section 6 details how the federal funds will be spent to meet the requirements of Section 301 of HAVA.

New York will initiate a program to facilitate voting system replacement. Every county in the State will require new voting systems. The State Board will explore a procurement effort to acquire these systems. The scope of the program will be the replacement of voting systems. The State Board will work with county election officials to ensure that all needs are met, including but not limited to: system acquisition; system maintenance; election preparation services; and election tabulation services.

This Plan proposes that counties own and operate the systems and work with vendors to maintain the new voting systems and retain control of election services at the county level.

The State Board will implement a statewide voter registration list to comply with the HAVA Title III. Working with the county election officials, the State Board will define functional requirements and roles and responsibilities of carrying out the functions of voter registration. The State Board will define, maintain and administer at the state level "the single, uniform, official, centralized, interactive computerized statewide voter registration list."

Any remaining funds will be used for the other programs described in Title I, Section 101 (b) (1). Section 6 of the State Plan details how such funds will be allocated.





## Section 11: Management of the State Plan

OBJECTIVE:

Describe 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: is developed and published in the Federal Register in accordance with Section 255 in the same manner as the State Plan; is subject to public notice and comment in accordance with Section 256 in the same manner as the State Plan; and takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

GOAL:

The State Board will ensure proper management of obligations set forth in HAVA.

PRESENT STATUS:

Presently the State Board has oversight responsibilities for all 62 county boards of elections. The various mechanisms used at the present time, for conducting related monitoring and educational activities, include the following:

- on-site board visits, followed by written reports (to the State Board, County Board, and local legislative leaders, as appropriate)
- annual report statistical review, encompassing a quantitative summary of board activities
- extensive subject-specific surveys regarding procedures, processes or events
- certifications by county boards on the performance and outcome of certain statutory tasks (such as required mailings to voters, polling place evaluations, etc.)
- presentation of an annual conference, for all election officials in the state (usual attendance exceeds over 200 participants), including a Professional Practices component
- participation in two statewide conferences sponsored by the New York State Election Commissioners Association, at which the State Board presents workshops on specific topics
- creation and distribution of a "Guide to Operating a Board of Elections", to assist election officials in standardizing and professionalizing day-to-day and election-specific operations
- numerous memos on procedure and performance suggestions, to assist county boards in the development of operational procedures
- creation and distribution of model procedures which are task-specific, and serve as an easy reference and guide for the conduct and anticipated outcome of certain procedures (such as the NVRA-related List Maintenance Directory)

PROPOSED PLAN:

All of these existing components will be enhanced to include reviews, assessments, reporting and certification of HAVA requirements, to ensure the uniform, professional and consistent implementation of all aspects of this federal legislation

If the State Board determines the State Plan requires material change, the State Board shall: propose the recommended changes to the Chief State Election Official; allow for public comment for not less than 30 days; and publish in the Federal Register upon submitting the revised plan to the Election Assistance Commission.





## Section 12: Changes to State Plan from Previous Fiscal Year

OBJECTIVE:

Describe 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.

GOAL:

To establish a mechanism to address changes in subsequent years of the state planning process pursuant to HAVA.

PRESENT STATUS:

Since this is the first round of state planning, no process currently exists.

PROPOSED PLAN:

This State Plan is the Preliminary State Plan required under HAVA. This Section will be updated in the next fiscal year, reflecting changes to the State Plan, as well as a summary of the 2003 successes.

## Section 13: The Planning Committee and its Procedures

OBJECTIVE:

Provide 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, including the membership of the committee and its activities, such as hearings or other forms of public input, publications, notices, comments, and actions taken as a result of comments.

DESCRIPTION OF THE DEVELOPMENT OF THE STATE PLAN:

Pursuant to Section 255, on February 7, 2003, the Chief State Election Official, Peter S. Kosinski, Deputy Executive Director of the New York State Board of Elections, appointed a task force to advise in the development of the State Plan, designated the Help America Vote Act State Implementation Plan Task Force (Task Force). The group included persons who provided expertise and meaningful input to the formation of the Plan, as well as representatives of groups mandated by HAVA.

Representatives of various government groups were appointed, including the Governor's Office; the New York State Senate and Assembly; the New York State Department of Motor Vehicles; New York State Office for Technology; the Secretary of State's Office and the Division of the Budget. The Secretary of State's Office and the Division of the Budget assisted with local government interaction issues and budgetary concerns, respectively.

Also mandated by HAVA and included on the Task Force, were representatives from the boards of elections of the two largest jurisdictions in the state, New York City and Suffolk County. Representatives from two upstate county boards of elections and an official representing county government also served as Task Force members.

In light of the provisions of HAVA concerning persons with disabilities, a representative of disability groups, as well as New York's Advocate for Persons with Disabilities, were appointed. A representative of each of the major state political parties and the New York State League of Women Voters also served on the panel.

The Chief State Election Official designated a portion of the State Board of Election's website at www.elections.state.ny.us as a place for the public to view the Task Force's composition, meeting schedule, minutes of meetings, and back-up resource for the State Plan.

The Task Force held open, public meetings on February 26, March 5, 12, 19, and 26, 2003 and advised and provided feedback to the Chief Election Official on elements for the State Plan.





**Composition of Task Force**

| Member | Organization |
|---|---|
| Laurence Adamczyk | Commissioner of the Erie County Board of Elections |
| Aimee Allaud | League of Women Voters |
| Maggie Brooks | Monroe County Clerk |
| Randy Daniels | New York Secretary of State |
| Member of Assembly RoAnn Destitio | New York State Assembly |
| James Dillon | Chief Information Officer for New York State |
| John Haggerty, Jr. | New York State Republican Party |
| Peter James Johnson, Jr. | Governor's Office |
| Anita S. Katz | Commissioner of the Suffolk County Board of Elections |
| Douglas Kellner | New York State Democratic Party |
| Helen M. Kiggins | Commissioner of the Onondaga County Board of Elections |
| Raymond Martinez | Commissioner NYS Department of Motor Vehicles |
| Jerry Minot-Scheuermann | New York State Division of the Budget |
| Senator Thomas Morahan | New York State Senate |
| John Ravitz | Executive Director for the NYC Board of Elections |
| Senator Nicholas A. Spano | New York State Senate |
| Richard Warrender | New York State Advocate for Persons with Disabilities |
| Brad Williams | New York State Independent Living Centers |
| Member of Assembly Keith Wright | New York State Assembly |

Representatives of the following groups attended and participated at the Task Force meetings:

Accenture
Asian Legal Defense Fund
Office of Assemblyman Peter Rivera
Associated Reporters
Brennan Center for Justice
Center for Independence
Citizen's Union
Citizens for Instant Runoff Voting
Common Cause/NY
DEMOS
District Council 37
Eastern Paralyzed Veterans Association
Election Systems and Software
Gannett News Service
Green Party
Liberty Election Systems
NTS Data Services
NY Immigration Coalition
NY Statewide Senior Action
NY Public Radio
NY Public Interest Research Group
NYC Mayor's Office
NYS Senate Minority Counsel
NYS Commission on Quality of Care
NYS Office of General Services
NYS Association of Community & Residential Agencies
NYS Independent Living Center
Orange County Board of Elections
Patricia Lynch Associates
Schenectady County Board of Elections
SENSES
Sequoia Pacific Voting Systems
The Century Foundation
Western NY Independent Living Program





The Drafting Committee did extensive research and utilized a variety of resources from inside and outside the agency to create the plan.

The Drafting Committee was composed of :

Peter S. Kosinski, Chief Election Officer
Thomas Wilkey Executive Director, NYSBOE
Lee Daghlian, Public Information Officer
Tim Mattice, Special Projects Coordinator
William McCann, Special Deputy Counsel
Patricia Murray, First Deputy Counsel
George Stanton, Director of Information Technology
Anna Svizzero, Director of Election Operations
Todd Valentine, Special Counsel
Stanley Zalen, Enforcement Counsel

## Section 14: Public Comments

To comply with Section 256 of the Help America Vote Act, New York State made a preliminary version of the state implementation plan available for public inspection and comment on June 20, 2003. The Plan was made available through the State Board of Elections' web site and at every public library throughout the state.

Three public hearings were conducted throughout the state during the public comment period affording interested persons and groups an opportunity to present comments to the chief election official, State HAVA Task Force members and staff of the State Board of Elections. Comments were also received by e-mail and regular mail. The public comment period extended to July 23, 2003. Each of the comments was thoroughly reviewed by the State and considered in the final plan. The following is a list of of the most common comments that were presented with a response to each comment.

Public Comment:

The Plan should provide more specificity on issues such as types of identification first-time voters present, databases intended to be used to verify voters, the voting machines the state intends to purchase, and other HAVA mandates.

Response:

The Plan is intended to be a broad and living document, pursuant to the intent and spirit of HAVA's provisions. The Plan, as drafted, creates a series of avenues which the State can follow to implement all of HAVA's requirements once legislative and other related issues are identified and resolved. Specific answers can only be provided after an analysis of the results of that debate. The Plan, therefore, is an ongoing process, also acknowledged by HAVA legislation, which allows the State to update its Plan as changes in state statute or policies necessitate.

Public Comment:

The Plan did not provide for sufficient detail of accessibility standards for voting systems or polling places.

Response:

Accessibility for voting machines is anticipated under HAVA to be a national issue. The Election Assistance Commission is to set voting machine accessibility standards with the assistance of the voting systems standards advisory group. New York's existing regulations on voting machine standards already require voting machines to meet the federal standards. These standards are not a state-by-state criteria and therefore are not appropriate for the State Plan.

Accessibility for polling places is addressed through HAVA by the establishment of a





separate fund to be administered by the Department of Health and Human Services. The State has submitted a proposal to access federal funds administered by the Department of Health and Human Services. To augment this fund the plan did provide for additional monies that could be used to improve polling place accessibility.

Public Comment:

The Plan does not adequately address the security of new voting systems.

Response:

HAVA's intent is to have in place national standards for the integrity and performance of voting systems in use throughout the country. HAVA requires the use of DRE (direct electronic recording) voting systems to maximize access for persons with disabilities. In order to facilitate these concepts, HAVA provides for a national certification program for voting equipment, which may be complemented at the state level with additional testing processes. Technical and scientific professionals will be responsible for creating thorough and stringent national security standards and for identifying testing facilities for the execution of tasks related to ensuring same, through the certification process. In addition, advocacy and other groups representing the sciences and accessibility communities are represented in those debates at the national level, to ensure that all concerns are addressed. These issues, therefore, need not be addressed separately in a State Plan.

Public Comment:

The Plan does not address New York's full-face ballot requirement.

Response:

Present statute requires that all voting systems support a full-face ballot layout. Some public hearing comments expressed an interest in exploring options for systems that do not. New York's State Plan was written from the perspective of the current statute, as it relates to ballot layout. The Plan was not meant to select any certain system, nor was there any intent, desire or ability to foresee actions the Legislature might choose to take with regard to voting systems or ballot layout. The Plan does provide however, an overall concept for the acquisition and implementation of any voting equipment which will reflect any modifications attributed to Legislative consideration of changes to existing ballot layout requirements.

New York - STATEPLANms word1 version.doc

New York State Help America Vote Act Plan

Public Comment:

The Plan should include a comprehensive list of identification cards which will be acceptable under HAVA for verification purposes.

Response:

One of the underlying purposes of HAVA is the prevention of voter registration fraud through the verification of a voter's identity. Voter identification is one of the methods that may be used for this purpose. There are hundreds of agencies, both public and private, which issue identification documents. In order to accept identification, the State must be reasonably assured that they were issued only after the issuing agency verified the individual's identity. Certainly identifications issued by government agencies are among those that will satisfy HAVA. However, there is not sufficient information available at this time for the Plan to include a comprehensive list of issuing agencies whose identification documents will qualify for HAVA verification purposes.

Public Comment:

The Plan should include implementation of a training program for poll workers and election officials relative to persons with disabilities.

Response:

The Plan provides that the State Board of Elections will be collaborating with a professional training organization to develop a statewide training program for all county boards of elections. In the development phase of this program, the training professionals will be consulting with the community of individuals with disabilities. This consultation will result in a training program which include how to professionally and appropriately succeed in guaranteeing an independent, positive and smooth process for the voter with a disability. This process will include, but not be limited to, dealing with the person who is blind, persons using a wheelchair, the hearing impaired, persons with developmental disabilities, individuals with language barriers, and the elderly. The goal of the training program will be that ALL voters who arrive at their polling place will not have to overcome barriers to exercise their right to vote.

# NORTH CAROLINA

## STATE PLAN
## Help America Vote Act of 2002




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# Introduction

The mission of the North Carolina State Board of Elections is to promote among the citizens of the state confidence in the integrity of the free election process through the consistent administration and equal application of all election and campaign finance laws, rules, and regulations.

Overall, the State Board is responsible for supervision of elections and campaign finance disclosure across the State. The five-member Board, appointed by the Governor, is the only statutory, bipartisan, quasi-judicial directory board in North Carolina State government. The Office is composed of three functional units:

- Administration
  General supervision of the 100 county boards of elections (and the four remaining municipal boards of elections) in the administration of elections and related laws, certification of election results, voter outreach, voter registration, absentee voting, education/training, investigations/audits, and legal matters.
- Campaign Finance Reporting
  Assistance and training to candidates and political committees, disclosure tool development, report auditing, amendment assistance to committees, training for boards of elections, investigating complaints, conducting research and preparing for State Board evidentiary hearings, providing for electronic filing, and public education and access to disclosure reports.
- Information Systems
  Implementation, enhancement, and maintenance of the state election information management system, providing assistance to counties, and providing statewide election data to the public.

The State Board supervises all primary and general elections held in the State through

- Enforcing the election laws
- Promulgating guidelines, rules, and opinions governing the conduct of primaries and elections
- Hearing complaints regarding the conduct of a county board of elections or a county board member
- Conducting investigations, when necessary or advisable, of the administration of election laws and any potential fraud or irregularities in elections





- Ordering of a new election upon the vote of no fewer than four of the five members of the Board when sufficient evidence exists that alleged election irregularities, fraud, or violations of election laws have occurred and affected the outcome of the election or tainted the results of the entire election and cast doubt on its fairness.

The State Board of Elections HAVA Advisory Committee recommends the following initial steps for North Carolina's compliance with the Help America Vote Act (HAVA):

1. Expand the use of the Statewide Election Information Management System (SEIMS) from the current 94 North Carolina counties to all 100 as soon as practicable but not later than January 1, 2006. Because the State database will be the official voter registration information, the State Board will initiate, support and be fiscally responsible for the list maintenance effort, including verification and confirmation mailings. This will bring uniformity to the voter registration records.

2. Replace non-compliant voting systems used in November 2000 with compliant voting systems as soon as practicable but not later than January 1, 2006. The replacement voting systems must be compliant with Sec. 301.

3. Perform a needs assessment study to provide increased accessibility for persons with disabilities through compliant voting systems, improvements to voting sites, and expanded distribution of public outreach information.

4. Insure through uniform training of poll workers and election officials that all persons presenting themselves to vote are able to cast a regular or provisional ballot. The provisional voter will be told how to learn whether the ballot was counted and, if not counted, the reason. A free access method to obtain this information will be provided.

5. Provide each polling place with information to be posted containing instructions on casting regular and provisional ballots, general information on voting rights and federal and State laws regarding prohibitions on acts of fraud and misrepresentation, and information on how to contact appropriate officials.

6. Supplement the State Board of Elections Certification Program and in cooperation with the North Carolina Community College System, establish a training and civics curriculum for elections officials and interested public, including support materials and other media and

provide funding for non-partisan voter education programs. Training shall include, but not be limited to, cultural and disability awareness curriculum and polling place access in response to the increasing diversity of voters.

7. Speed improvements in technology at county board of elections offices and voting sites through a purchasing program by the State. By purchasing equipment in volume, the State will be able to negotiate favorable rates with vendors.

8. Implement a voter education program for the general public. In addition to Citizens Awareness Month and statewide voter registration drive, the program will include an Elections Help Desk and an enhanced State Board of Elections website containing a polling place registry, accessibility information, polling place maps and directions to polling sites, connections to the sample ballots for each voter, public service announcements, Voter Guides and training videos for elections officials and voters. Public terminals and printers will be located in each county board of elections office for the public to access information and print reports.

9. There are several references to North Carolina Statutes and rules in the plan. The North Carolina Election Laws and Administrative Code can be accessed on the North Carolina Board of Elections Web site at WWW.SBOE.STATE.NC.US.





## Recent Elections Context

The North Carolina State Board of Elections is composed of five members appointed by the Governor. Historically, three members are affiliated with the political party of the incumbent Governor and the two remaining members are affiliated with the largest other political party. The State Board appoints the three members of each of the State's 100 county boards of elections. Historically, the two members of each county board are affiliated with the political party of the incumbent Governor and the remaining member is affiliated with the remaining major political party.

The State Board, acting on its own initiative and in response to directives from the North Carolina General Assembly, has taken a number of steps in recent times to facilitate voter participation and to improve the administration of elections in the State.

**Absentee Voting.** The 2001 North Carolina General Assembly amended the absentee voting laws to allow all voters to cast an absentee ballot, eliminating the historic eligibility requirements of illness or anticipated absence. The State Board developed rules to facilitate the use of facsimiles and electronic mail for absentee voting by military and overseas citizens.

**Certification Program.** Begun in June 1995, the North Carolina Program for Certification in Elections has served as a means of enhancing election expertise, promoting uniformity and equal application of election laws throughout the state, and raising the level of professionalism of elections officials. Central to the program are 13 "core" courses, which include topics such as voter registration, election laws, campaign finance reporting requirements, and budget preparation.

**Spanish Language Expansion.** According to records with the State's Division of Motor Vehicles, there are at least 110,000 driver examinations are administered in Spanish per year, and the State Board has provided Spanish-language voter registration application forms for use at the Division of Motor Vehicles (DMV) and other sites throughout the State. Other election-related documents have been translated into Spanish and are available on the State Board's website at www.sboe.state.nc.us. The State Board office provided ballot instructions in Spanish for all 100 counties for the 2002 General Elections.

**Accessibility for Persons with Disabilities.** Studies conducted by researchers from Rutgers University show that participation in elections among citizens

with disabilities is about 20% lower than participation among citizens without disabilities. According to information provided by the State Division of Vocational Rehabilitation and the State Division of Services for the Blind, approximately 19% of North Carolinians have a disability. Some reports show that nearly a half million North Carolinians with disabilities are of voting age.

A State Board survey conducted by county board of elections offices indicated that over 80% of North Carolina's polling places were accessible. The State Board staff lowered that estimate dramatically, however, when polling places were examined under federal accessibility guidelines. To educate county board members and their staffs about federal accessibility standards, the State Board staff made an extensive education and training effort. Part of this effort was to develop a training video. This video developed by the staff of the State Board received national recognition and is used as a training device in several states.

**Wellness Checks.** The State Board has general supervision over the primaries and elections in the State and conducts training for the county boards of elections for the administration of election laws. To fulfill this mandate and ensure compliance, the State Board of Elections staff and investigators perform wellness checks at each county elections offices, a preventative maintenance program, and when necessary conducts formal audits of county elections offices. If found to be non-compliant the county board is provided a rehabilitation process through the staff of the State Board to ensure that upcoming elections are conducted with integrity, fairness, and according to law. The public terminals provided by HAVA will also be added to the wellness check process.

**Statewide Computerized System.** In 1996 the General Assembly directed the State to develop and implement a computerized statewide elections management system to support efforts of the State and county boards. The resulting State Election Information Management System (SEIMS) is a suite of applications that automates and standardizes voter registration and elections management processes. It now links all 100 counties electronically to facilitate the exchange of information for voter registration reports, maintenance and elections management. The central database is used to perform cross-county checking of voter registrations for duplications, distribute DMV voter registration information and validate and distribute reports of deaths and felony status to the counties. Counties were given the option of using the State system for local processing or conforming to the State's standards and providing the county data to the State Board on a weekly basis. Ninety-five counties are using the state system for local processing of voter registration and all 100 counties use SEIMS to report and certify election results.

**Data Quality Management.** The State Board is aggressive in seeking ways to improve the accuracy of information regarding all aspects of elections, but especially with regard to the voter file. One of the ways the software system





assures that voters are assigned to correct voting districts is through the use of a street file or "geocode" system. When implementation of SEIMS began, there were approximately 40 distinct voter registration systems within the 100 counties. Of the 40 systems, only about five systems had street files and used the information to assign voter jurisdictions by residence address. Many systems allowed county override, which has sometimes resulted in voter jurisdictional assignments being different from street jurisdictional assignments. The improvement in data quality has been the primary focus from the onset and during the conversion process staff and contractors found data anomalies in all counties' legacy data. Other work includes improving removal programs for duplicates, deaths and felons.

**Automated Data Transfer.** Several enhancements in the past year have improved the accuracy of voter registration data and the efficiency of the county boards of elections. One was the implementation of the automatic transfer of DMV registrations into the county systems. Registrations from DMV are now automatically entered into the voter registration system for the 95 counties using SEIMS, eliminating data entry for approximately 60% of new registrations. County personnel can now spend their time verifying the data rather than performing data entry tasks.

**Service to the Public.** The State Board has enhanced its service to the public through its WEB site. It is now possible for anyone to search and review campaign finance reports, search for voter registration records for voters in all counties of the State, and view statewide election results on election night. Using the WEB site to post information in a timely manner has greatly reduced the time and resources of the staff in answering questions and providing data and reports. For example, voter registration data for all 100 counties is updated automatically each week. Some examples of the volume of requests handled by the WEB site are listed below:

| | Daily Average Number of Requests | Peak Daily Number of Requests |
|---|---|---|
| **Election Results** | **1,420** | **143,986** |
| **Voter Registration Search** | **1,770** | **33,952** |
| **Campaign Finance Data** | **206** | **1,640** |

In one of the most popular features of the WEB site, a voter can check the status of his or her own voter registration online. Voters may search across all 100 counties for their registration, check their registration data, search their voter history records, find their district and polling places, and generate maps and directions to their polling places.

**Provisional Voting.** Provisional voting has been available in North Carolina since the late 1980s. The procedure for provisional voting is contained in the State Board publication "Administration of Voter Registration, Policies and Procedures for the Implementation of the NVRA of 1993" and in Article 13A, Chapter 163 of the North Carolina General Statutes. Eligibility of the voter is determined under current State voter registration laws.





## State Plan (HAVA §254)

In the pages that follow, North Carolina presents its Preliminary State Plan in compliance with Section 254 of HAVA. The Plan is presented in the sequence set out in Section 254 as follows:

**1.** § 254(a)(1) Title III Requirements and Other Activities to Improve Elections Administration
- § 301(a), Voting Systems Standards
- § 302, Provisional Voting and Voting Information
- § 303, Computerized Statewide Voter Registration List and Voters who Register by Mail
- § 311 and § 312, Adoption of Voluntary Guidance by Commission

**2.** § 254(a)(2) Requirements Payments

**3.** § 254(a)(3) Voter Education, Election Official Education and Training, and Poll Worker Training

**4.** § 254(a)(4) Voting System Guidelines and Processes

**5.** § 254(a)(5) HAVA Election Fund Management

**6.** § 254(a)(6) North Carolina's HAVA Budget

**7.** § 254(a)(7) Maintenance of Effort

**8.** § 254(a)(8) HAVA Performance Goals and Measures

**9.** § 254(a)(9) State-Based Administrative Compliant Procedures

**10.** § 254(a)(10) Effect of Title I Payments

**11.** § 254(a)(11) HAVA State Plan Management

**12.** § 254(a)(12) Changes to State Plan from Previous Fiscal Year

**13.** § 254(a)(13) State Plan Committee

## 1. §254(a)(1) Title III Requirements and Other Activities

### §301(a), Voting Systems Standards

*Deadline for Compliance: January 1, 2006; no waiver permitted.*

To be used in North Carolina, a voting system must be certified by the State Board of Elections. Currently about one-half of the counties use optical scan systems and slightly more than one-third use direct record electronic systems. Recent actions and purchases indicate that direct record electronic systems are preferred by the State Board, the counties and many voters. Some of the systems currently in use can be upgraded to become accessible for those with disabilities. Currently only three counties utilize traditional paper ballots.

**Ballot privacy and correction.** Section 301 of HAVA requires that voters must have a private and independent manner to mark, verify, and cast their ballots. Instructions detailing the procedure for correcting an error on the ballotincluding replacement of the ballot, and notification of the effect of an overvote must be provided to voters.

North Carolina statutes provide for privacy in voting through the requirement of poll booths. Voters are permitted to request up to three replacement ballots to correct errors prior to casting the ballot. However, North Carolina law does not currently provide for the overvote effect information.

Non-compliant voting systems utilized in the 2000 General Election will be replaced with Section 301 compliant voting systems. Voting systems will notify the voter of an overvote before the ballot is cast. Printed informational signs at all of the State's precincts will instruct voters about the procedures for correcting an error on the ballot or replacing a ballot and about the effect of an overvote. When appropriate, these informational signs will be provided in Spanish as well as English.

Voters with disabilities will be provided access through the use of Election Assistance Commission (EAC) compliant voting systems at each precinct and one-stop absentee voting site. Voters with disabilities will continue to have the option to vote by absentee ballot, either in person at a designated site or through the mail. North Carolina does not require any excuse to vote by absentee. Attached as Appendix D is a summary of current and proposed accessibility provisions pertaining to voting in North Carolina.

**Certification requirements.** State Board rules governing the certification of voting systems set requirements related to the casting of votes by the voter,





certification by an independent testing authority, manual audit capacity, and compliance with current federal standards for voting systems.

The State Board will advise the county boards on securing replacement voting equipment for non-compliant voting systems used in 2000. County boards will be required to maintain their systems in proper working condition consistent with State Board rules as published in the North Carolina Administrative Code and to provide certified evidence of such maintenance to the State Board.

**Determining voter intent.** North Carolina statutes require all legally cast votes to be counted, even if irregularly marked, if the intent of the voter can be clearly determined. Ballots are initially counted at the precincts by the precinct officials after the close of the polls in the presence of any witnesses who choose to attend. The precinct officials provide a preliminary report of the vote totals to the county board of elections following the close of the polls.

The statutes and State Board rules provide that in those instances where voter intent must be determined, the county board exercises that duty, using uniform guidelines contained in North Carolina Administrative Code, Title 8, Chapter 9.

| SEC. 102. REPLACEMENT OF PUNCH CARD OR LEVER VOTING MACHINES. | Currently met by NC | Change Required | Comments |
|---|---|---|---|
| Ensure that all punch card voting systems or lever voting systems in the qualifying precincts within that State have been replaced in time for the regularly scheduled general election for federal offices to be held in November 2004. | | X | A waiver will be requested until 2006 |

| SEC. 301. VOTING SYSTEMS STANDARDS | Currently met by NC | Change Required | Comments |
|---|---|---|---|
| (A) VOTING SYSTEM REQUIREMENTS | | | |
| (i) permit the voter to verify the ballot before the ballot is cast | X | | |
| (ii) provide the voter with the opportunity to change the ballot | X | | |
| (iii) if the voter votes for more than 1 candidate for a single office— | | | |
| (I) notify the voter selected more than 1 candidate | | X | |
| (II) notify the voter of the effect of casting multiple votes | | X | |
| (III) provide the voter with the opportunity to correct the ballot. | | X | NC is partially compliant |
| (B) jurisdictions that use paper ballots, punch cards, or central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements by— | X | | |
| (i) establishing a voter education program | | X | |

| SEC. 301. VOTING SYSTEMS STANDARDS | Currently met by NC | Change Required | Comments |
|---|---|---|---|
| (ii) providing the voter with instructions on how to correct the ballot. | X | | |
| (C) The voting system shall ensure privacy and confidentiality | X | | NC is partially compliant |
| (D) AUDIT CAPACITY.— produce a record with an audit capacity | | | |
| (i) produce a permanent paper record | X | | |
| (ii) provide the opportunity to change the ballot. | X | | |
| (iii) The paper record shall be available as an official record for any recount. | X | | |
| (E) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.—The voting system shall— | | | |
| (i) be accessible for individuals with disabilities, accessibility for the blind; | | X | |
| (ii) voting system equipped for individuals with disabilities at each polling place; | | X | |
| (iii) meet the voting system standards for disability access | | X | |
| (F) PROVIDE ALTERNATIVE LANGUAGE ACCESSIBILITY | X | | |
| (G) THE ERROR RATE COMPLY WITH STANDARDS SET BY THE FEC. | X | | |
| (H) ADOPT A UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE | X | | |





## §302, Provisional Voting and Voting Information

*Deadline for Compliance: January 1, 2004; no waiver permitted.*

**Provisional ballots**. Provisional ballots have been in use in North Carolina since the late 1980s. The written policy is contained in a State Board publication entitled, "Administration of Voter Registration Policies and Procedures for the Implementation of the National Voter Registration Act of 1993" and in Article 13A, Chapter 163 of the North Carolina General Statutes. The State Board of Elections will review and amend the procedures as soon as practicable but not later than January 1, 2004, to meet HAVA requirements so voters that cast a provisional ballot will be easily able to learn whether their ballot was counted, and if not, the reason.

**SEC. 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.**

| | Currently met by NC | Change Required | Comments |
|---|---|---|---|
| PROVISIONAL VOTING REQUIREMENTS | | | |
| (1) Notify individuals they may cast a provisional ballot. | | X | Changes will be made to affirmatively offer a provisional ballot |
| (2) Permitted to cast a provisional ballot upon the execution of a written affirmation stating the individual is—<br>(A) a registered voter in the jurisdiction<br>(B) eligible to vote in that election. | X | | |
| (3) An election official shall transmit the ballot to an appropriate official for verification | X | | |
| (4) If the election official determines the individual is eligible the provisional ballot shall be counted. | X | | |
| (5) Individual who casts a provisional ballot will be able to ascertain<br>(A) whether the vote was counted<br>(B) the reason that the vote was not counted. | | X | Changes will be made to allow the voter to readily obtain this info |
| (6) Establish a free access system that allows<br>(A) individuals who cast a provisional ballot to discover whether the vote was counted,<br>(B) if the vote was not counted, the reason that the vote was not counted.<br>(C)Access to information shall be restricted to the individual | | X | Changes will be made to allow the voter to readily obtain this info |
| (7)Voters who vote after the polls close vote by casting a provisional ballot | | X | |

**Voting information.** The State Board will provide to each polling place, information to be posted containing instructions on casting regular and provisional ballots, general information on voting rights and federal and State laws regarding prohibitions on acts of fraud and misrepresentation, and also information on how to contact the appropriate officials.

The State Board will expand the Certification Program and in cooperation with the North Carolina Community College System, implement a training and civics curriculum for elections officials and interested citizens, develop support materials and provide other media. Training shall also include cultural and disability awareness curriculum in response to the increasing diversity of voters. An Elections Help Desk, an enhanced State Board website containing a polling place registry with connection to the Sample ballots for each voter, Public Service Announcements, Voter Guide and training videos for elections officials and voters will be developed in addition to training already required for elections officials. Funds will be provided for non-partisan voter education programs. The public will have access to a public computer terminal and printer at each county board of elections to use for election information and to print reports.

Comments will be invited from county boards of elections and voters for improvements and recommendations for additions to the information provided.

| | Currently met by NC | Change Required | Comments |
|---|---|---|---|
| **PUBLIC POSTING OF INFORMATION** | | | |
| (A) a sample version of the ballot | X | | |
| (B) the date of the election and hours when polling places will be open; | | X | |
| (C) instructions on how to vote | X | | |
| (D) instructions for mail-in registrants and first-time voters; | | X | |
| (E) general information on voting rights including<br>1.information on the right of an individual to cast a provisional ballot<br>2.instructions on how to contact the appropriate officials if these rights are alleged to have been violated | | X | |
| (F) general information on federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | | X | |





## §303, Computerized Statewide Voter Registration and Voters Who Register by Mail

*Deadline for Compliance: January 1,2004; State can submit a certification stating "good cause" that will move the deadline for §303(a) compliance to January 1, 2006.*

By statute (N.C.G.S. 163-82.11), the North Carolina General Assembly directed the State Board to develop and implement a computerized statewide elections management system to support efforts of the State Board and county boards to conduct legal and orderly elections. In 1997, the State Board issued an RFP for the system. The implemented system, SEIMS, is a suite of applications that automates and standardizes voter registration and elections management processes. It links all 100 counties electronically to facilitate the exchange of information for voter registration reports, voter list maintenance, and elections management. The central database is used to perform cross-county duplicate checking of voter registrations, distribute DMV voter registration information, and validate and distribute reports of deaths to the counties.

Counties were given the option of using the State system for local processing or using their own local systems and conforming to the State's standards. Ninety-five counties are currently using the State system for local processing and all 100 counties use SEIMS to report and certify election results. Data is replicated real time from 96 counties to the State database. Counties that are not using SEIMS as a county application update the State database weekly.

SEIMS meets many of the requirements of § 303, but will require updates to fully comply. Doing away with the county option to use their own systems for local processing, and thus having a common system supported by the State in all counties will be necessary to insure the consistent execution of State and Federal election law.

The recent levels of State appropriation have been insufficient to permit the State Board to provide the minimum level of support required to keep SEIMS fully operational. Current resources are insufficient to allow for some critical upgrades to be made. The result could be system failures during the 2004 election cycle. Current resources are also insufficient to insure compliance with HAVA. Several of the basic components have become obsolete (non-supported) since the initial installation. The components that must be upgraded are the database server to SQL/2000

for counties, server operating system to MS 2000, workstation operating system to Windows XP, Visual Basic and the server hardware to new processors.

**Design overview.** SEIMS is a distributed system, designed as two physically separate parts that operate as a single logical system. One part is made up of servers that reside in the counties and have software and a database to perform local functions. The other part is a central State server containing software and a database. These parts are interconnected through the use of the statewide area telecommunications network. The data and functions that that are processed at a county level, such as poll worker processing and data, are maintained at the county level. Data that is required at both the State and county level is mirrored through software replication functions. These replication functions update the State and county databases in real time and keep the data synchronized between

*(A diagram is inserted here in the version on the State Board of Elections WEB site)*

the two physical locations. Voter registration and voter history data are updated and maintained in this manner.





Functions performed at the county level include registering voters, verifying addresses, recording voter history, mailing absentee ballots, printing poll lists, administering polling places, and recording and reporting election results. The State server is used to perform centralized functions. These include cross-county duplicate checking, interfacing with the Department of Health and Human Services for death notifications, interfacing with the Department of Corrections for notification of felon status, producing NVRA reports, and receiving and processing voter registrations from the DMV. Registrations from Driver License Offices are electronically put into the SEIMS counties verification queue. This removes the need for data entry for these registrations. Approximately 60% of new registrations come from Driver License Offices.

In effect, SEIMS provides a logically central and consolidated database that is physically distributed among the counties. This provides support that meets the needs of the HAVA legislation by enforcing consistency across the State while leaving the execution of local functions such as data entry and poll list printing at the county. With SEIMS the county also continues to be responsible for the final determination of voter identification, voter eligibility, voter card processing and petition processing.

**List Maintenance.** As detailed above, the State system currently performs cross-county duplicate checking for all one hundred counties. Interfaces with the Department of Health and Human Services system are used for death notifications and an interface with the Department of Corrections is used for timely notification of felon status. As HAVA is implemented the State will take on additional responsibilities to insure the accuracy and timeliness of updates to the data. This will include the management of the list maintenance processes, verification and confirmation mailings.

**Support.** The State Board is the defacto IT support group for a majority of the counties. It provides support for the SEIMS software on the county servers and for the State-provided server hardware and operating system. The State Board is currently supporting 95 remote mirror database servers and 450 workstations in the counties using SEIMS for local processing. When HAVA is fully implemented in all 100 counties this will grow to 100 remote mirror database servers and approximately 600 workstations.

As detailed above, current resources do not permit adequate support for the system. HAVA funding will be used to provide that support in order to implement the new requirements of HAVA, integrate the five counties

not using the system into SEIMS, and maintain the viability for the counties currently using the system.

**Work items and requirements.** SEIMS has to be updated and modified over time for several reasons. One reason is to meet the requirements of new federal legislation such as HAVA or state legislation. Another is to address upgrades to the underlying hardware and systems software to increase performance, improve reliability, and maintain support of the system. The third is to address requirements from the county boards to improve their efficiency.

**County Requirements**

When SEIMS was first installed in the counties a user group was established. The user group for SEIMS, known as SASS (State Association of SEIMS Supporters) promotes open communication among users of SEIMS. It acts as a source for determining enhancements and upgrades to the SEIMS software. Most importantly, it provides a means of presenting a united position on issues and communicating issues and enhancement requests to the State. The State Board uses input from this group to help determine the validity and priority of requests. Any county can be a member of the association. SASS has established a board of directors with representation from each of the districts of the North Carolina Association of Directors of Elections.

SASS requests usually are for changes that will make the process more efficient, improve the usability and increase the reliability of the system. Sometimes the requests are aimed at reducing county overhead and State support costs. The five counties that have not been converted to SEIMS have functions, in their existing systems, which are not implemented in SEIMS. To successfully convert these counties the State Board must augment SEIMS so it will:

- Support differing ballot styles and interface to smart cards
- Provide petition support
- Provide improved Geocode processing
- Provide image scanning

Guilford County has a system with petition support. Mecklenburg County has support for differing ballot styles





interfacing to smart cards and improved Geocode processing. Forsyth and Wake counties have image scanning support.

**Hardware and System Software Updates**

Several of the basic SEIMS components have become obsolete (non supported) since the initial installation. The components that must be upgraded are the database server to SQL/2000 for counties, server operating system to MS 2000, workstation operating system to windows XP, Visual Basic and the server hardware to new processors.

SQL Server 2000

A migration from SQL Server 6.5 to SQL Server 2000 must be completed as soon as possible in order to get vendor support. Microsoft discontinued support for SQL Server 6.5 January 2002. The State Board has been managing this exposure since then. The central State database has been updated to SQL 2000. To continue support for the SEIMS application in the counties the code must be upgraded to Microsoft SQL/Server 2000, re-tested and the new version of the application and SQL/Server must be installed in the 95 counties using SEIMS for their local processing. The required code updates are completed and are in the process of being tested.

Server Operating System And Hardware

The Server hardware installed in the counties was ordered in 1997 and installed in some of the counties at that time. The servers are now beginning to fail due to age and must be replaced. The State Board staff has been maintaining the servers by taking parts from failed servers to fix other servers. There are now only two spare servers. A migration from NT 4.0 to Windows 2000 must be completed in order to retain vendor support. This migration should be done in parallel with updating the servers. The workstation operating systems supported must also be upgraded to include windows XP. New PCs can only be ordered with Windows 2000 or XP, neither of which is supported by SEIMS.

**State Legislation.** State law requires the State Board to move to a paperless interface for DMV registrations. Movement to a DMV electronic signature interface will allow the counties to electronically receive input from DMV for voters registering there, including image of the voter's

signature. The registration data and signature will be automatically entered into the county records for verification. Electronically transmitting this data and signature to the county board of elections will eliminate the delay waiting for paper forms before the voter is entered and will reduce the number of provisional ballots cast.

**HAVA Requirements**. HAVA will require the implementation of new capabilities in SEIMS and the conversion of all 100 counties to SEIMS. The following table summarizes the current SEIMS implementation and HAVA requirements.

| COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS | Currently met in NC All Counties | Currently met in NC SEIMS Counties | Change Required | Requires All Counties on SEIMS |
|---|---|---|---|---|
| IMPLEMENTATION | | | | |
| 1. A single system for storing and managing the official list of registered voters throughout the State. | | | | X |
| 2. Contains the name and registration information of every legally registered voter in the State. | X | | | |
| 3. A unique identifier is assigned to each legally registered voter in the State. | | | X | |
| 4. Coordinated with other agency databases within the State. | | | | X |
| 5. Immediate electronic access | | | X | X |
| 6. Voter registration electronically entered at the time the information is provided to the local official. | | X | | X |
| 7. Chief State election official shall provide such support as may be required so that local election officials are able to enter information as described | | X | | X |
| 8. Serve as the official voter registration list for the conduct of all elections for Federal office | | X | | X |
| LIST MAINTENANCE & ACCURACY OF STATE VOTER REGISTRATION RECORDS | | | | |
| 1. Removing names of ineligible voters from the official list of eligible voters | X | | | |
| 2. Coordinate the computerized list with State agency records on felony status | X | | | |
| 3. Coordinate the computerized list | X | | | |





| COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS | Currently met in NC All Counties | Currently met in NC SEIMS Counties | Change Required | Requires All Counties on SEIMS |
|---|---|---|---|---|
| with State agency records on death. | | | | |
| 4. Duplicate names are eliminated from the computerized list | X | | | |
| 4. 5. Remove registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office | X | | | |
| VERIFICATION OF VOTER REGISTRATION INFORMATION | | | | |
| 1. If an applicant has a current valid driver's license must include the applicant's driver's license number | | | X | |
| 2. Otherwise the last 4 digits of the applicant's social security number | | | X | |
| 3. If no driver's license or a social security number, assign a unique identifying number | | | X | X |
| SHARING INFORMATION IN DATA BASES. | | | | |
| 1. Agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to verify the accuracy of voter registration data | | | X | |
| 2. State motor vehicle authority agreement with the Commissioner of Social Security to verify applicable information | | | X | |

**Systems Conversions for Non-SEIMS Counties.** To meet the requirements of HAVA, all counties will have to use SEIMS. The counties to be converted are Forsyth, Guilford, Mecklenburg, Vance and Wake. This list includes the four most populous counties in the State, home to more than 25% of the voters. Wake and Forsyth use the same base software as the state system. The SEIMS system was built starting with the Wake County source code. No conversions should be scheduled where they would interfere with the 2004 primary or general election schedules.

**HAVA Functions**

SEIMS already meets many of the requirements of HAVA. Several software changes will be required to conform completely with the legislation. The capabilities that will have to be added to SEIMS are:

- Allow entry of the drivers license number or last four digits of the social security number
- Permit indication that ID was provided or is still required when a registration is made by mail
- Implement an indicator on the poll list that shows ID is required.
- Assign a unique identifier to each legally registered voter in the State. This includes performing a duplicate check on the State database to see if the voter already exists in the system.
- Validate the driver's license number or last four digits of the social security number by interfacing with the DMV systems. DMV will have to implement an interface with the Social Security Administration to validate the last four digits of the SSN.
- Implement mailings to voters when the identification information given does not validate correctly.
- Provide county personnel with immediate electronic access to the State database voter registration records.
- Implement a method of accessing provisional voting information.
- Initiate support and be fiscally responsible for the List Maintenance Effort, including verification and confirmation mailings.

The increase in workload will require additional personnel to support the statewide computer system. Initially the work will be done by contracted personnel.

SEC. 303. STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS –

| | Currently met by NC | Change Required | Comments |
|---|---|---|---|
| (1) Implement State Level Centralized Computerized Voter Registration List | | | Waiver to 2006 |
| (i) single system for storing and managing the official list of registered voters throughout the State. | | X | In place for 95 of 100 counties |
| (ii) name and registration information of every voter | X | | |
| (iii) a unique identifier assigned to each registered voter | | X | |
| (iv) coordinated with other agency databases | | X | |
| (v) Any election official may obtain immediate electronic access. | | | Partially met through Internet access |
| (vi) voter registration information obtained by local officials entered at the time the information is provided | | X | Met by 96 counties |
| (vii) The State shall provide support required | | X | In place for 95 of 100 counties |
| (viii) the official voter registration list for all Federal elections | | X | Legislation is in the process of being adopted |
| (2) Computerized List Maintenance. | | | NC currently implements |
| (A) perform list maintenance on a regular basis: | X | | |





| | Currently met by NC | Change Required | Comments |
|---|---|---|---|
| (i) remove voters in accordance with the provisions of NVRA | X | | processes to perform these functions. HAVA funding will be used to manage and improve these processes. |
| (ii) For purposes of removing names— | | | |
| (I) coordinate with State agency records on felony status | X | | |
| (II) coordinate with State agency records on death. | X | | |
| (B) The list maintenance performed ensures that | | | |
| (i) the name of each registered voter appears in the list | X | | |
| (ii) voters not registered or not eligible to vote are removed | X | | |
| (iii) duplicate names are eliminated. | X | | |
| (3) SECURITY MEASURES TO PREVENT UNAUTHORIZED ACCESS | | X | Measures are in place but will be improved as the State system is implemented |
| (4) ACCURACY OF STATE VOTER REGISTRATION RECORDS.— | | | |
| (A) remove registrants who are ineligible to vote | X | | |
| (B) ensure that eligible voters are not removed in error | X | | |
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION | | | |
| (A) REQUIRED INFORMATION | | | |
| (i) the applicant's driver's license number; | | X | |
| (ii) if no driver's license, the last four digits of the applicant's social security number. | | X | |
| (iii) applicants without driver's license or social security number assigned a unique identifying number | | X | |
| (iv) determination of validity of numbers provided | | | |
| (B) REQUIREMENTS FOR STATE OFFICIALS | | | Work is currently underway with the NC DMV |
| (i) State election official and the State motor vehicle authority match information | | X | |
| (ii) State motor vehicle authority and Commissioner of Social Security match information | | X | |

### Voter Identification Requirements

*Effective for all federal elections after January 1, 2004.*

Changes in North Carolina law to comply with HAVA requirements, including voter identification, are found in SESSION LAW 2003-226 attached as Appendix A.

| §303, Requirements for Voters Who Register by Mail | Currently met by NC | Law/Rule Change Required | Comments |
|---|---|---|---|
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION | | | |
| (A) REQUIRED INFORMATION | | | |
| (i) the applicant's driver's license number; | | X | Legislation is in the process of being adopted |
| (ii) if no driver's license, the last four digits of the applicant's social security number. | | X | |
| (iii) applicants without driver's license or social security number assigned a unique identifying number | | X | |
| (iv) determination of validity of numbers provided | | X | |
| (B) REQUIREMENTS FOR STATE OFFICIALS | | | |
| (i) State election official and the State motor vehicle authority match information | | X | Work is currently underway with the NC DMV |
| (ii) State motor vehicle authority and Commissioner of Social Security match information | | X | |

### Voter Registration Forms

***Effective for persons registering after January 1, 2003.***

Section 303(b) of HAVA sets out new identification requirements for voters who register by mail, and mandates that certain questions be placed on all voter registration forms.

The State Board administers all voter registration laws and is the agency responsible for coordinating and maintaining compliance with the National Voter Registration Act of 1993. In addition to registering to vote at county boards of elections offices, citizens may register or initiate information changes at driver license offices, public assistance offices, employment offices, libraries, high schools, and colleges. To ensure the proper administration of the State's various voter registration programs, the State Board supervises and coordinates the conduct of the programs at approximately 800+ agency-based voter registration sites.





North Carolina's voter registration form has been revised to meet the HAVA requirements, precleared by the U.S. Department of Justice, and distributed to the 100 county boards of elections offices. The voter registration form utilized by driver license offices and the Spanish version are in the process of preclearance and will be distributed as soon as preclearance is received and they are received from the printer. A voter registration form is available on the State Board website and is included in Appendix B.

At the time of the November 5, 2002, General Election, there were 5,038,828 registered voters in the State.

### §311 & 312 Adoption of Voluntary Guidance by Commission

*Sections 311 and 312 of HAVA.*

The State Board of Elections will incorporate as appropriate the voluntary recommendations adopted by the Election Assistance Commission as a part of the State Plan, and will include the standards in any subsequent versions of the State Plan.

## 2. § 254(a)(2) Requirements Payment

*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). -- HAVA §254 (a)(2)*

**Central management.** The State Board will centrally manage initiatives funded by requirement payments, and will account for all expenditures, funding levels, program controls, and outcomes. North Carolina will follow all applicable law and regulations regarding the distribution of federal reimbursements.

**Performance measures for local units.** The State Board will continuously monitor and semi-annually audit the initiatives for which those funds are authorized in the following areas:

- Financial Controls: The State Board will develop and use standard financial reporting for all initiatives funded by requirements payments.
- Compliance with Standards: The State Board will develop and use standard program management reporting for all initiatives that are funded by requirements payments.
- Program Results: The State Board will develop key performance indicators for each initiative funded by requirements payments.





## 3. § 254(a)(3) Voter Education, Election Official Education and Training, and Poll Worker Training

*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. -- HAVA §254 (a) (3)*

The North Carolina Program for Certification in Elections began in 1995. The program is a means of enhancing election expertise, providing uniformity and equal application of election laws throughout the State, raising the level of professionalism of elections officials, and encouraging them to expand their election knowledge through continuing education. Central to the program are 13 "core" courses, which include topics such as voter registration, election laws, campaign finance reporting requirements, and budget preparation. The program boasts the total of 161 active certified members.

The State Board appoints, trains, and supervises 400 county board members and directors and an additional 300 county-level staff. It has oversight and training of the four remaining municipal boards of elections and their supervisors. Further, the State Board supervises the appointment and training of precinct officials and other election-day staff, a total in excess of 20,000 people. Citizens Awareness Month and statewide voter registration drives are directed and managed by the State Board of Elections.

The program establishes stringent requirements for certification. A candidate for certification must complete a requisite number of "core" courses and electives, attend continuing education through State Board seminars and those conducted by the North Carolina Institute of Government, and pass a written examination. Once certified for the initial two-year period, officials and administrators must complete continuing education to maintain certification. Such training will outline HAVA requirements, including pollworker sensitivity to those with disabilities and those who use an alternative language.

The State Board will supplement the Certification Program and in cooperation with the Community College System establish a specialized training and civics curriculum for the training of elections officials and interested public, produce support materials and other media. It is anticipated this will eventually become a recruitment pool for pollworkers.

Training videos and on-line training courses are very real possibilities for making pollworker training more accessible. Also, the training videos will be distributed to public access television channels and libraries for use by the public. The State Board website has several tools available now and plans for enhancing that site to include a Voter Guide. Additional focus will be directed to non-partisan voter education programs.

## 4. § 254(a)(4) Voting System Guidelines and Processes

*How the State will adopt voting system guidelines and processes, which are consistent with the requirements of section 301. -- HAVA §254 (a) (4)*

In addition to meeting the requirements of § 301 of HAVA, voting systems used in North Carolina must be approved by the State Board and must comply with the requirements of General Statute 163-165.7 and the North Carolina Administrative Code, Title 8, Chapter 4. Voting systems that do not meet § 301 requirements will be replaced with § 301 compliant voting systems as soon as practicable but not later than January 1, 2006.

A vote cast on any voting system used in North Carolina is counted, even if irregularly marked, so long as it clearly indicates the intent of the voter. To determine the intent of the voter, county boards follow the uniform guidelines set forth in General Statute Section 163-182.1 and those adopted by the State Board contained in North Carolina Administrative Code, Title 8, Chapter 9.





## 5. § 254(a)(5) HAVA Election Fund Management

*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. -- HAVA §254 (a) (5)*

The legislature has established a new fund for HAVA election reform monies that is separate and distinct from all other program funds within the State Board of Elections.

The State Board will work with the State Comptroller and Office of State Budget and Management to ensure that all mandated fiscal controls and policies are put into effect.

## 6. § 254(a)(6) North Carolina's HAVA Budget

*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. -- HAVA §254 (a)(6)*

The following table is based on assumptions regarding federal funding that the State used in creating its budget for HAVA activities.

| | Federal Funds | | | | State Matching Funds | State Maintenance of Effort Funds |
|---|---|---|---|---|---|---|
| | HAVA 101 | HAVA 102 | HAVA 252 | TOTAL FEDERAL FUNDS | | |
| 2003 Based on Appropriated Federal Funds | $7,900,000 | $876,498 | $22,600,000 | $31,376,498 | $1,130,000 | $1,791,935 |
| 2004 Estimate | | | $13,944,000 | $13,944,000 | $697,200 | $1,791,935 |
| 2005 Estimate | | | $13,944,000 | $13,944,000 | $697,200 | $1,791,935 |
| Total | $7,900,000 | $876,498 | $50,488,000 | $59,264,498 | $2,524,400 | $5,375,805 |

| HAVA BUDGET FUNDING BY THE YEAR OF FUNDING | | | | |
|---|---|---|---|---|
| Title III Requirements | 3 Year Total | 2003 | 2004 | 2005 |
| Sect 301 Voting Systems | | | | |
| Accessible Equipment | $11,000,000 | $11,000,000 | | |
| Voting Equipment | $26,213,898 | $876,498 | $10,696,200 | $14,641,200 |
| Sub Total | $37,213,898 | $11,876,498 | $10,696,200 | $14,641,200 |
| Sect 302 Provisional Voting & Voting Information Requirements | | | | |
| Informational Signs | $300,000 | $300,000 | | |
| 1-800 Help Desk | $100,000 | $25,000 | $75,000 | |
| Videos/TV/Teleconference/Public TV Access Channels | $150,000 | $150,000 | | |
| WEB Site | $100,000 | $100,000 | | |
| PSAs & Voter Outreach | $1,000,000 | $1,000,000 | | |





| HAVA BUDGET FUNDING BY THE YEAR OF FUNDING | | | | |
|---|---|---|---|---|
| Title III Requirements | 3 Year Total | 2003 | 2004 | 2005 |
| Sub Total | $1,650,000 | $1,575,000 | $75,000 | |
| Sec 303 Statewide computer system & requirements for voters registering by mail | | | | |
| SEIMS | $5,000,000 | $5,000,000 | | |
| Verification Confirmation and List maintenance mailings | $2,000,000 | | $2,000,000 | |
| Subtotal | $7,000,000 | $5,000,000 | $2,000,000 | |
| Other Election Reform Activities | | | | |
| Funding to make polls accessible | $1,000,000 | $1,000,000 | | |
| Focus group studies | $50,000 | $50,000 | | |
| Polling place registry/Sample Ballot/Request for Service | $75,000 | $75,000 | | |
| Additional one-stop absentee voting sites | $1,000,000 | | $1,000,000 | |
| Certification programs for election officials, support materials & media, and non-partisan voter education programs | $1,500,000 | $1,500,000 | | |
| Public computer terminals | $300,000 | $300,000 | | |
| Electronic Records Access at Polling Place | $10,000,000 | $10,000,000 | | |
| County Technology Improvements | $2,000,000 | $1,130,000 | $870,000 | |
| State Board of Elections personnel for HAVA Activities | $5,375,805 | $1,791,935 | $1,791,935 | $1,791,935 |
| Subtotal | $21,300,805 | $15,846,935 | $3,661,935 | $1,791,935 |
| Total | $67,164,783 | $34,298,433 | $16,433,135 | $16,433,135 |

** Funding has no fiscal year limit. The expenses are shown in the year appropriated not the year the expense is actually incurred. The North Carolina General Assembly appropriated five percent matching funds in the current budget for the 2003-2004 fiscal year based on the understanding of the HAVA legislation at the time the budget was drafted. This will be updated if necessary in the short session.

**Assumptions.** Funding from Title I early payments to the states is divided into Section 101 and Section 102 payments. Section 101 was funded by Congress at $325 million and these funds will be distributed as grants without the need for matching funds. The funds will not have fiscal year limitations on expenditures. North Carolina will use these Section 101 funds to improve election administration. At this point, the GSA estimates that North Carolina will receive $8.5 million in Section 101, Title I funds.

Section 102 funds must be used for the replacement of punch card and lever voting systems. Each State will receive a grant without the need for matching funds and without fiscal year limitations. HAVA had provided that $4,000 would be given to a State for each precinct in the state that used either lever or punch card voting systems in the November 2000 election. However, HAVA also provided that if there was not enough money to give $4,000 to each qualifying precinct then the award per precinct would be reduced pro rata. As of today, the GSA estimates the grant to be $3,054 per qualifying precinct instead of $4,000. The State Board finds that 241 precincts used punch card and 46 precincts used

lever-voting systems in November 2000 in North Carolina. These figures would produce a $876,498 under Section 102.

HAVA guarantees each state $5 million in grants under Title I, and calls for a prorated reduction in all grants to make this minimum payment to each state. It appears that this will cause the total Title I grant to North Carolina to be reduced from $9,376, 498 to $8,776,498. This is the best estimate for the Title I grant based upon the latest figures obtained from the GSA on March 12, 2003.

Title II of HAVA allows for requirements payments to be made to the States for those election activities set out in Title III of HAVA. $830 million was appropriated by Congress for fiscal year 2003 for funding, out of which $20 million went to fund non-Title II and Title III grants. (HAVA had authorized up to $1.4 billion to be appropriated for Title II requirements payments in fiscal year 2003, but budget concerns generated the reduced appropriations). This leaves $810 million for Title II grants to the States in fiscal year 2003. These funds require a matching 5.26% State expenditure and a maintenance of effort upon the part of the State that requires at least the level of 2000 State spending for any items that receive Title II grants in the current State budget. There is no fiscal year limitation on the expenditure of these funds.

President Bush is currently recommending that Title II funding for both fiscal years 2004 and 2005 be set at $500 million for each year. HAVA authorized funding for Title II up to $1 billion in fiscal year 2004 and $600 million in fiscal year 2005. It is possible that Congress may fund Title II of HAVA in excess of the $500 million that the President proposes for the next two years, but the estimated HAVA budget set out herein is based upon the $500 million the President is currently recommending each year for fiscal years 2004 and 2005.

The amount of Title II grant to North Carolina and the other States has not been calculated by a federal agency based upon the actual funding of $810 million. These grants will be administered by the Election Administration Commission (EAC), which has yet to be appointed.

A November 2002 estimate created by the Congressional Research Service as to Title II funding based upon full funding for three years indicates that North Carolina would have received $83.7 million in Title II funds over the three-year period. However, as noted above, full funding will not occur. Comparing the 2003 funding of $810 million to the funding total used in the November 2002 estimate of $3 billion yields a ratio of 27%. Using that ratio to the November 2002 estimate of $83.7





million yields an estimate of $22.6 million to North Carolina in Title II funds in 2003. Comparing the President's proposed funding of $500 million for 2004 and 2005 would yield a ratio of 16.66% to the $3 billion funding figure in the November 2002 estimate. That ratio would yield $13,944,000 HAVA Title II funding for North Carolina in both 2004 and 2005. At the current 2003 funding level and the current proposed funding for 2004 and 2005, it appears that $50,488,000 will be granted to North Carolina in Title II HAVA funds over a three-year period.

North Carolina must match funds granted under Title II of HAVA at a rate of 5.26%. Based on the assumptions about federal funding, this requires matching State funds of $1,130,000 in 2003, $697,200 in 2004, and $697,200 in 2005. In addition, the State must make expenditures equal to its 2000 expenditures, thus the maintenance of effort requirement was calculated from previous budget documents.

HAVA increases the responsibilities and workload of the State Board. As part of the budgeting and planning process the State Board is anticipating an additional staffing requirement to implement and manage these new responsibilities and workload. The current increase in necessary staffing is estimated to be:

- 3 Programmers
- 1 Business Analyst
- 2 Help Desk
- 1 Certification Program/Outreach Coordinator
- 1 Certification Program/Outreach Coordinator Assistant
- 2 Election Technicians
- 2 Office Support

Funding will also be required for support of HAVA-related activities including travel, subsistence, office equipment and supplies.

## 7. § 254(a)(7) Maintenance of Effort

*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. -- HAVA §254 (a)(7)*

In using any requirements payment, North Carolina will maintain expenditures of the State for activities funded by the payment at a level

| HAVA Requirements Budget Based on Funding Source | Estimate | Funding Source | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | HAVA 101 | HAVA 102 | HAVA 252 | | | State Match | | | Maint. Of Effort | | |
| | | | | 2003 | 2004 | 2005 | 2003 | 2004 | 2005 | 2003 | 2004 | 2005 |
| Title III Requirements | | | | | | | | | | | | |
| Appropriated/Estimated Funding ** | | $7,800,000 | $876,498 | $22,600,000 | $13,944,000 | $13,944,000 | $1,130,000 | $697,200 | $697,200 | $1,791,935 | $1,791,935 | $1,791,935 |
| Sect 301 Voting Systems | | | | | | | | | | | | |
| Accessible Equipment | $11,000,000 | | | $11,000,000 | | | | | | | | |
| Voting Equipment | $26,213,898 | | $876,498 | | $10,519,404 | $13,944,000 | | $176,796 | $697,200 | | | |
| Sub Total | $37,213,898 | | $876,498 | $11,000,000 | $10,519,404 | $13,944,000 | | $176,796 | $697,200 | | | |
| Sect 302 Provisional Voting & Voting Information Requirements | | | | | | | | | | | | |
| Informational Signs | $300,000 | | | $300,000 | | | | | | | | |
| 1-800 Help Desk | $100,000 | | | $25,000 | $75,000 | | | | | | | |
| Videos/TV/Teleconference/Public TV Access Channels | $150,000 | | | $150,000 | | | | | | | | |
| WEB Site | $100,000 | | | $100,000 | | | | | | | | |
| PSAs & Voter Outreach | $1,000,000 | | | $1,000,000 | | | | | | | | |
| Sub Total | $1,650,000 | | | $1,575,000 | $75,000 | | | | | | | |
| Sec 303 Statewide Computer system & requirements for voters registering by mail | | | | | | | | | | | | |
| SEIMS | $5,000,000 | $5,000,000 | | | | | | | | | | |
| Verification Confirmation and List maintenance mailings | $2,000,000 | | | | $2,000,000 | | | | | | | |
| Subtotal | $7,000,000 | $5,000,000 | | | $2,000,000 | | | | | | | |
| Subtotal | $45,863,898 | $5,000,000 | $876,498 | $12,575,000 | $12,594,404 | $13,944,000 | | $176,796 | $697,200 | | | |
| Other Election Reform Activities | | | | | | | | | | | | |
| Funding to make polls accessible | $1,000,000 | $1,000,000 | | | | | | | | | | |
| Focus group studies | $50,000 | $25,000 | | $25,000 | | | | | | | | |
| Polling place registry/Sample | $75,000 | $75,000 | | | | | | | | | | |

*Date:6/23/2003*





equal to or greater than the level of such expenditures in State FY 2000 - - a total of $1,791,935.

The North Carolina General Assembly is currently in the budget approval process and legislation is moving forward to appropriate the Maintenance of Effort Funds. The current estimates of this funding is shown below:

*Date:6/23/2003*

## 8. § 254(a)(8) HAVA Performance Goals and Measures

*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. – HAVA §254 (a)(8)*

The State Board will establish performance objectives and measurement processes to monitor the progress under the State Plan. The performance goals and measurements will provide a high-level view of a project's progress towards achievng compliance with HAVA requirements. The State Board will measure critical areas of each project.

The State Board will continuously monitor and at a minimum audit semi-annually the performance of each initiative that is funded by requirements payments in three areas: financial controls, compliance with standards, and program results.

- Financial Controls: The State Board will develop and use standard financial reporting for all initiatives funded by requirements payments.
- Compliance with Standards: The State Board will develop and use standard program management reporting for all initiatives that are funded by requirements payments.
- Program Results: The State Board will develop performance indicators for each initiative funded by requirements payments. These will include scope, schedule, and resources usage. State Board personnel will develop the metrics and measurements required to monitor this progress.

The State Board will ensure that the State and any recipient of payments under HAVA maintains records in accordance with the record-keeping requirements of the Act (section 902) and all such records will be available for audit. This will include Quality Assurance Reviews. State Board staff will utilize the Wellness Check Program to ensure compliance with all HAVA requirements by county boards of elections. See Appendix C of this document for the Wellness Check Form.







| HAVA Requirements Budget Based on Funding Source | Estimate | Funding Source | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | HAVA 101 | HAVA 102 | HAVA 252 | | | State Match | | | Maint. Of Effort | | | |
| | | | | 2003 | 2004 | 2005 | 2003 | 2004 | 2005 | 2003 | 2004 | 2005 |
| Ballot/Request for Service | | | | | | | | | | | | | |
| Additional one stop absentee voting sites | $1,000,000 | | | | $1,000,000 | | | | | | | | |
| Certification programs for election officials, support materials & media and non-partisan voter education programs | $1,500,000 | $1,500,000 | | | | | | | | | | | |
| Public computer terminals | $300,000 | $300,000 | | | | | | | | | | | |
| Electronic Records Access at Polling Place | $10,000,000 | | | $10,000,000 | | | | | | | | | |
| County Technology Improvements | $2,000,000 | | | | $349,596 | | $1,130,000 | $520,404 | | | | | |
| State Board of elections personnel for HAVA Activities | $5,375,805 | | | | | | | | | $1,791,935 | $1,791,935 | $1,791,935 | |
| Subtotal | $21,300,805 | $2,900,000 | | $10,025,000 | $1,349,596 | | $1,130,000 | $520,404 | | $1,791,936 | $1,791,935 | $1,791,935 | |
| Total | $67,164,703 | $7,900,000 | $878,498 | $22,800,000 | $13,944,000 | $13,944,000 | $1,130,000 | $697,200 | $697,200 | $1,791,935 | $1,791,935 | $1,791,935 | |

** Funding has no fiscal year limit. The expenses are shown in the year appropriated not the year the expense is actually incurred. The North Carolina General Assembly appropriated five percent matching funds in the current budget for the 2003-2004 fiscal year based on the understanding of the HAVA legislation at the time the budget was drafted. This will be updated if necessary in the short session.

## 9. § 254(a)(9) State-Based Administrative Complaint Procedures

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. -- HAVA §254 (a)(9)*
*Deadline for Compliance: Prior to certification of State Plan, but no later than January 1, 2004; no waiver permitted.*

The State Board has developed and adopted the following procedure for complaints that meets HAVA requirements.

**HAVA Administrative Complaint Procedure**

Under the provisions of Section 17(a) of House Bill 842, a new statute, §163-91, was created that authorized the State Board of Elections to adopt a uniform, nondiscriminatory procedure, as required under § 402 of Title IV of HAVA for the resolution of any complaint alleging a violation of any provision of Title III of HAVA, including a violation that has occurred, is occurring, or is about to occur. Among other things, §163-91 provides that no provision of Chapter 150B of the North Carolina General Statutes shall apply to allegations, complaints, hearings, or appeals as to an alleged violation of HAVA by the Board or a local board of elections. The procedure is set out as follows:

**Definitions**
(a) In this subtitle, the following terms have the meanings indicated:
(1) "Board" shall mean the North Carolina State Board of Elections.
(2) "Complainant" means the person who files a complaint with the State Board under this subtitle.
(3) "Designee(s)" means one or more Board members or others assigned by the Board to perform any or all functions of the full board under this procedure.
(4) "HAVA" shall mean the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code §§15481-15485.
(5) "Respondent" means any State or local election official whose actions are asserted, in a complaint under this subtitle, to be in violation of Title III.





(6) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code §§15481-15485.

**Complaint**
(a) Any person who believes that there is a violation of any provision of Title III may file a complaint. A complaint shall be in writing and notarized, signed and sworn by the Complainant. The Complainant may use:
(1) The form prescribed by the Board, which is available from the Board or from any local board of elections, or which may be downloaded from the Board website; or
(2) Any other document providing the same information required in the Board-prescribed form.
(b) A complaint shall be filed within 30 days after the occurrence of the actions or events that form the basis for the complaint, including the actions or events that form the basis for the Complainant's belief that a violation is about to occur, or, if later, within 30 days after the Complainant knew or, with the exercise of reasonable diligence, should have known of those actions or events. The Complainant shall mail, fax, e-mail or otherwise deliver a copy of the complaint to each Respondent.
(c) The Board may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.

**Hearing**
(a) At the request of the Complainant or upon the Board's own motion, the Board shall conduct a hearing on the record. The hearing shall be conducted no sooner than 10 days and no later than 20 days after the Board receives the complaint. The Board shall give at least 5 business days' advance notice of the date, time, and place of the hearing by mail, fax, e-mail, or any other means of delivery, to the Complainant, and each named Respondent.
(b) The Board or the Board's designee(s) shall act as hearing officer(s). The designee(s) may be authorized by the Board to perform any or all duties the Board might have as to a complaint filed under this article.
(c) The Complainant, any Respondent, or any other interested member of the public may appear at the hearing and testify or present tangible evidence in connection with the complaint. The North Carolina Rules of Evidence, §8C-1,

shall not apply to the hearing. Subpoenas for witnesses shall not be issued at the request of a party; each party shall be responsible for providing their own witnesses. However, the Board may subpoena any person to testify in a hearing when the Board determines it will serve the public interest. Each witness testifying shall be sworn. The hearing officer may limit the testimony, if necessary, to ensure that all interested participants are able to present their views. The hearing officer may recess the hearing and reconvene at a later date, time, and place announced publicly at the hearing. There shall be no right of cross-examination, but a person may testify or present evidence to contradict any other testimony or evidence. At the discretion of the Board, hearings may be transcribed or otherwise recorded and made available to the public.

**Final Determination**

(a) If there has been no hearing requested, the Board or the Board's designee(s) shall review the record and determine whether, under a preponderance of the evidence standard, a violation of Title III has been established.

(b) At the conclusion of any hearing under this Article, the Board or its designee(s) shall determine, under a preponderance of the evidence standard, whether a violation of Title III has been established.

(c) If the Board or the Board's designee(s) determines that a violation has occurred, the Board, acting through the Board or designee, shall provide the appropriate remedy. The remedy so provided may include an order to any Respondent, commanding the Respondent to take specified action, or prohibiting the Respondent from taking specified action, with respect to a past or future election. However, the remedy may not include an award of money damages or attorney's fees.

(d) If the complaint is not timely or not in proper form, or if the Board or the Board's designee, whether acting as hearing officer or otherwise, determines that a violation has not occurred or that there is insufficient evidence to establish a violation, the Board or designee(s), shall dismiss the complaint.

(e) The final determination of the Board shall be issued within 90 days after the complaint was filed, unless the Complainant consents in writing to an extension. The final





determination shall be mailed, faxed, e-mailed, or otherwise delivered to the Complainant, and each Respondent.

**Alternate Dispute Resolution**

(a) If the State Board cannot make a final determination within 90 days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be referred for final resolution, using alternate dispute resolution. Any record or materials compiled, as a result of a complaint proceeding shall be made available for use under alternate dispute resolution.

(b) On or before the 5th business day after a final Board determination was due, the Board shall designate in writing to the Complainant the name of a proposed arbitrator, knowledgeable in election matters, to resolve the complaint. Within 3 business days after the Complainant receives this proposal, the Complainant shall either agree to the proposed arbitrator or counter with the name of a different proposed arbitrator, also knowledgeable in election matters. Within three days the Board shall indicate if the proposed arbitrator of the Complainant is acceptable. If it is not, then the names of both proposed arbitrators shall be placed in a container and the arbitrator shall be determined by lot drawn by the Complainant. The Board shall be responsible for any reasonable costs (not to exceed the rate of $75 per hour) and expenses generated by the arbitrator in determining the complaint.

(c) The arbitrator may review the record compiled in connection with the complaint and any briefs or memoranda previously filed in the action, but shall not receive additional testimony or evidence.

(d) The arbitrator must issue a written resolution within 60 days after the final Board determination was due. This 60-day period may not be extended. The final resolution of the arbitrator shall be transmitted to the Board and shall be the final resolution of the complaint. Under no circumstances may the final determination of an arbitrator order action to be performed except in the complaint at hand or order a change in state law, federal law or Board policies, procedures, or rules.

**No Appeal**

The final determination of the Board, or the final resolution of an arbitrator, shall not be subject to appeal in any State court, State administrative hearing or panel, or federal court. If the alleged Title III HAVA violation supports a legal cause of action independent of Title III of HAVA, the Complainant shall not be precluded from filing such legal action as a result of making a complaint under this procedure.

Record of all Proceedings

At the discretion of the Board hearings within the requirements of §254(a)(9) shall be transcribed.





## 10. § 254(a)(10) Effect of Title I Payments

*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. -- HAVA §254 (a)(10)*

North Carolina expects the following Title I payments.

§101. Payments to States for activities to improve administration of elections.
North Carolina is eligible for approximately $7.9M under §101. These funds will be used for activities to meet the requirements contained in the Chart in Section 6.

§102. Replacement of punch card or lever voting machines.
According to the GSA, North Carolina is eligible for approximately $876,498 under §102, as calculated in the following chart. North Carolina understands that there has been a pro rata reduction to the maximum payment amount based on the total national participation under this section. The effect of this is to reduce the payment to each eligible precinct from $4,000 to $3,054 (GSA estimate).

**Voting Equipment used November 2000**

| PUNCHCARD | |
|---|---|
| County | Number of Precincts |
| Cabarrus | 42 |
| Duplin | 19 |
| Forsyth | 101 |
| McDowell | 17 |
| Mitchell | 4 |
| Onslow | 23 |
| Vance | 16 |
| Watauga | 13 |
| **LEVER** | |
| County | Number of Precincts |
| Bertie | 11 |
| Chowan | 6 |
| Hoke | 13 |
| Scotland | 10 |
| Swain | 5 |
| Total | 280 |

## 11. § 254(a)(11) HAVA State Plan Management

*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). -- HAVA §254 (a)(11)*

North Carolina will use the State Plan as the basis for managing the activities necessary for the implementation of HAVA requirements. The Executive Director, under the guidance of the State Board, will be responsible for the continuous management and implementation of the State Plan. This will include Quality Assurance Reviews.

The Executive Director is responsible for implementation of the plan that will be carried out at the State level, with involvement from counties on various projects. The State is responsible for tracking resource requirements, approving and tracking expenditures of HAVA funds, coordinating decision making, and ensuring implementation activities are on track. The State Board staff manages the day-to-day coordination and implementation of projects within the HAVA plan. Responsibilities will include reporting project activities, progress, and resource needs/expenditures.

The State understands and agrees to comply with HAVA requirements related to ongoing management of the state plan. Material changes in the administration of the State Plan will not be made unless the change is developed and published in the Federal Register in accordance with HAVA §255, is subject to public notice and comment in accordance with HAVA §256, and takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

The initial proposed implementation schedule is shown below:





| | 2003 | 2004 | 2005 | 2006 | 2007 | Comments |
|---|---|---|---|---|---|---|
| | | | | | | s- start e- end |
| Title III Requirements | | | | | | |
| | | | | | | |
| Sect 301 Voting Systems | | | | | | |
| ADA Equipment | | s | _____ | _____ | e | Waiver to 2007 |
| Voting Equipment | s___ | _____ | _____ | e | | Waiver to 2006 |
| | | | | | | |
| Sect 302 Provisional Voting & Voting Information Requirements | | | | | | |
| Procisional voting | s___ | _____e | | | | |
| Informational Signs | s___ | _____e | | | | |
| 1-800 Help Desk | s | _____e | | | | |
| Videos/TV/Teleconference/Public TV Access Channels | s___ | _____ | e | | | |
| WEB Site | | | | | | |
| PSAs & Voter Outreach | s___ | _____e | | | | |
| | | | | | | |
| Sec 303 Statewide Computer System & Requirements for Voters Registering by Mail | | | | | | |
| SEIMS- State-wide Voter Registration System | s_____ | _____ | _____ | e | | Waiver to 2006 |
| Verification Confirmation and List maintenance mailings | s | _____ | ___e | | | |
| Voters who Register by Mail - ID Requirements | s_____ | ____e | | | | New voter cards complete. Process for indicating Id received in place. Poll list changes will be made by 2004 election |
| | | | | | | |
| Other Election Reform Activities | | | | | | |
| | | | | | | |
| Grants to make polls accessible | s___ | ____e | | | | |
| Focus group studies | s___ | _____ | ____e | | | |
| Polling place registry/Sample Ballot/Request for Service | s___ | _____e | | | | |
| Additional one stop absentee voting sites | s___ | _____e | | | | |
| Certification programs for election officials, support materials & media, and non-partisan voter education programs | s | _____ | e | | | |
| Public computer terminals | | s___ | _____ | e | | |
| Electronic Records Access at Polling Place | | s___ | ____e | | | |
| County Technology Improvements | | s_____ | _____ | _____ | e | |

## 12. § 254(a)(12) Changes to State Plan from Previous Fiscal Year

*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. – HAVA §254 (a) (12)*

This FY 2003 Plan is North Carolina's initial plan under HAVA. Updates to the FY 2004 Plan will be provided in this section as appropriate.





## 13. § 254(a)(13) State Plan Committee

*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 255 and section 256. – HAVA §254 (a)(13)*

The State's committee consists of individuals representing a cross-section of election stakeholders. The State Plan Committee was selected by the chief State election official of North Carolina, Gary O. Bartlett, Executive Director of the North Carolina State Board of Elections.

### HAVA Advisory Committee

**State Board Members:**
Genevieve C. Sims, 313-200 S. Blount St., Raleigh 27601 Chair
Lorraine G. Shinn, 3798 Brick Kiln Rd., Greenville 27858 Vice Chair
Larry Leake, 701 BB&T Building, Asheville 28801
Robert B. Cordle, 214 N. Tryon St., Suite 3800, Charlotte 28202-2137
Charles Winfree, 201 W. Market St., Suite 408, Greensboro 27401

**Political Parties:**
Wade Chestnut, 220 Hillsborough St., Raleigh 27603; Democratic Party
William Peaslee, P.O. Box 12905, Raleigh 27605; Republican Party
Barbara Howe, 5046 Tar Hill Drive, Oxford 27565; Libertarian Party

Bob Hall, 5706 Old Stony Way, Durham 27705; Democracy North Carolina
Margaret Currin, 1700 Pineview Street, Raleigh 27608; former U.S. Attorney
Edna Campos, 201 Glen Woods Ct., Asheville 28803; El Pueblo
Allison Bowen, Governor's Advocacy Council for Persons with Disabilities, 2113 Cameron St., Suite 218, Raleigh 27605
Susan B. Hansell, Vote for America, P.O. Box 6100, Raleigh 27628-6100
Ron Aycock, P.O. Box 1488, Raleigh 27602; Executive Director, North Carolina Association of County Commissioners
Frances C. Waser, 550 Moor Lane, Brevard 28712; Member, Transylvania County Board of Elections
Thomas Eatmon, 1000 Aycock St., Wilson 27893; Chairman, Wilson County Board of Elections
Cherie Poucher, P.O. Box 695, Raleigh, NC 27602-0695; Director, Wake County Board of Elections
Michael Dickerson, P.O. Box 31788, Charlotte 28231-1788; Director, Mecklenburg County Board of Elections

Janice McKenzie Cole, 1072 Harvey Point Road, Suite 106, Hertford 27944; former U.S. Attorney
Julie Rehder, 1413 Hattie Road, Apex 27502; United Way of North Carolina.

The State Board of Elections scheduled and/or participated in the following assemblies/meetings during the development of the State Plan:
HAVA Advisory Committee
State Board of Elections Conference Room
March 26, 2003
April 14, 2003
May 2, 2003

"Who Gets to Vote in North Carolina" – Advocates
People's Briefing and Strategy Meeting
State Board of Elections Conference Room
March 31, 2003

North Carolina Association of Directors of Elections
Quality Inn
Boone, NC
April 8-9, 2003

State Board of Elections Meeting for Elections Officials/Interested Public and Advocates
New Bern, NC
May 5-6, 2003

Public Hearings May 16, 2003:
**Asheville, N.C.** .....County Commissioners' Room (Room 204), Buncombe County Courthouse, 60 Court Plaza.
**Charlotte, N.C.** ...Mecklenburg County Board of Elections Office, Suite 202, 741 Kenilworth Ave.
**Greenville, N.C.** ....City Council Chambers, Municipal Building, 201 Martin Luther King Jr. Drive.
**Raleigh, N.C.** State Board of Elections Office, 506 North Harrington St.
**Wilmington, N.C.** .. County Commissioners' Room (Room 301), New Hanover Historical Courthouse, 24 North 3rd Street.
**Winston-Salem, N.C.** ..Courtroom 6B, Forsyth County Hall of Justice, 200 N. Main Street.

The State Plan was available on the State Board of Elections' website (www.sboe.state.nc.us) for public review and comment through Wednesday, June 4, 2003.





**APPENDIX A - House Bill 842 ( = S 858 )**

**2003-2004 Session**

**Short Title: Help America Vote Act Compliance.**

| Attributes | Sponsors |
|---|---|
| P<br>* | Prime Sponsors: Michaux; Stam;<br>Co-Sponsors: Alexander; |

**Bill History**

| Date | Action | |
|---|---|---|
| 04/01/2003 | H | Filed |
| 04/02/2003 | H | Ref To Com On Election Law and Campaign Finance Reform |
| 04/07/2003 | HA | Reptd Fav Com Substitute |
| 04/07/2003 | H | Cal Pursuant Rule 36(b) |
| 04/08/2003 | H | Placed On Cal For 4/9/2003 |
| 04/09/2003 | H | Postponed To 4/15/2003 |
| 04/21/2003 | HA | Amend Adopted #1 |
| 04/21/2003 | H | Amend Pending #2 |
| 04/22/2003 | H | Amendment Withdrawn #2 |
| 04/22/2003 | H | Amendment Withdrawn #3 |
| 04/22/2003 | HA | Amend Adopted #4 |
| 04/22/2003 | H | Amendment Withdrawn #5 |
| 04/22/2003 | H | Passed 2nd & 3rd Reading |
| 04/24/2003 | S | Rec From House |
| 04/24/2003 | S | Ref To Com On Judiciary I |
| 05/28/2003 | S | Reptd Fav Com Substitute |
| 05/28/2003 | SA | Com Substitute Adopted |
| 05/29/2003 | S | Withdrawn From Cal |
| 05/29/2003 | S | Placed On Cal For 6/3/2003 |
| 06/03/2003 | S | Passed 2nd & 3rd Reading |
| 06/05/2003 | H | Rec To Concur S Com Sub |
| 06/05/2003 | H | Cal Pursuant Rule 36(b) |
| 06/09/2003 | H | Placed On Cal For 6/10/2003 |
| 06/10/2003 | H | Concurred In S/Com Sub |
| 06/11/2003 | H | Ratified |
| 06/16/2003 | H | Pres. To Gov. 6/12/2003 |

**ABBREVIATIONS KEY**

- **H** - House
- **S** - Senate
- **R** - Ratified
- **F** - Failed
- **A** - Amendment Adopted
- **P** - Public Bill
- **L** - Local Bill
- **$** - Affects Appropriations
- ***** - Bill Text Has Changed

**GENERAL ASSEMBLY OF NORTH CAROLINA**
**SESSION 2003**

**SESSION LAW 2003-226**
**HOUSE BILL 842**

AN ACT TO PROVIDE FOR A SYSTEM FOR ALL NORTH CAROLINA ELECTIONS THAT COMPLIES WITH THE HELP AMERICA VOTE ACT AND TO HELP PREVENT DUPLICATE NAMES ON JURY LISTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** The purpose of this act is to ensure that the State of North Carolina has a system for all North Carolina elections that complies with the requirements for federal elections set forth in the federal Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 U.S.C. §§ 15481-15485.

The General Assembly finds that the education and training of election officials as required by G.S. 163-82.34 has met and continues to meet the mandate for the education and training of precinct officials and other election officials in section 254(a)(3) of the Help America Vote Act of 2002. The General Assembly further finds that the establishment, development, and continued operation of the statewide list maintenance program for voter registration set forth in G.S. 163-82.14 has met and continues to meet the mandates of section 303(a)(2) of the Help America Vote Act of 2002.

In certain other areas of the election statutes and other laws, the General Assembly finds that the statutes must be amended to comply with the Help America Vote Act.

**SECTION 2.** G.S. 163-82.10(a) reads as rewritten:

"(a) Official Record. – The State voter registration system is the official voter registration list for the conduct of all elections in the State. A completed and signed registration application form, if available, described in G.S. 163-82.3, once approved by the county board of elections, becomes backup to the official registration record of the voter. Electronically captured images of the signatures of voters, full or partial social security numbers, and drivers license numbers that may be generated in the voter registration process, by either the State Board of Elections or a county board of elections, are confidential and shall not be considered public records and subject to disclosure to the general public under Chapter 132 of the General Statutes. Disclosure of drivers license numbers in violation of this subsection shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of drivers license numbers in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The county board of elections shall maintain custody of any paper hard copy registration records of voters in the county and shall keep them in a place where they are secure."

**SECTION 3.** G.S. 163-82.10 is amended by adding a new subsection to read:





"(a1) Paperless, Instant Electronic Transfer. – The application described in G.S. 163-82.3 may be either a paper hard copy or an electronic document."

**SECTION 4.** G.S. 163-82.6(b) reads as rewritten:

"(b) Signature. – The form shall be valid only if signed by the applicant. An electronically captured image of the signature of a voter on an electronic voter registration form offered by a State agency shall be considered a valid signature for all purposes for which a signature on a paper voter registration form is used."

**SECTION 5.** G.S. 132-1.2 reads as rewritten:

"**§ 132-1.2. Confidential information.**

Nothing in this Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information that:

(1) Meets all of the following conditions:
   a. Constitutes a "trade secret" as defined in G.S. 66-152(3).
   b. Is the property of a private "person" as defined in G.S. 66-152(2).
   c. Is disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations, rules, or ordinances of the United States, the State, or political subdivisions of the State.
   d. Is designated or indicated as "confidential" or as a "trade secret" at the time of its initial disclosure to the public agency.

(2) Reveals an account number for electronic payment as defined in G.S. 147-86.20 and obtained pursuant to Articles 6A or 6B of Chapter 147 of the General Statutes or G.S. 159-32.1.

(3) Reveals a document, file number, password, or any other information maintained by the Secretary of State pursuant to Article 21 of Chapter 130A of the General Statutes.

(4) Reveals the electronically captured image of an individual's signature, drivers license number, or a portion of an individual's social security number if the agency has those items because they are on a voter registration document."

**SECTION 6.** G.S. 163-82.11 reads as rewritten:

"**§ 163-82.11. Establishment of statewide computerized voter registration.**

(a) Statewide System as Official List. – The State Board of Elections shall develop and implement a statewide computerized voter registration system to facilitate voter registration and to provide a central database containing voter registration information for each county. The system shall serve as the single system for storing and managing the official list of registered voters in the State. The system shall serve as the official voter registration list for the conduct of all elections in the State. The system shall encompass both software development and purchasing of the necessary hardware for the central and distributed-network systems.

(b) Uses of Statewide System. – The State Board of Elections shall develop and implement the system so that each county board of elections can do all the following:

(1) Verify that an applicant to register in its county is not also registered in another county.

(2) Be notified automatically that a registered voter in its county has registered to vote in another county.

(3) Receive automatically data about a person who has applied to vote at a drivers license office or at another public agency that is authorized to accept voter registration applications.

(c) Compliance With Federal Law. – The State Board of Elections shall update the statewide computerized voter registration list and database to meet the requirements of section 303(a) of the Help America Vote Act of 2002 and to reflect changes when citizenship rights are restored under G.S. 13-1.

(d) Role of County and State Boards of Elections. – Each county board of elections shall be responsible for registering voters within its county according to law. Each county board of elections shall maintain its records by using the statewide computerized voter registration system in accordance with rules promulgated by the State Board of Elections. Each county board of elections shall enter through the computer system all additions, deletions, and changes in its list of registered voters promptly to the statewide computer system.

(e) Cooperation on List for Jury Commission. – The State Board of Elections shall assist the Division of Motor Vehicles in providing to the county jury commission of each county, as required by G.S. 20-43.4, a list of all registered voters in the county and all persons in the county with drivers license records."

**SECTION 7.(a)** G.S. 163-82.12 reads as rewritten:

"**§ 163-82.12. Promulgation of guidelines relating to computerized voter registration.**

The State Board of Elections shall make all guidelines necessary to administer the statewide voter registration system established by this Article. All county boards of elections shall follow these guidelines and cooperate with the State Board of Elections in implementing guidelines. These guidelines shall include provisions for all of the following:

(1) Establishing, developing, and maintaining a computerized central voter registration file.
(2) Linking the central file through a network with computerized voter registration files in each of the counties.
(3) Interacting with the computerized drivers license records of the Division of Motor Vehicles and with the computerized records of other public agencies authorized to accept voter registration applications.
(4) Protecting and securing the data.
(5) Converting current voter registration records in the counties in computer files that can be used on the statewide computerized registration system.
(6) Enabling the statewide system to determine whether the voter identification information provided by an individual is valid.
(7) Enabling the statewide system to interact electronically with the Division of Motor Vehicles system to validate identification information.
(8) Enabling the Division of Motor Vehicles to provide real-time interface for the validation of the drivers license number and last four digits of the social security number.
(9) Enabling the statewide system to assign a unique identifier to each legally registered voter in the State.
(10) Enabling the State Board of Elections to assist the Division of Motor Vehicles in providing to the jury commission of each county, as required by G.S. 20-43.4, a list of all registered voters





in the county and all persons in the county with drivers license records.

These guidelines shall not be considered to be rules subject to Article 2A of Chapter 150B of the General Statutes. However, the State Board shall publish in the North Carolina Register the guidelines and any changes to them after adoption, with that publication noted as information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those guidelines shall be made available to the public upon request or otherwise by the State Board."

**SECTION 7.(b)** G.S. 163-82.19 reads as rewritten:

"**§ 163-82.19. Voter registration at drivers license offices; coordination on data interface.**

(a) Voter Registration at Drivers License Offices. – The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate board of elections.

(b) Coordination on Data Interface. – The Department of Transportation jointly with the State Board of Elections shall develop and operate a computerized interface to match information in the database of the statewide voter registration system with the drivers license information in the Division of Motor Vehicles to the extent required to enable the State Board of Elections and the Department of Transportation to verify the accuracy of the information provided on applications for voter registration, whether the applications were received at drivers license offices or elsewhere. The Department of Transportation and the State Board shall implement the provisions of this subsection so as to comply with section 303 of

the Help America Vote Act of 2002. The Department of Transportation shall enter into an agreement with the Commissioner of Social Security so as to comply with section 303 of the Help America Vote Act of 2002."

**SECTION 7.(c)** G.S. 20-43.4 reads as rewritten:

"**§ 20-43.4. Current list of licensed drivers to be provided to jury commissions.**

The Commissioner of Motor Vehicles shall provide to each county jury commission an alphabetical list of all persons that the Commissioner has determined are residents of the county, who will be 18 years of age or older as of the first day of January of the following year, and licensed to drive a motor vehicle as of July 1 of each odd-numbered year, provided that if an annual jury list is being prepared under G.S. 9-2(a), the list to be provided to the county jury commission shall be provided annually. The list shall include those persons whose license to drive has been suspended, and those former licensees whose license has been canceled. The list shall contain the address and zip code of each driver, plus the driver's date of birth, sex, and drivers license number, and may be in either printed or computerized form, as requested by each county. Before providing the list to the county jury commission, the Commissioner shall have computer-matched the list with the voter registration list of the State Board of Elections to eliminate duplicates. The Commissioner shall include in the list provided to the county jury commission names of registered voters who do not have drivers licenses, and shall indicate the licensed or formerly licensed drivers who are also registered voters, the licensed or formerly licensed drivers who are not registered voters, and the registered voters who are not licensed or formerly licensed drivers. The list so provided shall be used solely for jury selection and election records purposes and no other. Information provided by the Commissioner to county jury commissions and the State Board of Elections under this section shall remain confidential, shall continue to be subject to the disclosure restriction provisions of G.S. 20-43.1, and shall not be a public record for purposes of Chapter 132 of the General Statutes."

**SECTION 7.(d)** G.S. 9-2 reads as rewritten:

"**§ 9-2. Preparation of jury list; sources of names.**

(a) It shall be the duty of the jury commission on July 1 of every odd-numbered year to prepare a list of prospective jurors qualified under this Chapter to serve in the biennium beginning on January 1 of the next year. Instead of providing a list for an entire biennium, the commission may prepare a list each year if the senior regular resident superior court judge requests in writing that it do so.

(b) In preparing the list, the jury commission shall use the list of registered voters and persons with drivers license records supplied to the county by the Commissioner of Motor Vehicles pursuant to G.S. 20-43.4. The commission may use fewer than all the names from the list if it uses a random method of selection. The commission may use other sources of names deemed by it to be reliable.

(e) The jury commission shall merge the entire list of names of each source used and randomly select the desired number of names to form the jury list.

(f) The jury list shall contain not less than one and one-quarter times and not more than three times as many names as were drawn for jury duty in all courts in the county during the previous biennium, or, if an annual list is being prepared as requested under subsection (a) of this section the jury list shall contain not less than one and one-quarter times and not more than three times as many names as were drawn for jury duty in all courts in the county during the previous year but in no event shall the list include fewer than 500 names, except that in counties in





which a different panel of jurors is selected for each day of the week, there is no limit to the number of names that may be placed on the jury list.

(h) As used in this section 'random' or 'randomly' refers to a method of selection that results in each name on a list having an equal opportunity to be selected."

**SECTION 8.** Article 13A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-166.7A. Voter education and information.**

(a) Posting the Information. – For each election that involves candidates for federal or State office, each county board of elections shall post at each active voting place the following information in a manner and format approved by the State Board of Elections:

(1) A sample ballot as required by G.S. 163-165.2.
(2) The date of the election and the hours the voting place will be open.
(3) Instructions on how to vote, including how to cast a vote or correct a vote on the voting systems available for use in that voting place.
(4) Instructions on how to cast a provisional ballot.
(5) Instructions to mail-in registrants and first-time voters on how to comply with the requirements in section 303(b) of the Help America Vote Act of 2002 concerning voter identifications.
(6) General information on voting rights under applicable federal and State law, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if the voter believes those rights have been violated.
(7) General information on federal and State laws that prohibit acts of fraud and misrepresentation as to voting and elections.

(b) Intent. – The posting required by subsection (a) of this section is intended to meet the mandate of the voting information requirements in section 302(b) of the Help America Vote Act of 2002."

**SECTION 9.** G.S. 163-82.4 reads as rewritten:

"**§ 163-82.4. Contents of application form.**

(a) Information Requested of Applicant. – The form required by G.S. 163-82.3(a) shall request the applicant's:

(1) Name,
(2) Date of birth,
(3) Residence address,
(4) County of residence,
(5) Date of application,
(6) Gender,
(7) Race,
(7a) Ethnicity,
(8) Political party affiliation, if any, in accordance with subsection (c) of this section,
(9) Telephone number (to assist the county board of elections in contacting the voter if needed in processing the application),
(10) Drivers license number or, if the applicant does not have a drivers license number, the last four digits of the applicant's social security number,

and any other information the State Board finds is necessary to enable officials of the county where the person resides to satisfactorily process the application. The

form shall require the applicant to state whether currently registered to vote anywhere, and at what address, so that any prior registration can be cancelled. The portions of the form concerning race and ethnicity shall include as a choice any category shown by the most recent decennial federal census to compose at least one percent (1%) of the total population of North Carolina. The county board shall make a diligent effort to complete for the registration records any information requested on the form that the applicant does not complete, but no application shall be denied because an applicant does not state race, ethnicity, gender, or telephone number. The application shall conspicuously state that provision of the applicant's telephone number is optional. If the county board maintains voter records on computer, the free list provided under this subsection shall include telephone numbers if the county board enters the telephone number into its computer records of voters.

(a1) No Drivers License or Social Security Number Issued. – The State Board shall assign a unique identifier number to an applicant for voter registration if the applicant has not been issued either a current and valid drivers license or a social security number. That unique identifier number shall serve to identify that applicant for voter registration purposes.

(b) Notice of Requirements, Attestation, Notice of Penalty, and Notice of Confidentiality. – The form required by G.S. 163-82.3(a) shall contain, in uniform type, the following:

(1) A statement that specifies each eligibility requirement (including citizenship) and an attestation that the applicant meets each such requirement, with a requirement for the signature of the applicant, under penalty of a Class I felony under G.S. 163-275(4).

(2) A statement that, if the applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.

(3) A statement that, if the applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

(c) Party Affiliation or Unaffiliated Status. – The application form described in G.S. 163-82.3(a) shall provide a place for the applicant to state a preference to be affiliated with one of the political parties in G.S. 163-96, or a preference to be an "unaffiliated" voter. Every person who applies to register shall state his preference. If the applicant fails to declare a preference for a party or for unaffiliated status, that person shall be listed as "unaffiliated", except that if the person is already registered to vote in the county and that person's registration already contains a party affiliation, the county board shall not change the registrant's status to "unaffiliated" unless the registrant clearly indicates a desire in accordance with G.S. 163-82.17 for such a change. An unaffiliated registrant shall not be eligible to vote in any political party primary, except as provided in G.S. 163-119, but may vote in any other primary or general election. The application form shall so state.

(d) Citizenship and Age Questions. – Voter registration application forms shall include all of the following:

(1) The question 'Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.





(2) The question 'Will you be 18 years of age on or before election day?' and boxes for the applicant to check to indicate whether the applicant will be 18 years of age or older on election day.

(3) The statement 'If you checked "no" in response to either of these questions, do not complete this form.'

If the voter fails to answer the question set out in subdivision (1) of this subsection, the person filling out the registration shall be notified of the omission and given the opportunity to complete the form in a timely manner in order to be registered for the next election."

**SECTION 10.** G.S. 163-82.10A reads as rewritten:

"**§ 163-82.10A. Permanent voter registration numbers.**

The statewide voter registration system shall assign to each voter a unique registration number. That number shall be permanent for that voter and shall not be changed or reassigned by the county board of elections."

**SECTION 11.** G.S. 163-165.7 reads as rewritten:

"**§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

The State Board of Elections shall have authority to approve types, makes, and models of voting systems for use in elections and referenda held in this State. Only voting systems that have been approved by the State Board shall be used to conduct elections under this Chapter, and the approved systems shall be valid in any election or referendum held in any county or municipality. The State Board may use guidelines, information, testing reports, certification, decertification, recertification, and any relevant data produced by the Election Assistance Commission, its Standards Board, its Board of Advisors, or the Technical Guidelines Development Committee as established in Title II of the Help America Vote Act of 2002 with regard to any action or investigation the State Board may take concerning a voting system. The State Board may use, for the purposes of voting system certification, laboratories accredited by the Election Assistance Commission under the provisions of section 231(2) of the Help America Vote Act of 2002. The State Board may, upon request of a local board of elections, authorize the use of a voting system not approved for general use. The State Board may also, upon notice and hearing, disapprove types, makes, and models of voting systems. Upon disapproving a type, make, or model of voting system, the State Board shall determine the process by which the disapproved system is discontinued in any county. If a county makes a showing that discontinuance would impose a financial hardship upon it, the county shall be given up to four years from the time of State Board disapproval to replace the system. A county may appeal a decision by the State Board concerning discontinuance of a voting system to the superior court in that county or to the Superior Court of Wake County. The county has 30 days from the time of the State Board's decision on discontinuance to make that appeal.

Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of voting systems, including, but not limited to, the following:

(1) Types, makes, and models of voting systems approved for use in this State.
(2) Form of official ballot labels to be used on voting systems.
(3) Operation and manner of voting on voting systems.
(4) Instruction of precinct officials in the use of voting systems.
(5) Instruction of voters in the use of voting systems.
(6) Assistance to voters using voting systems.
(7) Duties of custodians of voting systems.
(8) Examination of voting systems before use in an election.

(9) Compliance with section 301 of the Help America Vote Act of 2002."

**SECTION 12.** G.S. 163-165.4A reads as rewritten:

"**§ 163-165.4A. Punch-card ballots and lever machines.**

(a) No ballot may be used in any referendum, primary, or other election as an official ballot if it requires the voter to punch out a hole with a stylus or other tool.

(a1) No lever machine voting system may be used in any referendum, primary, or other election as a means of voting the official ballot. A 'lever machine voting system' is a voting system on which the voter casts a vote by pressing a lever and the vote is mechanically recorded by the machine.

(b) In any counties that used punch-card ballots as official ballots or lever machines in the election of November 2000, and in any municipalities located in those counties, this section becomes effective January 1, 2006. It is the intent of the General Assembly that any county that uses county funds to replace voting equipment to satisfy this section shall be given priority in appropriations to counties for voting equipment."

**SECTION 13.** G.S. 163-182.1 reads as rewritten:

"**§ 163-182.1. Principles and rules for counting official ballots.**

(a) General Principles That Shall Apply. – The following general principles shall apply in the counting of official ballots, whether the initial count or any recount:

(1) Only official ballots shall be counted.

(2) No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to clearly determine the voter's choice.

(3) If it is impossible to clearly determine a voter's choice in a ballot item, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which the voter's choice can be clearly determined.

(4) If an official ballot is marked in a ballot item with more choices than there are offices to be filled or propositions that may prevail, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which there is no overvote and the voter's choice can be clearly determined.

(5) If an official ballot is rejected by a scanner or other counting machine, but human counters can clearly determine the voter's choice, the official ballot shall be counted by hand and eye.

(6) Write-in votes shall not be counted in party primaries or in referenda, but shall be counted in general elections if all of the following are true:

a. The write-in vote is written by the voter or by a person authorized to assist the voter pursuant to G.S. 163-166.8.

b. The write-in vote is not cast for a candidate who has failed to qualify under G.S. 163-123 as a write-in candidate.

c. The voter's choice can be clearly determined.

(7) Straight-party ticket and split-ticket votes shall be counted in general elections according to the following guidelines:

a. If a voter casts a vote for a straight-party ticket, that vote shall be counted for all the candidates of that party, other than those for President and Vice President, in the partisan ballot items on that official ballot except as otherwise provided in this subdivision.





b. If a voter casts a vote for a straight-party ticket and also votes in a partisan ballot item for a candidate not of that party, the official ballot shall be counted in that ballot item only for the individually marked candidate. In partisan ballot items where no mark is made for an individual candidate, the official ballot shall be counted for the candidates of the party whose straight ticket the voter voted.

c. If a voter casts a vote for a straight-party ticket and also casts a write-in vote in any partisan ballot item, the straight-party ticket vote shall not control the way the official ballot is counted in that ballot item, except to the extent it would control in the case of crossover voting under this subdivision. The following principles shall apply:

1. If the write-in vote is proper under subdivision (6) of this subsection, that write-in candidate shall receive a vote.

2. If the write-in vote is not proper under subdivision (6) of this subsection and no other candidate is individually marked in that ballot item, then no vote shall be counted in that ballot item.

3. If the straight-ticket voter casts both write-in votes and individually marked votes for ballot candidates in a ballot item, then the write-in and individually marked votes shall be counted unless the write-in is not proper under subdivision (6) of this subsection or an overvote results.

(b) Procedures and Standards. – The State Board of Elections shall adopt uniform and nondiscriminatory procedures and standards for voting systems. The standards shall define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. The State Board shall adopt those procedures and standards at a meeting occurring not earlier than 15 days after the State Board gives notice of the meeting. The procedures and standards adopted shall apply to all elections occurring in the State and shall be subject to amendment or repeal by the State Board acting at any meeting where notice that the action has been proposed has been given at least 15 days before the meeting. These procedures and standards shall not be considered to be rules subject to Article 2A of Chapter 150B of the General Statutes. However, the State Board shall publish in the North Carolina Register the procedures and standards and any changes to them after adoption, with that publication noted as information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those procedures and standards shall be made available to the public upon request or otherwise by the State Board. For optical scan and direct record systems, those procedures and standards shall provide that if the voter selects votes for more than the number of candidates to be elected or proposals to be approved in a ballot item, the voting system shall do all the following:

(1) Notify the voter that the voter has selected more than the correct number of candidates or proposals in the ballot item.

(2) Notify the voter before the vote is accepted and counted of the effect of casting overvotes in the ballot item.

(3) Provide the voter with the opportunity to correct the official ballot before it is accepted and counted."

**SECTION 14.** G.S. 163-166.01 reads as rewritten:

"**§ 163-166.01. Hours for voting.**

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. In extraordinary circumstances, the county board of elections may direct that the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

Any voter who votes after the statutory poll closing time of 7:30 P.M. by virtue of a federal or State court order or any other lawful order, including an order of a county board of elections, shall be allowed to vote, under the provisions of that order, only by using a provisional official ballot. Any special provisional official ballots cast under this section shall be separated, counted, and held apart from other provisional ballots cast by other voters not under the effect of the order extending the closing time of the voting place. If the court order has not been reversed or stayed by the time of the county canvass, the total for that category of provisional ballots shall be added to the official canvass."

**SECTION 14.1.** G.S. 163-166.7 reads as rewritten:

"**§ 163-166.7. Voting procedures.**

(a) Checking Registration. – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots. If a precinct official states that the person is duly registered, the person shall sign the pollbook, other voting record, or voter authorization document in accordance with subsection (c) of this section before voting.

(b) Distribution of Official Ballots. – If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

(1) The voting system remains secure throughout the period voting is being conducted.
(2) Only properly voted official ballots are introduced into the voting system.
(3) Except as provided by G.S. 163-166.9, no official ballots leave the voting enclosure during the time voting is being conducted there.
(4) All improperly voted official ballots are returned to the precinct officials and marked as spoiled.
(5) Voters leave the voting place promptly after voting.





(6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.
(7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
(8) The registration records are kept secure.
(9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.
(10) The voter, before voting, shall sign that voter's name on the pollbook, other voting record, or voter authorization document. If the voter is unable to sign, a precinct official shall enter the person's name on the same document before the voter votes."

**SECTION 15.** Article 13A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-166.11. Provisional voting requirements.**

If an individual seeking to vote claims to be a registered voter in a jurisdiction and though eligible to vote in the election does not appear on the official list of eligible registered voters in the voting place, that individual may cast a provisional official ballot as follows:

(1) An election official at the voting place shall notify the individual that the individual may cast a provisional official ballot in that election.
(2) The individual may cast a provisional official ballot at that voting place upon executing a written affirmation before an election official at the voting place, stating that the individual is a registered voter in the jurisdiction in which the individual seeks to vote and is eligible to vote in that election.
(3) At the time the individual casts the provisional official ballot, the election officials shall provide the individual written information stating that anyone casting a provisional official ballot can ascertain whether and to what extent the ballot was counted and, if the ballot was not counted in whole or in part, the reason it was not counted. The State Board of Elections or the county board of elections shall establish a system for so informing a provisional voter. It shall make the system available to every provisional voter without charge, and it shall build into it reasonable procedures to protect the security, confidentiality, and integrity of the voter's personal information and vote.
(4) The cast provisional official ballot and the written affirmation shall be secured by election officials at the voting place according to guidelines and procedures adopted by the State Board of Elections. At the close of the polls, election officials shall transmit the provisional official ballots cast at that voting place to the county board of elections for prompt verification according to guidelines and procedures adopted by the State Board of Elections.
(5) The county board of elections shall count the individual's provisional official ballot for all ballot items on which it determines that the individual was eligible under State or federal law to vote."

**SECTION 16.** Article 13A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-166.12. Requirements for certain voters who register by mail.**

(a) Voting in Person. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, shall present to a local election official at a voting place before voting there one of the following:

(1) A current and valid photo identification.

(2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(b) Voting Mail-In Absentee. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, in order to cast a mail-in absentee vote, shall submit with the mailed-in absentee ballot one of the following:

(1) A copy of a current and valid photo identification.

(2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

The county board of elections shall note the type of identification proof submitted by the voter and may dispose of the tendered copy of identification proof as soon as the type of proof is noted in the voter registration records.

This subsection shall not apply to persons entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act.

(c) The Right to Vote Provisionally. – If an individual is required under subsection (a) or (b) of this section to present identification in order to vote, but that individual does not present the required identification, that individual may vote a provisional official ballot. If the voter is at the voting place, the voter may vote provisionally there without unnecessary delay. If the voter is voting by mail-in absentee ballot, the mailed ballot without the required identification shall be treated as a provisional official ballot.

(d) Exemptions. – This section does not apply to any of the following:

(1) An individual who registers by mail and submits as part of the registration application either of the following:

a. A copy of a current and valid photo identification.

b. A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(2) An individual who registers by mail and submits as part of the registration application the individual's drivers license number or at least the last four digits of the individual's social security number where an election official matches either or both of the numbers submitted with an existing State identification record bearing the same number, name, and date of birth contained in the submitted registration.

(3) An individual who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act.

(4) An individual who is entitled to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act.





(5) An individual who is entitled to vote otherwise than in person under any other federal law."

**SECTION 17.(a)** Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 8A.

"HAVA Administrative Complaint Procedure.

"**§ 163-91. Complaint procedure.**

(a) The State Board of Elections shall establish a complaint procedure as required by section 402 of Title IV of the Help America Vote Act of 2002 for the resolution of complaints alleging violations of Title III of that Act. (b) With respect to the adoption of the complaint procedure under this section, the State Board of Elections is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes. Prior to adoption or amendment of the complaint procedure under this section, the State Board of Elections shall complete all of the following:

(1) Publish the proposed plan in the North Carolina Register at least 30 days prior to the adoption of the final complaint procedure.

(2) Accept oral and written comments on the proposed complaint procedure.

(3) Hold at least one public hearing on the proposed complaint procedure.

(c) Hearings and final determinations of complaints filed under the procedure adopted pursuant to this section are not subject to Articles 3 and 4 of Chapter 150B of the General Statutes."

**SECTION 17.(b)** G.S. 150B-1(c) is amended by adding a new subdivision to read:

"(c) Full Exemptions. – This Chapter applies to every agency except:

...

(6) The State Board of Elections in administering the HAVA Administrative Complaint Procedure of Article 8A of Chapter 163 of the General Statutes."

**SECTION 18.** G.S. 163-256 reads as rewritten:

"**§ 163-256. Regulations of State Board of Elections.**

(a) The State Board of Elections shall adopt rules and regulations to carry out the intent and purpose of G.S. 163-254 and 163-255, and to ensure that a proper list of persons voting under said sections shall be maintained by the boards of elections, and to ensure proper registration records, and such rules and regulations shall not be subject to the provisions of Article 2A of Chapter 150B of the General Statutes.

(b) The State Board of Elections shall be the single office responsible for providing information concerning voter registration and absentee voting procedures to be used by absent uniformed services voters and overseas voters as to all elections and procedures relating to the use of federal write-in absentee ballots. Unless otherwise required by law, the State Board of Elections shall be responsible for maintaining contact and cooperation with the Federal Voting Assistance Program, the United States Department of Defense, and other federal entities that deal with military and overseas voting. The State Board of Elections shall, as needed, make recommendations concerning military and overseas citizen voting to the General Assembly, the Governor, and other State officials."

**SECTION 19.** G.S. 163-245 reads as rewritten:

"**§ 163-245. Persons in armed forces, their spouses, certain veterans, civilians working with armed forces, and members of Peace Corps may register and vote by mail.**

(a) Any individual who is eligible to register and who is qualified to vote in any statewide primary or election held under the laws of this State, and who is absent from the county of his residence in any of the capacities specified in subsection (b) of this section, shall be entitled to register by mail and to vote by military absentee ballot in the manner provided in this Article.

(b) The provisions of this Article shall apply to the following persons:

(1) Individuals serving in the armed forces of the United States, including, but not limited to, the army, the navy, the air force, the marine corps, the coast guard, the Merchant Marine, the National Oceanic and Atmospheric Administration, the commissioned corps of the Public Health Service, and members of the national guard and military reserve.

(2) Spouses of persons serving in the armed forces of the United States residing outside the counties of their spouses' voting residence.

(3) Disabled war veterans in United States government hospitals.

(4) Civilians attached to and serving outside the United States with the armed forces of the United States.

(5) Members of the Peace Corps.

(c) An otherwise valid voter registration or absentee ballot application submitted by an absent uniformed services voter during a year shall not be refused or prohibited on the grounds that the voter submitted the application before the first date on which the county board of elections otherwise accepts those applications submitted by absentee voters who are not members of the uniformed services for that year.

(d) If any absent uniformed services or overseas voter submits a voter registration application or absentee ballot request, and the request is rejected, the board of elections that makes the rejection shall notify the voter of the reasons for the rejection.

(e) The requirement for any oath or affirmation to accompany any document as to voter registration or absentee ballots under this Article may be met by use of the standard oath prescribed by the Presidential designee under section 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act."

**SECTION 20.** G.S. 163-247(3) reads as rewritten:

"(3) If a single application from an absentee uniformed voter is received by an election official, it shall be considered a valid absentee ballot request with respect to all general, primary, and runoff elections for federal, State, county, or those municipal offices in which absentee ballots are allowed under the provisions of G.S. 163-302, held through the next two regularly scheduled general elections for federal office. This subdivision does not apply to a special election not involving the election of candidates, unless that special election is being held on the same day as a general or primary election."

**SECTION 21.** Article 7A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-82.27. Help America Vote Act of 2002.**

As used in this Chapter, the term 'Help America Vote Act of 2002' means the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 U.S.C. §§ 15481-15485. Citations to titles and sections of the Help America Vote Act of 2002 are as they appear in the Public Law. The State Board shall have the authority to adopt rules and guidelines to implement the minimum requirements of the Help America Vote Act of 2002."





**SECTION 22.** Sections 1, 3, 4, 5, 12, 18, 21, and 22 of this act are effective when this act becomes law. Sections 11 and 13 of this act become effective January 1, 2006. The remainder of this act becomes effective January 1, 2004. All sections of this act apply with respect to all primaries and elections held on or after the date they become effective.

In the General Assembly read three times and ratified this the 11th day of June, 2003.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:48 p.m. this 19th day of June, 2003

## APPENDIX B – North Carolina Voter Registration Form

### North Carolina Voter Registration Application/Update Form

**A. Information**

If you are not sure if you are registered, call your county board of elections office.

**You can use this form to:**

Register to vote in your county of residence in North Carolina or change your voter information.

**Qualifications:**

- You may only register to vote in the county where you reside.
- You must be a US citizen by birth or naturalization.
- You must be 18 years of age by the next general election.
- If you have been convicted of a felony, your rights of citizenship must be restored.

**Requirements:**

- Complete the sections below by printing legibly.
- Information required to process this application includes: name, residence address, date of birth, and signature.
- You may mail or hand-deliver this form to the board of elections in the county where you live.

If you choose to use this form to register to vote, the location where you have received this form will remain confidential and will be used only for voter registration purposes. If you declined to be registered to vote, the fact that you so declined will remain confidential and will be used only for voter registration purposes.

Please detach before mailing

Continued on the next page - -

**B. Cancel Your Previous Registration (in another County or State)** 06

If you were previously registered to vote in another county or
must fill out the information below to cancel your prior regist

If you live in a rural or nontraditional place, please show below where you live. Include street names and house numbers. Cross streets and landmarks are helpful.

Name: _____

Previous Name: _____

Previous Address: _____

_____

Previous City/State/ Zip Code: _____

County of Previous Residence: _____

Date of Birth: ___/___/_____ Place of Birth: _____

Signature: _____ Date: ___/___/____

**In order to vote in an election, this form must be postmarked or delivered no later than the 25th day before that election.**

**C. Application to Register to Vote (Print Information and Sign Below)** New Registration Change of Information

**1) Are you a citizen of the United States of America? yes no 2) Will you be 18 years of age on or before election day? yes no**

**If you checked "no" in response to either of these questions, do not complete this form.**

| **Last Name:** | **First Name:** | **Middle Name:** | **Maiden Name:** | **Suffix (Sr., II):** |
|---|---|---|---|---|
| **Address where you now live (Number and Street/Road/Dorm):** | | **Apt/Lot:** | **City:** | **County:** / **State: NC** / **Zip:** |
| **Address where you get your mail (if different from above, also include zip code):** | | | **Previous Name:** | |
| **Previous Address (if you moved within the same county):** | | **Date of Birth:** | **City and State of Birth:** | |

**Political Party Affiliation:**
- Democratic
- Republican
- Libertarian
- Unaffiliated
- Other Qualified Party:

*You must register with a party to vote in that party's primary unless that party allows unaffiliated voters to vote in its primary. If you indicate a political party that is not qualified or indicate no choice you will be listed as "Unaffiliated."*

**Ethnicity:**
- Hispanic/Latino (any race)
- Not Hispanic/Latino

**Race:**
- White
- Black or African American
- American Indian or Alaska Native
- Asian
- Two or More Races
- Other

**Gender:** Female Male

**Telephone Number:** ( ) (optional)

**I attest, under penalty of perjury, that:**

1. I have been a resident of North Carolina, this county, precinct, ward, or other election district for 30 days before the next election I intend to vote in.
2. I am 18 years old, or will be at the time of the next general election.
3. I am a United States citizen.
4. I am not registered to vote or will not vote in any other county or state after submission of this voter registration form. I am canceling any voter registration I may have elsewhere.
5. If I have been convicted of a felony, my rights of citizenship have been restored.

**WARNING: If you sign this card and know it to be false, you can be convicted of a Class I Felony.**

**Signature:** **Date:**

**Drivers License Number:**

**If you do not have a Driver's license, then list the last four digits of your Social Security Number:**

**IDENTIFICATION REQUIREMENT**

**If you do not have a driver's license or social security number, and this form is submitted by mail, and you have never registered to vote in the county you are now registering in, you must send, with this application, either a.) a copy of current and valid photo identification, or b.) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. If you do not provide the information requested above, you will be required to provide to election officials either a. or b. above the first time you vote at a voting place or by absentee ballot.**

STICKY FOR MAILING - - - - - - - - - - - - - - - STICKY FOR MAILING - - - - - - - - - - - - - - - - - - - -

**APPENDIX C Wellness Check**

## General Information:

**The following is a checklist developed to evaluate the overall operation of your county board of elections office. In order to provide the most comprehensive evaluation, certain documents will need to be submitted and certain procedures explained. Please be prepared for the auditing method indicated beside each item on the checklist. If we have indicated copies or samples are needed, please have them available prior to the wellness check. If no specific instructions are given beside the item, simply complete the information on this document prior to our visit.**

| | |
|---|---|
| County: | |
| Date of Wellness Check: | |
| Wellness check conducted by: | |
| Director's Name: | |
| # of full-time staff: | |
| Names and positions of additional staff: | Name Position/Title Phone |
| # of part-time staff: | |
| Names and job descriptions of part-time staff: | |
| Mailing address: | |
| Physical address: | |
| Telephone Number: | |
| Fax Number: | |
| E-mail Address: | |
| # of registered voters: | Active =<br>Inactive =<br>As of: *(date)* |
| Hours of operation: | |
| Is above in accordance with Chapter 5, N.C. Administrative Code? | |
| Description of office arrangement: | |
| # of rooms: | |
| Has Board adopted its own personnel policy or has Board adopted the county personnel policy? | **Provide copy of personnel policy** |

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## Interview with Director:

| | |
|---|---|
| Describe in as much detail as possible the working relationship between board members, office staff, and you. | |
| Short-term vision/plans for office: | |
| Long-term vision for office: | |
| How best could the State Board office assist in achieving those goals? | |
| What is your office's best practice? | |
| What are the strong points of your agency? | |
| What are your perceived barriers needing improvement? | |
| What voter outreach or specialty programs does your agency take part in to provide service to the voters? | |
| Describe the relationship between your county board of elections and other county officials. | County Manager –<br>County Commissioners –<br>County Mapping/GIS –<br>County IT –<br>Other Agencies/Officials – |
| Any additional information from director: | |

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## Reference Materials:

Are the following documents accessible?

| | |
|---|---|
| Administration of Voter Registration: Policies and Procedures Manual | Visual Inspection |
| Have updated procedures been inserted? | Visual Inspection |
| Numbered State Board of Elections Memoranda (Admin.) – How are these Memoranda maintained? | Visual Inspection (List missing numbered memoranda) |
| Numbered SEIMS Memoranda – How are these Memoranda maintained? | Visual Inspection (List missing numbered memoranda) |
| Voter Registration Application Forms (06, 07, and 08) | Visual Inspection |
| No. on hand: | 06 =<br>07 =<br>08 = |
| No. of Federal forms on hand: | |
| Map of precinct boundaries displayed (N.C. Gen. Stat. 163-128)? | Visual Inspection |
| A Public Trust (Video) | Visual Inspection |
| Protecting the Voice of Democracy (Video) | Visual Inspection |
| Maintaining the Public's Trust (Video) | Visual Inspection |
| Nine Steps to a Successful Hearing (Video) | Visual Inspection |
| Elections Access Video Series (2 Videos) | Visual Inspection |
| Minutes from County Board Meetings | Provide copies from last three meetings |
| Duties and responsibilities of the Director adopted by Board | Provide copy |
| Information sheets for groups conducting voter registration drives? | Provide copy |
| Brochures regarding the registration of voters? | Provide copy |
| Copies of local Acts pertaining to elections on file in office? | Visual Inspection |
| Any partisan information on display in office? | Visual Inspection |

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## Voting Equipment and Supplies:

| | |
|---|---|
| Type of voting machines/tabulators does your county use? | |
| Company name of voting machines/tabulators used? | |
| Total number of voting machines? | |
| Is the same type of voting machines/tabulators used for Absentee/One-Stop voting? | |
| If no, please explain what is used. | |
| Company(s) used to print ballots? | |
| Were any paper ballots used in your last election? | |
| If yes, what was the reason? | |
| Is this in accordance with (08 NCAC 06B.0002)? | |
| Does your county have a Hispanic population of 6% or more? | |
| If yes, are ballot instructions provided in Spanish? (N.C. Gen. Stat. 163-165.5A) | |
| Location of voting equipment: | Visual Inspection |
| Is voting equipment secure (08 NCAC 04.0006)? | Visual Inspection |
| Voting equipment/supplies maintained according to N.C. Gen. Stat. 163-33(7)? | **Visual Inspection** |
| Voting machines tested before last election according to 08 NCAC 04.0007? | Visual Inspection |
| Proper documentation of testing of voting machines maintained according to 08 NCAC 04.0007? | Provide Copies |
| Does your CBOE have a maintenance agreement with anyone? | |
| If yes, who is the maintenance agreement with? | Provide Copies |
| How many machines did maintenance company test (before last election)? | |
| How many machines were tested by board members/staff? | |
| Is your election results software or tabulator software escrowed? | |

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## Notices:

| | |
|---|---|
| Public notices posted according to N.C. Gen. Stat. 163-33(8) with 20-day requirement? | Provide copies of last five notices |
| Are candidates notified regarding campaign reporting requirements? | Verbal explanation of procedure |
| Proper notice given to board members of meetings? | Verbal explanation of procedure |

| | |
|---|---|
| Proper notice given to media and members of the public? | Verbal explanation of procedure |
| Is the CBOE in compliance with open meetings law? | |

## Voter Registration:

Does the office demonstrate the following:

| | |
|---|---|
| All forms described in N.C. Gen. Stat. 163-82.3 are accepted according to N.C. Gen. Stat. 163-82.6(a)? | Verbal explanation of procedure |
| Applications and changes on file are authorized by the voter's signature according to N.C. Gen. Stat. 163-82.6(b)? | Visual Inspection |
| Are records maintained in uniform and secure manner? | Visual Inspection |
| Do selected records contain necessary information? | Visual Inspection |
| Do the hard copy records reflect the electronic record? | Visual Inspection |
| Are records of removed voters or inactive voters placed in a separate file? | Visual Inspection |
| Are notices generated in the time frame set by law? | Verbal explanation of procedure |
| Upon receipt of an application for voter registration, is the verification notice sent compliant with N.C. Gen. Stat. 163-82.7(a)? | Verbal explanation of procedure |
| Was the verification process approved by the State Board office as per N.C. Gen. Stat. 163-82.8(b)? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Are denial notices sent to ineligible applicants? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Do the denial notices comply with N.C. Gen. Stat. 163-82.7(b)? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Are Voter Identification Cards issued (N.C. Gen. Stat. 163-82.8)? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Complies with N.C. Gen. Stat. 163-82.9 in sending notices of cancellation to other jurisdictions? | Verbal explanation of procedure |
| Contains up to date addresses for other county boards? | Visual Inspection |
| Contains up to date addresses for other states/jurisdictions? | Visual Inspection |
| Sends out of state DMV cancellations to the State Board office? | Verbal explanation of procedure |
| Maintains custody of official records according to N.C. Gen. Stat. 163-82.10? | Visual Inspection |
| Are they secured? | Visual Inspection |
| Provides free lists to the political parties? | Verbal explanation of procedure |

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| | |
|---|---|
| Provides selective lists to anyone? | Verbal explanation of procedure |
| Cost of lists, labels, or data on magnetic media in accordance with N.C. Gen. Stat. 163-82.10? | |
| Followed N.C. Gen. Stat. 163-82.14(a) in conducting 4-Year List Maintenance Program? | Verbal explanation of past procedures used and future implementation plans and procedures |
| Records from Vital Records and Registrar of Deeds maintained? | Visual Inspection |
| Deceased persons removed from the list according to N.C. Gen. Stat. 163-82.14(b)? | Verbal explanation of procedure |
| Records from AOC and Federal Courts maintained? | Visual Inspection |
| Felons removed from the list according to N.C. Gen. Stat. 163-82.14(c)? | Verbal explanation of procedure |
| Are notices sent to felons as prescribed in N.C. Gen. Stat. 163-82.14(c)(3)? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Confirmation notices sent according to N.C. Gen. Stat. 163-82.14(d)? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Confirmation procedures followed and status and reasons assigned to voter record according to Administration of Voter Registration manual? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Have contact with local agency personnel? N.C. Gen. Stat. 163-82.19 - 23 | Verbal explanation of procedure |
| Confidentiality requirement adhered to? | Visual Inspection |
| Social Security Numbers on VR Cards? | Visual Inspection |
| Drivers Identification Numbers on VR Cards? | Visual Inspection |
| Describe the procedures used to assure confidentiality requirement is adhered to. | Describe Procedures. |
| Record-keeping requirements adhered to as prescribed on page XIII-1 of the Administration manual? | Verbal explanation of procedure |
| New registrations tracked by source? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Changes of information tracked by source? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Duplicates tracked by source? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Verification mailings tracked? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Confirmation mailings tracked? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Agency declinations tracked? | Explain Method |

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|---|---|
| Describe the procedure used to process new voter registrations with the implementation of the Help America Vote Act ID requirement. | Explain Process |
| Participated in Statewide voter registration drive (N.C. Gen. Stat. 163-82.25)? | Provide copy of written outreach plan |
| Public Terminal | Is terminal accessible to all interested public , does it provide quick and easy access to information pertinent to voter? |
| Does the office have a logbook for voter application sign-outs? | Provide Copy |

## Challenges/Complaints:

| | |
|---|---|
| Proper challenge forms available as prescribed in Article 8? | Provide copy |
| Last challenge filed in county properly executed? | Visual Inspection |
| Proper forms for election complaints? | Visual Inspection |
| Last hearing concerning a request for a new election complaint was either transcribed or audiotaped? | Visual Inspection |
| Are proper challenge forms available for complaints concerning Title 3 of the Help America Vote Act. | Visual Inspection |

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## Petitions:

| | |
|---|---|
| Explain the procedures used to verify petitions in order to ensure compliance. | **Verbal explanation of procedure; if local petition has been submitted a visual inspection will be completed** |

## Precincts:

| | |
|---|---|
| Do all precincts comply with ADA requirements and Title 8, Chapter 8, | **Visual inspection of ADA inspection forms for all precincts.** |
| N.C. Administrative Code? | Visual Inspection |
| Does county have precinct official instructional manual? (attach copy for office) | Visual Inspection - Provide Copy |
| Appointment of precinct officials complies with N.C. Gen. Stat. 163-41? | Verbal explanation of procedure |
| Has training of precinct officials been conducted according to requirements? | Verbal explanation of procedures used at last training of precinct officials. |
| % participation of precinct officials in last required training? | |
| Are vacancies filled according to law? | Verbal explanation of procedure |
| In last election, how many split shift workers? | |
| In last election, how many emergency precinct officials were appointed? | |



| | |
|---|---|
| In last election, how many precinct officials served who were outside the precinct? How long have these precinct officials served outside their Precinct? | |
| Please list any precinct training practices that you have incorporated into training that have been beneficial. | |
| Does county have documentation to be posted at each polling site, concerning the Help America Vote Act laws and policies? | |
| Does county have documentation to be posted at each polling site, concerning provisional voting? | |

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## Election records:

| | |
|---|---|
| Is traditional pollbook or voter authorization slips used? | |
| If voter authorization is used, is approval letter from SBE on file? | |
| Obtain sample for SBE records. | **Provide copy** |
| Are voters asked to provide signature at the polls? | |
| Have ballots been locked, sealed, and preserved for specified time period? | Visual Inspection |
| Method of reporting results to public. | Verbal explanation of procedure |
| On what date the board canvassed the last election? | |
| Was pollbook kept according to law in the last primary election? | **Visual Inspection** |
| Is the records and retention schedule followed? | Visual Inspection of retention schedule and explanation of procedures used last time schedule was followed for destruction of records. |

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## Budget and Training:

| | |
|---|---|
| Board, director and staff provided with adequate travel and subsistence funding? | |
| Board of elections housed within adequate office space to perform duties? | **Visual Inspection** |
| Have county board members attended State Board training in compliance with N.C. Gen. Stat. 163-82.24? | Provide copy of log indicating training attended by board members |
| Has director attended required training in compliance with N. C. Gen. Stat. 163-82.24? | Provide copy of log indicating training attended by Director |

| | |
|---|---|
| Is County Board of Elections satisfied with approved budget? | |
| Is overtime authorized by board for director and staff? | |
| Board members active or passive on budget preparation and/or approval? | |
| Is adequate coverage provided for times when the director is out (1-person offices)? | |
| Do board minutes authorize a board member to act as an employee of the board? | Provide copy of minutes giving authorization to board member(s) |

## Absentee:

| | |
|---|---|
| Applications reflect current law (addition of religious observance as reason)? | Provide copy |
| One-stop provisions comply? Adequate space? | Verbal explanation of procedure (If written plan is available, please provide) |
| Absentee pollbook from last election complies with Article 20? | Visual Inspection |
| Absentee ballots, container-return envelopes, and instruction sheets comply with N.C. Gen. Stat. 163-229? | Provide copy |
| Procedures for simultaneous issuance followed? | Verbal explanation of procedure |
| Minutes from absentee meetings kept and contain no irregularities? | Provide copies of last three absentee meeting |
| In last election, how many emergency absentee ballots were issued after 5 p.m. on Friday? | |
| Is board consistent in considering absentee ballots? (Example: board consistently approves or denies with missing pieces of information. | |
| Did your county implement additional one-stop no excuse voting sites in the last election? | |
| If so, is a copy of plan available? | Provide copy |
| If so, explain your experiences. | |
| Are Elections Assistance Commission (EAC) compliant voting systems available for all one-stop voting sites? | |

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## Municipalities:

| | |
|---|---|
| If municipality is in two separate counties, is there a memorandum of understanding between the county boards regarding the conduct of the election? | If so, provide copy |
| Is adequate funding requested/provided for the conduct of municipal elections? | |



| | |
|---|---|
| Is copy of itemized bill for last municipal election available (if so attach to audit)? | Provide copy |
| Are precincts combined for municipal elections? | |
| Do you have different precincts and polling places for municipal elections? | |

## Campaign Reporting:

| | |
|---|---|
| Does the office have a public viewing area where the public can view disclosure reports? | Visual Inspection |
| Are the following materials present in the public viewing area: | Visual Inspection |
| Reporting Schedule? | Visual Inspection |
| 2002 Campaign Reporting Manual (Public Copy)? | Visual Inspection |
| Forms (at least one full set of new campaign reporting forms)? | Visual Inspection |
| List of all active committees? | Visual Inspection |
| The Candidate Supplies (paper copies)? | Visual Inspection |
| Fact sheet on running for office? | Visual Inspection |
| Are there individual files for each committee? | Visual Inspection |
| Are all candidate committee files filed alphabetically? | Visual Inspection |
| Are PACs and Referendum Committees filed separately from candidate committees and alphabetically? | Visual Inspection |
| Does each file contain the following materials: | Visual Inspection |
| Statement of Organization (CRO-2100)? | Visual Inspection |
| Certification of Treasurer (CRO-3100)? | Visual Inspection |
| **FOR COMMITTEES NOT CHECKING BOX #19 (certifying under the threshold) on the Statement of Organization are the following materials present in each file? | |
| Copy of Notice of Candidacy? | EXAMPLE - Visual Inspection |
| Organizational Report? | EXAMPLE - Visual Inspection |
| All required Disclosure Reports? | EXAMPLE - Visual Inspection |

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|---|---|
| Are the following items found on the Disclosure Reports: | |
| Date stamp on each report received? | Visual Inspection |
| Envelope retained if report received after due date? | Visual Inspection |
| Completed Audit Checklist (ICR-003) with each report filed within 30 days of receipt of report? | EXAMPLE - Visual Inspection |
| If items checked on checklist, are there copies of discrepancy letters sent? (ICR-001) | EXAMPLE - Visual Inspection |
| If no report filed, are there copies of Certification of Delinquent Reports? (ICR-201) | EXAMPLE - Visual Inspection |
| If late report, are there copies of Certification of Late Reports (ICR-202) | EXAMPLE - Visual Inspection |
| Are reports made available to the public within 8 hours of receipt? | |
| Are copies provided? | |
| What are the costs? | |
| Do all forms filed have the proper signature of the candidate or treasurer? | Visual Inspection |
| Are all components of the Audit Checklist (ICR-003) on all forms filed? | Visual Inspection |
| Is the Campaign Reporting Procedures Manual maintained by the Director or designated staff member? | Visual Inspection |
| Copies of CRO Numbered Memos? How kept? | Visual Inspection |
| Copies of Official Notice of Report Due (ICR-101) with attached list of every candidate and committee that was sent a notice? | EXAMPLE - Visual Inspection |
| Copy of County Committee Registration Log (ICR-301)? | EXAMPLE - Visual Inspection |
| Copies of 5 Days Friendly Reminder List? | EXAMPLE - Visual Inspection |
| Copies of friendly reminder postcards in each file? | EXAMPLE - Visual Inspection |
| Copies of all campaign reporting complaints maintained in a file? | Visual Inspection |
| Copies of each complaint filed with the committee file? | Visual Inspection |
| Provides for a five (5) year retention of campaign reports | |

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| and records? | |
| Copies maintained in a separate file of all Report of Independent Expenditures and Contributions (CRO-2210)? | Visual Inspection |

## Street Files/Jurisdictions/Maps:

| | |
|---|---|
| Do you have procedures in place to receive updated information from the county and municipalities for new annexations? | Verbal explanation of procedure |
| Are there procedures in place to verify board of election street file data with county street information? | |
| Detail each procedure used. | Verbal explanation of procedure |
| What sources do you use for updating physical maps? | |
| What procedures are in place for verifying the accuracy of your maps? | Verbal explanation of procedure |
| Do you have maps or map overlays that cover every jurisdiction in the county? | |
| Is physical street data consistent? (Ex. Jones-Howard Rd. and Jones Howard Rd. and JonesHoward Rd.) | Visual Inspection |
| Are voting jurisdictions automatically assigned? | If an alternate method, other than what is provided by SEIMS is used, please provide a copy and explanation. |
| Describe procedures used to add new streets, ranges, and jurisdictional information. | Verbal explanation of procedure |

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## Appendix D - Summary of Accessibility Provisions

Summary of accessibility provisions in the state HAVA plan and current state of voter accessibility in North Carolina. This document is an appendix to the State HAVA Plan. Its purpose is to highlight parts of the HAVA plan and current North Carolina law that deal with accessibility issues. This document also contains discussion as to possible developments in the accessibility aspects of elections.

## I. Voting Equipment

- **Direct Recording Electronic or DRE voting system** - are equipped for voters with disabilities, which allows the voter to: 1) verify their vote in a private and independent manner before the ballot is cast and counted; and 2) change or correct the ballot privately and independently before the ballot is cast and counted; and notify the voter if they have selected more than one candidate for a single office and allow the voter the opportunity to correct the ballot. HAVA mandates that every precinct must have at least one accessible voting machine available for use by voters with special needs. DRE voting systems are the only technology that may meet the HAVA accessibility requirements at this time.

- **The cost of the voting equipment must include the cost of the:**

1. Software and upgrades
2. Service and maintenance contracts
3. Storage and delivery charges
4. Training for staff to program, and
5. Tally equipment.

- **Accessibility requirements of the Voting Machines**

1. Americans with Disabilities (ADA) access standards (ADAAG).
2. Voluntary guidelines that will be developed and adopted by the Election Assistance Commission which the State Board chooses to follow.
3. Audio box with headphones for the visually impaired
4. All voting machines procured by the State to comply with HAVA should be voting systems that are accessible for those with mobility, dexterity and hearing disabilities.

- The State Board of Elections, as set out in HAVA, may follow all rules, guidelines and regulations set forth by the Election Assistance Commission as to voting systems accessibility.





- The County Board of Elections should purchase no equipment unless the equipment is certified compliant for accessibility as required by Section 301 of HAVA. However, if equipment is not certified, the vendor commits to upgrade the equipment to DRE access standards that may apply without cost to the State or County governments.
- The HAVA State plan directly addresses accessibility issues and specifically allocates funds for these programs. $1.5 million dollars will be spent to educate the public through the Community College System and other non-partisan voter programs. Another $1 million will be given for actual voter outreach programs.
- $11 million dollars is in the State HAVA plan is for upgrading existing and purchasing new voting equipment that will be accessibility compliant according to the EAC standards that will be determined.

## II. Access to Voting Places by Persons with Disabilities

- **Scope of Accessibility** - If a voter cannot access a polling place because of physical barriers, there is no way that the "voting system" is accessible and provides for the same opportunity for access and participation to persons with disabilities as for other voters. HAVA requires that all polling places must be accessible by January 2004.Therefore, precincts must provide the following access on a permanent or temporary basis on election day or one-stop absentee voting. Curbside voting, voting assistance, and absentee voting, both required by North Carolina law, offer options that persons with disabilities may use to vote, but are not considered substitutes for accessibility mandates.

- Path of travel – no obstacles such as steps, broken pavement, grass, loose stones or gravel.

- Parking – accessible spaces clearly marked by symbol in space and on post on level ground; locate at shortest possible distance to entrance of facility; the number of accessible spaces should be no less than 4% of the total number of spaces. If the building that houses the voting enclosure has other business functions on election day, the accessible spaces must be sufficient to accommodate voters as well as other personnel on the site.

- Entrances and exits – doorways wide enough to accommodate wheelchairs; lightweight doors, preferably automatic door systems; thresholds not to exceed ½ inch in height; lever handles on doors which prevent twisting or pinching of wrists; precinct assistants should be hired to monitor the door if any of these requirements are not provided

- Inside voting area - non-slip floors; rugs securely fastened to floor; provide seating to those who require it; sufficient maneuverability for all voters; booths which provide total access for wheelchair users as well as access for those with sensory disabilities for voting independently and privately

- Voting materials - all voting related materials must be provided in alternative formats

- Problem resolution - If someone with a disability is not able to access a precinct, for any reason, a phone number (with TTY) should be provided at that precinct for this individual to report and correct the problem.

- **Addressing the polling places concerns.**

1. This will be accomplished through polling place registries on the SBE website, which will include pictures of actual polling places with the ability to view the actual accessibility of the precinct and review notes on accessibility at that particular site.

2. Non-compliant polling places can and will be temporarily made compliant.

3. Sample ballot in various media will make for more efficient use of poll time.

4. The State Board website already has the capability to show and print map from voter's home to polling place.

5. Public access terminals in each county board office with the ability to search and print polling place information will aid those persons in need of such information that do not have computer access.

6. Provide a handicap transfer form on the website for a voter to transfer from a non-compliant polling place to an ADA compliant polling place.

**Other options for polling place accessibility**

- **Curbside Voting, G.S. 163-155** - Aged and disabled persons allowed to vote outside voting enclosure. In any primary or election any qualified voter who is able to travel to the voting place, but because of age, or physical disability and physical barriers encountered at the voting place is unable to enter the voting place or enclosure to vote in person without physical assistance, shall be allowed to vote either in the vehicle conveying such person to the voting place or in the immediate proximity of the voting place. . ." This option can only be provided at





the request of a voter, and is certainly not the only option for voters with disabilities.

- **Voting Assistance, N.C.G.S. 163-152** - Assistance to voters in primaries and general elections. In a primary or general election, a registered voter qualified to vote in the primary or general election shall be entitled to assistance in getting to and from the voting booth and in preparing ballots in accordance with the following rules:
  - Any voter shall be entitled to assistance from a near relative of his [her] choice.
  - Any voter in any of the following four categories shall be entitled to assistance from a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union:

    1. One who, on account of physical disability, is unable to enter the voting booth without assistance;
    2. One who, on account of physical disability, is unable to mark his ballots without assistance;
    3.One who, on account of illiteracy, is unable to mark his ballots without assistance;
    4. One who, on account of blindness, is unable to enter the voting booth or mark his ballots without assistance.

- **Reassignment Of Polling Place, N.C.G.S. 163-130** - If a disabled voter does not wish to vote curbside, and the polling place is not sufficiently equipped to allow comfortable or adequate entrance to the building, there is another option in G.S. 163-130:
  - "G.S. 163-130. Satellite voting places. A county board of elections may, upon approval of a request submitted in writing to the State Board of Elections, establish a plan whereby elderly or disabled voters in a precinct may vote at designated sites within the precinct other than the regular voting place for that precinct. The State Board of Elections shall approve a bounty board's proposed plan if:

    1. All the satellite voting places to be used are listed in the county's written request;

    2. The plan will in the State Board's judgment overcome a barrier to voting by the elderly or disabled [persons];

    3. Adequate security against fraud is provided for; and

    4. The plan does not unfairly favor or disfavor voters with regard to race or party affiliation.

Appendix D - Summary of Accessibility Provisions in the State HAVA Plan and Current State of Voter Accessibility in North Carolina

**III. Possible HAVA Funded Contracts with Disability-Related Organizations**

- Potential contracts to include independent living centers, advocacy agencies, and grassroots organizations, etc., which are familiar with voting rights and requirements, with specific expertise regarding compliance with HAVA.

- Augment the surveying already conducted by the State Board of Elections to formalize a reporting mechanism when access problems are determined. The surveys will be a joint effort; the boards will partnership from the official government agency that signs off on all public buildings concerning ADA specifications and the ADA coordinator in each county.

- Provide sensitivity training to poll workers. Disability etiquette training must be a statewide curriculum and may include written tests of poll workers. The Agency has already produced videos and training guides for election officials, and the agency plans to implement a program through the community college system in order to not only "train the trainers" but to train all poll workers to deal with accessibility issues and compliance.

- There should be a recruitment effort for people with disabilities to become poll workers. The State HAVA plan allocates $1 million dollars to voter outreach programs, part of this will be spent on educating the general voting public about new voting procedures and part will be spent on the website to help educate on accessibility issues.

**IV. County Accessibility Technology in the State HAVA Plan**

- **Public access terminals** in each County Board of Elections Office. Efforts will be made to make these terminals accessible. $300,000 has been allocated in the State HAVA plan for this.

- **Laptops** in polling places for each precinct perhaps with email or "Instant Messaging" capabilities that will allow accessibility problems to be more promptly addressed. $11 million has been allocated in the plan for this purpose.

- **Grants** –
  - **Upgraded PCs, PC workstations, printers, scanners, laptops, Smart cards, phone systems, TTY machines**
  - **Automate the precincts and county offices with Electronic Poll books or Electronic Tablets with the voter registration database loaded to capture signatures and transfers.**

HELP AMERICA VOTE ACT

# NORTH DAKOTA

North Dakota HAVA Help America Vote Act

# HAVA PLAN

*A Cooperative Effort By:*

*Secretary of State's Office*
*Al Jaeger, Secretary of State*

*and*

NDACo
NORTH DAKOTA ASSOCIATION OF COUNTIES

## NORTH DAKOTA STATE HAVA PLAN

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## STATE OVERVIEW – BACKGROUND AND CURRENT PRACTICES

### ◆ GOVERNING POWER

Elections in the state of North Dakota are administered at the county level. North Dakota has 53 demographically diverse counties. The most populous, Cass County, has 90,599 residents within their county seat of Fargo. Conversely, Amidon, the county seat of Slope County, has a population of 26 citizens and is followed closely by the 49 residents of Manning, the county seat of Dunn County. The number of voting precincts administered per county ranges from three to 67, which totaled 666 precincts in the 2002 general election. The counties are served by a combination of elected and appointed county election officials. North Dakota's county election officials are responsible to the Secretary of State for administering all aspects of election management within their respective counties, including state election laws, rules and regulations [*NDCC 16.1-01-01*].

As the state's chief election official, the Secretary of State is elected and charged with the oversight of all elections, including administration of state election law, election official training, candidate filings, candidate certification, campaign finance and disclosure oversight, and compilation of election results [*NDCC 16.1-01*].

### ◆ VOTING EQUIPMENT

For elections, North Dakota has 44 counties that use optical scan voting systems, eight counties that use hand-count paper ballot voting systems, and one county that uses a punch-card voting system. Williams County, the only county using a punch-card voting system, will be used as a model pilot project for equipment replacement, precinct administration, and training for election officials and voters in 2004.

In addition to traditional Election Day voting methods, North Dakota also offers absentee voting to all qualified electors wishing and requesting to vote absentee.

Through the course of implementing HAVA in North Dakota, it is the goal of the Secretary of State and county election officials to bring uniformity to the voting process in the state and to ensure all qualified electors have access to the election process.

### ◆ VOTER OUTREACH

Because of varying degrees of comfort with technology among the state's voting population, state and county election officials need to utilize resources that connect with all voters, regardless of their abilities. The Internet is currently used as a primary tool for providing and distributing information to voters. Other major mediums, including television, radio and print, are resources that will be utilized more extensively in the future. The state will work cooperatively with private, public and tribal entities, including institutions of government and higher education, to better educate specific citizen groups and general citizens about voting and the election process. The state will achieve this by using voter educational material in a variety of accessible formats, along with hands-on instruction and training on the new voting systems that will be used.



### ◆ STATEWIDE DATABASE – Voter Registration

North Dakota is the only state in the nation without some form of voter registration. It was one of the first states to adopt voter registration prior to 1900, and it was the first state to abolish it in 1951.

North Dakota's system of voting and lack of voter registration is rooted in its rural character, illustrated by numerous small precincts, where local election boards know most of the voters who enter the polls to vote on Election Day and may detect those who should not be voting in the precinct.

Because of North Dakota's unique election system, which does not require voters to register, the state is exempt from the National Voter Registration Act of 1993, along with several provisions of the Help America Vote Act of 2002 (HAVA), including but not limited to:

1. The implementation of a centralized voter registration system;
2. The implementation of certain provisional voting requirements; and
3. The voter identification requirements.

## REQUIRED CHANGES – LEGISLATIVE CHANGES AND ACTIONS

### ◆ HAVA COMPLIANCE

The Fifty-eighth Legislative Assembly of North Dakota adopted significant election reform legislation by the passage of Senate Bills 2248, 2394, and 2409, which revised North Dakota's election laws to make them HAVA compliant.

Senate Bill 2248 changed existing state law to make it compliant with uniformed and overseas voter sections of HAVA. Further changes will be made by future rule making. Revised state law includes the following initiatives:

- Permits a United States citizen who is eighteen years of age of older, who has never lived in the United States and whose parent is a qualified elector of the state, to vote absentee in North Dakota, for federal offices only [*NDCC 16.1-07-01*].
- Establishes the Secretary of State's office as the single office in the state for providing information regarding eligible absentee voting by military and overseas citizens [*NDCC 16.1-07-07*].
- Directs the Secretary of State to establish uniform procedures for county election officials to follow when transmitting and receiving voting materials to and from military and overseas voters [*NDCC 16.1-07-16*].
- Directs the Secretary of State to establish uniform procedures for county election officials to follow when notifying military or overseas voters that their absentee ballot was rejected [*NDCC 16.1-07-17*].

Senate Bill 2394 authorized the creation of a centralized electronic voter database linked between the Secretary of State's office and the offices of county election officials. The centralized database will provide a post Election Day tool for preventing and detecting voter fraud, for ensuring efficiency and accuracy, and for generating accurate, up-to-date Election Day poll books [*NDCC 16.1-02*].

Senate Bill 2409 allows the Secretary of State's office and county election officials to plan and take immediate steps to comply with HAVA requirements. Impacting several areas of North Dakota's election laws and phasing in HAVA implementation over the course of the next several years, the legislation adds the following initiatives to state law:

- Establishes by law the state's Election Fund for depositing payments and grants made to the state and funds appropriated by the state to carry out HAVA. The Election Fund shall be used for the exclusive purpose of carrying out activities of HAVA [*NDCC16.1-01-15*].
- Requires and authorizes the Secretary of State to establish a state-based grievance procedure to handle complaints of violations under Title III of HAVA [*NDCC 16.1-01-16*].
- Requires additional information to be posted at the polling place on Election Day in accordance with HAVA [*NDCC 16.1-06-19*].
- Requires and authorizes the Secretary of State to adopt rules for the purpose of certifying and decertifying electronic voting systems and electronic counting machines to ensure compliance with federal standards; and to establish guidelines for determining what constitutes a vote on each electronic voting system authorized to be procured and used in the state [*NDCC 16.1-06-26*].
- Eliminates all references to voting machines (lever machines), and punch-card electronic voting systems and counting machines, and punch-card supplies [*NDCC 16.1-06-10 repealed*].
- Authorizes the use of direct recording electronic voting systems, more commonly referred to as DREs (including touch screen voting devices) that are intended to accommodate the disability requirements contained in Title III of HAVA [*NDCC 16.1-06-11*].
- Clarifies and expands the duties of the Secretary of State as they relate to the administration of elections and the implementation of changes necessary to comply with HAVA [*NDCC 16.1-06-01*].
- Authorizes the Secretary of State to promulgate administrative rules for implementing the provisions of Title 16.1 and any other requirement imposed upon the state by HAVA [*NDCC 16.1-06-01*].
- Changes the number of voting booths or compartments and electronic voting system devices required in each precinct [*NDCC 16.1-13-29*].
- Requires voters who cast ballots as a result of a polling place remaining open after normal voting hours by court order to cast provisional ballots in accordance with HAVA. Provisional ballots cast according to this provision must be segregated from other votes cast [*NDCC 16.1-13-34*].

## ◆ REQUIRED DESCRIPTIONS *[Sec 254, HAVA 2002]*

**1. Section 254(a)(1): How the State will use the requirements payment to meet the requirements of Title III, and if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.**

a. Voting System Standards
Revised state law authorizes the use of voting systems within North Dakota that will comply with both second-chance voting and disability access requirements, as required by HAVA. Each polling location in North Dakota will be equipped



with a voting system capable of notifying the voter if corrections are necessary on his or her ballot (known as second-chance voting), and allows persons with disabilities, and others, to vote unassisted. Counties are authorized to continue using central counting machines to count absentee ballots. In addition to voting system upgrades, polling locations will also provide educational voter information in alternative formats to accommodate the needs of all persons eligible to vote.

b. Provisional Voting
North Dakota does not register voters and is, therefore, exempt from complying with certain provisional voting requirements contained in HAVA.

c. Voting Information Requirements
Voting information, provided in "easy to understand language," will be posted and made available in accessible alternative formats in each polling location, to include information regarding federal laws pertaining to voting rights and prohibited acts of voter fraud; instructions for filing a complaint and contacting the appropriate election officials when voting rights are alleged to have been violated; and the date and hours of voting in each polling place.

d. Voter Registration List
North Dakota does not register voters and is therefore exempt from complying with the centralized voter registration and peripheral identification requirements required by HAVA.

**2. Section 254(a)(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 payments; 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).**

The Office of the Secretary of State will manage all expenditures funded by HAVA. The state will be responsible for accounting for all expenditures, program controls, and outcomes in accordance with state and federal laws.

Based on a target number of precincts established for each county, the state will calculate an allowable expense for voting equipment upgrades in each county. The target number of precincts for each county will be determined by a formula established by the county election officials appointed to the Steering Committee, as defined in Section 12. The formula shall take into account a number of variables, which include but are not limited to, the number of existing precincts, the number of votes cast per county in the last gubernatorial election, the number of eligible voters per county that are over age seventeen, and the size of each county in square miles. The formula shall provide funding incentives for the counties to reduce the number of precincts from the total number of precincts operated in 2002. A county may submit an informal written appeal of the formula or the county's target number of precincts to the Secretary of State. The

Secretary of State shall consider appeals of the formula or target number of precincts in a county based on a review of the written record and determine if the formula or target number of precincts is fair and reasonable. The decision of the Secretary of State is final. The voting system upgrades for the targeted number of precincts within each county would be paid for at the following rate:

- 95% HAVA Contribution
- 2.5% State of North Dakota Contribution
- 2.5% County Contribution

Counties choosing to operate a total number of precincts or polling locations at a rate less than the targeted number of precincts calculated according to the formula outlined in this plan will only be responsible for providing matching funds for upgrading the voting systems in those precincts or polling locations that are operated by the county. Counties choosing to operate precincts in addition to the targeted number of precincts calculated according to the formula outlined in this plan will be responsible for the full cost of upgrading the voting systems in those precincts to match the voting system used in the other precincts in the county.

The state, through the Secretary of State's Office and an advisory group of county election officials and interested parties, will negotiate through the state's established procurement process the best-valued state contract for voting systems. Once a qualifying voting system has been selected, the Secretary of State and counties will enter into a joint powers or other agreement, and may include authorized negotiated agreements with other states, for the purpose of procuring a state-wide voting system that meets the requirements of HAVA and state standards.

Any revenue or interest generated by the state from any HAVA funds will be returned to the state's Election Fund to pay the expenses for technical service support and programming; for equipment maintenance and replacement, as necessary; and for future election related technology upgrades.

In order to meet state standards and be eligible to enter into the joint powers or other agreement, counties must:

1. Address minimum physical accessibility needs of polling places within the county as deemed necessary by the state. Accessibility needs in counties will be based on the results of an independent inspection arranged by the Secretary of State, in coordination with a qualifying authority and the county;
2. Provide storage and security for voting systems;
3. Comply with state-based grievance procedures;
4. Post the required voter information at the polling place, as provided by the state;
5. Provide the 2.5% match toward the initial purchase of voting systems authorized for the county based upon the target number of precincts; and
6. Meet any deadlines established by HAVA and this plan for the replacement of non-qualifying voting systems, voter education and election official training requirements, and any other requirements of HAVA or this plan.



**3. Section 254(a)(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.**

a. Election Officials and Poll Worker Education and Training

Currently, the Secretary of State's office holds training sessions for county election officials prior to the election cycle in each election year. The county election officials and the State's Attorney, in turn, hold training sessions for their election officials and poll workers prior to each election *[NDCC 16.1-05-03]*. Improvements for election official training and recruitment may be accomplished through, but are not limited to:

- Increasing training of county election officials in the areas of HAVA implementation and overall election administration through funding of grants to counties to participate in national election education programs.
- Establishing and implementing an on-going local election official continuing education program open to county, city, and school board officials to be coordinated through Secretary of State, North Dakota Association of Counties, North Dakota League of Cities, North Dakota School Board Association, United Tribes of North Dakota, the North Dakota Association of Tribal Colleges, and other institutions of higher education.
- Creating a uniform and standardized training program designed by the state, which would be presented in addition to local election information by each respective county election official, for all local election workers by the 2006 election. All election workers will be required to attend the newly created training program following its initial introduction.
- Coordinating cooperative efforts between media outlets and the state's political parties, League of Women Voters and other interest groups to establish programs to enhance election official recruitment and training, and encourage employers to allow time for election officials to serve.
- Developing web-based training sessions, which will be archived and allow for tutoring, testing, and possibly online certification of election officials and poll workers.
- Using the Interactive Video Network (IVN) for election training classes at remote sites.
- Creating and implementing training videos and compact discs to be made available to all election officials.

b. Voter Education

Improvements to voter education may be accomplished through, but are not limited to:

- Creating an Advisory Board responsible for coordinating voter education and outreach programs with youth organizations.
- Working with advocates for persons with disabilities, the aging community, and other groups to establish an outreach and education program designed to educate voters on the election process and new voting systems in North Dakota.
- Working cooperatively with public, private, and tribal entities, including institutions of local government and higher education, to establish an outreach program designed to educate voters on the election process and new voting systems in North Dakota.

- Developing and implementing a statewide precinct locator capable of providing quick and easy online information to voters about where to vote.
- Demonstrating new voting systems in public places.
- Producing a one-time mailer outlining voting and voter access information to be sent to every household in North Dakota.
- Developing and implementing web-based education and voter outreach, to include descriptions and maps of voting precincts, polling locations, and instructions for voting on voting devices.
- Continuing to publish sample ballots and analyses of the measures appearing on the ballot in each county's official newspaper, to include voter education information.

**4. Section 254(a)(4): How the State will adopt voting system guidelines and processes which are consistent with Section 301.**

The revisions to state law, approved by North Dakota's Fifty-eighth Legislative Assembly, provide a process to certify and decertify voting systems in the state. The Secretary of State will adopt rules that may take into account standards created by and results of testing conducted by the Federal Election Commission and/or the Election Assistance Commission, for certifying and decertifying electronic voting systems authorized by law, including any software, hardware and firmware components used as a part of an electronic voting system or electronic counting machine for use in the state. An electronic voting system, a single device of an electronic voting system, and any update or enhancement made to them, in use by a county prior to August 1, 2003, will be reviewed by the Secretary of State by April 1, 2004, and must meet the requirements of the rules, or must be replaced by another electronic voting system or electronic counting machine, a single device of an electronic voting system or electronic counting machine, or any update or enhancement made to them, that meets the requirements of the rules by January 1, 2006.

North Dakota will implement a voter education plan with the counties for second-chance voting, including statewide and local efforts to promote voting accuracy.

**5. Section 254(a)(5): How the State will establish a fund described in subsection (b) for the purposes of administering the State's activities under this part, including information on fund management.**

As required by HAVA, the Secretary of State has established and is maintaining an Election Fund for the exclusive purpose of carrying out activities of HAVA. Following the receipt of HAVA payments, any subsequent deposits consisting of interest or revenue generated from HAVA money will be returned to the state's Election Fund to pay the expenses for the technical service support and programming; for equipment maintenance and replacement, as necessary; and future election related technology upgrades.



**6. Section 254(a)(6): The State's proposed budget for activities under this part, based on the State's best estimates of the costs for 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.**

The Fifty-eighth Legislative Assembly authorized $105,000, just over 2.5%, in matching funds for federal election reform. Funding estimates are based on the assumption Congress will allocate a minimum of an additional $4.15 Million to the state for the purpose of election reform.

| No. | Activity | Funding Estimates* | Description |
|---|---|---|---|
| 1. | Voting System Upgrades and Improvements<br>• Punch-card replacement (Williams County)<br>• Second-Chance Voting and Disability Access | Between $5,000,000 AND $6,000,000 | • Replace punch-card equipment in Williams County<br>• Placement of at least one voting system in each precinct consisting of equipment capable of offering second-chance voting and unassisted voting access for persons with disabilities |
| 2. | Statewide Voter Registration Database | NA | • North Dakota is exempt |
| 3. | Voter Education for Second-Chance Voting Requirement | $100,000 | • Develop and execute a publicity campaign and system specific voter education materials |
| 4. | Voting Information Posting Requirements | $100,000 | • Develop and distribute posters containing required information and other instructional materials |
| 5. | Provisional Voting | NA | • North Dakota is exempt from certain portions of provisional voting as required by HAVA |
| 6. | State-Based Grievance Procedure | $50,000 | • Adopt, train, and administer a state-based grievance procedure |
| 7. | Requirements for first time voters who register by mail | NA | • North Dakota is exempt |
| 8. | Voter Education | $200,000 | • Develop and execute programs to provide quality voter education in harmony with Activity No. 3, 4 and 6 |
| 9. | Election Official Education and Training and Poll Worker Training | $120,000 | • Develop and execute programs to provide quality election official training and poll worker training |
| 10. | Central Voter File | $1,000,000 | • Develop and implement |

| | | | |
|---|---|---|---|
| | | | a centralized database of voters for purposes of preventing and detecting fraud, and creating Election Day poll books |
| 11. | Adopt and Develop Voting System Standards and a Voting System Test Process | $30,000 | • Adopt and develop voting system standards and test processes in accordance with Federal Election Commission or Election Assistance Commission standards and testing results |
| 12. | Monitoring Performance Goals and Production of Report | $100,000 | • Ensure compliance with HAVA |
| 13. | Development of State Plan and On-going Management of the State Plan | $270,000 | • Ensure the continued management of the HAVA activities in cooperation with local election officials |
| | Total | Between $6,970,000 AND $7,970,000 | |

**Activity Funding Estimates are 'best estimates,' and are likely to increase and/or decrease in the process of actual implementation. All funding estimates are based on the calculated amount of federal election reform funding being allocated to North Dakota.*

**7. Section 254(a)(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.**

North Dakota will maintain expenditures of the state for activities funded by the payment at a level equal to or greater than the level of such expenditures in state FY2000, which was $35,841. This number is a reflection of *state* expenditures only and does not reflect expenses incurred by counties.

**8. Section 254(a)(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.**

The Secretary of State's office, with the cooperation of the county election officials and the assistance of the North Dakota Association of Counties, is responsible for ensuring success in meeting each performance goal. A comprehensive performance report will be produced following the January 1, 2006, complete compliance deadline.



Performance goals include:

a. Elimination of punch-card voting equipment.
   i. Timetable: January 1, 2006
   ii. Criteria: Replacement of punch-card voting equipment and compliance with Title III HAVA requirements for Williams County, the only county to utilize punch-card equipment in the 2000 General Election.
   iii. How Criteria is Judged: Success of meeting this performance goal is based on the implementation of a compliant voting system in Williams County by January 1, 2006.
   iv. Responsible Official: Secretary of State, with cooperation of the Williams County election official, and assistance of the North Dakota Association of Counties.

b. Voter education program on how to correctly cast a ballot for each type of voting system, and how to utilize the second-chance voting capabilities of each.
   i. Timetable: January 1, 2006
   ii. Criteria: Establishment and implementation of a voter education program specific to each type of voting system, clearly explaining to voters how to correctly cast a ballot, correct an error, obtain a replacement ballot, and the effect of casting multiple votes for an office. Materials and training will be available in alternative, accessible formats and will be designed to meet the needs of a diverse audience.
   iii. How Criteria is Judged:
      a) Success of meeting this performance goal is based on the establishment and implementation of a voter education program developed and coordinated with county election officials; and
      b) Through comparison of the number of incorrect ballots cast prior to the implementation of voter education program and the number of incorrect ballots cast following the implementation of the voter education program.
   iv. Responsible Official: Secretary of State with the cooperation of county election officials, and the assistance of the North Dakota Association of Counties.

c. Accessibility for individuals with disabilities.
   i. Timetable: January 1, 2006
   ii. Criteria: Implementation of an accessible voting system meeting the requirements of HAVA and assuring the minimum physical accessibility of polling places, as deemed necessary by the state, has been met.
   iii. How Criteria is Judged: Success of meeting this performance goal is based on the placement of an accessible voting system meeting the requirements of

HAVA and the number of valid accessibility-related complaints received by the Secretary of State.

iv. Responsible Official: Secretary of State with the cooperation of county election officials, and the assistance of the North Dakota Association of Counties.

d. Posting of voting information in polling locations.

i. Timetable: January 1, 2006

ii. Criteria: Posting of the required voting information in "easy to understand language," and in alternative, accessible formats in each polling location. Voter information on new voting systems will be posted in conjunction with new voting system implementation in each county.

iii. How Criteria is Judged: Success of meeting this performance goal is based on the posting of the required information and its availability in accessible, alternative formats in each polling location in the state.

iv. Responsible Official: Secretary of State with the cooperation of county election officials.

**9. Section 254(a)(9): A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under Section 402.**

The secretary of state shall establish a uniform state-based administrative complaint procedure to remedy grievances according to section 402 of the Help America Vote Act of 2002 (HAVA) *[Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15512]*. The complaint procedure must be uniform and nondiscriminatory and address complaints of violations of any provision of Title III of HAVA, including a violation that has occurred, is occurring, or is about to occur. A complaint filed under the complaint procedure must be in writing, notarized, and be signed and sworn by the person filing the complaint and state the alleged violation of federal or state law. The secretary of state is authorized to consolidate complaints. At the request of a complainant, the secretary of state shall establish a procedure for providing a review on the record. If the secretary of state determines there is a violation of a provision of Title III of HAVA *[Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15481-15502]*, the secretary of state shall determine and provide an appropriate remedy. If the secretary of state determines that a violation of Title III of HAVA has not occurred, the secretary of state shall dismiss the complaint and publish the results of the review. The secretary of state shall make a final determination with respect to a complaint within ninety days of the date the complaint is filed with the secretary of state, unless the complainant consents to a longer period of time for the secretary of state to make a determination. If the secretary of state fails to meet the ninety-day deadline for determining a complaint, the complaint must be resolved within sixty days under an alternative dispute resolution procedure. *[NDCC 16.1-01-16]*



**10. Section 254(a)(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.**

Williams County, the only county using a punch-card voting system, will be used as a model pilot project in upgrading voting systems to the requirements of HAVA and state law, precinct administration, and training for election officials and voters. Through the course of implementing HAVA in North Dakota, it is the goal of the Secretary of State and county election officials to bring uniformity to the voting process in the state and to ensure all individuals have access to the election process. To ensure uniformity, each polling location in North Dakota will be equipped with an accessible voting system capable of notifying the voter if corrections are necessary to his or her ballot (known as second-chance voting) and allows persons with disabilities, and others, to vote unassisted. To achieve this goal, the state will attempt to implement a new voting system, or parts thereof, in Williams County and other counties by June 1, 2004. All counties will be required to be in full compliance by January 1, 2006. These requirements are subject to voting system availability.

North Dakota is exempt from the National Voter Registration Act of 1993, along with the voter registration and certain provisional voting requirements contained in the Help America Vote Act of 2002.

Revised state law authorizes the creation of a centralized electronic voter database that will link the Secretary of State's office with county election officials' offices. The centralized database will provide a post Election Day tool for preventing and detecting voter fraud and generating accurate, up-to-date Election Day poll books.

**11. Section 254(a)(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).**

Ongoing management of the State Plan is the responsibility of the Secretary of State. Minor changes will be administered by the Steering Committee. In the event of a material change to the proposed plan, a State HAVA Planning Committee, including representation from local government, voter interest groups, and general citizens, may be reconvened for review and consultation. All members recognize HAVA as a constantly evolving program requiring significant enhancements in the administration of elections in North Dakota. To ensure proper and comprehensive daily administration, the Secretary of State, county election officials, and the North Dakota Association of

Counties will continue to build and rely on the unique trust and cooperation which characterizes the relationship between North Dakota's state and local governments.

**12. Section 254(a)(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.**

Two separate committees were organized to complete drafting, advocate voter interest, and review the State Plan. Both committees were staffed and facilitated by the Secretary of State and the North Dakota Association of Counties.

### ◆ STEERING COMMITTEE

The Steering Committee researched and drafted the State Plan. Membership includes county election official representation from two large, two medium and two small population counties, with a cross-section of punch-card, paper ballot and optical scan voting equipment representation. Future membership of the Steering Committee shall consist of representation from the North Dakota Association of Counties, to include the HAVA Coordinator, the Secretary of State's office, and county election officials, representing large, medium, and small population counties, who are appointed by the North Dakota Association of County Auditors.

| | |
|---|---|
| Cory Fong | Deputy Secretary of State |
| Danette Odenbach | HAVA Coordinator, North Dakota Association of Counties |
| Beth Innis | Williams County Auditor |
| Roy Steiner | Hettinger County Auditor |
| Susan Ritter | Renville County Auditor |
| Dave Senger | Ward County Auditor |
| Sherry Hosford | Sargent County Auditor |
| Jim Brownlee | Grand Forks County Auditor |
| Terry Traynor | Assistant Executive Director, North Dakota Association of Counties |
| Bonnie Amble | Executive Assistant, North Dakota Association of Counties |



### ◆ STATE HAVA PLANNING COMMITTEE

The State HAVA Planning Committee represents a broad cross-section of interests and consists of eighteen members, including county and local officials, representation from the disabilities community, the technology sector, voter interest groups, along with every-day citizens. Future membership of the State HAVA Planning Committee shall consist of representation from local government, voter interest groups, and general citizens.

| | |
|---|---|
| Mike Montplaisir | Chairman, Cass County Auditor (most populous jurisdiction) |
| Kevin Glatt | Burleigh County Auditor (second most populous jurisdiction) |
| Ruth Graf | Kidder County Auditor |
| Edward McGough | Barnes County Auditor |
| Dennis Schlenker | League of Cities |
| David Blackstead | North Dakota School Board Association |
| Patty Carlblom | North Dakota County Commissioners |
| Corinne Hofmann | Protection and Advocacy |
| Jason Sverak | North Dakota Republican Party |
| Renee Pfenning | North Dakota Democratic NPL Party |
| Sue Tohm | League of Women Voters |
| Sheyna Henry* Janelle Olson* | People First of North Dakota |
| Phil Baird | North Dakota Indian Affairs Commission |
| Bruce Hagen | American Association of Retired People (AARP) |
| Steve Kelsch | North Dakota Association of Counties Information Technology |
| Tim Reuer | General Citizen |
| Betty Svihovec | General Citizen |
| Roger Bailey | General Citizen |
| ***FACILITATORS:*** | |
| Cory Fong | Deputy Secretary of State |
| Danette Odenbach | HAVA Coordinator, North Dakota Association of Counties |
| Terry Traynor | Assistant Executive Director, North Dakota Association of Counties |
| Bonnie Amble | Executive Assistant, North Dakota Association of Counties |

**Shared membership*

◆ TIMELINE

| | |
|---|---|
| April 30 | First meeting of HAVA Steering Committee |
| May 1 | NDACo Legislative Wrap-up, Bismarck |
| May 22 | First meeting of HAVA State Planning Committee |
| June 2 | Draft review by Secretary of State and NDACo |
| June 5 | Second meeting of HAVA State Planning Committee |
| June 10-13 | ND County Auditor's Convention, Grand Forks<br>HAVA presentation by Doug Lewis<br>(Review of plan to-date and recommendations) |
| June 19 | Third meeting of HAVA State Planning Committee |
| June 25-July 25 | Public Comment Period, population centers in the state |
| July 31 | Fourth and final meeting of HAVA State Planning Committee |
| August 4 | Final plan review by Secretary of State |
| August 11 | Submission of HAVA State Plan to Election Administration Commission and/or other appropriate federal agencies* |
| September 2003 | Procurement Materials provided to Voting System Vendors |
| September 2003 | Certification of State Plan by Governor, following publication in Federal Register* |
| September 30 | Deadline for Title III Funds Application to EAC* |
| October 5-7, 2003 | Voting System Exhibition, North Dakota Association of Counties Annual Conference, Bismarck |
| January 1, 2006 | Voter Information Posted in Polling Locations |
| January 1, 2006 | Complete HAVA Compliance |

**Pending establishment of EAC or designation of other appropriate governing federal agency*

## FOR MORE INFORMATION, CONTACT

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◆ APPENDIX A (1)

**Possible Funding Formula**
**Maximum Precincts to Be Funded**

| **The average of:** | Weight |
|---|---|
| Number of Existing Precincts as of 2002 | 3 |
| Votes Cast in last Gubernatorial Election (In Thousands-Rounded) | 1 |
| Eligible Voters (<17 Pop.) (In Thousands-Rounded) | 1 |
| Five times the area in Square Miles (In Thousands-Rounded) | 1 |

| | 2002 Existing Precincts | 2000 Votes Cast for Governor (Thousands) | 2000 Population Over 17 (Thousands) | Area in 1000 Sq. Mi Times 5 | Funded Precincts (Average of Factors) | Difference From Existing Precincts |
|---|---|---|---|---|---|---|
| Weight | 3 | 1 | 1 | 1 | 6 | |
| Adams | 3 | 1 | 2 | 5 | 3 | 0 |
| Hettinger | 3 | 2 | 2 | 6 | 3 | 0 |
| Towner | 3 | 1 | 2 | 5 | 3 | 0 |
| Dickey | 3 | 3 | 4 | 6 | 4 | 1 |
| Billings | 4 | 1 | 1 | 6 | 3 | -1 |
| Bowman | 4 | 2 | 2 | 6 | 4 | 0 |
| Golden Valley | 5 | 1 | 1 | 5 | 4 | -1 |
| Steele | 5 | 1 | 2 | 4 | 4 | -1 |
| Logan | 5 | 1 | 2 | 5 | 4 | -1 |
| Renville | 5 | 1 | 2 | 4 | 4 | -1 |
| Rolette | 5 | 4 | 9 | 5 | 6 | 1 |
| Slope | 6 | 1 | 1 | 6 | 4 | -2 |
| Sheridan | 6 | 1 | 1 | 5 | 4 | -2 |
| Burke | 6 | 1 | 2 | 6 | 5 | -1 |
| Divide | 6 | 1 | 2 | 6 | 5 | -1 |
| Eddy | 6 | 1 | 2 | 3 | 4 | -2 |
| McIntosh | 6 | 2 | 3 | 5 | 5 | -1 |
| Sargent | 6 | 2 | 3 | 4 | 5 | -1 |
| Wells | 6 | 2 | 4 | 6 | 5 | -1 |
| Oliver | 7 | 1 | 1 | 4 | 5 | -2 |
| Griggs | 7 | 2 | 2 | 4 | 5 | -2 |
| Grant | 7 | 1 | 2 | 8 | 5 | -2 |
| Nelson | 7 | 2 | 3 | 5 | 5 | -2 |
| Ransom | 7 | 3 | 4 | 4 | 5 | -2 |
| Benson | 8 | 2 | 4 | 7 | 6 | -2 |
| Kidder | 9 | 1 | 2 | 7 | 6 | -3 |
| Sioux | 9 | 1 | 2 | 5 | 6 | -3 |

*Appendix A (1) Continued*

| | 2002 Existing Precincts | 2000 Votes Cast for Governor (Thousands) | 2000 Population Over 17 (Thousands) | Area in 1000 Sq. Mi Times 5 | Funded Precincts (Average of Factors) | Difference From Existing Precincts |
|---|---|---|---|---|---|---|
| Mountrail | 9 | 3 | 5 | 9 | 7 | -2 |
| Foster | 10 | 2 | 3 | 3 | 6 | -4 |
| Emmons | 11 | 2 | 3 | 8 | 8 | -3 |
| Pierce | 11 | 2 | 4 | 5 | 7 | -4 |
| LaMoure | 11 | 3 | 4 | 6 | 8 | -3 |
| McHenry | 11 | 3 | 5 | 9 | 8 | -3 |
| Dunn | 12 | 2 | 3 | 10 | 9 | -3 |
| Traill | 13 | 4 | 6 | 4 | 9 | -4 |
| Ramsey | 13 | 5 | 9 | 6 | 10 | -3 |
| Pembina | 14 | 4 | 6 | 6 | 10 | -4 |
| Bottineau | 15 | 4 | 6 | 8 | 11 | -4 |
| Mercer | 15 | 4 | 6 | 5 | 10 | -5 |
| Stark | 15 | 10 | 17 | 7 | 13 | -2 |
| McLean | 16 | 5 | 7 | 11 | 12 | -4 |
| McKenzie | 17 | 2 | 4 | 14 | 12 | -5 |
| Walsh | 18 | 5 | 9 | 6 | 12 | -6 |
| Williams | 18 | 8 | 15 | 10 | 15 | -3 |
| Stutsman | 18 | 9 | 17 | 11 | 15 | -3 |
| Morton | 18 | 11 | 18 | 10 | 16 | -2 |
| Cavalier | 22 | 2 | 4 | 7 | 13 | -9 |
| Richland | 22 | 8 | 14 | 7 | 16 | -6 |
| Barnes | 23 | 6 | 9 | 7 | 15 | -8 |
| Ward | 32 | 23 | 43 | 10 | 29 | -3 |
| Burleigh | 38 | 35 | 52 | 8 | 35 | -3 |
| Grand Forks | 43 | 29 | 50 | 7 | 36 | -7 |
| Cass | 67 | 59 | 94 | 9 | 61 | -6 |
| | 666 | 292 | 480 | 345 | 525 | -141 |



◆ **APPENDIX A (2)**

| RAW DATA | 2000 Population Total | 2000 Population Over 17 | Area Square Miles | 2000 Votes Cast for Governor |
|---|---|---|---|---|
| Adams | 2,593 | 1,992 | 988 | 1,227 |
| Hettinger | 2,715 | 2,081 | 1,132 | 1,554 |
| Towner | 2,876 | 2,168 | 1,025 | 1,230 |
| Dickey | 5,757 | 4,388 | 1,131 | 2,843 |
| Billings | 888 | 667 | 1,152 | 536 |
| Bowman | 3,242 | 2,462 | 1,162 | 1,523 |
| Golden Valley | 1,924 | 1,379 | 1,002 | 827 |
| Steele | 2,258 | 1,634 | 712 | 1,234 |
| Logan | 2,308 | 1,786 | 993 | 1,204 |
| Renville | 2,610 | 2,001 | 875 | 1,352 |
| Rolette | 13,674 | 8,689 | 902 | 4,485 |
| Slope | 767 | 573 | 1,218 | 456 |
| Sheridan | 1,710 | 1,344 | 972 | 954 |
| Burke | 2,242 | 1,775 | 1,104 | 1,061 |
| Divide | 2,283 | 1,821 | 1,259 | 817 |
| Eddy | 2,757 | 2,106 | 632 | 1,306 |
| McIntosh | 3,390 | 2,734 | 975 | 1,738 |
| Sargent | 4,366 | 3,211 | 859 | 2,229 |
| Wells | 5,102 | 3,953 | 1,271 | 2,437 |
| Oliver | 2,065 | 1,499 | 724 | 1,061 |
| Griggs | 2,754 | 2,133 | 708 | 1,502 |
| Grant | 2,841 | 2,175 | 1,660 | 1,471 |
| Nelson | 3,715 | 2,895 | 982 | 1,876 |
| Ransom | 5,890 | 4,419 | 863 | 2,784 |
| Benson | 6,964 | 4,451 | 1,389 | 2,213 |
| Kidder | 2,753 | 2,115 | 1,352 | 1,299 |
| Sioux | 4,044 | 2,414 | 1,094 | 1,073 |
| Mountrail | 6,631 | 4,771 | 1,824 | 2,958 |
| Foster | 3,759 | 2,774 | 635 | 1,761 |
| Emmons | 4,331 | 3,256 | 1,510 | 2,031 |
| Pierce | 4,675 | 3,560 | 1,018 | 2,040 |
| LaMoure | 4,701 | 3,563 | 1,147 | 2,534 |
| McHenry | 5,987 | 4,553 | 1,874 | 2,823 |
| Dunn | 3,600 | 2,614 | 2,010 | 1,759 |
| Traill | 8,477 | 6,373 | 862 | 4,224 |
| Ramsey | 12,066 | 9,047 | 1,186 | 5,061 |
| Pembina | 8,585 | 6,445 | 1,119 | 3,838 |

*Appendix A (2) Continued*

| | 2000 Population Total | 2000 Population Over 17 | Area Square Miles | 2000 Votes Cast for Governor |
|---|---|---|---|---|
| Bottineau | 7,149 | 5,562 | 1,669 | 3,728 |
| Mercer | 8,644 | 6,131 | 1,045 | 4,414 |
| Stark | 22,636 | 16,855 | 1,338 | 9,937 |
| McLean | 9,311 | 7,099 | 2,110 | 4,719 |
| McKenzie | 5,737 | 3,981 | 2,742 | 2,385 |
| Walsh | 12,389 | 9,298 | 1,282 | 5,255 |
| Williams | 19,761 | 14,589 | 2,071 | 7,999 |
| Stutsman | 21,908 | 16,903 | 2,222 | 9,236 |
| Morton | 25,303 | 18,480 | 1,926 | 11,352 |
| Cavalier | 4,831 | 3,643 | 1,489 | 2,424 |
| Richland | 17,998 | 13,561 | 1,437 | 8,178 |
| Barnes | 11,775 | 9,151 | 1,492 | 5,807 |
| Ward | 58,795 | 43,372 | 2,013 | 22,682 |
| Burleigh | 69,416 | 52,241 | 1,633 | 34,777 |
| Grand Forks | 66,109 | 50,374 | 1,438 | 28,641 |
| Cass | 123,138 | 94,290 | 1,766 | 59,394 |
| | 642,200 | 481,351 | | 292,249 |

J. Kenneth Blackwell
Ohio Secretary of State

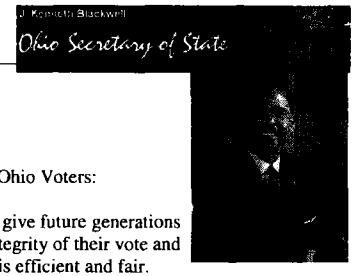
# Changing the Election Landscape in the State of Ohio

A State Plan to implement the Help America Vote Act of 2002 in accordance with Public Law 107-252, §253(b)

*"The Act appropriately respects the primacy of state and local governments in the administration of elections, while helping to ensure the integrity and efficiency of voting processes in federal elections by providing federal governmental support for that vital endeavor."*

**PRESIDENT GEORGE W. BUSH**
THE WHITE HOUSE,
October 29, 2002






June 16, 2003

Dear Election Assistance Commission and Ohio Voters:

I can think of no greater gift we can give future generations than an electoral process that ensures the integrity of their vote and provides them with an election system that is efficient and fair.

At the very least, we need an election system that assures every vote counts and every voice is heard in electing those who will serve in government and decide the many critical issues we face as citizens. No voter should be excluded from the process because of a disability, as no voter should be excluded because of inadequate, outdated and imprecise voting mechanisms.

That's what this report is all about. That's what the Help America Vote Act of 2002 is all about – fair elections and empowering every voter to exercise their obligation, responsibility and privilege to fully engage in the election process.

Democracy, after all, is a fragile system that relies on the voices and participation of all its citizens, not just a chosen few. Every voter and every vote cast strengthens our democracy and enhances the opportunity to choose the best people for the job of leading our government, at all levels, and deciding those issues that affect our local community, state and nation.

My thanks to the State Plan Committee who worked so diligently to help me create this document that will open a new era for the way we vote in Ohio. Truly, we are dramatically changing the election landscape in our state and in our nation. That is a good thing and probably one of the most important contributions we can make to future generations of Ohioans.

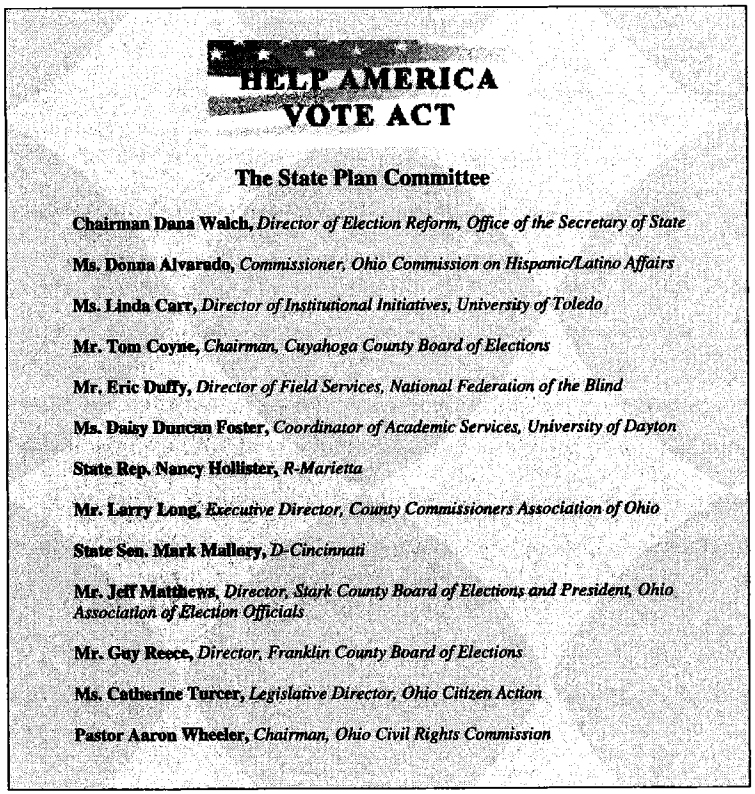
In the final analysis, the Help America Vote Act of 2002 is about inclusion more than it is about all the technical change and new administrative processes and procedures called for in this plan. Inclusion is, after all, the thread that binds the fabric of democracy.

Very truly yours,

J. Kenneth Blackwell

J. KENNETH BLACKWELL
Ohio Secretary of State

*The Ohio Secretary of State gratefully acknowledges the State Plan Committee for their participation and assistance in the preparation and development of this plan for the strategic implementation of election reforms in the State of Ohio, pursuant to the Help America Vote Act of 2002.*





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***Help America Vote Act of 2002***

# I. Introduction and Overview

On Oct. 29, 2002, President George Bush signed into law the Help America Vote Act of 2002. The legislation was passed in the U.S. House in late 2001 and was approved by the U.S. Senate the following year.

Much of the law embraces recommendations advanced by the National Commission on Federal Election Reform, a group that included both former Presidents Jimmy Carter and Gerald Ford as its honorary co-chairs. The commission observed that democracy is a precious birthright. But they also noted that each generation must nourish and improve the processes of democracy for its successors.

The Help America Vote Act logically embraces the goals of election reform by expecting all levels of government to provide a democratic process that:

- maintains an accurate list of citizens who are qualified to vote;
- encourages every eligible voter to participate effectively;
- uses equipment that reliably clarifies and registers the voter's choice;
- handles close elections in a foreseeable and fair way;
- operates with equal effectiveness for every citizen and every community; and
- reflects limited but responsible federal participation.

In Ohio, the Secretary of State and the State Plan Committee used those broad parameters, principles and guidelines as the foundation objective for developing this plan. From that platform, the Secretary and State Plan Committee formulated the Ohio Plan to address the following specific issues to meet and exceed the minimum standards of the Help America Vote Act. In greater detail, this report addresses:

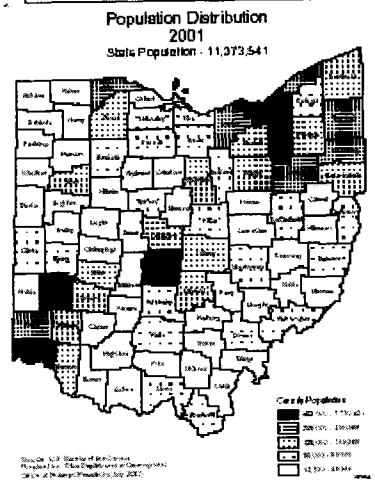
1. How Ohio will use requirement payments, distribute and monitor the allocation of these funds to county governments, and what criteria will be used to determine eligibility for these funds.
2. How Ohio will measure the performance of county governments to ensure they are in compliance with the Act.
3. How Ohio will develop programs to provide voter education, election official and poll worker education and training to meet the standards of the Act.
4. How Ohio will establish voting system guidelines and processes.
5. How Ohio will administer these activities and budget for administrative costs, as well as establishing a budget for overall implementation of the plan based on our best estimate of costs.
6. How Ohio will use the requirement payments without reducing state support for voter and election activities below what the state was spending in November, 2000.
7. How Ohio will establish performance goals and measures for county government.

8. How Ohio will create and develop a uniform administrative complaint procedure.

9. How payments under Title I will be used for punch-card replacement in Ohio and how that will affect and enhance the overall implementation of the plan.

10. How Ohio intends to conduct ongoing oversight and management of election reforms and improvements.

***The size and composition of Ohio's population is a challenge to implementation of wholesale election reform in the state, but Ohio also is challenged because of the prevalence of punch-card voting. Nationally, it is estimated that 34.4 percent of the nation's voters cast their ballot on punch-card voting devices. In Ohio, 72 percent of the state's voters use this ballot method.***




As the following section of the report suggests, election reform as envisioned by the Help America Vote Act is not a casual undertaking in Ohio. The demographics of the state reveal a broad mix of urban, rural and mid-size communities. Ohio, for example, has eight urban markets that include three large metropolitan cities – Cleveland, Columbus and Cincinnati. Smaller urban centers include Toledo, Youngstown, Dayton, Akron and Steubenville. Each enjoys its own community culture and election traditions.

In addition to these larger urban centers are mid-size communities like Mansfield and Lima, which represent the balance of Ohio's Metropolitan Statistical Areas (MSA's) according to the U.S. Census Bureau. But beyond those 10 communities and the counties they represent are 78 other Ohio counties that reflect a more rural population, including a large portion of Southeast Ohio that is designated as part of the Appalachian region.

The size and composition of Ohio's population is a challenge to implementation of wholesale election reform in the state, but Ohio also is challenged because of the prevalence of punch-card voting. Nationally, it is estimated that 34.4 percent of the nation's voters cast their ballot on punch-card voting devices. In Ohio, 72 percent of the state's voters use this ballot method.

Given that context, we offer the following demographic overview of the





State of Ohio to provide the Election Assistance Commission with what we regard to be a valuable foundation perspective for the implementation of election reforms in Ohio.

## II. Ohio Demographics

While Ohio remains one of the nation's leading manufacturing centers, the state, during the past two decades, has made the transition to a more service-industry economy.

Nearly 28 percent of Ohio's 5.4 million employee workforce is now classified as service employees. From 1990 to 2000, the state's population grew from 10.8 million to 11.3 million.

The state is comprised of 88 counties that occupy nearly 41,000 square miles of land. Ohio is bounded on the south and east by the Ohio River and on the north by Lake Erie.

About 11.5 percent of that population is African-American and 1.9 percent is Hispanic/Latino, according to the most recent Census data. In total, Ohio's minority population is about 16 percent of the total population.

The median age in the state is 36.2 years of age and, like many other states, is trending older. About two-thirds of Ohio residents live in owner-occupied households and about 29 percent live in renter-occupied dwellings.

The state has a wealth of educational institutions with 15 public four-year universities and 62 private colleges and universities. There are 25 two-year colleges in the state. The largest counties, in rank order and based on 2000 Census data, are:

| Rank | County | Population |
|---|---|---|
| 1 | Cuyahoga | 1,393,978 |
| 2 | Franklin | 1,068,978 |
| 3 | Hamilton | 845,303 |
| 4 | Montgomery | 559,062 |
| 5 | Summit | 542,899 |
| 6 | Lucas | 455,054 |
| 7 | Stark | 378,098 |
| 8 | Butler | 332,807 |
| 9 | Lorain | 284,664 |
| 10 | Mahoning | 257,555 |

The state's major employers include such corporate notables as AK Steel, Daimler Chrysler, Delphi Automotive Systems, Ford Motor Co., General Electric Co., General Motors Corp., Goodyear Tire & Rubber Co., Honda Motor Co. Ltd., Kroger, Nationwide Insurance, Procter & Gamble, TRW Inc. and Wendy's International.

In total, there are about 240,000 active businesses in Ohio, including about 80,000 farms that represent 14.9 million acres.

The state boasts 115 state parks that provide nearly 115,000 acres of recreational space for Ohio residents. There are six airports in the state with scheduled airline service and another 164 commercial airports and 10 commercial heliports. Transportation arteries in the state include 1,572 miles of interstate highways, 3,918 miles of U.S. highways, and

more than 14,000 miles of state highways. The Ohio Turnpike that ribbons through northern Ohio covers 241 miles from the Indiana state line to the Pennsylvania state line.

## III. State Political/Governmental Structure

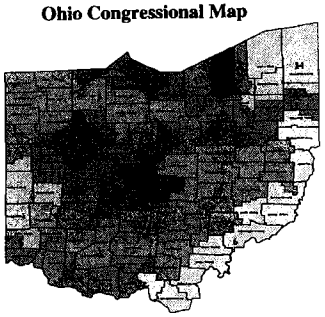
Ohio is governed by five major statewide officeholders including Gov. Bob Taft, Attorney General Jim Petro, State Auditor Betty Montgomery, Secretary of State J. Kenneth Blackwell and Treasurer Joseph Deters. The Ohio General Assembly includes 99 members of the Ohio House of Representatives and 33 members of the Ohio Senate.

Since 1992, both statewide officeholders and elected legislators are subject to term limits. Statewide officeholders are limited to two four-year terms. In the Ohio General Assembly, House members are limited to four two-year terms and State Senators are limited by two four-year terms.

Some local government officials also are subject to term limits as a result of local ballot initiatives in some Ohio communities.

The Ohio Supreme Court includes seven justices who are elected statewide. The Supreme Court is not subject to term limits. The Chief Justice of the Ohio Supreme Court is Thomas Moyer.

**Ohio Congressional Map**



The local government structure in Ohio includes a mix of city and county elected officials, with most cities and villages in Ohio administered by a mayor/council form of government. Some municipalities have an appointed city manager form of government in which an executive is appointed to administer local municipal affairs.

In Ohio local government, there are "statutory" cities that operate largely on the basis of state statutory law and "charter" cities that may adopt so-called "home rule" guidelines to conduct the affairs of local government.

On the county level, 87 of 88 Ohio counties are governed by a Board of County Commissioners, which oversee county administration. Summit County is the only county in Ohio with a county executive/council form of government. The Summit County Council is comprised of eight district council members and three who are elected at large. Ohio counties also elect county auditors, prosecutors, treasurers, clerks of court, judges and county sheriffs.

The state is represented by 18 elected members of the U.S. House of Representatives and, of course, two U.S. Senators.





## IV. State of Ohio Elections Systems

Ohio is, pervasively, a punch-card voting state. In total, 69 of Ohio's 88 counties use punch-card voting. Those 69 counties represent 72.5 percent of all the registered voters in Ohio and 74 percent of the 11,756 voting precincts in the state.

Among the 19 counties that use voting devices other than punch-card ballots, two use automatic voting machines, six have electronic voting devices, and 11 use optical scanning equipment.

The table below (that continues on the following pages) shows a county-by-county listing of the types of voting devices in each of Ohio's 88 counties. The table also reflects the number of precincts and registered voters in each of those counties as reflected in the November, 2002 General Election, which we use as base data throughout this report (unless otherwise indicated.)

| COUNTY | PRECINCTS | REGISTERED VOTERS | TYPE DEVICE |
|---|---|---|---|
| ADAMS | 35 | 15,446 | PUNCHCARD |
| ALLEN | 139 | 65,382 | SCAN |
| ASHLAND | 65 | 31,735 | SCAN |
| ASHTABULA | 127 | 58,022 | PUNCHCARD |
| ATHENS | 69 | 39,813 | PUNCHCARD |
| AUGLAIZE | 43 | 29,656 | PUNCHCARD |
| BELMONT | 84 | 42,800 | PUNCHCARD |
| BROWN | 55 | 25,415 | PUNCHCARD |
| BUTLER | 289 | 210,920 | PUNCHCARD |
| CARROLL | 26 | 18,799 | PUNCHCARD |
| CHAMPAIGN | 53 | 26,900 | PUNCHCARD |
| CLARK | 112 | 82,889 | PUNCHCARD |
| CLERMONT | 191 | 117,207 | SCAN |
| CLINTON | 32 | 23,529 | PUNCHCARD |
| COLUMBIANA | 103 | 73,355 | PUNCHCARD |
| COSHOCTON | 43 | 20,623 | SCAN |
| CRAWFORD | 67 | 28,992 | PUNCHCARD |
| CUYAHOGA | 1464 | 861,113 | PUNCHCARD |
| DARKE | 53 | 36,176 | PUNCHCARD |
| DEFIANCE | 46 | 24,536 | PUNCHCARD |

| | | | |
|---|---|---|---|
| DELAWARE | 122 | 82,215 | PUNCHCARD |
| ERIE | 101 | 51,523 | SCAN |
| FAIRFIELD | 118 | 76,212 | PUNCHCARD |
| FAYETTE | 38 | 13,676 | PUNCHCARD |
| FRANKLIN | 780 | 706,668 | ELECTRONIC |
| FULTON | 36 | 26,740 | PUNCHCARD |
| GALLIA | 36 | 21,646 | PUNCHCARD |
| GEAUGA | 96 | 57,087 | SCAN |
| GREENE | 142 | 93,742 | PUNCHCARD |
| GUERNSEY | 71 | 22,149 | PUNCHCARD |
| HAMILTON | 1025 | 522,307 | PUNCHCARD |
| HANCOCK | 62 | 44,603 | SCAN |
| HARDIN | 38 | 17,764 | AVM |
| HARRISON | 24 | 10,861 | PUNCHCARD |
| HENRY | 33 | 18,529 | PUNCHCARD |
| HIGHLAND | 46 | 25,360 | PUNCHCARD |
| HOCKING | 32 | 16,889 | PUNCHCARD |
| HOLMES | 27 | 16,638 | PUNCHCARD |
| HURON | 69 | 35,103 | PUNCHCARD |
| JACKSON | 40 | 23,431 | PUNCHCARD |
| JEFFERSON | 93 | 52,971 | PUNCHCARD |
| KNOX | 53 | 31,630 | ELECTRONIC |
| LAKE | 217 | 150,137 | ELECTRONIC |
| LAWRENCE | 84 | 38,636 | PUNCHCARD |
| LICKING | 125 | 99,182 | PUNCHCARD |
| LOGAN | 52 | 28,698 | PUNCHCARD |
| LORAIN | 246 | 166,092 | PUNCHCARD |
| LUCAS | 518 | 281,500 | AVM |
| MADISON | 44 | 23,288 | PUNCHCARD |
| MAHONING | 312 | 177,445 | ELECTRONIC |
| MARION | 84 | 39,580 | PUNCHCARD |





| | | | |
|---|---|---|---|
| MEDINA | 145 | 101,054 | PUNCHCARD |
| MEIGS | 27 | 14,685 | PUNCHCARD |
| MERCER | 40 | 26,724 | PUNCHCARD |
| MIAMI | 82 | 66,743 | SCAN |
| MONROE | 29 | 9,866 | PUNCHCARD |
| MONTGOMERY | 593 | 334,787 | PUNCHCARD |
| MORGAN | 22 | 8,600 | PUNCHCARD |
| MORROW | 36 | 21,354 | PUNCHCARD |
| MUSKINGUM | 85 | 48,175 | PUNCHCARD |
| NOBLE | 27 | 8,173 | PUNCHCARD |
| OTTAWA | 78 | 26,905 | SCAN |
| PAULDING | 30 | 13,374 | PUNCHCARD |
| PERRY | 46 | 20,815 | PUNCHCARD |
| PICKAWAY | 53 | 27.505 | ELECTRONIC |
| PIKE | 24 | 17,849 | PUNCHCARD |
| PORTAGE | 129 | 94,711 | PUNCHCARD |
| PREBLE | 46 | 28,108 | PUNCHCARD |
| PUTNAM | 51 | 24,360 | PUNCHCARD |
| RICHLAND | 133 | 83,151 | PUNCHCARD |
| ROSS | 76 | 37,478 | ELECTRONIC |
| SANDUSKY | 73 | 39,768 | SCAN |
| SCIOTO | 107 | 43,062 | PUNCHCARD |
| SENECA | 73 | 35,707 | PUNCHCARD |
| SHELBY | 45 | 29,776 | PUNCHCARD |
| STARK | 364 | 246,562 | PUNCHCARD |
| SUMMIT | 507 | 334,515 | PUNCHCARD |
| TRUMBULL | 274 | 132,957 | PUNCHCARD |
| TUSCARAWAS | 81 | 53,930 | PUNCHCARD |
| UNION | 47 | 25,880 | PUNCHCARD |

| | | | |
|---|---|---|---|
| VAN WERT | 39 | 19,525 | PUNCHCARD |
| VINTON | 20 | 7,770 | PUNCHCARD |
| WARREN | 148 | 101,207 | PUNCHCARD |
| WASHINGTON | 81 | 37,705 | SCAN |
| WAYNE | 97 | 60,048 | PUNCHCARD |
| WILLIAMS | 44 | 24,670 | PUNCHCARD |
| WOOD | 104 | 75,660 | PUNCHCARD |
| WYANDOT | 40 | 14,780 | PUNCHCARD |
| **TOTAL** | **11,756** | **7,104,549** | |

Of note, two of Ohio's largest counties – Cuyahoga and Hamilton counties – currently use punch-card ballot devices, as do two other large urban centers in Ohio, Montgomery and Summit counties. Those four counties, alone, account for nearly 3,600 of Ohio's 11,756 precincts, and more than 2 million of the state's 7.1 million registered voters. Another large urban center in Ohio, Lucas County, is a lever-machine county.

In February 2001, the Secretary of State conducted an "Elections Summit."[1] Participants included academics, members of the media, local election officials, legislators, and community groups. The group reported the following:

1. Public confidence in the accuracy of punch card voting systems has been seriously undermined.
2. Boards of elections should upgrade their voting systems to new, more trustworthy technology.
3. Comprehensive voter education is critical to successful election operations.
4. A combination of federal, state, and local dollars may be appropriate to fund these technological improvements.
5. Ohio's current elections standards, based on a combination of secretary of state directives, advisory opinions and rulings, should be codified by the General Assembly.
6. These goals demand immediate attention, or our state runs the risk of repeating the problems of our nation's most recent presidential election – and suffering irreparable damage to the most important and basic concepts of democracy.

Subsequent to the Summit, a separate committee met to study Ohio's election systems. They concluded (by a 6-5 committee vote) that because of the safeguards and procedures in Ohio election law, the punch-card voting method was adequate and there was no overwhelming need for a statewide overhaul, particularly without available funding.

[1] *Ohio Elections Summit Report*, Office of the Secretary of State, published May 2001.





While the Secretary of State notes that punch-card voting is not explicitly prohibited under the Help America Vote Act, other requirements of the Act make it impractical to use punch-card voting as a primary voting device in the state.

In a study of "over" and "under" voting in Ohio, it was clearly demonstrated that punch-card voting was unreliable to the extent votes cast by thousands of Ohioans were not being counted in the final election tabulation.

Over-voting occurs when a voter casts a vote for more than one candidate in an election and thus disqualifies their vote in that election. Under-voting occurs when a voter fails to mark a ballot in a particular race or votes for fewer than the number of candidates to be elected.

The following table tracks the combined under/over vote phenomenon in the 2000 presidential election in Ohio's 88 counties:

| County | 2000 Voting System | Total Votes Cast | Total Votes Counted | Difference | Percent Difference |
|---|---|---|---|---|---|
| Holmes | PUNCHCARD | 9,937 | 9,145 | 792 | 7.97% |
| Pike | PUNCHCARD | 11,084 | 10,560 | 524 | 4.73% |
| Vinton | PUNCHCARD | 5,184 | 4,946 | 238 | 4.59% |
| Adams | PUNCHCARD | 10,727 | 10,235 | 492 | 4.59% |
| Meigs | PUNCHCARD | 10,228 | 9,795 | 433 | 4.23% |
| Noble | PUNCHCARD | 6,210 | 5,988 | 222 | 3.57% |
| Monroe | PUNCHCARD | 7,377 | 7,115 | 262 | 3.55% |
| Jackson | PUNCHCARD | 12,918 | 12,490 | 428 | 3.31% |
| Gallia | PUNCHCARD | 13,203 | 12,776 | 427 | 3.23% |
| Summit | PUNCHCARD | 232,252 | 224,839 | 7,413 | 3.19% |
| Harrison | PUNCHCARD | 7,380 | 7,161 | 219 | 2.97% |
| Tuscarawas | PUNCHCARD | 38,246 | 37,118 | 1,128 | 2.95% |
| Mercer | PUNCHCARD | 18,848 | 18,294 | 554 | 2.94% |
| Paulding | PUNCHCARD | 9,214 | 8,946 | 268 | 2.91% |
| Belmont | PUNCHCARD | 31,039 | 30,141 | 898 | 2.89% |
| Lawrence | PUNCHCARD | 25,180 | 24,452 | 728 | 2.89% |
| Montgomery | PUNCHCARD | 237,580 | 230,987 | 6,593 | 2.78% |
| Scioto | PUNCHCARD | 30,786 | 29,945 | 841 | 2.73% |
| Guernsey | PUNCHCARD | 15,855 | 15,430 | 425 | 2.68% |
| Morgan | PUNCHCARD | 6,158 | 5,993 | 165 | 2.68% |
| Muskingum | PUNCHCARD | 33,520 | 32,624 | 896 | 2.67% |
| Cuyahoga | PUNCHCARD | 590,473 | 574,782 | 15,691 | 2.66% |
| Sandusky | PUNCHCARD | 26,441 | 25,744 | 697 | 2.64% |
| Brown | PUNCHCARD | 16,862 | 16,429 | 433 | 2.57% |
| Highland | PUNCHCARD | 15,854 | 15,447 | 407 | 2.57% |
| Hocking | PUNCHCARD | 11,034 | 10,756 | 278 | 2.52% |
| Carroll | PUNCHCARD | 12,576 | 12,261 | 315 | 2.50% |
| Perry | PUNCHCARD | 13,147 | 12,828 | 319 | 2.43% |
| Richland | PUNCHCARD | 54,088 | 52,779 | 1,309 | 2.42% |

| | | | | | |
|---|---|---|---|---|---|
| Mahoning | SCAN | 116,889 | 114,119 | 2,770 | 2.37% |
| Morrow | PUNCHCARD | 13,145 | 12,839 | 306 | 2.33% |
| Seneca | PUNCHCARD | 24,931 | 24,351 | 580 | 2.33% |
| Wyandot | PUNCHCARD | 10,059 | 9,827 | 232 | 2.31% |
| Jefferson | PUNCHCARD | 35,449 | 34,636 | 813 | 2.29% |
| Erie | SCAN | 35,836 | 35,015 | 821 | 2.29% |
| Crawford | PUNCHCARD | 19,622 | 19,176 | 446 | 2.27% |
| Putnam | PUNCHCARD | 17,743 | 17,344 | 399 | 2.25% |
| Ashtabula | PUNCHCARD | 40,378 | 39,472 | 906 | 2.24% |
| Clark | PUNCHCARD | 58,876 | 57,559 | 1,317 | 2.24% |
| Trumbull | PUNCHCARD | 98,440 | 96,239 | 2,201 | 2.24% |
| Defiance | PUNCHCARD | 16,610 | 16,242 | 368 | 2.22% |
| Champaign | PUNCHCARD | 16,035 | 15,680 | 355 | 2.21% |
| Marion | PUNCHCARD | 25,371 | 24,815 | 556 | 2.19% |
| Darke | PUNCHCARD | 23,784 | 23,267 | 517 | 2.17% |
| Fayette | PUNCHCARD | 9,484 | 9,278 | 206 | 2.17% |
| Washington | SCAN | 27,080 | 26,515 | 565 | 2.09% |
| Lorain | PUNCHCARD | 114,480 | 112,180 | 2,300 | 2.01% |
| Greene | PUNCHCARD | 66,524 | 65,204 | 1,320 | 1.98% |
| Stark | PUNCHCARD | 163,061 | 159,844 | 3,217 | 1.97% |
| Huron | PUNCHCARD | 21,788 | 21,360 | 428 | 1.96% |
| Madison | PUNCHCARD | 14,960 | 14,667 | 293 | 1.96% |
| Logan | PUNCHCARD | 18,823 | 18,455 | 368 | 1.96% |
| Clinton | PUNCHCARD | 15,366 | 15,070 | 296 | 1.93% |
| Clermont | SCAN | 71,242 | 69,877 | 1,365 | 1.92% |
| Columbiana | PUNCHCARD | 45,294 | 44,427 | 867 | 1.91% |
| Van Wert | PUNCHCARD | 13,471 | 13,219 | 252 | 1.87% |
| Preble | PUNCHCARD | 18,506 | 18,166 | 340 | 1.84% |
| Portage | PUNCHCARD | 64,026 | 62,899 | 1,127 | 1.76% |
| Henry | PUNCHCARD | 13,484 | 13,252 | 232 | 1.72% |
| Athens | PUNCHCARD | 25,888 | 25,447 | 441 | 1.70% |
| Hamilton | PUNCHCARD | 384,336 | 377,899 | 6,437 | 1.67% |
| Wayne | PUNCHCARD | 43,151 | 42,436 | 715 | 1.66% |
| Miami | SCAN | 43,555 | 42,841 | 714 | 1.64% |
| Butler | PUNCHCARD | 138,992 | 136,737 | 2,255 | 1.62% |
| Licking | PUNCHCARD | 63,490 | 62,466 | 1,024 | 1.61% |
| Auglaize | PUNCHCARD | 20,212 | 19,892 | 320 | 1.58% |
| Coshocton | SCAN | 14,493 | 14,268 | 225 | 1.55% |
| Williams | PUNCHCARD | 16,170 | 15,919 | 251 | 1.55% |
| Union | PUNCHCARD | 17,288 | 17,024 | 264 | 1.53% |
| Fairfield | PUNCHCARD | 54,913 | 54,094 | 819 | 1.49% |
| Warren | PUNCHCARD | 70,109 | 69,078 | 1,031 | 1.47% |
| Medina | PUNCHCARD | 67,850 | 66,883 | 967 | 1.43% |
| Fulton | PUNCHCARD | 19,161 | 18,896 | 265 | 1.38% |
| Ashland | SCAN | 21,535 | 21,258 | 277 | 1.29% |
| Ross | ELECTRONIC AVB: scan | 26,348 | 26,016 | 332 | 1.26% |

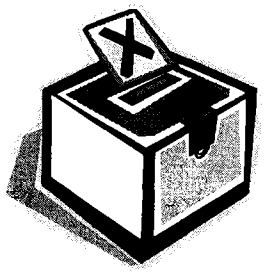




| | | | | | |
|---|---|---|---|---|---|
| Wood | PUNCHCARD | 52,832 | 52,194 | 638 | 1.21% |
| Hancock | SCAN | 30,958 | 30,617 | 341 | 1.10% |
| Ottawa | SCAN | 20,185 | 19,968 | 217 | 1.08% |
| Knox | ELECTRONIC AVB: scan | 21,488 | 21,260 | 228 | 1.06% |
| Delaware | PUNCHCARD | 55,959 | 55,403 | 556 | 0.99% |
| Pickaway | ELECTRONIC AVB: scan | 17,912 | 17,740 | 172 | 0.96% |
| Allen | SCAN | 44,207 | 43,795 | 412 | 0.93% |
| Franklin | ELECTRONIC AVB: Punchcard | 417,800 | 414,074 | 3,726 | 0.89% |
| Geauga | SCAN | 42,963 | 42,600 | 363 | 0.84% |
| Lake | ELECTRONIC AVB: Punchcard | 103,347 | 102,564 | 783 | 0.76% |
| Hardin | Precinct: AVM AVB: Punchcard | 12,159 | 12,068 | 91 | 0.75% |
| Lucas | Precinct: AVM AVB: Punchcard | 188,419 | 187,350 | 1,069 | 0.57% |
| Shelby[2] | PUNCHCARD | 19,670 | 19,670 | 0 | 0.00% |
| **TOTALS** | | **4,795,989** | **4,705,457** | **90,532** | **1.89%** |

The data shows 29 counties with the highest over/under vote percentage in the 2000 election were all counties that use the punch-card method of voting. The seven counties with the lowest over/under vote percentage in the 2000 election were all counties that did not use punch cards as their primary voting system.

The Ohio challenge in meeting the voter and election reforms envisioned by the Help America Vote Act is obvious. In simplest terms, Ohio is a large and populous state with a diverse mix of urban and rural voters that predominantly relies on punch-card voting as its prevailing voting mode. Modernizing the state's election systems will require widespread change throughout the state and in its most populous counties.



The transition will require a solution that must consider large and small counties, rural and urban areas, and adjustments that will affect an overwhelming majority of Ohio voters. The obvious corollary challenge is selecting a system configuration that meets the needs of all those counties, training election officials and poll workers to use new voting systems, and familiarizing Ohio voters with new voting devices.

While on its face, this appears to be a daunting challenge, we are confident Ohio's State Plan logically anticipates those factors and will meet the guidelines, demands, timetables and expectations of the Help America Vote Act.

[2] Shelby County, a punch-card county, reported no over/under vote in the county's vote tabulation in the 2000 presidential election cycle. This would appear to be a reporting error.

## V. Voter Trends: the Context for Change and Reform

We pause only for a moment in this report to reflect on voter turnout in Ohio. We do so for several reasons, not the least of which Ohio contemplates election reform and system modernization to take place in a presidential election year when voter turnout is higher and demand on the election system is greatest.

We also explore voter turnout and trends as context for meeting the most desirable benefit and objective of the Act: to restore public confidence in the election system and, subsequently, increase voter participation. While new, more technologically proficient systems, increased voter registration, accessibility and accuracy are hallmarks of Help America Vote, the more encompassing aim of the Act is to invite more voters into the process to exercise their rights and responsibilities as qualified electors.

In developing the State Plan, we must anticipate that voter participation will increase, voter turnout percentages will climb, and demand on the election system will be greater. We can only gauge those factors based on Ohio's experience in past elections and the historical trends that will serve as a predictor of future trends.

The following table tracks Ohio voter turnout in both gubernatorial elections and presidential elections during the past 24 years.

| Gubernatorial Election Years | | | Presidential Election Years | | |
|---|---|---|---|---|---|
| Year | No. of Electors Voting | Turnout Percentage | Year | No. of Electors Voting | Turnout Percentage |
| 1978 | 3,017,326 | 58.23% | 1980 | 4,378,937 | 73.87% |
| 1982 | 3,551,995 | 62.36% | 1984 | 4,664,223 | 73.65% |
| 1986 | 3,261,870 | 54.38% | 1988 | 4,505,264 | 71.79% |
| 1990 | 3,620,469 | 61.23% | 1992 | 5,043,094 | 77.15% |
| 1994 | 3,570,391 | 57.29% | 1996 | 4,638,108 | 67.83% |
| 1998 | 3,534,782 | 49.81% | 2000 | 4,800,009 | 63.73% |
| 2002 | 3,356,285 | 47.24% | | | |

The chart shows that during the course of the past six gubernatorial elections, voter turnout has averaged about 55.79 percent. During the past six presidential elections, voter turnout in Ohio has averaged 71.33 percent. Based on this historical data, Ohio can generally anticipate about 1.25 million more voters in a presidential election year than in a gubernatorial election cycle.

Even a modest 5 percent gain in that average means 62,500 more voters. Subsequently, based on projected population growth and increased voter participation as a result of election reforms and modernization, our State Plan assumes 150,000 new voters during peak presidential elections growing at an annual rate, after initial implementation of new systems and election reforms, of 3 percent per annum.

As a result, our Plan assumes that growth rate and the recommended voting systems design model proposed in this report anticipates that growth and demand on the state's election system in future peak presidential voting years. We use the presidential voting cycle as a base for our plan because that assumes the heaviest potential voter turnout and the busiest times for local boards of elections.





Since 1978, voter participation in the state's gubernatorial elections has grown from 3 million voters to about 3.3 million voters. Since 1980, voter participation in presidential elections has grown from about 4.3 million voters to about 4.8 million voters. Factoring population growth during those decades, those statistics would imply that voter participation has remained relatively flat and, in all likelihood, is trending lower.

We have a high confidence level that the election reforms of the Help America Vote Act will produce more voter activity and a greater number of voters. Ohio doesn't view the Act as a final effort to produce greater voter participation, but the beginning of an expanded effort to entice more voters to exercise their rights and responsibilities to participate in the election process.

We believe modernization and reform require us to actively engage in voter education and to continue to evaluate programs that will produce greater participation in the democratic process. We pledge our effort to continue to explore new and innovative programs that will achieve those objectives.

## VI. How Ohio Developed its State Plan

In development of the State Plan, we insisted on inclusion in both creation of the State Plan Committee and in public input into the process. This report represents a broad outreach to minorities, senior citizens, people with disabilities, elected officials, election officials, public interest groups and the public at large.

Our foundation principle in developing this plan was based on the view that such far-reaching reforms to a system so vital to the most fundamental democratic process in our state and nation required a fair, open and dynamic process where there is an opportunity for every voice to be heard. We were proactive in developing a structure to embrace that principle.

As a first step in our process, we widely publicized hearing dates and created a web site that invited public comment and input. We invited written testimony from groups and organizations who wanted to lend their perspective to election reform in Ohio. Additionally, we actively solicited input from critical stakeholders for our public hearings, including key representative voices from among groups such as the Urban League, the League of Women Voters, the Disability Policy Coalition, and the American Association of Retired Persons (AARP).

Our lead-off witness was Chet Kalis of the House Administration Committee, who worked closely with U.S. Rep. Bob Ney, R-Ohio, primary sponsor of the Help America Vote Act of 2002. We asked Mr. Kalis to lay the groundwork for our committee by providing them with a foundation perspective of the Act, its mission, aims and objectives.

The State Plan Committee also heard from Doug Lewis, executive director of The Election Center, a national nonprofit organization serving the elections and voter registration profession. Mr. Lewis developed and authored the Professional Education Program for elections/registration officials – named the best continuing education program in the nation by the National University Continuing Education Association.

Mr. Lewis was able to provide the committee with a national view of election reform and voter registration from the valuable perspective of someone with intricate knowledge of election systems across the nation.

To provide the perspective on Ohio, Dr. Herb Asher, professor emeritus of political science at The Ohio State University, brought election reform home for our State Plan Committee. Few voices are more respected than the voice of Dr. Asher as a knowledgeable expert and commentator about the political and election process in Ohio.

While the State Plan Committee itself included representation from boards of elections, we reached out to three other boards to provide the committee with a strong representative sample of the diverse local election operations in the state. Among those invited to testify were Janet F. Clair, director of the Lake County Board of Elections, Rita Yarman, deputy director of the Knox County Board of Elections, and Terry Burton, deputy director of the Wood County Board of Elections.

The testimony of the three elections officials was particularly valuable to the Committee because Lake and Knox counties are two jurisdictions that recently modernized their election systems. In addition, four other counties – Ross, Pickaway, Mahoning and Franklin counties – currently have electronic-based voting systems. Wood County represents one of the Ohio counties facing an extensive overhaul of its system under the Help America Vote Act.

Dolores Blankenship, advocacy volunteer from AARP, offered the State Plan Committee an incisive look at the election process through the eyes of a senior citizen, and eight witnesses representing the Disability Policy Coalition offered riveting testimony about the Election Day challenges facing voters with disabilities.

The strong presence of people with disabilities in these hearings underscores the importance Ohio attaches to this issue and our resolve to provide physically challenged voters with every opportunity to cast their ballot in a setting that assures their access to the polls and their right to cast a ballot unrestrained by barriers and obstacles that preclude their full participation in the voting process.

Peg Rosenfield, a former state elections official and now a representative of the League of Women Voters of Ohio, provided testimony on behalf of that voter advocacy group, and Ernest Perry of the Columbus Urban League was the voice for that group.

The final witness was Eric Seabrook, chief counsel to the Ohio Secretary of State, who described the administrative complaint procedure envisioned by Secretary of State Blackwell and the potential contracting procedures under review to establish an election system that meets the uniform voting standards of the Help America Vote Act.

The State Plan Committee met in public session on April 3-4 to hear testimony from these witnesses and then reconvened on April 17 for a focused facilitated work session to refine and finalize the State Plan.

We believe the process used to develop the State Plan in Ohio is one of the most aggressive public outreach efforts in the nation. While the aim of the process was to be as inclusive as possible, we think it had the added benefit of educating and informing the committee and citizens of our state about the Help America Vote Act and its far-reaching implications for an improved voting and election system in Ohio.





The open and proactive design of our process signaled to every Ohioan the importance of enacting voter and election reforms in the state, and how that reform was likely to affect their participation in the electoral process.

In addition to the public hearings, the Secretary of State solicited all Ohioans to provide input to the plan by providing written communications with his office or to communicate ideas via the Secretary of State's website. This communication was provided to members of the State Plan Committee and is attached as part of the State Plan.

## VII. Federal Funding Assumptions of the Act

The Help America Vote Act of 2002 makes available certain federal funding to help achieve requirements and mandates of the Act. The funding components of the Act are reflected in Title I, Title II, Title IV and Title V. In summary, the federal government has agreed to the following federal funding thresholds for each of the Title sections of the Act:

**Title I – Antiquated Machine Buy-Out**

- $325 million for buying out punch-card and lever voting machines.
- $325 million in payments to states to improve election administration.

**Title II – Election Assistance**

Requirement Payments

- $3 billion for meeting requirements, poll-worker training, voter education, and improving administration of elections.

Access Grants

- $100 million for increasing polling place access for voters with disabilities

Research Grants

- $20 million for research and development to improve voting technology

Pilot Program Grants

- $10 million for pilot programs to test new voting systems and equipment.

Protecting and Advocacy Systems Payments

- $40 million for state protection and advocacy systems.

**Title V – Help America Vote College Program**

- $5 million to encourage college students to participate in the political process by volunteering as poll workers.

**Title VI – Help America Vote Foundation**

- $5 million to encourage high school students to participate in the political process by volunteering as poll workers.

Of obvious, primary and immediate importance to the State of Ohio is the Title I funding and the state's share of Title II monies for Requirement Payments for poll-worker training, voter education, and improving administration of elections, as well as federal funds available for Access Grants to make election sites more accessible to people with disabilities. These three specific funding sources enable Ohio to address what we regard to be the core modernization and reform of its election system.

The buy-out program under Title I has special implications for Ohio because of the prevalent use of punch-card voting in the state. Likewise the $325 million being allocated to states to improve election administration is important because these funds represent resources that will be allocated for development of a centralized voter registration system in the state.

***The state will apply for research and pilot program grants. But for now, our focus is to first establish a reliable, accurate and fair election system, conduct the training and education necessary to make that system work, and to ensure accessibility of the disabled and physically challenged citizens of our state. The Secretary of State believes Ohio should be particularly aggressive in seeking available federal funds under Title II for access grants to make Ohio's polling places more accessible to the disabled.***

Title I largely represents base funding for Ohio to address the mechanical implementation of the Help America Vote Act. Title II payments represent a source of funding to train, educate and administer the state's election program once the transition is made from punch-card voting to a more modern mode of voting, and to make poll sites more accessible to people with disabilities. Later in the plan, we discuss allocating a portion of Title II funds to voting system upgrades.

The state will apply for research and pilot program grants. But for now, our focus is to first establish a reliable, accurate and fair election system, conduct the training and education necessary to make that system work, and to ensure accessibility of Ohio's citizens with disabilities. The Secretary of State believes Ohio should be particularly aggressive in seeking available federal funds under Title II for access grants to make Ohio's polling places more accessible.

Of note and as it relates to Title V and Title VI of the Act, the Ohio Secretary of State's office is currently conducting research related to poll worker issues. A component of that research anticipates a greater role for high school and college students in the electoral process, as well as other initiatives that will enhance the identification, selection, education and training of poll workers.

As this State Plan is being submitted, we anticipate that research will be completed and recommendations forthcoming in the next few months about how Ohio will maximize poll-worker recruitment and training, and ensure the presence of quality, qualified poll workers in every precinct.

Such initiatives underscore our determination to not only meet the minimum requirements of the Help America Vote Act of 2002, but to make Ohio a model state for implementation of these reforms and to lead the nation in development and





implementation of a modern, fair, reliable and accurate election system. As U.S. Rep. Bob Ney led the federal initiative to enact the Help America Vote Act, it was the mandate of our State Plan Committee to formulate a plan that makes Ohio a showcase for election reform.

## VIII. Distribution of Resources to Local Governments

We first explore our proposed distribution of aid to local government under Title I. Under guidelines of the Act, these funds must be used assuming the following criteria:

- These funds may be used as a reimbursement for costs associated with punch-card or lever machine replacement incurred after Jan. 1, 2001.
- There is a presumption states must ensure compliance in time for the November, 2004 Federal Election.
- Within six months after the date of enactment, Ohio must certify that the state will use the money for punch-card/lever machine replacement, the state will comply with federal laws, and the voting system will meet new voting system standards.

We anticipate that no change in state law or new legislation will be required to carry out the activities required for certification.

At this writing, the Congressional Research Service (CRS) estimates that full-funding under the Act, for both Title I and Title II receipts, will total $155,251,155. CRS estimates $116,423,155 of that amount represents Title II funding under the Requirements Payments component of the Act.

In addition, the state has appropriated $5.8 million in matching funds for Title II payments, as required by the Act, which means total available funds for implementation of the State Plan in Ohio will be approximately $161 million.

All money in Title II is based on the state's portion of the nation's voting age population. The most recent estimate is that Ohio's 8.5 million voting-age population represents 3.97 percent of the nation's voting age population of 215.1 million.

Because of the prevalence of punch-card voters in Ohio, we are keenly focused on the distribution of funds under Title I and, more precisely, the buy-out program. The Act stipulates the funds will be distributed to states by multiplying the number of qualifying precincts by $4,000. However, based on available federal funds for this purpose and the number of punch-card and lever-machine jurisdictions in the U.S., it now appears that number likely will be about $3,354 per precinct. As previously mentioned, Ohio has 69 counties designated as punch-card counties.

In addition, two Ohio jurisdictions – Hardin and Lucas counties – feature lever voting machines and would be eligible for funding under the guidelines.

In total, under the formula, the 69 punch-card counties and two lever-machine counties in Ohio means the state would be eligible for about $31 million in federal funds under the buyout program.

However, we know $31 million is insufficient for the counties to purchase modern, reliable voting systems capable of meeting requirements of the Act. Subsequently, our budget for voter and election reforms in Ohio presumes the state will require about $24.2 million to establish a centralized voter registration database and related support for voter education and poll worker training. Our plan calls for the remainder of the Title funds to be allocated to Ohio's 88 counties to help subsidize installation of new systems and implement other required activities under the Act.

Following is the budget we envision for distribution of the $161 million in funds in Ohio to meet requirements of the Help America Vote Act:

| Activity | Fund Distribution | Jurisdiction | Purpose |
|---|---|---|---|
| Voter Registration Database | $5 million to $10 million | State | Develop statewide voter registration database |
| Voter Education | $5 million to $10 million | State | Administered by the State in coordination with the counties |
| Poll Worker Training | $5 million | State | To be distributed as grants to counties |
| Administrative Expenses | $2 million | State | For state personnel to administer and monitor HAVA implementation |
| Provisional Voter Hotline | $250,000 | State | To establish a state hotline for provisional voters |
| Miscellaneous | $2 million | State | For associated costs of implementing HAVA |
| Voting Equipment and other Activities | $136 million | State on behalf of Counties | For new voting equipment and to meet other HAVA requirements |

In simplest terms, this allocates Help America Vote funds where the money is needed most: in Ohio counties. While it is the responsibility of the Ohio Secretary of State to monitor performance and ensure implementation of the Act, the execution of the Ohio plan, ultimately, will take place at the county level. On that basis, we believe it prudent to maximize resources for election reform in the counties where election reform will occur.





While much of the focus is on the counties with punch card and lever-machine voting systems, in reality, all 88 Ohio counties will be expected to conduct some form of system modification and upgrade to make the system in Ohio uniform and compliant with the Act. Subsequently, the premise of the Ohio Plan is to look at the voter and election system statewide, based on the distribution of registered voters in each of the 88 counties.

Viewed in that context, the $136 million to be allocated to the counties will be distributed in the following priority order, as federal funds become available:

- Replacement of punch-card and lever-machine voting equipment to the extent that new voting systems would be installed immediately in the 71 affected counties;
- Installation of voting devices compliant with the disability requirements of the Act in all 88 counties;
- Bringing remaining counties into compliance with Section 301 of the Act by funding necessary upgrades and refinements of all other existing systems and equipment.

The Secretary of State reserves the right to distribute the funds to counties based on need and special circumstances.

The Secretary of State defines "need and special circumstances" to mean that it is possible some counties will need less funding and others more funding to meet the compliance standards of the Help America Vote Act. On that basis, the Secretary of State will shift funds as he deems necessary to bring all counties into compliance.

The Secretary of State acknowledges that one county, Mahoning County, took the initiative to convert their voting system to electronic voting after Jan. 1, 2001. Funding consideration will be given to all six Ohio counties using electronic voting equipment to bring those counties into compliance with HAVA.

We think this model provides us with great flexibility to allocate Title I and Title II funds in a way that assures full compliance with the requirements of the Act. Invariably some funds would be shifted away from counties that demonstrate a lesser need and reallocated to counties that demonstrate a greater need. But the allocation method is a fair method that will further assure all counties that adequate funds will be available to fully fund the requirements of the Act at the local level.

The Ohio Secretary of State will establish guidelines as part of the performance measurement for county compliance. When compliant systems are purchased for the counties, the Secretary of State will require transition to new voting systems by all punch-card and lever-machine counties by Feb. 1, 2004. The Secretary of State will provide counties with a list of acceptable vendors to supply the new voting equipment and counties must choose from that approved list by no later than Sept. 1, 2003.

Since the Secretary of State will centralize and oversee this process, the Secretary will ensure compliance with all requirements of the Help America Vote Act. The performance timeline requires the Secretary to establish the list of approved vendors by Aug. 1, 2003, providing county boards of elections with ample time to review the list, choose the vendor and establish transition to the new voting systems between Sept. 1, 2003 and Feb. 1, 2004.

To ensure uniformity and compliance, the Secretary of State will stipulate design specifications for voting equipment. If a county fails to select a vendor by Sept. 1, 2003, the Secretary of State will designate a vendor for that county and order installation of new voting equipment in that jurisdiction by the Feb. 1, 2004 deadline.

Although the Act requires the replacement of punch-cards and lever machines by the General Election in 2004, the Secretary of State wants these new systems in place in Ohio for the Primary Election to ensure a smooth, seamless transition and full operational capability in time for the presidential election.

The Secretary of State has already established a fund account for all federal monies designated for Ohio under the Act and those funds, as applicable, will be disbursed from that account as our plan is implemented. This account is segregated to reflect federal funds designated for county buy-outs, election administration and Requirements payments.

Reports will be generated to show the allocation and distribution of these funds and that report will be forwarded to the Election Assistance Commission along with a performance report to show the state's progress and performance in implementing provisions of the Act.

## IX. §301. Meeting the Voting System Standards of the Act

The Help America Vote Act requires "uniform and nondiscriminatory election technology" that meets specific voting system standards. Ohio has opted for a program that specifically addresses the requirements of the Act, but provides counties with some degree of flexibility in choice of vendor and how they implement and develop voting systems to meet the particular needs of their region.

Assurance that the state will meet voting system standards specified in the Act is the responsibility of the Secretary of State, so system specifications will be drafted by the Secretary and the list of available vendors will reflect only those companies that submit bids demonstrating their ability to meet the rigorous and unambiguous system specifications and timelines established by the Secretary.

***Providing counties with the ability to choose among a list of qualified vendors preserves the involvement of the counties in the vendor process while maximizing the buying power of the state under a state term contract procedure. The Secretary of State will serve as the primary contractor for voting devices in the State of Ohio, embracing the concept that the ultimate beneficiaries of the contract are the counties.***

To ensure compliance with the Act, the Secretary of State will appoint a committee comprised of knowledgeable persons in the Secretary's office who have the technical capability to review vendor proposals for electronic voting equipment and tabulating devices and the committee will recommend final adoption of a list of approved vendors that meet system specifications. The committee will review standards set by the Standards Board and





make recommendations to the Secretary based on tabulating systems meeting the standards set by the Federal Election Commission.

Additionally, the Secretary of State will ask the state's Board of Voting Machine Examiners to review the recommendations of the committee to ensure the vendors and systems meet not only the requirements of the Act, but are reasonable based on their knowledge of Ohio counties and their voting needs. The Board of Voting Machine Examiners currently provide a valuable service to the Secretary of State in the certification of voting equipment to ensure the equipment meets established certification criteria set by the National Association of State Election Directors.

It is logical this group assist the Secretary in this important endeavor to modernize and reform Ohio's voting systems.

Providing counties with the ability to choose among a list of qualified vendors preserves the involvement of the counties in the vendor process while maximizing the buying power of the state under a state term contract procedure. The Secretary of State will serve as the primary contractor for voting devices in the State of Ohio, embracing the concept that the ultimate beneficiaries of the contract are the counties.

Ultimately, the responsibility for ensuring compliance with the Help America Vote Act of 2002 falls to the chief elections official in the state. But the Secretary of State recognizes the execution of the Act will take place at the county level.

Each vendor chosen to participate in the selection process must demonstrate a capability to serve the whole of the state and, potentially, all 88 counties. Successful vendors must also certify their ability to provide the volume of equipment required to service the state, and demonstrate the organizational capacity to provide statewide support, training and service to county clients.

Eligible vendors must assure their equipment meets a high threshold of security, accuracy and ease of use. They must also ensure timely delivery of equipment to meet the deadlines established by the Secretary of State for full implementation and operation by Feb. 1, 2004. Finally, the financial viability of the vendor will be a consideration for the awarding of contracts.

The Secretary of State believes training and education are essential to the successful deployment of new voting machine equipment. The best technology available is rendered useless unless vendors can provide adequate training and education to ensure both election officials and voters know how to use the equipment efficiently and effortlessly.

To achieve the education and training objective, some states have earmarked a portion of available money specifically for that purpose. We will request vendors designate how much of their proposal specifically applies to training and education.

Absent a recitation of detailed technical requirements listed in the request for proposal that will be issued by the Secretary of State, the Secretary insists successful bidders must provide a system that, at minimum, accomplishes the following:

**General Requirements**

- Guarantees voters will be able to verify their ballot before it is cast and counted. This means the system must include features that allow voters to

vote, review their ballot choices and decisions, and correct errors or omissions before submitting their vote for final tabulation.

- As part of the review and correction process, if a voter selects more than the permissible number of candidates for a single office, the system will alert the voter of the selection and its impact, or prevent over-voting. Additionally, the system must give the voter an opportunity to correct the ballot before it is processed and counted.

- In addition to providing equipment, hardware and applicable software to accomplish these features, vendors will be required to include, as a supplement to the system, information materials clearly explaining the operations and functions of the voting equipment, the effect of casting multiple votes for one office, and corrective procedures and processes available to voters. The system also must alert voters when they have failed to vote for a candidate or issue. We envision a simple pamphlet or brochure that will be available to every voter written in clear language with amplifying graphics.

- The system must ensure the privacy of the voter and confidentiality of the ballot.

**Audit Capacity**

- While the system allows the vote to be counted and tabulated electronically, the system also must be capable of producing a permanent paper record that can be audited manually. The paper record must be produced in such a way as to function as an official record for any potential recount or any question that might arise subsequent to the election.

This issue was addressed by several witnesses and State Plan Committee members during our public hearings. Almost everyone agrees that to ensure public confidence in any voting system, there must be a paper trail that will provide election officials, the public and media with a permanent, retrievable and readily accessible record and history of the election and provide a traceable mechanism to accommodate questions, election-related issues and recounts.

Ms. Rosenfield of the League of Women Voters told the State Plan Committee that an audit capacity in the form of a paper record was critical to reassure the public and the media that an open and fair election was conducted. We agree and this component is essential to any system configuration advanced by all prospective vendors.

**Disability Access**

- The system must be accessible for individuals with disabilities, including non-visual accessibility for people who are blind or who have visual impairments,





ensuring the same standards for privacy and confidentiality afforded to people without disabilities. This means the voting system for people with disabilities must allow them to vote unassisted. At least one voting device must be available at each polling location that includes, at minimum, audio features. Additional features could include keypad functions and enlarged font size. The system must also include features that accommodate people who have limited mobility. That means the device must be of a sufficient weight and size to be transported within the environs of the voting location in those facilities that may not be readily accessible and sufficiently adjustable to match voters' eye levels.

During the hearings, we heard from several witnesses with first-hand knowledge of disabilities who underscored for us the importance of not only focusing on voting devices, but the accessibility of polling places. Technology, we were told, does not remedy polling locations that are difficult for people with disabilities to navigate or facilities that lack adequate amenities, such as accessible restrooms.

Karla M. Lortz of Delaware, Ohio, reminded us that voting is a basic American right that should not be restricted or diminished because of a disability. She also emphasized the need to train and educate poll workers about persons with disabilities.

But all of those with disabilities who testified stressed the need to be vigilant about the selection of poll and voter sites to ensure they are barrier free and accessible.

Ohio law requires that a polling place is considered accessible if it is free of barriers that would impede ingress and egress of people with disabilities. The law requires the entrance to be level or feature a nonskid ramp of not more than 8 percent gradient. Doors must be a minimum of 32-inches wide (R.C. 3501.29.)

The Secretary of State will require that all election sites and facilities be reviewed for access to ensure these voting locations meet and, if possible, exceed these minimum standards. At the recommendation of committee member Eric Duffy, the Secretary also will convene a committee to study this issue and to make recommendations about how the state can best address the needs of voters with disabilities.

**Alternative Language Accessibility**

- Where applicable and in those precincts where substantial non-English speaking populations exist, voting systems must provide alternative language accessibility pursuant to the requirements of the Voting Rights Act of 1965. This alternative-language accommodation shall be available in any precinct where it is determined that 5 percent or more of the registered voters in any precinct might be non-English speaking voters. Each county board of elections is required, 30 days prior to any election, to assure that alternative language mechanisms are available, as mandated by law.

Based on the current composition of the state's population, there is no concentration of non-English speaking populations that warrant specific activities in this

regard. However, as the composition of the state's population changes, counties will be required to address this issue as the need arises.

**Error Rates**

- All voting systems in the state must achieve an error rate threshold that complies with error-rate standards established by the Federal Elections Commission (FEC) which are in effect 30 days prior to any election. The Secretary of State will take steps and facilitate measures to require performance of logic and accuracy tests by counties before elections and will require counties to have all system tabulating equipment and programs tested to ensure the correctness of the vote count cast within the error parameters established by the FEC.

**Additional Considerations**

Although we explore this later in our discussion of voter education, we offer two additional vendor considerations for our system specifications. The Secretary of State invites vendors to consider, as part of their proposal, a model or "practice" voting device that simulates the actual voting machine at the polling place. We believe this feature would provide voters with an opportunity to become more familiar with the voting equipment before actually casting their vote.

***In addition, the Secretary of State will ask vendors to make available software that would enable voters to access such simulators on the Secretary's website via the internet. This feature would enable voters, at their leisure, prior to Election Day, to learn more about the equipment they will use at the voting place and practice using the equipment and devices on the internet.***

These so-called simulators, we believe, would provide some voters with a greater comfort level at the polling place if they are provided an opportunity to "practice" on a simulated voting device.

In addition, the Secretary of State will ask vendors to make available software that will enable voters to access such simulators on the Secretary's website via the internet. This feature would enable voters, at their leisure, prior to Election Day, to learn more about the equipment they will use at the voting place and practice using the equipment and devices on the internet.

While we regard this to be part of our proposed voter education program, we think these innovations would help voters better understand the new technology, ease their apprehension about the use of new voting technology, and speed the voting process at the polling place.

We think these elements would minimize much of the confusion that invariably will accompany the conversion of voting systems in the majority of Ohio counties. As more and more Ohioans enjoy expanded access to the internet and world wide web,





cyberspace would seem to be a logical environment to offer these features as an enhancement to Ohio's voter education program.

**Uniform Definition of Vote**

Ohio law grants broad authority to the Ohio Secretary of State with regard to election rules and regulations. H.B. 5 passed by the Ohio Legislature in the 124th General Assembly gives the Secretary authority to issue directives and these directives have the same weight as law when applied to election-related matters and issues.

We note this authority in the Secretary's ability to establish a uniform definition of a vote. Currently, Ohio law addresses the definition of a vote for punch-card ballots. Similar legislation was considered for "optical scan" voting devices, but with passage of H.B. 5, the Secretary of State embraced a definition of vote for optical scanning equipment as part of his directives authority.

As is evident, the Secretary of State has the power and authority, via directive, to adjust, modify, revise and refine a uniform definition to meet the state's needs based on the voting systems adopted in the state. However, the Secretary will consult guidelines established by the Federal Election Commission, the Voting Rights Act and all other federal authority in establishing a uniform definition of a vote in Ohio.

We include with the plan, as an attachment, the language that gives the Secretary of State this authority.

## X. Voter Education, Election Official and Poll Worker Training

Achieving the mechanical and technological change of the Help America Vote Act of 2002 is only part of the challenge of enacting true modernization and reform of Ohio's voting system. While devices will enhance the efficiency of Ohio's voting and election process, voter education and training of election officials and poll workers is critical to full implementation of the reforms to the benefit of Ohio voters.

***We are mindful of an exciting objective of the Help America Vote Act: to engage high school and college students in the process. Several State Plan Committee members noted the desire to better engage young Ohioans in the election process as both a means to recruit bright, knowledgeable students as poll workers and as an opportunity to make more young people stakeholders in the process.***

Earlier in this report, we alluded to research currently being conducted by the Secretary of State's office to improve poll worker recruitment, training, education and retention. That effort addresses the reality that many of our current poll workers are from a generation that places a premium on voting, elections and the democratic process. Many of our poll workers are senior citizens who very much value freedom and free election processes as a result of their experiences in growing up in the World War II and Korea era.

To these marvelous citizens, voting isn't just a right it's an obligation and a

precious American birthright that has been paid for with the blood, sweat and tears of those who sacrificed their lives on foreign soil. As these citizen patriots retire from the poll worker ranks in Ohio's election system, we are looking to the future to determine how best we can recruit the next generation of poll workers who will embrace this important Election Day service with the same degree of commitment, enthusiasm and competence of our older poll workers.

We are mindful of an exciting objective of the Help America Vote Act: to engage high school and college students in the process. Several State Plan Committee members noted the desire to better engage young Ohioans in the election process as both a means to recruit bright, knowledgeable students as poll workers and as an opportunity to make more young people stakeholders in the process. Our research is exploring that challenge and opportunity to pass the torch to the next generation. But the research is also looking at other creative options to ensure Ohio has a ready, able and competent corps of poll workers.

Obviously, these poll workers must be adequately trained to render assistance to voters in a competent and knowledgeable way, not only in terms of helping them understand and use the new technology that accompanies election reform, but also by applying the laws and addressing the myriad of Election Day issues that invariably arise.

Provisional voting, for example, was a challenge for many of our poll workers during past election cycles as Ohio aggressively implemented new procedures to accommodate provisional voters. Our poll workers have successfully navigated provisional voting and have successfully met the needs of provisional voters.

But to adequately train poll workers, we must first train election officials. The Secretary of State will meet that challenge with a number of programs and initiatives. New training seminars will precede each election in Ohio where election directors and their staff will be given an opportunity to learn about new procedures and changes.

The Secretary of State also will enhance its electronic communication with election officials by providing updates and advisories about changes in state and federal election law. Our goal is to provide this information as soon as we have the information in hand.

Additionally, the Secretary of State will conduct an inventory of current training materials and produce new information and guidelines in both written and video formats. The Secretary also has asked his staff to provide election directors with new materials that can supplement the training of poll workers.

To ensure seamless transition to new voting systems, we are asking system vendors to partner with us in the production of clear, graphically-driven pamphlets and brochures that tell voters how the voting devices work. Earlier we mentioned the use of simulators and internet-based simulation of new voting devices to provide voters with an opportunity to try out the new technology even before they enter the voting booth to cast their official ballot.

We think these enhancements and initiatives will advance our implementation of the Help America Vote Act in Ohio and pave the way for a smooth transition to new voting devices and election processes. Some of our preparation for new election processes in Ohio includes some structural changes. We are asking each county board of





elections, for example, to designate a training coordinator who will communicate directly with an election training coordinator in the Secretary of State's office.

It is our aim for these coordinators to meet frequently throughout the year, exchange information and help us think about ways to improve the election system in Ohio.

After the election, we will gather from all 88 counties a report from these coordinators detailing issues, questions and problems they encountered and how they addressed the situation. From these reports, the Secretary of State will use that data and information to respond to election issues and disseminate that information to election directors so they can make refinements at the local level in subsequent elections.

But to glean a voters-eye view of the process and how we can improve the election system, we will distribute to a selected sample of voters in every county a short survey device that will track their voting experience and give them an opportunity to provide us with feedback on how we can improve the process. The survey will be distributed to a pre-determined number sample of voters throughout the state as they exit the voting booth.

We think this innovation is important to better understand voter needs and to view our election process through the eyes of the "consumer." Information we collect from both coordinators and the sample voters will guide us in developing relevant and meaningful training materials for both election officials and poll workers in future elections.

The Secretary of State also will develop a new "get-out-the-vote" program in Ohio that will encourage more voters to participate in the election process. While such programs currently exist in the Secretary of State's office, personnel will be dedicated to conducting research and learning more about voter behavior in Ohio.

In many states, the appeal is often directed at those who are registered to vote, were registered to vote or who have voted in the past. The Secretary of State would like to target potential new first-time voters by coordinating voter recruitment with civics and government teachers in high schools throughout Ohio where there is a captive audience of potential new voters. Additionally, the Secretary would like to initiate research that targets Ohioans who have never voted to learn more about their decision not to participate in the election process and to determine if there are programs and initiatives that can be implemented to address their concerns and entice them to the polls.

***Understanding more about voter behavior and non-voter behavior, we believe, is a proactive step we must take to fully embrace the spirit, intent, principles and objectives of the Help America Vote Act.***

Understanding more about voter behavior and non-voter behavior, we believe, is a proactive step we must take to fully embrace the spirit, intent, principles and objectives of the Help America Vote Act.

The proposed budget for these activities is $10 million to $15 million, with $5 million to $10 million earmarked for voter education, and $5 million set aside for election official and poll-worker training. We propose making election official and poll-worker training funds available as state

grants to the counties to supplement local activities and initiatives of the county boards of elections.

As counties deliberate equipment and voting systems, we will encourage them to consider appropriation of available residual funds to voter education and poll worker training. In crafting local budgets to achieve the objectives of the Help America Vote Act, we believe counties must give consideration to these initiatives to supplement state efforts for education and training.

In order to qualify for these funds, counties must submit to the Secretary of State a detailed plan that identifies proposed programs and initiatives and how the funds would be used. After each General Election, counties would be required to report on the deployment of these programs and their assessment of the value of the education and training.

## XI. §302. Provisional Voting and Voting Information

The critical role of provisional voting in election reform was underscored by a college newspaper in Ohio several years ago that reported only 5.4 percent of registered students at Ohio University actually voted during one election cycle in the late 1990s.[3]

Provisional voting makes it possible for many more of those students to engage and participate in the elections process. Provisional voting is a way to ensure every eligible voter who shows up at the polls on Election Day can cast a ballot.

***For purposes of our State Plan, suffice that Ohio and the Secretary of State, as a matter of public policy, embraces the concept that every effort should be made at every board of elections in the state to accommodate every voter who, for whatever reason, does not appear on the certified list of registered voters in any jurisdiction of the state.***

The National Voter Registration Act, or so-called "motor voter" law, protects those who changed their residence, but what about those who, for example, were incorrectly purged from the voter registration list?

Ohio is sensitive to this issue and the Secretary of State is committed to making sure every voter and every vote counts. The Secretary understands that no matter what reforms are enacted, human error will always be a factor in voter registration. No voter should be disenfranchised just because someone made a mistake, or the paperwork on a change of address was overlooked, misplaced, incorrectly recorded or just didn't get entered into the database in time to be reflected on the voter rolls.

Ohio's system of provisional voting has been successful and voters who otherwise might have been denied a ballot were given an opportunity in recent elections to cast a provisional ballot, and for local boards of elections to determine if those ballots were valid. We have guidelines and procedures in place to address provisional voting in Ohio

[3] The (Ohio University) Post, *Voters still have time*, Oct. 11, 2001.





and we will continue to refine and expand the scope of provisional voting in the state to comply with the spirit, intent and letter of the law in the Help America Vote Act.

The Act requires provisional voting as a condition for receiving federal funding for election reform and Ohio is poised to meet all such requirements. We anticipate the Federal Election Commission will continue to explore this issue and we will make adjustments to provisional voting regulations in the state as those guidelines and adjustments are released.

The Secretary of State also will review, prior to each election, procedures for the handling and processing of provisional votes to ensure full compliance with state and federal guidelines. To provide fullest utilization of the provisional voting mechanism, every local board of elections will be required to adopt provisional voting policies that are weighted more toward inclusion in the voting process than challenges and exclusion in the ballot process.

For purposes of our State Plan, suffice that Ohio and the Secretary of State, as a matter of public policy, embraces the concept that every effort should be made at every board of elections in the state to accommodate every voter who, for whatever reason, does not appear on the certified list of registered voters in any jurisdiction of the state. Provisional voting is a valuable fail-safe mechanism that is an essential component of election reform in Ohio.

Further, we believe those who cast a provisional ballot should have access to mechanisms and procedures that tell them whether their ballot was counted. Toward that end, our budget presumes establishment of a toll-free hotline that will enable provisional voters, after the election, to learn whether their ballot was counted and to receive an explanation about why it wasn't counted if, indeed, a determination was made that it was not a valid vote. We have allocated $250,000 in our State Plan budget to create and maintain such a hotline and encourage local boards to prominently display information by whatever means to advise provisional voters of this follow-up option.

Additionally, information will be available at every precinct and voting location to explain provisional voting procedures and who may cast a provisional vote. Such information should also be readily available on the Secretary of State's website and all county election board websites, where such sites exist.

As part of the National Voter Registration Act, Ohio has endeavored to forge a partnership with other state public agencies in voter registration and it is logical to extend an invitation to these agencies to also educate, advise and alert prospective voters about their provisional voting options in these venues.

Ohio also would expect to partner with the state's media in making voters aware of the provisional option. We contemplate deployment of a series of public service commercials on local television stations in the days preceding elections advising voters of their options for casting a provisional vote. We think a compelling argument can be made to broadcast outlets around the state that full citizen participation in the election process is public service of the highest order.

## XII. §303. Statewide Voter Registration and Registration by Mail

Maintaining a viable voter registration list is an essential ingredient in conducting fair and participatory voting processes. Centralizing registration in a single statewide database is a sensible change that ensures uniformity, consistency and reliability. To accomplish this task, the Secretary of State will seek one vendor to develop a registration system that must meet the needs of voters and elections officials alike.

The system must be sufficiently functional that all eligible voters can register to vote with ease and simplicity. The system must accommodate both written (mail-in registration and in-person registration) and electronic means for voters to initiate the registration process. Registration sites, locations and opportunities must be varied and plentiful.

It is not sufficient that voters would be required to register only at boards of elections or obtain registration materials only at governmental venues. The successful vendor must anticipate a variety of locations and opportunities for citizens to register in both public and private settings. The system must contemplate a solution for converting current voter registration data now housed in local boards of elections and transferring that data to the centralized database in the Secretary of State's office.

The statewide voter registration system must meet technical demands that will readily allow local boards of elections to seamlessly and effortlessly interface with the state database in a way that assures instant access to all qualified registered voters in their jurisdiction and the state. The system must include sufficient data that provides local election officials with the means to segregate voters by political and geographic boundaries to the extent these officials can create and develop voter lists by precinct and voting location.

***The statewide voter registration system must meet technical demands that will readily allow local boards of elections to seamlessly and effortlessly interface with the state database in a way that assures instant access to all qualified registered voters in their jurisdiction and the state.***

The system must include features that permit local elections officials to track the voting history of registered voters, identify those no longer legally registered, and readily accommodate change of address or voting status.

And, finally, the system must anticipate that these records are public records and must be maintained in a way that conforms to state public records law and all other applicable state and federal laws that pertain to voter registration currently in effect.

Our budget presumes a $5 million to $10 million allocation for creation and development of a statewide voter registration system.

Closely akin to the registration issue are voter identification requirements. It was the consensus of both witnesses who testified before the State Plan Committee and the committee itself that the Secretary of State should establish policies that expand rather than restrict the types of instruments used by voters as a means of identification. We believe this is in keeping with the spirit and intent of the Help America Vote Act.





As no voter should be denied an opportunity to cast a provisional ballot in those circumstances where their name might not appear on the voter rolls, neither should a voter be denied an opportunity to vote because of arbitrary and restrictive identification requirements. While it is logical the Secretary of State should work in coordination with agencies such as the Ohio Bureau of Motor Vehicles to validate the identity of new voters, such identification requirements must, by definition, extend beyond identification devices such as a valid state drivers' license.

As several Ohioans with disabilities testified, many people with disabilities do not have a drivers' license. It is the intention of the Secretary of State to extend identification requirements to include any reasonable means of identification such as utility bills, rent receipts or any legal or quasi-legal instrument that bears the name and address of the prospective voter.

The policy of the Secretary of State is that voter challenges on the basis of identification should be judged on a liberal construction of voter ID rather than a restrictive construction that would deny the voter an opportunity to cast a ballot.

Based on testimony provided by Mr. Perry of the Columbus Urban League, the Secretary of State also would like to more closely examine the issue of restoring voter rights to persons released from incarceration in the state's Department of Rehabilitation and Corrections. There is a widespread perception that these persons, as a result of felony convictions, have forever forfeited their right to participate in the election process. Such is not the case.

Persons who have had their voting rights taken away because of a felony conviction are subject to re-enfranchisement as legal voters to restore their right to vote. As these persons have presumably paid their debt to society as a result of their incarceration, full integration back into society as fully functioning citizens should also presume their eventual re-engagement and participation in the election process.

For these persons, identification also is an issue because drivers' licenses might have expired during their period of incarceration. At minimum, the Secretary of State pledges to educate election officials and poll workers about the rights and processes available to these individuals.

## XIII. §402. Administrative Complaint Procedures and Grievances

***The complaint and grievance procedures developed by the Secretary of State are constructed toward development of a non-adversarial complaint process where the desired outcome is a solution or remedy of the problem, rather than a highly evidentiary process.***

To fully facilitate implementation of the Help America Vote Act of 2002, Ohio will establish an administrative complaint procedure to address allegations by any citizen who believes their voting rights have been violated under Title III of the Act.

The complaint and grievance procedures developed by the Secretary of State are constructed toward development of a non-adversarial complaint process where the desired outcome is a

solution or remedy of the problem, rather than a highly evidentiary process.

The process adopted by the Secretary of State includes an alternative dispute resolution component that invites parties to seek equitable resolution in that venue as well as through a formal hearing process. When a valid complaint or grievance is filed as part of this process, it is ultimately the state, and more specifically the Secretary of State, that must provide the appropriate remedy.

We attach, as an addendum to this report, the full text of the proposed procedure. Following, in summary, are the relevant elements of the complaint procedure:

- Any Ohio citizen who believes there is a violation of any provision of Title III of the Help America Vote Act may file a complaint.
- All complaints must be in writing, signed, notarized and be sworn under oath.
- The complainant must be identified by name and mailing address, and the complaint must include a description of the violation alleged to have occurred.
- The complaint must be filed with the Secretary of State along with proof of delivery of a copy of the complaint to each respondent.
- In addition to failure to include any of the foregoing, the Secretary of State may reject the complaint if more than 90 days have lapsed since the final certification of the federal election at issue.
- The Secretary of State must establish procedures and schedules addressing when the complaint will be heard and considered.
- The Secretary of State or designated hearing officer must compile and maintain an official record of any proceeding and include submissions and evidence provided.
- Complaints must be heard and determined by the Secretary of State or designated hearing officer, who is required to prepare a report expressing an opinion about whether a violation did occur within 20 days of the filing of such a complaint.
- Any hearings conducted pursuant to the filing of a complaint must be tape recorded.
- Dates, times and locations of hearings must be established and all parties must be given at least five days notice of such hearings.
- All relevant parties, including the complainant and all respondents may appear at the hearing, testify and present evidence. There is no requirement that any





complainant, respondent or any other party to the proceeding be represented by an attorney.

- The Secretary of State or a designated hearing officer is required to prepare a transcript of the tape recorded hearing and that transcript is a public record under Ohio's public records law.
- A final decision must be rendered within 60 days after the complaint is filed.
- If a violation is determined to have occurred, a determination must be issued specifying the appropriate remedy. If a violation is deemed not to have occurred, the complaint must be dismissed.
- The remedy may not include any award of monetary damages, costs or attorney fees, and may not include the invalidation of any election or a determination of the validity of any ballot or vote.
- The decision under this process is final and is not subject to judicial review.
- The complaint and grievance procedure does not preclude any other legal action provided by law.

## XIV. Ongoing Performance Measurement

***Each year, boards of election throughout Ohio prepare annual budgets anticipating costs and expenses for conducting elections. We recommend that while each board is preparing their budgets that they also take time to review the improvements they have made in their elections operations during the past year and report their progress in meeting election reform objectives under the Help America Vote Act.***

As Ohio anticipates successful implementation of reforms and modernization of its election systems and processes to accomplish its objectives under the Help America Vote Act of 2002, we believe performance measurement is an essential and ongoing requirement to ensure a fair and inclusive election system.

Each year, boards of elections throughout Ohio prepare annual budgets anticipating costs and expenses for conducting elections. We recommend that while each board is preparing their budgets that they also take time to review the improvements they have made in their election operations during the past year and report their progress in meeting election reform objectives under the Help America Vote Act.

The Secretary of State will compile these annual reports and submit a summary of initiatives, improvements and progress to the Election Assistance Commission. We think this is a way for

all election officials in Ohio to remain vigilant of our obligation to continue measuring our performance in making the election process fair and accessible to all Ohioans.

As stated earlier in this report, we view this opportunity to reform Ohio's election system not as an end process, but as the beginning of a renewed effort to fully engage our citizens in their most vital civic responsibility in a democratic process. Election reform, after all, is a futile exercise unless citizens view themselves as stakeholders in their local community, their state and the nation.

Our guiding principle in developing this state plan is that voters should willingly and enthusiastically participate in the electoral process, free of obstacles that might inhibit them from participating. To accomplish that, we, as election officials, are obligated to provide them with the best and most modern tools available so they can exercise their right to vote with assurance that every vote and every voter counts and will be counted on Election Day.

No legal voter should be taken for granted and no legal vote should be discounted or, worse, not counted. Every vote cast, every ballot submitted must be treated as if our very system of government and our way of life depends on it, simply because it does. No greater is the obligation of every eligible voter to be an active, knowledgeable and willing participant in the election process, and no greater responsibility as election officials do we have than to ensure those voices are heard and those votes are counted.

## XV. Requirements Payments: Maintenance of Effort

As a condition for receiving Requirements payments under the Help America Vote Act, states must maintain expenditures for funded activities "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."

Attached to the State Plan are budget materials that document state spending on election and election administration through the Secretary of State's office for Fiscal Year 2000 (July 1, 1999 – June 30, 2000.)

The total amount of $2,739,159.04 million does not include reimbursements to county boards of elections for advertising costs related to state issue ballot advertising. The total budget request of the Secretary of State's office for FY 2004 and FY 2005 are sufficient to fund continued investment in elections at this annual level.

Additionally, the Secretary of State shall include a HAVA-compliance and funding report as part of future biennial budget requests of the Ohio Legislature to certify HAVA-compliant funding and continue Ohio's maintenance of effort.





## XVI. Estimated Timelines for Implementation of the State Plan

Following are key dates and the proposed timetable for implementation of our State Plan:

- **March 18, 2003:** State Plan Advisory Committee named, public input process defined.
- **April 3-4, 2003:** State Plan Advisory Committee conducts public hearings.
- **April 9, 2003:** RFP released for statewide voter registration system.
- **April 17, 2003:** State Plan Advisory Committee reconvenes to review draft State Plan.
- **May 7, 2003:** Competitive bids due for voter registration system.
- **May 13, 2003:** State Plan finalized and published for 30-day review.
- **May 16, 2003:** RFP released for voting system vendors.
- **June 2, 2003:** Secretary of State awards bids for voter registration system.
- **June 16, 2003:** State Plan submitted to federal Elections Assistance Commission for publication in the Federal Register. Competitive bids due for election system.
- **Aug. 1, 2003:** Secretary of State awards bids for election systems. County boards of elections notified of eligible system vendors.
- **Sept. 2, 2003:** County boards of elections must notify Secretary of State which vendor they have chosen for election system improvements.
- **Dec. 1, 2003:** Statewide voter registration system installed and fully operational.
- **Feb. 1, 2004:** Replacement of punch-card and lever-machine complete.
- **March 2, 2004:** Primary Election. (Ohio General Assembly considering change of Primary to May, 2004.)
- **Nov. 2, 2004:** General Election

## XVII. Plan Submission Presumes Full Federal Funding

Submission of this plan presumes full and timely federal funding. In order for Ohio to meet the ambitious schedule outlined in this State Plan, it is imperative that federal monies be made available to the state on a schedule that is consistent with implementation of the base components of the plan.

Ohio reserves the right to seek waivers stipulated in the Help America Vote Act that allow us to delay implementation of this plan if federal funding is not forthcoming in a timely manner that will enable us to accomplish the objectives outlined in this report to the Election Assistance Commission.

Proceeding without a guarantee of federal funds would create a financial burden for the State of Ohio and its 88 county jurisdictions. While Ohio is anxious to meet and exceed the standards of the Help America Vote Act, implementation is not possible without the federal guarantees that accompany the Act.

The preponderance of unacceptable voting devices in the state underscore the necessity for reform, but it shows the very real and special challenges Ohio faces in fully

complying with the Act and the funding that will be required to reconstruct and reconfigure the voting and election systems in the state.

Our pledge is to implement reforms, as outlined in this State Plan, as federal funds become available.

## XVIII. The State Plan Committee: HAVA and Beyond

We reserve this section of the report to capture the comments and thoughts of our State Plan Committee. While many of the committee's recommendations and much of their input is reflected in preceding sections of the report, it was clear this panel of distinguished Ohioans went beyond merely thinking about minimum requirements of the Help America Vote Act and insisted on expanding their mission to address issues that will produce broad and meaningful election reform in our state.

That kind of visionary thinking is precisely what the Secretary of State had in mind when he impaneled the State Plan Committee.

If there was a universal theme that resonated from the committee's deliberations, it was consensus that Ohio must aggressively engage the next generation of voters and make young people in our state understand their role as stakeholders in the democratic process. It is insufficient, the panel said, to merely invite high school and college students into the election process. Ohio, the State Plan Committee said, must be proactive in educating young people about the election process and instill a deeper commitment to engendering student participation in the election process.

***State Rep. Nancy Hollister noted that this report should underscore for Ohioans that implementation of the Help America Vote Act in Ohio signals a "change in the governance of the election system" in the state. HAVA, she said, places more responsibility on the Secretary of State to assure a fair, equitable and inclusive election process in Ohio.***

Linda Carr, Daisy Duncan Foster and Pastor Aaron Wheeler were particularly passionate in their remarks about this issue and said Ohio should be creative in developing new programs and initiatives to bring young voters into the process. The Committee urged the Secretary of State to aggressively seek available funds under Title V and Title VI funding of the Help America Vote Act to accomplish this critical task.

Additionally, some committee members recommended working with the Ohio Department of Education and the Ohio Board of Regents to explore ways to better educate and encourage political participation by high school and college students. Pastor Wheeler suggested Ohio public schools should ponder curriculum requirements that focus exclusively on voting and election processes.

State Rep. Nancy Hollister noted that this report should underscore for Ohioans that implementation of the Help America Vote Act in Ohio signals a "change in the governance of the election system" in the state. HAVA, she said, places more







responsibility on the Secretary of State to assure a fair, equitable and inclusive election process in Ohio. "We need to acknowledge that," she said.

But Rep. Hollister and other committee members said that shift in governance does not minimize the necessary independence, ongoing role or responsibility of counties to execute election policies within the new governing framework created by the Help America Vote Act.

Committee member Jeff Matthews said county boards of elections must be independent to effectively achieve the objectives of the Help America Vote Act, and Ms. Duncan Foster said boards of elections must feel "some ownership of the process." In that context, it was the consensus of the State Plan Committee that full compliance with the Help America Vote Act requires critical coordination and a strong working relationship between the Secretary of State's office and local boards of elections.

Election officials Guy Reece and Tom Coyne, along with Mr. Matthews, agreed that innovation doesn't end with the Help America Vote Act. They said Ohio must constantly be looking for new methods, new procedures and new ideas to keep the election process viable and invite more Ohioans to exercise their right to vote.

***Ms. Alvarado noted the projected growth of Hispanic populations both nationally and in the State of Ohio. Several committee members agreed that rather than addressing this issue later and incurring cost for conforming equipment, the RFP should anticipate the language requirement and it should be purchased now while federal funds are available to help Ohio make the transition to new voting equipment.***

Mr. Reece invited future exploration of election innovations being tested in other states such as open voting, early voting, ballot on demand and expanded availability and use of absentee ballots. Catherine Turcer asked that the Secretary of State consider the flexibility of voting devices that would allow for concepts such as instant runoff voting and proportional representation.

Ms. Turcer also recommended the Secretary of State ensure that the RFP for new voting equipment carefully consider the necessity for strong auditing capability that would provide a spot-check feature for pre-testing. Ms. Turcer and Donna Alvarado said alternative language capability also should be included in the RFP in anticipation of changing future demographics in the state.

Ms. Alvarado noted the projected growth of Hispanic populations both nationally and in the State of Ohio. Several committee members agreed that rather than addressing this issue later and incurring cost for conforming equipment, the RFP should anticipate the language requirement and it should be purchased now while federal funds are available to help Ohio make the transition to new voting equipment.

She said language requirements also need to be considered in education products produced by vendors and election officials in how to use the new voting equipment, as well as in training of poll workers and election officials. She said alternative language issues need to be considered in creation and execution of the grievance process and procedures.

She suggested the Secretary of State consider alternative language policies that exceed the 5 percent threshold.

While preceding sections of the report address monitoring procedures for implementation of the Help America Vote Act in Ohio, Ms. Alvarado said compliance monitoring should be "futuristic" and focus on outcomes. While measuring accomplishments, she said the state and local jurisdictions also should be forward looking and report, for example, where the state expects to be in the next five years and beyond.

She said monitoring and compliance should address issues such as where Ohio wants to be as a state, how we achieve those objectives, who is responsible for implementing these plans, what the funding sources will be for implementation and what will be different when changes, modifications or new procedures are implemented in the election process.

Rep. Hollister agreed there needs to be periodic evaluation of Ohio's progress in meeting voting and election reforms. She suggested a need to pause from time to time to reflect on what has been accomplished, what future reforms need to be considered, and what revenues are available to achieve those objectives.

***Mr. Long acknowledged that there might be offsetting costs and efficiencies that could be realized from conversion to electronic voting systems, but he stressed the necessity for full funding of the plan and timely allocation of federal payments to the state to avoid financial burdens on counties already adversely affected by the economy and cuts imposed by the State Legislature.***

A primary focus in the deliberation of the State Plan Committee was how Ohio could best address disability issues related to implementation of the Help America Vote Act. Eric Duffy said the issue of physical barriers is a real and pressing issue that calls for creative solutions in Ohio. He emphasized that Ohio must consider not only what takes place inside the voting place, but what physical barriers exist that hinder access outside the building.

Pastor Wheeler, chairman of the Ohio Civil Rights Commission, offered the assistance of that agency in working with the Secretary of State in exploring solutions to that issue.

As expected, much of the panel's deliberation was focused on funding and whether the federal allocation to Ohio was adequate to effect the wholesale change in voting systems in the state. A key voice in that discussion was Larry Long, executive director of the County Commissioners Association of Ohio.

Mr. Long noted that there is concern among county commissioners about whether the federal funding anticipated for implementation of the Help America Vote Act is sufficient to purchase the voting equipment needed to make Ohio HAVA compliant. But





a comparable concern, he said, is consideration of future maintenance and replacement costs, as well as related cost issues such as storage requirements for the new equipment.

He acknowledged that there might be offsetting costs and efficiencies that could be realized from conversion to electronic voting systems, but he stressed the necessity for full funding of the plan and timely allocation of federal payments to the state to avoid financial burdens on counties already adversely affected by the economy and cuts imposed by the State Legislature.

Rep. Hollister also discussed the funding issue, suggesting the state, at some future date, might consider bonding options to assist in paying for ongoing costs associated with implementation of the Act, as well as making funds available for voter education, system upgrades and youth participation in the election process.

Further, she said that although there appears to be no immediate need for sweeping changes in state election laws, the state should constantly evaluate that need and enact legislative change as required.

Mr. Coyne emphasized the need for the Secretary of State and local boards of elections to fashion voter system reforms in a way that keeps the process from becoming "vendor-driven." He said county boards need time to assess and evaluate the unique demands in each jurisdiction and recommended the Secretary of State consider meeting the disability requirements of HAVA in time for the 2004 election, but proceed more deliberately on installment of new voting equipment.

## XIX. Summary of the State Plan

Section 254 of the Help America Vote Act of 2002 lists the required components of the State Plan and this document fulfills those requirements.

This report demonstrates that Ohio, because of its widespread use of punch-card voting, is perhaps challenged more than other states to reform its election methods and modernize its voting systems. The size of the state, ranking seventh among the 50 states in total population, and the mix of rural and urban population makes the transition even more challenging.

***Ohio, the Secretary of State believes, must be a full participant in the election process and every eligible voter must be afforded the opportunity to be counted as we ponder the critical decisions affecting our local communities, state and nation.***

Recognizing the enormity of the task confronting Ohio, some members of the State Plan Committee and witnesses who testified before the committee counseled the Secretary of State to invoke waivers that would allow the state to delay its full implementation of the plan until the 2006 election cycle.

The Secretary of State, however, believes Ohio cannot afford to delay its implementation of the plan because every election cycle that passes is another election where voters are potentially disenfranchised and Ohio votes are lost or miscounted. Ohio, the Secretary of State believes, must be a full participant in the election process and every eligible voter must be afforded the

opportunity to be counted as we ponder the critical decisions affecting our local communities, state and nation.

As election officials, if we know voters are disenfranchised and that legitimately cast ballots are being discounted, we have not only a moral obligation to immediately embrace a solution, but a legal obligation to find a remedy and enact measures to prevent that from happening. If even one voter is denied the right to vote, we are obligated, by law, to determine the cause and forge a solution. The evidence is overwhelming that thousands of Ohio voters have been disenfranchised by antiquated voting equipment and that many thousands more have lost confidence in the reliability and accuracy of voting devices currently in use in most of Ohio's 88 counties.

The Secretary of State has confidence in the election professionals who conduct and administer elections in the State of Ohio, and believes Ohio has the capability to enact reforms that have already taken place in other states.

We are emboldened in our decision to press forward with implementation of this plan based on the experience of Knox and Lake counties in executing successful elections after implementing new systems only weeks before the General Election. The Knox County Board of Elections, which has only four employees, received delivery of new electronic voting devices in October, 1996, a presidential election year, and deployed them in the November General Election.

Lake County issued a request for proposal in April 1999, awarded bids in July of that year, took delivery of a new voting system the following September, and conducted a successful election weeks later in the November General Election.

Under the timetable established in this plan, new voting systems would be installed and operational in time for the Primary Election in 2004, providing local boards of elections with an opportunity to test the new systems before fully engaging them in the 2004 presidential election cycle.

However, we refer to the preceding section of this plan. Full implementation of this plan presumes full funding by the federal government. If the Secretary of State determines that federal funding for implementation of this plan is not forthcoming from the federal government in a timely manner, we will notify the Elections Assistance Commission of our intent to revise this plan and adjust the timetable for implementation.

Boards of Elections should be assured that the Secretary of State will focus all of its available personnel and resources to assist counties in enacting these reforms and meeting the requirements of the Help America Vote Act.

Boards should also be assured the Secretary of State will work with county officials and elections administrators to ensure available resources are distributed as quickly as possible and that cost containment efforts will be undertaken to minimize implementation costs to counties. Based on our analysis, which was reinforced in the testimony of Doug Lewis of The Election Center, we believe conversion of the state's punch-card voting system to direct recording electronic (DRE) voting devices will generate certain cost efficiencies we believe will minimize cost and expenses to counties, or at least offset some of the implementation costs.





We include in this definition of electronic voting devices the option for some counties to choose optical scanning devices that are HAVA compliant. In counties which have invested in this equipment and prefer these optional voting devices, the Secretary of State will consider deployment of this equipment as acceptable if certain modifications are made to ensure compliance with statewide voting standards. These counties, however, would be required to feature at voting locations electronic voting equipment that accommodates the needs of people with disabilities.

***Based on our analysis, which was reinforced in the testimony of Doug Lewis of The Election Center, we believe conversion of the state's punch-card voting system to direct recording electronic (DRE) voting devices will generate certain cost efficiencies we believe will minimize cost and expenses to counties, or at least offset some of the implementation costs.***

We presume the transition to electronic voting equipment will, at minimum, reduce printing costs in most counties. We believe there are further savings and efficiencies that will be derived from electronic voting that will reduce personnel and labor costs.

The DRE option also will introduce added efficiencies in the election process that will eliminate issues related to "over-votes," recounts and ensuring full voter participation by persons with disabilities. We also believe an electronic-based voting system will enhance training and education across the spectrum for election officials, voters and poll workers if the system is sufficiently user-friendly.

Based on the foregoing, following is a summary of the State Plan for Ohio based on the requirements delineated in Section 254 of Public Law 107-252:

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

Ohio will implement new voting systems and procedures that meet the general requirements of Title III ensuring the systems have audit capacity, disability access, and alternative language accessibility, where applicable, and that the systems meet error rate thresholds established by the Federal Elections Commission.

**(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).**

Ohio anticipates federal funding and state matching funds will be about $161 million. The Secretary of State will allocate about $136 million of that amount for installation of new voting equipment and upgrades of existing voting equipment in Ohio counties, and use the remaining portion to implement statewide voter registration and establish a provisional voting hotline. Disbursements in the amount of $5 million will be

available to Ohio's 88 counties for election official and poll worker training. Additionally, the Secretary of State will make $5 million to $10 million available for administration of a statewide voter education program. The Secretary of State will draft guidelines and reporting requirements to monitor distribution of these funds and to ensure county compliance with the Help America Vote Act of 2002.

**(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.**

See response to No. 2. Additionally, the Secretary of State, in establishing an authorized vendor list for deployment of new voting equipment, will require vendors to include, as part of their bid proposal, fund allocation that includes voter education, election official education and training, and poll worker training. The Secretary of State also will implement new programs and procedures to supplement these vendor requirements and efforts at the county level to address these issues.

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

See preceding responses. Ohio will replace punch-card voting in the State and require deployment and installation of electronic-based voting devices that meet the requirements of the Act. The request for proposal for new voting equipment will be crafted to presume required features and safeguards that ensure a uniform voting standard and compliance in all Ohio counties with specific requirements of the Act.

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

Such a fund has already been established by the Secretary of State and will be monitored by both the Secretary of State and the Auditor of State, as Ohio law applies to state auditing requirements and reporting procedures. Fund management procedures include quarterly reports to the Election Assistance Commission to detail receipt and expenditure of funds, and how those funds were used to meet the objectives of the Act.

**(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.**

See response to No. 2 and the fund distribution table on page 23 of the State Plan. The Secretary of State believes full implementation of the plan will require all available federal funding and state matching funds to meet the requirements of the Act.

**(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.**

(*See Section XV. Requirements Payments: Maintenance of Effort.*) Attached to this State Plan are budget materials that show the level of spending for election services by the Secretary of State in FY 2000 and projected levels of spending for FY 2004-05. The Secretary certifies that no federal funds for Requirements payments earmarked for voter reforms and system modernization will be used to supplement the state budget for operation and administration of the office.

**(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 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.**

The Secretary of State assumes full responsibility for ensuring compliance with the Act. Specific timetables are included in this plan which requires all punch-card and lever machine counties to install and deploy new voting equipment that meets the uniform standards of the Act by Feb. 1, 2004. All other counties will be compliant with the Act by Jan. 1, 2006. The plan calls for a statewide voter registration system to be in place and fully operational by Dec. 1, 2003. See Section XIV for ongoing performance measurement. Additionally, the Secretary of State will ensure compliance of all county boards by Sept. 1, 2003 by assigning a vendor to any county which has failed to select a vendor for election system improvements.

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

See attached procedure and refer to Section XIII of the State Plan, Administrative Complaint Procedures and Grievances.

**(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.**

See response to No. 2. Ohio will use funds from Title I for antiquated systems buyout and to improve election administration activities and procedures. See the fund distribution table on page 23 of the State Plan and allocation and distribution formula described on page 24.

**(11) How the State will conduct ongoing management of the plan.**

See Section XIV, Ongoing Performance Measurement. Throughout this State Plan is a description of the management practices and procedures outlined by the Secretary of State to ensure compliance with the Act. Any material change in this plan will result in a resubmission of the Plan in accordance with Sections 255 and 256 of the Act.

**(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 how the State succeeded in carrying out the State Plan for such previous fiscal year.**

This State Plan represents Ohio's initial submission of a State Plan to the Elections Assistance Commission.

**(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.**

See page 3, The State Plan Committee, and Section VI, How Ohio Developed its State Plan.

**This State Plan respectfully submitted to the Elections Assistance Commission, in accordance with U.S. Public Law 107-252, this 16th day of June, 2003.**

**J. KENNETH BLACKWELL**
Secretary of State
The State of Ohio

# State of Oklahoma Plan for Implementation of the Help America Vote Act of 2002
## INTRODUCTION

The Help America Vote Act of 2002 (HAVA) requires significant changes in methods used by state and local jurisdictions to conduct elections and administer voter registration. The Act authorizes new funds to improve election administration at both the state and local levels. HAVA also increases the involvement, for most states, of state officials in the conduct of elections at the local level.

**Authority of State Election Board Secretary**
In Oklahoma, we understand both the concept and the advantages of a uniform system of election administration. The system in place in Oklahoma today was born on January 1, 1975, when a new set of election laws became effective. One of the most important features of Oklahoma's election system is the authority of the Secretary of the State Election Board.

"The Secretary of the State Election Board shall be the administrative officer of the State Election Board and shall have general supervisory authority over county election boards. . . . The Secretary may promulgate, repeal or modify such rules or regulations as he deems necessary to facilitate and assist in achieving and maintaining uniformity in the application, operation and interpretation of the state and federal election laws and a maximum degree of correctness, impartiality and efficiency in administration of the election laws . . . ." [Title 26 O.S. 2001, Section 2-107]

The Secretary of the State Election Board has used the rulemaking authority granted by the statute to create and implement uniform procedures governing every aspect of the operations of the 77 County Election Boards in Oklahoma. Beginning with the first publication of the *Secretary's Digest* (a compendium of the administrative rules, illustrations and other material) in 1975, and continuing to this day, the Oklahoma State Election Board provides the County Election Boards both with a consistent interpretation of the election laws and with instructions and procedures necessary to implement those laws on a daily basis.

**Training**
The Oklahoma Election Code of 1974 (Title 26 of the *Oklahoma Statutes*) also included stringent training requirements for county and precinct election officials. In order to meet this duty, the State Election Board staff conducts training for new County Election Board Secretaries, Assistant Secretaries and/or Chief Clerks at the time of their appointment/employment. The training consists of a self-guided workbook course called the *Independent Study Program* which is completed in the County Election Board office, and a two-day course in the use of the Oklahoma Election Management System software conducted in the State Election Board's office in Oklahoma City. Additionally, training workshops for County Election Board Secretaries and their staffs are held at locations across the state in the fall of odd-numbered years.





The State Election Board provides training materials — an Instructor's manual, participant materials and, in recent years, a video — for Precinct Official training. All Precinct Officials are trained in even-numbered years prior to the start of the statewide election season. (This training may begin in late 2003 because Oklahoma's 2004 Presidential Preferential Primary Election has been moved to February 3, 2004.)

**Supply Inventory**
Materials used for voter registration services and to conduct elections also are provided by the State Election Board. All forms used in the conduct of an election, as well as such items as paper clips, pens, ballot transfer boxes, and absentee ballot envelopes, are provided to the County Election Board by the State Election Board. The State Election Board keeps records of the election supply inventory in County Election Board offices and ships new supplies and materials in the summer of even-numbered years and at other times as necessary.

**Statewide System**
By the late 1980s, four counties (Oklahoma, Tulsa, Cleveland and Canadian) were using optical scan vote counting devices in their precincts, and three of those counties (Oklahoma, Tulsa, and Cleveland) had computerized their voter registration records. Procedures for using these systems were worked out by the County Election Board personnel. Although the State Election Board staff provided advice and adapted materials when requested to accommodate the different voting device and voter registration systems, it soon became apparent that if individual counties continued to acquire their own vote counting systems, Oklahoma's uniform statewide election system would be rapidly and irrevocably lost.

In 1989, the Oklahoma Legislature authorized a project that soon became known as the Oklahoma Election Management System (OEMS). OEMS is comprised of the hardware and software needed to automate and computerize most of the basic administrative functions of the County Election Board office. OEMS was implemented in three stages beginning on July 1, 1990, when the statewide voter registration and absentee voting functions went online, through March 10, 1992, when the optical scan precinct vote counting devices were used for the first time in the Presidential Preferential Primary Election.

Acquisition of the computer and voting device hardware and the development of software was borne by the state, paid by a special bond issue. As with other aspects of Oklahoma's election system, the ongoing maintenance of OEMS hardware and software is funded by the state.

**HAVA Requirements**
Many of the administrative changes required by HAVA on a national basis are already in place in Oklahoma, implemented in stages over two decades from the mid-1970s through the mid-1990s. As for those elements of HAVA that are not already part of Oklahoma's system of election administration, our system can and will be adapted to accommodate the newly prescribed tasks and responsibilities.

**Committees**
State Election Board Secretary Michael Clingman recently formed two committees (see page 27 for membership lists and additional information) to assist the State Election Board staff with the preparation of the state plan and with development of procedures for the provisional voting and voter identification requirements of HAVA.

**Administrative Rules**
Our immediate plan is to promulgate emergency administrative rules, as provided in Title 75, Section 253 of the Oklahoma Statutes, that prescribe procedures for provisional voting and voter identification. These emergency rules will be in effect for the Presidential Preferential Primary Election in early 2004. Additional emergency rules will be promulgated following enactment of HAVA compliance legislation next year, with permanent administrative rules finally being promulgated in early 2005.

**Legislation**
Legislation that will conform Oklahoma's election laws to the requirements in HAVA will be introduced in the 2004 regular session of the Oklahoma Legislature. Recommendations concerning that legislation will be developed over the coming months by the Secretary, in consultation with County Election Board personnel and other interested parties.

The election officials involved in the development of this first state plan are committed to the standard of a single set of procedures for all elections they conduct — federal, state, county, municipal and school district. They believe it imperative that HAVA requirements — especially provisional voting, but others as well — be extended to all elections by the Oklahoma Legislature in 2004.

**State Plan**
In the following pages, Oklahoma's initial plan for implementing the requirements of HAVA is outlined. Many specific decisions concerning implementation have not yet been made; therefore, the plan is primarily a statement of intent and a description of the methods we expect to use to arrive at those decisions. It should be noted that we intend to meet the various deadlines of the major HAVA requirements, although it is possible that the solution employed to meet those deadlines may not be the final, long-term solution of choice. We anticipate much of this plan will change over the next three to five years as Oklahoma election officials make the new requirements of HAVA part of their daily routine. The uncertain availability of federal funding for HAVA beyond the current fiscal year's appropriations will impact the future of this plan.





# Required Provisions of State Plan

**SEC. 254. STATE PLAN. (42 U.S.C. 15404)**
**(a)** IN GENERAL.—The State plan shall contain a description of each of the following:

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

**(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).

**(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.

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

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

**(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.

**(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.

**(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.

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

**(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.

**(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).

**(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.

**(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.





## Section 254 (a):

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

Oklahoma plans to use the requirements payment to implement the following election and voter registration administration changes and/or improvements as required by HAVA.

- **Implementation of provisional voting [Sec. 302(a)].** Provisional voting as described in HAVA does not currently exist in Oklahoma. The Secretary of the State Election Board is in the process of developing procedures for provisional voting, in consultation with the Local Election Officials Working Committee members, which will be promulgated as emergency rules in time to be implemented for the Presidential Preferential Primary Election in early 2004. Such emergency rules will be applicable only to elections involving federal offices. State law must be amended to extend provisional voting to other elections in Oklahoma.

- **Implementation of voter identification requirements [Sec. 303(b)(2)].** Voter identification requirements for first time voters in the Presidential Preferential Primary Election will be implemented by emergency administrative rules. Procedures for Precinct Election Officials and for County Election Board personnel are being developed by the State Election Board staff and the Local Election Officials Working Committee members. Like the emergency rules for provisional voting, the emergency voter identification rules will be applicable only to elections involving federal offices. State law must be amended to extend voter identification requirements to other elections in Oklahoma.

- **Coordination of state databases [Sec. 303(a)].** Since the implementation of the National Voter Registration Act in Oklahoma in 1995, the State Election Board has been interested in coordinating the voter registration database with the Department of Public Safety's driver's license database. Although some discussions on the subject were conducted with DPS officials in 1994 and 1995, no solution could be devised that either agency could afford to implement. New discussions will be held with DPS officials and we are confident that a solution eventually will be developed.

- **Upgrades for state voter registration database [Sec. 303(a)].** The statewide voter registration database in place in Oklahoma since 1990 is compliant with most of the requirements of HAVA. The existing database can be upgraded only on the platform on which it resides currently. Therefore, any discussion of "upgrading" the Oklahoma voter registration database is actually a discussion of replacing both the database and the hardware platform.

- **Polling place technology enhancements [Sec. 301].** Oklahoma election officials and voters are generally well-pleased with the Optech IIIP-E optical scan voting devices used here since 1992. However, in order to comply with the disability access requirements of HAVA, our system must either be modified or replaced by January 1, 2006. Although we cannot at this time know what the best course for Oklahoma will be, we do know that a large percentage of the HAVA funding due to Oklahoma will be applied to polling place technology.

- **Design and/or evaluation of new voting device system.** One of the first steps to implementing the polling place technology enhancements referred to in the previous paragraph will be to evaluate existing voting device systems and to investigate methods for integrating new technology with our existing optical scan devices. We anticipate that another working group of election officials interested in evaluating voting systems and making recommendations to the Secretary of the State Election Board and to the Legislature will be formed later this year. State Election Board staff members already have attended a vendor show in Jackson, Mississippi, and we anticipate they will attend other similar events in the future. Expenses connected with these efforts will be paid with a portion of the requirements payments.

- **Support for newly created federal agencies.** The State Election Board will reimburse expenses incurred by Oklahoma's representatives on the Standards Board as they travel to meetings.

- **Improved process for uniformed services and overseas voters [Title VII and UOCAVA].** Legislation (SB358) was passed in the 2003 session of the Oklahoma Legislature to implement the provisions of Title VII of HAVA and to codify a solution to the ongoing problem of insufficient ballot transit time for UOCAVA voters for Oklahoma's Runoff Primary Election. Implementation of this legislation will require promulgation of new and amended emergency rules and permanent rules; design, production and distribution of several new forms and instructional materials for UOCAVA voters; and revision of some other absentee voting materials used by UOCAVA voters. However, another bill (SB260) that changes the dates of the candidate filing period and of the Primary and Runoff Primary Elections in 2004 already has been passed by the Legislature and signed by the Governor. The new election schedule does not alleviate the ballot transit time problem for the Runoff Primary and actually reduces the amount of time available prior to the Primary Election.

- **Improved processes for disabled voters [Sec. 301(a)(3)].** We expect to apply a large portion of the funds available to us to acquire appropriately accessible polling place technology to meet the HAVA mandates. We also expect to use HAVA funding to improve access to other services and information provided to disabled voters.





- **Improved processes for minority language voters [Sec. 301(a)(4)].** The Bureau of the Census determined in 2002 that, as a result of the 2000 federal Census, two counties in Oklahoma (Harmon and Texas) are required to provide minority language services to Hispanic voters. The State Election Board staff and the Secretaries of those two County Election Boards took a number of emergency steps to ensure that such services were provided in the 2002 elections. We intend to adapt the language material used in those two counties for use statewide, as well as to continue to improve language accessibility services and materials in those counties.

- **Improvement in voter outreach programs.** Voter outreach has not been a priority for the State Election Board for many years, although in the late 1970s and early 1980s several ambitious voter education and outreach projects were coordinated by the State Election Board staff. We recognize that successful implementation of many of the changes to election procedure at the polling place (provisional voting, voter identification requirements and, eventually, new voting devices) all will require carefully designed and targeted voter education and outreach programs.

- **Study on implementation of all-mail elections in Oklahoma.** The issue of all-mail elections was considered in Oklahoma several years ago, but not pursued because we could not realize the kinds of savings claimed by Oregon and other jurisdictions considering the process. However, the issue is worth revisiting in light of the potential expense of placing several DRE touch-screen devices in every precinct.

- **Precinct Official training.** Precinct Official training, always considered by Oklahoma election officials as one of our most important election preparation duties, will be even more vital as we prepare for the 2004 Presidential Preferential Primary Election on February 3, 2004. The training program for Precinct Officials will be revised for the Presidential Preferential Primary Election, based on procedures adopted as emergency administrative rules. Following the 2004 session of the Oklahoma Legislature, when we anticipate HAVA compliance legislation to incorporate HAVA requirements into state law and to apply those requirements to all elections conducted by the State and County Election Boards, it is possible that a second round of Precinct Official training may occur prior to the Primary Election on July 27, 2004, in order to accommodate any differences between the procedures established in the emergency rules and new state law.

## Section 254 (a):

**(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).**

As stated in the introduction, many of the duties and responsibilities that HAVA shifts from local jurisdictions to the states were assumed by the State of Oklahoma in stages over a period of almost twenty years. Acquisition and maintenance of election equipment, database resources, training, and many other functions of election administration are funded by the State through budget appropriations to the State Election Board. In turn, the State Election Board has several mechanisms in place to purchase and distribute supplies and other materials to the County Election Boards and to reimburse county governments for a variety of expenditures related to elections and the operations of County Election Board offices. Any new equipment will be purchased and owned by the state and provided to the County Election Boards at no cost.

We anticipate no change in this system of state-funded election administration as HAVA is implemented. Resources will be allocated to the County Election Boards based upon population and voter registration levels, numbers of precincts, minority language assistance requirements, and many other factors, in the same way that state resources are allocated now.

However, it is possible that when HAVA is fully implemented in Oklahoma, county governments will incur some expenses that do not exist at the present time. As in the past, the State Election Board staff will make every reasonable effort to keep any such new expenses to a minimum and to assist with those expenses whenever and however possible.

The Secretary of the State Election Board will monitor the performance of the County Election Boards through a variety of methods that will include, but not be limited to, the following.

- **Regular reports on various aspects of election administration and HAVA-related requirements.** County Election Board Secretaries are required by administrative rule (OAC 230:10-7-51; 230:40-3-23; 230:40-5-84; 230:40-7-118) to file "election analysis reports" following all regular and special statewide, county, municipal, and school district elections. These reports include figures on the number of voters who cast ballots at polling places, the numbers of absentee ballots cast, the outcome of the elections, and the expenses associated with the election. These reports are compiled by State Election Board staff and provide a great deal of valuable information about elections of all types in Oklahoma.





- **Information collected by Regional Coordinators.** Regional Coordinators are County Election Board Secretaries, Assistant Secretaries or Chief Clerks who work with the State Election Board staff to provide information to the County Election Boards and to provide feedback to the State Election Board staff on many subjects. The members of the Regional Coordinator program are an absolutely invaluable resource both to the State Election Board staff and the County Election Boards and they will play a vital role in the successful implementation of HAVA. (See Appendix B for more information about Regional Coordinators.)

**Section 254 (a):**

**(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.**

The State Election Board staff develops training programs for County Election Board Secretaries, Assistant Secretaries and/or Chief Clerks and other employees, for County Election Board members, and for Precinct Officials. Information on the new procedures required by title III, especially provisional voting and voter identification requirements, will be incorporated into existing training materials. Additionally, special training will be provided as needed to any election official charged with direct implementation of a procedure that affects individual voters.

Two events already are in the planning stages for the second half of 2003. First, the 2003 Summer Seminar is scheduled in July and will feature information about HAVA. Summer Seminars have been held regularly since the late 1980s and are intended to provide County Election Board personnel with information and ideas about a variety of election administration topics and the viewpoints of their counterparts in other states.

Second, in the fall of odd-numbered years, the State Election Board regularly conducts workshops at several locations around the state. Attendance at Fall Workshops is mandatory for County Election Board Secretaries and Assistant Secretaries or Chief Clerks. These programs provide County Election Board personnel with instruction on new laws and procedures, and usually involve several members of the State Election Board staff, usually including the State Election Board Secretary and Assistant Secretary. The Fall Workshops for 2003 have not yet been scheduled, but most of the subject matter will be related to HAVA.

HAVA funding will be used to educate Oklahoma voters about provisional voting, voter identification requirements, and, eventually, about the new precinct voting system. No specific voter education plans have been made at this time. However, we publish and distribute several informational items to County Election Boards, candidates, and the general public during election years and all these documents will be revised to include pertinent HAVA-related information. [A list of State Election Board's publications for County Election Boards and for the general public is included in Appendix C.] A few examples:

- **Voter information brochures.** A series of four brochures are provided for voter information and education. The topics covered by these brochures are voter registration, absentee voting, voter assistance, and elections. All four brochures will be revised to include relevant information concerning HAVA in 2004.

- ***A Guide to the Statewide Elections.*** This booklet is prepared for candidates, the news media and the general public. It contains basic information about candidate filing, voter registration, absentee voting, and election day procedures, as well as





information on recounts and other contests of elections. This publication will be revised to include information about HAVA. It will be available prior to the candidate filing period in 2004.

- ***Press Release Kit.*** The State Election Board staff has prepared a set of generic, fill-in-the-blank press release forms for County Election Boards to use to provide local newspapers and radio stations with basic information about all elections they conduct. Existing press releases in the Kit will be revised and new ones added as necessary in 2004 to accommodate information about HAVA.

- ***Vote Oklahoma!*** *Vote Oklahoma!* is a publication designed for use in the classroom. It includes information on the history of voting in the United States, exercises, and materials and instructions for mock voter registration and mock election activities. It will be revised to include information about HAVA.

- ***The Oklahoma Ballot Box.*** *The Oklahoma Ballot Box*, a newsletter published by the Secretary of the State Election Board and distributed to County Election Board members, alternate members, Secretaries and staff is an ideal vehicle for keeping County Election Board personnel informed about new issues and changing procedures. Published monthly from 1974 until 2002, and now published bimonthly, the *Ballot Box* regularly features articles on such topics as proofreading ballots, new legislation and procedures, new personnel in various counties, and ideas for organizing offices and election supplies. At least two articles were published about HAVA in 2002, and an announcement of the formation of the State Plan Advisory Committee and of the Local Election Professionals Working Committee appeared early in 2003. More coverage is planned in the months ahead.

- **The State Election Board website.** Our website (www.elections.state.ok.us) will be an important avenue for the dissemination of voter information in the coming years. At the present time, it includes information about the formation of the State Plan Advisory Committee, the Local Election Professionals Working Committee, and summaries of the meetings held by each committee. The state plan also will be posted when it is completed.

Prior to the first statewide use of optical scan voting devices in 1992, County Election Board Secretaries were encouraged to conduct a number of public demonstrations of the devices, using a mock election entitled "The Best of Oklahoma." Following instructions and procedures soon to be used to set up the real Presidential Preferential Primary Election, State and County Election Board staff members created a mock primary election. Ballots were printed by the State Election Board for the election and distributed to the counties. County Election Board Secretaries and staff members then conducted the demonstration election over a period of several days by taking voting devices to community events, local schools, club meetings, churches and many other gathering places such as malls and grocery stores and offered voters the opportunity to mark a ballot and

insert it in the device. Personnel staffing the Best of Oklahoma demonstrations were able to answer questions from voters concerning the device itself, the correct way to mark a ballot, etc.

Later, at a specified time, County Election Board personnel across the state began uploading the data from voting device memory packs into the computer system and "certified" the results to the State Election Board. The State Election Board staff tested the new statewide results accumulation software and eventually certified statewide results of the demonstration election. The Best of Oklahoma demonstration election provided a very effective and informative dress rehearsal for all aspects of the new system a few weeks prior to the Presidential Preferential Primary Election.

The Best of Oklahoma demonstration election and ballots are still used for classroom presentations and other demonstration purposes.

We anticipate developing similar education and outreach programs to implement various elements of HAVA.





**Section 254 (a):**

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

We anticipate receiving input from County Election Board personnel, from state legislators, other state officials, and the public before any decision is made concerning a new precinct vote counting system in the State of Oklahoma. Additionally, the voluntary voting system guidelines to be recommended by the Technical Guidelines Development Committee will be considered. Oklahoma officials will not pursue acquisition of a voting system that fails to meet the requirements stated in section 301 or one that lacks a proven record of accuracy and reliability in the field.

Procedures concerning the use of a new voting system by County Election Board personnel and Precinct Officials will be developed by the State Election Board staff, in consultation with the vendor and County Election Board personnel, especially those who are members of the Regional Coordinator program. Such procedures eventually will be promulgated by the Secretary of the State Election Board as administrative rules under the provisions of the Oklahoma Administrative Procedures Act (75 O.S. 2001, § 250 et seq) and published in both the Oklahoma Administrative Code (Title 230) and in the *Secretary's Digest*.

**Section 254 (a):**

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

Senate Bill 192 has been passed by the Legislature and signed by the Governor. It creates two new funds in the State Treasury, the "State Election Board Election System Revolving Fund" and the "State Election Board Help America Vote Act Revolving Fund," for the receipt and expenditure of HAVA funds. Both funds are continuing funds not subject to fiscal year limitations. The bill contained an emergency clause making it effective immediately upon passage and approval.

Both new funds will be subject to procedures of the State Treasurer's office and the Office of State Finance and to audit by the Office of the State Auditor and Inspector. The funds will be managed by State Election Board personnel responsible for managing our other financial resources with personnel from these other state agencies performing oversight and review functions.





**Section 254 (a):**

**(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.**

(A) Oklahoma may receive requirements payments of as much as $40 million if HAVA is fully funded beyond the current fiscal year's appropriations. The title III mandates are listed below in several broad categories along with an estimated amount to be budgeted for implementing each.

| | |
|---|---|
| Provisional Voting | $500,000.00 |
| Voter ID requirements for voters who register by mail on or after January 1, 2003 | $165,000.00 |
| Voting System Standards | $33,400,000.00 |

- technical enhancements and adaptations to integrate current optical scan devices with a compliant DRE in each polling place — $900,000.00
- purchase and support of approximately 2500 compliant DREs (one per polling place) — $13,000,000.00
- replacing all precinct vote counting devices and central count devices used in largest counties — $19,500,000.00

| | |
|---|---|
| Database requirements and hardware platform | $11,100,000.00 |
| • coordination of state agency databases — $300,000.00 | |
| • replacing election management system, including study, design, purchase, implementation, training and support for new hardware and software — $10,800,000.00 | |
| TOTAL: | $45,165,000.00 |

(B) If the State provides additional funding for these projects, we expect to use not less than 70% of the requirements payments for completion of these activities.

(C) We expect to use approximately 30% of the requirements payments to fund other activities which are related to these activities but not directly part of them, such as general voter outreach and public information projects.





**Section 254 (a):**

**(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.**

The maintenance of effort requirements of HAVA should pose no problem in Oklahoma, which, as previously stated, has made significant investments in the election system. The State of Oklahoma will continue to fund the election system at or above the level required by HAVA. HAVA funds will be used only for the new and enhanced programs and procedures required by HAVA.

## Section 254 (a):

**(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.**

The State Election Board staff, in consultation with County Election Board personnel, especially those who serve in the Regional Coordinator program (see Appendix B), will identify the performance goals and define the measures to be used to determine the success of the State and County Election Boards in implementing the plan.

The Secretary of each County Election Board will be responsible for meeting the performance goals at the county level. Ultimately, the Secretary of the State Election Board is the official responsible for ensuring that each performance goal is met by the County Election Boards and by the State of Oklahoma.

Information routinely collected by the County Election Boards and reported to the State Election Board can be used to determine successful implementation of HAVA requirements. Existing reports will be revised to include information about HAVA, and new reports may be created to monitor provisional voting, voter identification requirements, etc.

Following is a list of some reports compiled by the State Election Board staff. This list is not all-inclusive, but is representative of the areas in which we already monitor performance of the County Election Boards.

**Voter registration statistics**

- **January Registration Report.** No later than January 15 each year, the State Election Board compiles a report on voter registration by county. The report lists the number of voters registered as members of each recognized political party or political organization or as Independent (nonpartisan) voters. The report also lists the number of precincts in each county. The January 15 report on voter registration is the official statement of voter registration in Oklahoma. In even-numbered years, a supplemental report is prepared on November 1 to provide a more accurate count prior to the General Election. The report is compiled by OEMS.

- **Monthly Administration and Registration Reports.** This report, created automatically by OEMS in each county every month, details voter registration transactions in the county – new registrations and changes of address, name, or political affiliation – and cancellations of registrations. It also lists the numbers of voter registration applications received by source category (County Election Board





office, by mail, motor license agencies, public assistance agencies, disability service agencies, armed forces recruitment offices, and other agencies), and inactive voters restored to active status as a result of voting or submitting a change to their voter registration. A statewide version of the monthly administration and registration report is also compiled and summarized by OEMS at the State Election Board. The January administration and registration report is the source of the official annual January 15 report.

**Polling place accessibility**

- **Physical accessibility of facility.** The State Election Board requires biennial reports on the physical accessibility of polling places at General Elections. County Election Board Secretaries are required to maintain records in OEMS on the physical accessibility of their polling places and to survey potential polling place locations for accessibility. The survey form used was developed several years ago and is based on survey forms recommended by the Federal Election Commission when biennial reports on accessibility still were required under the Voting Accessibility for the Elderly and Handicapped Act of 1984.

- **Numbers of voters who require assistance as provided by Oklahoma statutes.** State law currently allows assistance to blind and visually disabled voters, to physically incapacitated voters, to physically incapacitated voters who cannot enter the polling place, and to illiterate voters. These statistics are collected as part of the election analysis reports filed by the County Election Board Secretary following elections.

**Absentee voting statistics.** Absentee voting statistics are included in each county's election analysis report. The reports from each county are compiled by State Election Board staff members. The absentee voting statistics include the numbers of applications for absentee ballots received, ballots mailed; voted ballots returned; ballots counted and ballots not counted.

**Precinct Official training.** County Election Board Secretaries are required to maintain records on the training of each Precinct Official appointed in their counties. Questions concerning the correct use of certain forms and materials on election day and the frequency of certain common errors by Precinct Officials have been used for years by the State Election Board staff to evaluate the effectiveness of Precinct Official training.

**County Election Board financial information.** The State Election Board staff routinely tracks certain information about funds appropriated to County Election Boards by the counties using data entered in OEMS and information collected by Regional Coordinators during their quarterly county visits. Regional Coordinators and the State Election Board staff also monitor use of the County Election Board Special Depository Account. Election expense information also is included on the election analysis reports.

**Voting device usage and maintenance.** County Election Boards submit regular reports to the State Election Board on the use of the voting devices. The State Election Board staff maintains records on maintenance performed on the devices and related equipment.





## Section 254 (a):

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

The Secretary of the State Election Board will adopt emergency administrative rules to create and implement a complaint procedure to be in effect for the 2004 Presidential Preferential Primary Election. The complaint procedure will meet the requirements outlined in Sec. 402(a)(2) and will apply only to complaints concerning suspected violations of title III in elections involving candidates for federal offices. The complaint procedure may be expanded to suspected violations in other elections conducted by County Election Boards after the Oklahoma Legislature enacts HAVA compliance legislation in its 2004 session.

**Section 254 (a):**

**(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.**

We anticipate using funds received under title I ($5 million) for a variety of projects, including but not necessarily limited to the following.

- Reimbursement of expenses incurred in connection with the activities of the State Plan Advisory Committee and the Local Election Professionals Working Committee.
- Promulgation of emergency rules needed to comply with the HAVA requirements that become effective January 1, 2004.
- Obtaining the services of appropriate consultants to assist the State Election Board staff with the development and implementation of procedures, systems and materials necessary to meet the requirements and established deadlines of HAVA.
- Development of materials and implementation of training for Precinct Officials that include new procedures established by said emergency rules prior to the 2004 Presidential Preferential Primary Election.
- Obtaining the services of training professionals to assist with and/or to conduct training for Precinct Officials.
- Information and training for County Election Board personnel on the requirements of HAVA and its effect on the Oklahoma election system.
- Software updates for OEMS to identify those voters who must provide identification when voting for the first time as required by Section 303(b).
- Updates for the Voter Information Request System (VIRS) software included in OEMS.
- Expanding Internet capabilities and improving the State Election Board website.
- Redesigning forms, such as the Oklahoma Voter Registration Application form and absentee ballot applications, and revising, printing and distributing publications to include HAVA requirements.
- Planning for database replacement.





- Examining and perhaps testing DRE systems in anticipation of acquiring these devices to meet the requirements of Section 301(a)(3)(B).
- On-site evaluation of voting systems in other jurisdictions.

**Section 254 (a):**

**(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 the State Election Board and the staff of the State Election Board will manage the activities described in this plan and required by HAVA in the same way all other agency activities are managed. We are fortunate in the Oklahoma election system already to have in place excellent working relationships between the State Election Board staff and the 77 County Election Boards. We also have the experiences of implementing OEMS in 1989 through 1992 and of implementing NVRA in 1995 to draw upon as we look toward the implementation of new procedures and, eventually, a new voting device system.

In the event that consultants are hired to assist with the development and implementation of systems, procedures and materials, those consultants may be required to monitor and manage certain activities and to report regularly on those activities to the Secretary of the State Election Board and/or to designated State Election Board staff members.

Any material change in Oklahoma's state plan will be developed in consultation with County Election Board personnel, especially the members of the Regional Coordinator program, and with other state officials. Any such material changes will be subject to public comment and, once adopted, they will be published in the Federal Register before taking effect.





**Section 254 (a):**

**(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.**

This is the first state plan.

## Section 254 (a):

**(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 Secretary of the State Election Board is the chief state election official responsible for the implementation of HAVA. In January, 2003, State Election Board Secretary Michael Clingman appointed two committees to advise the State Election Board staff on the development of the state plan.

**State Plan Advisory Committee**

The first committee, the State Plan Advisory Committee, reflects the membership requirements outlined in Section 255.

- **Doug Sanderson**, Secretary, Oklahoma County Election Board
- **Scott Orbison**, Secretary, Tulsa County Election Board
- **Connie Parnell**, Secretary, Cherokee County Election Board
- **Harvey Bush**, Secretary, Grant County Election Board
- **Paula Roberts**, Secretary, Cleveland County Election Board
- **Lee Slater**, Oklahoma City attorney-at-law, former State Election Board Secretary
- **Steve Stokes**, Oklahoma Office of Handicapped Concerns
- **Ed Romo**, League of United Latin American Citizens
- **Dolores Martin**, League of Women Voters
- **Opio Toure**, State Representative

Oklahoma, Tulsa, and Cleveland Counties are the first, second, and third most populous counties in Oklahoma, respectively. The population of Cherokee County is in the mid-range in Oklahoma and Grant County is one of the smallest.

All the committee members bring unique perspectives to the discussions. Summaries of the discussions during the State Plan Advisory Committee's meeting are included in Appendix D.

**Local Election Officials Working Committee**

The second committee appointed by Clingman to work with the State Election Board staff on HAVA-related issues is the Local Election Professionals Working Committee. This committee also has reviewed and offered feedback on early drafts of the state plan. However, the Working Committee also has been charged with researching methods for implementing provisional voting and the new voter identification requirements. As mentioned in another section, the Secretary of the State Election Board must promulgate emergency administrative rules to implement these requirements at the Presidential Preferential Primary Election in early 2004. The Working Committee also may participate in the drafting of recommendations for HAVA compliance to the Legislature in 2004.





Members of the Local Election Professionals Working Committee are listed below.

- **Doug Sanderson**, Secretary, Oklahoma County Election Board
- **Shelly Boggs**, Assistant Secretary, Tulsa County Election Board
- **Connie Parnell**, Secretary, Cherokee County Election Board
- **Paula Roberts**, Secretary, Cleveland County Election Board
- **Pam Strawn**, Assistant Secretary, Cleveland County Election Board
- **Terri Thomas**, Secretary, Rogers County Election Board
- **Joy Naifeh**, Secretary, Creek County Election Board
- **Joyce Smith**, Secretary, Grady County Election Board
- **Joyce Thornburgh**, Secretary, Alfalfa County Election Board

The combined experiences and talents of the Working Committee members resulted in productive meetings. Summaries of the Local Election Professionals Working Committee's meetings are included in Appendix E.

In addition to these two committees, members of the Regional Coordinator program also reviewed early drafts of the state plan and offered valuable feedback on its contents. Regional Coordinators who are not also serving on the Working Committee are listed below.

- **Dondee Klein**, Secretary, Logan County Election Board
- **Jane Roach Crawford**, Secretary, Blaine County Election Board
- **Jan Lacy**, Chief Clerk, Custer County Election Board
- **Barbara Squires**, Secretary, Dewey County Election Board
- **Diana Knight**, Secretary, Pottawatomie County Election Board
- **Yvonne Shively**, Assistant Secretary, Washington County Election Board

## Appendix A: Organization of Oklahoma Election System

**State Election Board**

The State Election Board was created at statehood in 1907 by the Constitution of the State of Oklahoma:

***Article III. Suffrage.***
***Section 2. State Election Board - Creation - Membership.***
*The Legislature shall create a State Election Board to be charged with the supervision of such elections as the Legislature shall direct. Not more than a majority of the members of said Board shall be selected from the same political party.*

The details of the Board's membership, organization, and responsibilities are defined by the Legislature in the Oklahoma Statutes, Title 26, Section 2-101, et seq, and are summarized below.

The State Election Board consists of three members, appointed by the Governor from lists of nominees provided by the state central committees of the two political parties with the largest numbers of registered voters as shown on the January registration report. Two members are appointed from the party with the largest number of registered voters, and one member from the party with the second largest number of registered voters. The Governor's appointments to the State Election Board are subject to the advice and consent of the State Senate.

State Election Board members serve four-year terms, beginning on the first Monday in April in odd-numbered years following the election of the Governor. The three members meet on that day to elect a Chairman and Vice Chairman.

The State Election Board is charged by law with the responsibility of appointing County Election Board members and Secretaries, with certifying the results of state elections and of hearing contests of candidacy involving candidates for state offices. The members of the State Election Board have no responsibility for the day-to-day operation of the election system or for the activities of the State Election Board staff.

**Secretary of the State Election Board**

The Secretary of the State Senate also serves as Secretary of the State Election Board. The Secretary of the State Election Board was a member of the State Election Board until 1981, when new laws (26 O.S. § 2-101.5 and 2-101.6) provided for the appointment of a third member of the Board who is not the Secretary.





The duties of the Secretary are outlined in the Oklahoma Statutes:

***26 O.S. § 2-107. Secretary's duties***
*The Secretary of the State Election Board shall be the administrative officer of the State Election Board and shall have general supervisory authority over county election boards and shall have the authority to provide administrative supervision to any county election board, as well as the authority to stand in the place of the secretary of the county election board for the purpose of employing county election board personnel when a vacancy exists in the office of the secretary of the county election board. The Secretary shall have the authority to employ and fix the salaries and duties of such personnel as may be necessary to perform the duties of the State Election Board. The Secretary may promulgate, repeal or modify such rules or regulations as the Secretary deems necessary to facilitate and assist in achieving and maintaining uniformity in the application, operation and interpretation of the state and federal election laws and a maximum degree of correctness, impartiality and efficiency in administration of the election laws; provided, however, that such rules or regulations, to be binding and effective, must have been officially adopted by the Secretary of the State Election Board; the procedure and adoption of such rules and regulations shall be subject to the provisions of the Administrative Procedures Act. The Secretary shall promote and encourage voter registration and voter participation in elections. The Secretary shall be the chief state election official responsible for coordination of state responsibilities under the National Voter Registration Act of 1993. The Secretary shall have the authority to implement programs for confirmation of voter registration and for removal of ineligible voters in compliance with general Oklahoma election law and requirements of the National Voter Registration Act of 1993.*

The Secretary of the State Election Board is responsible for the day-to-day operation of the Oklahoma election system and of the State Election Board staff.

**State Election Board Staff**

The State Election Board staff currently consists of 22 employees organized in four divisions: General Services, Support Services, Information Services and Election Services.

**County Election Boards**

The County Election Boards are established by the Oklahoma Statutes:

***Section 2-110 - County Election Boards - Number of Members.***
*A county election board shall be appointed in each of the seventy-seven counties of Oklahoma and shall be composed of three (3) members.*

County Election Board members are appointed by the State Election Board from nominations submitted by the county central committees of the two political parties with the largest numbers of registered voters in the state, based on the latest January 15 registration report. One member is

appointed from each party. In addition to the County Election Board members, an alternate member is also appointed from each party. The alternate serves in the absence of the member of the same party to provide a quorum in order to certify elections and/or to conduct other business of the Board in a timely manner. County Election Board members and alternates serve four-year terms, and are appointed no later than May 1 in odd-numbered years following election of the Governor. The County Election Board members meet on the first Monday in June following their appointments to elect a Chairman and Vice Chairman.

The members of the County Election Board have no responsibility for the day-to-day operation of the county election system. Their duties include appointment of Precinct Officials, hearing contests of candidacy for county, school and municipal offices, and the canvassing and certification of election results.

**County Election Board Secretaries**

The Secretary of each County Election Board is appointed by the State Election Board. The Secretary serves a two-year term which begins on May 1 in odd-numbered years. The Secretary of the County Election Board is a voting member of the County Election Board, but may not be elected as either Chairman or Vice Chairman of the Board.

The Secretary of the County Election Board is responsible for the day-to-day operation of the county election system. The basic duties of the Secretary of the County Election Board are outlined in the Statutes:

***2-117 - Secretary's Duties - Appointment of Assistant Secretary and Chief Clerk - Compensation.***

*The secretary of the county election board shall be the administrative officer of the county election board and shall have general supervisory authority over the several precinct election boards within the county. In counties having seventeen thousand five hundred or more registered voters, the secretary shall have the authority to employ and/or terminate an assistant secretary and such other employees as are necessary to perform the duties of the county election board. In counties having fewer than seventeen thousand five hundred registered voters, the secretary shall employ a chief clerk and such other employees as are necessary to perform the duties of the county election board. In the event a vacancy exists in the office of the secretary of the county election board, the Secretary of the State Election Board shall have the authority to stand in the place of the secretary of the county election board for the purpose of employing necessary county election board personnel. The secretary shall be charged with the operational responsibilities of the board, including, but not limited to, supervision, defining job positions and responsibilities of the employees, preparation of the annual budget, preparation and filing of all reports, and the implementation of policy, findings and actions lawfully prescribed or determined by the county election board. The minimum salary of the assistant secretary shall be equal to ninety percent (90%) of the scheduled salary of the secretary in the same county, but shall not exceed the salary of the highest salaried first or chief deputy or assistant to any county officer, excluding the under sheriff, in the same county. The minimum salary of the chief clerk*





*shall be equal to one-half (1/2) of the salary of the highest salaried first or chief deputy or assistant to any county officer in the same county, or ninety percent (90%) of the scheduled salary of the secretary in the same county, whichever is lower. The salary limitation contained in this section shall not operate to reduce the salary of any person employed as an assistant secretary or chief clerk on May 1, 2003. Salaries of additional personnel, including personnel employed temporarily, shall not exceed the salary of the assistant secretary or chief clerk and shall be comparable to salaries paid for the same positions in other offices within the county. The salaries of the assistant secretary, chief clerk and other personnel shall be paid from county funds on a monthly basis. [1]*In the event that the secretary, assistant secretary, chief clerk, or any other essential county election board employee must be away from work for a period of time due to personal illness, family illness, or family emergency, the county election board shall be required to fund compensation of appropriate temporary personnel during the employee's absence.

The salary of the County Election Board Secretary is set by statute according to a schedule based on the number of active registered voters in the county. The County Election Board Secretary's salary and benefits are paid from county funds but are reimbursed to the county by the State Election Board with funds appropriated for that purpose by the Legislature.

**County Election Board staffs**

The same statute (26 O.S. § 2-117) also requires the employment of an Assistant Secretary or Chief Clerk of the County Election Board and establishes a minimum salary for that individual, based upon the number of registered voters in the county. The County Election Board Secretary also is authorized by administrative rule (OAC 230:10-3-15) to employ additional staff as required to perform the duties of the office. The salaries of the Assistant Secretary or Chief Clerk and any additional personnel are paid from county funds.

## Appendix B: Regional Coordinator Program

The State Election Board's Regional Coordinator Program, now in its twentieth year, is a linchpin in the Oklahoma election system. Regional Coordinators are County Election Board Secretaries, Assistant Secretaries and/or Chief Clerks who work with the State Election Board staff to fulfill the requirements of Title 26 O.S., Section 3-109:

*"The Secretary of the State Election Board shall cause regular inspections to be made of each county election board to achieve uniformity in administration of the election laws."*

These "inspections" occur in the form of quarterly visits by the Regional Coordinator to the County Election Boards in his or her assigned region. The topics of the visits are planned up to a year in advance, beginning at the annual Regional Coordinator workshop in June and continuing through monthly meetings at the State Election Board office in Oklahoma City. In the early years of the program, the visit topics and materials were developed by the Regional Coordinator Supervisor, the State Election Board staff member responsible for the day-to-day operation of the program. Today, however, the Regional Coordinators collaborate fully in the development and implementation of their program. A copy of a typical Regional Coordinator quarterly visit checklist is included.

There are ten Regional Coordinator positions in the program for 2002 – 2003. Each year, at least one Regional Coordinator leaves and a new Coordinator is selected. The Regional Coordinators are asked to recommend other County Election Board personnel to the program. Several State Election Board staff members, including the Regional Coordinator Supervisor, the Director of Support Services, and the Assistant Secretary, participate in the selection process and make recommendations to the State Election Board Secretary, who makes the final decision concerning personnel changes within the program.

Regions are usually, but not always, geographically contiguous groups of counties. A Regional Coordinator may be assigned counties that are located near his or her own home county, but occasionally a Coordinator may be assigned to counties in another part of the state. When regions are designed each year, an effort is made to assign each returning Regional Coordinator to a few counties he or she has not previously visited.

When the Regional Coordinator program was launched in 1983, it was described as a "feedback loop" and that characterization remains valid. Regional Coordinators take information from the State Election Board to the County Election Board personnel in their regions, and return information from the counties to the State Election Board staff. Regional Coordinators play an important role in the development of procedures to implement new law. Several current and former Regional Coordinators are serving on the HAVA State Plan Advisory Committee and/or on the Local Election Professionals Working Committee. In the past, Regional Coordinators served on a task force that made recommendations to the Legislature for the implementation of the National





Voter Registration Act, and on design committees for each phase of the Oklahoma Election Management System project. Regional Coordinators also helped the State Election Board staff conduct training for each phase of OEMS.

Regional Coordinators participate in the administrative rulemaking process by reviewing drafts of proposed new and amended rules throughout the year. Their comments, often the only ones received during the formal comment period required by the Administrative Procedures Act, help reveal errors and unintended consequences in new procedures long before the rules are adopted by the Secretary and distributed to County Election Boards in the *Secretary's Digest*.

## Appendix C: State Election Board Publications

***Secretary's Digest***

The *Secretary's Digest* is one of the most important resources available to the election administrator in Oklahoma. Sometimes referred to as the County Election Board "bible," the *Secretary's Digest* contains almost everything that County Election Board personnel need to know to conduct an election and to provide voter registration services. Persons new to the election system in Oklahoma are directed to the *Secretary's Digest* to begin learning about their new responsibilities. Veteran election administrators turn to the *Digest* daily to answer questions both simple and complex from candidates, voters and others.

One question that people new to the election system often ask is this: What exactly is the *Secretary's Digest*?

**What is the *Secretary's Digest*?**

The *Secretary's Digest* is a publication compiled by the staff of the State Election Board. It contains the text of the administrative rules of the State Election Board as well as illustrations and examples intended to aid in understanding the rules. The *Digest* also contains several items that are not part of the administrative rules but that are valuable sources of information and help to County Election Board personnel in the daily performance of their duties.

Once this brief explanation is offered, the next question is likely to be "What's an administrative rule?" This answer is neither brief nor simple, but it is very important.

Some state agencies, including the State Election Board, are granted "rulemaking authority" by the Oklahoma Legislature. These agencies are entitled to make rules — procedures, policies, regulations — to implement laws passed by the Legislature and to discharge the responsibilities assigned to the agencies by the Legislature. Rules are made according to procedures established in the Administrative Procedures Act (APA) in the Oklahoma Statutes [Title 75 § 250 et seq]. A rule that has been enacted according to the APA has the force of law unless it is struck down by a court.

Another question that County Election Board personnel sometimes ask about the *Secretary's Digest* is this: "What part of the *Digest* is the law and what part is just procedure?" In light of the preceding definition of an administrative rule, the simplest answer is that, as far as any County Election Board Secretary is concerned, every word of the *Secretary's Digest* is the law.





**History of the *Secretary's Digest***

The first *Secretary's Digest* was published in 1975. Prior to 1975, most of the things that Oklahoma election officials take for granted today as routine and necessary tools of their trade did not exist. A new County Election Board Secretary arriving at the County Election Board office would have found a copy of the Oklahoma Election Laws. Not only was there no *Digest*, but also no *Ballot Printing Kit*, no Precinct Official training materials — only the Election Laws.

In 1974, however, a new Election Code was enacted by the Legislature. It became effective January 1, 1975. The new Election Code included requirements for training County Election Board personnel, Voter Registrars, and Precinct Officials. The new law gave the Secretary of the State Election Board "general supervisory authority over the several county election boards" and also gave the Secretary the authority to "promulgate, repeal or modify such rules or regulations as he deems necessary to facilitate and assist in achieving and maintaining uniformity in the application, operation and interpretation of the state and federal election laws . . . "

The *Secretary's Digest* was created in 1975 to provide County Election Board Secretaries with uniform policies and procedures with which to implement the new election laws. Designed to be the "official" interpretation of the new election law, the *Secretary's Digest* is the foundation upon which Oklahoma's present uniform, unitary election system was built.

**Organization of the *Secretary's Digest***

The *Secretary's Digest* is organized by chapters and subchapters. Chapters represent a broad subject area, while subchapters represent specific topics within that subject area. For example, the first chapter in the *Digest* is "The County Election Board." Subchapters within this chapter are "Personnel," "Training" and "Administration."

Within each subchapter are numbered paragraphs. These numbered paragraphs are referred to as Sections. A Section is a rule. Sections are identified by their numbers, for example: Section 1-1 is the first Section — the first rule — in the *Secretary's Digest*. Sections also have tag lines. The tag line for Section 1-1 is "Membership."

Illustrations are included in some, but not all, subchapters. When illustrations are included, they are printed on green paper to make them more easily distinguishable.

**Updates of the *Secretary's Digest***

The *Secretary's Digest* has been revised many times since 1975. Traditionally, *Digest* "updates" are prepared once or twice each year to provide County Election Board personnel with current information and correct procedures to accommodate changes in the law. In addition to these regular updates, completely new, comprehensive editions of the *Digest* are prepared every three to five years. (The most recent comprehensive edition was published July 1, 2001.)

Every effort is made by the State Election Board staff to keep the contents of the *Secretary's Digest* up-to-date. However, before updates can be distributed to County Election Boards, the revisions must first be formally adopted and approved according to procedures established by the Administrative Procedures Act. For this reason, there is sometimes a gap between the time a new law becomes effective and the time *Digest* updates are distributed. When such gaps occur, the State Election Board staff provides the County Election Board Secretary with all the information needed to comply with the new law until *Digest* updates are ready for distribution. Sometimes the information is provided in a "Dear Secretary" letter, and occasionally by a "draft" copy of the revised *Digest* subchapter printed on colored paper. Only one such draft copy is provided per county, and it is not intended to be inserted into the *Digest* binder. When draft copies are received, each County Election Board staff member should have the opportunity to read them and should know where they are kept. When the next set of *Digest* updates is received, the draft copy should be discarded immediately.

When *Digest* updates are prepared and distributed, each Digest user will receive a completely new copy of each subchapter containing changes. The entire subchapter usually is replaced even if only one page is affected.

When a new Section must be added between two existing Sections, the new Section will be given a decimal number. For example, if it were necessary to add a new rule between existing Sections 1-1 and 1-2, the new Section would be assigned the number "1-1.1." Also, when a Section is revoked (deleted), the Section number will remain in the *Digest* so that subsequent Sections will not have to be renumbered. For example, if Section 5-10 were revoked, the number would remain in the *Digest* with a notation that the text of the Section had been revoked: **5-10. Revoked**.

Many State Election Board materials and publications contain references to *Digest* Sections. If the Sections in a subchapter are renumbered every time a new Section is added or an old one is revoked, all the other materials and publications also must be revised to correct the *Digest* Section references in them. By maintaining revoked Section numbers and assigning decimal numbers to new Sections, the process of keeping other materials and publications updated is easier and less expensive.

Over time, however, a subchapter may be amended many times and may come to contain too many decimal numbers and revoked numbers to be read easily. When that happens, the entire subchapter will be renumbered.





***OEMS Manual***

The *OEMS Manual* is the user's guide for the Oklahoma Election Management System (OEMS) — our computer system. The two-volume *OEMS Manual* contains instructions for using the OEMS hardware and software. The *OEMS Manual* has four divisions that correspond to the major functions of the computer system.

Every County Election Board has one complete copy of the *OEMS Manual*. Additional copies of the *OEMS Manual* are not available.

1. **Computer Usage, Hardware, and Training — Volume 1.** This part of the *OEMS Manual* contains the three individual sections indicated in the title. "Computer Usage" contains basic information about using the computer system. It includes a glossary of computer terms as they are used in OEMS and also a list of all the reports and processes available on the system. "Hardware" contains information about each of the hardware components in OEMS and instructions for basic maintenance. It also includes instructions for requesting backups and for turning the system on and off. The "Training" section, printed on pink paper, is a self-paced training program for the Voter Registration System. New employees must complete these "pink pages" before they can be authorized to do any work in OEMS. Additional training on the other functions of OEMS is provided in a two-day workshop held at the State Election Board office in Oklahoma City.
2. **Voter Registration System — Volume 1.** This part of the *OEMS Manual* contains five individual sections covering the functions of the Voter Registration System: "Voter Applications," "Voter Registration," "MLA Transactions," "Absentee Processing," and "Street Guide." These sections provide step-by-step instructions for entering voter registration application information into the system; for printing voter identification cards, rejection notices, and Precinct Registries; for giving voters credit for voting in elections; for cancelling voter registrations; and for maintaining other information about voter registrations.
3. **Election Administration System — Volume 2.** This part of the *OEMS Manual* contains six individual sections covering the functions of the Election Administration System: "CEB Management," "Election Accounting," "Election Officials," "Election Preparation," "Events Calendar," and "Precinct Management." These sections provide step-by-step instructions for the comprehensive election accounting system and also instructions for recording information about County Election Board members and personnel, Precinct Officials, precincts and polling places. The first steps required to program election information are found in "Election Preparation."
4. **Voting Devices — Volume 2.** This part of the *OEMS Manual* contains information and instructions about the Op-Tech III-PE voting devices used in Oklahoma. There are three labeled tabs in the Voting Devices portion of the *OEMS Manual*: "EMS," "AERO," and "Voting Device Maintenance." There also are three other sections that are not individually tabbed: "Voting Device System Introduction," "Election Setup," and "Election Tallying." These three untabbed sections should be located between the large "Voting Devices" tab and the "EMS" tab. The instructions for entering election and candidate information into the

programs that create ballots, operate the voting devices and produce the documents used to certify elections all are found in this part of the *OEMS Manual*. Also included are instructions for testing voting devices before an election.

**Training Publications**

***The Handbook for County Election Board Chairman and Vice Chairman***

*The Handbook for County Election Board Chairman and Vice Chairman* describes the specific duties and responsibilities of County Election Board members and alternate members. Each Board member receives a copy of *The Handbook* upon appointment to the County Election Board. One copy of *The Handbook* is also provided for the County Election Board office.

***Independent Study Program***

The *Independent Study Program* is a training program for new County Election Board Secretaries and employees. It is designed for individual, self-paced study in the County Election Board office. The *Independent Study Program* has three objectives:

1. to produce familiarity with the contents and the organization of the *Secretary's Digest*;
2. to master basic information about the duties of County Election Board personnel; and
3. to practice solving specific problems by referring to the *Secretary's Digest*.

The *Independent Study Program* is delivered to new Secretaries, Assistant Secretaries and/or Chief Clerks by a State Election Board staff member. The *Independent Study Program* is also made available to other new County Election Board employees when requested by the Secretary. A visit to deliver the *Independent Study Program* includes an explanation of the types of training provided by the State Election Board and a general introduction to Oklahoma's election system.

When the trainee finishes the *Independent Study Program*, the county's Regional Coordinator visits to review and summarize the material covered by the program and to answer any questions the trainee may have. The Regional Coordinator returns the finished *Independent Study Program* notebook to the State Election Board office.

***OEMS Training Review***

The *OEMS Training Review* is a look back at all the major functions of the OEMS system. It is distributed to trainees at the conclusion of the OEMS training workshop held in the State Election Board office. Trainees complete the *Review* back in their own offices at their own pace. It is intended to provide a measure of one's mastery of OEMS.





***All-in-1 Instruction Guides***

The *All-in-1 Instruction Guides* are exercises to help County Election Board personnel learn the All-in-1 word processor included in OEMS. Copies have been provided to each County Election Board. Additional copies are available by request from the State Election Board.

***Precinct Official Training Program: Instructor's Guide***

The *Instructor's Guide* contains instructions for scheduling, preparing for and conducting Precinct Official training workshops. One copy of the *Instructor's Guide* is provided to each County Election Board.

***Training for Absentee Voting Boards***

This document outlines the State Election Board's recommendations for training in-person and nursing home Absentee Voting Board members. *Training for Absentee Voting Boards* includes instructions for adapting Precinct Official training materials — including the *Election Day 101 and Pieces of the Precinct Puzzle* videos — to cover the duties of Absentee Voting Board members as well as instructions for training on tasks unique to these Boards. Each County Election Board received one copy of this publication. Additional copies are available from the State Election Board upon request.

**Tools Of The Trade**

***School Election Kit***

The *School Election Kit* contains information and materials designed to guide County Election Board personnel through school district elections. The centerpiece of the *School Election Kit* is the Checklist — a step-by-step, chronological guide for conducting a school district election. There is a Checklist for the Annual School Election and one for the Annual School Runoff Election. Also included in the *School Election Kit* are record-keeping worksheets for single and multi-county school districts, an overview of school election expenses, and instructions for adapting the *Uniform Election Checklist* for special school district elections. The *Kit* also includes illustrations.

Each County Election Board office has one copy of the *School Election Kit*. The Checklists for the Annual School Election and the Annual School Runoff Election are revised and distributed each year. Other materials in the *Kit* are revised as needed and distributed with the Checklists.

***Ballot Printing Kit***

The *Ballot Printing Kit* contains information, instructions and materials needed to print ballots for an election. It details the steps of the process that begins with a request for bids and ends with delivery of the finished ballots. Included in the *Ballot Printing Kit* are model contracts, a summary of ballot specifications, instructions for evaluating a printer's bid, instructions for preparing copy to send to the printer, special instructions for various types of elections, and proofreading instructions. Each County Election Board office has one copy of the *Ballot Printing Kit.*

***Contest Kit***

The *Contest Kit* contains information, instructions and materials needed to prepare for and conduct contests of candidacy and election recounts. Among the items included in the *Contest Kit* are checklists, forms and even diagrams of the physical arrangements of a room used to conduct a hearing. The *Contest Kit* is an invaluable tool for the County Election Board Secretary when contests of candidacy or election recounts are filed. Each County Election Board office has one copy of the *Contest Kit.*

***Press Release Kit***

The *Press Release Kit* is designed to help the County Election Board Secretary use local news media to disseminate important information about voter registration, absentee voting and elections. The *Press Release Kit* contains 27 model press releases that can be customized to fit almost any election situation. Divided into two groups — election press releases and special events press releases — these model, fill-in-the-blank releases and the instructions that accompany them enable the County Election Board Secretary to keep voters well informed. Also included are tips for writing press releases. Each County Election Board office has one copy of the *Press Release Kit.*

***The BIG Kit***

*The BIG Kit* is actually four separate publications housed inside a single binder.

1. ***Municipal Election Kit.*** This publication contains information about the five types of municipal government permitted in Oklahoma. Included in the *Municipal Election Kit* are model letters to the governing board of each type of municipality that inform the boards of their upcoming election dates and deadlines. Also included are checklists for receiving resolutions from each type of municipality and answers to the most commonly asked questions about accepting resolutions for municipal elections.
2. ***Meetings of the Board Kit.*** This publication contains information and instructions for scheduling and conducting meetings of the County Election Board. The County Election Board must comply with the Oklahoma Open Meetings Act, and the *Meetings of the Board Kit* helps the Secretary ensure that it does. Included in the *Meetings of the Board Kit* are detailed instructions for preparing notices of Board meetings, agendas, and minutes that all pass muster under the Open Meetings Act. Also included are several sample sets that cover





as many types of County Election Board meetings as possible and offer model language that easily can be adapted.

3. ***Telephone Assistance Guide.*** This publication is a "troubleshooting" guide for use on election day. It is designed to help County Election Board personnel talk Precinct Officials through certain voting device problems that may occur on election day. The *Guide* covers problems while setting up the device before the polls open, during the day and after the polls close.
4. ***Election Night Instruction Packet.*** This publication contains the procedures followed by County Election Board personnel on election night. It includes instructions for setting up an OEMS terminal for public display of the election results, counting absentee ballots, reading memory packs, printing reports, conducting election night recounts and finally, certifying the election results. The *Election Night Instruction Packet* was created for the very first election in which our voting devices were used statewide (the March 10, 1992, Presidential Preferential Primary Election), and it has proved so popular and helpful among County Election Board personnel it has been maintained, even though most of the procedures now are included in the *Secretary's Digest*, the *OEMS Manual* and other publications.

***A Guide to the Implementation of Polling Place Accessibility in Oklahoma***

In 1990, State Election Board Secretary Lance Ward appointed several County Election Board Secretaries to a task force to study the issue of polling place accessibility and make recommendations to the State Election Board concerning methods available to the counties to improve polling place accessibility across the state. This publication is the final report of that task force, and it includes many practical suggestions for improving the accessibility of our polling places for elderly and handicapped voters.

*A Guide to the Implementation of Polling Place Accessibility in Oklahoma* is included in the Appendix of the *Independent Study Program.* Also, copies of *A Guide* have been distributed on other occasions and additional copies still are available upon request from the State Election Board.

***Oklahoma Mapping Guide (2003)***

This publication provides information on using land descriptions (legal descriptions), maps produced for the County Election Board by the Geo Information Systems department at the University of Oklahoma, and the OEMS Street Guide software to place registered voters in the correct precincts and to establish the eligibility of individual voters to vote in school district elections. Each County Election Board office has at least one copy of the *Oklahoma Mapping Guide (2003).*

## Public Information

***The Oklahoma Ballot Box***

*The Oklahoma Ballot Box* is a bi-monthly newsletter published by the State Election Board and distributed to County Election Board members, alternate members and employees throughout the state. The newsletter provides news and information about people in the Oklahoma election system, state and federal legislation, our computer system, training and solutions to common problems. Copies of the *Ballot Box* are mailed to the homes of the County Election Board, Chairman and Vice Chairman, to the two alternate Board members, and to each County Election Board office.

***A Guide to the Statewide Elections***

Each election year, the State Election Board compiles and publishes *A Guide to the Statewide Elections*. *A Guide to the Statewide Elections* is intended to provide candidates and the news media with information about the election system. It includes information on voter registration, absentee voting and election day and night procedures. The text of the *Guide* is taken from the *Secretary's Digest*.

Copies of *A Guide to the Statewide Elections* are provided to the County Election Board for distribution to each candidate who files for county office. A copy of the *Guide* is given to every candidate who files a Declaration of Candidacy with the State Election Board. Copies are distributed to the news media. The State Election Board also includes a copy of the *Guide* in a packet provided to teachers, students and other interested persons who ask for information about the election system.

**Voter Information Brochures**

The State Election Board publishes a series of voter information brochures during each even-numbered election year. Topics covered by the brochures are voter registration, absentee voting, elections and voter assistance and accessibility of election and registration services. Each County Election Board receives a quantity of the brochures based on a percentage of its total voter registration. Additional quantities are available while supplies last.

***Vote Oklahoma!***

*Vote Oklahoma!* is a voter education publication provided by the State Election Board. It contains lesson outlines, information and exercises designed for use in the classroom by junior high and high school teachers. *Vote Oklahoma!* also includes materials and instructions for conducting mock elections in the classroom. Copies of *Vote Oklahoma!* have been distributed to County Election Boards. Additional copies are available from the State Election Board upon request.



Oklahoma State Election Board

## Precinct Officials

***The Manual for Precinct Election Officials***

*The Manual for Precinct Election Officials* contains information and instructions for Precinct Officials. It is used both to train Precinct Officials and as a reference tool at the polling place on election day. Included in the manual is information about the qualifications and appointment of Precinct Officials, instructions for setting up the polling place, for processing voters and for closing the polls and returning election results and materials to the County Election Board at the end of the day. Each County Election Board receives a sufficient quantity of *The Manual* to provide one copy to each Inspector, Judge and Clerk who attends training and to include one copy in the election day supplies for each precinct.

***Precinct Problem Solver***

The *Precinct Problem Solver* is a companion publication to *The Manual for Precinct Election Officials*. The *Precinct Problem Solver* contains instructions for dealing with certain types of problems that voters may have on election day. Each County Election Board receives a sufficient quantity of the *Precinct Problem Solver* to provide one copy to each Inspector, Judge and Clerk who attends training and to include one copy in the election day supplies for each precinct.

***Voting Device Handbook for Precinct Officials***

The *Voting Device Handbook for Precinct Officials* contains instructions for setting up the voting device before the polls open, operating the device and responding to messages during the day and securing it after the polls close. Each County Election Board receives a sufficient quantity of the *Voting Device Handbook for Precinct Officials* to provide one copy to each Inspector, Judge and Clerk who attends training and to include one copy in the election day supplies for each precinct.

## Appendix D: State Plan Advisory Committee Meeting Summaries

### Help America Vote Act
### State Plan Advisory Committee
### January 29, 2003

Meeting Summary

State Election Board Secretary **Michael Clingman** convened the first meeting of the Help America Vote Act State Plan Advisory Committee with introductions of Committee members and State Election Board staff in attendance. Present were: **Harvey Bush**, Grant County Election Board Secretary; **Scott Orbison**, Tulsa County Election Board Secretary; **Connie Parnell**, Cherokee County Election Board Secretary; **Paula Roberts**, Cleveland County Election Board Secretary; **Ed Romo**, League of United Latin American Citizens; **Doug Sanderson**, Oklahoma County Election Board Secretary; **Lee Slater**, attorney-at-law; **Steve Stokes**, Director, Office of Handicapped Concerns; **Opio Toure**, member, State House of Representatives. Committee member **Dolores Martin**, League of Women Voters, was unable to attend.

In addition to Clingman, the following State Election Board staff members were present: Assistant Secretary **Carol Slater**, Director of Information Services **Montie Fisher**, Director of Support Services **Fran Roach**, Director of Election Services **Theresa Potthoff**, and Publications Editor **Suzanne Cox**. **Pam Strawn**, Cleveland County Election Board Assistant Secretary, and **Shelly Boggs**, Tulsa County Election Board Assistant Secretary, also were present as observers.

The following topics were discussed during the meeting.

- Circumstances leading to enactment of the Help America Vote Act of 2002 (Public Law 107-252 — October 29, 2002)
- HAVA's anticipated impact on the Oklahoma election system
- Development of the required state plan
- State Plan Advisory Committee's role in development of Oklahoma's state plan

The group set the next meeting on Friday, March 7, 2003, at 9 a.m.





### Help America Vote Act
### State Plan Advisory Committee
### March 7, 2003

Meeting Summary

The following members of the State Plan Advisory Committee were present: **Connie Parnell**, Cherokee County Election Board Secretary; **Dolores Martin**, League of Women Voters; **Paula Roberts**, Cleveland County Election Board Secretary; **Ed Romo**, League of United Latin American Citizens; **Lee Slater**, attorney-at-law; **Steve Stokes**, Director, Office of Handicapped Concerns; **Opio Toure**, member, State House of Representatives; **Scott Orbison**, Tulsa County Election Board Secretary; **Harvey Bush**, Grant County Election Board Secretary; and **Doug Sanderson**, Oklahoma County Election Board Secretary.

In addition, several observers attended the meeting: **Helen Arnold**, Tulsa; **Debbie Ashley**, Tulsa; **Shelly Boggs**, Tulsa County Election Board Assistant Secretary; and **Pam Strawn**, Cleveland County Election Board Assistant Secretary.

The following members of the State Election Board staff were present: **Michael Clingman**, Secretary; **Carol Slater**, Assistant Secretary; **Fran Roach**, Support Services Director; **Montie Fisher**, Information Services Director; **Theresa Potthoff**, Election Services Director, and **Suzanne Cox**, Publications Editor.

The following topics were discussed during the meeting.

- Congress's recent appropriation of HAVA funding and appropriation of funds to reimburse the State of Oklahoma for implementation of OEMS in the early 1990s
- HAVA planning in other states
- History of the development of Oklahoma's election system
- Discussion of Oklahoma's draft plan

The next meeting of the State Plan Advisory Committee was set for May 2, 2003, at 9 a.m. A new draft of the state plan will be distributed to members in advance of that meeting.

## Help America Vote Act
## State Plan Advisory Committee
## June 3, 2003

Meeting Summary

The following members of the State Plan Advisory Committee were present at a meeting on June 3, 2003: **Connie Parnell**, Cherokee County Election Board Secretary; **Dolores Martin**, League of Women Voters; **Paula Roberts**, Cleveland County Election Board Secretary; **Ed Romo**, League of United Latin American Citizens; **Lee Slater**, attorney; **Steve Stokes**, Director, Office of Handicapped Concerns; **Opio Toure**, member, State House of Representatives; **Scott Orbison**, Tulsa County Election Board Secretary; **Harvey Bush**, Grant County Election Board Secretary; and **Doug Sanderson**, Oklahoma County Election Board Secretary.

**Pam Strawn**, Assistant Secretary of the Cleveland County Election Board, and **Debbie Ashley** from Tulsa attended as observers.

Also attending from the State Election Board were **Michael Clingman**, Secretary; **Carol Slater**, Assistant Secretary; **Fran Roach**, Support Services Director; **Montie Fisher**, Information Services Director; **Theresa Potthoff**, Election Services Director; and **Suzanne Cox**, Publications Editor.

The following topics were discussed.

1. Clingman reported on the status of Oklahoma's share of the federal funds authorized by HAVA.

2. State Election Board staff members offered a brief demonstration of a touchscreen DRE voting device.

3. Clingman also led the Committee members through the most recent draft of the state plan.
4. Need for continuing advice and oversight of implementation of HAVA.

Clingman stated that this will be the last meeting of the State Plan Advisory Committee before the public hearings begin later this summer. The plan will be submitted for publication in the Federal Register, as required by HAVA, before the current federal fiscal year ends on September 30, 2003.





## Appendix E: Local Election Professionals Working Committee Meeting Summaries.

## Help America Vote Act
## Local Election Professionals Working Committee
## January 29, 2003

Meeting Summary

State Election Board Secretary **Michael Clingman** convened the first meeting of the Local Election Professionals Working Committee. The following County Election Board officials were present: **Doug Sanderson**, Oklahoma County Election Board Secretary; **Pam Strawn**, Cleveland County Election Board Assistant Secretary; **Terri Thomas**, Rogers County Election Board Secretary; **Connie Parnell**, Cherokee County Election Board Secretary; **Joy Naifeh**, Creek County Election Board Secretary; **Shelly Boggs**, Tulsa County Election Board Assistant Secretary; **Joyce Smith**, Grady County Election Board Secretary; and **Joyce Thornburgh**, Alfalfa County Election Board Secretary.

In addition, the following members of the State Election Board staff attended: **Carol Slater**, Assistant Secretary; **Fran Roach**, Director of Support Services; **Montie Fisher**, Director of Information Services; **Theresa Potthoff**, Director of Election Services; **Carol Morris**, Training Coordinator; **Karen Mobly**, Regional Coordinator Supervisor; **Vada Holstein**, Information Representative, and **Suzanne Cox**, Publications Editor. Cleveland County Election Board Secretary **Paula Roberts** also attended as an observer.

The following topics were discussed.

- Purpose of the Local Election Officials Working Committee and purpose of the State Plan Advisory Committee
- Issues and concerns about provisional voting requirements
- Issues and concerns about voter identification requirements
- Elements of the required state plan

The group set the next meeting on February 20, 2003, at the Oklahoma County Election Board office. The meeting will begin at 10 a.m. and is expected to last all day.

## Help America Vote Act
## Local Election Professionals Working Committee
## February 20, 2003

Meeting Summary

The second meeting of the Local Election Professionals Working Committee was held Thursday, February 20, 2003, in the offices of the Oklahoma County Election Board. The following committee members were present: **Doug Sanderson**, Oklahoma County Election Board Secretary; **Paula Roberts**, Cleveland County Election Board Secretary; **Pam Strawn**, Cleveland County Election Board Assistant Secretary; **Terri Thomas**, Rogers County Election Board Secretary; **Joy Naifeh**, Creek County Election Board Secretary; **Joyce Smith**, Grady County Election Board Secretary; **Connie Parnell**, Cherokee County Election Board Secretary; **Joyce Thornburgh**, Alfalfa County Election Board Secretary; and **Shelly Boggs**, Tulsa County Election Board Assistant Secretary.

In addition, the following members of the State Election Board staff were in attendance: **Michael Clingman**, Secretary; **Carol Slater**, Assistant Secretary; **Fran Roach**, Support Services Director; **Montie Fisher**, Information Services Director; **Theresa Potthoff**, Election Services Director; **Carol Morris**, Training Coordinator; **Karen Mobly**, Regional Coordinator Supervisor; **Suzanne Cox**, Publications Editor; and **Vada Holstein**, Information Representative.

The following topics were discussed.

- Congress's recent appropriation of HAVA funding and appropriation of funds to reimburse the State of Oklahoma for implementation of OEMS in the early 1990s
- Provisional ballot procedures used in four jurisdictions (Brevard County, Florida; Maricopa County, Arizona; Orange County, Florida; and Shawnee County, Kansas) using optical scan voting devices
- Voter identification requirements for first time voters in federal elections who registered to vote by mail
- Oklahoma's existing statewide voter registration database and its compliance with the HAVA requirements
- First draft of Oklahoma's required state plan for the implementation of the Title III requirements

The Working Committee agreed to meet again on Monday, April 7, 2003, at 9:30 a.m. in the offices of the Oklahoma County Election Board. The meeting adjourned at approximately 3:30 p.m.





## Help America Vote Act
## Local Election Professionals Working Committee
## April 7, 2003

Meeting Summary

The third meeting of the Local Election Professionals Working Committee was held Monday, April 7, 2003, in the offices of the Oklahoma County Election Board. The following committee members were present: **Doug Sanderson**, Oklahoma County Election Board Secretary; **Joy Naifeh**, Creek County Election Board Secretary; **Terri Thomas**, Rogers County Election Board Secretary; **Joyce Thornburgh**, Alfalfa County Election Board Secretary; **Joyce Smith**, Grady County Election Board Secretary; **Paula Roberts**, Cleveland County Election Board Secretary; **Pam Strawn**, Cleveland County Election Board Assistant Secretary; **Connie Parnell**, Cherokee County Election Board Secretary; and **Shelly Boggs**, Tulsa County Election Board Assistant Secretary.

In addition, the following members of the State Election Board staff were present: **Michael Clingman**, Secretary; **Carol Slater**, Assistant Secretary; **Fran Roach**, Support Services Director; **Montie Fisher**, Information Services Director; **Theresa Potthoff**, Election Services Director; **Carol Morris**, Training Coordinator; **Karen Mobly**, Regional Coordinator Supervisor; **Suzanne Cox**, Publications Editor; and **Vada Holstein**, Information Representative.

**Voting Device Systems**

Montie Fisher and Theresa Potthoff reported on their recent visit to an election systems trade show in Jackson, Mississippi, organized by the Mississippi Secretary of State's office for the benefit of county election officials in that state who are considering the purchase of new, HAVA-compliant voting device and voter registration database systems. Officials from other states also were invited to the event.

**Provisional Voting Study Group Report**

Since the last meeting, Doug Sanderson organized study groups among the committee members to consider provisional voting requirements and ways in which provisional voting might be implemented in Oklahoma. The group presented the results of their work.

**Next Meeting**

The next meeting has been set tentatively for Tuesday, May 6, at 9:30 a.m. in the offices of the Oklahoma County Election Board. The meeting adjourned at approximately 3 p.m.

## Help America Vote Act
## Local Election Professionals Working Committee
## May 6, 2003

Meeting Summary

The fourth meeting of the Local Election Professionals Working Committee was held Monday, May 6, 2003, in the offices of the Oklahoma County Election Board. The following committee members were present: **Doug Sanderson**, Oklahoma County Election Board Secretary; **Joy Naifeh**, Creek County Election Board Secretary; **Terri Thomas**, Rogers County Election Board Secretary; **Joyce Thornburgh**, Alfalfa County Election Board Secretary; **Joyce Smith**, Grady County Election Board Secretary; **Paula Roberts**, Cleveland County Election Board Secretary; **Pam Strawn**, Cleveland County Election Board Assistant Secretary; **Connie Parnell**, Cherokee County Election Board Secretary; and **Shelly Boggs**, Tulsa County Election Board Assistant Secretary.

In addition, the following members of the State Election Board staff were present: **Michael Clingman**, Secretary; **Carol Slater**, Assistant Secretary; **Fran Roach**, Support Services Director; **Montie Fisher**, Information Services Director; **Theresa Potthoff**, Election Services Director; **Carol Morris**, Training Coordinator; **Karen Mobly**, Regional Coordinator Supervisor; **Suzanne Cox**, Publications Editor; and **Vada Holstein**, Information Representative.

**Legislation Updates**

Michael Clingman discussed the status of various election-related bills. Two bills, SB3 and SB260, have been signed by the Governor. These bills change the dates of the Presidential Preferential Primary Election, of the candidate filing period and of the Primary and Runoff Primary Elections for state and county officers. Following are the new election dates for 2004.

| | |
|---|---|
| Presidential Preferential Primary Election | February 3, 2004 |
| Candidate Filing Period | June 21 – 23, 2004 |
| Primary Election | July 27, 2004 |
| Runoff Primary Election | August 24, 2004 |
| General Election | November 2, 2004 |

**Provisional Ballots**

Doug Sanderson made a presentation on the projected timetable for verifying and counting provisional ballots, certifying elections, and contests of election with the new election calendar for 2004.





**Presentation of newest draft of State Plan**

A new draft of the state plan was distributed to the committee members at the meeting. Because the committee members did not have an opportunity to review the state plan draft prior to the meeting, Clingman asked them to take it home, read it, and contact any State Election Board staff member on the committee with comments or suggestions by May 16.

**Next Meeting**

The next meeting for the Working Committee is scheduled for Thursday, June 5, 2003, at 9:30 a.m. at the Oklahoma County Election Board office.

**Help America Vote Act**
**Local Election Professionals Working Committee**
**June 5, 2003**

Meeting Summary

The Local Election Professionals Working Committee met Thursday, June 5, 2003, at 9:30 a.m. in the office of the Oklahoma County Election Board in Oklahoma City. Members attending the meeting were: **Connie Parnell**, Cherokee County Election Board Secretary; **Shelly Boggs**, Tulsa County Election Board Assistant Secretary; **Doug Sanderson**, Oklahoma County Election Board Secretary; **Joyce Smith**, Grady County Election Board Secretary; **Joyce Thornburgh**, Alfalfa County Election Board Secretary; **Terri Thomas**, Rogers County Election Board Secretary; **Paula Roberts**, Cleveland County Election Board Secretary; and **Pam Strawn**, Cleveland County Election Board Assistant Secretary.

State Election Board staff members in attendance included **Michael Clingman**, State Election Board Secretary; **Carol Slater**, State Election Board Assistant Secretary; **Fran Roach**, Support Services Director; **Montie Fisher**, Information Services Director; **Karen Mobly**, Regional Coordinator Supervisor; **Carol Morris**, Training Coordinator; **Suzanne Cox**, Publications Editor; and **Vada Holstein**, Information Representative.

1. Clingman provided a brief update of the status of the federal funds supporting HAVA implementation.

2. The State Election Board staff is in the process of applying for a federal grant of approximately $144,000 for the purpose of making polling places accessible.

3. Clingman also briefly reviewed the major provisions of new state legislation.

4. The group discussed the voter identification requirements and has tentatively agreed to recommend only the minimum required by HAVA.

5. Clingman led the committee through the most recent draft of the state plan.

The Working Committee scheduled its next meeting for Tuesday, July 22, 2003, at 9:30 a.m. at the Oklahoma County Election Board office.

# OREGON ELECTIONS PLAN

**To Implement the**

## Help America Vote Act of 2002

**Submitted by**
**Secretary of State Bill Bradbury**
**September 2003**

**BILL BRADBURY**
SECRETARY OF STATE

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August 2003

Fellow Oregonians:

I am proud to share this draft of Oregon's state plan for implementing the Help America Vote Act (HAVA) of 2002. Passed by Congress in response to the 2000 Presidential Election, HAVA requires state and local governments to reform elections processes and systems and it provides federal funding to help with these improvements.

We are fortunate that in such difficult budgetary times Oregon will have the necessary federal resources to build on our strong foundation of election accomplishments and make the improvements required by the Act. These changes will enhance the integrity of our voter registration process, increase privacy and independence for voters with disabilities, improve the elections systems that support the vote by mail process and provide better information to Oregonians on how to vote. I am also proud of our work with Oregon's bipartisan congressional delegation to make sure that provisions were written into HAVA recognizing and preserving our unique vote by mail system.

A steering committee of state and county elections officials, legislators and representatives of interest and advocacy groups has been working on the Oregon State HAVA Plan since November 2002. During the month of April, we conducted seven public hearings to gain input into Oregon's plan. The final plan, as presented, includes changes that respond to the issues and concerns raised in public testimony. We will refine our response to public comments even further as we begin implementing Oregon's plan.

Legislation enabling the creation of an Election Fund and a Title III Administrative Complaint Procedure has been passed by the 2003 Oregon Legislature and signed into law by Governor Kulongoski. We have received the first transfer of funds from the federal government, and we are now positioned to begin implementing HAVA.

I want to thank the HAVA Steering Committee members who have committed considerable time and dedication to the creation of this plan. Their involvement ensures that Oregon will have an accessible, uniform, statewide voting system that will meet both the spirit and letter of the law. I look forward to your input and to continuing to improve Oregon elections through the implementation of HAVA.

Sincerely,

Bill Bradbury
Secretary of State

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**Appendix**




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## Executive Summary

Oregon has a long history of improving its elections process and systems, driven by a gradual progression to becoming a vote by mail state. The depth of study that has been devoted to vote by mail and the expansion of mail elections over the past two decades have provided an impetus for continually reviewing, evaluating, and improving Oregon's elections system. The Help America Vote Act (HAVA) of 2002 and companion federal funding provides the opportunity to make enhancements to Oregon's election system that will support vote by mail, improve voter access, and strengthen the overall integrity of the elections process.

HAVA was enacted to make sweeping reforms to the nation's voting process. The Act addresses improvements to voting systems and voter access that were identified following the 2000 Presidential Election. It includes requirements for a centralized voter registration database, privacy and independence in the voting process, access for people with disabilities, and voter outreach. As a condition of receiving federal funding, each state is required to submit a plan that meets the requirements of the Act.

In November 2002, the Secretary of State appointed a steering committee comprised of county and state elections officials, state legislators, and representatives of advocacy groups to undertake the HAVA planning process. A second committee was formed to work specifically on the issue of centralized voter registration. During the planning process, officials representing each of Oregon's 36 county elections offices were invited to participate in three in-depth meetings to generate ideas for Oregon's response to HAVA and to give the Secretary of State guidance on what would be required for successful implementation of the federal requirements.

This draft plan represents the collective input and recommendations of both steering committees and Oregon's 36 county elections officials. Members of the public had the opportunity to and did participate in and comment on this draft in seven public hearings held in April 2003.

Oregon is in a good position to implement the HAVA requirements. Many of the election reforms required by the Act are already addressed in Oregon state laws and in the vote by mail elections procedures. This preliminary state plan identifies the priorities and specific steps the state and counties will take to meet the mandates of HAVA. It also discusses what additional improvements may be undertaken if there is remaining or additional federal funding after all of the requirements have been met.

In summary, the state HAVA Steering Committee has recommended the following activities as part of Oregon's response to the Help America Vote Act:

1. Purchase and implementation of optical scan systems in the three counties that are currently using punchcards and reimbursements to four counties that have replaced punchcard systems since November of 2000. All other Oregon counties currently use optical scan systems. While replacement of punchcard voting systems is not a requirement of HAVA, the legislation provides federal incentive funding for phasing out punchcard and lever voting systems throughout the country. Oregon has elected to take advantage of the available federal appropriation to bring uniformity to the way in which Oregonians cast their ballots.



2. Design and implementation of a uniform, nondiscriminatory, computerized statewide voter registration system that is the single database of all registered voters, reflecting local government control of who is registered as a voter in each county.

3. Increased access to the elections process for people with disabilities through the use of specially designed Direct Recording Electronic (DRE) voting systems, improvements to facilities, training of elections staff, and enhanced public outreach.

4. Implementation of a comprehensive program that informs voters about how to correct their ballots and how to request replacement ballots.

5. Implementation of a toll-free line that allows voters to check the status of their provisional ballots and determine whether or not their ballot was counted.

6. Training of all elections officials in Title III requirements of the Act.

To receive federal funding, Oregon must certify that it has established a State Election Fund that is separate and distinct from the state General Fund and that it has an administrative complaint procedure for HAVA Title III violations. Legislation has been adopted by the 2003 Oregon Legislature and signed into law by Governor Ted Kulongoski to create the fund and authorize the complaint procedures. The Secretary of State has certified to the federal government that it is eligible to receive HAVA funding and the first such transfer of funds has occurred.

While HAVA increases responsibility for elections administration at the state level to achieve greater uniformity and consistency, county elections officials are charged with the conduct of elections and are crucial to all aspects the elections process. As Oregon moves forward in carrying out this plan, the Secretary of State will continue to encourage coordination, cooperation, and collaboration between local and state officials on the innovations and technology that will be developed in response to HAVA.

Finally, this plan should be viewed as a living document that will need to be updated and refined over time to reflect the state's progress in implementing HAVA. Oregon welcomes the challenges of the Help America Vote Act and looks forward to receiving appropriate financial support from the federal government.

## Introduction

Oregon has a long history of improving its elections process and systems. That focus has been primarily driven by a gradual progression to becoming an entirely vote by mail state. The depth of study that has been devoted to vote by mail and the expansion of mail elections over the last two decades have provided an on-going impetus for continually reviewing, evaluating and improving Oregon's elections system. The movement to vote by mail has prompted profound changes in technology, procedures and practices that have increased quality control and the overall integrity of Oregon's elections process.

The history of mail elections began in 1981, when the Oregon legislature first authorized vote-by-mail for special district measures. In 1983, the Legislature decided that elections of special district candidates could be conducted by mail. By 1987, vote by mail was approved as the primary method by which all elections, other than primary, general and emergency, would be conducted. The first statewide ballot measure election conducted entirely by mail was in June 1993. In 1996, Oregon was the first state in the country to elect a United States Senator entirely by mail-in ballot.

After two attempts to enact legislation that would expand vote by mail to primary and general elections, Oregon voters overwhelmingly approved a ballot initiative to allow the expansion. Finally in 2000, Oregon gained national attention as the first state in the nation to conduct a presidential election entirely by mail. Over this 20-year period, Oregon has conducted hundreds of local and numerous statewide vote by mail elections, proving time and again that the system raises voter participation, increases convenience, decreases the cost of elections, and increases the overall integrity of elections processes.

Prior to the passage of the Help America Vote Act (HAVA) of 2002, Oregon had been studying and seeking legislative approval to implement a centralized voter registration system. A 1996 vote by mail citizen commission appointed by Secretary of State Phil Keisling recommended that the State and its counties initiate the implementation of a centralized registration system to increase accuracy in voter rolls, reduce the problem of duplicate ballots, and minimize the possibility that voters could be registered in more than one county. In 2001, the State Elections Division received a small appropriation from the Legislature to begin development of a plan to accomplish these objectives. The passage of HAVA and companion federal funding now make it possible for Oregon to achieve its plan for a centralized voter registration system.

In February 2001, a task force appointed by Secretary of State Bill Bradbury and the Oregon Association of Counties called for some of the improvements that are mandated in HAVA. Once again, creation of a centralized voter registration system was highlighted as a needed improvement, as well as standards that provide increased consistency in the treatment of provisional ballots, exploration of alternatives to punchcard voting systems, and consideration of Direct Recording Electronic (DRE) voting systems. Of Oregon's 36 counties, three conduct elections using punchcard voting systems and the remainder use optical scan ballots. All three counties using punchcard systems have been exploring alternatives, but local budget constraints have prevented movement to optical scan ballots. The HAVA Title I funding now makes it possible to migrate the remaining counties to systems that are consistent with the rest of the state.



The introduction of vote by mail has created a high level of citizen and local government involvement in designing Oregon's elections process. Many of the improvements that HAVA seeks to achieve have been built in to the state's vote by mail system as it has evolved over the years. For those activities that are not currently part of Oregon's system, HAVA provides the direction, mandates, and funding to allow the state and its 36 county elections offices to move forward with elections improvements that have been in the planning stages for the last several months and years.

## Voting System Standards

Section 301 of the Help America Vote Act requires that voters have the opportunity in a private and independent manner to verify the votes they have selected, to change their ballot or correct any errors, and to notify the voter of the effect of selecting more than one candidate for a single office before a ballot is cast and counted. HAVA also directs states to adopt uniform and non-discriminatory standards that define what constitutes a vote, requires manual audit capacity and error rate standards of voting systems, and mandates increased access to the elections process by people with disabilities.

***Privacy and Independence*** – Oregon Statutes require that all voting systems approved by the Secretary of State secure the secrecy of voting to each voter. Vote by mail allows voters to independently mark their ballots in a private location, most often within their homes. Voters may also use privacy booths at their county elections office. These booths are available the entire time that ballots are issued and are especially useful to voters visiting the county election office to request a replacement ballot on the day of or near the election. To enhance voter independence and make the process of voting and correcting a ballot more convenient, Oregon will replace its punchcard voting systems, and if funding is available, upgrade optical scan systems to allow voters to use a pencil or a pen in completing their ballots.

Voters with disabilities or those who are unable to read or write or to mark the ballot may request two election personnel of different parties or some other person chosen by the voter to assist them in marking their ballot. The location is negotiable, depending on the voter's need. In compliance with HAVA, Oregon intends to purchase Direct Recording Electronic (DRE) voting machines for each county so that voters also have the option of casting their vote independently on a machine permanently stationed at the county election office or a using "mobile" unit that can be transported by county elections staff to a location that will best accommodate the voter. In addition, the state and its counties will make any necessary revisions to existing registration and elections materials, websites, and general voter education communications to emphasize the importance of accuracy in the registration process and the matching of ballot signatures with registration signatures.

***Ballot correction and replacement ballots*** – HAVA allows states that use paper ballot voting systems, including mail-in ballots, to conduct a voter outreach effort to provide voters with instructions on how to correct ballots or request replacement ballots. To ensure the information given to voters is easy to understand and read and to ensure uniformity of outreach among all 36 counties, the State Elections Division is planning to direct a comprehensive voter outreach program to reflect the intent of HAVA and to generally acquaint voters with the ballot format and the methods used to cast a valid vote and to request a replacement ballot. This will include state and local voters' pamphlets, the ballot packet that is mailed to each voter, state and county elections websites, the media through press releases and public service announcements, and, to the extent funding allows it, commercial advertising. In Oregon, voters must complete, sign, and submit a replacement ballot request form before the ballot can be counted. Upon receipt of a request for a replacement ballot, county elections officials verify registration and ensure than the voter has not returned another ballot, note on the voter registration list that the voter has requested a replacement ballot, mark the return identification envelop clearly so that it can identified as a replacement ballot, and issue the replacement ballot by mail or in person.



***Manual Audit Capacity*** - The Secretary of State requires each county election official to produce and maintain an audit trail of statistical information, which includes:

- the election date
- precinct number or name
- number of ballots received
- number of ballots processed
- number of ballots counted by ballot counter
- team/person name or number
- date and time processed
- number of challenged ballots
- number of out-of-county ballots received
- number of write-ins and duplicated ballots
- number of rejected ballots
- number of wholly defective ballots

Oregon also uses federal certification standards for punchcard voting systems. All systems purchased and in use by the counties are certified to have manual audit capacity and the ability to produce a paper record required by HAVA. This includes:

- The ability to consolidate vote data from all precincts.
- Geographical reporting of the results for each contest at the precinct level and other jurisdictional levels.
- Printed reports of the number of ballots counted by each tabulator.
- Printed reports by each tabulator of the results of each contest, including the votes cast for each selection, the count of undervotes, and the count of overvotes.
- A consolidated, printed report of the results for each contest of all votes cast.
- Capability of producing a consolidated printed report of the combination of overvotes for any contest that is selected by an authorized official.
- Prevention of data from being altered or destroyed by report generation or by the transmission of results over telecommunication lines.

In addition to the requirements listed above, Oregon vote tally systems must provide the following auditable data:

- Number of ballots cast, using each ballot configuration, by tabulator, by precinct, and by political subdivision.
- Candidate and measure vote totals for each contest, by tabulator.
- The number of ballots read within each precinct and for additional jurisdictional levels, by configuration, including separate totals for each party in primary elections.
- Separate accumulation of overvotes and undervotes for each contest, by tabulator, precinct and for additional jurisdictional levels.
- The total number of ballots both processed and not processable, and if there are multiple card ballots, the total number of cards read.

***Access to the Voting Process for People with Disabilities*** –HAVA requires voting systems to be accessible for voters with disabilities and seniors who need special assistance in a manner that provides the same opportunity for access, participation, privacy, and independence as other voters. This requirement may be met by providing at least one Direct Recording Electronic (DRE) voting system at each polling place. A DRE voting system records votes by means of a ballot display with mechanical or electro-optical components that can be activated by the voter, such as a touch screen and audio prompts.

1. ***Direct Recording Electronic (DRE) Voting System Acquisition*** – Under Oregon's vote by mail system, elections are not conducted at polling places. The state plans to provide DRE machines for each county in order to meet the HAVA Voting Systems Standards requirements. DRE machines will serve as another tool for voters with disabilities to cast their ballots. Those who have used other alternatives in previous elections or who prefer alternatives other than using a DRE will not be required to use this new technology. The state will purchase of a minimum of two DRE machines per county – one for placement in county elections offices and one mobile machine that will travel to individuals on request. The purchase will include training county elections staff how to use and maintain the machines. The state will also purchase additional machines that will be distributed within counties that have needs beyond the minimum requirement. County elections officials will make decisions about the placement of additional machines. The state will require that all DRE machines placed outside of county elections offices are in locations that are fully accessible to people with disabilities.

   Purchase of DRE voting systems will be one of the highest priority projects in Oregon's HAVA plan. The proposed timeline is to have the machines tested in a smaller election and in place as soon as possible and not later than January 2006. Placement of the machines will be reevaluated after this election and county elections officials will recommend changes based upon experience. Oregon is also planning for its DREs to meet the following minimum criteria for system needs, functionality, accuracy, and auditing. DRE voting systems must:

   - Be certified as a voting system by the Secretary of State.
   - Ensure that local elections officials have responsibility and control of all DRE voting systems.
   - Ensure that all processing and storage protects the anonymity of the voter.
   - Enable elections officials to control the content of the ballot presented to the voter so that each voter is permitted to record votes only in contests in which that voter is authorized to vote.
   - Provide access to voters with a broad range of capabilities with the functionality required by federal certification standards.
   - Not require voters to bring their own assistive technology to the polling place.
   - Allow the voter to select preferences in any legal number and combination, correct errors and verify that the voter has chosen to undervote.
   - Prevent the voter from overvoting.
   - Allow the voter before the ballot is cast to review choices and delete or change those choices before the ballot is cast.



   - Notify the voter that the ballot has not been cast successfully and provide clear instruction on the steps the voter should take to cast the voter's ballot.
   - Immediately after the voter chooses to cast or cancel the voter's ballot, record the voter's selections in the memory to be used for vote counting and audit data (including ballot images), and erase the selection from the display, memory and all other storage, including all forms of temporary storage.
   - Achieve an error rate not to exceed federal standards (as described on page 14 of this plan).
   - Produce a paper record of each vote cast to be used in case of a hand recount.
   - Be able to eventually interface with existing county vote tally systems. This may require the State to purchase machines from more than one vendor. If interfaces cannot be completed prior to the first election in which DREs are used, counties may need to manually combine the DRE vote tallies with the counts from their existing tally systems during the first cycle of DRE use. Oregon's vote by mail procedures will be amended to address this change.

   People with disabilities will participate in the evaluation of various DRE systems that are currently available. Groups who advocate on behalf of people with disabilities will help the Elections Division coordinate this involvement to ensure the participation of people with a broad representation of disabilities. The State will use a portion of the Title I funds to start purchasing DRE machines.

2. ***Voter Outreach*** – With the addition of DREs and the HAVA requirement to make the elections process accessible to people with disabilities, the state and its counties will begin a concerted effort to inform voters with disabilities about the various resources available, including options for casting their ballots. Counties have historically used a variety of methods for assisting people with disabilities, ranging from providing tactile ballots to sending elections officials who are members of different political parties to assist individuals in casting their votes at home. In addition, Oregon will develop a coordinated communication effort to inform people with disabilities how they can access the elections process and what types of accommodations are available to assist them in voting privately and independently. As funding allows, Oregon will also continue to explore the potential for voting by telephone and other alternatives that may support accessibility to the voting process for people with disabilities.

   - The Secretary of State/State Elections Division will promote and describe the resources available using a variety of communication tools (list serves, websites, electronic and printed newsletters, etc.), including those sponsored by advocacy groups representing people with disabilities.
   - At a minimum, every county elections office will be required to have a TTY or TTY relay service.
   - Counties are also expected, whenever possible, to give preference to an individual's choice of voting method. For example, voters with visual impairments should not be required to use a DRE if they prefer a tactile ballot or some other alternative format that the county is able to provide.

- County elections offices needing improvements to their facilities to ensure access for people with disabilities should first seek grants from the U.S. Secretary of Health and Human Services (HHS) under Section 261 of the Help America Vote Act. The State has applied for the Section 261 grant, and a copy of that application is included in the Appendix. Counties that do not receive funding from HHS may apply to the State Accessibility Fund (see below).
- The State Elections Division will publicize and operate a 1-800 number with TTY access (implemented as a multi-purpose toll-free line as part of Oregon's HAVA plan) to answer questions about resources for people with disabilities and refer voters to county elections offices for additional assistance.
- Information about resources available to people with disabilities will be published in existing elections materials, including the voters' pamphlet, state and county websites, and the *Voting in Oregon* brochure.

3. ***Accessibility Fund*** – To ensure all counties receive some resources to undertake projects and activities that will enhance accessibility at the local level, the State will, subject to the availability of federal funding, create a fund that can be used for on-going needs.

    - To qualify to receive funding from the State Accessibility Fund, counties must create and submit plans for enhancing local disability access. Members of the disability community will be invited to conduct technical site visits to assist counties in determining what types of enhancements should be made. Counties must include people with disabilities in the planning process in order to quality for State funding.

4. ***Training*** – Through a partnership between the state and disability advocacy groups, county elections workers will receive training in assisting people with disabilities and on-going county responsibility for providing access, independence, and privacy to the voting process by voters with disabilities.

***Alternative Language Accessibility*** - HAVA requires that voting systems provide alternative language accessibility under the Voting Rights Act of 1965. Using data from the 2000 U.S. Census, Oregon's population of non-English speaking citizens does not meet the level that requires provision of voting information and materials in other languages. However, as the population of non-English speaking Oregonians continues to increase, Oregon is taking steps to offer materials related to direct voter communication in the languages that are most prevalent. Currently, the *Voting in Oregon* educational brochure and the voter registration card and instructions are available in Spanish. In addition, the multi-purpose toll-free line that will be implemented as part of meeting HAVA requirements for provisional balloting will also serve as an information clearinghouse for helping voters access the elections process. As federal funds are available, the State Elections Division will proceed with translating the state voters' pamphlet and state elections websites into Spanish. The Division will also assist counties in identifying and publicizing resources for alternative language and American Sign Language translators and interpreters. It is expected that the DRE machines purchased to meet HAVA requirements for disability access will also have capability for alternative languages. As Oregon expands its availability of resources in other languages, the use of DREs for this purpose will be considered.



***Error Rates*** – All voting systems certified in Oregon are required to meet the federal standards for accuracy. The following standards will apply to any new voting systems purchased by the state and counties, including DREs:

- For each processing function, the voting system shall achieve a target error rate of no more than one in 10 million ballot positions, with a maximum acceptable error rate in the test process of one in 500,000 ballot positions. The error rate applies separately to each of the following functions:

    1. For all paper-based systems:
        - Scanning ballot positions on paper ballots to detect selections for individual candidates and contests;
        - Conversion of selection detected on paper ballots into digital data.

    2. For all DRE systems:
        - Recording the voter selection of candidates and contests into voting storage;
        - Independently from voting data storage, recording voter selections of candidates and contests into ballot image storage.

    3. For precinct-count and central-count systems (paper-based and DRE):
        - Consolidation of vote selection data from multiple counting devices to generate jurisdiction-wide vote counts, including storage and reporting of the consolidated vote data.

***Definition of Vote*** – With the gradual expansion of vote by mail, both state and county elections officials have had a number of opportunities to review and refine what constitutes a vote. The standards were reviewed by a state and county task force following the November 2000 general election. This was the first presidential election in Oregon to be conducted entirely by mail and involved the largest and most complex state ballot in history for Oregon's election officials to prepare, distribute, process, and count. As part of its planning process, the State HAVA Steering Committee reviewed Oregon's current standards and definition of a vote, and determined that the standards produced in March 2002 are in compliance with HAVA. The standards are outlined in Oregon's Vote By Mail Procedures Manual, which will be adopted as an administrative rule applicable to all future vote by mail elections.

| Requirement | State of Oregon's Current Status | Actions Planned |
|---|---|---|
| **SEC. 301. VOTING SYSTEMS STANDARDS** | | |
| (a) REQUIREMENTS- Each voting system used in an election for Federal office shall meet the following requirements | | |
| (1) IN GENERAL- | | |
| (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall | | |
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | N/A | See subparagraph B |
| (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | N/A | See subparagraph B |
| (iii) if the voter selects votes for more than one candidate for a single office– (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | N/A | See subparagraph B |
| (B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by | | |
| (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Partially meets.<br>• Voters are notified of opportunity to request a replacement ballot if they lose or mismark their ballot. | The state and counties will review and revise ballot materials and implement a voter outreach program with special emphasis on this requirement. |

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| Requirement | State of Oregon's Current Status | Actions Planned |
|---|---|---|
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error) | Partially meets.<br>• Voters are notified of opportunity to request a replacement ballot if they lose or mismark their ballot. | The state and counties will review and revise ballot materials and implement a voter outreach program with special emphasis on this requirement. |
| (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | Meets. | No action needed. |
| (2) AUDIT CAPACITY- | | |
| (A) IN GENERAL- The voting system shall produce a record with an audit capacity for such system. | Meets. | No action needed. |
| (B) MANUAL AUDIT CAPACITY- | | |
| (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | Meets. | No action needed. |
| (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | Meets. | No action needed. |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | Meets. | No action needed. |
| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES- The voting system shall- | | |
| (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | Partially Meets.<br>• Voters can access large print, audio, and tactile ballot materials on request.<br>• Two elections officials representing different political parties can assist the voter at the voter's request. | The State will meet this requirement through the purchase of DRE machines for use in each of its 36 counties. |

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| Requirement | State of Oregon's Current Status | Actions Planned |
|---|---|---|
| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Does not meet. | The state will meet this requirement through the purchase of DRE machines for use in each of its 36 counties. |
| (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph). | N/A | The State will meet this requirement upon implementation of the voting system standards referenced above. |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY- The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | Meets. | No action needed. |
| (5) ERROR RATES- The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | Meets. | No action needed. |
| (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE- Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | Meets. | No action needed. |

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## Provisional Voting and Voting Information Requirements

### *Provisional Voting*

Oregon currently offers provisional balloting as part of its vote by mail process. In compliance with Section 302 of HAVA, when voters say they are registered to vote and the county does not find the voter on the official registration list, voters are offered the opportunity to cast a provisional ballot. The voter must make a written affirmation to an election official that the voter is registered to vote in the jurisdiction and eligible to vote in that election. Once the provisional ballot has been cast, county elections officials will then confirm eligibility and whether the voter has already voted. Officials will determine whether or not the ballot can be counted based on state law.

Oregon plans to implement a statewide toll-free line that voters can use to find out if their provisional ballot was counted. The toll-free number will be given to the voter at the time the provisional ballot is issued. When voters call the toll-free line, they will be transferred to the appropriate county for assistance. County elections officials will ensure confidentiality before providing any information about the provisional ballot.

### *Voting Information*

Oregon currently publishes and posts voting information in several places – county elections offices, in the statewide voters' pamphlet, on state and county elections websites, in the ballot packet issued to voters, and in the *Voting in Oregon* brochure. (A more detailed description of the state's voting materials can be found in the ***Training and Outreach*** section of this document on pages 32 – 34.) To comply with HAVA, the State Elections Division and county election offices will make any necessary revisions to voting materials to ensure voters have proper instructions on:

- the date of the election
- due date/time of ballots
- the hours and locations of ballot dropsites
- the location and address of county elections offices
- instructions on how to vote a ballot
- instructions on how to request a replacement ballot or provisional ballot and how to check the status of a provisional ballot
- instructions for first-time voters
- information on voting rights and what to do if these rights are alleged to have been violated
- general information on federal and state election laws regarding fraud and misrepresentation

Oregon also plans to implement a multi-purpose, toll-free line that voters can use to get voting assistance, ask questions about the voting process, check the outcome of their provisional ballot, or report potential fraud.

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| Requirement | State of Oregon's Current Status | Actions Planned |
|---|---|---|
| **SEC. 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.** | | |
| (a) PROVISIONAL VOTING REQUIREMENTS- If an individual declares that *such individual is a registered voter in the jurisdiction in* which the individual desires to vote and that the individual is eligible to vote in an election for *Federal office, but the name of the individual* does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows: | | |
| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | Meets. | No action needed. |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is-- | | |
| (A) a registered voter in the jurisdiction in which the individual desires to vote; and | Meets. | No action needed. |
| (B) eligible to vote in that election. | Meets. | No action needed. |



| Requirement | State of Oregon's Current Status | Actions Planned |
|---|---|---|
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4). | Meets. | No action needed. |
| (4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | Meets. | No action needed. |
| (5)(A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet. | The state will implement a toll-free telephone line that voters can call to learn the status of their provisional ballot. Voters will be given the toll-free number at the time they cast their ballot. |
| (B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet. | The state will implement a toll-free telephone line that voters can call to learn the status of their provisional ballot. Voters will be given the toll-free number at the time they cast their ballot. |

## Computerized Statewide Voter Registration and Requirements for Mail-In Registration

### *Oregon Centralized Voter Registration System*

Section 303 of the Help America Vote Act requires states to implement a "single, uniform, official, centralized, interactive, computerized statewide voter registration list" that is defined, maintained, and administered at the state level. The list must contain the name and registration information of every legally registered voter in the state and assign a unique identifier to each voter. Any election official in the state must be able to obtain and update the information contained in the computerized list.

Historically, Oregon has been viewed as a national leader in making the elections process and voter registration data accessible to its citizens. As elections administration became more complex, Oregon elections officials saw the need for integrating voter registration data from local governments into a single database and began studying the concept of a centralized system in the mid-1990's.

Currently, official voter registration records are created and maintained at the county level. Each county elections office updates and separately maintains voter registration records. Periodically and during the conduct of elections, county elections officials conduct checks for voter registration duplicates and report to one another. Databases are updated manually by removing the duplicates. The control and management of these functions will not change with the implementation of centralized voter registration. Counties will still have responsibility for handling voter registration processes.

In compliance with HAVA, Oregon will establish a single statewide voter registration database with integrated election management capabilities available for all 36 counties and the Secretary of State's office. While the election management component may not reflect the unique features of each county's existing system, it will provide at least the current functionality of existing election management systems.

- The system will be designed around Oregon's unique vote by mail election requirements and all applicable state laws.
- The system will be a centrally administered database maintained and administered by the state that contains the name and registration information of every registered voter in the state.
- The system will enable elections officials to remove voters from the list under the National Voter Registration Act of 1993 guidelines.
- The system will keep and report voter history.
- The system will ensure that names of each registered voter appear on the computerized list and election officials will ensure that only voters who are not eligible to vote are removed from the active list.
- The system will ensure that duplicate voter records are identified on a real time, interactive basis.
- The system will verify voter status to differentiate between active, inactive, and canceled.



- The system will assign a unique voter identifier number for each registered voter.
- The system will allow the same or greater accessibility to voter registration lists as exists currently.
- The system will have verification and query capabilities with other agency databases within the state (Department of Motor Vehicles, Department of Corrections, Department of Human Services). In particular, the system and the database of Department of Motor Vehicles will interface to enable the Secretary of State to verify the accuracy of the information provided on applications for voter registration.
- The system will include adequate technological security measures to prevent unauthorized access to the system and its data files as required by ORS 247.973.
- The creation of the system will be accomplished through a partnership between the counties and the Secretary of State.

**Estimated Project Duration**

| Milestone | Date |
|---|---|
| Start of project | 12/06/2002 |
| Milestone #1 Requirements Contractors Engaged | 07/01/2003 |
| Milestone #2 Options Review and Decision | 03/10/2004 |
| Milestone #3 System Procurement/Development/Test/Implementation... | 03/30/2004 |
| End of project (Federally mandated implementation date) | 01/06/2006 |

### *Mail-In Registration*

HAVA Section 303 includes new identification requirements for voters who register by mail and who have not previously voted in an election for federal office. These requirements took effect January 1, 2003. As part of this mandate, states must develop new voter registration forms that include:

- The question, "Are you a citizen of the United States of America?"
- The question, "Will you be 18 years of age on or before election day?"
- The statement, "If you check 'no' in response to either of these questions, do not complete this form."
- A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid additional identification requirements when voting for the first time in a federal election. Sufficient identification can include a valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

| Requirement | State of Oregon's Current Status | Actions Planned |
|---|---|---|
| **SEC. 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.** | | |
| (a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS- | | |
| (1) IMPLEMENTATION- | | |
| (A) IN GENERAL- Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the computerized list), and includes the following: | Does not meet.<br>• No registration data in central database.<br>• Official voter registration records are those maintained at the local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State. | Does not meet.<br>• Official voter registration records are those maintained at the local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (ii) The computerized list contains the name and registration information of every legally registered voter in the State. | Does not meet.<br>• Official voter registration records are those maintained at the local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | Does not meet.<br>• Official voter registration records are those maintained at the local level.<br>• Each county maintains its own unique identifiers. | The state will meet this requirement upon implementation of OCVR as described above. |

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Oregon has created a new voter registration card to reflect the needed changes and a process for ensuring registration and voting are handled properly under the new law. A copy of the new registration form is included in the Appendix. For voters who do not submit identification with their registration, county elections officials will take the following steps:

- Register the voter and request identification from the voter using a form letter.
- If identification is not received by the next federal election, request identification again and treat the ballot as provisional. If no identification is received with the returned ballot, determine eligibility and count the ballot, if eligible.
- If identification is received with the return ballot, note the identification in the registration system and count the ballot if otherwise valid.

| Requirement | State of Oregon's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (iv) The computerized list shall be coordinated with other agency databases within the State. | Does not meet.<br>• No direct, coordinated link with all NVRA agencies. | The state will meet this requirement upon implementation of OCVR as described above. |
| (v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | Does not meet.<br>• Official voter registration records are those maintained at the local level.<br>• Information requests are made at the county level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | Does not meet.<br>• Official voter registration records are those maintained at the local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). | Does not meet. | The state will meet this requirement upon implementation of OCVR as described above. |
| (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | Does not meet.<br>• Official list currently created and maintained at local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (B) EXCEPTION- The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office. | | |
| (2) COMPUTERIZED LIST MAINTENANCE- | | |
| (A) IN GENERAL- The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows: | | |



| Requirement | State of Oregon's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6). | Does not meet at a state level.<br>• Official lists currently created and maintained at local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (ii) For purposes of removing names of ineligible voters from the official list of eligible voters– (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death | Does not meet at a state level.<br>• Official lists currently created and maintained at local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. | Does not meet – at a state level.<br>• Official lists currently created and maintained at local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (B) CONDUCT- The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that-- | | |
| (i) the name of each registered voter appears in the computerized list; | Does not meet at a state level.<br>• Official lists currently created and maintained at local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | Does not meet at a state level.<br>• Official lists currently created and maintained at local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (iii) duplicate names are eliminated from the computerized list. | Does not meet at a state level.<br>• Official lists currently created and maintained at local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST- The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | Does not meet at a state level.<br>• Each county establishes its own process for administering security. | The state will meet this requirement upon implementation of OCVR as described above. |

| Requirement | State of Oregon's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS- The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following: | | |
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | Does not meet at a state level.<br>• Official lists currently created and maintained at local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | Does not meet at a state level.<br>• Official lists currently created and maintained at local level. | The state will meet this requirement upon implementation of OCVR as described above. |
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION- | | |
| (A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS- | | |
| (i) IN GENERAL- Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes-- (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | Does not meet.<br>• Registration is done at the local level.<br>• No procedures for this currently.<br>• System will store social security number, but providing social security number not required on current voter registration forms. | The state will meet this requirement upon implementation of OCVR as described above. |
| (ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER- If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | Does not meet.<br>• Official voter registration records are those maintained at the local level.<br>• Each county maintains its own unique identifiers. | The State will meet this requirement upon implementation of OCVR as described above. |

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| Requirement | State of Oregon's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED- The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | N/A | The state will consider what verification of voter identification information is necessary and adopt appropriate laws. |
| (B) REQUIREMENTS FOR STATE OFFICIALS- | | |
| (i) SHARING INFORMATION IN DATABASES- The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | Does not meet.<br>• No current Memorandum of Understanding (MOU) between Division of Motor Vehicles (DMV) and Secretary of State; no technology in place to support this. | Secretary of State will work to the extent possible with DMV to meet this requirement. |
| (ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY- The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). | Does not meet.<br>• No current Memorandum of Understanding (MOU) between DMV and Secretary of State; no technology in place to support this. | The state will meet this requirement upon implementation of OCVR as described above. |
| (b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL- | | |
| (1) IN GENERAL- Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if-- | | |
| (A) the individual registered to vote in a jurisdiction by mail; and | | |
| (B)(i) the individual has not previously voted in an election for Federal office in the State; or | | |
| (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | | |
| (2) REQUIREMENTS- | | |
| (A) IN GENERAL- An individual meets the requirements of this paragraph if the individual-- | | |

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| Requirement | State of Oregon's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (I) in the case of an individual who votes in person-- (I) presents to the appropriate State or local election official a current and valid photo identification; or (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; | Meets. | No action contemplated. |
| (II) in the case of an individual who votes by mail, submits with the ballot-- (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter | Meets. | No action contemplated. |
| (B) FAIL-SAFE VOTING- | | |
| (i) IN PERSON- An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a). | Meets. | State is in compliance as of January 1, 2003. |
| (ii) BY MAIL- An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | Meets. | State is in compliance as of January 1, 2003. |
| (3) INAPPLICABILITY- Paragraph (1) shall not apply in the case of a person- | | |
| (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either-- | | |
| (i) a copy of a current and valid photo identification; or | Meets. | No action needed. |
| (ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | Meets. | No action needed. |
| (B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either-- (I) a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and | Does Not Meet. | The state will meet this requirement upon implementation of OCVR as described above. |

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| Requirement | State of Oregon's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (II) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | Does not meet. | The state will meet this requirement upon implementation of OCVR as described above. |
| (C) who is-- | | |
| (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | Meets.<br>• ORS 253.500- 253.645 are the Oregon statutes that identify who is eligible to vote under the federal act. | No action needed. |
| (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or | Meets.<br>• ORS 254.445 is the Assistance in Marking Ballot statute that identifies those voters eligible for assistance and the assistance provided | No action needed. |
| (iii) entitled to vote otherwise than in person under any other Federal law. | Meets.<br>• ORS 254.462-482 is the Vote by Mail statute that identifies who are eligible voters for remote voting. | No action needed. |
| (4) CONTENTS OF MAIL-IN REGISTRATION FORM- | | |
| (A) IN GENERAL- The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: | | |
| (i) The question 'Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | Meets. | The State is meeting this requirement with its new voter registration cards issued January 1, 2003. |
| (ii) The question 'Will you be 18 years of age on or before Election Day?' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on Election Day. | Meets. | The State is meeting this requirement with its new voter registration cards issued January 1, 2003. |
| (iii) The statement 'If you checked 'no' in response to either of these questions, do not complete this form.' | Meets. | The State is meeting this requirement with its new voter registration cards issued January 1, 2003. |

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## Training and Voter Outreach

***Training***

All participants in the elections process can benefit from instruction in elections law and procedure. The creation of training materials and programs is a shared responsibility of both state and local elections officials. Some responsibilities fall to the Secretary of State as the chief elections official of the state, charged with the duty to ensure uniformity in the application, operation and interpretation of the election laws. County elections officials in Oregon, through the Oregon Association of County Clerks, have assumed responsibility for developing and maintaining a training and certification program for elections administration.

***Association Training*** – Currently, the Oregon Association of County Clerks (OACC) and the Oregon Association of Municipal Recorders (OAMR) maintain education and training programs for their members. Both programs have initial certifications of proficiency and continuing education components. The county elections officials program includes Certified County Clerk and Certified Elections Administrator credentials. The stated objective of the county elections officials program is to provide its members "a framework within which they may seek practical, planned learning experiences through offerings that will enable them to learn the basic requirements of their position as well as to establish additional professional goals and skills necessary for advancement." To ensure all elections workers are familiar with the Title III requirements and federal expectations for compliance, the OACC is planning to enhance its present training opportunities by expanding subject matter to include Title III requirements.

***State Training*** - As the chief elections officer of the state, it is the Secretary of State's responsibility to obtain and maintain uniformity in the application, operation, and interpretation of State election laws. To ensure compliance with Title III of HAVA and improve the overall administration of elections the Secretary of State and the State Elections Division will make the following enhancements to its training programs:

1. Sponsor annual election administration symposiums, and require each county elections office to participate, using federal funds, if available.
2. Periodically attend zone meetings of the OACC to communicate concerns, practices, and information.
3. Produce separate training presentations for election officials, staff, and board workers on specific election practices and procedures.
4. Conduct annual sessions, using the Vote by Mail Manual as the text, on election procedures and require the attendance of each county elections official.
5. Conduct and videotape a statewide training session on the needs of voters with disabilities for all county elections officials.

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| Requirement | | State of Oregon's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| | (iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | Meets. | The State is meeting this requirement with its new voter registration cards issued January 1, 2003. |
| | (B) INCOMPLETE FORMS- If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | Meets. | The State is meeting this requirement with its new voter registration cards issued January, 2003. |

## Voter Outreach

Clear, consistent, user-friendly outreach materials are important tools to increase accurate voter registration, increase voter turnout in all elections with a minimum of voting errors, inform voters of the means to obtain replacement and provisional ballots, and assure access to the electoral process by voters with disabilities or those who lack of proficiency in the English language.

***Voters' Pamphlet*** - The principal voter outreach tool in Oregon is the state voters' pamphlet produced for each state election. Because it is mailed to every residential household in the state, regardless of whether any registered voter lives there and is available on-line in summary form, it is an important tool for reaching non-registered voters. State and county voters' pamphlets include ballot measure information, candidate statements, voting instructions, ballot drop site locations for vote-by-mail elections, and voter registration information.

***Voter Registration and General Instruction*** — Voter registration requirements and instructions are included on the voter registration form adopted by the Secretary of State. Additionally, voter registration and general election information are provided primarily through the *Voting in Oregon* brochure, printed and distributed by the Secretary of State in both English and Spanish language versions. The State Elections Division also maintains information for voters on two websites: www.oregonvotes.org and www.sos.state.or.us/elections.

***Voting Instructions*** – In addition to voters' pamphlets, counties include voting instructions as inserts in vote by mail ballot packets instructing voters on the correct means of casting a ballot. These ballot inserts usually include information on how to obtain replacement ballots if the voter loses, damages, or otherwise spoils their original ballot.

The State Elections Division and county elections offices are planning the following enhancements to existing voter outreach to ensure compliance with Title III of HAVA:

1. State and county elections materials will be enhanced where necessary for accuracy, readability, and ease of use through improved, professional designs. These materials include, but are not limited to:

    - voter registration cards and instructions
    - ballot packets
    - voters' pamphlets
    - manuals
    - posters
    - drop site signage
    - brochures
    - websites
    - "precinct memorandum" cards
    - instructions for provisional voting
    - all other materials used by the public



2. A multi-purpose, toll-free telephone line will be created in the Secretary of State's Office for voters and all citizens to access elections information, including instructions on obtaining and successfully voting provisional ballots. The toll-free line will forward calls to the appropriate county elections office.

3. Each elections office in Oregon will develop an easily accessible and navigable website for elections information, regularly updated and linked to the Secretary of State website.

4. If federal funds are available, a portion of the Oregon Elections Fund will be dedicated to voter outreach in addition to Title III requirements. Local activities that involve partnerships or other collaborative efforts with non-partisan, non-profit, community-based organizations should be encouraged. Activities eligible for grants would be related only to voter outreach in the following subject areas:

    - How to register to vote.
    - Compliance with federal identification requirements for registering through the mail.
    - How to vote in Oregon, particularly information for young or new voters.
    - Who is eligible to vote absentee and how to vote absentee.
    - How to correct your ballot or obtain a replacement ballot.
    - How to report potential election fraud.

## Administrative Complaint Procedure

Section 402 of HAVA requires the state of Oregon to create state-based administrative complaint procedures to assure state compliance with Title III of HAVA. Oregon plans to continue managing complaints informally through problem solving between voters and county elections officials. When this informal process does not satisfy the voter, the administrative complaint procedure will be available. The procedures must meet the following requirements:

- The procedures are uniform and nondiscriminatory.
- Any person who believes there is a violation of Title III (past, present or future) may file a complaint.
- Complaints shall be in writing and notarized, signed and sworn by the person filing the complaint.
- The state may consolidate complaints.
- The state shall provide an appropriate remedy if it finds a violation has occurred.
- If no violation is found, the complaint shall be dismissed and the results of the procedures published.
- Complaints shall have a final resolution within 90 days of the complaint being filed, unless the complainant consents to a longer period.
- If the complaint cannot be resolved within that period, an alternative dispute resolution procedure must be provided.

This complaint procedure is intended to be less formal than most administrative procedures, with potential violations being more likely to represent system-wide problems than individual voting rights. Thus, the possible remedies will be less personal in nature. Therefore, Oregon proposes to implement these requirements in the following manner, through appropriate administrative rules adopted by the Secretary of State:

- To maintain the informality and flexibility permitted by HAVA, Oregon has obtained an exemption from "contested case" and judicial review provisions of the Oregon Administrative Procedures Act. In addition, ORS 260.345 (the current statute used for filing complaints about election law violations) has been amended to exclude complaints filed under Section 402. These changes were made in enrolled HB 2145.
- The procedures are solely for complaints alleging a violation of Title III, including voting system standards, instructions on correcting voting errors, ID requirements for voting in federal elections if registration was by mail, computerized voter registration, contents of registration forms, and provisional voting.
- Complaints will be accepted only if made in writing, signed under oath by the person filing the complaint and notarized. The complaint must be filed directly with the Secretary of State, the Elections Division, or through a county elections office and forwarded to the Elections Division. The Elections Division will provide a form on-line that contains the required elements. County elections officials will be encouraged to resolve HAVA complaints informally if possible, but if a person wishes to file a formal complaint, the form must be provided and the person directed to submit it to the Secretary of State.



1. *Hearing on the record:* Complaints will be handled in a uniform, nondiscriminatory manner, using the following process:

   - The complaint will be reviewed to determine whether it alleges a violation of Title III and meets the complaint requirements. If it does not allege a violation of Title III, or is not in the required form, then it will be dismissed in writing.

   - If it is not dismissed, then the complaint will be acknowledged in writing to the complainant and affected election officials or others. The complainant will be offered the opportunity to request a hearing on the record. A hearing on the record may be provided by telephone or in person.

   - The Elections Division staff will request information from the complainant and others who may have information related to the substance of the complaint.

   - The responses to the requests for information will be sent to the complainant to provide an opportunity to respond or rebut the information provided. Unless the complainant requested a hearing on the record, or the affected elections official requests a hearing, or the Elections Division chooses to conduct a hearing because of the nature of the allegations and responses, the Division will issue a determination letter based on the information provided. The determination letter will address whether any violation of Title III has occurred (or might occur in the future) and address how to resolve the problem to avoid its occurrence in the future.

   - If a hearing on the record is conducted, the Elections Division will decide whether the hearing is to be conducted by telephone or in-person. The complainant and other persons who have relevant information will be invited to participate. The hearing will be conducted before an Elections Division employee. The purpose of the hearing is to determine whether any procedure required by Title III was not correctly followed, and to develop a plan to make sure the violation, if any, does not happen again. The hearing is to be conducted as a fact-finding, problem solving forum. A record must be kept, including copies of any documents submitted and minutes, a tape or other record of the hearing.

   - Final determination letters will be signed by either the Secretary of State or Deputy Secretary of State.

2. *Appropriate remedy:* A remedy must be in conformance with state elections law and will not include financial payments to complainants or civil penalties for election officials, even if it is determined that a violation of Title III has occurred. Remedies may include written findings that a violation of Title III has occurred, strategies for insuring that that violation does not occur again and, if it appears that the complaint involves a systemic problem, possible actions by the Elections Division to provide better instructions, training, or procedures for all election officials to avoid future violations.

| Requirement | State of Oregon's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 402. ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES** | Meets. | No action required. |
| (a) ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES | | |
| (1) ESTABLISHMENT OF PROCEDURES AS CONDITION OF RECEIVING FUNDS- If a State receives any payment under a program under this Act, the State shall be required to establish and maintain State-based administrative complaint procedures which meet the requirements of paragraph (2) | Meets. | No action required. |
| (2) REQUIREMENTS FOR PROCEDURES- The requirements of this paragraph are as follows: | | |
| (A) The procedures shall be uniform and nondiscriminatory. | Meets. | No action required. |
| (B) Under the procedures, any person who believes that there is a violation of any provision of title III (including a violation, which has occurred, is occurring, or is about to occur) may file a complaint. | Meets. | No action required. |
| (C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint. | Meets. | No action required. |
| (D) The State may consolidate complaints filed under subparagraph (B). | Meets. | No action required. |
| (E) At the request of the complainant, there shall be a hearing on the record. | Meets. | No action required. |



3. *Publish the results:* The Elections Division will publish the results of all complaints so that the public can see the outcome, by posting the closing letters to the Election Division's website, with links based on who filed the complaint, or a date, or a topic.

4. *Make a final determination in 90 days*: The Elections Division will make an initial assessment of how much investigation is necessary and acknowledge its receipt to the complainant within a few days of receipt. Unless it can clearly be dismissed without further review, letters will be sent to the appropriate persons, asking for information or a response to the allegation, with a short timeline for expected responses. The responses will be provided to the complainant for comment, again with a short timeframe to respond. The Division will then review all the material and draft a proposed closing document, either upholding or dismissing the complaint. This will receive some level of internal review before issuance in final form. The final determination will then be provided to the complainant and everyone who provided information and posted on the web site. If delays appear to put the 90-day deadline at risk, the complainant can grant an extension, but that should not be a normal occurrence. If the complainant refuses, the matter must either be completed, or it will go automatically to the dispute resolution process.

5. The *alternative dispute resolution* procedures will be a "consensus or cooperative-based outcome" procedure, not either a mediation or arbitration model. It will not involve adversaries or even parties in the traditional sense, and the outcome will not produce winners or losers. The Secretary of State will create a panel of volunteers (not election experts necessarily but persons respected for good judgment and public service). One or more panel members will be available for reviewing a record and meeting with the interested persons for a particular complaint. The panel member will then recommend an outcome to the Secretary to be adopted within 60 days. The Secretary will adopt the outcome, as appropriate. This process could be available to use even in cases when the 90-day decision deadline is not a problem, to be implemented only at the Secretary's discretion.

## Funding Distribution and Controls

Oregon intends to use the following principles in determining the use and distribution of Title I and Title III funds:

1.) The Secretary of State will use federal funding first to address requirements placed on the state and counties by the new law and discretionary improvements to elections systems will be funded second.
2.) The state and county elections officials attempt to make elections system improvements visible to the public as early in the process as possible.

**Effect of Title I Payments**

Working under the above guidelines, Oregon expects to use its Title I allocation for the following activities, which are estimated as follows:

- Replacement of punch card voting systems - $2.3 million.
- Purchase of DREs for counties - $1 million
- Oregon centralized voter registration - $3 million
- Voter outreach, training and other Title III requirements - $900,000
- Plan preparation and project management - $100,000

The HAVA Steering Committee has recommended, if the projected funding is less than $7.3 million, the above allocations be reduced and the funding would be reallocated among the five categories. If less money is expended for any one of the above allocations, the remainder can be reallocated among the other categories. Some projects funded under this scenario, centralized voter registration in particular, could also be funded under later federal appropriations that require a five percent state match. The Steering Committee also recommends that allocations of federal funding that require state matching funds be made in accordance with the same guiding principles listed above.

**Additional Funding (Title III Requirements Payment)**

If Oregon receives federal funding in addition to the Title I monies, the state will use these funds as follows:

- Completion of the Oregon Centralized Voter Registration system.
- Funding costs incurred by counties as a result of meeting requirements of the bill, such as maintenance and replacement of DREs.
- Funding costs incurred by the Elections Division for meeting requirements and any other priorities specified by the state HAVA plan, including limited duration staff positions to implement HAVA and the training and voter outreach responsibilities placed with the Division.
- Funding special efforts to address county needs, such as upgrades of vote tally systems and improvements to physical space.

**Election Fund**

As required by HAVA, Oregon has adopted legislation to create a State Election Fund so federal funds can be received as soon as they are available. The Election Fund is separate and distinct from the General Fund of the State Treasury and interest earned by the Fund will be credited to the Election Fund. The Fund consists of amounts appropriated or otherwise made available by

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| Requirement | | State of Oregon's Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| | (F) If, under the procedures, the State determines that there is a violation of any provision of title III, the State shall provide the appropriate remedy. | Meets. | No action required. |
| | (G) If, under the procedures, the State determines that there is no violation, the State shall dismiss the complaint and publish the results of the procedures. | Meets. | No action required. |
| | (H) The State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period, which begins on the date, the complaint is filed, unless the complainant consents to a longer period for making such a determination. | Meets. | No action required. |
| | (I) If the State fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures. | Meets. | No action required. |

the Legislative Assembly or the State for carrying out the mandates and activities of the federal Help America Vote Act of 2002. A copy of the enrolled bill is included in the Appendix.

### Distribution of Funds

The Secretary of State and the State Elections Division will centrally manage activities and projects funded by HAVA requirements payments. The state will be responsible to account for all expenditures, funding levels, program controls and outcomes in accordance with state and federal laws. The state HAVA Steering Committee is currently deliberating mechanisms and requirements for distributing discretionary funds to counties for elections improvements. If adequate funding is available, Oregon may set up its Election Fund to be maintained over the long-term to pay for the cost of maintenance and improvements to state and county elections systems in the future. These funds will only be available for purposes of maintaining Oregon's elections system.

For special local projects, the Committee has not made a final recommendation on how funds will be dispersed. It is considering, depending on the amount of funds available, whether funds will be dispersed to counties using a formula, or whether a grant process that funds specific categories of elections improvements will be used, or some combination of both. These discussions may be delayed until it is clear how much funding is available after all HAVA requirements have been met.

### Maintenance of Effort

In compliance with HAVA Section 254(a)(7), in using any requirements payment, Oregon will maintain expenditures of the State for activities funded by the payment at a level equal to or greater than the level of Title III expenditures in State FY 2000.

The intent of funding provided under HAVA is to pay for new or enhanced efforts, not to supplant existing funding at the state and county level. It is therefore important to note that the projected HAVA budget is based on a critical assumption that the state and counties will maintain this foundation of election operating expenditures at existing levels. Without this foundation, the short-term infusion of HAVA funds would not be sufficient to maintain the new state election environment in the long-term.



## Projected Funding

At the time this plan was finalized, federal appropriations for HAVA were less than the amounts authorized by the legislation. The following table shows the assumptions the state is using regarding federal funding. The Oregon federal share numbers are based upon early estimates by the Congressional Research Service. The actual numbers will not be known for several months.

| Federal Fiscal Year | Total Federal Funds | Oregon Federal Share | 5% State Match Requirement* |
|---|---|---|---|
| **Early Payments** (Title I Funds) | $650,000,000 (appropriated) | $7,371,540 | $0 |
| **2003** | $800,000,000 (appropriated) | $9,443,808 | $496,744 |
| **2004** | $481,000,000 (President's Budget) | $5,678,090 | $298,668 |
| **2005** | $600,000,000 (authorized) | $7,082,856 | $372,558 |
| **Total** | **$2,531,000,000** | **$29,576,294** | **$1,167,970** |

Source: Congressional Research Service, *Funds Allocations to States Based on P.L. 107-252: the Help America Vote Act of 2002.*

*5% State Match Requirement is calculated as 5% of the **total** of the combined state and federal portions of expenses. This calculation requires a multiplier of .0526 (i.e., 5/95 ~ .0526) of the federal funds. For FY 2003, the $496,744 state match is 5.26% of the federal contribution of $9,443,808. Of the combined expenditure of $9,940,552, the state match of $496,744 is 5%.

Oregon is assuming that the costs of complying with HAVA will not end after federal appropriations have ceased in 2005. Therefore, the state is considering holding in the Election Fund any unspent federal funds remaining after all HAVA requirements have been met and using the interest earned from these funds to pay on-going maintenance and programmatic costs at the state and county levels. In addition, Oregon is planning to use Title I early funding to pay for Title III requirements. When the requirements payment is received, the state will reimburse itself for the Title I funds used in meeting Title III requirements. The state will then be responsible for the 5% match for those reimbursed funds.

## Anticipated Budget for HAVA Implementation

| HAVA Requirements | Total Cost | Section 101 Funds | Section 102 Funds | Section 252 & 257 Funds | 5% State Match |
|---|---|---|---|---|---|
| Voting System Standards (S-301) | **$3,550,000** | | | | |
| • Punchcard replacement | | | $2,300,000 | | $0 |
| • DRE Purchase | | $1,000,000 | | | $0 |
| • Ballot Correction Information | | $250,000 | | | $0 |
| Provisional Voting and Voting Information Requirements (S-302) | **$1,400,000** | | | $1,400,000 | $73,640 |
| Centralized Voter Registration (S-303) | **$6,000,000-$12,000,000** | $3,000,000 | | $3,000,000-$9,000,000 | $157,800-$473,400 |
| Voter Outreach and Election Worker Training (S-254) | **$2,150,000** | $650,000 | | $1,500,000 | $78,900 |
| State Plan Creation and Management | **$600,000** | $100,000 | | $500,000 | $26,300 |
| Other HAVA/State Plan Activities | **$9,876,294-$15,876,294⁂** | | | | |
| TOTAL | **$29,576,294** | $5,000,000 | $2,300,000 | $6,400,000-$12,400,000 | $336,640-$652,240 |

** Some unspent federal funds may be set aside in the state Election Fund for payment of long-term costs of complying with HAVA. Budget revisions will be made as anticipated federal funding changes.*

*⁂ Total spent on other HAVA/State Plan activities will depend on the total cost of implementing Centralized Voter Registration.*



## Plan Management

Title II of the Help America Vote Act requires each state to describe how it will manage the implementation of its proposed HAVA plan. This description must include who is responsible for implementation and monitoring, the process for changing the state plan, implementation timelines, and reporting requirements for counties and projects. Oregon will conduct plan management at three levels:

1. **State HAVA Steering Committee** – The primary responsibility of the Steering Committee during implementation is to monitor progress of the various HAVA projects and to recommend and oversee the process of making needed changes to the State Plan. It is recommended that the Steering Committee meet at least quarterly during the first year or two of implementation.

2. **Secretary of State/Elections Division** – Responsibility for implementation of the plan will be carried out at the state level, with involvement from counties on various projects. The State is responsible for reporting to the HAVA Steering Committee, tracking resource requirements, approving and tracking expenditures of HAVA funds, coordinating decision-making, and ensuring implementation activities are on track. Management will be divided into two components:

    - Overall HAVA Project Management
    - OCVR Project Management

3. **Project/Task Level** – Individual leaders will have responsibility for the day-to-day coordination and implementation of distinct projects within the HAVA plan. These project leaders may be HAVA Steering Committee members, State Elections Division staff, or county elections officials. These individuals are responsible for reporting project activities, progress, and resource needs/expenditures to the Project Managers. Project managers and project/task leaders will determine appropriate reporting based upon the needs, requirements, complexity, and risk factors of each project.

The State understands and agrees to comply with HAVA requirements related to ongoing management of the state plan. The HAVA Steering Committee will lead an annual process for plan revisions that includes the following steps:

| | |
|---|---|
| **April 1–April 30** | Project leaders and project managers discuss and recommend needed plan revisions. |
| **May 1–May 31** | Steering Committee members review recommendations from project managers and staff and decide on draft changes. |
| **June 1– June 15** | Public comment period. |
| **June 15–June 30** | Plan revisions are finalized. |

| | |
|---|---|
| **July 1** | Revised plan is submitted to the federal commission for publication in the Federal Register. |

No material changes to the plan or the administration of the plan will be made unless the change is developed and published in the Federal Register in accordance with HAVA Section 256.

## Performance Goals

The State Elections Division, in collaboration with county elections offices, will establish HAVA performance goals and institute a process to measure progress toward these goals. Performance goals will provide a high level view of a particular project's direction.

| *Activity* | *Completion Date* |
|---|---|
| **Section 301 – Ballot Correction** | |
| Voter Education Materials in all Vote by Mail Ballot Materials | January 1, 2006 |
| **Section 301 – Accessibility for Individuals with Disabilities** | |
| Use of DREs in elections | January 1, 2006 |
| **Section 302 - Provisional Voting Requirements** | |
| Implementation of toll-free line | January 1, 2004 |
| **Section 303 – Computerized Statewide Voter Registration List** | |
| System is fully operational | January 1, 2006* |
| **Section 303 – Mail-In Voter Registration Forms** | |
| New forms in use | January 1, 2003 |

** Provided Oregon receives a federal waiver to extend the timeline for implementing OCVR.*

The state will measure the following five critical areas for each project. Appropriate state and county personnel will develop the necessary metrics to collect performance data. The measures will provide the state with the ability to understand, predict, and improve overall performance and communicate expectations at the state and local levels.

- **Scope:** measures internal or external events that may affect cost, implementation schedule or quality.
- **Schedule:** measures progress toward goals.
- **Resources:** measures personnel and financial investment to ensure that the right people are on a project at the right time.
- **Quality:** measures effectiveness of the project to ensure that it meets expectations.
- **Risk:** measures likelihood and impact of certain events on operations.



## Audits and Internal Controls

According to the Statements on Auditing Standards (SAS) No. 1, section 220, "In all matters relating to the assignment, an independence in mental attitude is to be maintained by the auditor or auditors." The accounting profession has established, through the AICPA's Code of Professional Conduct, precepts to guard against the presumption of loss of independence. As such, the Audits Division shall not conduct audits of the Secretary of State's Office or any of its programs, including the implementation of the Help America Vote Act.

Any audits conducted of the HAVA program with the Oregon Elections Division will be made in accordance with the American Institute of Certified Public Accountants (AICPA) Audit and Accounting Guide, *Audits of State and Local Governmental Units*, and generally accepted government auditing standards for financial audits (*Government Auditing Standards*), issued by the Comptroller General of the United States.

The Secretary of State will ensure that the State and any State subrecipient of grants or other payments under this Act maintain records in accordance with the record keeping requirements of the Act (section 902) and all such records will be available for audit. The Secretary of State will also ensure itself and all subrecipients are audited on a regular basis as determined by the Commission and in accordance with the Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations.*

# Commonwealth of Pennsylvania

# State Plan

*As Required by Public Law 107-252,*
*The Help America Vote Act of 2002*

*July 31, 2003*

***Edward G. Rendell, Governor***

***Pedro A. Cortés, Secretary of the Commonwealth***

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# INTRODUCTION

## THE HELP AMERICA VOTE ACT OF 2002

In an effort to correct the problems encountered in Florida during the November 2000 presidential election, the United States Congress in October 2002 enacted the Help America Vote Act of 2002 (HAVA), P.L. 107-252 (42 U.S.C. § 15301 *et seq.*). Applicable to all Federal elections held in the United States, HAVA requires or authorizes the following:

1. Creates standards for all voting systems used by the States.
2. Requires voting systems to be accessible to individuals with disabilities and those using alternative languages.
3. Requires the use of provisional ballots.
4. Implements identification requirements for those who vote for the first time after registering by mail.
5. Requires States to implement a statewide voter registration database.
6. Provides for a board to establish standards for what constitutes a vote.
7. Requires States to conduct educational programs for voters and election officials.

HAVA authorizes three Federal funding programs to accomplish the various requirements in the Act. Two funding streams administered by the General Services Administration under Title I provide for payments to States for election administration improvements and replacement of punch cards and lever voting machines. The new federal Election Assistance Commission (EAC) oversees the third, and largest, HAVA funding program under Title II. The principal purpose of the funds provided through the EAC under Title II is to assist the States in meeting the new uniform and nondiscriminatory voting system, election technology and election administration requirements imposed by Title III of HAVA.

1. Section 101 of HAVA provides $325 million in funding for the following:

   - Complying with the requirements of Title III.
   - Improving election administration concerning voting rights, procedures and technology.
   - Educating voters concerning their rights, election procedures and voting technology.
   - Training election officials, poll workers and election volunteers.
   - Developing the State Plan for implementing HAVA.
   - Improving, acquiring, leasing, modifying, or replacing voting systems.
   - Improving polling place accessibility.
   - Establishing toll-free hotlines for voters to use to report possible voting fraud and other violations of election law or to obtain information.

Pennsylvania's share of the § 101 funding is $11,323,168.





2. Section 102 provides $325 million in funding for the replacement of lever voting machines and punch card systems. Pennsylvania's share is $22,916,952. HAVA authorizes an appropriation of $4,000 per precinct to replace lever machines. However, the amount actually received from the GSA was based on an allocation of $3,192.22 per precinct.

3. Section 251 of HAVA (Title II) authorizes $3 billion dollars over three years for "requirements payments" to be used to meet the requirements of HAVA's Title III. Requirements payments may be used to carry out other activities to improve election administration if the State has implemented the requirements of Title III or the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under section 252(c). Pennsylvania's estimated share of the authorized Title II money is $35,741,000 for 2003. However, Congress failed to fully fund HAVA for 2003, and Pennsylvania could receive up to $24,000,000 in supplemental funds if Congress approves them.

The General Services Administration has already distributed the funds authorized and appropriated under Title I. However, the Election Assistance Commission (EAC) established by Congress to administer the Act generally and to distribute the requirements payments authorized under Title II has not yet been appointed. In addition, before it might receive a requirements payment under Title II of HAVA, a State must submit to the EAC a State Plan that addresses each of 13 subjects, or "elements," mandated by section 254 of HAVA. The mandated elements are:

(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.

(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, including: the criteria to be used to determine the eligibility of such units or entities for receiving payment; and the methods to be used by the State to monitor the performance of units or entities to whom the payment is distributed.

(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.

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

(5) How the State will establish a fund for the purpose of administering the State's activities, including information on fund management.

(6) The State's proposed budget for activities 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 the costs of the activities required to be carried out to meet the requirements of the act; the portion of the federal payment which will be used to carry out the activities to meet such requirements; and the portion of the federal payment that will be used to carry out other activities.

(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.

(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.

(9) A description of the uniform, nondiscriminatory State-based administrative complaint procedure required by section 402.

(10) If the State received any payment under other federal funding programs, 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.

(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 is developed and published in the *Federal Register* in accordance with section 255 in the same manner as the State plan; is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and takes effect only after the expiration of the 30-day period that begins on the dates the change is published in the Federal Register in accordance with section 255.

(12) In the case of a State with a State plan in effect 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 the previous fiscal year

(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.

In developing its State Plan, a State must work with a committee of appropriate individuals, and follow a process that provides for public notice and comment.[1]





## OVERVIEW OF THE ADMINISTRATION OF ELECTIONS IN PENNSYLVANIA

It is evident from the summary above that HAVA will have significant impact on the administration of elections at all levels of government. In Pennsylvania, election administration occurs at three levels – at the State level by the Secretary of the Commonwealth; at the county level by the elected county commissioners or other body established by a home rule charter; and at the precinct level by the elected district election officials.

*The State Level*: The Secretary of the Commonwealth, who is appointed by the Governor with approval of the Senate and serves at the pleasure of the Governor, is the chief election officer of the Commonwealth and serves as the head of the Department of State. The Secretary is the custodian of the election returns for Federal, Statewide, legislative, and most judicial offices. The Secretary compiles and publishes the returns of the primary, municipal, general and special elections; and prescribes the forms of nomination petitions and nomination papers, campaign expense reporting forms, voter registration applications and all other forms and records required by the Pennsylvania Election Code. The Secretary is also responsible for examining voting machines and electronic voting systems before they might be used for voting in the Commonwealth. He receives and determines the sufficiency of nomination petitions, nomination certificates, and nomination papers of candidates for Federal, State and certain political party offices; certifies the names of such candidates to the county boards of elections for primaries and elections; and issues certificates of nomination and election to successful candidates unless otherwise prescribed by law. The Secretary administers the campaign expense reporting laws and receives reports from county boards of elections on various issues; may demand such additional reports on special matters as he might deem necessary; and prescribes the form and wording of constitutional amendments to be submitted to the electors of the State at large. He is responsible for designing, implementing and administering the Statewide Uniform Registry of Electors (SURE) and for prescribing regulations related thereto.

Until the passage of the National Voter Registration Act of 1993 (NVRA) and the corresponding Pennsylvania Voter Registration Act (PVRA) in 1995, the Department's role in elections was largely ministerial, and it had little authority over the county boards of elections and registration commissions. With the passage of the various election reform legislation over the last decade, including the NVRA; the PVRA; Act No. 2002-3 (codifying the PVRA and establishing the Statewide Uniform Registry of Electors); and the Help America Vote Act of 2002 and the corresponding Pennsylvania law, Act No. 2002-150, the trend has been toward granting the Secretary more authority over election administration in the Commonwealth.

*The County Level*: Under the Pennsylvania Election Code, the county commissioners or other officers who perform the duties of the county commissioners serve as the county board of elections and the voter registration commission. There are three county commissioners elected to four-year terms. Because a voter may vote for only two candidates, elected minority party representation is virtually assured. In home rule counties, the county board and voter registration commission are established under the home rule charter. Home rule counties also provide for minority party representation. The bulk of the responsibilities for election administration fall on the county officials. They are responsible for accepting the nomination documents of candidates for county and municipal offices, and insuring that ballots are accurately printed and voting

systems are programmed correctly. They select and equip polling places; purchase all required voting equipment; issue certificates to watchers; train district election officers; receive results when the polls close; canvass results; and issue official election results to the public.

*The Precinct Level*: In each polling place on Election Day in every precinct in Pennsylvania, an elected judge of election and elected majority and minority inspectors are responsible for insuring that the correct legal procedures are followed at the polling place. These officials are responsible for opening the polls; processing voters; after the polls close, counting ballots both on the voting system used in the precincts and absentee ballots that have been sent to the precinct for tabulation; and certifying and delivering the election results to the county board of elections

## THE PENNSYLVANIA GENERAL ASSEMBLY'S RESPONSE TO HAVA

The Pennsylvania General Assembly in December 2002 enacted Act 2002-150, which amended the Pennsylvania Election Code to include several provisions designed to comply with HAVA. These amendments also have the effect of making those rules under HAVA applicable to both Federal and State elections in the Commonwealth.

Among other things, Act 150:

(1) Delineates requirements for the county boards of election to process provisional ballots.
(2) Provides for voter identification requirements for those that vote in a precinct for the first time (regardless of the method used to register).
(3) Specifies procedures to be followed when complaints are received under Title III of HAVA.
(4) Creates the Voting Systems Development Board to determine what constitutes a vote on voting systems used in the Commonwealth.
(5) Establishes a State Plan Advisory Board to advise the Secretary of the Commonwealth regarding development of the State Plan.

## THE STATE PLAN ADVISORY BOARD

As required by HAVA and Act 150, the Secretary of the Commonwealth on February 27, 2003 convened the State Plan Advisory Board (Board) to advise the Secretary in the development of the State Plan. The Board made its recommendations to the Secretary on May 12, 2003. The Secretary has incorporated many of the Board's recommendations into the State Plan.





## THE PENNSYLVANIA STATE PLAN

As required by section 255 of HAVA and Act 150, the Secretary of the Commonwealth developed this State Plan of the Commonwealth of Pennsylvania through the State Plan Advisory Board. It is the objective of this Plan to modernize Pennsylvania's voting systems, guarantee that all registered electors have the opportunity to vote, and ensure that voting systems provide equal opportunities and are easy to use. The State Plan has been written with the goal of ensuring that the citizens of the Commonwealth are provided the most fair and equitable election system possible.

A Preliminary State Plan was completed on June 28 and made available for public inspection and comment for a period of 30 days,[2] as required by section 256 of HAVA.[3] The Secretary of the Commonwealth held public hearings during the 30-day comment period. Hearings were held on July 7, 2003, in Reading, Berks County, for the central region of Pennsylvania; in Pittsburgh, Allegheny County, on July 9, 2003, for the western region of Pennsylvania; and in Philadelphia on July 14, 2003, for the eastern part of the Commonwealth. Witnesses included representatives of various disability and alternative language advocacy groups; county election directors; and representatives of citizen action groups, including Common Cause/Pennsylvania and the Pennsylvania League of Women Voters. A complete list of witnesses is included in the State Plan as Appendix A. In addition, Secretary Cortés met with various advocacy groups on July 17, 2003 to discuss their participation in implementation of the Pennsylvania State Plan. This meeting included representatives from Common Cause of Pennsylvania, the Leadership Council on Civil Rights, the Disabilities Law Project, the United Cerebral Palsy Association, the League of Women Voters, the American Civil Liberties Union, and others.

Witnesses who presented testimony at the hearings were concerned about various issues, including increased accessibility for polling places; the lack of information relative to accessibility standards for polling places; time frames specified in the plan for conducting voter education; criticism of using direct recording electronic voting systems without a "voter verifiable ballot"; increased access for alternative language voters; the availability of voter education materials in alternative languages; and increased participation by advocacy groups in the development of programs and information to be distributed under HAVA.

As required by HAVA, the Commonwealth has considered all public comment and taken all comments into account before submitting this State Plan to the EAC. The Commonwealth has incorporated into the State Plan many of the concerns expressed in the hearings and received in writing. Copies of testimony and written submissions are available by contacting the Department of State through the Secretary of the Commonwealth, Room 302, North Office Building, Harrisburg, PA 17120.

## IMPLEMENTATION OF HAVA REQUIREMENTS

As it works to implement the State Plan and the requirements of HAVA, the Department is committed to working closely with county administrators and stakeholders, including the various advocacy groups for individuals with disabilities, college and high school students, alternative language voters, senior citizens, and non-partisan organizations. Specifically, the Department plans to involve county officials and interested individuals, groups and organizations in activities such as the determination of polling place accessibility; the assessment of voting system accessibility; the development of voter education programs and materials; the development of poll worker training; the design of provisional ballots; and the development of websites and polling place information.

The goals and principles of the entire effort of the Commonwealth reflected in this State Plan are based on the concept that all voters are entitled to the right of full participation in the election process and to cast their votes independently and privately. To this end, the Commonwealth is committed to involving in the planning process both stakeholders and election administrators. Education programs will be targeted at all citizens in all of the communities of the Commonwealth. Election officials will receive training in all aspects of election administration, including voting accessibility and procedures for accommodating the needs of all voters.

Those groups and citizens who expressed concerns about the involvement of the public in implementing HAVA in the Commonwealth of Pennsylvania can be confident in the promise that the public will have a prominent role in both the planning and execution of the State Plan, as well as in the ongoing evaluation and assessment of Pennsylvania's compliance with HAVA and the achievement of the Commonwealth's goal to guarantee that all voters of Pennsylvania have the opportunity to participate fully in the election process and to cast their votes independently and privately.





# ELEMENTS OF THE STATE PLAN

***STATE PLAN ELEMENT 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.*

*HAVA Section 254(a)(1) (42 U.S.C. § 15404(a)(1))*

The requirements imposed upon the States by Title III of HAVA are "minimum requirements."[4] HAVA permits States to establish election technology and administration requirements that are stricter than the requirements established by Title III, so long as they are not inconsistent with Federal requirements.[5] In addition, the specific choices on the methods of complying with the requirements of Title III are "left to the discretion of the State."[6]

The requirements mandated by Title III of HAVA are divided into three sections – section 301 (relating to voting system standards); section 302 (relating to provisional voting and voting information requirements); and section 303 (relating to computerized statewide voter registration list requirements and requirements for voters who register by mail). Within each of those sections of Title III are various subsections. For purposes of organizational clarity, this State Plan addressing Element 1 follows the organization of Title III.

### VOTING SYSTEMS STANDARDS (HAVA § 301)

Section 301(d) of HAVA requires, no later than January 1, 2006, that all voting systems used in elections for Federal office meet certain requirements delineated below.

- Each voting system used in a Federal election on or after January 1, 2006 must permit the voter to (1) verify privately and independently the votes selected before casting a ballot and to privately and independently be able to change or correct a ballot before it is cast (including receiving a replacement ballot); (2) notify the voter of an over-vote (casting votes for more candidates than allowed); (3) notify the voter of the effect of over-voting, *i.e.*, the vote for that office will not be counted; and (4) provide the voter with the opportunity to correct the ballot, if he or she has overvoted. These requirements mandate that a county using a paper based electronic voting system must use precinct tabulators instead of central count tabulators, thus precluding the use of paper-based central count electronic voting systems (except as noted below).

- Counties might continue to use central count paper-based voting systems, including the paper-based absentee balloting systems (that all counties currently use), if the system is designed to preserve voter confidentiality and the Commonwealth or its counties develop and deploy voting-system specific voter education programs that inform voters of the

effect of over voting and instruct voters on how to correct a ballot before it is cast (including instructions on obtaining a replacement ballot).

- All voting systems must meet all requirements of alternative language access of section 203 of the Voting Rights Act of 1965 (42 U.S.C. § 1973aa-1a).

- Voting systems must be accessible to voters with disabilities, including voters with visual impairment, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. According to HAVA, this requirement is met by providing at least one direct recording electronic (DRE) voting unit, or other voting system equipped for individuals with disabilities at each polling place.

- All voting systems must (1) produce a record with an audit capacity (the paper record produced must be available as an official record for purposes of a recount); (2) produce a permanent paper record with a manual audit capacity; (3) allow the voter to correct any error before the permanent paper record is produced; and (4) meet FEC guidelines (§ 3.2.1) for voting system error rates (errors attributable *only* to system errors, and not an act of the voter) that are in effect at the time of the HAVA's enactment (October 29, 2002).

Finally, HAVA requires that each State adopt "uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State."[7]

## PENNSYLVANIA'S VOTING SYSTEMS AND ACTIONS PLANNED BY THE COMMONWEALTH TO COMPLY WITH SECTION 301 OF HAVA

*Summary*: Pennsylvania utilized three types of voting methods in the November 2000 election (the base year that HAVA establishes). Of the 9,418 precincts existing in Pennsylvania in November 2000, 0.7% used paper ballots; 65.2% used lever voting machines; and 34% used electronic voting systems. The electronic voting systems used in Pennsylvania include punch cards, optical scan systems and direct recording electronic (DRE) devices. *See* Appendix B for a breakdown of voting methods used in Pennsylvania at the November 2000 Election.

*Commonwealth's Planned Actions*:

- Unless the General Assembly of Pennsylvania should enact laws otherwise providing, the Commonwealth plans to leave decisions regarding the replacement or upgrading of voting systems to the prerogative of the governing authorities of the Commonwealth's 67 counties – provided, of course, that those decisions are consistent with the requirements of Federal and Pennsylvania law.

- The Commonwealth plans to recommend to the governing authorities of counties that have not done so that they procure a HAVA compliant DRE voting system that provides





full compliance with the voting system requirements of Federal and State laws. Pennsylvania plans to enter into one or more State contracts with various DRE vendors by which counties might purchase HAVA compliant DRE devices at a lower cost than individual counties would likely incur in purchasing from vendors directly.

- The Commonwealth plans to structure its funding programs and decisions in a manner that encourages county authorities to purchase HAVA compliant DRE systems. The Commonwealth will make Title II Federal funds available to counties to purchase HAVA compliant DREs and will provide up to 100% of the cost of purchasing such systems depending on the availability of Federal funds and prudent purchase of machines. If a county purchasing the HAVA compliant DRE system has received Title I funds provided by section 102 of HAVA, the amount of the Title II reimbursement for DRE purchases would be reduced by the dollar amount received under section 102. Counties that choose not to purchase a DRE system would receive up to 50% of the cost of purchasing a new voting system, depending on the availability of Federal funds. If a county that purchases a voting system other than a HAVA compliant DRE system has received Title I funds under section 102 of HAVA, the amount of the Title II reimbursement for the voting system purchase would be reduced by the dollar amount received under section 102. The Commonwealth plans to encourage the procurement of HAVA compliant DRE systems in part because section 301(a)(3)(B) of HAVA effectively obliges all counties to purchase at least one DRE device for each precinct to accommodate individuals with disabilities.[8] Thus, the Commonwealth believes that the purchase of DRE machines for all voters would be the most efficient use of Federal, State and local funds.

- The Commonwealth plans to encourage counties that decide to use an optical scan or punch card electronic voting system to procure precinct scanners, rather than opting for central count systems with a voter education program as HAVA permits.

- The Commonwealth plans to request a waiver authorized by section 102(a)(3)(B) of HAVA[9] to postpone replacement of lever machines and punch card systems. The effect of the waiver would be to require replacement of the voting systems no later than the Federal elections held after January 1, 2006, instead of by January 1, 2004. The waiver is necessary because the Commonwealth must await action of the EAC on what constitutes a HAVA compliant voting system. In addition, each HAVA compliant voting system will have to be reviewed and examined to determine compliance with Pennsylvania law. The Commonwealth plans to work aggressively to expedite the purchase of the new voting systems by the counties before January 1, 2006, but does not believe that it will be physically possible for counties to procure new voting systems for almost 9,000 precincts, train elections officials to correctly operate them, and expect voters to use them within the next five to nine months.

The Department heard testimony at public hearings supporting the use of DRE machines only if they include "voter verifiable ballots," which allegedly provide a paper record of how the voter has voted. The paper ballot produced by the DRE would be deposited into a ballot box upon registering a vote on the DRE and before leaving the voting booth. It is the opinion of the Department of State that current Pennsylvania law does not address the use of such a ballot. Therefore, unless the EAC should interpret HAVA to require a "voter verifiable ballot," or the

Legislature should amend the Pennsylvania Election Code to require one, the Department does not believe it to be within the statutory scheme to permit the use of such a DRE system in Pennsylvania.

**Voting Methods Used in Pennsylvania**

**1. Paper Ballots**

*Summary*: Sixty-six precincts in five Pennsylvania counties used traditional paper ballots in the November 2000 election. HAVA does not mandate the discontinuation of paper ballots, provided that any county choosing to keep paper ballots must implement a voter education program that notifies voters of the effect of over-votes and instructs them how to correct errors. In addition, a county choosing to keep paper ballots is still required to install a disabled-accessible voting system in each polling place for those voters who are unable to vote with a pencil and paper.

*Commonwealth's Planned Actions*: The Commonwealth plans to provide Federal funds to reimburse those counties using paper ballots that purchase a HAVA compliant DRE voting system. Counties that decide to procure a DRE system would have to meet the Pennsylvania constitutional requirement that the voters of those counties approve the use of an electronic voting system through referendum.[10]

**2. Lever Voting Machines**

*Summary*: Sixty-five per cent of the precincts in 26 counties in Pennsylvania used lever voting machines at the November 2000 election. (*See Appendix B.*) Two of these counties, Mercer and Philadelphia, have since purchased DRE systems. Because HAVA requires that all voting systems have a manual audit capacity, the 24 counties now using lever machines must replace them. There were 4,362 qualifying precincts in the 24 counties that used lever machines in November of 2000 and 1,781 qualifying precincts in Mercer and Philadelphia Counties.

*Commonwealth's Planned Action*: The Commonwealth plans to encourage the 24 counties that currently use a lever machine voting system to replace that system with HAVA compliant DREs, instead of choosing other options. However, those counties do have the option to procure an optical scan electronic system using precinct tabulation or a central count system with an education program. Regardless of the system that a county might choose to replace its lever voting system, the Commonwealth plans to distribute the appropriate amount of funds received under section 102 of HAVA from the General Services Administration to these counties when they replace their lever machines.

**3. Electronic Voting Systems**

***a. Punch Card Electronic Voting Systems***

*Summary*: Eleven counties in Pennsylvania used punch cards in 1,030 precincts in the November 2000 election. Although HAVA makes funding available to counties to replace punch card electronic systems, it does not mandate the discontinuation of punch card electronic





systems, provided that any county choosing to keep such a system either install a precinct tabulator at each polling place or implement a voter education program specific to punch card voting that notifies voters of the effect of over-votes and instructs them how to correct errors. In addition, a county choosing to keep a punch card electronic system has to install a disabled-accessible voting system in each polling place for those voters who are unable to vote with punch card ballots.

*Commonwealth's Planned Action*: The Commonwealth plans to encourage those counties using central count punch card electronic voting systems to purchase HAVA compliant DRE systems, instead of moving to tabulation of punch cards in the precincts or an educational program (see above) or by purchasing another paper based system (optical scan). Regardless of the system a county should choose, the Commonwealth plans to distribute to those counties that replace their punch card voting systems the appropriate amount of funds as prescribed by section 102 of HAVA.

***b. Optical Scan Electronic Voting Systems***

*Summary*: All 24 Pennsylvania counties using optical scan voting systems in 1,257 precincts in November 2000 used the central-count method of tabulating ballots. As with paper ballots and punch card electronic voting systems, HAVA does not mandate the discontinuation of optical scan voting systems, provided a disabled-accessible voting system as described in section 301(a)(3) is available in the polling place for those voters who are unable to vote with optical scan ballots. Jurisdictions that do not wish to replace their optical scan voting systems have two options: (1) they may retain those systems by establishing a voter education program that notifies voters of the effect of over-votes and instructs voters on how to correct errors; or (2) they may place a precinct tabulator in each precinct to alert voters to over-votes and immediately allow them the opportunity to correct the error.

*Commonwealth's Planned Action*: The Commonwealth intends to encourage the 24 Pennsylvania counties that use optical scan electronic systems to procure HAVA compliant DRE systems, instead of using precinct tabulators or an education program (as described above). However, if a county should continue to use an optical scan system, the Commonwealth proposes that funding be provided to those counties at a lesser rate than they would have received for purchasing a DRE system.

***c. Direct Recording Electronic (DRE)***

*Summary*: Six counties in Pennsylvania used DREs in November 2000, but most (if not all) of these systems will need upgrades for HAVA compliance. In addition, the systems purchased since the November 2000 election by Mercer and Philadelphia Counties will also require upgrades. None of the systems utilized in these counties complies with the disabled accessibility requirements of HAVA. Consequently, the Department of State might have to review all approved systems to determine whether they have a manual audit capacity and to ensure that they are accessible to individuals with disabilities.

*Commonwealth's Planned Action*: To assist those six counties that were using DREs in the November 2000 General Election (Dauphin, Berks, Greene, Beaver, Montgomery, and Potter) in

upgrading their DREs to comply with the requirements of HAVA, the Commonwealth plans to make Federal funds available to such counties. In addition to the six counties that used a DRE voting system in November 2000, two counties – Mercer and Philadelphia – have since implemented a DRE voting system and, therefore, qualify for the reimbursement under section 102 (see discussion above regarding replacement of lever voting machines). Although Mercer and Philadelphia Counties qualify for reimbursement under section 102 of HAVA, they will be eligible to receive Federal funds for upgrading their current DRE systems to meet HAVA standards.

**4. Absentee Balloting Systems**

*Summary*: In Pennsylvania, all absentee ballots are cast on paper, punch card, or optical scan ballots – depending on the type of voting system used in the county. Because these absentee voting methods fall within the scope of section 301(a)(1)(B) of HAVA,[11] all counties of the Commonwealth will be required to implement an educational program for absentee voters to inform them of the effect of over-voting and instruct them of the method of correcting errors on their ballots.

*Commonwealth's Planned Action*: The Commonwealth plans to encourage all counties using optical scan electronic voting systems to continue using them for absentee ballots. The Commonwealth plans to assure that an education program consistent with section 301(a)(1)(B) of HAVA is conducted for mail-in absentee ballots.

**5. Uniform Definition of What Constitutes a Vote**

In December 2002, the General Assembly established within the Department of State the Voting Standards Development Board. Consistent with the mandate of section 301(a)(6) of HAVA,[12] this seven-member board was required to develop uniform and nondiscriminatory standards that define what constitutes a valid vote cast through a paper ballot and what constitutes a valid vote through each type of electronic voting system used in the Commonwealth. The Voting Standards Development Board was required to adopt standards by July 1, 2003, and the Department must publish them as a notice in the *Pennsylvania Bulletin*.[13] The Voting Standards Development Board met its statutory deadline by adopting standards, and the Department of State will publish the standards in the *Pennsylvania Bulletin* on August 2, 2003.

This mandate from the General Assembly assures that Pennsylvania will comply with section 301(a)(6) of HAVA well ahead of the deadline of January 1, 2006. These standards will then serve as guidance for all Pennsylvania counties in determining what constitutes a valid vote cast on their voting systems. Under section 204(d) of the Election Code,[14] the Voting Standards Development Board might meet to update the standards as necessary.

**6. Accessibility of Voting Systems for Electors with Disabilities**

*Summary*: In accordance with section 301(a)(3) of HAVA, all voting systems used in the Commonwealth must be accessible for individuals with disabilities. Since the mid 1980s, all counties under the federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C.





§ 1973ee *et seq.*) have had to insure that polling places are accessible to those electors who are over the age of 65 or have disabilities or to provide an alternative means of voting. However, that act applied to the parking facilities and the paths to the polling places and did not apply to voting systems. Under section 301(a)(3)(B) of HAVA, all counties will need to insure that each precinct in the county will have at least one DRE or other system that meets this requirement.[15]

*Commonwealth's Planned Action*:

- The Commonwealth plans to use part of its requirements payment to reimburse counties that purchase DRE devices for use by individuals with disabilities. Counties purchasing other types of systems would receive partial reimbursement. The Commonwealth plans to make Federal funds available to the counties for purchasing an accessible voting system through county grants.

- The Commonwealth plans to allow counties to choose to comply with section 301(a)(3) of HAVA through any of the following options: (i) procurement by the county government of a disabled-accessible voting device selected by an agency of the Commonwealth; (ii) procurement by the county government of a county-selected disabled-accessible device; or (iii) upgrading of the existing county voting devices, provided that the electronic voting system is certified by the Department of State.

- The Commonwealth plans to enter into contracts to procure disabled-accessible voting devices. In doing so, the Commonwealth plans to include county election personnel and disability groups in the review and selection process. The Commonwealth plans to use this collective procurement process to procure (i) the voting device; (ii) programming/tabulation hardware and software; and (iii) county personnel, poll worker, and voter training materials.

- The Commonwealth plans to ask counties to conduct a survey of all polling places in the Commonwealth to determine their accessibility under the guidelines issued by the Department of State under the Voting Accessibility for the Elderly and Handicapped Act (42 U.S. C. 1973gg *et seq.*).

- In an effort to improve polling place accessibility, the Secretary of the Commonwealth plans to form an advisory task force composed of advocacy groups for individuals with disabilities, alternative language minorities and county representatives to review the current accessibility guidelines used in the Commonwealth, revise them if necessary, and develop procedures to assist counties in increasing the number of accessible polling places in each county. The Commonwealth plans to make Federal funds available to counties to increase the accessibility of their polling places.

**7. Alternative Language Accessibility**

*Summary*: HAVA requires that all voting systems provide alternative language accessibility as provided by section 203 of the Voting Rights Act of 1965 (42 U.S.C § 1973aa-1a). Section 203 applies to those jurisdictions that have a single language minority which is 5% or more of the

voting age population residing within the jurisdiction (i.e., county); and the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate, as determined by the Census Bureau. Currently, Philadelphia County is the only jurisdiction in Pennsylvania that is mandated to comply with the requirements of section 203. However, applying other provisions of the Voting Rights Act, including section 2[16], 4(e)[17] and 208[18], the U.S. District Court for the Eastern District of Pennsylvania held earlier this year that Berks County must provide all election-related materials in English and Spanish in *every precinct* in which the registered number of Hispanic voters constitutes more than five percent of the registered voters, and must have translators available for at least part of the day in many of those precincts. *See United States v. Berks County,* 250 F.Supp.2d 525 (E.D. Pa. 2003).

*Commonwealth's Planned Action*: The Commonwealth plans to assist counties in pursuing ways to make ballots, polling place information and notices, and other voter information available in alternative languages, as well as acting as a clearinghouse for information. The Commonwealth plans to assist counties in obtaining the assistance of interpreters, translation services, and voter information printed in alternative languages to assist counties that have precincts in which significant numbers of alternative language minorities are assigned to vote. The Commonwealth plans to work with representatives of alternative language advocacy groups and county representatives to develop these resources. The Commonwealth also plans to make Federal funds available to counties that pursue alternate language accessibility.

## PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS (HAVA § 302)

Section 302 of HAVA requires States to implement provisional voting by January 1, 2004. Under this Congressional mandate, if an individual declares that he or she is a registered voter in the jurisdiction in which the individual desires to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, the individual must be permitted to cast a "provisional ballot."

To implement the provisional voting requirement, States must:

(1) Require an election official at the polling place to notify the individual that he/she may cast a provisional ballot.

(2) Require that the individual be permitted to cast a provisional ballot at the polling place upon the execution of a written affirmation by the individual before an election official at the polling place affirming that the individual is a registered voter in the jurisdiction in which the individual desires to vote and eligible to vote in that election.

(3) Require an election official at the polling place to transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual to an appropriate State or local election official for prompt verification.





(4) Provide that if the appropriate election official determines that the individual is eligible under State law to vote, the provisional ballot shall be counted as a vote.

(5) Require that, at the time that the individual casts a provisional ballot, an election official must give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain whether his/her ballot was counted and, if the ballot was not counted, the reason that it was not counted.

(6) Require an appropriate election official to establish a free access system that any individual who casts a provisional ballot might access to discover whether the vote was counted and, if the vote was not counted, the reason the vote was not counted.[19]

In addition, section 302(b)(1) of HAVA requires States to assure that election officials cause voting information to be publicly posted at each polling place on the day of each election for Federal office. Mandatory voting information includes:

(A) A sample version of the ballot that will be used for that election.

(B) Information regarding the date of the election and the hours during which polling places will be open.

(C) Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot.

(D) Instructions for mail-in registrants and first-time voters under § 303(b) of HAVA.

(E) General information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.

(F) General information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.[20]

### 1. Provisional Voting in Pennsylvania

*Summary*: The General Assembly in December 2002 amended the Pennsylvania Election Code to conform Pennsylvania law to section 302 of HAVA. The Legislature amended section 1210 of the Election Code (relating to manner of applying to vote; persons entitled to vote; voter's certificates; entries to be made in district register; numbered lists of voters; challenges) to provide for provisional voting beginning December 9, 2003. Under new section 1210(a.4), "an individual who claims to be properly registered and eligible to vote at the election district but whose name does not appear on the general register and whose registration cannot be determined by the poll workers or county election officials [must be] permitted to cast a provisional ballot."[21] In addition, individuals who cannot produce identification as required by section

1210(a), or who seek to vote pursuant to a judicial order, are permitted to vote only by provisional ballot.[22]

Section 1210(a.4)(2) of the Election Code requires a voter, before casting a provisional ballot, to sign an affidavit that is consistent with the requirement of section 302(a)(2) of HAVA. The affidavit must specify the individual's name, date of birth, address of registration, and a sworn statement that, at the time the individual registered, he resided in the municipality and county in which he registered.[23] A provisional voter also must declare that the provisional ballot he is casting is the only ballot that he is casting in the election, and the judge of elections and the minority inspector in the polling place must sign the affidavit.[24]

Provisional voters must place their ballots in a secrecy envelope and a provisional ballot envelope, the outside of which they must sign.[25] As section 302(a)(5) of HAVA requires, the individual casting the provisional ballot must be informed at the polling place of the free access system established by the Department under section 1210(a.4)(8) of the Election Code that he/she might use after the election to determine whether his/her ballot was counted.

Consistent with section 302(a)(3) of HAVA, provisional ballots must remain sealed in the provisional ballot envelope for return to the county board of elections.[26] The procedures for promptly determining whether provisional ballots should be counted track those outlined in HAVA. County boards of elections must determine within three business days after the election whether the provisional ballot will be counted.[27] One authorized representative of each candidate who is an elector in the county must be permitted to remain in the room where the determination is made as to whether to count the provisional ballot.[28]

If the individual casting the provisional ballot is determined to be registered and eligible to vote in the election district where the ballot was cast, the county board of elections must compare the signature on the provisional ballot envelope with the signature on the voter's registration record. If the signatures are determined to be genuine, the ballot will be counted.[29] If the board determines that the individual casting the provisional ballot is not registered, the provisional ballot will not be counted; and the ballot will remain in the provisional ballot envelope and marked rejected as ineligible.[30] If the individual casting the provisional ballot is determined to be eligible to vote, but not in the election district where the ballot was cast, the county board of elections will open the envelope and count only that portion of the ballot that the individual would have been eligible to vote in his proper election district.[31]

As required by section 302(a)(5)(B) of HAVA,[32] Act 150 requires the Department of State to establish an Internet website and toll-free telephone number to permit provisional voters to determine whether their ballot was counted.[33] If the provisional ballot was not counted, the free access system will provide the voter the reason that the ballot was not counted.[34] Security and confidentiality of the information contained in the free access system must be assured as required by section 302(a) of HAVA, and information about individual provisional ballots will be restricted to the person who cast the ballot.[35]

Finally, HAVA provides that voters who vote as a result of a Federal or State court order or any order extending the time established for closing of the polls by State law in effect 10 days





before the election, may vote only by casting a provisional ballot. These ballots will be separated and held apart from other provisional ballots.[36]

*Commonwealth's Planned Action*:

- The Commonwealth plans to use funds received from GSA under section 101 of HAVA for website development and establishment and operation of the toll free line required by section 1210(a.4) of the Election Code (added by Act 150).[37]

- The Commonwealth plans to include as part of its Statewide Uniform Registry of Electors (SURE) system an automated and efficient process that would work in conjunction with the website to enable electors who vote by provisional ballot to track the status of their ballot and for the counties to comply with the provisional ballot processing requirements of HAVA.

- In an effort to create standardized statewide procedures for provisional balloting, the Secretary of the Commonwealth, in consultation with representatives of the county boards of elections and advocacy groups, plans to prescribe the format of the provisional ballot for all voting systems and to prescribe the procedures to be followed in processing and tabulating such ballots. The procedures planned by the Secretary of the Commonwealth would include a notice containing instructions on how to cast a provisional ballot specific to the provisional voting method used by the county. Instructions would be posted in accordance with the applicable provisions of HAVA. The Commonwealth also plans to study ways to provide a voter registration application with the provisional ballot or to design the ballot envelope in such a way as to contain an application for registration.

- The Commonwealth, through the Department of State and in consultation with county representatives, plans to prescribe the content of a Voting Rights and Penalty Card, including uniform language designated for posting general information on voting rights under applicable Federal and State laws; information on the right of an individual to cast a provisional ballot; instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and general information on Federal and State laws regarding prohibitions on fraud and misrepresentations.

## 2. Voting Information Requirements

*Summary*: Section 302(b) of HAVA[38] requires the appropriate State or local official to publicly post certain voting information at each polling place on Election Day. This information must include: a sample version of the ballot; information regarding the date of the election and the hours during which polling places will be open; instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; instructions for mail-in registrants and first-time voters under section 303(b) of HAVA[39]; general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to

have been violated; and general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

The Pennsylvania Election Code provides specifically for the public posting of some of the voting information mandated by section 302(b) of HAVA. However, section 1202 of the Election Code explicitly requires county boards of elections to prepare "full instructions for the guidance of electors ... to be printed in large clear type on separate cards to be called cards of instruction."[40] These cards of instruction and notices of penalties are required by the Election Code to be "posted in each voting compartment, and not less that three such cards and notices of penalties, and not less than five specimen ballots..., [must] be ... posted in or about the voting room outside the enclosed space."[41] In addition, the law requires local elections officials to give available cards of instruction, notices of penalties and specimen ballots to any elector who might request one.[42]

The cards of instruction that Pennsylvania law requires to be posted in the polling places may include within them, or separately in similar large clear type, such other information that might be "deem[ed] advisable."[43] In the judgment of the Secretary of the Commonwealth, sections 1202 and 1209(a) of the Election Code effectively command the county boards of elections to require public posting in their polling places of *all* of the voting information mandated by section 302(b) of HAVA. In other words, where Federal law requires the public posting of particular information in the polling places on Election Day, it is "deemed advisable" as a matter of Pennsylvania law that the mandated postings be made by the county boards of elections and the local boards of elections.

*Commonwealth's Planned Action:*

- The Commonwealth, with its 67 counties, plans to follow the dictates of section 1210 of the Election Code as amended by Act 2002–150, which fully implement HAVA requirements.

- The Commonwealth, through the Department of State and in consultation with county representatives and community stakeholders, plans to prescribe the contents of a notice for posting at each polling place that details the acceptable forms of identification required of voters who appear to vote in an election district for the first time. The Department plans to work cooperatively with counties to develop the format of the notice to facilitate re-production by the county and posting at each polling place for elections occurring after January 1, 2004.

## COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL (HAVA § 303)

Section 303 of HAVA contains two general requirements. First, section 303(a) requires States, by January 1, 2004 (or, if a waiver is requested by the State, no later than January 1, 2006), to implement a computerized statewide voter registration list with computerized list maintenance and mandatory verification of voter registration information.[44] Second, subsection





(b) of HAVA's section 303 requires States to implement certain procedures for voters who register by mail no later than January 1, 2004.[45]

### 1. Computerized Statewide Voter Registration List Requirements (HAVA § 303(a))

Section 303(a)(1) of HAVA requires each State to implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State.[46] The computerized list must:

(i) Serve as the single system for storing and managing the official list of registered voters throughout the State.

(ii) Contain the name and registration information of every legally registered voter in the State.

(iii) Assign a unique identifier to each legally registered voter in the State.

(iv) Connect with other agency databases within the State.

(v) Provide access to any election official in the State, including any local election official, in order to obtain immediate electronic access to the information contained in the computerized list.

(vi) Allow voter registration information obtained by any local election official in the State to be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.

(vii) Provide such support as may be required so that local election officials are able to enter information as described in clause (vi).

(viii) Serve as the official voter registration list for the conduct of all elections for Federal office in the State.[47]

Section 303(a)(2)(A) of HAVA requires that elections officials perform maintenance on the computerized list on a regular basis.[48] The list maintenance must be conducted in a manner that ensures that "(i) the name of each registered voter appears in the computerized list; (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and (iii) duplicate names are removed from the computerized list."[49]

Removal of voters from the computerized list must be accomplished in accordance with the National Voter Registration Act of 1993 (NVRA), 42 U.S.C. § 1973gg *et seq.*[50] In removing names from the computerized list by reason of death, HAVA requires Pennsylvania to coordinate the computerized list with the Department of Health.[51] In addition, HAVA requires that election

officials provide adequate technological security measures to prevent the unauthorized access to the computerized list.[52]

HAVA mandates that State election systems include provisions to ensure that voter registration records in the State are accurate and are updated regularly.[53] States must have a system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters that is consistent with the NVRA,[54] and includes safeguards to ensure that eligible voters are not removed in error from the official list by reason of a failure to vote.[55]

In addition, to assure that voter registration information is accurate before a name is added to the computerized registration list, section 303(a)(5)(A)(i) of HAVA requires that an application for voter registration for an election for Federal office not be accepted or processed by a State unless the application includes the applicant's driver's license number or, if the applicant is not a licensed driver, the last four digits of the applicant's Social Security number.[56] It is the responsibility of the State to determine whether the information provided by an individual is sufficient to meet the requirements of the law.[57]

To further assure that voter registration information is accurate, HAVA requires the State's chief State election official and the official responsible for the State motor vehicle authority to enter into an agreement to match information in the database to the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable the State officials to verify the accuracy of the information provided on applications for voter registration.[58]

**2. Requirements for Voters Who Register By Mail (HAVA § 303(b))**

Section 303(b)(1) of HAVA requires States, in a uniform and nondiscriminatory manner, to require an individual to meet several requirements if he (i) registered by mail; and (ii) has not previously voted in an election for Federal office in the State, or has not previously voted in a Federal election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with section 303(a) of HAVA. Subject to the exceptions described in the next paragraph, for those individuals who vote in person, the voter must present to the appropriate election official a current and valid photo identification, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.[59] For those who vote by mail – again, with the exceptions described below – the voter must submit the same information with his ballot.[60] Those individuals who are not able to produce required identification are entitled to cast a provisional ballot.[61] These provisions are effective January 1, 2004.

First-time mail registration voters will *not* be required to present identification on Election Day or with their absentee ballots *if* – beginning with registrations submitted on or after January 1, 2003 – (a) the registrant submits the required identification with his registration; or (b) the registrant submits with his registration either a driver's license number or at least the last four digits of his or her Social Security number, and an election official is able to match the information submitted with an existing State identification record bearing the same number, name and date of birth as provided in the registration.[62] In addition, voters who are (i) entitled to





vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff-1 *et seq.*); (ii) provided the right to vote by alternative ballot under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee-1(b)(2)(B)(ii)); or (iii) entitled to vote otherwise than in person under any other Federal law, are not required to satisfy the identification requirements of section 303(b) of HAVA.[63]

Section 303(b) of HAVA also prescribes mandatory contents for mail-in registration forms, beginning January 1, 2004. The mail-in registration forms must include specific questions asking whether the applicant meets citizenship and age requirements to register to vote and advise the applicant not to complete the form if they answer in the negative.

HAVA requires individuals to be informed that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time.[64] If an applicant for voter registration should fail to answer the questions on the mail voter registration form, the registrar must notify the applicant of the failure and provide him with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office, subject to State law.[65]

**3. Pennsylvania Law**

*a. Computerized Statewide Voter Registration List*

*Summary*: On January 31, 2002, the Governor signed Act 3 into law. Act 3, which added chapters to Title 25 of the Pennsylvania Consolidated Statutes, established in Pennsylvania the Statewide Uniform Registry of Electors (SURE) -- a statewide voter registration system.[66] Act 3 provides for the design, development and implementation of the SURE system by the Department of State and the administration of the system by the Secretary of Commonwealth, the chief election official of Pennsylvania.[67] However, under Act 3, the county registration commissions continue to maintain their voter registration records and have sole authority for adding, modifying or deleting records.[68] The Department must implement the SURE system in all counties and full connection is required no later than January 1, 2005.[69]

Prior to Act 3, voter registration administration was largely within the purview of county registration commissions elected by the voters of individual counties or appointed by other county officials or the courts. Each of Pennsylvania's 67 counties administered its own voter registration records, and county officials had virtually no means to crosscheck these records with the records of other counties.

With the passage of the NVRA and the PVRA, there were vastly expanded opportunities for citizens to apply for voter registration. The NVRA also mandated detailed requirements for voter registration administration and provided the counties with substantially more accurate and timely information, confirmed by other government agencies, regarding the relocation of voters. This substantial increase in information, and the mandate to use the information to maintain the accuracy and currency of the voter files, placed a burden on managing the increased file maintenance workloads on the county registration commissions.

Despite county advances made in response to the NVRA and the PVRA, requirements for transfers of paper documents between the counties and between State agencies and the counties, combined with the legislative interest in providing a method to discover duplicate registration records, created an interest in a statewide voter registry. Based on the findings of studies conducted by the Department from 1995-2001, the Legislature enacted the Statewide Uniform Registry of Electors (SURE) system in January 2002.

Since the summer of 2002, Pennsylvania has made significant progress in implementing SURE. Last fall, four Phase I counties were brought onto the system in parallel mode, during which those counties tested the system while still relying on the data in their legacy systems as the official record of voter registration. In January 2003, the four Phase I counties began using the SURE system in production mode as the official registration record of their counties. The Department will continue to work to improve the SURE system as testing continues into Phase 2 and before it is fully rolled out to the remaining counties during Phase 3.

*i. Computerized List Maintenance*

*Summary*: Like HAVA, Act 3 requires elections officials to perform maintenance on the computerized list on a regular basis. Section 1203(l) requires that a voter registration commission promptly update information contained in its registration records.[70] The same requirement for prompt updates of information in the SURE system by county commissions is contained in numerous provisions of Title 25.[71] All updates must be performed in accordance with the NVRA.[72]

Section 303(a)(2)(A)(ii)(I) of HAVA requires that, for the purpose of removing names of ineligible voters from the official list, the statewide registry must coordinate with the computerized list with State agency records on felony status.[73] However, under a final decree of the Commonwealth Court of Pennsylvania entered May 14, 2002 (as revised) in *Lorenzo M. Mixon, et al. v. Commonwealth of Pa., et al.*, No. 384 M.D. 1999, citizens of the Commonwealth who have been convicted of a felony may be registered to vote in the Commonwealth and may vote after they have been released from prison. Moreover, there is no provision of Pennsylvania law that requires a registration commission to cancel the voter registration of a registered voter convicted of a felony. Because Pennsylvania neither provides for the removal of voters from the voter registration rolls based on a felony conviction nor prohibits a convicted felon who has been released from prison to register to vote, section 303(a)(2)(A)(ii)(I) of HAVA currently has no application to Pennsylvania.

Both Act 3 and HAVA require that the statewide registration list be administered in coordinataton with the computerized list maintained by the Department of Health.[74] This requirement will be accomplished by connecting the Department of Health with the SURE system.

*ii. Technological Security of Computerized Lists*

*Summary*: Section 303(a)(3) of HAVA provides that the appropriate State or local official must assure adequate technological security measures for the statewide registration system. Section





1222(c)(2) of Title 25 requires the SURE system to ensure the integrity and accuracy of all registration records in the system by prohibiting unauthorized entry, modification or deletion of registration records.[75]

*iii. Verification of Voter Registration Information*

*Summary*: Pennsylvania's Voter Registration Mail Application Form, which appears on the Department's website at www.dos.state.pa.us, meets the requirements of section 303(a)(5) of HAVA requiring a driver's license number or the last four digits of the applicant's Social Security number. If the applicant does not have either number, the instructions on the Pennsylvania VRMA form require the applicant to mark "None" in the space for the last four digits of a Social Security number. If an applicant notes on the form that he does not have either of these numbers, the SURE system must assign a unique identification number to the voter, as HAVA requires.[76]

Because HAVA also requires the sharing of information among State databases for the purposes of verifying the identifying numbers submitted by an applicant, the Department of State plans to enter into an agreement with the Department of Transportation to permit the verification of driver's license numbers and the last four digits of applicants' Social Security numbers. To permit the verification of partial Social Security numbers for those applicants that provide this number instead of a driver's license number, the Department of Transportation is required by sections 303(a)(5)(B)(ii) and (C) of HAVA to enter into an agreement with the Social Security Administration. Once this capability is in place, county voter registration officials should be permitted to submit identifying numbers through the SURE system to the Department of Transportation for verification of their validity.

*Commonwealth's Planned Action*: Act No. 2002-3 authorizes the establishment of a central uniform registry that is HAVA compliant. (*See Appendix C.*) However, because SURE cannot be fully operational by the date specified by section 303(d)(1)(B) of HAVA – January 1, 2004 – the Commonwealth plans to request the waiver authorized by HAVA to extend the deadline for full implementation until January 1, 2006. The Commonwealth plans to use part of its requirements payments to pay for the costs of the SURE system.

*b. Requirements for Voters Who Register By Mail*

As permitted by section 304 of HAVA,[77] Pennsylvania law imposes voter identification requirements that *exceed* the mandate of Federal law. While HAVA requires identification only for certain first-time voters in a jurisdiction who register by mail, the Pennsylvania General Assembly in Act 150 opted to require *all* voters who appear to vote for the first time *in an election district*, present to an election officer either a form of photo identification specified by section 1210(a) of the Election Code or, if none is available, a form of non-photo identification specified by section 1210(a.1) of the Election Code. Those first-time voters who are unable to produce proper identification may vote only by provisional ballot.[78]

Under Act 150, a voter can present either a photo identification or non-photo identification. Below is a list of forms of identification expressly permitted by section 1210 of the Election Code, as amended by Act 150:

*Photo Identification*[79]

- A valid driver's license or identification card issued by the Department of Transportation.
- A valid identification card issued by any other agency of the Commonwealth.
- A valid identification card issued by the United States Government.
- A valid United States passport.
- A valid student identification card.
- A valid employee identification card.
- A valid armed forces of the United States identification card.

*Nonphoto Identification*[80]

- Nonphoto identification or other document issued by the Commonwealth or any of its agencies showing the name and address of the voter.
- Nonphoto identification or other document issued by the United States Government or any of its agencies showing the name and address of the voter.
- A firearm permit showing the name and address of the voter.
- A current utility bill showing the name and address of the voter.
- A current bank statement showing the name and address of the voter.
- A paycheck showing the name and address of the voter.
- A government check showing the name and address of the voter.

Section 303(b)(2)(A) of HAVA[81] lists forms of identification similar to those listed in Act 150. Although HAVA does not delineate examples of the "current and valid photo identification," it is the opinion of the Department that all of the types of photo identification included in Act 150 qualify. Likewise, the following items of nonphoto identification are included in both Act 150 and HAVA: "current utility bill, bank statement, government check, and paycheck." Furthermore, sections 303(b)(2)(A)(i)(II) & (ii)(II) of HAVA generally allow as a proper form of identification any "government document that shows the name and address of the voter."[82] This provision of HAVA is almost identical to section 1210(a.1) of the Election Code, which requires election officials to accept a "nonphoto identification issued by the Commonwealth or any agency thereof," or a "nonphoto identification issued by the United States Government or agency thereof."

The deadline for implementation of section 303(b) with respect to individuals who register to vote was January 1, 2003. By that date, mail-in applicants for voter registration were to be offered the opportunity to avoid HAVA's Election Day voter identification requirement for first-time mail-registration voters by providing proper identification to voter registration officials with their voter registration applications. However, Pennsylvania law – beginning December 9, 2003 – will require *all* Pennsylvania electors voting in person for the first time in an election district to produce identification when they vote, irrespective of how they registered to vote. Consequently, the option prescribed by HAVA for mail-in registrants to avoid HAVA's Election Day identification requirement (which are not in force until January 1, 2004) has no application for Pennsylvania voters who vote in person.





In addition to the exemptions noted previously at section 303(b)(3)(C) of HAVA,[83] there are additional exceptions related to the identification requirements in Act 150. Because Act 150 requires identification only of a voter who "appears to vote" in an election district for the first time, Pennsylvania's strict identification requirements do not apply to first-time voters who vote through the Federal alternative ballot or other Federal law alternatives that are exempted from the first-time voter identification requirements of HAVA. Consequently, consistent with HAVA, those voters are *not* required by Pennsylvania law to produce identification when they vote for the first time in an election district.

Finally, sections 303(b)(3)(A) and (B) of HAVA[84] will apply to first-time Pennsylvania voters who vote by absentee ballot. This is so because Act 150 does *not* require voters who vote for the first time in an election district by absentee ballot under *Pennsylvania* law to provide identification with their absentee ballots. By contrast, HAVA *does* require that a voter who registered by mail and who seeks to vote *in a county* for the first time by means of an absentee ballot, must provide proper identification with his ballot, unless the voter has submitted proper identification or identifying information with his mail-in voter registration. Because Pennsylvania law is silent regarding first-time voters who do not appear in person, Pennsylvania election officials must follow section 303(b)(2)(A)(ii) of HAVA[85] for those voters. Under HAVA, an absentee voter who has registered by mail, is voting for a Federal office, and is voting for the first time in the county, must be required to submit a proper form of identification with his or her ballot. If an absentee voter does not include such identification with his or her ballot, the ballot must be treated as a provisional ballot and handled according to Pennsylvania law. However, absentee voters who have submitted acceptable identification or a valid driver's license or partial Social Security number with their voter registration application would be exempt from this requirement.[86]

The Department of State plans to devise a system to identify first time voters on the district registers produced through the SURE system to assist counties and district election officials. Through such a system, the Commonwealth will strive to assure that only first-time voters are required to produce identification on Election Day or with their absentee ballots.

*i. Contents of Mail-In Registration Form*

Section 303(b)(4) of HAVA specifies new requirements for the contents of mail-in registration forms.[87] Section 1327(a)(1) of Title 25 requires the Secretary of the Commonwealth to prescribe the form of an official voter registration application for use in the Commonwealth and lists mandatory information that must be included on the official application. In addition, under section 1327(a)(2) of Title 25, the data required on the voter registration application may be neither more nor less than the minimum data elements permissible for Federal voter registration. Because HAVA changed the contents of the form for Federal voter registration, Pennsylvania adjusted the contents of its forms in its regulations to be consistent with HAVA. The new forms were posted on the Department of State's website in January 2003, and revised forms are in the process of being printed for distribution across the Commonwealth.

Section 183.1 of the Department of State's regulations governing the SURE system[88] specifies the contents of Pennsylvania's voter registration mail application (VRMA) form. These new requirements mandate that specific questions related to the applicants citizenship and age be included on the VRMA, in compliance with section 303(b)(4) of HAVA.[89] Section 183.1 also mandates the inclusion of the registration declarations required by section 303(b)(4)(A) of HAVA.[90]

Section 303(b)(4)(A)(iv) of HAVA requires that a mail registration form include a statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, identification information must be submitted with the mail-in registration form in order to *avoid* the additional identification requirements upon voting for the first time.[91] However, voters in Pennsylvania who are voting in person for the first time at an election district cannot avoid the requirement imposed by Act 150 to produce identification at the polling place by providing identification with their voter registration application. Consequently, section 303(b)(4)(A)(iv) of HAVA is largely irrelevant to Pennsylvania voters.

*Commonwealth's Planned Action*: The Commonwealth and its 67 counties plan to follow the dictates of section 1210 of the Election Code, which comports fully with the requirements of HAVA. The Department of State plans to be responsible for prescribing the content of the notice that will be posted at each polling place detailing the acceptable forms of identification required of voters who appear to vote in an election district for the first time. The Department will work cooperatively with counties to develop the format of the notice to facilitate re-production by the county.

The Department also plans to work with the counties and voters' groups to educate voters regarding the voter identification requirements imposed upon first-time voters by Act 150 and the rights of such voters to cast a provisional ballot in the event that they are unable to produce identification required by section 1210(a) or 1210(a.1) of the Election Code.





***STATE PLAN ELEMENT 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 State Plan Element 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 units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under State Plan Element 8.*

*HAVA Section 254(a)(2) (42 U.S.C. § 15404(a)(2)).*

Section 254(a)(2) of HAVA requires the Commonwealth to describe in its State Plan how it plans to distribute the requirements payments that it receives under Title II of HAVA to units of local government and other entities in the State for the purpose of meeting the requirements of Title III and, if permissible, other activities to improve the administration of elections. The provision also requires the Commonwealth to describe the criteria that it plans to use to determine the eligibility of the units of local government and other entities in the Commonwealth; and the methods it plans to use to monitor the funds that it distributes consistent with the performance goals and measures it intends to use to determine success in carrying out its plan.[92]

The Commonwealth's goal is not only to bring each of its counties into compliance with HAVA, but also to allow them the opportunity to utilize their creativity to expand election administration improvements beyond HAVA. With limited funding available and anticipating many worthwhile projects, the Commonwealth is committed to distributing money from the requirements payment using the most equitable and cost-effective methods.

To the extent authorized by Federal law, the Commonwealth plans to agree that Federal funding allocated to a county by the Commonwealth would remain reserved for use by that county until (a) the county had completed its programs in accordance with its county plans and agreements; and (b) both the Secretary of the Commonwealth and the county board of elections have agreed that the county is in full compliance with HAVA's requirements.

When counties request funding to purchase new voting systems or upgrade existing voting systems, the Commonwealth plans to require them to substantiate the number of individual voting units purchased and to provide detailed information to the Secretary of the Commonwealth regarding planned county and/or vendor-conducted "how to vote" education programs for electors. The Commonwealth plans to require counties to determine the illustrative methods they will use, such as press releases; public service announcements; "how to vote" pamphlets; placement on county websites; newspaper advertisements; public demonstrations;

and voting demonstrations at meetings of political, civic, community, senior citizen, and disability groups.

The Commonwealth plans to require counties to provide information to the Secretary of the Commonwealth regarding vendor-conducted election staff training on operation and maintenance of the selected voting system and planned on-site vendor support for the first two elections the system is used.

## COUNTY PLANS

The Commonwealth believes that it is important for the counties to play a major role in determining what measures they believe will bring the county into full compliance with HAVA and provide the best resources for its voters. To do this in a meaningful manner, the Commonwealth believes that each county will need to set forth its ideas and plans in a written format, or "County Plan," that would provide details regarding the projects the county would implement using funds from the requirements payment and what non-monetary resources the county would commit to the projects. One element of the county plans would be a description of how the county intends to maintain its current level of county funding of election administration activities. HAVA requires that States maintain the level of election administration funding used in November 2000. Section 254(a)(7) of HAVA makes it clear that the requirements payments are not intended to supplant current State funding of election administration activities. By the same token, the Commonwealth does not intend to use HAVA funding to supplant county funding of election administration.

## COUNTY AGREEMENTS

Prior to any disbursement of funds, the Commonwealth plans to require the counties requesting funding to enter into an agreement with the Department of State, establishing a contractual relationship. The county agreement would set forth:

- The amount of funding the Commonwealth is providing from the requirements payment.
- The project for which that funding is provided.
- The amount of the county match for the project.
- The project schedule and timeline.
- The schedule of disbursement for the funding.
- County reporting requirements regarding the expenditure of the funds;
- An audit provision to ensure that the Commonwealth is able to completely account for all funding provided to the county.
- The penalties incurred by the county for non-compliance with the agreement.

Through the county agreements with the Department, the Commonwealth would require counties to procure services, supplies, or technology in accordance with laws and policies governing county procurement, including competitive bidding requirements. It is the goal of the Commonwealth that any procurement contracts that expend Federal money be awarded through a





process that is fair and open to all qualified vendors. The Commonwealth anticipates that a County Plan would be a part of a County Agreement.

By requiring county agreements, the Commonwealth hopes to minimize miscommunication with the counties as to what will be required of both parties in utilizing the Federal funding. Understanding the basic nature of this type of initiative, the Commonwealth expects that the county agreements would contain a mechanism to modify the agreement to address various issues that may arise. Additionally, the Commonwealth wishes to ensure that the counties are working toward full compliance with the mandates of HAVA. Through the county agreements, the Commonwealth intends to set forth the consequences to the counties should they fail to use and account for the funds in accordance with HAVA and the County Agreement.

The Commonwealth plans to use the county plans as a means to determine a county's compliance with HAVA. The Commonwealth anticipates that the Department would prescribe the format of the county's report detailing the specific items for which funding might be available and the potential actions a county might take to qualify for funding, as well as required HAVA and Act 150 mandates. In addition, the Department plans to provide training to counties to assist them in completion of the county plan.

## OTHER PLANS RELATING TO DISTRIBUTION AND MONITORING OF FUNDING

Should Federal funds be available, the Commonwealth also intends to consider funding to other entities (*e.g.*, "Kid Vote," mock elections, League of Women Voters, *etc.*) that request funding. These entities would be required to enter into an agreement with the Department of State similar to those with the counties. The Secretary of the Commonwealth would determine the amount available to such entities.

All funding to be distributed to counties and other entities would be deposited in accounts and maintained by the Treasury Department and distributed to the recipient consistent with the policies and procedures established by the Commonwealth's Office of the Budget and Treasury Department.

***STATE PLAN ELEMENT 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 of HAVA.*

*HAVA Section 254(a)(3) (42 U.S.C. §15404(a)(3)).*

Section 254(a)(3) of HAVA requires the Commonwealth to describe in its State Plan how it will provide for voter education, election official education and training, and poll worker training that will assist the Commonwealth in meeting the requirements of Title III.

Because many counties will be purchasing new voting systems over the next several years, the Commonwealth and its county boards of elections must ensure that voters fully understand how to vote on these new systems well in advance of Election Day. In fact, the General Assembly explicitly recognized the need for well-trained and educated county election officials when it passed Act 150 of 2002 in December. Act 150 gives the Secretary of the Commonwealth the authority to develop a voluntary professional certification and poll worker-training program for county election officials.[93]

## VOTER EDUCATION

The Commonwealth believes that voter education is the solution to eliminating much of the confusion that led to the debacle in Florida during the November 2000 election. Therefore, Pennsylvania, through the Department of State, plans to embark on an extensive education effort using all the tools at its disposal to educate its voters regarding their voting rights and the correct procedures to be used at their polling place.

Through the Department of State, the Commonwealth plans to do the following:

- Develop an extensive voter education and outreach program. The planned education program, to be developed in consultation with representatives of county governments and advocacy groups for alternative language minorities, individuals with disabilities and other advocacy groups, would be aimed at encouraging voter registration and participation and educating voters of the correct voting procedures (including what constitutes a vote) in all communities and encourage their participation in every election.

- Inform newly registered voters of identification requirements.

- Inform all potential voters of provisional ballot requirements.





- Distribute training materials to county elections offices to allow them to augment the Department of State's voter education program. This planned education effort would not supplant any county voter education programs required by section 301(a)(1)(B) of HAVA.[94] As part of its planned training of county election personnel, the Department of State would conduct or facilitate training seminars on the uniform definition of what constitutes a vote.

- Produce additional HAVA compliant voter registration applications and distribute them to all registration agencies, the 67 county registration offices and civic organizations that are interested in voter registration.

- Provide voter education materials in alternative languages in those jurisdictions falling under section 203 of the Voting Rights Act, as well as those jurisdictions with responsibilities to adhere to the requirements of other provisions of the Act, including sections 2, 4(e) and 208; to offer to act as a resource to assist counties requesting alternative language interpreters at polling places; and to make available alternative language voter education materials to all other jurisdictions irrespective of their coverage under section 203 and groups who request them. The Department of State plans to work closely with the county boards of elections, academic institutions, community organizations, and other partners to meet the alternative language requirements of HAVA and the Voting Rights Act.

- Produce public service announcements to educate voters and encourage voter participation. PSAs would be produced in alternative languages to further encourage voter participation by citizens whose primary language is not English.

- Work with various agencies of the Commonwealth government, colleges, high schools and community groups to publish and distribute information to client groups. The Department plans to schedule public service announcement elements of a voter education program no later than six weeks before the first primary or election in which HAVA requirements are in effect.

- Continue the development of the partnership already established with the Pennsylvania Department of Education to conduct Mock Elections in all 501 of Pennsylvania's public school districts.

- Encourage all agency voter registration sites to take a more pro-active role in distributing voter education information and to ask that they include informational pamphlets in their agency mailings, including driver's licenses and public assistance checks. The Secretary of the Commonwealth plans to make various public appearances to encourage voter participation. In addition, the Department of State would work with the Pennsylvania Cable Network (PCN) and Pennsylvania institutions of higher learning to put voter education broadcasts on television throughout the Commonwealth and further to develop and market the website of the Department of State.

## EDUCATION FOR STATE/COUNTY OFFICERS

The Department of State plans to develop and implement a comprehensive training course for county election officials. The program would be developed in consultation with a voluntary training workgroup that would consist of the members of the State Plan Advisory Board, members of the executive boards of the Eastern and Western County Election Personnel Associations, representative institutions of higher education, and representatives of alternative language and disability groups. The course would include training on the administration of elections; the specifics of Federal and State election laws; court decisions that affect Pennsylvania elections; Department of State directives; and programs, policies and methods designed to provide access to the election process.

The Department of State also plans to continue to offer seminars on election procedures to all county election personnel at the annual state election official's conference and to offer training through video conferencing.

## POLL WORKER EDUCATION

The Commonwealth, through the Department of State, plans to develop, implement and conduct an extensive program to educate district election officials (*i.e.*, poll workers) regarding the current law and procedures relative to processing voters on election day, the operation of the voting systems, and the procedures to follow when canvassing votes and counting ballots (including absentee and provisional ballots) after the close of the polls. To do so, the Department would develop a video training session; hire staff to conduct the training to insure that counties are using consistent standardized procedures in every polling place on election day; further develop the Department's website; and work with colleges and universities in the production of the video and conducting training sessions through PCN. The Department plans to work with counties and key stakeholders in the community to develop the training program. In partnership with representatives from the disability community, alternative language minority and other minority communities, the Department intends to assist poll workers in whatever ways possible to understand the needs of individuals with disabilities and those who communicate using alternative languages.





***STATE PLAN ELEMENT 4*** *How the State will adopt voting system guidelines and processes that are consistent with the requirements of section 301 of HAVA (relating to voting systems standards).*

*HAVA Section 254(a)(4) (42 U.S.C. § 15404(a)(4)).*

Section 254(a)(4) of HAVA requires the Commonwealth to describe in its State Plan how it plans to adopt voting system guidelines and processes that are consistent with the requirements of section 301 of HAVA, including the requirement for a computerized statewide voter registration list and new federal requirements for voters who register by mail.

Among the changes made by the Pennsylvania Legislature in Act No. 2002-150 are provisions dealing with the approval of voting systems. All voting systems used in Pennsylvania must be examined and approved by the Secretary of the Commonwealth. However, until the passage of Act 150, there was no requirement that the Federal authority that administers the Voting System Performance and Test Standards also to have approved that electronic voting system.

Under Act 150, section 1105-A of the Election Code[95] requires all electronic voting system vendors to provide proof of Federal certification before presenting their electronic voting systems to the Secretary of the Commonwealth for approval. For now, this means that the voting systems must have been approved according to standards developed by the Federal Election Commission. After the establishment of the Election Assistance Commission, section 1105-A requires that electronic voting systems be approved according to the standards adopted by the Commission prior to approval in Pennsylvania. Consequently, no new electronic voting system may be approved in Pennsylvania without meeting the high standards of the Federal government, including "second chance voting," accessibility standards for individuals with disabilities, error rate, and audit capacity requirements. Electronic voting systems approved by the Secretary of the Commonwealth before the establishment of these standards will be reexamined to ensure compliance with HAVA.

***STATE PLAN ELEMENT 5***

*How the State will establish the fund required by section 254(b) of HAVA (relating to requirements for election fund) for purposes of administering the State's activities under Part 1 of HAVA (relating to requirements payments) of Title II, Subtitle D (relating to election assistance), including information on fund management.*

*HAVA Section 254(a)(5) (42 U.S.C. §15404(a)(5)).*

Section 254(a)(5) of HAVA requires the Commonwealth to describe in its State Plan how it plans to establish the election fund required by section 254(b) of HAVA, including information on fund management. The purpose of the required election fund is to administer the State's activities relating to its requirements payments. Section 254(b) requires an election fund to be "established in the treasury of the State government," "exclusively to carry out the activities for which the requirement payments" have been made to the State.[96] The election fund is to include:

(A) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment [has been] made to the State....

(B) The requirements payments made to the State under [HAVA Part II].

(C) Such other amounts as may be appropriated under law.

(D) Interest earned on deposits of the fund.[97]

The Commonwealth recognizes the need to keep the funds from the requirements payment, together with State funds appropriated or designated by the State for carrying out the activities for which the requirements payment has been made, completely separate and independent from other funds to ensure that the requirements payments and earmarked State funds are used exclusively for activities mandated by HAVA. The Commonwealth has established a fund and a separate appropriation for funding for the requirements payments in accordance with Commonwealth procedures. The Commonwealth plans to manage the election fund as a restricted account in accordance with Federal and Commonwealth standards and policies. The Department of State's HAVA Administrator, the Department's Budget Director, and the Secretary of the Commonwealth, each by personal signature, must approve all expenditures out of this account – and only if accompanied by documentation describing the expenditure, such as an approved county agreement or an invoice under such an agreement.





***STATE PLAN ELEMENT 6***

*The State's proposed budget for activities under Part II of HAVA, 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.*

*HAVA Section 254(a)(6) (42 U.S.C. § 15404(a)(6))*

Section 254(a)(6) of HAVA requires the Commonwealth to describe in its State Plan a budget for its proposed activities and anticipated expenditures for those activities.

The reform effort that HAVA represents is extensive and far-reaching. But its success is dependent on Federal funding. Pennsylvania's plan presumes full funding according to the timetable contained in HAVA. It is essential that Congress and the President adhere to the funding timetable and the funding amounts authorized by HAVA. If full funding is not forthcoming on the schedule established by HAVA, the success of this plan will be jeopardized.

The General Services Administration has released funds authorized by Title I of HAVA that, combined under sections 101 and 102, amount to $34,240,120. Unfortunately, since the Election Administration Commission has not yet been formed to develop and announce specifics relating to Title II, the responsible Federal agency has been unable to announce any specific funding estimates. Dollar amounts are, therefore, difficult to predict. However, the Congressional Research Service (CRS) estimates that full funding for Pennsylvania under HAVA for both Title I and Title II receipts will total $162,671,095. This estimate was based on Title I receipts of $33,951,606. CRS estimates that $128,719,489 of that amount represents Title II funding. Based on the actual Title I funding and the CRS estimate for Title II, Pennsylvania's allocation under HAVA is expected to total $162,959,000.

Consistent with section 253(b)(5) of HAVA, the funds appropriated by the General Assembly and expended by the Commonwealth for the SURE system enacted in January 2002 satisfy the 5% State match required by HAVA. The 5% match requirement is calculated as 5% of the combined State and Federal expenditure for HAVA activities. This calculation requires a multiplier of 0.0526 of the Federal funds and is estimated to be $8,571,000, well under the amount already appropriated by the Commonwealth.

**Distribution of Federal Funds**

The Commonwealth plans to distribute Federal dollars using a 72/28 split of Federal monies. Counties would receive 72% of the funding; the Commonwealth government would receive 28%. The Funds would be distributed in four ways, as follows:

*Section 101 Funds*: Section 101 funds would be split between the counties and the Commonwealth. Twenty-six percent (26%) would be distributed to the counties for the following:

| PURPOSE | AMOUNT |
|---|---|
| Polling Place Accessibility | $1,000,000 |
| County Grants (*See below*): | $2,000,000 |
| TOTAL | $3,000,000 |

The State government would receive seventy-four percent (74%) of the section 101 funds, as follows:

| PURPOSE | AMOUNT |
|---|---|
| Statewide Voter Registration Database | $3,500,000 |
| Voter Education/Voter Outreach | $ 2,000,000 |
| Poll-worker Training | $ 750,000 |
| County Election Official Training | $ 100,000 |
| Alternative Language Assistance | $ 500,000 |
| Provisional Ballot Hotline/Website | $ 400,000 |
| Administrative Expenses/Complaint Procedures | $ 823,168 |
| Miscellaneous/State Plan Expenses | $ 250,000 |
| TOTAL | $8,323,168.00 |

*Section 102 Funds*: Qualifying counties would receive 100% of the Federal funds provided under section 102 of HAVA. These funds would be distributed to the 26 counties using lever voting machines in 6,143 precincts at the November 2000 election and to the 11 counties using punch card systems (1,030 precincts) to purchase HAVA compliant DREs or other HAVA compliant systems. Funds received: $22,916,952.

*Title II Funds*: Of the Federal funds received under Title II, 70.8% would be set aside for the counties; and 29.2% would be reserved for the Commonwealth government.

*County Grant Funds*: A portion of Title II monies would be set aside for polling place accessibility. The remaining portion of the county Title II monies and a portion of the section 101 monies as described above would be placed in a County Grant Fund and distributed to the counties based on their County Plan. In distributing these funds, priority would be given to modernizing voting systems. The Department will distribute the funds on an equitable basis to all counties. To receive the funding from the County Grant Fund, a county would have to file a county plan for the use of Federal funds and sign a county agreement. The County Grant funds





could be used for the purchase of voting equipment, the purchase of accessible voting machines, voter education, poll-worker training, and other HAVA requirements.

*Funds to be Used by the Commonwealth Government*: The Commonwealth would receive 29.2% of the Title II monies (requirements payments). These monies would be put into a separate account and used to implement HAVA requirements, including the statewide vote registration database, voter education programs, poll-worker training and administrative expenses.

The chart below lists activities and costs of HAVA to be implemented in Pennsylvania. Column B represents the portion of the total Federal fund expenditure appropriated under section 101 and Title II monies (unless otherwise noted) for each activity outlined in this plan. The data provided in the chart assumes full funding, including the approximate $25 million shortfall Pennsylvania experienced in the 2003 appropriation. Should the Congress fail to provide the amounts authorized by HAVA, funding amounts for each activity would be reduced proportionately, based on the percentage of the total funding the activity represents.

| A. ACTIVITY | B. PERCENTAGE OF TOTAL AUTHORIZED BY SECTION 101 AND TITLE II | C. JURISDICTION | D. PURPOSE |
|---|---|---|---|
| Voting Systems | 100% of § 102 Monies | County | For the purchase of new voting equipment pursuant to § 102 of HAVA |
| Voter Registration Database | 14.5% | State | Development of statewide voter registration list |
| Voter Education/Voter Outreach | 6.3% | State/County | To educate voters re: election procedure, increase voter participation, and make available additional voter registration applications |
| Poll Worker Training | 2.3% | State/County | To train all poll workers in the uniform procedures to be used at the polling places on Election Day. |
| Election Officer Training | 0.4% | State | Train State and county officials in all Federal and State procedures related to elections |
| Polling Place Accessibility | 2.9% | County | To bring polling places standards up to meet the Federal law. |
| Alternative Language | 2.9% | State/County | To make election materials |

| | | | |
|---|---|---|---|
| Accessibility | | | and information available to jurisdictions having alternative language minorities |
| Administrative Expenses/Implementation Costs | 3.4% | State | For Commonwealth personnel to administer HAVA and other costs for implementation |
| Provisional Voter Hotline/Website | 0.5% | State/County | To establish the HAVA required Website and toll free line |
| Miscellaneous/State Plan Expenses | 2.5% | State | For grants to independent groups; unforeseen costs in implementing HAVA; and development of the State Plan |
| County Grants to Implement the Provisions of HAVA | 64.4% | County | Includes activities outlined in the County's Plan, including the purchase of HAVA compliant voting systems and other requirements of HAVA. |

The efficient allocation and expenditure of Title I and Title II funds is vitally important to the overall success of providing both the counties and the Commonwealth with the maximum resources available both to implement the requirements of HAVA and to continue to improve the administration of elections for Commonwealth voters.





***STATE PLAN ELEMENT 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.*

*HAVA Section 254(a)(7) (42 U.S.C. § 15404(a)(7)).*

Section 254(a)(7) of HAVA requires the Commonwealth to describe in its State Plan how it will use the requirements payment consistent with the Commonwealth's obligation under HAVA to maintain its pre-November 2000 expenditure effort for the activities that it will use the requirements payments to support.

Though the Commonwealth appreciates the commitment that the Federal government has made to election assistance both by enacting HAVA and providing funding to the States to allow them to fully realize the ultimate goals of HAVA – a free and open election process for all citizens – the Commonwealth realizes that it still has the primary responsibility to maintain the programs that it was funding prior to November 2000 and to develop new and innovative programs to make the Commonwealth a leader in election administration.

To this end, in using its requirements payment, the Commonwealth plans to maintain expenditures of the State for activities funded by the payment at a level no less than the level of such expenditures in FY 1999-2000. In addition, the Commonwealth plans to ask each county to file an annual report to assure the Commonwealth that each county has complied with the requirement of HAVA that the State maintain its pre-November 2000 effort as a condition of receiving funds under Title II of HAVA.

***STATE PLAN ELEMENT 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.*

*HAVA Section 254(a)(8) (42 U.S.C. § 15404(a)(8)).*

Section 254(a)(8) of HAVA requires the Commonwealth to state in its State Plan how it plans to adopt performance goals and measures to be used by the Commonwealth to determine Pennsylvania's success in carrying out the Commonwealth's State Plan.

One of the biggest threats to the success of an initiative is the failure to follow through on progress and to be able to adjust plans as projects move forward and challenges are faced. The Commonwealth has taken a two-pronged approach to ensure that all involved are committed to improving the administration of elections for Pennsylvania citizens. The first prong involves monitoring the county agreements, and the second prong focuses upon the Commonwealth's continued self-assessment of its progress at the State level.

## THE HAVA ADMINISTRATOR

The Commonwealth intends to assign at least one employee of the Department of State the responsibility to oversee the HAVA project. This employee, the HAVA Administrator, would be responsible for monitoring the progress of the counties, overseeing the county agreements, and keeping account of the status of the requirements payment fund. The HAVA Administrator would provide reports to the Secretary of the Commonwealth on a quarterly basis as to the status of the Commonwealth's compliance with HAVA and the various projects established by the counties.

## MONITORING THE COUNTY AGREEMENTS

Through the reporting requirements included in the proposed county agreements, the Department of State should be able to monitor the progress of the county projects and the usage of the funding. The Commonwealth plans to hold the counties responsible for their expenditures of the funding. The Department of State would assist the counties to the extent possible to ensure project success.





## MONITORING OF DEPARTMENT ACTIVITIES

While monitoring the county use of the funds is important, the Department of State also plans constantly to review its progress from two perspectives: the disbursement of funding and its own efforts in meeting the requirements of HAVA.

Through its annual report, the Department of State would inform all interested parties as to the Commonwealth's progress and address any concerns that might require action by the Governor or the General Assembly. Through this report, the Secretary of the Commonwealth would be able to detail potential changes to the Commonwealth's State Plan in advance of beginning the formal process for modifying the State plan under HAVA.

## PERFORMANCE GOALS AND MEASURES

The Department of State plans to establish performance goals and measurement processes to monitor the progress under the State Plan. This would better enable the HAVA Administrator to measure progress in achieving the goals. The Department of State would continuously monitor and review the performance of each initiative that is funded by requirements payment to determine progress.

The planned performance goals listed below are intended to apply to elections that occur during the year identified. The planned performance goals include:

**a. Elimination of lever voting machines and punch card electronic voting systems**

*Timetable*: January 1, 2006

*Criteria*: Replacement of lever voting machines and punch card electronic voting equipment in compliance with Title III requirements for the 24 counties that utilized lever voting machines in the November 2000 Election that still use them and the 11 counties that used punch card electronic systems in the 2002 election.

*Responsible Official*: The county boards of elections, with the cooperation and assistance of the Secretary of the Commonwealth.

**b. Implementation of the Statewide Uniform Registry of Electors**

*Timetable*: January 1, 2006

*Criteria*: Implementation of a single, uniform, official, centralized, interactive, computerized statewide voter registration list and database.

*Responsible Official*: The Secretary of Commonwealth, with the cooperation of each county voter registration office.

**c. Polling place accessibility**

*Timetable*: January 1, 2004

*Criteria*: Survey all polling places in the Commonwealth to determine accessibility under the Federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S. C. 1973gg *et seq.*) and work to increase the number of accessible polling places in Pennsylvania.

*Responsible Official*: The county boards of elections, with the cooperation and assistance of the Secretary of the Commonwealth.

**d. Voter education program**

*Timetable*: January 1, 2004

*Criteria*: Establishment and implementation of a voter education program providing voters with information relative to voting procedures, voting identification, complaint procedures, provisional ballots and voting information specific to each type of voting system that clearly explains to the voter how to correctly cast a ballot; how to correct an error; how to obtain a replacement ballot; and the effect of casting multiple votes for an office.

*Responsible Official*: The Secretary of Commonwealth, with the cooperation of each county board of elections.

**e. Poll Worker/Election Officer Training**

*Timetable*: January 1, 2006

*Criteria*: Establishment and implementation of a training program for district election and county election officials to insure that procedures used in polling places are standardized across the Commonwealth to the greatest extent possible.

*Responsible Official*: The Secretary of Commonwealth, with the cooperation of each county board of elections.

**f. Accessibility for individuals with disabilities**

*Timetable*: January 1, 2006

*Criteria*: Purchase of at least one DRE that is usable by individuals with a disability in each polling place in the State and adequate placement of this equipment throughout counties that have adopted vote-by-mail and increasing the number of accessible polling places in the Commonwealth.

*Responsible Official*: The Secretary of Commonwealth, with the cooperation of each county board of elections.



Commonwealth of Pennsylvania
State Plan

**g. Alternate Language Accessibility**

*Timetable*: January 1, 2004

*Criteria*: Initiate an outreach program to alternate language communities to apprise them of their voting rights and the correct voting procedures and offer alternative language services to the counties requesting them.

*Responsible Official*: The Secretary of the Commonwealth, with the cooperation of each county board of elections.

**h. Provisional Voting**

*Timetable*: January 1, 2004

*Criteria*: Implementation of a free access system in the Department so that the voters can determine if their provisional ballot was counted.

*Responsible Official*: Secretary of the Commonwealth, with the cooperation of each county board of elections.

The Department plans to issue periodic progress reports on the status of implementing the performance goal. After January 1, 2006, when all of the deadlines have passed, the Department plans to produce a report on how the performance goals have been met.

***STATE PLAN ELEMENT 9*** *A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402 of HAVA (42 U.S.C. § 15512).*

*HAVA Section 254(a)(9) (42 U.S.C. § 15404(a)(9)).*

Section 254(a)(9) of HAVA requires the Commonwealth to describe in its State Plan the administrative complaint procedures that it has established as required by section 402 of HAVA.

## SUMMARY OF REQUIREMENTS UNDER STATE PLAN ELEMENT 9

As a condition of receiving any Federal funds, section 402(a)(1) of HAVA[98] requires the Commonwealth to establish and maintain State-based administrative complaint procedures that meet requirements prescribed by section 402(a)(2). Section 402(a)(2)[99] mandates the following requirements:

(A) The procedures shall be uniform and nondiscriminatory.

(B) Under the procedures, any person who believes that there is a violation of any provision of Title III (including a violation that has occurred, is occurring, or is about to occur) may file a complaint.

(C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint.

(D) The State may consolidate complaints filed under subparagraph (B).

(E) At the request of the complainant, there shall be a hearing on the record.

(F) If, under the procedures, the State determines that there is a violation of any provision of Title III, the State shall provide the appropriate remedy.

(G) If, under the procedures, the State determines that there is no violation, the State shall dismiss the complaint and publish the results of the procedures.

(H) The State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period that begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination.

(I) If the State fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures.





## PENNSYLVANIA LAW

Section 11 of Act 2002-150 establishes – effective December 9, 2003 – the uniform, nondiscriminatory State-based administrative complaint procedure required by section 402 of HAVA.[100] The Department of State plans to establish within its Bureau of Commissions, Elections and Legislation or successor bureau a procedure for the review of complaints regarding the administration of Title III of HAVA. The Department also plans to provide a complaint form that would require the signature of the complainant; an affidavit and notarization (as required by § 402(a)(2)(C) of HAVA[101] and § 1206.2(a) of the Election Code[102]); and the attachment of any supporting documentation (as required by section 1206.2(a)).

When a complaint pertains to the Department of State, the Department is required to forward it to the Pennsylvania Office of General Counsel within three business days of its receipt.[103] The Department would then have 20 days either to reach an agreement with the complainant or to file a written response to the complaint.[104] The Office of General Counsel must provide the complainant with a copy of the response and an opportunity for an informal hearing, as required by section 402(a)(2)(E) of HAVA.[105], [106] If a hearing were requested, the Department would be given notice and the opportunity to participate.[107] The Office of General Counsel must issue a final determination and remedial plan, if necessary, no later than 90 days after the filing of the complaint.[108] If the Office of General Counsel should fail to issue its determination within 90 days, it must provide alternative dispute resolution for the disposition of the complaint.[109] The alternative process must be completed within 60 days, as HAVA requires.[110]

When a complaint pertains to a local or county employee or official, the Department is required by section 1206.2(b)(1)[111] to provide the county board of elections with a copy of the complaint within three days of receiving it. The county board of elections would have 20 days under section 1206.2(b)(2)[112] either to reach an agreement with the complainant or to file a written response. The Department would provide the complainant a copy of this response and an opportunity to request an informal hearing, as required by section 402(a)(2)(E) of HAVA and section 1206.2(b)(3) of the Election Code.[113] If a hearing were requested, the county board of elections would be given notice and the opportunity to participate. As both HAVA and the Election Code require, the Department would issue a final determination and remedial plan, if necessary, no later than 90 days after the filing of the complaint. Should the Department fail to issue its determination within 90 days, it would be required to provide alternative dispute resolution for the disposition of the complaint. The law requires the alternative process to be completed within 60 days,[114] as required by HAVA.

Proceedings before the Department and decisions made under section 1206.2 are not considered to be administrative adjudications under the Administrative Agency Law,[115] and a determination made with regard to county complaints is not to be regarded as an agency determination subject to appellate review.[116] Either party in this case may initiate a *de novo* appeal from the Department's final order in the court of common pleas of the county where the election board is located.[117] Determinations made by the Office of General Counsel with regard to complaints made against the Department of State are agency determinations subject to appellate review.[118]

***STATE PLAN ELEMENT 10*** *If the State received any payment under title I of HAVA, 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.*

*HAVA Section 254(a)(10) (42 U.S.C. § 15404(a)(10)).*

Section 254(a)(10) of HAVA requires the Commonwealth to describe in its State Plan how funds that it has received under sections 101 or 102 of HAVA (relating to payments to States for activities to improve administration of elections and replacement of punch card and lever voting machines) will affect the activities that the Commonwealth plans to carry out under the State Plan. Section 254(a)(10) also requires the Commonwealth to state in its State Plan the amount of funds available for its proposed activities.

The Commonwealth plans to use the funding it received under Title I of HAVA to assist the Commonwealth and its counties to accomplish the requirements of HAVA. The Commonwealth intends to use the Title I funding in the following manner

| **Section 101 Funding** | |
|---|---|
| | |
| Polling Place Accessibility | $1,000,000 |
| County Grant Fund | $3,500,000 |
| Statewide Voter Registration Database | $3,000,000 |
| Voter Education | $1,000,000 |
| Poll worker Training | $ 750,000 |
| County Election Official Training | $ 100,000 |
| Alternative Language Assistance | $ 500,000 |
| Provisional Voter Hotline/Website | $ 400,000 |
| Administrative Expenses/Complaint Line | $ 823,168 |
| Miscellaneous/State Plan Expenses | $ 250,000 |
| | |
| Total | $11,323,168.00 |

| **Section 102 Funding** | |
|---|---|
| | |
| Replacement of Lever Voting Machines (6,143 qualifying precincts) and Punch Card Electronic Voting Systems (1,030 qualifying precincts) | $ 22,916,952 |
| | |





***STATE PLAN ELEMENT 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 as required 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 section 255 of HAVA.*

*HAVA Section 254(a)(11) (42 U.S.C. § 15404(a)(11))*

Section 254(a)(11) of HAVA requires the Commonwealth to describe in its State Plan how it will manage the State Plan on an ongoing basis.

Pennsylvania plans to use its State Plan as the basis for managing the activities necessary for the implementation of the requirements of HAVA. The HAVA Administrator, under the guidance of the Commissioner of the Bureau of Commissions, Elections, and Legislation (CEL) and the Secretary of the Commonwealth, would be responsible for the continuous management and implementation of the State Plan.

The HAVA Administrator would be responsible for implementation of that part of the State Plan that is to be carried out at the State level, with county involvement via the State Plan Advisory Board on various projects. The Commonwealth, through the CEL, would be responsible for tracking resource requirements; approving and tracking expenditures of HAVA funds; coordinating decision-making; and ensuring that implementation activities are on track. Additional staff would be hired to administer the various program requirements. The CEL staff would manage the day-to-day coordination and implementation of projects within the State Plan. Responsibilities would include reporting project activities, progress, and resource needs/expenditures, as well as conducting the voter education and poll worker training efforts.

The Commonwealth understands and agrees to comply with HAVA requirements related to ongoing management of the State Plan. Material changes in the administration of the State Plan must be developed in consultation with the State Plan Advisory Board and cannot be made unless the change is published in the *Federal Register*, in accordance with section 255 of HAVA.[119]

The Commonwealth also acknowledges that any change in the State Plan is subject to public notice and comment under section 256 of HAVA[120] and may take effect only after the expiration of the 30-day period beginning on the date the change is published in the *Federal Register.*





***STATE PLAN ELEMENT 12*** *In the case of a State with a State plan in effect under Subtitle D (relating to election assistance) of Title II of HAVA 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 the previous fiscal year.*

*HAVA Section 254(a)(12) (42 U.S.C. § 15404(a)(12)).*

Pennsylvania had no State Plan in effect for the previous fiscal year. However, the Commonwealth embarked on a number of initiatives in election administration over the past few years. The initiatives included the formation of two task forces in 2001 to study voting systems and voting standards; and, in accordance with Act 2002-3, Pennsylvania in 2002 began implementation of a statewide voter registration system. These initiatives should provide a starting point for moving forward with implementation of HAVA in the Commonwealth of Pennsylvania.

In addition, the Pennsylvania General Assembly in December 2002 enacted Act 2002-150, which prescribes procedures for implementing the requirements of HAVA relative to voter identification, provisional ballots, and complaint procedures. Act 150 also establishes an advisory board to develop mandatory standards for what constitutes a vote and a separate advisory board to develop recommendations to develop a State Plan to implement HAVA.

***STATE PLAN ELEMENT 13*** *A description of the committee which participated in the development of the State plan in accordance with section 255 of HAVA and the procedures followed by the committee under sections 255 and 256.*

*HAVA Section 254(a)(13) (42 U.S.C. § 15404(a)(13)).*

Section 254(a)(13) of HAVA requires the Commonwealth to describe the committee that participated in the development of the State Plan as required by section 255 of HAVA and the procedures followed by the committee under sections 255 and 256 of HAVA.[121] Section 255(a) requires the chief State election official to "develop the State plan ... through a committee of appropriate individuals, including the chief election officials of the two most populous jurisdictions within the State, other local election officials, stake holders (including representatives of groups of individuals with disabilities), and other citizens, appointed for such purpose by the chief State election official."[122] Section 256 of HAVA requires the Commonwealth to satisfy certain "public notice and comment requirements."[123]

To facilitate the Secretary of the Commonwealth's compliance with section 255(a) of HAVA, the General Assembly established within the Department of State the State Plan Advisory Board.[124] Intended by the Legislature to be the committee required by section 255 of HAVA, the Board was charged with the responsibility to advise the Secretary of the Commonwealth on development of the State Plan.[125] The Board was required to make recommendations on all aspects of the State Plan.[126]

The Board is comprised of the following members:

(1) One director of elections from a county of the first class [Philadelphia County].
(2) One director of elections from a county of the second class [Allegheny County].
(3) The chairperson of the political party with the highest number of registered voters in the Commonwealth [the Democratic Party].
(4) The chairperson of the political party with the second highest number of registered voters in the Commonwealth [the Republican Party].
(5) Eleven members appointed by the Secretary of the Commonwealth as follows:

(i) Seven directors of elections, one from a county of the second class A and one each from a county of the third, fourth, fifth, sixth, seventh and eighth class.
(ii) One representative of an organization of disabled Pennsylvania veterans.
(iii) One representative of an organization of blind and visually impaired Pennsylvanians.
(iv) Two representatives of the public at large, who shall be registered electors of the Commonwealth.





Election Code § 205(b).[127] The members serve for terms of five years and must meet as needed to fulfill the requirements of the law.[128] Section 205 also imposes several requirements upon the Advisory Board regarding voting, rules and compensation.[129]

Following is a list of the current members of the Board:

Chair V. Kurt Bellman, Director of Elections, Berks County (county of the third class)
Gladys M. Brown, Public At Large Member
V. Rev. Neal Carrigan, Blind & Visually Impaired Pennsylvanians
Vice-Chair Deena K. Dean, Director of Elections, Bucks County (county of the second class A)
Nancy T. James, Administrator, Potter County (county of the eighth class)
Denise W. Jones, Chief Clerk/Director of Elections, Venango County (county of the sixth class)
Lee E. Knepp, Chief Clerk, Snyder County (county of the seventh class)
Robert Lee, Jr., Voter Registration Administrator, Philadelphia County (county of the first class)
Tom McDole, Legislative Committee Chairman, Disabled Veterans of PA
Alan Novak, Chairman, Republican State Committee of PA
Fred G. Pfeiffer, Director of Elections, Lycoming County (county of the fifth class)
Representative T.J. Rooney, Chair, Democratic State Committee of PA
Larry Spahr, Director of Elections, Washington County (county of the fourth class)
Josh Wilson, Public At Large Member
Mark Wolosik, Division Manager for Elections, Allegheny County (county of the second class)

The Board encouraged input from the citizens of the Commonwealth and representatives of interested parties. In an effort to obtain input from a broad range of individuals and organizations, the Board held a public hearing on March 26, 2003, before developing its recommendations. Notice of the hearing was placed in advance on the Department of State's website and published in the *Pennsylvania Bulletin*[130]; *The Patriot-News* of Harrisburg; the *Philadelphia Inquirer*; the *Pittsburgh Post-Gazette*; and the Spanish-language *El Hispano*. At the public hearing, the Board heard testimony from representatives of the American Civil Liberties Union of Pennsylvania, the Pennsylvania Council of the Blind, and Common Cause/PA.

All meetings of the Board were open to public attendees, who were afforded the opportunity to comment during the Board's meetings. The Board was fortunate to receive input from various advocacy groups, including Common Cause/PA; the Pennsylvania League of Women Voters; the Pennsylvania Council of the Blind; the United States Postal Service; and Carlos A. Zayas, a voting rights advocate for the Hispanic community in Pennsylvania. The Board provided public attendees with copies of documents relating to development of the State Plan. In addition, the Department of State advertised in advance the meetings of the Board in the *Pennsylvania Bulletin*,[131] *The Patriot-News* and on the Department of State website.

Meetings of the Board were held on a regular basis, beginning on February 27, 2003. The Board held further meetings on March 26 (public hearing); April 3; April 11; April 17; April 23; May 1; and May 12. On May 12, 2003, the Board presented its recommendations to the Secretary of the Commonwealth.





## APPENDIX A

TESTIMONY AT PUBLIC HEARINGS ON THE
PENNSYLVANIA PRELIMARY STATE PLAN TO IMPLEMENT HAVA

***Reading, July 7, 2003***

Mr. Kurt Bellman, Director of Elections, Berks County
Mr. Bill Chico Ross, Civil Rights Advocate, Abilities in Motion
Mr. Ralph Trainor, Executive Director, Abilities in Motion
Ms. Jo-Ann Zaklielarz, Vice President, Government Relations, AccuPoll, Inc
Mr. Carlos Zayas, Voting Rights Advocate

***Pittsburgh, July 9, 2003***

Mr. Paul O'Hanlon, Pa. Protectiona & Advocacy, Disabilities Law Project, United Cerebral Palsy Association of Pittsburgh District
Mr. Jonathan B. Robinson, Attorney
Mr. Vince Shulte, Unisys
Mr. Fred Smith, Director of Elections, Cambria County
Mr. Regis Young, Director of Elections, Butler County

***Philadelphia, July 14, 2003***

Mr. Barry Kauffman, Common Cause
Ms. Elizabeth Milner, Pa. League of Voters
Ms. Marlene Perkins, Easter Paralyzed Veterans Association
Mr. Wilfredo Rojas, President Delaware Valley Voter Registration Education Project

***Harrisburg SPAB Meeting, July 15, 2003***

William A. Gannon, Pa. Developmental Disability Council
John Kesich, Citizen

***Other Filings***

Brenda Dare, Disability Advocate
Mr. Larry Frankel, Legislative Director, ACLU
Mr. Daryl Wold, Attorney, Orange County, California

## APPENDIX B

*Voting Systems Used in the November 7, 2000 Election in Pennsylvania*

| | | | | | | Affected | Total |
|---|---|---|---|---|---|---|---|
| | | | Electronic Voting Systems | | | # of | # of |
| | Paper | Lever Machine | D.R.E. | Optical Scan | Punch Card | Precincts | Precincts |
| Adams | | | | 51 | | | 51 |
| Allegheny | | 1309 | | | | 1,309 | 1,309 |
| Armstrong | | | | | 74 | 74 | 74 |
| Beaver | | | 129 | | | | 129 |
| Bedford | | | | 42 | | | 42 |
| Berks | | | 180 | | | | 180 |
| Blair | | | | | 97 | 97 | 97 |
| Bradford | | | | 61 | | | 61 |
| Bucks | | 298 | | | | 298 | 298 |
| Butler | | | | | 82 | 82 | 82 |
| Cambria | | | | | 165 | 165 | 165 |
| Cameron | | | | 10 | | | 10 |
| Carbon | | 47 | | | | 47 | 47 |
| Centre | | | | | 85 | 85 | 85 |
| Chester | | | | | 220 | 220 | 220 |
| Clarion | | | | 43 | | | 43 |
| Clearfield | | | | 71 | | | 71 |
| Clinton | 16 | 21 | | | | 21 | 37 |
| Columbia | | | | 57 | | | 57 |
| Crawford | 2 | 65 | | | | 65 | 67 |
| Cumberland | | | | 96 | | | 96 |
| Dauphin | | | 159 | | | | 159 |
| Delaware | | 406 | | | | 406 | 406 |
| Elk | | | | 33 | | | 33 |
| Erie | | 153 | | | | 153 | 153 |
| Fayette | | 105 | | | | 105 | 105 |
| Forest | | | | 9 | | | 9 |
| Franklin | | | | 75 | | | 75 |
| Fulton | | | | 13 | | | 13 |
| Greene | | | 44 | | | | 44 |
| Huntingdon | | | | 58 | | | 58 |
| Indiana | | | | 68 | | | 68 |
| Jefferson | | | | 52 | | | 52 |
| Juniata | | | | 20 | | | 20 |





## APPENDIX B (continued)

| Voting Systems Used in the November 7, 2000 Election in Pennsylvania | | | | | | Affected | Total |
|---|---|---|---|---|---|---|---|
| | | | Electronic Voting Systems | | | # of | # of |
| | Paper | Lever Machine | D.R.E. | Optical Scan | Punch Card | Precincts | Precincts |
| Lackawanna | | 239 | | | | 239 | 239 |
| Lancaster | | 225 | | | | 225 | 225 |
| Lawrence | | | | 106 | | | 106 |
| Lebanon | | 55 | | | | 55 | 55 |
| Lehigh | | 145 | | | | 145 | 145 |
| Luzerne | | 316 | | | | 316 | 316 |
| Lycoming | 12 | 74 | | | | 74 | 86 |
| McKean | 2 | 40 | | | | 40 | 42 |
| Mercer | | 100 | | | | 100 | 100 |
| Mifflin | 1 | 29 | | | | 29 | 30 |
| Monroe | | 54 | | | | 54 | 54 |
| Montgomery | | | 406 | | | | 406 |
| Montour | | | | | 15 | 15 | 15 |
| Northampton | | 139 | | | | 139 | 139 |
| Northumberland | | 94 | | | | 94 | 94 |
| Perry | | | | | 33 | 33 | 33 |
| Philadelphia | | 1681 | | | | 1,681 | 1,681 |
| Pike | | 16 | | | | 16 | 16 |
| Potter | 30 | | 4 | | | | 34 |
| Schuylkill | | | | 167 | | | 167 |
| Snyder | | | | 25 | | | 25 |
| Somerset | | | | 68 | | | 68 |
| Sullivan | | | | 15 | | | 15 |
| Susquehanna | | | | 43 | | | 43 |
| Tioga | | | | 44 | | | 44 |
| Union | | | | | 26 | 26 | 26 |
| Venango | | | | | 49 | 49 | 49 |
| Warren | 3 | 30 | | | | 30 | 33 |
| Washington | | | | | 184 | 184 | 184 |
| Wayne | | 37 | | | | 37 | 37 |
| Westmoreland | | 306 | | | | 306 | 306 |
| Wyoming | | | | 30 | | | 30 |
| York | | 159 | | | | 159 | 159 |
| **Totals:** | **66** | **6,143** | **922** | **1,257** | **1,030** | **7,173** | **9,418** |
| **% of Total:** | **0.7%** | **65.2%** | **9.8%** | **13.3%** | **10.9%** | **76.2%** | |

## APPENDIX C

***Computerized Statewide Voter Registration List Requirements***

| | HAVA Requirements (Section 303(a)) | SURE Compliance (25 Pa. C.S. § 1222) | Notes |
|---|---|---|---|
| 1 | Single (§ 303(a)(1)(A)) | Yes | Section 1222(c) establishes SURE as a "single, uniform integrated computer system." |
| 2 | Uniform (§ 303(a)(1)(A)) | Yes | Section 1222(c) establishes SURE as a "single, uniform integrated computer system." |
| 3 | Official (§ 303(a)(1)(A)) | Yes | Section 1222(c)(6) provides that SURE shall "be the general register for a commission once the commission is connect to the SURE system." Further, 25 Pa. C.S. § 1401(c) specifies that "[a]fter a commission is connected to the SURE system, the general register of the commission shall consist of the registration information contained on the SURE system as maintained by the commission." |
| 4 | Centralized (§ 303(a)(1)(A)) | Yes | Under section 1222, SURE must be maintained and administered by the Department of State. "Upon being connected, each commission shall be required to use the SURE system as its general register." 25 Pa. C.S. § 1222(e). Consequently, after connection, no county registration commission will be permitted to use any other system as its official registration record. The centralized SURE system will be the official registration record of all counties in Pennsylvania. 25 Pa. C.S. § 1222(c)(6). |
| 5 | Interactive (§ 303(a)(1)(A)) | Yes | Section 1222(c) specifies that the SURE system must do all of the following:<br>• Permit the commissions to add, modify and delete information in the system as necessary and appropriate. § 1222(c)(4).<br>• Permit each commission and the department to have instant access to a commission's registration records maintained on the system. § 1222(c)(5).<br>• Provide for the electronic transfer of completed voter registration applications and changes of address. § 1222(c)(8).<br>• Permit auditing of each registered elector's registration record from the day of its creation until the day it is canceled. § 1222(c)(11). |





| | | | |
|---|---|---|---|
| 6 | Computerized (§ 303(a)(1)(A)) | Yes | Section 1222(c) establishes SURE as a "single, uniform integrated computer system." |
| 7 | Statewide (§303 (a)(1)(A)) | Yes | Section 1222(c) provides that "[a]ll [county] commissions shall be connected electronically to the SURE system and maintain their registration records in the system." |
| 8 | Defined at the state level (§ 303(a)(1)(A)) | Yes | Section 1222(a) requires the "[D]epartment [of State] to develop and establish a Statewide Uniform Registry of Electors to be known as the SURE system." |
| 9 | Maintained at the state level (§ 303(a)(1)(A)) | Yes | Section 1223 provides that "[t]he cost of establishment, implementation and maintenance of the SURE system technology and its emergency recovery system shall be borne by the Commonwealth." |
| 10 | Administered at the state level (§ 303(a)(1)(A)) | Yes | In addition to the above, section 1222(f) establishes that "[t]he [S]ecretary [of the Commonwealth] shall promulgate regulations necessary to establish, implement, and administer the SURE system." |
| 11 | Contains the name and registration information of every legally registered voter in the State (§ 303(a)(1)(A)) | Yes | Section 1222(c)(1) specifies that the SURE system must "contain a database of all registered electors in this Commonwealth." |
| 12 | A unique identifier is assigned to each legally registered voter in the State (§303 (a)(1)(A)) | Yes | According to section 1222(c)(3), SURE must "assign a unique SURE registration number to each individual currently registered in this Commonwealth." Additionally, paragraph (10) provides that the system must "assign a unique registration number to each qualified elector who becomes registered and record the registered elector in the general register of the appropriate commission." Also, 25 Pa. C.S. § 1328.1 states that: "Each registered elector shall be assigned a single and unique SURE registration number....Once assigned, a SURE registration number shall not be changed, modified or altered." |
| 13 | Coordinated with other agency databases in the State (§ 303(a)(1)(A)(iv)) | Yes | Section 1222 specifies that SURE must interact with other state agency databases. Specifically, section 1222(c)(7) mandates that SURE must "permit the sending of notices [from the Department of Health] to the appropriate officials regarding death, change of address or other information that could affect the qualifications of an applicant or registration of a registered elector." Further, SURE is required to "provide for the electronic transfer of completed voter registration applications and changes of address." § 1222(c)(8). The sending of notices and other information specified above mandate that SURE |

| | | | |
|---|---|---|---|
| | | | must interface with the Pennsylvania Departments of Transportation and Health. Section 1323(c)(3.1) of Title states that, after the Department of Transportation is connected to the SURE system, it "shall transmit electronically [to the county voter registration commissions] the contents of a completed voter registration application within five days of receipt of the application." With regard to changes of address between counties, 25 Pa. C.S. § 1323(c)(4) requires that the Department of Transportation "notify the commission of the county of the registrant's former residence." |
| 14 | Any election official, including any local election official, may obtain immediate electronic access to the information contained in the computerized list (§ 303(a)(1)(A)(v)) | Yes | The SURE system assures that election officials have instant access to the SURE database. Section 1222(c)(5) specifically provides that SURE must "permit each commission and the department to have instant access to a commission's registration records maintained on the system." Under paragraph (7), each commission and the Department must have the ability to "review and search the system." |
| 15 | All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official (§ 303(a)(1)(A)(vi)) | Yes | Section 1222(c)(4) provides that SURE must "permit the commissions to add, modify and delete information in the system as is necessary and appropriate." Section §1203(l) of Title 25 requires that a commission "promptly update information contained in its registration records." The same requirement for prompt updates of information in the SURE system by county commissions is contained in the other sections of Title: *See* 25 Pa. C.S. §§ 1323(c)(4)(i) & (5); 1328(d)(2); 1329(d); 1501(b)(2) & (3); 1502(a)(6); 1505(a) & (b); 1901(b)(4) & (c); 1903; 1904(a); and 1905(c)(2). |
| 16 | The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described (§ 303(a)(1)(A)(vii)) | Yes | Section 1222(a) of Title 25 mandates that the Department of State "develop and establish" the SURE system. Additionally, "the cost of establishment, implementation and maintenance of the SURE system technology and its emergency recovery system shall be borne by the Commonwealth." 25 Pa. C.S. § 1223. Each commission must "have instant access to a commission's registration records maintained on the system." 25 Pa. C.S. § 1222(c)(5). Section 1222(c)(14) further establishes the Commonwealth's responsibility for the availability of the SURE system by specifying that SURE "be designed with an emergency recovery system to insure that registration records are not lost in the case of an emergency, |





| | | | |
|---|---|---|---|
| | | | natural disaster or other such event that could cause the system to malfunction." |
| 17 | The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State (§ 303(a)(1)(A)(viii)) | Yes | Section 1222(c)(6) specifies that the SURE system must be "the general register for a commission once the commission is connected to the SURE system." As the general register, the SURE system's data will be used as the official data in the conduct of every election held in the county. |

## ENDNOTES

[1] HAVA §§ 255-56, 42 U.S.C. §§ 15405-06.
[2] *See* 33 Pa. Bull. 3573 (July 19, 2003).
[3] 42 U.S.C. § 15406.
[4] HAVA § 304, 42 U.S.C. § 15484.
[5] *Id.*
[6] *Id.* § 305, 42 U.S.C. § 15485.
[7] *Id.* § 301(a)(6), 42 U.S.C. § 15481(a)(6).
[8] 42 U.S.C. § 15481(a)(3)(B).
[9] *Id.* § 15302(a)(3)(B).
[10] *See* Pa. Const. Art. VII, § 6.
[11] 42 U.S.C. § 15481(a)(1)(B).
[12] *Id.* § 15481(a)(6).
[13] Pennsylvania Election Code § 204(h), 25 P.S. § 2624(h).
[14] 25 P.S. § 2624(d).
[15] 42 U.S.C. § 15481(a)(3)(B).
[16] 42 U.S.C. § 1973.
[17] *Id.* § 1973b(e).
[18] *Id.* § 1973aa-6.
[19] HAVA § 302(a), 42 U.S.C. § 15482(a).
[20] *Id.* § 302(b)(2), 42 U.S.C. § 15482(b)(2).
[21] 25 P.S. § 3050(a.4).
[22] 25 P.S. §§ 3046 and 3050(a.2) & (a.4)(1).
[23] *Id.* § 3050(a.4)(2).
[24] *Id.*
[25] *Id.* § 3050(a.4)(3).
[26] *Id.*
[27] *Id.* § 3050(a.4)(4).
[28] *Id.*
[29] *Id.* § 3050(a.4)(5).
[30] *Id.* § 3050(a.4)(6).
[31] *Id.* § 3050(a.4)(7).
[32] 42 U.S.C. §15482(a)(5)(B).
[33] 25 P.S. § 3050(a.4)(8).
[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] *Id.*§ 3050(a.4).
[38] 42 U.S.C. § 15482(b).
[39] *Id.* § 15483(b).
[40] 25 P.S. § 3042.
[41] *Id.* § 3049(a).
[42] *Id.*
[43] *Id.* § 3042.
[44] HAVA § 303(d)(1), 42 U.S.C. § 15483(d)(1).
[45] *Id.* § 303(d)(2), 42 U.S.C. § 15483(d)(2).
[46] *Id.* § 303(a)(1)(A), 42 U.S.C. § 15483(a)(1)(A).
[47] *Id.*
[48] *Id.* § 15483(a)(2)(A).
[49] *Id.* § 15483(a)(2)(B).
[50] *Id.* § 15483(a)(2)(A)(i).
[51] *Id.* § 15483(a)(2)(A)(ii)(II).
[52] *Id.* § 15483(a)(3).
[53] *Id.* § 15483(a)(4).





[54] *Id.* § 15483(a)(4)(A).
[55] *Id.* § 15483(a)(4)(B).
[56] *Id.* § 15483(a)(5)(A)(i).
[57] *Id.* § 15483(a)(5)(A)(iii).
[58] *Id.* § 15483(a)(5)(B)(i).
[59] *Id.* § 15483(b)(2)(A)(i).
[60] *Id.* § 15483(b)(2)(A)(ii).
[61] *Id.* § 15483(b)(2)(B).
[62] *Id.* § 15483(b)(3).
[63] *Id.*
[64] *Id.* § 15483(b)(4)(A).
[65] *Id.* § 15483(b)(4)(B).
[66] *See* 25 Pa. C.S. § 1222 (relating to SURE system).
[67] *Id.*
[68] *Id.*
[69] *Id.* § 1222(e).
[70] *Id.* § 1203(l).
[71] *Id.* §§ 1323(c)(4)(i) & (5); 1328(d)(2); 1329(d); 1501(b)(2), (3) & (6); 1505(a) & (b); 1901(b)(4) & (c); 1903; 1904(a); and 1905(c)(2).
[72] HAVA § 303(a)(4)(A), 42 U.S.C. § 15483(a)(4)(A).
[73] 42 U.S.C. § 15483(a)(2)(A)(ii)(I).
[74] *Id.* § 15483(a)(2)(A)(ii)(II).
[75] 25 Pa. C.S. § 1222(c)(2).
[76] *Id.* § 303(a)(5)(A)(ii), 42 U.S.C. § 15483(a)(5)(A)(ii).
[77] 42 U.S.C. § 15484.
[78] 25 P.S. § 3050(a.2).
[79] *Id.* § 3050(a).
[80] *Id.* § 3050(a.1).
[81] 42 U.S.C. § 15483(b)(2)(A).
[82] *Id.* §§ 15483(b)(2)(A)(i)(II) & (ii)(II).
[83] *Id.* § 15483(b)(3)(C).
[84] *Id.* §§ 15483(b)(3)(A) & (B).
[85] *Id.* § 15483(b)(2)(A)(ii).
[86] *See* HAVA § 303(b)(3), 42 U.S.C. § 15483(b)(3).
[87] 42 U.S.C. § 15483(b)(4).
[88] 4 Pa. Code § 183.1.
[89] 42 U.S.C. § 15483(b)(4).
[90] *Id.* § 15483(b)(4)(A).
[91] *Id.* § 15483(b)(4)(A)(iv).
[92] 42 U.S.C. §§ 15404(a)(2)(A) & (B).
[93] Pa. Election Code § 201(f), 25 P.S. § 2621(f).
[94] 42 U.S.C. § 15483(a)(1)(B).
[95] 25 P.S. § 3031.5.
[96] 42 U.S.C. §§ 15404(b)(1) & (2).
[97] *Id.*
[98] 42 U.S.C. § 15512(a)(1).
[99] *Id.* § 15512(a)(2).
[100] *See* Pa. Election Code § 1206.2, 25 P.S. § 3046.2.
[101] 42 U.S.C. § 15512(a)(2)(C).
[102] 25 P.S. § 3046.2(a).
[103] Pa. Election Code § 1206.2(c)(1), 25 P.S. § 3046.2(c)(1).
[104] *Id.* § 1206.2(c)(2), 25 P.S. § 3046.2(c)(2).
[105] 42 U.S.C. § 15512(a)(2)(E).
[106] *See* Pa. Election Code § 1206.2(c)(3), 25 P.S. § 3046.2(c)(3).
[107] *Id.* § 1206.2(c)(4), 25 P.S. § 3046.2(c)(4).
[108] *Id.* § 1206.2(c)(5), 25 P.S. § 3046.2(c)(5).

[109] *Id.*
[110] *Id.*
[111] *Id.* § 3046.2(b)(1).
[112] *Id.* § 3046.2(b)(2).
[113] *Id.* § 3046.2(b)(3).
[114] *Id.* § 3046.2(b)(5).
[115] Pa. Election Code § 1206.2(d), 25 P.S. § 3046.2(d).
[116] *Id.* § 1206.2(e), 25 P.S. § 3046.2(e).
[117] *Id.*
[118] *Id.* § 1206.2(f), 25 P.S. § 3046.2(f).
[119] 42 U.S.C. § 15405.
[120] *Id.* § 15406.
[121] *Id.* §§ 15405-06.
[122] *Id.* § 15405(a).
[123] *Id.* § 15406.
[124] Pa. Election Code § 205, 25 P.S. § 2625.
[125] *Id.* §§ 205(a) & (h), 25 P.S. §§ 2625(a) & (h).
[126] *Id.* § 205(h), 25 P.S. § 2625(h).
[127] *Id.* § 205(b), 25 P.S. § 2625(b)
[128] *Id.* §§ 205(c) & (d), 25 P.S. §§ 2625(c) & (d).
[129] *Id.* §§ 205(c) & (e)-(g), 25 P.S. §§ 2625(c) & (e)-(g).
[130] *See* 33 Pa. Bull. 1422 (March 15, 2003).
[131] *See* 33 Pa. Bull. 1684 (March 29, 2003); 33 Pa. Bull. 1786 (April 5, 2003); 33 Pa. Bull. 1901 (April 12, 2003); 33 Pa. Bull. 2022 (April 19, 2003); 33 Pa. Bull. 2134 (April 26, 2003); 33 Pa. Bull. 2324 (May 10, 2003); 33 Pa. Bull. 2636 (May 31, 2003); and 33 Pa. Bull. 2946 (June 21, 2003).

# Estado Libre Asociado de Puerto Rico
# COMISION ESTATAL DE ELECCIONES

## Help America Vote Act of 2002

## Puerto Rico's Plan for Implementation
## August 14, 2003

### Background on Elections in Puerto Rico

The *Comisión Estatal de Elecciones de Puerto Rico* (the Commonwealth Elections Commission or "the Commission") is an independent, body constituted by a representative of each political party and responsible for all aspects of election administration in Puerto Rico. The current three commissioners are appointed by their respective political parties. If another political party were to meet the criteria to become a recognized party, a commissioner would be added to represent that party.

The commissioners unanimously appoint a president for a four-year term. Subject to the unanimous consent of the other two parties' commissioners, each of the parties appoints a vice president to serve a four-year term.

Although all responsibility for elections resides with the Commission, a local commission carries out election administration duties at the local level. There are 110 local commissions serving 110 precincts with approximately 330 part-time local commissioners, 330 alternative part-time local commissioners and 110 judges serving part-time as presidents of local commissions. Local commissions review polling place procedures and handle local problems.

While the local commissions have primary responsibility, a *Junta de Inscripción Permanente* ("JIP" or "registration board") provides secretariat functions to these commissions, namely: (1) administering voter registration; (2) issuing voter identification; (3) assign voters to polling places; (4) transaction reports; and (5) submit monthly all transactions to local commission for approval. The Commonwealth Commission employs a staff of approximately 1000 people; of those, approximately 325 staff the offices of JIPs.

There is one General Election to elect all levels of public office and it is held every four years. In Puerto Rico Election Day is a holiday and it occurs on the first Tuesday after the first Monday in November of the same year the President of the United States is elected. The next general election will be held on November 2, 2004.

Across Puerto Rico all polling places are open from 8 a.m. to 3 p.m. Voter turnout traditionally ranges between 85 percent and 90 percent. Primaries for the general election are held in November of the prior year.[1] Parties may also nominate candidates within party assemblies before the primaries. Special elections may be held if a vacancy occurs; in the last two years there have been five special elections. The Commission also conducts special elections for referenda, plebiscites and primaries.

All voters in Puerto Rico cast paper ballots. On Election Day, Puerto Rican voters vote three separate paper ballots. On the first ballot, identical across Puerto Rico, Puerto Ricans elect their Governor and Resident Commissioner (Puerto Rico's representative to

[1] By law beginning in 2005 Puerto Rico will hold its party primaries twelve days prior to Good Friday of the general election year.

Congress). Using a separate ballot, voters elect the entire Puerto Rican legislature (51 members of the House of Representatives, including 11 at-large, and 27 members of the Senate, including 11 at-large). Finally, there is a third ballot for electing public officials in each of Puerto Rico's 78 municipalities. In a general election there are more than 120 different ballots.

There are eight senate districts and forty legislative districts in Puerto Rico. Each of the representative districts may include from one to six precincts. Each of the senate districts may include six to eighteen precincts. There are 110 precincts in Puerto Rico, but these precincts are not equivalent to precincts as the term is traditionally used in the United States and within HAVA. Within these precincts there are currently 1694 election units. These election units are equivalent to precincts as the term is conventionally used, as each election unit is one physical polling place location.

Since 1988 Puerto Rico has provided blind voters with a template that allows the blind to vote independently and in secret. In 1991, the template was modified to include Braille. Most polling places are totally accessible, and the Commission will this year survey all polling places and determine what more needs to be done to make all polling places totally accessible. The Commission intends to have all polling places (election units) totally accessible in advance of the next general election in 2004.

Each election unit or polling place, typically a school or government building, will usually house between two and twelve *colegios* or colleges. The size of each college varies according to the type of election; in a general election approximately 375 voters will be assigned to each college. Voters are alphabetically assigned to colleges with one exception: within each election unit there is always one college for all provisional voters. The size of the provisional voting college cannot be determined in advance as it depends on the number of provisional voters.

All colleges, except the provisional ballot college, will have a minimum of nine poll workers: three inspectors, three auxiliary inspectors and three secretaries. The chairman of the college is the inspector who represents the Governor's party. Inspectors give the ballots and instructions to the voters. Special inspectors examine voters' fingers when they arrive to ensure the voter has not already voted. Secretaries are in charge of the list. The provisional ballot college will only have two party workers for each party.

After the polls close, each college will resolve any challenged votes and tally its votes. Only if there is unanimous consent in a challenge situation is the vote counted by the college.[2] All colleges' votes at the election unit are then tallied together. The election unit's preliminary results are posted and then transmitted to the local election office where the election unit results are entered into the computer system and faxed to the Commonwealth Commission office. The Commission is responsible for issuing a preliminary certification of all results on Election Night. All materials, including all

[2] Uncounted ballots at the college level, whether challenge ballots or provisional ballots, are then sent directly to the Commission for resolution.



ballots, are then transmitted to the Commission the night of the election where they are securely held until the official general count of all the results.

The official count typically takes a couple of weeks to complete, and is conducted under the Commission's auspices in San Juan. A team of party representatives and a representative of the Commission work to resolve challenges, determine the voter's intent on ballots where local polling place officials were unable to reach a unanimous decision, and determine the eligibility of voters who cast provisional ballots. If this team fails to reach unanimous agreement on how to treat a ballot, the ballot next goes to the Commission for a decision. If there is no unanimous decision by the Commission, the President decides.

## Unique Characteristics of Elections in Puerto Rico

The Commonwealth Commission is one of a handful of state election authorities that run centralized elections. While Puerto Rican law clearly delineates the responsibilities of the Commission, the local commissions and the local registration boards, the Commission, located in San Juan, has ultimate authority over the registration process – the Commission administers the registration database, for example – and over the counting of the ballots. As a consequence of this centralized system, some of the provisions in HAVA intended to shift responsibility and authority from the localities to the state election authority do not apply.

In addition, Puerto Rico is exempt from the requirements of the National Voter Registration Act (NVRA). Specifically, Puerto Rico does not allow mail-in registration and no government agencies other than local registration boards may process voter registrations. Accordingly, certain provisions of HAVA intended to improve functions required under the NVRA do not apply in Puerto Rico.

As noted above, Puerto Rico is exempt from the National Voter Registration Act and, therefore, exempt from those provisions of §303 that require a state to use list-cleaning procedures prescribed by NVRA in administering the computerized list, including §303(a)(2) and §303(a)(4). The U.S. Department of Justice has confirmed this exemption in a letter to the Secretary of State of Alabama on March 17, 2003. That being said, the Commission coordinates its list with the Civil Registry records, which include death records. Felons convicted in Puerto Rico have the right to vote, and, therefore, there is no need to coordinate records on felony convictions.

Under this same exemption, Puerto Rico does not permit voters to register by mail except for those voters covered under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). Since Puerto Rico does not otherwise allow voters to register by mail, §303(b) of HAVA, which requires mail-in registrants voting for the first time to provide identification, does not apply to Puerto Rico.

In addition to these provisions, the provision required in the State Plan under §254(a)(2) also does not apply. This provision requires the State to describe how it will distribute

and monitor funds to units of local government. Although there are local election offices – the local registration boards – these are not separate local government entities as named in this provision but rather field offices. The Commonwealth Commission will be the sole agency authorized to expend federal funds received under HAVA.



## Section 1: Achieving Compliance with HAVA in Puerto Rico

*How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under §251(a)(2), to carry out other activities to improve the administration of elections. – HAVA §254 (a)(1)*

***See Appendix A for a summary chart detailing Puerto Rico's current compliance with the requirements of HAVA and, where Puerto Rico is not in compliance, actions that will be taken to meet the requirements.***

Puerto Rico is in a unique quandary. According to the 2000 census, Puerto Rico's voting age population is 2.7 million, a significantly larger population than in many states. According to a calculation by the Congressional Research Service using the formula based on voting age population established in the Help America Vote Act, Puerto Rico could receive up to $37,362,313 in funds available for assisting in meeting the new federal requirements. Puerto Rico is also authorized to receive $3, 410,128 in early money. Puerto Rico is therefore authorized to receive a total of $40,772,441. In the FY2003 congressional appropriation, however, funds to Puerto Rico were capped at $4 million. Even the District of Columbia, which has a population of less than 600,000, received a guaranteed minimum of $5 million. In sum, Puerto Rico with a significant population is being expected to meet mandatory requirements without receiving appropriate – and congressionally authorized – resources relative to other states and territories.

The challenge for Puerto Rico, then, is to meet the mandatory requirements without any guarantee of sufficient requirements payments. Unless the funding inequity is resolved, Puerto Rico is severely constrained in the options available for meeting the requirements. The following Plan reflects these constraints.

Puerto Rico's current level of compliance with the requirements of both Title III and Title VII of HAVA is summarized in Appendix A.

### *Achieving Compliance with Voting System Requirements in §301 of HAVA*

HAVA requires that all voting systems used in federal elections meet certain new requirements by 2006. These requirements include the following: all voting systems must (1) give the voter an opportunity to review and correct the ballot secretly and independently prior to voting; (2) provide a permanent paper record of ballots cast; (3) be accessible to voters with disabilities; (4) provide alternative language ballots in jurisdictions required to do so under the Voting Rights Act; and (5) not exceed the error rate established by the Federal Election Commission.

Puerto Rico now uses a paper ballot voting system in which all ballots are hand-counted. Current law in Puerto Rico requires that all voters cast ballots on a single type of voting system. During the 1980's Puerto Rico began considering changing to a new system and, in preparing for the change, the Commission adopted a set of criteria for any voting

system and notified the legislature in several reports (see Appendix B for listing of current Puerto Rico voting system requirements). The first criterion on the list called for preserving the paper ballot system.

The Commission has sole authority to purchase voting equipment and directs all activities of its statewide, uniform voting system. The Commission also has responsibility for designing, printing and distributing all ballots. There are three ballots in every general election: (1) the statewide ballot that includes the Governor and the Resident Commissioner (Puerto Rico's representative to Congress); (2) a ballot that includes candidates for the Puerto Rico legislature; and (3) a ballot with local municipal candidates.

Under HAVA, Puerto Rico may continue to use its paper ballot system. HAVA explicitly states that nothing in the law prohibits a state from continuing to use the same system it used in the 2000 election so long as the system meets or is modified to meet the new requirements. The law further asserts that the requirement that each system allow the voter to "verify" his or her choices prior to voting may not be defined in such a way as to make it impossible for a paper ballot system to meet this requirement.

In complying with these requirements, Puerto Rico, like many states, faces a challenge in making the electoral process, including the vote-casting process, accessible to voters with disabilities. Puerto Rico has adapted its current system to the needs of blind voters by giving them the option of using a Braille template for all ballots. The instructions, including the names and numbers of the candidates, on the template are in Braille. For blind voters who do not use Braille training is available prior to the election to familiarize the voter with the ballot and the position of the candidates. Polling place officials will, when requested, provide verbal instructions for any voter requesting audible instructions so they can vote privately and independently.

Since the early 1980's the Commission by regulation has reviewed, adopted and distributed uniform definitions of what constitutes a valid vote for all paper ballots for both the initial count and any recount prior to each general election.
For several years Puerto Rico has been considering changing to an optical scan system, as it preserves the paper ballot system. Puerto Rico has conducted pilot projects using optical scan ballots. The Commission is now beginning to explore other options. Various surveys of both electors and election officials indicated broad support for modernizing the vote casting and counting system.

To meet the requirements of §301 of HAVA –

The Commission will review options to determine which system can meet the standards required by HAVA, in particular the standard for guaranteeing access to voters with disabilities, as well as criteria established by the Commission and approved by the legislature.



If necessary, the Commission will establish certification standards for vote casting and vote counting equipment, and ensure these standards fully comply with the requirements of §301, including voter verification (in a private and independent manner), audit capacity, accessibility and error rates. The Commission expects that such standards, if established, would also be consistent with Federal Election Commission's voluntary voting system standards. (Puerto Rico has been looking at equipment in use in other Latin American countries that has not yet passed the voluntary guidelines as such equipment is not yet being marketed in the United States.)

The Commission will modify the existing voting systems to meet the accessibility requirements of §301. The particular option chosen will be contingent, in part, on the funds available. If sufficient federal funds are available, the Commission will consider using FY04 and FY05 Title II funds to meet the new voting system standards.

The Commission will ensure that if any voting or vote counting equipment is purchased, that it will be able to provide for alternative language accessibility (§301(a)(4)).

The Commission will revise its instructions to voters and include specific instructions directing voters to review their ballot choices and the effect of voting for more than one candidate. In addition to revising current instructions, the Commission will conduct a special multi-media education outreach on the voting process (§301(a)(1)).

The Commission will continue, as necessary, to update its uniform definitions of what constitutes a vote (§301(a)(6)).

***Achieving Compliance with New Polling Place Requirements in §302***

Puerto Rico currently administers both a provisional ballot process and a challenge ballot process to protect the rights of eligible voters.

*Provisional Ballots*
Under the process for administering provisional ballots (called *añadidos a mano*, a reference to the process of manually adding names to the list), voters who show up in a polling place but whose names are not on the voter registration list are directed to a special college within the election unit. They are issued a regular ballot that is set aside in a special envelope and counted only if the voter is found to be eligible. Each polling place has multiple colleges, this special college is somewhat like an absentee ballot precinct, which has no voters regularly assigned, but on Election Day has votes assigned to it for reporting purposes.

As a matter of practice, the polling place official first attempts to determine why the voter's name is not on the list. An official at the polling place checks the precinct or municipality register to discover if the voter is on the list but not in the correct polling place or precinct. If the name is not on the precinct list, the voter is permitted to go to the *Junta de Inscripción Permanente* (JIP or local registration board) to determine if his or her name is on the official statewide list and the proper polling place where he is

registered. Alternatively, the voter is permitted to vote by this special procedure at that polling place.

If the voter votes a provisional ballot, but is not in his own proper polling place, the provisional ballot is counted to the extent the voter is eligible to vote the ballot. For example, all provisional votes for the statewide ballot, such as votes for Governor and Resident Commissioner, will be counted, so long as the voter is registered in Puerto Rico. If the voter is registered and votes within his legislative district, even if not at his polling place, his vote for legislative representative will also be counted. His vote for municipal office would only be counted if he is registered within the municipality. All these decisions are made prior to opening the envelope to preserve the secrecy.

In order to receive a ballot in this special college, the voter must sign an affidavit on the special envelope swearing that he or she is a registered voter in the jurisdiction and eligible to vote and receives a second envelope to deposit his ballot. The voter is given information about the process, including the how to confirm whether or not the vote was counted.

Provisional ballots are kept separate from other ballots when they are sent to the Commission office for the official canvass of the votes. Following Election Day, Commission staff will research the eligibility of each provisional ballot voter. Once the investigation is completed, those votes cast for offices for which a voter is eligible to vote are counted. The research of the voter's eligibility and the counting of provisional votes are carried out by separate officials in order to preserve the secrecy of the ballots. All the parties are represented in both processes.

Following the election, all voters who cast ballots in this special college can access information on the disposition of the ballot either by means of a toll-free automated phone system or by visiting the local office. Only the voter who cast the provisional ballot has access to information on whether the ballot was counted.

Challenged voters vote in the regular college, but their votes are segregated from regular ballots. The college inspectors review the challenge at the polling place on Election Day after the polls close. If the inspectors come to a unanimous decision the ballot is added to the college's voted ballots for counting.

If the inspectors cannot come to a unanimous decision, or if they unanimously decide not to count the ballot, the challenged ballot will be kept separate in a specially identified envelope from other ballots of the college when they are sent to the Commission office for a final review.[3] Following Election Day, Commission staff will research the eligibility of each challenged ballot voter. This investigation process is open to public viewing. Once the investigation is completed, if the voter is eligible, his or her vote is

[3] Only the Commission can invalidate a ballot, though the local commission can unanimously decide to count a ballot and this decision does not proceed to the Commission. If the Commission cannot come to a unanimous decision, the President decides whether a ballot will be counted



added to the other votes counted within the college. All the parties are represented in this process.

(Changes to the challenge ballot process will not apply to the regular practice of challenging the ballots of poll workers since those voters are allowed to cast a ballot and those ballots are automatically counted.)

While Puerto Rico is largely in compliance with the provisional ballot requirement under §302, some minor changes are necessary.

To meet the requirements of §302(a) of HAVA --

- While in practice all voters who claim to be eligible are allowed to vote a ballot either by voting in the special college or voting a challenged ballot, the law specifies certain circumstances under which voters are denied the right to cast a ballot. The law will need to be amended to ensure that every voter meeting the circumstances defined in HAVA §302 is issued a ballot.

- The Commission will amend the challenge ballot to ensure the protections given to the voters who cast ballots in the special college, such as the protection of secrecy, are given to challenged voters as well.

*Posting of Voter Information*
Voting information is currently posted at all polling places in Puerto Rico on Election Day. Most of the information required by HAVA is posted already, but the Commission will review and revise all materials prior to the 2004 Presidential and party primaries to ensure that it is compliant with HAVA.

To meet the requirements of §302(b) of HAVA, the Commission will post the following information at every polling place: information on the date of the election and the hours for voting; general information on voting rights under applicable federal and Puerto Rican laws, including information on the right to cast a provisional ballot and how to proceed if these rights have been violated; and information on federal and Puerto Rican laws regarding fraud and misrepresentation.

Voters Casting Their Votes After the Polls Close
Under current law in Puerto Rico, voters who vote after the polls close due to a court order already have their ballots segregated and held apart from other provisional ballots.

### *Achieving Compliance with New Registration Requirements in §303 of HAVA*

*Centralized, Statewide, Computerized Voter Registration List*
Puerto Rico already complies with §303 requirement for a centralized, statewide, computerized voter registration list. The Commission maintains and administers a single database that stores the records of every legally registered Puerto Rican voter, both active

and inactive.[4] By the end of calendar year 2003, the computerized database will include digitized photos and signatures of all voters. All 92 local offices of the Commission have online access to the complete database, which is used as the official list in every election. The database was originally established on a mainframe computer and is now a hybrid system, using both a mainframe and PCs. Authorized users can access the database online and in real time. A voter can access information regarding his or her record via a toll-free automated telephone system or via the Internet.

For the purposes of tracking voters, the Commission assigns each voter a unique identifier that is a randomly generated number. Currently, the voter registration form requests the voter's Social Security Number, but does not require the number in order for the voter to register to vote.

The local offices have responsibility for keeping the list up-to-date –adding names, deleting names and address changes– a process described in greater detail below; changes entered into the list by a local offices can be viewed immediately by Commission officials, including those at the other local Commission offices. Lists for each polling place are printed from the official Puerto Rico-wide list. The Commission prints and distributes the lists used at each polling place.

Puerto Rican law and the Commission have established strict protocols to protect the voter information contained in the database. The Commission does not share this voter information with any other Puerto Rico agency, including the court system.[5]

Certain provisions in §303 do not apply to Puerto Rico, which was exempted from the requirements of the National Voter Registration Act. Puerto Rico does, however, receive birth and death records from the Civil Registry, which it matches against voter records for the purpose of keeping the list current. The local office staff must verify such data prior to removing a voter from the list.

The Puerto Rico-wide computerized voter registration system, after the upgrade that is in process, will be unique among current U.S. statewide systems in that each voter record will contain a photographic image of the voter. Beginning in 2004, the list printed out for use at the polling place will also contain this photo image. All voters currently receive a voter identification card from the Commission, which must be presented on Election Day, and that ID card will use the same photo. The two photos (the one on the card and the one printed on the list) and the signature will be matched at the polling place on Election Day prior to the voter casting a vote. Currently, if the voter shows up on Election Day without his voter identification card, the voter may not vote without this card; he may, however, go to the local office and a request a duplicate ID card and return to vote.

[4] Inactive voters under the Puerto Rican system do not refer to those made inactive under NVRA. Puerto Rico keeps in its database all prior voters who are no longer eligible, whether they are no longer Puerto Rico residents, dead, or otherwise no longer actively registered with its correspondent codification.

[5] By agreement, the Commission, using parameters given to it by the court, will create a modified version of the list for the purpose of selecting citizens for jury duty.





Puerto Rico employs a stringent list maintenance process that is open to all voters, but relies heavily on the efforts of local parties. In Puerto Rico all voters must apply to register or change their address in person at the local election office; there is a ten-day period for challenging any such additions or changes at the local office. In addition, there is a specified period for challenging voter registrations based on residency that occurs before each general election, from January 15 to May15. During this period, the Commission conducts a vigorous multi-media public outreach campaign to inform voters that they need to register or update their address. The local parties conduct their own investigation and public outreach that may include in-person inquiries to track new voters, voters new to the municipality and voters of the other parties whose status may have changed.

During this five-month period during a general election year, parties challenge names on the list based on information that the voter's residency has changed (challenges based on residency are not allowed on Election Day). Challenges are made public and voters who wish to appeal are given an opportunity to appeal the change and present evidence at a public hearing. Even if the proposed challenge is unopposed by the voter, or others on his behalf, the challenger must present evidence to the local commission and they must unanimously decide to remove the voter in order to remove the voter's name from the list. If there is not a unanimous decision on the challenge, the challenge must be decided by the President of the local commission.

In addition, the Commission receives data from other agency databases and will compare that data to the voter list. If a discrepancy between the voter list and other Puerto Rico databases emerges, the Commission will notify the local election official who is responsible for verifying the voter information and resolving the discrepancy.

*Computerized list maintenance requirements*

As noted above, Puerto Rico is exempt from the National Voter Registration Act and, therefore, exempt from those provisions of §303 that require a state to use list-cleaning procedures prescribed by NVRA in administering the computerized list, including 303(a)(2) and 303(a)(4). The US Department of Justice has confirmed this exemption in a letter to the Secretary of State of Alabama on March 17, 2003. That being said, the Commission coordinates its list with the Civil Registry records, which include death records. Felons convicted in Puerto Rico have the right to vote, and, therefore, there is no need to coordinate records on felony convictions.

*Requirements for mail-in registrants*

Puerto Rico, which is exempt from the National Voter Registration Act, does not permit voters to register by mail except for those voters covered under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). Such voters who register by mail are only allowed to vote in federal elections, however. Consequently, §303(b) does not apply to Puerto Rico since voters covered by UOCAVA are exempt from the requirement affecting first-time, mail-in registrants and no other voters register by mail.

To meet the requirements of §303 of HAVA --

- The Commission will modify the registration form to require (a) from those voters who have been issued a driver's license the license number, and (b) from all other voters the last four digits of the voter's Social Security Number. (Puerto Rico currently requests the voter's whole Social Security Number, though it is not a requirement in order to become a registered voter.) Any person attempting to register who does not have either number will, as has always been the case, be assigned a unique identifier. Additionally, all other voters, regardless of which number they provide, will continue to be issued a unique identifier.

- The voter registration database will be modified to store the driver's license number or last four digits of the Social Security Number information as part of the voter record.

- The chief election official will need to enter into an agreement with the head of the Puerto Rico Department of Transportation and Public Works (DTOP) in order to receive and compare data from DTOP. Under the exemption from the National Voter Registration Act, the DTOP, which issues driver's licenses, does not provide voter registration, and so the Commission does not currently match information with DTOP records. HAVA additionally requires that the head of DTOP enter into an agreement with the Social Security Administration to match data.

### *Achieving Compliance with Military and Overseas Voters Requirements in Title VII of HAVA*

Puerto Rico already has a designated central office of *Junta Administrativa de Voto Ausente* (Administrative Board of Absentee Voters) or JAVA. This office is responsible for providing information to all UOCAVA voters, as well as all other absentee voters. This office is the only office in Puerto Rico that accepts Federal Voting Assistance Program voter registration applications, applications for absentee ballots and absentee ballots. This office also counts *all* the absentee votes for Puerto Rico, whether from UOCAVA voters or any other absentee voters. On Election Day, it functions, essentially, as an absentee precinct for all of Puerto Rico.

Anyone can get a copy of the application for an absentee ballot from the Internet or any election office and send it to an eligible federal absentee voter, but only the voter can sign the application for the ballot, or the envelope affidavit that accompanies the returned ballot. The application may be mailed or faxed back to the JAVA office; the absentee ballot must be mailed back to the JAVA.

By law, the JAVA office coordinates with the Department of Defense to get contact information for all Puerto Rican servicemen, and then contacts them with election information.



The JAVA office already collects statistics on the number of absentee ballots transmitted, and those returned and counted. These are made publicly available now in a report done after the conclusion of each election.

### *Planned Activities to Achieve and Enhance Compliance with Title III*

*Pilot project for new voting system*
The Commission is planning to conduct a pilot project to test the use of voting systems that meet the requirements of §301. The project will test the use either of optical scan ballots and in-precinct counters or touch-screen voting systems. This project will include training voters, producing materials, equipment rental, licenses, technical support and an evaluation of the results. The project would be carried out across an entire precinct at least. (Estimated cost: $1 million)

*Reengineering of voter registration database*
Puerto Rico's voter registration system was originally developed on a mainframe computer system. The system has been hybridized and is administered both using the mainframe and personal computers. In order to improve the efficiency and greatly reduce the time required for certain operations –and to make the system more user-friendly– the Commission will reengineer its system so that voter records will be stored on the mainframe but most operations will be carried out using personal computers. As part of this reengineering, the database will be modified to store the new information required as part of the registration process under §303. (Estimated cost: $750,000)

*Address correction project*
The Commission will conduct a project to convert the postal address of voter records previous to 1999 into a format consistent with the format used by the postal service. This conversion to make the address formats consistent will allow the Commission to conduct mailings without producing returned mail, which in Puerto Rico can prompt a challenge to the voter's eligibility. (Estimated cost: $125,000)

*Verification of Data Assignments (Mapificación)*
The Commission will upgrade its system for linking the voter registration database with jurisdictional maps to improve the process for both assigning voters to electoral units and determining appropriate and effective electoral unit boundaries. (Estimated cost: $1.2 million)

*Mobile Units for Voter Registration*
To improve the accessibility of registration to persons in remote areas, older persons in nursing homes and persons with disabilities (Puerto Rico requires in-person registration), the Commission will add eight new mobile registration units. The Commission is considering expanding their service to include voting. The Commission will pay for the new mobile units using §252 funds. (Estimated cost: $70,000)

### *Projects to improve election administration (§101 funds)*

*Transferring paper files to microfilm*
Currently the Commission keeps paper records, which requires maintaining a warehouse and special conditions necessary for storing paper. The Commission intends purchase equipment that will enable the Commission simultaneously to digitalize these records and transfer them to microfilm. (Estimated cost: $400,000)

*Mechanized distribution controls*
Implementing mechanized controls for the distribution of election materials to the local election offices. Since the ballots, registration lists and all other election materials are produced by the Commission and distributed to the local offices, procedures to ensure the accuracy and reliability of this process is vitally important. This project will significantly reduce the possibility of errors in the process. (Estimated cost: $120,000)

*Equipment upgrade for local election offices*
The local election offices are currently hampered by out-of-date equipment. The Commission intends to upgrade older equipment and purchase multi-functional equipment that can serve as a printer, fax machine, photocopier and scanner for these offices. (Estimated cost: $300,000)

*Computers for mobile units*
To improve the accessibility of registration to persons in remote areas, older persons in nursing homes and persons with disabilities (Puerto Rico requires in-person registration), the Commission will, as noted above, add eight new mobile registration units. These mobile units will need to be equipped with computers, cell phones and other electronic devices integral to the registration process. (Estimated cost: $90,000)

*HAVA administration and planning*
The Commission intends to use some §251 funding for education and training of Commission officials in the requirements of HAVA. In addition, the Commission will invest in a planning process to facilitate effective implementation of the new law in a way that both complies with the law and is appropriate to Puerto Rico. (Estimated cost: $250,000)

### *Planned Activities to Improve Accessibility (§261 funds)*

Puerto Rico has a long history of working to make the electoral process accessible to voters with disabilities. Even before the passage of the Americans with Disabilities Act, the Commission developed a template device that would allow blind voters to vote a paper ballot in secrecy. Puerto Rico instituted mobile units that, in effect, take the electoral process to the voter. These efforts are ongoing. Puerto Rico is continuing to strive for complete accessibility. Funds authorized under HAVA will help make accessibility a reality.



Voters with disabilities confront two different kinds of obstacles to in-person participation in the elections process – barriers to the polling place and obstacles involved the process of casting a vote. Puerto Rico has addressed and will continue to address both these challenges. HAVA provides two different funding streams for addressing these problems. Under §261 of HAVA, Congress authorized $100 million over three years to states to improve the accessibility of polling places. The Commission anticipates that Puerto Rico will receive $151,345 from the Department of Health and Human Services under this grant. States will use a portion of the requirements payments authorized under §257 to make voting systems accessible.

Using funds authorized under §261, the Commission is undertaking several initiatives to make polling stations – and the voting process as a whole – more accessible. The Commission has invited organizations representing the disability community to work in partnership on this effort and has begun discussions with the National Federation of the Blind, among others. Projects funded under this grant include the following:

*Eliminating barriers to polling stations*
The Commission is conducting an extensive survey of all existing and alternative polling stations to determine what barriers still exist and how the barriers might be eliminated. The Commission will target a portion of this funding to building ramps and making other improvements to remove physical barriers.

*Training and accessibility manual*
The Commission believes better education and training of local election officials and polling place workers will be an important component in eliminating barriers. In addition, the Commission, working closely with the members of the disability community, is producing special training and manual for local election officials and polling place workers on how to accommodate the needs of all voters with disabilities.

*Opening up the voting process*
The Commission is currently considering how best to meet the requirement under §301 to make voting systems accessible. Some additional improvements can be made. For example, the Commission intends to purchase aids for voters with disabilities, such as audiotapes for use by blind voters and magnifying glasses for voters whose sight is impaired.

In addition, the Commission is developing a voice-activated telephone system, which will include TTY, to make it easier for all voters to access voter information.

## Section 2 – Distribution and monitoring of Requirements Payments

*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). – HAVA §254 (a)(2)*

There are no units of local government or other entities in Puerto Rico that will receive or spend HAVA funds; the Commission will receive, spend and account for all federal funds received under HAVA. The Commission will manage all activities funded by the requirements payments authorized under Title II of HAVA. The Commission will adhere to federal and state accounting policies and standards when using federal funds.

## Section 3 – Education and Training

*How the State will provide for programs of voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III. – HAVA §254 (a)(3)*

Puerto Rico already has an aggressive program of voter education, election official education and training and poll worker training. Puerto Rico also provides information at the polling places on Election Day. These programs will continue to be funded through the Commission's regular budget. HAVA funds will be used to pay for special voter education necessary under HAVA outlined in this Plan.

### Election Official Training

The Commission has an extensive training program for new state election officials who staff the 92 local offices. This week-long training includes training on the voter registration system and training on all office procedures. This training includes testing and officials who do not pass these tests properly will not be kept on as local officials until they have successfully completed the training. In addition, whenever there is a change in any procedures, there will be periodic training for all these local office officials, and during the general election year there is always a formal training program of at least three days of training on all the regulations and procedures that is offered on a regional basis.



The Commission also trains the local party participants who make up the 110 part-time local commissions. New local party participants receive individual training by the Commission staff. In addition, all local party participants will be given training in an election year. The local commission president is always a state judge appointed by the President of the Puerto Rico Supreme Court. These judges receive training on election responsibilities during their judicial training by staff of the Commission, and receive additional training during the general election year.

Once the new requirements under HAVA have been established in regulations, the Commission will evaluate and modify the training program and the materials to include the new procedures and modify those procedures that need to be changed.

The Commission has a staff of inspector auditors with responsibility for auditing the procedures of the local offices and address local precinct commission problems and issues. These inspector auditors will be charged with monitoring compliance with new HAVA requirements at the local level.

The procedures, including HAVA procedures once they have been finalized, are captured in multiple written manuals. The Commission is in the process of making these manuals available to the election officials on a website, which will also be available to the general public.

### Polling Place Official Training[6]

Polling place officials are trained by their respective parties; Commission staff provides support for each party's training sessions. The parties use materials developed by the Commission. The parties administer their own tests to ensure their party polling place workers understand the materials. They also simulate ballot casting in their training.

The Commission provides at least twelve hours of training to "train the trainers" in polling place procedures and provides a manual on Election Day procedures. The polling place procedures are also reduced to a one-hour video aired on public television.

All of these materials will be modified once the new requirements under HAVA have been established in regulation. They will include new procedures required under HAVA and necessary alterations to current procedures.

### Voter Education

- The Commission prepares Public Service Announcements for distribution to newspapers, radio and television stations. Periodically the Commission will produce educational programs for public television to run multiple times.

[6] Polling places in Puerto Rico are staffed entirely by the political parties. Each political party provides three officials in each college. The parties are responsible for the training.

- The Commission does extensive voter outreach to community and civic associations, clubs, schools, and any other groups that request such presentations. The Commission pays particular attention to conduct extensive demonstration of pilot or new voting equipment to these organizations.

- After each election the staffs of the local offices go to every high school to register all students who will be eligible by the next general election. These students may be as young as 15 who are being registered, as the general elections are held every four years.

- The mobile local unit travels to colleges to register university students, elderly in nursing homes and those in more remote or underserved communities.

- Publicize election information in grocery stores, schools, certain high traffic government agencies, such as social services and health department offices, public buses, and libraries and on the Internet.

- Make appropriate resource material available for high school teachers and college professors for their appropriate courses on the electoral process (developed jointly by teachers or university level professors and Commission staff) and ensure that it stays up to date.

- Ensure that other appropriate websites link to the Commission's web site.

In addition to the current programs, Puerto Rico plans to provide the following voter education initiatives under HAVA –

- In compliance with §301, the Commission will revise its instructions to voters and include specific instructions directing voters to review their ballot choices and the effect of voting for more than one candidate. In addition to revising current instructions, the Commission will conduct a special multi-media education outreach on the voting process.

- If the Commission continues to pilot voting equipment they will set up voting equipment for practice sessions and mock elections, especially at shopping malls, and public places. In such cases the Commission plans to require that voting equipment vendors provide practice machines and include training in their contracts. In addition, in such cases the Commission would look to require that vendors provide emulation software as part of their package so that the Commission could create interactive web pages for that type of voting equipment, which would include a voting demonstration and allow the voter to practice voting.

- The Commission will ensure that its web site is accessible to the disabled voters.



## Section 4 – Voting System Guidelines and Processes

*How the State will adopt voting system guidelines and processes which are consistent with the requirements of §301. – HAVA §254 (a)(4)*

Currently, all of Puerto Rico's voters use paper ballots that are hand counted. This process is established in Puerto Rico law. It is likely that the Commission will replace this system with a new system that meets the requirements of §301 rather than adapting its current system, which will probably require a legislative change. However, this decision has not yet been made.

The Commission has established a set of criteria for any voting system (Appendix B). While these criteria were not formally adopted by the legislature, the Commission has notified the legislature of the criteria in a series of reports. The first criterion on the list called for preserving the paper ballot system. Accordingly, pilot projects testing other voting systems have been limited to tests using optical scanning voting equipment that uses a paper ballot.

Any significant change in the voting system used in Puerto Rico requires the following process:

(1) The Commission's Technical Committee will review and recommend any change in voting system to the Commission. Most likely, new equipment will be expected to pass a Qualification Test (conducted by an independent testing authority), a Certification Test (conducted by the Technical Committee and/or a consultant on retainer to the Commission) and Acceptance Tests on receipt of the purchased equipment. Vendors would also be expected to provide detailed technical and corporate financial information.

(2) The Commission would review the current criteria for voting systems and recommend changes to ensure they are consistent with the requirements of §301 and the voluntary voting system standards produced by the Federal Election Commission. The Commission would submit proposed changes to the legislature. The legislature may or may not choose to draft legislation to change the voting system or establish the criteria in law.

All blind voters are provided the option of a Braille template for all ballots. The instructions, including the names and numbers of the candidates, in the template are in Braille. In addition, for those who do not use Braille there is training prior to the election for the blind about who is in each column and position. Polling place officials will, when asked, provide verbal instructions for any voter requesting audible instructions so they can vote privately and independently.

The Commission will continue current practice, dating back to the 1980's, and, before each general election, update its uniform definitions of what constitutes a vote.

## Section 5 – Election Funds

*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. – HAVA §254 (a)(5)*

The Puerto Rico Department of Revenue (Departamento de Hacienda) will establish a separate Election Fund Account through an administrative procedure as directed by Puerto Rico law. The President and the Members of the Commission approve the projects and use of the funds. The Commission's Office of Budget (Oficina de Presupuesto) administers the distribution of funds and establishes controls. The funds are released directly and are not commingled with the Commission's budget. The Office of Budget will be set up account codes that will allow the Commission to track receipts and disbursements.

Once a budget is established for the projects to be carried out with the Election Fund Account, the Office of Budgets prepares a projection of expenses reflecting the budget, the expense and the balance. This report is sent to the Commission President and its Members on a monthly basis for review. The Office of Budget controls the expenditures to ensure that funds are properly used and not overspent. The State Department of Revenue and the Commission work with the agency's Office of Budget and the Office of Finance to ensure that fund management follows all appropriate federal and state policies and procedures.

## Section 6 – Budget for Title III Requirements

*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. HAVA §254 (a)(6)*

Puerto Rico faces a significant challenge in developing an accurate and realistic budget for coming into compliance with the requirements of Title III. While it is possible for Puerto Rico to achieve compliance with the voting system requirements while maintaining its paper ballot system, the voters and election officials support modernization and, certainly, Puerto Rico could both meet the new requirements more effectively and implement a system appropriate for Puerto Rico's unique election system. These goals are achievable, however, only if Puerto Rico receives the amount it was originally authorized. The discrepancy between the funds authorized for Puerto Rico – an amount that was based on population – and the amount appropriated in FY 2003 severely limits the available options.



Puerto Rico's voting age population is 2.7 million, a significantly larger population than in many states. According to a calculation by the Congressional Research Service using the formula based on voting age population established in the Help America Vote Act, Puerto Rico could receive up to $37,362, 313 in funds available for assisting in meeting the new federal requirements. Puerto Rico is also authorized to receive $3, 410,128 in early money. Puerto Rico is therefore authorized to receive a total of $40,772,441. In the FY2003 congressional appropriation, however, funds to Puerto Rico were capped at $4 million. Even the District of Columbia, which has a population of less than 600,000, received a guaranteed minimum of $5 million. In sum, Puerto Rico with a significant population is being expected to meet mandatory requirements without receiving appropriate – and congressionally authorized – resources relative to other states and territories.

According to the Congressional Research Service, Puerto Rico was authorized to receive $10,492,702 in FY 2004 and $6,295,621 in FY 2005. The President's estimated budget, however, reduces the amount allocated for requirements payments from $1.6 billion to $1 billion. Using the President's budget, Puerto Rico would receive $6,610,402 in FY 2004 and $3,966,241 in FY 2005.

As indicated in the chart below, the Commission will use all funds appropriated under §252 to carry out activities to come into compliance with the requirements of §301, §302, and §303.

**Funding Assumptions (FY 2003 – FY 2005)**

| | FY 2003 | FY 2004 | FY 2005 |
|---|---|---|---|
| HAVA Title I (101) | $3,151,144 | | |
| HAVA Title II (252) | $4,000,000 | $6,610,402* | $3,966,241* |
| HAVA Title II (261) | $151,345 | | |
| PR matching funds | $210,400 | $347,707 | $208,624 |
| Maintenance of effort | $29,039,000 | $29,039,000 | $29,039,000 |

* Title II funding amounts are based on the current estimated budget allocations reflecting reductions in the President's proposed budget for FY04.

*Projected Expenditures for Meeting HAVA Requirements and Improving Election Administration*

**Estimated Expenditures on Title III Requirements (FY2003 – FY2005)**

| | HAVA 101 | HAVA 252 | HAVA 261 | 5%match | total cost |
|---|---|---|---|---|---|
| Sec. 301 – Voting System Requirements | | | | | |
| Pilot project using HAVA compliant system | | $1,000,000 | | | $1,000,000 |
| Voting aids for blind voters | | | $34,888 | | $34,888 |
| Commodities for voters with disabilities | | | $25,000 | | $25,000 |
| | | | | | |
| **Sec. 302 – Provisional Voting and Voter Information** | | | | | |
| Voice activated information | | $90,000 | $51,457 | | $141,457 |
| | | | | | |
| Sec. 303 – Computerized voter registration and verification requirements | | | | | |
| Upgrade of identification system | | | | | $3,000,000* |
| Reengineering of the voter registration system | | | | $750,000 | $750,000 |
| Verification of data assignments | | $1,200,000 | | | $1,200,000 |
| Conversion of postal addresses | | $125,000 | | | $125,000 |
| Computers for mobile units | | $90,000 | | | $90,000 |
| | | | | | |
| **HAVA administration** | | | | | |
| Implementation planning and training | $125,000 | | | | $125,000 |
| Implementation of new procedures | $75,000 | | | | 75,000 |
| Oversight and management | $50,000 | | | | $50,000 |
| | | | | | |
| ***Total*** | $250,000 | $2,505,000 | $111,345 | $750,000 | 3,616,345 |

*This expenditure is noted for information purposes only and is not reflected in the total.



**Expenditures for Improving Election Administration (FY 03 – FY 05)**

| | HAVA 101 | HAVA 252 | HAVA 261 | 5% match | total cost |
|---|---|---|---|---|---|
| Voter Education and Training | | | | | |
| Outreach to voters with disabilities | | | $30,000 | | $30,000 |
| | | | | | |
| Improving Accessibility | | | | | |
| Accessibility study and manual | | | $10,000 | | $10,000 |
| | | | | | |
| Voter Registration | | | | | |
| Mobile units for voter registration | $70,000 | | | | $70,000 |
| | | | | | |
| Election Administration | | | | | |
| Transfer of files to microfilm | $400,000 | | | | $400,000 |
| Mechanized controls for election materials | $120,000 | | | | $120,000 |
| Upgrade and multi-functional equipment for JIPs | $300,000 | | | | $300,000 |
| | | | | | |
| **Total** | $890,000 | | $40,000 | | $930,000 |

## Section 7 – Maintenance of Effort

*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 2002. – HAVA §254 (a)(7)*

Puerto Rico will continue to maintain expenditures of State funds for election-related activities covered by the requirements of HAVA Title III at a level not less than the level of expenditures in FY2000 for those items and activities now required by HAVA Title III. In using the requirements payment, Puerto Rico will expend funds to meet the requirements of HAVA Title III and improve the administration of Federal elections.

The maintenance of effort amount is based on expenditures in FY2000 for items or activities now required by HAVA Title III including:

- Those activities in 2000 necessary to meet the requirements including expenditures for equipment, software, technical and physical infrastructures, materials, services, salaries, overhead; and
- Other expenses in 2000 related to the requirements including expenditures for the planning, development, documentation, maintenance and operation, administration of the requirements, and for outreach, education, and training to promote the items and activities now required by HAVA Title III.

## Section 8 – Performance Goals and Measures

*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. – HAVA §254 (a)(8)*

The President of the Commission, through consultation with the Commission, will establish goals and performance criteria and will have the ultimate responsibility for ensuring the success of Puerto Rico's HAVA implementation effort.

The President will draft specific goals and performance measures, based on recommendations of the Vice Presidents, and submit them to the Commission for approval. The Commission will, as the implementation proceeds, annually evaluate existing goals and measures and propose adjustments as needed. The Commission will approve all performance goals, measures and adjustments.

The following table provides the functional division of the responsibility for HAVA implementation.

| Plan Elements | Commission Official | Time frame |
|---|---|---|
| Voting Systems §301 | Administrative Board of OSIPE[7] and the Technical Committee | Compliant by January 1, 2006 |
| Provisional Voting §302 | First Vice President | Compliant by July 1, 2004 |
| Voter Registration List and List Maintenance §303 | Commission Secretary and Second Vice President | Compliant with §303 (a) by January 1, 2004. All changes necessary for compliance with other provisions of §303 will be completed prior to January 1, 2006 |
| Education and Training §254(a)(3) | Director of Education & Training | On-going |
| Polling Place Accessibility | Director of Planning[8] | On-going |
| Budget and Fiscal Controls | Director of Administration | On-going |
| Grievance Procedures | Commission and President | On-going – all changes necessary for compliance will be completed prior to January 1, 2004 |
| JAVA Office for UOCAVA voters | JAVA Board and its President | Already exists |

[7] OSIPE, *Oficina de Sistema de Información y Procesamiento Electrónico*, is the information technology office of the Commission.
[8] In Spanish this is the *Oficina de Planificación*, which title implies city planning. This Commission office handles redistricting, mapping, location and inspection of polling places, etc.



## Section 9 – Grievance Procedure

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under §402. – HAVA §254 (a)(9)*

Puerto Rico already has in place a uniform and non-discriminatory process for resolving complaints in a timely manner – indeed, the Commission is required to resolve complaints lodged on Election Day within an hour.

Under current law in Puerto Rico, complaints concerning violations of election law are filed first with the local election commission. Any decision of the local election commission may be appealed to the Commission, except for decisions challenging voter registration on the basis of residence. Any elector, candidate, party, organizational representative or individual may file a written and sworn statement alleging a violation of state law – a violation by action, omission or conduct – against any elector, candidate, party, organizational representative or individual. Complainants must present a sworn complaint in writing. By regulation the Commission will provide a public hearing.

Under ordinary circumstances, the Commission is required to resolve complaints fewer than thirty days after the complaint is lodged. The closer to the election, the less time allowed for rendering a decision. In case of disagreements among commissioners preventing a unanimous decision, the President makes the determination (this is the only circumstance in which the President has a say). All decisions of the Commission are published.

The Commission's decision may be appealed to the Superior Tribunal. As a matter of practice, the President of the Supreme Court will assign a judge in each judicial region to resolve election complaints during the election period. The Tribunal is required to resolve election disputes within a maximum of twenty days. (Fewer days are allowed as the election gets closer.)

*Changes necessary to meet the requirements of §402*
Puerto Rico will amend its complaint process, which is established in regulations, to specify that complaints may be filed alleging violations of Title III requirements in HAVA.

Under this procedure as prescribed in current law, no complaint could take longer than one hundred days from the first filing to the final resolution. Puerto Rico plans to compress deadlines prescribed by law to ensure that every complaint is resolved before the ninety-day period that would require the matter to go to an alternative dispute resolution process.

## Section 10—Budget for Title I Funds

*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. HAVA §254(a)(10)*

The Commission will use funds received under Title I both to improve election administration described in Section One above under "Improving Election Administration" and to lay the groundwork for implementing the requirements of Title III.

The Commission has allocated $100,000 in Title I funds for training and planning purposes related to HAVA implementation. This includes funding for education and training of Commission officials in the requirements of HAVA. The Commission is also investing in a planning process that will facilitate implementing the new law in a way that both complies with the law and is appropriate to Puerto Rico.

## Section 11 – Management of the State Plan

*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 §255 in the same manner as the State Plan;*

*(B)Is subject to public notice and comment in accordance with §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). – HAVA §254 (a)(11)*

The President of the Commission will have overall responsibility for the implementation and management of the State Plan and will make regular reports to the Commission. The Vice Presidents will have day-to-day operational responsibility for the implementation of the Plan with their appropriate staff managing the implementation of the aspects of the Plan that fall within their purview.

The Commission will establish an annual review procedure that will include (at a minimum) an evaluation process that measures progress against the performance standards adopted the prior year and a procedure for adopting changes to the State Plan.

Puerto Rico understands that no material changes in the administration of the Plan will be made unless the change:



1. Is developed and published in the Federal Register in accordance with §255;
2. Is subject to public notice and comment in accordance with §256; and
3. Takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register

## Section 12 – Changes from the Previous Year's Plan

*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. – HAVA §254 (a)(12)*

This section is inapplicable for this year.

## Section 13 – HAVA Committee

*A description of the committee which participated in the development of the State Plan in accordance with §255 and the procedures followed by the committee under such section and §256. – HAVA §254 (a)(13)*

Puerto Rico's HAVA Advisory Committee is a diverse group of citizens including members of the Commission, representatives from the three political parties, disabled representation, student groups, and representation of various constituency groups; the First Vice President of the Commission chaired the committee. As required by HAVA, the Committee included representatives from local commissions serving the two largest jurisdictions in Puerto Rico: San Juan and Toa Baja. In addition, the Committee included a representative from the Office of the Ombudsman for Persons with Disabilities.

On July 3, the Commission convened the first meeting of the HAVA Advisory Committee. The Committee provided valuable suggestions for Puerto Rico's compliance with HAVA. The Committee reviewed a draft of the State Plan and was requested to help in disseminating the Plan and soliciting public comment.

Following the first meeting, the Commission issued a preliminary plan for implementation on July 8, 2003. The Commission disseminated copies of the plan to a broad spectrum of the interested public including the following stakeholders:

- Governor and Resident Commissioner
- Representatives and Senators
- Former members of the Commission
- Local commissioners
- Advocates for persons with disabilities and other stakeholder groups
- Political party representatives

- Directors of relevant government agencies, such as agencies serving the elderly and persons with disabilities
- Non-profit organizations representing stakeholders
- Technology experts and professors from universities in Puerto Rico and the Commission's independent Technology Review Board

The Commission also released the preliminary plan to the press and posted it on the official elections webpage on the website maintained by the government of Puerto Rico.

Following the public posting of the preliminary plan, the Commission published two notices announcing a public hearing to solicit comments in Puerto Rico's three largest newspapers.

The Commission received comments both in writing and at the public hearing held on August 4, 2003. The Commission received eleven responses representing the views of individuals and organizations.

The Commission reviewed the written comments and is providing a written response to each.

### *Summary of Comments to the Preliminary Plan*

The following is a summary of comments categorized according to topic.

*Accessibility*

- The Commission should provide accessible alternatives for voting a ballot, such as an audio ballot on direct record equipment, or accessible tools, such as magnifying glasses, large print, etc., in addition to the current Braille alternative, so that those with disabilities are able to vote a secret ballot independently. The Commission should expand the use of the mobile units to include accessible absentee voting for hospitals and other places with large numbers of disabled.
- The Commission should ensure accessible polling places, including ramps, handicapped parking, or appropriate signage, as needed.
- The Commission should provide sensitivity training to election and polling place officials on interaction with persons with disabilities.
- The Commission should engage persons and/or organizations for persons with disabilities in developing and providing services.
- The Commission should provide voter education or information targeted to voters with disabilities.

The Commission notes that all of these suggestions were already contemplated in the Plan and/or in the accessibility grant application made to the US Department of Health and Human Services under HAVA. Language has been revised or added to the Plan to clarify this. These suggestions will be taken into account when developing the work plan for implementing the Plan.



*Voter Education*

The Commission should broaden access to election information by:

- Using the Internet and other technologies;
- Increasing the amount and variety of voter information and education; and
- Targeting voter information and education to particular populations, such as persons with disabilities.

The Commission notes that all of these suggestions were already contemplated in the Plan and/or in the accessibility grant application made to the US Department of Health and Human Services under HAVA. Language has been revised or added to the Plan to clarify this. These suggestions will be taken into account when developing the work plan for implementing the Plan.

*Other Comments*

- The Commission should proceed at a deliberate pace and through a process that maintains trust in the current system, continues to comply with Puerto Rican law. If changes are adopted, the Commission should ensure they ultimately improve the process.
- Comments praising the current system and the proposed Plan.
- Suggests rocedural changes related to use of the last four digits of the Social Security number.
- Puerto Rico should accept federal funds on a one-time basis to avoid Federal fiscal dependency.
- The Commission should establish priorities for implementation in the event that Puerto Rico does not receive all authorized federal funds. The Commission should increase funding for training.
- The timeframe for review complaints should be shortened.
- The Commission should provide candidates with access to voter address information to allow them to directly communicate with individual registered voters.
- The Commission should broaden voter registration by mail.
- The Commission should require finger prints and other biometrics as part of the voter registry.
- The Commission should try to determine the location and needs of all disabled voters and target resources to meet those voters' needs.
- The Commission should do targeted voter registration, particularly for those with disabilities.
- The Commission should address transportation for the disabled as a part of accessibility.
- The Commission should include information about parties and candidates as part of its voter education program.
- The Commission should:
    a. Expand the list of those allowed to vote absentee;
    b. Improve the voting process for the incarcerated;

c. Consider alternatives for those in hospitals or otherwise unable to physically get to the polling places; and
d. Consider alternatives voting systems for absentee voting to speed up the counting process for the JAVA.

The Commission appreciates all these suggestions and comments and will consider these suggestions outside the HAVA planning process.

### *HAVA Advisory Committee*

The Committee membership, including each person's affiliation, is as follows:

- Juan M. Toledo Díaz, First Vice President, Election Commission of PR (EC)
- Néstor J. Colón Berlingeri, Second Vice President, EC
- Aníbal Díaz Hernández, Third Vice President, EC
- José Raúl Ocasio, Esq., Ombudsman, Office of the Ombudsman for Persons with Disabilities; represented by Enrique Rodríguez, Assistant Ombudsman
- Dr. Pablo Rivera Ortiz, Deputy Secretary of Education; represented by Dr. Brunilda Martínez
- General Francisco A. Márquez Haddock, Puerto Rico National Guard; represented by José A. Rodríguez
- Lesbia Betacourt, Social Worker, Friends and Family Committee of Prisoners (CAFC)
- Margarita Iglesias, Social Worker, CAFC
- Ramón Barquín III, Esq., Executive Director, Institute of Democratic Education
- Dr. Otoniel Rodríguez, Computer Engineer, Polytechnic University
- Iván Algarín García, Election Commissioner, Popular Democratic Party (PPD)
- Brunilda Ortiz Rodríguez, Alternate Election Commissioner, New Progressive Party (PNP)
- Andrés Miranda Rosado, Election Commissioner, Puerto Rican Independence Party (PIP)
- Carmen Vanesa Dávila, San Juan, PPD Local Election Commissioner



- José M. Rivera Torres, Toa Baja, PNP Local Election Commissioner
- Gilberto Bracero, President, Administrative Board for Absentee Ballots (JAVA), EC
- Luz Delia Vázquez, Director of Education and Training, EC
- José A. Valentín, Esq, Director of Planning, EC
- Ángel Alvelo, Director, Election Operations, EC
- Ing. Eduardo Nieves, Director, MIS (OSIPE), EC; represented by Carlos Cacho Rodríguez
- Francés Carrión, Deputy Director of Administration, EC
- Delia J. Rivera, Budget Analyst, EC
- Magali Pietri, Esq., Office of Legal Affairs, EC
- Ramón M. Jiménez, Secretary of Elections, EC
- Javier Carrasquillo Cruz, Cidra, PNP Local Election Commissioner
- Joaquín Santiago Santos, Caguas, PPD Local Election Commissioner
- Dr. Trina Rivera de Ríos, Spokesperson, CAFC
- Dr. Gladys Escalona, Rector, Río Piedras Campus, University of Puerto Rico
- Dr. Fernando Vega
- Dr. Isidoro Couvertier
  Directors of Electric Engineering and Computers, Mayagüez Campus, University of Mayagüez

## Appendix A

### Summary of HAVA Requirements and Puerto Rico's Compliance or Necessary Actions for Compliance

| Sec. 301. Voting System Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (a)(1)(A) The voting system shall (i) permit the voter to verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast and counted; (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error; and (iii) if the voter selects votes for more than one candidate for a single office – (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot: (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.<br>(a)(1)(B) A State or jurisdiction that uses a paper ballot voting system ... (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by -- (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and (ii) providing the voter with instructions on how to correct th e ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).<br>(a) (1)(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | X | | |



| Sec. 301. Voting System Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (a)(2) The voting system shall produce a record with an audit capacity. The voting system shall produce a permanent paper record with a manual audit capacity. The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. The paper record shall be available as an official record for any recount conducted with respect to any election in which the system is used. | X | | |
| (a)(3) The voting system shall be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. The voting system shall satisfy this requirement through the use of at least 1 direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place. | | X | The current system provides for a template for privately and independently marking the ballot for the visually impaired; the Commission will, prior to 2006, assure that it is in compliance with this subsection. |
| (a)(4) The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | X | | |
| (a)(5) The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards | N/A[9] | | |

[9] Currently, PR does not use any voting or counting equipment, so this section is inapplicable. Because PR tries to ensure that voter intent is honored, and that all ballots marked in the same manner are handled uniformly, there is essentially no errors that would prevent any discernable vote from being counted.

| Sec. 301. Voting System Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this At. | | | |
| (a)(6) Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | X | | |

| Sec. 302. Provisional Voting and Voting Information Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (a) **Provisional voting requirements.** If an individual declares that he or she is a registered voter in the jurisdiction and that he or she is eligible to vote in a Federal election, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows | | X | An amendment to Art. 5.031 and regulatory change are needed to meet this requirement. |
| (a)(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | X | | |
| (a) (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is-- (A) a registered voter in the jurisdiction in which the individual desires to vote; and (B) eligible to vote in that election. | X | | |



| Sec. 302. Provisional Voting and Voting Information Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (a)(3) An election official at the polling place shall transmit the ballot cast by the individual to an appropriate election official for prompt verification. | X | | |
| (a)(4) If the election official to whom the ballot or voter information is transmitted determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | X | | |
| (a)(5)(A) At the time that an individual casts a provisional ballot, the appropriate election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted. | X | | |
| (a) (5)(B) The appropriate election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | X | | |
| (a) ...The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot. | X | | |

| Sec. 302. Provisional Voting and Voting Information Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (b) **Voting information requirements.** The appropriate election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office. (b)(2)(A) a sample version of the ballot that will be used for that election; | X | | |
| (b)(2) (B) information regarding the date of the election and the hours during which polling places will be open; | | | |
| (b)(2)(C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; | X | | |
| (b)(2)(D) instructions for mail-in registrants and first-time voters whose identity has not been verified prior to Election Day; | N/A | | |
| (b)(2)(E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; | | X | |
| (b)(2)(F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | | X | |
| (c) Voters who vote after the polls close. Any individual who votes in a Federal election as a result of a court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot. Any such ballot cast under the preceding sentence shall be separated and held apart from other | X | | |



| Sec. 302. Provisional Voting and Voting Information Requirements | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| provisional ballots cast by those not affected by the order. | | | |

| Section 303. Computerized statewide voter registration list requirements and requirements for voters who register by mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (a) (1)(A) **Computerized statewide registration list requirements.** Each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive, computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State (in this subsection referred to as the computerized list), and includes the following: | X | | |
| (a)(1)(A)(i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the state. | X | | |
| (a)(1)(A)(ii) The list contains the name and registration information of every legally registered voter in the State. | X | | |
| (a)(1)(A)(iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | X | | |
| (a)(1)(A)(iv) The computerized list shall be coordinated with other agency databases in the State. | X | | |

| Section 303. Computerized statewide voter registration list requirements and requirements for voters who register by mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (a)(1)(A)(v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | X | | |
| (a)(1)(A)(vi) All voter information obtained by any local election official shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | X | | |
| (a)(1)(A)(vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information. | X | | |
| (a)(1)(A)(viii)The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | X | | |
| (a)(2) **Computerized list maintenance.** The appropriate election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:<br>(a)(2)(A)(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C 1973gg et seq). | N/A[10] | | |
| (a)(2)(A)(ii) For purposes of removing names of ineligible voters from the official | N/A[11] | | |

[10] Puerto Rico is exempt from the National Voter Registration Act. See description of MENT list maintenance process.



| Section 303. Computerized statewide voter registration list requirements and requirements for voters who register by mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| names of ineligible voters, from the official list of eligible voters –<br>(I) under section 8(a)(3)(B) of such Act (42 U.S.C 1973gg-6(a)(3)(B)), the State shall coordinate with State agency records on felony status; and<br>(II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death. | | | |
| (a)(2)(B) The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that –<br>(i) the name of each registered voter appears in the computerized list; | X | | |
| (a)(2)(B) (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | X | | |
| (a)(2)(B)(iii) duplicate names are eliminated from the computerized list. | X | | |
| (a)(3) Technological security. The appropriate official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | X | | |

[11] Puerto Rico is exempt from the National Voter Registration Act. In Puerto Rico, felons convicted in Puerto Rico are eligible to vote, eliminating the need to coordinate with records on felony status. Puerto Rico already coordinates with Civil Registry records on death.

| Section 303. Computerized statewide voter registration list requirements and requirements for voters who register by mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (a)(4) Minimum standard of accuracy for state records. – The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:<br>(a)(4)(A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the national Voter Registration Act of 1993 (42 U.S.C 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | N/A[12] | | |
| (a)(4)(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | X | | |
| (a)(5) Verification of voter registration information.<br>(a)(5)(A)(i) Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed unless the application includes—<br>(I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or<br>(II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | | X | Recommendation is being submitted to Commission to meet this requirement; registration form and list will be modified to meet this requirement. |

[12] Puerto Rico is exempt from the National Voter Registration Act. See description of MENT list maintenance process.



| Section 303. Computerized statewide voter registration list requirements and requirements for voters who register by mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| (a)(5)(A)(ii) Special rule for applicants without driver's license or Social Security Numbers. If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | X | | |
| (a)(5)(A) (iii) The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | X | | |
| (a)(5)(B) Requirements for state officials.—<br>(i) The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | N/A[13] | | |
| (b) **Requirements for voters who register by mail.**—<br>(b)(1) Notwithstanding section 6(c) of the | N/A[14] | | |

[13] Since the Puerto Rico Department of Transportation and Public Works (DTOP) does not process voter registration applications (Puerto Rico is exempt from NVRA), this provision does not apply to Puerto Rico.
[14] Puerto Rico is exempt from the National Voter Registration Act and is not required to provide mail-in registration. Puerto Rico requires in-person voting except that persons eligible under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) may apply to register to vote by mail.

| Section 303. Computerized statewide voter registration list requirements and requirements for voters who register by mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if—<br>(A) the individual registered to vote in a jurisdiction by mail; and<br>(B)(i) the individual has not previously voted in an election for Federal office in the State; or (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | | | |
| (b)(2) Requirements --<br>(b)(2)(A) An individual meets the requirements of this paragraph if the individual--<br>(b)(2)(A)(i) in the case of an individual who votes in person--<br>(I) presents to the appropriate State or local election official a current and valid photo identification; or<br>(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or | N/A | | |
| (b)(2)(A)(ii) in the case of an individual who votes by mail, submits with the ballot--<br>(I) a copy of a current and valid photo identification; or<br>(II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. | N/A | | |
| (b)(2)(B) Fail-Safe Voting<br>(b)(2)(B)(i) An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may | N/A | | |



| Section 303. Computerized statewide voter registration list requirements and requirements for voters who register by mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| cast a provisional ballot under section 302(a). | | | |
| (b)(2)(B)(ii) An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | N/A | | |
| (b)(3) Inapplicability<br>Paragraph (1) shall not apply in the case of a person –<br>(b)(3)(A) --who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either—<br>(i) a copy of a current and valid photo identification; or<br>(ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | N/A | | |
| (b)(3)(B)(i) – who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either—<br>(I) a driver's license number; or<br>(II) at least the last 4 digits of the individual's social security number; and<br>(b)(3)(B)(ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | N/A | | |
| (b)(3)(C) who is--(i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 | X | | |

| Section 303. Computerized statewide voter registration list requirements and requirements for voters who register by mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| U.S.C. 1973ff-1 et seq.);(ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or (iii) entitled to vote otherwise than in person under any other Federal law. | | | |
| (b)(4) Contents of mail-in registration form. (b)(4)(A) The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: (i) The question ``Are you a citizen of the United States of America?'' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | N/A | | |
| (b)(4)(A)(ii) The question ``Will you be 18 years of age on or before election day?'' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day. | N/A | | |
| (b)(4)(A)(iii) The statement ``If you checked `no' in response to either of these questions, do not complete this form.''. | N/A | | |
| (b)(4)(A)(iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | N/A | | |
| (b)(4)(B) Incomplete forms.--If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant | N/A | | |



| Section 303. Computerized statewide voter registration list requirements and requirements for voters who register by mail | Compliant | Not Compliant | Actions Needed for Compliance |
|---|---|---|---|
| of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | | | |

## Appendix B

**Current Requirements for Voting Systems in Puerto Rico**

The Commission has adopted the following parameters for any acceptable voting system to be used in Puerto Rico. These criteria include the following:

*Necessary characteristics:*

1. Provides an alternative for voters with disabilities that preserve the paper ballot.
2. Does not limit the number or color of ballots.
3. Guarantees the "write-in" option.
4. Guarantees absentee ballots and ease of use by voters with disabilities.
5. Guarantees a second chance in case of a spoiled ballot.
6. Counts the number of spoiled ballots (any ballot that is processed by a machine and is set aside for any reason).
7. Provides for the authenticity of the ballot via initials of the officers or another equally secure mechanism.
8. Guarantees ballot secrecy.
9. Guarantees the ability of party representatives to hand-count if necessary.
10. Achieves an equal or better level of precision and speed as the current system.
11. Provides alternatives according to any variance of infrastructure conditions (example: battery operated, wireless communications, among others).
12. Simplicity of operation and use for election officials.
13. Permits the challenge of ballots in cases allowed by Law.
14. The program allows easy and dynamic changes and adjustments to fit the needs of different electoral events.
15. Must be certified by a competent independent testing authority.
16. Easy to use and to explain to voters with limited voting experience.

*Desirable Characteristics*

1. Preference for the X as the acceptable marking.
2. Desirability to reduce the ballot size to 8.5" X 11" or 8.5" X 14".
3. (Cost-effective) Cost of the new system is proportional to the benefit and precision achieved, and the utility of the investment for other applications during non-election periods.
4. Easy to carry, install and handle.
5. Desirability to allow easy and dynamic changes and adjustments to fit the election needs of a variety of civic, professional, labor, school organizations, etc.
6. Desirability to allow easy adaptation for use by other electoral jurisdictions.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
*Office of the Secretary of State*

**Matthew A. Brown,** Secretary of State

# RHODE ISLAND
# STATE PLAN
## HELP AMERICA VOTE ACT OF 2002 (HAVA)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
*Office of the Secretary of State*

**Matthew A. Brown,** Secretary of State

August 13, 2003

Dear Rhode Islander:

I am pleased to present Rhode Island's State Plan for implementing the federal Help America Vote Act (HAVA). Congress passed HAVA last year, providing funding to help states reform their elections and improve their voting systems.

Our State Plan is intended to make Rhode Island's elections the most accessible, fair and accurate in the country. It is the result of several months of work by the members of the HAVA Rhode Island Advisory Committee, a diverse group of more than seventy-five citizens I brought together to help develop this important blueprint for election reform. The members of this committee represent a range of backgrounds, ages, and experiences. They are state and local elected officials and election officials, community and civic leaders, business and labor leaders, and concerned citizens. They all shared a commitment to making elections in Rhode Island the best they can be. I want to thank all of them for their work in developing the State Plan.

I also want to thank everyone who offered comments and raised issues of concern during our public comment period. The high level of public engagement throughout this process has made the final plan a document which represents the ideas and concerns of hundreds of citizens and public officials from throughout the state.

I am grateful for your interest in our democratic process. The quality of our elections is essential to the strength of our democracy and our government. Our plan provides a long-term blueprint for reform that will make Rhode Island's elections the best in the country.

Sincerely,
Matt Brown

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## INTRODUCTION

In 2002, the United States Congress, with broad bipartisan support, passed landmark election reform legislation known as the Help America Vote Act (HAVA). This historic legislation requires states to reform numerous aspects of the way elections are run, and appropriates federal funding to help them meet these challenges. A copy of this law can be found on the website of the Rhode Island Secretary of State at www.state.ri.us/HAVA/.

Rhode Island can be proud that the State has been a leader in election reform, long before the enactment of HAVA. Through the foresight of former Secretary of State and now United States Representative James R. Langevin, Rhode Island has had in place a unified, optical scan precinct count voting system for each of its 39 cities and towns that allows the Board of Elections and our local boards of canvassers to conduct fair and accurate elections. As a result, Rhode Island was able to prevent the election problems experienced in other parts of the country during the 2000 election.

While the State has made significant progress in electoral system reform, its work is not yet complete. HAVA provides Rhode Island with a unique opportunity – and significant federal dollars – to realize elements of election system reform, which, until now, have been only a dream.

Rhode Island has recently received its first allocation from HAVA, $5 million in Title I funding. To receive an additional $4.15 million this year to meet Title III requirements, and if authorized by Congress, an anticipated $12.5 million in subsequent years (for a total of $21.6 million), the State must submit a State Plan detailing:

- How the State will establish the fund to accept the federal monies,
- How the Federal monies will be used,
- How the State will meet the new federal requirements,
- How the State will measure performance in implementing the State Plan, and
- How the State will conduct ongoing management of the State Plan.

The process of producing the Rhode Island State Plan reflects the State's commitment to improving elections, to public engagement and to open and ethical government. Secretary of State Matthew A. Brown's appointments to the HAVA Advisory Committee went far beyond the required participants named in the federal legislation. The Secretary of State is extremely grateful to the 75 individuals – both public officials and private citizens – who volunteered their time to analyze how Rhode Island fared against the federal law and to recommend changes that would be needed to meet the new HAVA election system requirements. The Secretary of State would also like to thank the hundreds of individuals who took the time to share their concerns and new ideas during this process.

A few core principles guided the development of this State Plan, specifically that:

- The sum of all actions should result in a coordinated, integrated, and seamless statewide elections system.
- All participants should consider this a unique opportunity to dramatically improve civic participation in elections.
- The process for developing the State Plan should be open, inclusive and welcome a diversity of ideas and perspectives.
- Federal funds must be wisely managed to ensure the State's ongoing ability to administer HAVA requirements.
- This is a continuation of efforts to improve Rhode Island's election system, and not the end.

What will Rhode Island accomplish with the $9 million to potentially $21.6 million in federal dollars that the State could receive through HAVA?

The State will finally be able to develop and implement a powerful election tool – a statewide, uniform, computerized, interactive, central voter registration list known as the **Central Voter Register System** (CVRS). By linking cities and towns into a statewide network, the CVRS will allow Rhode Island to maintain a highly accurate, up-to-date voter registration list. The CVRS will enable election officials to ensure that those who are eligible to vote are able to vote and those who are not eligible to vote do not. This system will be procured by January 1, 2004.

HAVA also mandates that the State provide voters who are differently-abled with accessible voting systems that provide the same opportunity for access, participation, privacy and independence afforded to other voters. Every polling place in Rhode Island will be equipped with a **direct recording electronic (DRE) voting system** by January 1, 2006.

To meet HAVA mandates, Rhode Island will need to put into place a system for **provisional voting** and **new identification requirements for voters.**

In this State Plan, Rhode Island has also made a commitment to **improve training programs** for its front line workers – both **election officials and poll workers.** These individuals will need to be well versed in the new systems and procedures that will take effect as a result of the State's implementation of HAVA requirements. The State will also create new partnerships with businesses, schools and civic organizations to recruit a larger and more diverse pool of qualified poll workers, including young people in high school and college.

A critical element underlying all of these changes is the State's commitment to increase **civic participation in elections**. While 672,950 individuals were registered to vote in the 2002 election, only 50% went to the polls and cast a ballot. Rhode Island's challenges under HAVA are twofold: to ensure that the State has the most up-to-date voter registration lists which will





be made possible by the new CVRS and to make the voting experience as accessible and rewarding as possible for every voter.

With HAVA funding, Rhode Island will be able to expand its voter education programs. The State will improve methods for providing basic information to voters – what they need to know when they get to the polls. Rhode Island will also improve its education and outreach efforts – to motivate registered voters to exercise their democratic rights by getting out and voting. New training and education materials will be user-friendly, easier to understand, more accessible, and available in multiple formats.

It will take a statewide commitment for Rhode Island to be successful in meeting the requirements of HAVA. This effort will depend on the hard work and dedication of many partners: the Office of the Secretary of State, the Board of Elections, local boards of canvassers, the General Assembly, the Governor and State Officers, our political parties, and you, the voter.

The Rhode Island State Plan is a living document that the State will need to refine and update as necessary over time. Overall, Rhode Island is in a good position to meet HAVA requirements within the required deadlines. There is no greater gift that today's elected officials can give future generations than a strong democracy, built on a foundation of civic responsibility and an election system that is fair and efficient, and ensures the integrity of every vote.

## SECTION 1: TITLE III REQUIREMENTS AND OTHER ACTIVITIES

*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. – HAVA §254 (a)(1)*

### 1.1. VOTING SYSTEMS STANDARDS REQUIREMENTS – §301(A)

*Deadline for compliance: January 1, 2006: no waiver permitted.*

The State of Rhode Island is well poised to implement the requirements of HAVA.

With great foresight, Rhode Island enacted legislation (Chapters 277 & 298 of Public Laws of 1996) that mandated the statewide use of a uniform, optical scan precinct count voting system. Since September 1998, this optical scan precinct count voting system (OpTech III-PE, "Eagle" voting system) has been in use for all elections at all polling places in the 39 cities and towns which make up the State of Rhode Island (the State).

The State's optical scan precinct count voting system meets most of the requirements under Section 301 of HAVA. Specifically:

- Voters can verify, in private, their selected votes on the ballot before their vote is cast and counted,
- Voters can change their ballots or correct any error before the vote is cast and counted, including the opportunity to receive replacement ballots,
- The optical scan system automatically notifies voters if they have selected more than one candidate for the same office, a warden/moderator informs them of the effect of their over-voting and the voters are given the opportunity to correct their errors before their votes are cast,
- A permanent paper record with a manual audit capacity is produced and available for recount,
- The system has the ability for an alternative language, and
- The error rate meets federal standards.

**Voting Instructions For Mail Ballots**

Currently, the Office of the Secretary of State provides ballots and printed voter information to voters who vote by mail. The staff of the local boards of canvassers, the Board of Elections and the Secretary of State's Elections Division are available by phone to provide one-on-one information to mail voters.

The current instructions to voters who vote by mail will be revised to include information on the effect of casting multiple votes for the same office and how to correct a ballot before it is cast, including instructions on how to obtain a replacement ballot.





**Uniform, Nondiscriminatory Standards For What Constitutes A Vote**

In 2002, the Board of Elections adopted rules and regulations that defined what constituted a "vote" on the State's optical scan precinct count voting system. Legislation will be introduced in the 2004 session of the Rhode Island General Assembly which will codify, as a matter of law, the definition of a "vote." As other voting systems are implemented (e.g. DREs), the Board of Elections will take the steps necessary to ensure that a uniform and nondiscriminatory definition of a "vote" is adopted in conformance with the requirements of HAVA.

In Rhode Island a vote is counted by the optical scan precinct count voting system whenever the voter completes the arrow next to the candidate of choice. The optical scan precinct count voting system is designed to return the ballot to the voter if the markings indicate an overvote in any race, if the ballot is blank, or if the ballot is incorrectly marked.

In the case of an overvote, the voter is given an opportunity to cast a new, correctly marked ballot. If the voter insists on casting the incorrectly marked ballot, the warden will manually override the appropriate control on the optical scan system and allow for the ballot to be entered and counted for all races other than the overvoted race. In the case of a completely blank ballot or incorrectly marked ballot (candidate choices listed in places other than in the spaces provided for same), the voter is given the opportunity to cast a correctly marked ballot. If the voter insists on casting the ballot, the warden places the ballot in a special envelope marked "For Manual Count" which will be manually counted by the local board of canvassers after the close of the polls.

**Accessibility For Individuals With Disabilities - Equipment**

Under HAVA, by January 1, 2006, the State must have at each polling place at least one direct recording electronic (DRE) voting system or another such system that:

- provides a voting system that is accessible to individuals with disabilities, and
- provides the same opportunity for access, participation, privacy and independence afforded to other voters.

Rhode Island state law already requires the Office of the Secretary of State to prepare and provide Braille or tactile ballots for voters who are visually impaired when voting by mail or in person. However the State does not currently provide a DRE voting system for every polling place.

In 2002 the State enacted legislation (RIGL 17-19-8.2) directing the Secretary of State to *"begin the process for the purchase of state of the art voting equipment which can accommodate not only voters who are blind or visually impaired but also persons with disabilities and afford all voters who are blind, visually impaired or disabled the opportunity to cast their ballots independently,"* to be purchased with federal funding. The ballot for the new voting equipment must be created from the same database used to create the ballot for the State's current optical scan precinct count system. Votes cast on the new voting equipment must be capable of being integrated into the State's current optical scan precinct count system.

The State has not yet purchased these systems. The State will purchase with HAVA funding and before the HAVA deadline of January 1, 2006 two DRE voting systems for each polling place. These machines will be available for all voters, with priority given to the elderly and disabled. The State will put this system into place as soon as a durable DRE voting system is tested and found compatible with both the optical scan precinct count voting system and the diverse needs of the voting community. The State will provide these machines to local election officials under similar terms as it now provides the optical scan precinct count voting system.

Poll workers will be trained by the Board of Elections in the use of these machines with special attention given to assuring that poll workers are sensitive to the special needs of voters with disabilities. Public outreach and training will be implemented to ensure that voters are aware of the availability of the equipment, knowledgeable about its use, and informed of the opportunity to receive training on the equipment prior to casting their ballots.

Rhode Island's early and active pursuit of voting system improvements now mandated by HAVA has placed the State on course to fulfill HAVA requirements within the statutory timeframes. With HAVA funding, Rhode Island will be able to bring all polling places into full compliance within HAVA deadlines.

If full federal funding is received for 2004 and 2005 (federal fiscal years) as outlined in HAVA Section 257, the State is contemplating converting its full fleet of optical scan precinct count voting systems to a DRE voting system. This would allow the State to improve efficiencies and to continue to administer a uniform, standard voting system in accordance with other State election practices.

Rhode Island will take into consideration guidelines and standards for voting equipment which will be issued in 2004 by the Technical Guidelines Development Committee established under HAVA. The Office of the Secretary of State will not acquire DRE's until we are satisfied that they meet our requirements for (1) redundant ballot storage of each ballot image, (2) generating paper records of ballots cast for recount and audit control purposes and (3) other security issues deemed critical to the conduct of fair and accurate elections. It is





important to note that the electoral process, in addition to voting equipment, requires qualified and properly trained election officials and workers who follow clear and established procedures and practices for the conduct of fair elections. It is unrealistic to evaluate the security of any system without taking into consideration the procedures and checks and balances that are always present in actual elections.

See Table I in the Appendix for more detailed information on how Rhode Island will meet HAVA Section 301 requirements.

**Accessibility For Individuals With Disabilities – Polling Places**

In 1984 the Rhode Island General Assembly enacted legislation (RIGL 17-19-3.2) that required *"(a) Every polling place shall be situated in a building which can be entered and exited by persons who are disabled or elderly."* Upon the implementation of the statewide optical scan precinct count voting system in 1998, the Board of Elections, working in partnership with the Governor's Commission on Disabilities, visited each polling place in Rhode Island. Working together, the Board of Elections and the Governor's Commission made recommendations to local boards of canvassers which resulted in all polling places meeting the required polling place accessibility standards by November 2000.

It is understood that the federal Election Assistance Commission (EAC) established under HAVA is expected to continue to update and issue new voluntary voting system guidelines. The Board of Elections will monitor the releases by the EAC (in consultation with the Governor's Commission on Disabilities) and continue to recommend to local boards of canvassers any improvements that might be necessary.

Additionally, the Governor's Commission on Disabilities, as the official designee of the Chief State Election Official, will assist in the preparation of Rhode Island's State Grant for Election Assistance for Individuals with Disabilities (EAID) of the United States Department of Health and Human Services. The Governor's Commission will work in consultation with the Board of Elections, local boards of canvassers, and the Chief State Election Official in the implementation of grant activities.

### 1.2. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS – §302

*Deadline for compliance: January 1, 2004; no waiver permitted.*

**Provisional Voting**

The intent of provisional voting is to ensure that no individual who goes to the polls intending to cast a ballot is turned away without having the opportunity to do so.

Under HAVA, individuals who are not on the certified voting list must be allowed to vote using a provisional ballot. The individuals must execute a written affirmation that they are registered voters in the jurisdiction in which they desire to vote, and that they are eligible to vote in that election. Once the appropriate State or local election official verifies that the individuals are eligible to vote under State law, the provisional ballots are counted. In addition, the appropriate state or local election official must establish a free access system which allows individuals who cast provisional ballots to verify whether their votes were counted, and if not, the reason they were not counted.

Rhode Island does not meet HAVA requirements for provisional voting. While Rhode Island law allows voting by *"temporary certificate of registration,"* this registration is issued at the office of the local board of canvassers and is only issued after it is determined that the individual is registered to vote in that jurisdiction.

During its 2003 session, the Rhode Island General Assembly adopted legislation (Rhode Island General Laws, Section 17-19-24.1) which requires Provisional Voting in order to bring the State into compliance with HAVA §302 requirements. This legislation instructs the Board of Elections to promulgate the rules and regulations for Provisional Voting in accordance with HAVA.

The Board of Elections will develop and maintain a free access system through which any individual who casts a provisional ballot can verify whether that individual's vote was counted; and if the vote was not counted, the reason that the vote was not counted. Access to this information will be restricted to the individual who cast the ballot. The Board of Elections will develop procedures for transferring the information on the disposition of provisional ballots from the local board of canvassers to the free access system.

**Voting Information Requirements**





State law, which requires that voting information be posted at all polling places, is already in accordance with most of the HAVA §302 provisions. Specifically:

> RIGL 17-19-10 directs the Secretary of State to prepare a sample ballot that includes a copy of the ballot to be used, instructions on how to vote and instructions on how to cast a vote. The Secretary of State shall furnish a reasonable supply of samples ballots to the Board of Elections for public distribution on request and no fewer than three sample ballots to be posted in each polling place.

The Board of Elections packages and delivers election supplies for each voting district to local election officials. Information on state and federal laws on voter fraud and misrepresentation is posted in all polling places on Election Day. The public is also notified of the date, time and location of polling places in advance of all elections, either through postings in public places or postings in the local newspaper. Outside each polling place is a clearly marked sign, conspicuous and visible from the street, indicating the location of the polling place.

While the State currently meets most of the requirements for providing voter information, it does not yet have in place information on provisional voting. Once procedures are established for provisional voting, the State will ensure that this information is available in all polling places. In addition, the State will codify all posting requirements to ensure ongoing compliance under HAVA.

The Office of the Secretary of State will ensure that instructions on how to vote are provided to all individuals voting by mail.

The State will be in compliance with Section 302 by January 1, 2004, and, as required by HAVA, will implement §302 requirements by the first federal election held thereafter.

See Table II in the Appendix for more details on how Rhode Island will meet HAVA Section 302 requirements.

### 1.3. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL – §303

*Deadline for compliance: January 1, 2004; State can submit a certification stating "good cause" that will move the deadline for §303(a) compliance to January 1, 2006.*

Rhode Island law (RIGL 17-9.1-6) mandates the State to *"administer a single and unified system of voter registration in accordance with all state and federal laws which shall enable duly registered voters to vote in all elections in their respective voting districts including elections for federal office."* All new systems implemented to bring Rhode Island into compliance with HAVA requirements will ensure the continuation of a single and uniform voter registration system, for in-person and mail registration, and for all federal, state and local elections.

**Computerized Statewide Voter Registration List**

For Rhode Island, the cornerstone of HAVA is the requirement and extraordinary opportunity for implementation of a computerized, uniform, centralized, interactive, statewide voter registration database. For years Rhode Island has recognized the need for this system, but until the passage of HAVA, the State has not had the resources to create this uniform, centralized Central Voter Register System (CVRS). It will be a powerful tool, allowing election officials to ensure that those who are eligible to vote are able to vote and that those who are not eligible to vote do not.

Currently, official voter registration records are maintained at the local level, including original voter registration cards. While the Secretary of State maintains a central list of all persons registered to vote in Rhode Island, this list is not immediately and electronically available to the local boards of canvassers or other statewide and local election officials. The list is updated quarterly when the local boards of canvassers submit their updates to the Elections Division of the Office of the Secretary of State. These updates are then manually entered in the Election Division's central list.

Anticipating the opportunity to create a CVRS through HAVA, the State adopted legislation (RIGL 17-6-1.2) in 2002 that directs the *"Secretary of State [to] procure a statewide central voter register"* using *"federal funds appropriated to the State of Rhode Island, subject to appropriation by the General Assembly, pursuant to election reform legislation adopted by the United States Congress in 2002."*

Upon authorization of HAVA funding, the Office of the Secretary of State will immediately begin the procurement process for a computerized statewide Central Voter Register System (CVRS). Specifically:

- Rhode Island will implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list, which is defined, maintained and administered at the State level.





- The CVRS will be the official voter registration list for the conduct of all federal, state, and local elections in the State.
- The CVRS will contain the name and registration information for every legally registered voter in the State.
- Every legally registered voter will be assigned a unique identifier for the State CVRS.
- The CVRS will be the single system for storing and managing the official list of registered voters throughout the state.
- The CVRS will be coordinated with other agency databases (e.g. the Division of Motor Vehicles) as required under HAVA.
- Election officials will be able to obtain immediate access to the information contained in the CVRS.
- Local election officials will update all voter registration information in the CVRS on an expedited basis at the time the information is provided to the local official.
- The State will provide support as needed so that local election officials are able to enter information and produce voter registration lists when needed.
- List maintenance will be performed on this computerized list on a regular basis:
  - Ineligible voters will be removed in accordance with the National Voter Registration Act.
  - The State will coordinate with state agency records on felony status for the removal of felons.
  - The State will coordinate with agencies that record vital statistics for death records to remove deceased voters.
  - List maintenance will ensure that the name of each registered voter appears on the computerized list.
  - Only individuals who are not registered or who are not eligible to vote will be removed from the computerized list.
  - Duplicate names will be eliminated from the computerized list.
- State and local election officials will provide adequate technological security measures to prevent unauthorized access to the computerized list.
- The CVRS will include provisions to ensure that voter registration records are accurate and updated regularly, including:
  - A system of file maintenance that removes registrants who are ineligible to vote, i.e. in accordance with the National Voter Registration Act (NVRA), those individuals who have not responded to a notice and have not voted in two consecutive federal elections.
  - Safeguards to insure that eligible voters are not removed in error.
- Voter registration information will be verified in accordance with HAVA requirements.

The Office of the Secretary of State will provide local boards of canvassers with all hardware, software and training that they will need to participate in the statewide CVRS. The Office of

the Secretary of State will also provide the Board of Elections, other state agencies, and the public access to the CVRS database as appropriate, in accordance with State law and subject to the applicable privacy provisions for the *HAVA-Mandated Identifier* (see next section).

**Special Provisions For Voter Registration Information**

HAVA mandates that an application for voter registration for any election for Federal office may not be accepted or processed by a State unless the application includes:

- The voter's current and valid driver's license number, if the voter has a driver's license, or
- The last 4 digits of the voter's Social Security Number (SSN), for those voters who do not have a current and valid driver's license, or
- A unique identifier assigned by the CVRS in those cases where the voter does not have either a current and valid driver's license or a SSN.

To meet this requirement, the CVRS will maintain two unique numbers for every registered voter in Rhode Island:

1) A *State Voter Identification Number*, automatically assigned by the system, which will be part of the public record, and
2) A *HAVA-Mandated Identifier* (driver's license number, last 4 digits of SSN or unique identifier), which will be protected from public view.

This will allow the State to both verify the accuracy of information provided in accordance with Section 303 requirements and protect the privacy of personal information. As individual voter registration information is by State statute a public record, the State will need to amend the current statute to ensure privacy protections for the HAVA-Mandated Identifier.

In order to verify the accuracy of the information provided on applications for voter registration, the Secretary of State and the Director of the Division of Motor Vehicles (DMV) will enter into an agreement to allow the matching of information in the Central Voter Register System with information at the DMV.

As required by HAVA, the DMV Director will enter into an agreement with the Commissioner of Social Security to verify the accuracy of information provided by DMV for those applications for voter registration on which the last 4 digits of a Social Security Number (SSN) were provided instead of a driver's license number. The information that will be verified includes:

- The name, date of birth and social security number of an individual given to the Commissioner to match the information on file in the Commissioner's record, and
- If such individual is shown on the records of the Commissioner as deceased.





Prior to developing a Request for Proposal (RFP) for the CVRS, the Office of the Secretary of State will assess the needs of key stakeholders including the Board of Elections and the local boards of canvassers. In accordance with the rules and regulations of the State Division of Purchasing, the Office of the Secretary of State will prepare an RFP to be issued by the Division of Purchasing to procure a CVRS that meets HAVA requirements.

Any changes to voter registration forms must be reviewed by the Secretary of State to ensure compatibility with the CVRS and ongoing compliance with HAVA requirements.

**Requirements for Voters Who Register by Mail**

The mail-in voter registration process in Rhode Island does not currently meet HAVA §303 requirements for voter identification or voter instructions. Beginning January 1, 2003, voters who register by mail who have not provided their driver's license number or SSN upon registering and have not previously voted in an election for Federal office in the State must present identification either at the time of registration or at the time of first voting. The new first time voter must present this identification either with the mail registration, at the polls on Election Day, or with the mail ballot if the voter chooses to vote by mail.

An individual will meet this requirement upon presenting either:

1) a current and valid photo identification, or
2) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter.

Rhode Island will modify its mail registration and voter information to notify new voters of the identification requirements of HAVA. The CVRS will be designed to support and track compliance with HAVA identification requirements.

The State will modify the voter registration form and polling place voter qualification processes to allow for the verification of identification provided by first-time voters who were registered by mail.

To comply with HAVA requirements, the Board of Elections will also make changes to the mail registration form by the statutory deadline. These changes include adding:

- The question *"Are you a citizen of the United States of America?"* and boxes for the applicant to check which indicate whether the applicant is or is not a citizen.
- The question *"Will you be 18 years of age on or before election day?"* and boxes for the applicant to check which indicate whether or not the applicant will be 18 years of age or older on election day.
- The statement *"If you checked 'no' in response to either of these questions, do not complete this form."*

- A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required must be included in order to avoid additional identification requirements upon voting for the first time.

In keeping with the Rhode Island statute that the State administer a unified voter registration system, a single, standardized, uniform voter registration form (whether in-person or mail forms) will be developed by the Board of Elections and will include the required information.

See Table III in the Appendix for more details on how Rhode Island will meet HAVA Section 303 requirements.





**1.4. MINIMUM REQUIREMENTS – §304**

The State understands that the requirements laid out in HAVA are minimum requirements. The State may establish election technology and administrative requirements that are more stringent. Any more stringent requirement that the State imposes must comply with all Title III requirements, as well as the laws described in HAVA §906.

Since 1996, State law mandates uniformity in statewide voting systems and the administration of a single and unified system of voter registration in accordance with all state and federal laws. Therefore, Rhode Island legislation in these two areas could be considered more rigorous than HAVA. The State will continue to ensure uniformity in all State voting and voter registration systems for all federal, state and local elections. These uniform systems will be in full compliance with all HAVA requirements and with the relevant laws listed in HAVA §906.

**1.5. METHODS OF IMPLEMENTATION LEFT TO DISCRETION OF STATE – §305**

The State chose various means to comply with the requirements of HAVA Title III. Specific details on the implementation methodology chosen can be found in Sections 1.1. through 1.3 of this State Plan.

**1.6. ADOPTION OF VOLUNTARY GUIDANCE BY COMMISSION – §311**

Once the federal Election Assistance Commission (EAC) has issued its voluntary recommendations with respect to Title III, the State will consider that guidance in updating the State Plan. The State welcomes this assistance and will incorporate those recommendations deemed appropriate into subsequent versions of the State Plan.

**1.7. PROCESS FOR ADOPTION – §312**

The State will stay aware of the progress of the EAC in developing the Title III recommendations. If appropriate, the State will provide feedback during the public comment period after the recommendations are published in the Federal Register and participate in public hearings regarding the recommendations.

**1.8. OTHER ACTIVITIES – §251 (B)(2)**

The State shall use HAVA requirements funding to meet Title III requirements. In the event that the State has completely implemented the requirements of Title III, future State Plans will be amended to include how requirements funding shall be used for other activities to improve the administration of elections for Federal office in keeping with the conditions of this section.

## SECTION 2. RHODE ISLAND'S DISTRIBUTION OF REQUIREMENTS PAYMENT

*How the State will distribute and monitor the distribution of the requirements payments 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). – HAVA §254 (a)(2)*

### 2.1 ELIGIBILITY OF LOCAL UNITS TO RECEIVE THE PAYMENT

In Rhode Island, the State is responsible for the procurement, maintenance, preparation, delivery and storage of all optical scan precinct count voting systems used by local boards of canvassers in all federal, state and local elections. The State is responsible for the administration of a single, uniform voter registration system for all in person and mail registrations and for all federal, state and local elections. This centralized system provides for improved efficiency of elections.

In keeping with these practices, the State will use HAVA funds to:

- Provide services and materials to local boards of canvassers as needed to meet HAVA requirements, and
- Support other activities to improve the administration of elections as described in HAVA.

HAVA funds will be centrally managed by the Office of the Secretary of State to ensure compliance with HAVA requirements and the State fiscal control systems.

### 2.2 PERFORMANCE MEASURES FOR LOCAL UNITS

The State will monitor HAVA funds in accordance with the statewide performance measures adopted under HAVA §254(a)(8) and as outlined in Section 8 of this State Plan. The Office of the Secretary of State will centrally manage the distribution of all funds appropriated to the Rhode Island HAVA Election Fund, including but not limited to the requirements payments. Priorities and timelines will be incorporated into the budgeting process so that Rhode Island will implement mandates and improvements in a wise and timely manner.





## SECTION 3. VOTER EDUCATION, ELECTION OFFICIAL EDUCATION AND TRAINING, POLL WORKER RECRUITMENT AND TRAINING

*How the State of Rhode Island 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. – HAVA §254(a)(3)*

Throughout the preparation of the State Plan, Rhode Islanders have strongly urged the State to develop improved education and training programs for current, potential and future voters, for election officials and for poll workers. A well-informed electorate, supported by well-trained and voter-oriented election officials, is essential, not only for the successful implementation of HAVA requirements, but also to improve voter participation in the electoral process.

In redesigning its training and education programs, the State will seek to standardize election terms, to make information and training easier to understand and more accessible to more audiences, and to ensure that programs for different stakeholders are well-coordinated, well-integrated and reinforcing of key messages and themes.

### 3.1. VOTER EDUCATION AND OUTREACH

In order to increase voter participation in elections, voters need to:

- Understand their rights as voters,
- Understand the mechanics of how to vote, and
- Be sufficiently motivated to engage in the democratic process by voting.

The activities in voter education and outreach that Rhode Island will implement through HAVA funding will address all three of these elements.

Currently, Rhode Island posts certain voter information in all polling places including:

- Sample ballots to be used in the election at each polling place.
- Instructions on how to vote.
- General information on federal and state laws regarding fraud and misrepresentation.

Under HAVA, the State will also need to include at polling places:

- Date and hours during which the polling place will be open.
- Instructions for mail-in registrants and first time voters under Section 303(b).
- General information on voting rights under federal and state laws, including information on how to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to be violated.

Rhode Island welcomes HAVA funding as an opportunity not only to incorporate these additional requirements into its existing voter information procedures, but also the

opportunity to make significant improvements in its voter education program. Rhode Island recognizes the need to ensure that voter information is uniform, that it is communicated in plain and easily understood language, and that it must be accessible to individuals in the diversity of the ways that they need to receive and process information.

Under HAVA, the Office of the Secretary of State will improve its public outreach and education programs in order to:

1) Assure that voters are informed of their rights and receive proper and timely instructions on how to vote in accordance with HAVA requirements.
2) Improve voter education and information materials and delivery systems, such that these materials:
   - promote uniformity of terminology,
   - are user-friendly and visually attractive,
   - are widely accessible,
   - consider the special needs of non-English speakers and individuals at varying
   - levels of literacy,
   - consider the special needs of voters who are differently-abled, and
   - are transmitted through multiple venues such as print, TV, radio, the Internet, personal contact and new technologies as they are developed.
3) Motivate individuals to exercise their democratic responsibility to register and vote and to serve as poll workers. This will be done through the use of compelling, nonpartisan, voter education messages and materials, delivered in multiple formats and venues, and in partnership with other organizations such as schools, community-based organizations, businesses, chambers of commerce, the media and other civic organizations.
4) Educate ex-felons about their voting rights and provide the appropriate officials in the Correctional, Probation and Parole systems with the appropriate voter registration information to enable ex-offenders to participate in the electoral process when allowed by law.

Additionally, the Office of the Secretary of State is developing a comprehensive high school civic participation, voter education and voter registration program aimed at involving high school students in the electoral process and related civics projects.

### 3.2 ELECTION OFFICIAL EDUCATION AND TRAINING

Local election officials (i.e., anyone responsible for administering elections on the local level) are the front line of a fair, accurate and accessible election. In Rhode Island, these dedicated officials are responsible for registering voters, maintaining registration records, preparing and





correcting voter lists, overseeing the conduct of local elections, disseminating public information on upcoming elections and hiring poll workers.

As a result of HAVA mandates, local election officials will need to learn new voter registration systems and procedures and will be responsible for ensuring compliance with many new requirements. A well-developed training program is essential to prepare these individuals for these changes.

Under RIGL 17-7-5, the Board of Elections is responsible for the training of local election officials with respect to voting equipment and conduct of elections. The Office of the Secretary of State and the Board of Elections frequently partner to conduct training sessions and seminars for local election officials. The Office of the Secretary of State and the Board of Elections are regularly invited to make presentations on relevant election matters at the Rhode Island Town and City Clerks Association. Elections Division staff of the Office of the Secretary of State are available to local election officials to answer their questions and provide support and guidance on all aspects of elections in Rhode Island. Elections Division staff routinely communicate with and disseminate information to local election officials through meetings, phone calls, email and faxes.

At public hearings held to develop the State Plan, the State and local election officials expressed a great need to improve programs and materials for training election officials and to increase election official participation at training sessions. At those hearings, gaps in current training programs were identified; e.g.
attendance at many training sessions is not mandatory for local election officials.

In order to develop an improved statewide election official training program, the Board of Elections and the Secretary of State will assemble a committee including representatives of the local boards of canvassers. This committee will assist the Board of Elections and the Office of the Secretary of State in the development of new training programs for local election officials, including all canvassing authority members and their staffs.

The training will be designed to ensure that election officials are well versed in all HAVA mandates, including:

- The use of all voting equipment including optical scans and DREs,
- Statewide Central Voter Register System,
- Registration requirements,
- Provisional voting,
- Voting by mail ballot,
- Voting on Election Day and
- Other applicable state and federal election laws.

This program will be designed in consultation with election officials needs and will be responsive to the needs of adult learners. It will include core information on a variety of topics adjusted for the proficiency levels of election officials (e.g. beginner to refresher training). It will incorporate incentives for local officials to participate in training. It will include a training "manual" in multiple formats (e.g. printed handbook, video, online, guest speakers) to ensure flexibility in training and ease of use.

The State has already begun to train local election officials in HAVA requirements by engaging them as critical stakeholders in the preparation of the State Plan. Their participation on the HAVA Advisory Committee and its subcommittees, and their participation at public hearings, has been important to the development of the State Plan.

### 3.3 POLL WORKER RECRUITMENT AND TRAINING

On Election Day, well-trained and motivated poll workers are essential to ensure the proper conduct of elections, to protect the rights of voters, and to ensure that voters have a satisfactory voting experience. Poll workers need to be knowledgeable about the voting systems in use, the rights of voters and other relevant aspects of the conduct of elections under federal and state law.

As the State implements the changes required under HAVA, poll workers will also need to be well-versed in these new and sometimes complex requirements, especially voter identification requirements, provisional voting, and the use of direct recording electronic (DRE) voting systems.

No one person or agency has full responsibility for coordinating poll worker recruitment and training in Rhode Island. Currently, the respective city or town committees of the political parties select poll worker candidates. Local boards of canvassers appoint and assign poll workers from the political party lists of certified candidates. Poll worker training is the responsibility of the Board of Elections.

During public hearings to develop the State Plan, local election officials as well as voters expressed the need for improved poll worker recruitment and training.

Given the significant changes in federal law under HAVA, it is imperative that the State responds to these concerns by developing a more comprehensive and significantly improved system of recruiting and training poll workers. With HAVA funding, the State has a unique opportunity to improve current practices and to facilitate the participation of more individuals from throughout our diverse community in this critical aspect of our precious democracy.





In the spirit of HAVA, an important aspect of improving the competencies of poll workers is to increase the pool and qualifications of individuals who are interested in serving in this position. Rhode Island has been chronically challenged by its ability to recruit a sufficient number of qualified poll workers for the conduct of elections. HAVA funding will provide the State with the ability to reassess and redesign its poll worker recruitment and training activities.

In the process of crafting a new poll worker recruitment program, the State will:

- Expand recruitment of high schools students to serve as official, nonpartisan poll workers or assistants; e.g. by developing community service and service learning programs with organizations such as public, independent and parochial schools, student service organizations, community and service learning faculty, and community-based organizations that serve high school students.
- Recruit college students as nonpartisan poll workers or assistants; e.g. by developing service learning partnerships with campus organizations such as student councils, campus political committees, community and service learning centers, and campus media.
- Develop recruitment partnerships with businesses, civic and nonprofit organizations.
- Improve media outreach, e.g. paid advertising and public service announcements in mass and specialty media.

In redesigning current poll worker training programs, the Board of Elections, in consultation with the local boards of canvassers, will:

- Redesign poll worker training programs and materials in consultation with key stakeholders.
- Develop standardized training programs and materials that:
  - are responsive to the needs of adult learners,
  - are tailored to poll worker experience levels,
  - include opportunities for role playing and hands-on training at local or regional training sites, and
  - use multiple formats (e.g. printed handbook, video, online, speakers) to ensure flexibility in training and ease of use.
- Develop a poll worker performance management and evaluation system to improve the delivery of high quality customer service and voter assistance.

All poll worker training programs will include training on all requirements of HAVA, proper use of voting equipment including DREs, diversity awareness, provisional voting, and all other federal and state requirements.

Legislation will be introduced in the 2004 legislative session to allow for the expansion of recruitment activities and eligibility requirements for poll workers.





## SECTION 4. VOTING SYSTEM GUIDELINES AND PROCESSES

*How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301. – HAVA §254 (a)(4)*

With the adoption of Chapters 277 & 298 of Rhode Island Public Law of 1996 and the implementation of the optical scan precinct count voting system in 1998, Rhode Island voting systems meet most HAVA requirements as listed in Section 301.

For those areas in which Rhode Island is not yet in compliance, the State will introduce internal procedures or legislation as required to bring it into compliance by January 1, 2006, specifically:

- The adoption of uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.
- A voter education program for mail ballots that explains the effect of casting multiple votes and provides the voter with instructions on how to correct errors, including how to receive a replacement ballot if necessary.
- Ensuring/mandating that each polling site is equipped with at least one DRE voting system.

In relation to DRE voting systems, legislation passed in 2002, RIGL 17-19-8.2, already provides the Secretary of State with the authority to *"purchase state of the art technology"* in order to *"expand the special ballot services to as wide a range of voters with disabilities as possible."*

## SECTION 5. RHODE ISLAND'S HAVA FUND MANAGEMENT

*How the State will establish an election fund described in subsection (b) for purposes of administering the State's activities under this part, including information on fund management. – HAVA §254 (a)(5)*

In accordance with State law and in coordination with the Department of Administration, the Office of the Secretary of State has established the Rhode Island HAVA Election Fund (Fund) within the State's treasury whose appropriations are accounted for separately within the State accounting system. The Department of Administration will create accounting structures to ensure federal fund receipts and expenditures, the 5% State match and Fund interest are tracked separately from all other state funds as required under HAVA.

The Fund will consist of the following:

a. Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment is made to the State under this part.
b. The requirements payment made to the State under this part.
c. Such other amounts as may be appropriated under law.
d. Interest earned on deposits of the Fund.

To ensure responsible management of expenditures from the Fund, the Secretary of State will establish the HAVA Election Fund Management Committee. This Committee will approve the annual budget plan for expenditures from the Fund, as described above. The annual budget plan approved by the Committee must ensure compliance with the State Plan, HAVA requirements and mandated federal deadlines. Any changes to the approved annual expenditures plan will also need pre-approval from the Committee to ensure ongoing compliance with the State Plan and HAVA requirements.

The Committee will be composed of the following five individuals:
Permanent members:

- The Secretary of State or a designee authorized to act on the Secretary's behalf, who also serves as Chair of the Committee.
- The Chairman of the Board of Elections, or a designee authorized to act on the Chairman's behalf.
- The Director of the Budget Office, or a designee authorized to act on the Director's behalf.

Twelve month, renewal term (starting with the date of the first meeting of the Committee):

- A local elections official, appointed by the Secretary of State.
- A member of the public, appointed by the Secretary of State.

The Chair of the Committee is responsible for calling all meetings and maintaining the minutes of all meetings of the Committee. The Committee will determine the procedure by





which requests for annual or subsequent appropriations are to be submitted to the Committee and the process for approving such requests.

No expenditure of funds from the Fund shall be made without pre-approval by the Committee.

The Office of the Secretary of State will work with the Department of Administration to ensure compliance with all mandated fiscal controls and policies.

## SECTION 6. RHODE ISLAND'S HAVA BUDGET

*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 that will be used to carry out activities to meet such requirements, and*

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

*– HAVA §254(a)(6)*

At the time of the writing of this plan, HAVA appropriations for Fiscal Years beyond 2003 are subject to Congressional approval. The following table outlines the assumptions regarding federal funding as estimated by the Congressional Research Service in its report:

| Federal Fiscal Year | Total HAVA Authorization | Total Federal Appropriations | Federal Payments to Rhode Island | 5% State Match Requirement* |
|---|---|---|---|---|
| **Early payments** | $650,000,000 | $650,000,000 | $5,000,000 | $0 |
| **2003** | $1,400,000,000 | $833,000,000 | $4,150,000 | $218,290 |
| **2004** | $1,000,000,000 | $500,000,000 (President's budget) | $7,797,296[a] | $410,138 |
| **2005** | $600,000,000 | Not available | $4,678,378[a] | $246,083 |
| **Total** | **$3,650,000,000** | **Total not available** | **$21,625,674** | **$874,511** |

*Total HAVA Authorization based on P.L. 107-252: the Help America Vote Act of 2002.*

**The 5% state match requirement is calculated as 5% of the total of the combined state and federal portions of expenses: HAVA Sec. 253(b)(5). This calculation requires a multiplier of .0526 (i.e. 5/95 ~ .0526) of the federal funds. For FY 2003, the $218,290 state match is 5.26% of the federal contribution of $4,150,000. Of the combined expenditure of $4,368,290, the state match of $218,290 is 5%.*

*[a] Based on Total HAVA Authorizations as indicated in HAVA Section 257.*

HAVA funds appropriated in 2003 are already less than the $10,916,214 that Rhode Island was authorized to receive. Given this history and the uncertainty of the federal budgets for FY 2004 and FY 2005, Rhode Island is taking a prudent approach in anticipating the levels of federal funds available in the future to meet HAVA Title III requirements and other activities.

Because HAVA funding is "no year" money, federal funds do not have to be expended in the year that they are authorized. Therefore, this budget is designed to steward HAVA funds over





many years in order to ensure that the funding exists to continue to meet HAVA requirements.

Rhode Island has received $5,000,000 in Title I funding and anticipates receiving $4,150,000 in requirements payments this year upon submission and certification of this State Plan. Pending future Congressional action, Rhode Island could receive an additional $12.5 million in federal funds in future years.

Projected interest from the Rhode Island HAVA Election Fund and costs associated with the maintenance and operations of implementing these requirements are reflected in the Rhode Island budget. It is important to note that the maintenance and operation costs associated with these requirements will still have an impact on the State's budget in years when federal funding is no longer available.

| **Rhode Island's Budget for HAVA Funded Activities – FY 2003 to FY 2011*** | |
|---|---|
| Central Voter Register System | $3,396,000 |
| Administrative Complaint Procedures | 57,000 |
| Provisional Voting | 225,800 |
| Accessible Voting Equipment | 6,976,800 |
| Election Official Training | 1,081,000 |
| Performance Measures and Goals | 260,000 |
| Poll Worker Recruitment and Training | 440,000 |
| Voter Education | 1,070,000 |
| Voter Registration and Voter ID | 10,000 |
| Preparation of State Plan | 134,550 |
| Voting Equipment Conversion to DRE | 9,695,270 |
| **Total HAVA Expenses** | **$23,346,420** |

* Rhode Island is currently in the seventh year of a nine-year payment plan for an optical scan precinct count voting system procured in 1997. Under this payment plan, the total amount still owed to the vendor is $3,340,673.80 of which $1,669,156.56 is for equipment and $1,671,517.24 is for operating costs. These amounts are to be paid over the next three fiscal years as follows:

| Fiscal Year | Equipment Costs | Operating Costs | Total Costs |
|---|---|---|---|
| **2004** | $597,583.56 | $471,210.44 | $1,068,794.00 |
| **2005** | 872,894.00 | 688,300.00 | 1,561,194.00 |
| **2006** | 198,679.00 | 512,006.80 | 710,685.80 |

| | | | |
|---|---|---|---|
| Total | $1,669,156.56 | $1,671,507.24 | $3,340,673.80 |

The State Budget, enacted for the fiscal year ending June 30, 2004, included an allocation of $1,068,794 for the payment of the optical scan equipment, an allocation the Chief State Election Official has advised the Governor and the General Assembly he believes is in violation of HAVA. The Governor's Office has contacted the General Services Administration, which has indicated its willingness to provide legal assistance in determining whether such allocation is appropriate or inappropriate under HAVA. Unless the General Services Administration determines by December 31, 2003 that such payment from HAVA funds is appropriate, the Governor and Chief State Election Official will seek a supplemental appropriation from the General Assembly for the current year and will undertake any other changes necessary to assure the Plan is in compliance with applicable law. The General Services Administration has informed the Governor's Office that Rhode Island's receipt of HAVA funds this calendar year will not be jeopardized while they make a determination on this issue. The HAVA budget presented above reflects the intended use of funds by the State assuming the funds are not used for the optical scan equipment. If such payment from HAVA funds is determined to be appropriate, the Chief State Election Official will amend the Plan and HAVA budget accordingly.





## SECTION 7. MAINTENANCE OF EFFORT

*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. – HAVA §254(a)(7)*

Consistent with HAVA §254(a)(7), in using any requirements payment, Rhode Island will maintain expenditures of the State for activities funded by the payment at a level equal to or greater than the level of expenditures in State FY 2000. This amount totaled $892,953.38.

The intent of funding under HAVA is to pay for new or enhanced efforts, not to supplant State funding. The HAVA budget outlined in the State Plan is based on the federal mandate that the State will continue to fund the expenses of elections at a level that, as a minimum standard, maintains the quality of election systems and procedures that were already in place before any HAVA funding was anticipated. Without this base level of State funding, the short-term infusion of federal funds that HAVA will provide will not be enough to ensure that these voting improvements can be maintained over the long-term.

## SECTION 8. HAVA PERFORMANCE GOALS AND MEASURES

*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.*

Ultimately, the success of the Rhode Island State Plan will be judged by its ability to continue to improve voter participation and confidence in elections in Rhode Island. Through HAVA, Rhode Island will receive the federal funding necessary to implement long-awaited improvements to its election systems. The improvements that will result from the State Plan must be measured by how well they increase participation in elections and improve the ability of voters to exercise their right to vote – with assurance that every vote and every voter counts and will be counted on Election Day.

In order to measure progress toward these goals, the Chief State Election Official will develop a HAVA measurement system that will assess both process and impact performance. Specifically,

1) did the State do what it said it would do within HAVA mandates and timetables (*process* measures), and
2) did those activities make a difference in the conduct of and participation in elections in Rhode Island (*impact* measures).

The State officials whose duties and responsibilities as outlined by Rhode Island statute correspond to particular HAVA sections have been delegated responsibility for HAVA implementation as listed below:

**Secretary of State**

- Voting Systems, §301: to be implemented by January 1, 2006.
- Voter Registration (CVRS), §303(a): to be procured by January 1, 2004 and implemented within the first quarter of 2004.
- Voter Education, §254(a)(3): to be developed throughout the implementation of the State Plan and along with the implementation of new HAVA systems and procedures.
- Election official training, §254(a)(3), jointly with the Chair, Board of Elections: to be developed along with the implementation of new HAVA systems and procedures.
- Budget and Fiscal Controls, §254(a)(3), §254(a)(6), §254(a)(7), §254(a)(10), in consultation with the HAVA Election Fund Management Committee: before receipt of HAVA requirement payments and for the duration of HAVA funding.





**Chair, Board of Elections**

- Provisional Voting, §302 (a): to be implemented by January 1, 2004.
- Voting Information Requirements, §302(b): in compliance by January 1, 2004 and implemented by the first federal election held thereafter.
- Voter Registration, §303(b): effective for voters who register by mail as of January 1, 2003.
- Poll worker training, §254(a)(3): to be developed along with the implementation of new HAVA systems and procedures.
- Election official training, §254(a)(3), jointly with Secretary of State: to be developed along with the implementation of new HAVA systems and procedures.
- Administrative Complaint Procedures, §254(a)(9) and §402: to be implemented by certification of the State Plan.

See Table IV in the Appendix for more information on process measures.

## SECTION 9. STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURE

*A description of the uniform, nondiscriminatory State-based administrative complaint procedure in effect under Section 402.*

The Rhode Island General Laws empower the Board of Elections to *"make the rules, regulations, and directives that it deems necessary to carry out the objects and purposes of this title (Title 17 – Rhode Island Election Laws) not inconsistent with law... including the jurisdiction over all election matters on appeal from any local board and over any other matters pertinent and necessary to the proper supervision of election laws."* In its 2003 session, the Rhode Island General Assembly adopted legislation (Rhode Island General Laws, Section 17-7-5(15)) which authorizes the Board of Elections to "establish and maintain an administrative complaint procedure in accordance with Section 402 of HAVA."

In Rhode Island, the Board of Elections hears complaints and conducts investigations on all election matters throughout the State. Thus, Rhode Island has a state-based complaint procedure in place. Under this system, a person who believes there has been a violation of HAVA could file a complaint with the Board of Elections. Nevertheless, the Board of Elections has begun the process of incorporating a uniform and nondiscriminatory complaint procedure that is in accordance with the requirements of HAVA into its complaint procedure.

In the coming weeks, the Board of Elections will publish a set of proposed rules and regulations and set a hearing date for the public to offer comments regarding the proposed HAVA administrative complaint procedure. Shortly thereafter, it is anticipated that the complaint procedure will be adopted and made a part of the Rhode Island State Plan.





## SECTION 10. EFFECT OF TITLE I PAYMENTS

*If the State received any payments 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.*
*– HAVA §254(a)(10)*

Rhode Island received $5 million in Title I payments under Sections 101 and 103 on April 30, 2003. Rhode Island will use these payments to carry out one or more of the following activities:

- Complying with requirements under Title III.
- Improving the administration of elections.
- Poll worker recruitment including the recruitment of high school and college students.
- Educating voters concerning voting procedures, voting rights and voting technology.
- Training election officials, poll workers and election volunteers.
- Developing the State Plan for requirements payments to be submitted under Part 1 of Subtitle D of Title II.
- Improving the accessibility and quantity of polling places.
- Establishing toll-free telephone hotlines.

Because Rhode Island's optical scan precinct count voting system was in place statewide prior to January 1, 2001, Rhode Island is not eligible for funds under Title I Section 102 (Replacement of Punch Card or Lever Voting Machines).

## SECTION 11. RHODE ISLAND'S HAVA STATE PLAN MANAGEMENT

*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). – HAVA §254 (a) (11)*

The Secretary of State, as Rhode Island's designated "Chief State Election Official" (Chapter 29 & 30 of Rhode Island Public Law 2003) is responsible for coordination of the State's responsibilities under HAVA. As a result, the Secretary of State is ultimately responsible for the ongoing management of the State Plan.

Rhode Island has been a national leader in developing fair, accurate, and accessible elections. As the State has already implemented many aspects of HAVA, the Secretary of State considers the ongoing management of the State Plan as a continuation of Rhode Island's commitment to election reform. Each element will be managed for achieving compliance, to maximize improvements to all aspects of the election process, and to ensure responsible stewardship of funding received through HAVA.

Of course, the Secretary of State does not act alone. The Board of Elections and the local boards of canvassers are critical partners in the implementation of HAVA, as they are in the conduct of all elections in Rhode Island. The Board of Elections and the local boards of canvassers are responsible for specific elements of the State Plan. Within the Office of the Secretary of State, the Elections Division is the administrative agency charged with the implementation and management of many aspects of HAVA.

In the event that it becomes necessary, the Secretary of State may establish a task force or advisory management group to assist the Secretary in assessing performance or recommending any changes to the State Plan.

The responsibility for fair, accurate and accessible elections, and for increasing voter participation in our democracy, is shared throughout Rhode Island. The General Assembly is a critical partner, ensuring that Rhode Island state law is consistent with all federal election mandates, including HAVA. In addition, all elected officials, civic and business leaders, community-based organizations, every citizen and our schools share the commitment to improving voter outreach and education in order to increase the participation of all segments of our community in the electoral process which is the bedrock of our democracy.





The State understands and agrees to comply with HAVA requirements related to ongoing management of the State Plan. Specifically, the State agrees that it may not make any material change in the administration of the State Plan unless the change:

> (A) is developed and published in the Federal Register in accordance with HAVA §255 in the same manner as the State Plan,
> (B) is subject to public notice and comment in accordance with HAVA §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).



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## SECTION 12. CHANGES TO STATE PLAN FROM PREVIOUS FISCAL YEAR

*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. – HAVA 254 (a)(12)*

This is Rhode Island's FY 2003 Plan. As it is the first State Plan under HAVA, there are no changes or successes to report related to HAVA implementation. This section will be updated in the FY 2004 State Plan, reflecting proposed changes to the Plan, as well as a summary of 2003 successes.





## SECTION 13. STATE PLAN DEVELOPMENT AND COMMITTEE

*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 255 and section 256 – HAVA §254 (a) (13)*

### 13.1 PUBLIC ENGAGEMENT

The process for producing the Rhode Island State Plan reflected a genuine, statewide commitment to improving elections, to public engagement, and to open and ethical government. This State Plan reflects careful consideration of the ideas and concerns of hundreds of individuals and public officials from throughout this State.

These thoughtful and committed individuals devoted countless hours studying legislation, reviewing existing practices, serving on committees, developing recommendations for improvement, attending public hearings, and otherwise demonstrating their own personal responsibility for ensuring that the elections in Rhode Island will continue to be fair, accurate and accessible. They deserve our most generous appreciation for a job well done.

The draft of the Rhode Island State Plan was created by the Office of the Secretary of State in partnership with a 75-member HAVA Rhode Island Advisory Committee named by the Secretary of State, Matthew A. Brown. The make-up of the committee went far beyond the minimum HAVA requirements to include the chief election officials of the two most populous jurisdictions and representatives of groups of individuals with disabilities. The Rhode Island Advisory Committee also included a wide representation of stakeholders selected from all segments of the Rhode Island community, including:

- Local and state election officials,
- Political parties,
- Mayors,
- State legislators,
- Ethnic communities,
- Advocates for the disabled and visually impaired,
- Academicians,
- Nonprofits serving diverse segments of the community,
- Good government advocates,
- Labor unions,
- High school and college students, and
- Business community representatives.

The Advisory Committee was organized into nine subcommittees. Between March 10 and March 21, 2003, the subcommittees of the HAVA Rhode Island Advisory Committee met to

discuss Rhode Island's requirements under HAVA, assess current compliance with HAVA, and identify key issues. They presented their preliminary reports for consideration and discussion at their March 24, 2003 meeting. These subcommittee reports were posted on the HAVA website of the Secretary of State, www.state.ri.us/HAVA/.

Throughout the development of the State Plan, the public was encouraged to provide comment and raise questions of concern. Public hearings were advertised and held throughout the state to educate Rhode Islanders about the plan and to invite additional concerns and comments in the draft of the plan. Secretary of State Matthew A. Brown held meetings on:

- April 10, Newport City Hall, Newport
- April 14, Woonsocket City Hall, Woonsocket
- April 21, Warren Town Hall, Warren
- April 24, Buttonwoods Senior Center, Warwick
- April 28, Silver Lake Community Center, Providence
- April 29, Westerly Town Hall, Westerly

A special session was held with local election officials on April 14, 2003, to provide these officials with background on the new HAVA requirements and to seek their input on the development of provisions within the State Plan.

A draft of the State Plan was then presented to the full HAVA Advisory Committee on May 19, 2003, for final review and comments.

The preliminary version of the State Plan was then made available for public inspection and comment for 30 days, commencing June 9, 2003. A public hearing will be held on July 8, 2003 in the Governor's State Room, Rhode Island State House, Providence, Rhode Island from 5:00 – 6:00 pm. Public comments were taken into account in the final preparation of the plan in accordance with Section 256 of HAVA.

### 13.2 HAVA RHODE ISLAND ADVISORY COMMITTEE AND SUBCOMMITTEES

Secretary of State Matthew A. Brown would like to extend his sincerest appreciation to these public servants and members of the public for their outstanding service on the HAVA Advisory Committee.

**The members of the HAVA Rhode Island Advisory Committee are:**

Dennis L. Algiere, *Senate Minority Leader*
Jane Anthony, *Chairwoman, Rhode Island Commission on Women*
Bob Arruda, *Chairman, Operation Clean Government*
Scott Avedisian, *Mayor, City of Warwick*





Rick Battistoni, *Professor of Political Science, Providence College*
Roger N. Begin, *Chairman, Rhode Island State Board of Elections*
Kerry Brusini, *Special Projects Manager, Board of Elections*
Edwin Cancel, *Executive Director, Progreso Latino, Inc.*
Rory Carmody, *Director of Program Development, Cranston ARC*
Reginald A. Centracchio, *Adjutant General*
Wayne Charness, *Hasbro*
David N. Cicilline, *Mayor, City of Providence*
Marian Clarke, *Chairwoman, Jamestown Board of Canvassers*
Kathleen Connell, *Executive Director, AARP*
Bob Cooper, *Executive Secretary, Governor's Commission on Disabilities*
Antonio Costa, *Portuguese-American Community Leader*
Melba Depeña, *President, Rhode Island Latino Civic Fund*
Lee DiIorio, *President, Local 328, United Food & Commercial Workers*
Laura DiSano, *Senior Vice President, Fleet Bank*
Maria-Fernanda Escudero, *Director, Civic Participation and Public Information, Office of the Secretary of State*
Grace Farmer, *Financial Manager, HELP Coalition*
Laurence Flynn, *Chairman, Providence Board of Canvassers*
Gordon D. Fox, *House Majority Leader*
Richard Gaffney, *President, National Federation of the Blind of Rhode Island*
Mary Alyce Gasbarro, *League of Women Voters*
Andrea Gómez, *High School student, St. Mary's - Bay View Academy*
Nellie M. Gorbea, *Director of Administration, Office of the Secretary of State*
Patrick Guida, *General Counsel, Republican Party of Rhode Island*
Beverly T. Hall, *Registrar, Portsmouth Board of Canvassers*
Alan Hassenfeld, *Chairman & Chief Executive Officer, Hasbro*
Kathryn Hopkins, *Ocean State Action*
A. Vincent Igliozzi, *Administrator, State Equal Opportunity Programs*
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Stan Israel, *Vice President New England Health Care Employees Union, District 1199/SEIU*
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Brian Krueger, *Assistant Professor of Political Science, University of Rhode Island*
Stephen P. Laffey, *Mayor, City of Cranston*
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Dennis B. Langley, *Executive Director, Urban League of Rhode Island*
Joseph Le, *Executive Director, Socio Economic Development Center for Southeast Asians*
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Ray Marcaccio, *Legal Counsel, Rhode Island State Board of Elections*

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Maureen Moakley, *Professor of Political Science, University of Rhode Island*

Kate Monteiro, *Rhode Island Alliance for Lesbian & Gay Civil Rights*

Clifford R. Montiero, *President, NAACP - Providence Branch*

John Muggeridge, *General Manager and Vice President of Public Affairs, Fidelity Investments*

Robin Muksian-Schutt, *Deputy Director of Administration, City of Cranston*

Luisa Murillo, *Executive Director, Center for Hispanic Policy and Advocacy*

William J. Murphy, *Speaker of the House*

Ellen O'Hara, *Councilwoman, Cranston City Council; President, Rhode Island Chapter of the National Association of Social Workers*

Thomas Palombo, *Assistant Attorney General*

Mellissa Parham, *Caseworker, Dorcas Place - Parent Literacy Center*

Bob Rapoza, *Supervisor of Elections and Voter Registration Services, Rhode Island State Board of Elections*

Elizabeth H. Roberts, *State Senator*

Jan Ruggiero, *Director of Elections, Office of the Secretary of State*

Neil Sharpe, *Executive Director, Mental Health Consumer Advocates of Rhode Island*

Merrill Sherman, *President and Chief Executive Officer, Bank RI*

Michael R. Simas, *Global Business Development and Public Affairs Department, GTECH*

Betty Johnson Simons, *Refugee Resettlement/Minority Health Program Director, International Institute of Rhode Island*

Rita Slom, *Canvassing Clerk, Newport Board of Canvassers*

Molly Soum, *President, The Cambodian Society/DH*

Cathy Speer, *State Governing Board, Common Cause/Rhode Island*

June Spink, *Operation Clean Government*

Neil Steinberg, *President, Fleet Bank*

Katrina A. Therien, *North Smithfield resident*

Jeff Toste, *Co-Chair, Green Party of Rhode Island*

James Vincent, *Manager of Constituent Services, Rhode Island Housing*

Robert A. Walsh Jr., *Executive Director, National Education Association/Rhode Island*





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Chaired by: Rick Battistoni, *Professor of Political Science, Providence College*
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**Performance Measures and Goals**
Chaired by: Brian Krueger, *Assistant Professor of Political Science, URI*
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**TABLE I: SECTION 301. VOTING SYSTEMS STANDARDS**

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| **SEC. 301. VOTING SYSTEMS STANDARDS.** | | |
| (a) REQUIREMENTS. – Each voting system used in an election for federal office shall meet the following requirements: | | |
| (1) IN GENERAL. – | | |
| (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall -- | | |
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | OpTech voting system meets the requirement. | Any new voting system adopted by the State (e.g. DRE) will meet HAVA requirements. |
| (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | OpTech voting system meets the requirement. | Any new voting system adopted by the State (e.g. DRE) will meet HAVA requirements. |



APPENDICES
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| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement; Partially Meets; Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (iii) if the voter selects votes for more than one candidate for a single office— (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | OpTech voting system meets the requirement. | Any new voting system adopted by the State (e.g. DRE) will meet HAVA requirements. |
| (B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by-- | | |
| (*i*) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Partially meets. Explained to voters as needed but not currently part of written information. | The Office of the Secretary of State will amend information provided to all mail-in absentee voters to meet HAVA requirements. |





| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement; Partially Meets; Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error). | Partially meets. Explained to voters as needed but not currently part of written information. | The Office of the Secretary of State will amend information provided to all mail-in absentee voters to meet HAVA requirements. |
| (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | Meets the requirement. | Any new voting system adopted by the State (e.g. DRE) will meet HAVA requirements. |
| (2) AUDIT CAPACITY.-- | | |
| (A) IN GENERAL.--The voting system shall produce a record with an audit capacity for such system. | OpTech voting system meets the requirement. | Any new voting system adopted by the State (e.g. DRE) will meet HAVA requirements. |
| (B) MANUAL AUDIT CAPACITY.– | | |
| (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | OpTech voting system meets the requirement. | Any new voting system adopted by the State (e.g. DRE) will meet HAVA requirements. |

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | OpTech voting system meets the requirement. | Any new voting system adopted by the State (e.g. DRE) will meet HAVA requirements. |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | OpTech voting system meets the requirement. | Any new voting system adopted by the State (e.g. DRE) will meet HAVA requirements. |
| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.--The voting system shall-- | | |
| (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | Partially meets. The State provides Braille and tactile ballots for the visually impaired for both polling places and mail ballots. | The State will purchase a DRE for each polling place. The State will continue Braille and tactile ballots for the visually impaired as needed (e.g. mail ballots). |





| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Does not meet. | With HAVA funding, the State will purchase at least one DRE unit for each polling place and sufficient backup units in the case of technical or other problems. |
| (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph). | Not applicable. | The State will ensure that it remains in compliance with HAVA requirements as needed. |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY.--The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | OpTech voting system meets the requirement. | Any new voting system adopted by the State (e.g. DRE) will meet HAVA requirements. |
| (5) ERROR RATES. – The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | OpTech voting system meets the requirement. | Any new voting system adopted by the State (e.g. DRE) will meet HAVA requirements. |

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE.--Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | Partially meets. Board of Elections promulgated regulations in September 2002 on what constitutes a vote on optical scan system. | Legislation will be developed for DRE voting systems. |

**TABLE II: SECTION 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS**

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| **SEC. 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.** | | |





| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (a) PROVISIONAL VOTING REQUIREMENTS.--If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows: | | |
| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | Meets the Requirement. | In 2003, RIGL, Section 17-19-24.1 was enacted which allows for provisional voting in accordance with HAVA requirements. |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is-- | | |

| HAVA LEGISLATIVE REQUIREMENTS | | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|---|
| | (A) a registered voter in the jurisdiction in which the individual desires to vote; and | Meets the Requirement. | In 2003, RIGL, Section 17-19-24.1 was enacted which allows for provisional voting in accordance with HAVA requirements. |
| | (B) eligible to vote in that election. | Meets the Requirement. | In 2003, RIGL, Section 17-19-24.1 was enacted which allows for provisional voting in accordance with HAVA requirements. |
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4). | | Does not meet. | Procedures for provisional voting will be established by the Board of Elections in accordance with HAVA. |





| HAVA LEGISLATIVE REQUIREMENTS | | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|---|
| (4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | | Does not meet. | Procedures for provisional voting will be established by the Board of Elections in accordance with HAVA. |
| (5) | (A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet. | Procedures for provisional voting will be established by the Board of Elections in accordance with HAVA. |
| | (B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet. | A statewide free access system will be established by the Board of Elections. |

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| States described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot. | This section does not apply as Rhode Island is not exempt from National Voter Registration Act requirements. | This section does not apply as Rhode Island is not exempt from National Voter Registration Act requirements. |
| (b) VOTING INFORMATION REQUIREMENTS.– | | |





| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (1) PUBLIC POSTING ON ELECTION DAY.–The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office. | Partially meets. Information required by State law is posted. | The Board of Elections will standardize and improve the voter information to be posted at each polling place in accordance with HAVA requirements. The Office of the Secretary of State will continue to prepare sample ballots. |
| (2) VOTING INFORMATION DEFINED.--In this section, the term "voting information" means-- | | |
| (A) a sample version of the ballot that will be used for that election; | Meets the requirement. Sample ballots are prepared by the Office of the Secretary of State. | No action needed. |

| HAVA LEGISLATIVE REQUIREMENTS | | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|---|
| | (B) information regarding the date of the election and the hours during which polling places will be open; | Partially meets. This information is not posted at the polling place but is posted and publicized in advance of the election. | The Board of Elections will standardize and improve the voter information to be posted at each polling place in accordance with HAVA requirements. |
| | (C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; | Partially meets. Needs to be updated to include procedures for provisional voting and to improve the accessibility of the information being conveyed to voters. | The Board of Elections will develop, standardize and improve the voter information to be posted at each polling place in accordance with HAVA requirements. |
| | (D) instructions for mail-in registrants and first- time voters under section 303(b); | Does not meet. | The Board of Elections will develop new uniform instructions for mail voters. |





| HAVA LEGISLATIVE REQUIREMENTS | | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|---|
| | (E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and | Partially meets. Needs to be updated to include procedures for provisional voting and to improve the accessibility of the information being conveyed to voters. | The Board of Elections will develop, standardize and improve the voter information to be posted at each polling place in accordance with HAVA requirements. |
| | (F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | Meets the requirement. | The Board of Elections will develop, standardize and improve the voter information to be posted at each polling place in accordance with HAVA requirements. |

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (c) VOTERS WHO VOTE AFTER THE POLLS CLOSE.--Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order. | Does not meet. | The State will meet this requirement upon implementation of procedures for provisional balloting. |





**TABLE III. SECTION 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL**

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| **SEC. 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.** | | |
| (a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS.-- | | |
| (1) IMPLEMENTATION.-- | | |
| (A) IN GENERAL.--Except as provided in subparagraph (B), each State, acting through the Chief State Election Official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the "computerized list"), and includes the following: | Partially meets.<br>The current state central voter registration list is not interactive, lacks a unique identifier and is not the sole voter registration list. | The Secretary of State is authorized under RIGL 17-6-1.2 to purchase, upon receipt of federal funding, a CVRS which meets all HAVA requirements. Upon installation and implementation of CVRS, the State will be in compliance with this section. |

| HAVA LEGISLATIVE REQUIREMENTS | | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|---|
| | (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State. | Does not meet. | Upon installation and implementation of CVRS, the State will be in compliance. |
| | (ii) The computerized list contains the name and registration information of every legally registered voter in the State. | Does not meet. The current statewide voter registration list is only updated quarterly. | Upon installation and implementation of CVRS, the State will be in compliance. |
| | (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | Does not meet. | Upon installation and implementation of CVRS, the State will be in compliance. |
| | (iv) The computerized list shall be coordinated with other agency databases within the State. | Does not meet. | Upon installation and implementation of CVRS, the State will be in compliance. |
| | (v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | Does not meet. | The Secretary of State will provide local election officials with the hardware and software needed to access the CVRS and will provide access to the list by the Board of Elections as appropriate. |





| HAVA LEGISLATIVE REQUIREMENTS | | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|---|
| | (vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | Does not meet. | Upon installation and implementation of CVRS, the State will be in compliance. |
| | (vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). | Does not meet. | Secretary of State will provide local election officials with hardware, software, training and support needed to access CVRS. |
| | (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | Does not meet. | Upon installation and implementation of CVRS, the State will be in compliance. |
| | (B) EXCEPTION.--The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office. | Not applicable. Rhode Island has a voter registration requirement. | Not applicable. Rhode Island has a voter registration requirement. |
| (2) COMPUTERIZED LIST MAINTENANCE.– | | | |

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (A) IN GENERAL.--The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows: | | |
| (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6). | Meets the requirement. | The State will continue this practice upon implementation of CVRS. |
| (ii) For purposes of removing names of ineligible voters from the official list of eligible voters-- | | |
| (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and | Partially meets. The State already coordinates this manually. | This practice will be continued and automated with the implementation of CVRS. |





| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death. | Partially meets. The State already coordinates this manually. | The State will continue this practice upon implementation of CVRS. |
| (iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. | Not applicable as Rhode Island is not a state described in 4(b) of the NVRA. | Not applicable as Rhode Island is not a state described in 4(b) of the NVRA. |
| (B) CONDUCT.--The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that-- | | |
| (i) the name of each registered voter appears in the computerized list; | Partially meets. The current state voter register is only updated manually each quarterly. | The State will fully meet this requirement upon implementation of the CVRS. |

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | Partially meets. The current state voter register is only updated manually each quarterly. | The State will fully meet this requirement upon implementation of the CVRS. |
| (iii) duplicate names are eliminated from the computerized list. | Partially meets. Every attempt is made to eliminate duplicate names but without a uniform, centralized CVRS, it is very difficult to control for all duplicates. | The State will fully meet this requirement upon implementation of the CVRS. |
| (3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST.--The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | Does not meet. | The State and local officials will implement uniform procedures to meet this requirement. |
| (4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS.--The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following: | Partially meets. Each city and town meets this requirement at the local level; however, the state voter register is only updated manually each quarter. | The State will fully meet this requirement upon implementation of the CVRS. |





| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | Partially meets. These procedures are followed by local boards of canvassers in each city and town. | The State will fully meet this requirement upon implementation of automated notification systems and regular updates to the CVRS. |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | Meets the requirement. | No action needed. The State will continue and improve processes with CVRS. |
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION.-- | | |
| (A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS. – | | |

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (i) IN GENERAL.--Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes-- | | |
| (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or | Does not meet. | The State will meet this requirement upon implementation of CVRS. |
| (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | Does not meet. | The State will meet this requirement upon implementation of CVRS. |





| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER.--If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | Does not meet. | The State will meet this requirement upon implementation of CVRS. |
| (iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED.--The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | Does not meet. | The State will meet this requirement upon implementation of CVRS. |
| (B) REQUIREMENTS FOR STATE OFFICIALS.-- | | |

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (i) SHARING INFORMATION IN DATABASES.--The Chief State Election Official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | Does not meet. | The Secretary of State will enter into an agreement with the Director of the Department of Motor Vehicles to ensure that the State will meet this requirement upon implementation of CVRS. |
| (ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY.--The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). | Does not meet. | The State will meet this requirement upon the Director of DMV entering into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). |
| (b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.-- | | |





| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (1) IN GENERAL.--Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if-- | | |
| (A) the individual registered to vote in a jurisdiction by mail; and | | |
| (B) (i) the individual has not previously voted in an election for Federal office in the State; or | | |
| (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | | |
| (2) REQUIREMENTS.-- | | |
| (A) IN GENERAL.--An individual meets the requirements of this paragraph if the individual-- | | |
| (i) in the case of an individual who votes in person-- | | |

| HAVA LEGISLATIVE REQUIREMENTS | | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|---|
| | (I) presents to the appropriate State or local election official a current and valid photo identification; or | Does not meet. | The State will administer a uniform voter registration system and CVRS for all in-person and mail registrations in all federal, state and local elections. This system will comply with the voter registration and identification procedures mandated under HAVA. |
| | (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or | Does not meet. | The State will administer a uniform voter registration system and CVRS for all in-person and mail registrations in all federal, state and local elections. This system will comply with the voter registration and identification procedures mandated under HAVA. |
| | (ii) in the case of an individual who votes by mail, submits with the ballot-- | | |





| HAVA LEGISLATIVE REQUIREMENTS | | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|---|
| | (I) a copy of a current and valid photo identification; or | Does not meet. | The State will administer a uniform voter registration system and CVRS for all in-person and mail registrations in all federal, state and local elections. This system will comply with the voter registration and identification procedures mandated under HAVA. The State will implement for all voters registering after January 1, 2003 and will meet this requirement by January 1, 2004. |

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. | Does not meet. | The State will administer a uniform voter registration system and CVRS for all in-person and mail registrations in all federal, state and local elections. This uniform system will be amended to ensure compliance with the voter registration and identification procedures mandated under HAVA. The State will implement for all voters registering after January 1, 2003 and will meet this requirement by January 1, 2004. |
| (B) FAIL-SAFE VOTING.-- | | |
| (i) IN PERSON.--An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a). | Does not meet. | The State will meet this requirement upon implementation of provisional voting procedures in accordance with HAVA. |





| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (ii) BY MAIL.--An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | Does not meet. | The State will meet this requirement upon implementation of provisional voting procedures in accordance with HAVA. |
| (3) INAPPLICABILITY.--Paragraph (1) shall not apply in the case of a person-- | | |
| (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either-- | | |
| (i) a copy of a current and valid photo identification; or | Does not meet. | The State will administer a uniform voter registration system and CVRS for all in-person and mail registrations in all federal, state and local elections. This uniform system will comply with the voter registration and identification procedures mandated under HAVA. |

| HAVA LEGISLATIVE REQUIREMENTS | | | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|---|---|
| | | (ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | Does not meet. | The State will administer a uniform voter registration system and CVRS for all in-person and mail registrations in all federal, state and local elections. This uniform system will comply with the voter registration and identification procedures mandated under HAVA. |
| | (B) | (i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C.1973gg-4) and submits with such registration either-- | Does not meet. | The State will administer a uniform voter registration system and CVRS for all in-person and mail registrations in all federal, state and local elections. This uniform system will comply with the voter registration and identification procedures mandated under HAVA. |





| HAVA LEGISLATIVE REQUIREMENTS | | | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|---|---|
| | | (I) a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and | Does not meet. | The State will administer a uniform voter registration system and CVRS for all in-person and mail registrations in all federal, state and local elections. This uniform system will comply with the voter registration and identification procedures mandated under HAVA. |
| | | (ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | Does not meet. | The State will administer a uniform voter registration system and CVRS for all in-person and mail registrations in all federal, state and local elections. This uniform system will comply with the voter registration and identification procedures mandated under HAVA. |

| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (C) who is-- | | |
| (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | Meets the requirement. | No action necessary. |
| (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or | Meets the requirement. | No action necessary. |
| (iii) entitled to vote otherwise than in person under any other Federal law. | Meets the requirement. | No action necessary. |
| (4) CONTENTS OF MAIL-IN REGISTRATION FORM.-- | | |
| (A) IN GENERAL.--The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: | | |





| HAVA LEGISLATIVE REQUIREMENTS | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|
| (i) The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | Does not meet. | The State will continue to administer a uniform voter registration form (i.e. for in person and mail registrations) which has been revised to meet HAVA requirements. |
| (ii) The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day. | Does not meet. | The State will continue to administer a uniform voter registration form (i.e. for in person and mail registrations) which has been revised to meet HAVA requirements. |
| (iii) The statement "If you checked 'no' in response to either of these questions, do not complete this form." | Does not meet. | The State will continue to administer a uniform voter registration form (i.e. for in person and mail registrations) which has been revised to meet HAVA requirements. |

| HAVA LEGISLATIVE REQUIREMENTS | | STATE OF RHODE ISLAND CURRENT STATUS (Meets the Requirement, Partially Meets, Does Not Meet) | ACTIONS PLANNED |
|---|---|---|---|
| | (iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | Does not meet. | The State will continue to administer a uniform voter registration form (i.e. for in person and mail registrations) which has been revised to meet HAVA requirements. Mandated HAVA information will be included for voters who register by mail. |
| | (B) INCOMPLETE FORMS.--If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | Partially meets. When incomplete voter registration forms are received by mail, voters are notified and the form is returned. Voters are asked to resubmit the form with the required information. | The State will incorporate specific HAVA voter notification requirements into its current practices. |





**TABLE IV. PERFORMANCE GOALS AND MEASURES**

| HAVA | RESPONSIBLE OFFICIAL | PROCESS MEASURES | TIMEFRAME |
|---|---|---|---|
| **Voting Systems:** -- §301 | Secretary of State | • Voting instructions are revised and distributed to all mail-in absentee voters.<br>• Legislation adopted on what constitutes a vote for each voting system.<br>• Every polling place equipped with at least one DRE voting system. | To be implemented by January 1, 2006. |
| **Provisional Voting and Voting Information Requirements:** -- §302 | Chair, Board of Elections | • Legislation passed to provide for provisional voting.<br>• Voting procedures promulgated by Board of Elections.<br>• Free access system to verify results of provisional vote implemented.<br>• Voting information posted in all polling places and distributed to voters voting by mail. | Provisional voting to be implemented by January 1, 2004.<br>Voting information requirements to be met by January 1, 2004 and implemented by the first Federal election. |
| **Voter Registration:** -- §303 (a) | Secretary of State | • Central Voter Registration System (CVRS) which meets all HAVA requirements installed and implemented. | §303 (a) to be procured by January 1, 2004 and implemented within the first quarter of 2004. |

| HAVA | RESPONSIBLE OFFICIAL | PROCESS MEASURES | TIMEFRAME |
|---|---|---|---|
| | | • Successful verification of voter registration information, including appropriate data sharing with State Department of Motor Vehicles and the Social Security Administration. | |
| -- §303 (b) | Chair, Board of Elections | • Mail registration voter identification procedures implemented and mail in registration forms amended to meet HAVA requirements. | §303 (b) effective for voters who register by mail as of January 1, 2003. |
| [redacted] | | | |
| **Voter Education:** -- §254(a)(3) | Secretary of State | • Revised voter outreach and education program implemented. | To be developed throughout the implementation of the State Plan and along with the implementation of new HAVA systems and procedures. |
| **Election Official Training:** -- §254(a)(3) | Secretary of State, Chair, Board of Elections | • Improved training program for election officials designed and implemented. | To be developed along with the implementation of new HAVA systems and procedures. |
| **Poll worker training:** -- §254(a)(3) | Chair, Board of Elections | • Improved poll worker training program designed and implemented. | To be developed along with the implementation of new HAVA systems and procedures. |
| **Budget and Fiscal** | Secretary of State in | • Rhode Island HAVA Election Fund created with appropriate fiscal controls. | Before receipt of HAVA requirements payments and for the duration of HAVA |





| HAVA | RESPONSIBLE OFFICIAL | PROCESS MEASURES | TIMEFRAME |
|---|---|---|---|
| **Controls:** -- §254(a)(3) -- §254(a)(6) -- §254(a)(7) -- §254(a)(10) | consultation with HAVA Election Fund Management Committee | • HAVA Election Fund Management Committee convened and approving annual expenditure plan.<br>• Expenditures allocated to enable compliance with State plan objectives. | funding. |
| **Administrative Complaint Procedures:** -- Title II, §254(a)(9) -- Title IV, §402 | Chair, Board of Elections | • Legislation passed to authorize establishment of Administrative Complaint Procedures by Board of Elections.<br>• Procedures implemented by Board of Elections. | To be implemented by certification of the State Plan. |

# SOUTH CAROLINA
# HELP AMERICA VOTE ACT OF 2002
# STATE PLAN

September 22, 2003

S. C. State Election Commission
2221 Devine Street, Suite 105
Columbia, SC 29205

Marci Andino, Executive Director



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# Executive Summary by the Executive Director

I am pleased to offer the South Carolina State Plan for implementing the Help America Vote Act of 2002 (HAVA). This State Plan, developed with the valuable help of the HAVA State Plan Task Force, establishes a framework for achieving compliance with HAVA.

The new federal law requires each state to develop a long-range State Plan for HAVA implementation and provides funding to assist the state in implementation. The South Carolina State Plan provides a description of current election procedures and outlines how South Carolina will meet the new requirements mandated by HAVA. The State Plan will be updated and refined as necessary over time, to reflect election law changes and future plans.

The State Plan reflects strategic objectives of great importance to every voter in South Carolina: implementation of a statewide uniform electronic voting system, support for disabled voters in every precinct in the State, enhancements to election administration, and training for voters, poll workers, and election officials. Building on current capabilities, the goal is to offer a higher level of service with increased ease of use, convenience, and consistency in every precinct across the State.

The South Carolina State Plan will be accomplished over the next four years, utilizing approximately $48.5 Million in funding. It will draw on the combined efforts of state and county organizations and affect every voter in South Carolina. The long-term impact of HAVA will be felt throughout the State for many elections to come.

The State Election Commission (SEC) recognizes the value of HAVA to South Carolina and is committed to successful implementation of all elements of the State Plan. With this State Plan, the SEC has taken an important step toward *Helping America Vote* and ensuring that every citizen has the opportunity to vote and have their vote counted.

Marci Andino
Executive Director
South Carolina State Election Commission

# Introduction

The South Carolina State Election Commission is tasked with the responsibility of overseeing the voter registration and election processes in the State. The SEC has multiple responsibilities:

- Maintaining the State's computerized statewide voter registration system, which is used to validate registered voters during elections and which also serves as a source for selection of jurors in the state
- Providing voter registration and election materials
- Printing the lists of registered voters for all elections held in the state
- Printing or providing funding for ballots for all federal offices, statewide offices and constitutional amendments voted on in South Carolina
- Producing databases and machine ballots for elections in the State conducted using electronic voting systems supported by the State Election Commission
- Providing oversight, including assistance and advisory services to county and municipal election officials for elections in South Carolina
- Training voter registration and election officials
- Serving as the State Board of Canvassers after elections to certify election returns, to declare candidates elected, and to hear protests/appeals that may arise

The South Carolina State Election Commission continually looks for ways to improve the election process and to maintain its integrity. Highlighting the ongoing process are recent major SEC initiatives, including 1) the 1999 Statewide Election Summit, and 2) the 2001 Governor's Task Force on Elections. Important priorities identified through these statewide initiatives include:

- Rewrite the current statewide voter registration system
- Establish a statewide uniform voting system

South Carolina has already secured state funds and is in the process of rewriting the voter registration system. The statewide uniform voting system and related improvements are the top priority to be met through the HAVA State Plan. As a result of these combined efforts, South Carolina's vision of a high-capability, comprehensive statewide voting program will be realized.





## State Plan

The South Carolina State Plan is organized as specified by HAVA and includes the following components, each of which is addressed within this document.

| HAVA Component | HAVA Description | Cross-Reference to HAVA HR5295 |
|---|---|---|
| Meeting Title III Requirements and Other Activities | How the State will use the requirements payment to meet the requirements of title III, and if applicable under Section 251 (a)(2), to carry out other activities to improve the administration of elections. | Section 254 (a) (1) |
| Payment Distribution and Monitoring | 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). | Section 254 (a) (2) |
| Provision for Education and Training | 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. | Section 254 (a) (3) |
| Voting System Guidelines and Processes | How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301. | Section 254 (a) (4) |
| Fund for Administering State Activities | 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. | Section 254 (a) (5) |
| Proposed State Budget | 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. | Section 254 (a) (6) |
| Maintenance of Prior Year Expenditures | 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. | Section 254 (a) (7) |
| Performance Goals and Measures | 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. | Section 254 (a) (8) |
| Administrative Complaint Procedures | A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. | Section 254 (a) (9) |
| Use of Title I Payment | If the State received any payment under title I, a description of how such payment will affect the activities proposed to be carried | Section 254 (a) (10) |

| HAVA Component | HAVA Description | Cross-Reference to HAVA HR3295 |
|---|---|---|
| | out under the plan, including the amount of funds available for such activities. | |
| Ongoing Management of Plan | 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 law 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). | Section 254 (a) (11) |
| Previous Year Plan | 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. | Section 254 (a) (12) |
| Committee | 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. | Section 254 (a) (13) |





# 1. Meeting Title III Requirements and Other Activities

*How the State of South Carolina will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.*

## 1.1 Current Status

### Voter Registration System

South Carolina has had a statewide voter registration system in place since 1968. The capability of this system was expanded in 1992 to connect all counties via interactive access to the voter registration system.

### Training

Two types of certification for County Voter Registration Boards and Election Commissions are offered: 1) Voter Registration or Election Commission Members and Directors, and 2) Voter Registration or Election Commission Staff.

By law, South Carolina counties provide training for Poll Managers. The State Election Commission supports this training with a comprehensive manual, updated every year based on changes in the law.

The State Training Coordinator trains municipalities on how to conduct municipal elections.

### South Carolina Election Systems in Use

South Carolina currently uses seven different types of voting equipment in its 46 counties. There are 24 counties with five different direct recording electronic (DRE) machines; 10 counties utilizing punch cards and 12 counties on a mark sense optical scan system. Additionally, there are a number of dissimilar absentee voting systems in use.

| Election System | County |
|---|---|
| Danaher Controls 1242 DRE | Allendale, Bamberg, Barnwell, Berkeley, Charleston, Dorchester, Edgefield, Fairfield, Hampton, Horry, Marion, Spartanburg |
| MicroVote MV-464 DRE | Darlington, Dillon, Marlboro, Richland |
| MicroVote Infinity DRE | Chester, Colleton, Jasper, Pickens |
| Unilect Patriot DRE | Georgetown, Lancaster, Newberry |
| ES&S Votronic DRE | Greenwood |
| ES&S Optical Scan System | Abbeville, Beaufort, Calhoun, Chesterfield, Clarendon, Laurens, Lee, McCormick, Orangeburg, Saluda, Union, Williamsburg |
| Punch Card | Aiken, Anderson, Cherokee, Florence, Greenville, Kershaw, Lexington, Oconee, Sumter, York |

**South Carolina Election Systems by County**

| County | Voting System | Absentee System | # Machines | # Precincts | # Reg. Voters as of April 2003 |
|---|---|---|---|---|---|
| Abbeville | Optical Scan | Optical Scan | 2 | 15 | 15,725 |
| Aiken | Punch Card | Optical Scan | 462 | 73 | 84,777 |
| Allendale | DRE | Optical Scan | 15 | 9 | 6,586 |
| Anderson | Punch Card | Punch Card | 650 | 76 | 95,844 |
| Bamberg | DRE | Optical Scan | 32 | 14 | 10,127 |
| Barnwell | DRE | Paper Ballot | 44 | 18 | 12,300 |
| Beaufort | Optical Scan | Optical Scan | 92 | 78 | 75,486 |
| Berkeley | DRE | Optical Scan | 181 | 51 | 77,529 |
| Calhoun | Optical Scan | Optical Scan | 2 | 13 | 10,189 |
| Charleston | DRE | Optical Scan | 541 | 174 | 196,370 |
| Cherokee | Punch Card | Punch Card | 200 | 34 | 30,963 |
| Chester | DRE | MicroVote | 80 | 23 | 20,576 |
| Chesterfield | Optical Scan | Optical Scan | 1 | 30 | 23,326 |
| Clarendon | Optical Scan | Optical Scan | 60 | 26 | 20,847 |
| Colleton | DRE | Optical Scan | 52 | 33 | 21,067 |
| Darlington | DRE | Optical Scan | 121 | 34 | 39,386 |
| Dillon | DRE | Optical Scan | 42 | 21 | 19,170 |
| Dorchester | DRE | Optical Scan | 152 | 37 | 61,267 |
| Edgefield | DRE | MicroVote | 32 | 12 | 15,211 |
| Fairfield | DRE | Optical Scan | 30 | 23 | 14,385 |
| Florence | Punch Card | Punch Card | 410 | 64 | 75,589 |
| Georgetown | DRE | Unilect | 156 | 35 | 35,724 |
| Greenville | Punch Card | Punch Card | 1323 | 136 | 233,723 |





| County | Voting System | Absentee System | # Machines | # Precincts | # Reg. Voters as of April 2003 |
|---|---|---|---|---|---|
| Greenwood | DRE | Optical Scan | 160 | 34 | 37,006 |
| Hampton | DRE | Optical Scan | 36 | 19 | 14,027 |
| Horry | DRE | Optical Scan | 242 | 109 | 130,803 |
| Jasper | DRE | Optical Scan | 46 | 15 | 12,303 |
| Kershaw | Punch Card | Punch Card | 230 | 31 | 35,603 |
| Lancaster | DRE | Unilect | 130 | 28 | 34,486 |
| Laurens | Optical Scan | Optical Scan | 34 | 35 | 36,847 |
| Lee | Optical Scan | Optical Scan | 2 | 25 | 13,405 |
| Lexington | Punch Card | Punch Card | 800 | 69 | 137,923 |
| Marion | DRE | Optical Scan | 60 | 18 | 22,904 |
| Marlboro | DRE | Optical Scan | 41 | 16 | 18,971 |
| McCormick | Optical Scan | Optical Scan | 1 | 11 | 6,812 |
| Newberry | DRE | Unilect | 95 | 31 | 20,835 |
| Oconee | Punch Card | Punch Card | 200 | 30 | 39,240 |
| Orangeburg | Optical Scan | Optical Scan | 60 | 54 | 60,296 |
| Pickens | DRE | Optical Scan | 250 | 53 | 60,455 |
| Richland | DRE | Optical Scan | 785 | 111 | 200,855 |
| Saluda | Optical Scan | Optical Scan | 1 | 19 | 11,393 |
| Spartanburg | DRE | Punch Card | 245 | 88 | 147,860 |
| Sumter | Punch Card | Punch Card | 450 | 53 | 62,011 |
| Union | Optical Scan | Optical Scan | 1 | 28 | 10,272 |
| Williamsburg | Optical Scan | Optical Scan | 1 | 34 | 23,351 |
| York | Punch Card | Punch Card | 689 | 57 | 98,897 |

## 1.2 Voting System Options Considered

The Help America Vote Act of 2002 defines a voting system as follows:

1. "the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used (A) to define ballots; (B) to cast and count votes; (C) to report or display election results; and (D) to maintain and produce any audit trail information; and"

2. "the practices and associated documentation used – (A) to identify system components and versions of such components; (B) to test the system during its

development and maintenance; (C) to maintain records of system errors and defects; (D) to determine specific system changes to be made to a system after the initial qualification of the system; and (E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots)."

In addressing the requirements of HAVA, the voting system standards team considered three options in order to meet the mandates. The three options were presented to the entire HAVA State Plan task force for consideration:

- Option 1: Upgrade existing systems to meet or exceed HAVA requirements

  As indicated above, the myriad systems currently in use in South Carolina create problems in the area of voter education, programming, candidate uniformity on ballots, election night reporting of results to the state, etc. This option would not solve the current shortcomings of the numerous systems.

- Option 2: Electronic voting systems in all counties

  This option would require each county to go to a federal and state approved DRE system of their choosing. Although this option would achieve the goals under the HAVA Act, the state would continue to have a variety in the types of equipment it uses.

- Option 3: Statewide uniform electronic voting system

  This option would provide a uniform system of voting for every county in the state. This option would standardize the election process including voter education in the state, poll worker training, uniformity of Federal and State offices in ballot and machine programming, etc.

Having considered the various options to comply with HAVA Title III requirements relating to voting system equipment and based on facts and the pros and cons of the three options, the entire task force decided on a statewide uniform electronic voting system to best meet the needs of HAVA and the State of South Carolina (Option 3).

The following approach will be taken to select a statewide system:

- A consultant experienced in conducting needs assessments and writing Requests for Proposal (RFP) will be contracted.

- A committee consisting of the State Election Commission, county election commissions and boards of registration, and other stakeholders such as organizations for the disabled, will be assembled to work with consultant to determine the specifications for a statewide system.

- State procurement codes and bidding process will be followed for the issuance of the RFP.





- An evaluation committee will be assembled for meetings to evaluate vendor responses to the RFP. The membership of the committee will be made up of state and county election officials.

## 1.3 Voting System Standards

Title III requirements for uniform and non-discriminatory election technology and administration are specified in HAVA section 301. The chart below takes each of the Voting Systems Standards and describes South Carolina's plan to meet the requirement.

| Section 301: Voting System Standards | S.C. Status | | | Implementation |
|---|---|---|---|---|
| | Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | |
| (a) REQUIREMENTS – Each voting system used in an election for Federal office shall meet the following requirements: | | | | |
| (1) IN GENERAL – | | | | |
| (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall – | | | | |
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | | Yes | Yes | South Carolina will fully meet this requirement when a statewide uniform electronic voting system is implemented. The RFP for a Statewide system will require a review screen for each voter to verify their selections before casting their ballot. |
| (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error), and | | Yes | Yes | South Carolina will fully meet this requirement when a statewide uniform electronic voting system is implemented. The RFP for a statewide system will require the system to allow each voter to make changes based on the information presented on a review screen. |
| (iii) if the voter selects votes for more than 1 candidate for a single office – (I) notify the voter that the voter has selected more than 1 candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and, (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | | Yes | Yes | South Carolina will fully meet this requirement when a statewide uniform electronic voting system is implemented. The RFP for a statewide system will require that the system not allow a voter to choose more than one candidate for a single office. |





| Section 301: Voting System Standards | S.C. Status | | | Implementation |
|---|---|---|---|---|
| | Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | |
| (B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by – | | | | |
| (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | | Yes | Yes | South Carolina partially meets this requirement. When a statewide uniform electronic voting system is implemented instructions specific to that voting system will be developed. These instructions will be given to each voter in written form. In addition, absentee ballots will be accompanied by written instructions that address this requirement. |
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error). | | Yes | Yes | South Carolina partially meets this requirement. When a statewide uniform electronic voting system is implemented instructions specific to that voting system will be developed. These instructions will be given to each voter in written form. In addition, absentee ballots will be accompanied by written instructions that address this requirement. |
| (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | | Yes | Yes | Instructions mentioned in B(ii) will be posted inside the polling place and inside the voting booth. |
| (2) AUDIT CAPACITY – | | | | |
| (A) IN GENERAL – The voting system shall produce a record with an audit capacity for such system. | | Yes | Yes | South Carolina will meet this requirement when a statewide uniform electronic voting system is implemented. The RFP for a statewide system will require the system to produce such an audit capacity. |
| (B) MANUAL AUDIT CAPACITY – | | | | |
| (I) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | | Yes | Yes | South Carolina will meet this requirement when a statewide uniform electronic voting system is implemented. The RFP for a statewide system will require that the system produce an image of each vote cast; however, these votes will not be associated with any particular voter. |

| Section 301: Voting System Standards | S.C. Status | | | Implementation |
|---|---|---|---|---|
| | Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | |
| (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | | Yes | Yes | South Carolina will meet this requirement when a statewide uniform electronic voting system is implemented. |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | | | Yes | South Carolina will meet this requirement when a statewide uniform electronic voting system is implemented.<br>County election officials shall be instructed to retain and secure the paper record in the event that a recount to be conducted with such record is ordered. |
| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES – The voting system shall – | | | | |
| (A) be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | | | Yes | South Carolina will meet this requirement when a statewide uniform electronic voting system is implemented. The RFP for a statewide system will require that the system be accessible to as many disabilities as possible, including the blind and visually impaired. |
| (B) satisfy the requirement of subparagraph (A) through the use of at least 1 direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | | | Yes | South Carolina will meet this requirement when a statewide uniform electronic voting system is implemented. The RFP for a statewide system will request at least one voting unit per precinct to be equipped for individuals with disabilities as outlined above. |
| (C) if purchased with funds made available under Title II on or after January 1, 2007, meet the voting system standards for disability access | | | | Does not apply at this time |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY – The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | Yes | | Yes | South Carolina currently meets this requirement. While South Carolina is not required, based on the 2000 census and the Voting Rights Act of 1965, to provide alternative language to any jurisdiction in the State, the RFP for a statewide system will require this feature in the event that the State chooses to provide this feature to its voters. |





| Section 301: Voting System Standards | S.C. Status | | | Implementation |
|---|---|---|---|---|
| | Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | |
| (5) Error Rates – The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | | | Yes | South Carolina will meet this requirement when a statewide uniform electronic voting system is implemented. The RFP for a statewide system will require that the system chosen be NASED Qualified as having met or exceeded federal voting system standards. |
| (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE – Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | | | Yes | South Carolina will meet this requirement when a statewide uniform electronic voting system is implemented. The State will define a legal vote in a uniform manner for the type of system chosen as the statewide system. In addition, the State will define a legal vote as it pertains to absentee ballots. |

## 1.4 Provisional Voting & Voting Information Requirements

The chart below takes each of the Provisional Voting and Voting Information requirements and describes South Carolina's plan to meet the requirement.

| Section 302: Provisional Voting and Voting Information Requirements | S.C. Status: Meets Requirement | S.C. Status: Meets Requirement Partially | S.C. Status: New Capability to be Implemented | Implementation |
|---|---|---|---|---|
| (a) PROVISIONAL VOTING REQUIREMENTS – If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual shall be permitted to cast a provisional ballot as follows: | | | | |
| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | Yes | | | South Carolina currently meets this requirement. South Carolina legislation requires that voters who have moved and neglected to change their address will have the opportunity to vote using the Failsafe procedure. Also, legislation is in place to accommodate voters who are challenged. |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is (a) registered voter in the jurisdiction in which the individual desires to vote; and (b) eligible to vote in that election. | Yes | | | South Carolina currently meets this requirement. Each voter signs an oath with this language before receiving a ballot. |
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4). | Yes | | | South Carolina currently meets this requirement. The voter's ballot is placed in a provisional ballot envelope which contains various information about the voter. |
| (4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law. | Yes | | | South Carolina currently meets this requirement. Information contained on the provisional ballot envelope used by local election officials to determine the validity of the voter is reported at a certification hearing within three days after the election. If the vote is determined to be valid it is counted at the certification hearing. |





| Section 302: Provisional Voting and Voting Information Requirements | S.C. Status: Meets Requirement | S.C. Status: Meets Requirement Partially | S.C. Status: New Capability to be Implemented | Implementation |
|---|---|---|---|---|
| (5) (A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, that reason that the vote was not counted. | | | Yes | When a voter casts a provisional ballot, that ballot will be placed in a provisional ballot envelope. Written instructions will be given to the voter on determining whether their vote was counted in the election. |
| (B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | | | Yes | A website application will allow the voter to determine whether their vote was counted or, if their vote was not counted, the reason it was not counted. |
| (b) VOTING INFORMATION REQUIREMENTS – | | | | |
| (1) PUBLIC POSTING ON ELECTION DAY – The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office. | | | | See (2) below for public posting of specific voting information. |
| (2) VOTING INFORMATION DEFINED – In this section, the term "voting information" means – | | | | |
| (A) a sample version of the ballot that will be used for that election; | Yes | | | South Carolina currently meets this requirement. Poll managers at each polling place are required to display a sample ballot of each ballot in the respective election. |
| (B) information regarding the date of the election and the hours during which polling places will be open; | Yes | | | South Carolina currently meets this requirement. This information is currently listed on a Voter's Rights and Responsibilities poster which is displayed at each polling location. |
| (C) instructions for how to vote, including how to cast a vote and how to cast a provisional ballot; | Yes | | | South Carolina meets this requirement.<br>Instructions for all voting systems currently in use are provided at the polling locations. A poster of the *voter's bill of rights* is displayed. Provisional ballot instructions are included in this *bill of rights*. |

| Section 302: Provisional Voting and Voting Information Requirements | S.C. Status: Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | Implementation |
|---|---|---|---|---|
| (D) instructions for mail-in registrants and first-time voters under section 303(b); | Yes | | | South Carolina currently meets this requirement by providing written instructions to these voters. |
| (E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and | Yes | | | South Carolina currently meets this requirement by posting a Voter Rights and Responsibilities poster at every polling location. |
| (F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. | | | Yes | This information will be added to our current Voter Rights and Responsibilities poster. |
| (c) VOTERS WHO VOTE AFTER THE POLLS CLOSE – Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting as provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order. | | | Yes | South Carolina will establish a procedure for provisional ballots cast by voters in accordance with a court order extending the time established for closing the polls. |

## 1.5 Computerized Statewide Voter Registration List & Voters Who Register by Mail

The chart below takes each of the requirements for the Computerized Statewide Voter Registration List and for Voters Who Register by Mail and describes South Carolina's plan to meet the requirement.





| Section 303: Computerized Statewide Voter Registration List and Voters Who Register by Mail | S.C. Status: Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | Implementation |
|---|---|---|---|---|
| (a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS | | | | |
| (1) IMPLEMENTATION – | | | | |
| (A) IN GENERAL – Each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the "computerized list"), and includes the following: | Yes | | | South Carolina currently meets this requirement. A statewide voter registration system has been used in the State since 1988.<br>SC currently maintains a single, uniform, official, centralized, interactive computerized statewide voter registration system at the state level. All 46 counties are connected to the statewide voter registration system. Additions and changes made by the county offices and State office to the voter registration file are interactive. |
| (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State. | Yes | | | South Carolina currently meets this requirement. The statewide voter registration system is housed at the State data center in Columbia and maintained by the State Election Commission.<br>The State Election Commission provides an official list of registered voters for each election held in South Carolina. |
| (ii) The computerized list contains the name and registration information of every legally registered voter in the State. | Yes | | | South Carolina currently meets this requirement.<br>Computerized list contains name, address, SS#, date of birth, precinct, and election districts for every legally registered voter in South Carolina. |
| (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | Yes | | | South Carolina currently meets this requirement. The system assigns each voter a unique registration number at the time they register to vote. |
| (iv) The computerized list shall be coordinated with other agency databases with the State. | Yes | | | South Carolina currently meets this requirement.<br>DMV, DSS, and other state agency databases are coordinated through Motor Voter processes. The counties access a file received on a weekly basis from these agencies to approve applications made through NVRA. |

| Section 303: Computerized Statewide Voter Registration List and Voters Who Register by Mail | S.C. Status | | | Implementation |
|---|---|---|---|---|
| | Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | |
| (v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list. | Yes | | | South Carolina currently meets this requirement.<br>All local and state election officials have access to this file. Each local election official is assigned a USERID and password that must be used to access the official file of registered voters. Voters can also inquire via the SEC website to look at their own record to check status, address, election districts, and polling place by keying in their name and date of birth. |
| (vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | Yes | | | South Carolina currently meets this requirement.<br>Local election officials have access to database constantly to enter new voter registrations or updates to voter's record on a real time basis. |
| (vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi). | Yes | | | South Carolina currently meets this requirement.<br>Local voter registration officials have access to the official file on a continuous basis. Technical support is provided through staff at the State Election Commission and a Help Desk. |
| (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | Yes | | | South Carolina currently meets this requirement.<br>The State Election Commission currently prints and sends the official list of registered voters to the county for use in all elections that are held in the State. |
| (B) EXCEPTION – The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office. | | | | Does not apply.<br>South Carolina requires potential voters to register to vote. |
| (2) COMPUTERIZED LIST MAINTENANCE – | | | | |
| (A) IN GENERAL – The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows: | | | | |





| Section 303: Computerized Statewide Voter Registration List and Voters Who Register by Mail | S.C. Status | | | Implementation |
|---|---|---|---|---|
| | Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | |
| (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6). | Yes | | | South Carolina currently meets this requirement.<br>The State Election Commission is the only one authorized to remove names from the official list of registered voters. |
| (ii) For purposes of removing names of ineligible voters from the official list of eligible voters – | | | | |
| (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and | Yes | | | South Carolina currently meets this requirement.<br>Felony records are removed by the State upon notification from courts of felony convictions on a monthly basis. |
| (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death | Yes | | | South Carolina currently meets this requirement.<br>Deaths are removed by the State upon notification from DHEC on a monthly basis. |
| (iii) Notwithstanding the preceding provisions of this paragraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. | Yes | | | South Carolina currently meets this requirement.<br>In accordance with the NVRA of 1993, a confirmation card policy is in effect and appropriate voters are removed as required. |
| (B) CONDUCT – The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that – | | | | |
| (i) the name of each registered voter appears in the computerized list; | Yes | | | South Carolina currently meets this requirement. |
| (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | Yes | | | South Carolina currently meets this requirement.<br>Name, SS#, and date of birth verified on each voter before name removed from voter registration file. |

| Section 303: Computerized Statewide Voter Registration List and Voters Who Register by Mail | S.C. Status: Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | Implementation |
|---|---|---|---|---|
| (iii) duplicate names are eliminated from the computerized list. | Yes | | | South Carolina currently meets this requirement.<br>State Election Commission performs quarterly comparison using SS# and date of birth. A report is generated listing all duplicate records. This report is distributed to County Registration Boards for confirmation before names are actually deleted by State Election Commission. |
| (3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST – The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | Yes | | | South Carolina currently meets this requirement.<br>Old System: This IDMS mainframe system is secured by RACF. It is deployed over a SNA network or by EZ3270 TCP/IP emulator over the Internet. The transmission of data is encrypted.<br>New System: The users of this web application will be authenticated by an LDAP server. Each user will be assigned a unique USERID and password. The application is deployed over a secured Internet connection using HTTPS. |
| (4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS – The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following: | Yes | | | South Carolina currently meets this requirement. |
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | Yes | | | South Carolina currently meets this requirement.<br>South Carolina has a confirmation mailing procedure consistent with the National Voter Registration Act of 1993. |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | Yes | | | South Carolina currently meets this requirement.<br>Name, SS#, and date of birth are compared on each voter before removal. |





| Section 303: Computerized Statewide Voter Registration List and Voters Who Register by Mail | S.C. Status: Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | Implementation |
|---|---|---|---|---|
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION – | | | | |
| (A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS – | | | | |
| (i) IN GENERAL – Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes – | | | | |
| (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or | Yes | | | SC law requires full Social Security Number and does not accept the driver's license number as a valid alternative. |
| (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | Yes | | | South Carolina currently meets this requirement.<br>SC requires full Social Security Number. |
| (ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER – If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the lists assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | Yes | | | SC law requires full Social Security Number.<br>Our voter registration system assigns a voter registration number to each applicant that is unique to each voter. |
| (iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED – The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | Yes | | | South Carolina currently meets this requirement. |

| Section 303: Computerized Statewide Voter Registration List and Voters Who Register by Mail | S.C. Status | | | Implementation |
|---|---|---|---|---|
| | Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | |
| (B) REQUIREMENTS FOR STATE OFFICIALS – | | | | |
| (i) SHARING INFORMATION IN DATABASES – The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | | | Yes | The chief State election official will enter into an agreement with Department of Motor Vehicles to coordinate verification process. |
| (ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY – The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). | | | | Not applicable in South Carolina because the entire social security number is required by State law, and thus the State falls under (D) Special Rule for Certain States. |
| (C) ACCESS TO FEDERAL INFORMATION – | | | | South Carolina requires the full social security number by State law. |
| (D) SPECIAL RULE FOR CERTAIN STATES – In the case of a State which is permitted to use social security numbers, and provides for the use of social security numbers, on applications for voter registration, in accordance with section 7 of the Privacy Act of 1974, the provisions of this paragraph shall be optional. | | | | South Carolina requires the full social security number by State law. |
| (b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL – | | | | |
| (1) IN GENERAL – Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if – | | | | |
| (A) the individual registered to vote in a jurisdiction by mail; and | Yes | | | South Carolina currently meets this requirement. |





| Section 303: Computerized Statewide Voter Registration List and Voters Who Register by Mail | S.C. Status | | | Implementation |
|---|---|---|---|---|
| | Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | |
| (B)(i) the individual has not previously voted in an election for federal office in the State; or | Yes | | | South Carolina currently meets this requirement. |
| (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | Yes | | | South Carolina currently meets this requirement. |
| (2) REQUIREMENTS – | | | | |
| (A) IN GENERAL – An individual meets the requirements of this paragraph if the individual – | | | | |
| (i) in the case of an individual who votes in person – | | | | |
| (I) presents to the appropriate State or local election official a current and valid photo identification; or | Yes | | | South Carolina currently meets this requirement.<br>Each voter is required to present one form of ID when voting in person: valid SC driver's license with current address, or photo ID issued by DMV with current address, or as shown below, a voter registration certificate. |
| (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or | Yes | | | South Carolina law permits the presentation of one specific government document – the voter registration certificate - to identify the voter. |
| (ii) in the case of an individual who votes by mail, submits with the ballot – | | | | |
| (I) a copy of a current and valid photo identification; or. | | | Yes | South Carolina law does not currently accept photo identification when voting by mail. SEC will develop procedures to track receipt of photo identification at time of voting. |
| (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. | Yes | | | South Carolina law permits the presentation of one specific government document – the voter registration certificate - to identify the voter. |
| (B) FAIL-SAFE VOTING – | | | | |

| Section 303: Computerized Statewide Voter Registration List and Voters Who Register by Mail | S.C. Status | | | Implementation |
|---|---|---|---|---|
| | Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | |
| (i) IN PERSON – An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a). | Yes | | | South Carolina currently meets this requirement.<br>SC provides provisional ballots at each precinct. |
| (ii) BY MAIL – An individual who desires to vote by mail, but who does not meet the requirements of subparagraph (A)(ii), may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | Yes | | | South Carolina currently meets this requirement.<br>SC provides provisional ballots for this purpose. The ballots are placed in a provisional envelope and kept separate from other absentee ballots until they are counted. |
| (3) INAPPLICABILITY – Paragraph (1) shall not apply in the case of a person – | | | | |
| (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 and submits as part of such registration either | Yes | | | South Carolina currently meets this requirement. |
| (i) a copy of a current and valid photo identification; or | | | Yes | SEC will develop procedures to track receipt of photo identification at time of registration. |
| (ii) a copy of a current utility bill, bank statement, government check, pay check, or government document that shows the name and address of the voter; | | | Yes | SEC will develop procedures to comply with the specified acceptable documents. |
| (B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either – | Yes | | | South Carolina currently meets this requirement. |
| (I) a driver's license number; or | Yes | | | SC law requires full Social Security Number and does not accept the driver's license number as a valid alternative. |
| (II) at least the last 4 digits of the individual's social security number; and | Yes | | | South Carolina currently meets this requirement.<br>SC requires applicant's complete SS# on all applications. |
| (ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same | | | Yes | Agreement will be reached with Department of Motor Vehicles with this verification process. |





| Section 303: Computerized Statewide Voter Registration List and Voters Who Register by Mail | S.C. Status | | | Implementation |
|---|---|---|---|---|
| | Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | |
| number, name and date of birth as provided in such registration; or | | | | |
| (C) who is – | | | | |
| (I) entitled to vote by absentee ballot under the Uniformed and Oversea Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | | | Yes | South Carolina will track this exemption on applicant's electronic record by identifying applicant as UOCAVA. |
| (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or | | | Yes | South Carolina will track this exemption on applicant's electronic record. |
| (iii) entitled to vote otherwise than in person under any other Federal law. | | | Yes | South Carolina will track this exemption on applicant's electronic record. |
| (4) CONTENTS OF MAIL-IN REGISTRATON FORM – | | | | |
| (A) IN GENERAL – The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: | | | | |
| (i) The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | | | Yes | This question will be added to all voter registration applications used in South Carolina. |
| (ii) The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day. | | | Yes | This question will be added to all voter registration applications used in South Carolina. |
| (iii) The statement "If you checked 'no' in response to either of these questions, do not complete this form". | | | Yes | This question will be added to all voter registration applications used in South Carolina. |
| (iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification | | | Yes | This question will be added to all voter registration applications used in South Carolina. |

## 2. Payment Distribution and Monitoring

*How the State of South Carolina 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 "1. Meeting Title III Requirements and Other Activities," including a description of the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and 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 "8. Performance Goals and Measures."*

**Eligibility of Local Units to Receive the Payment**

The State Election Commission will centrally manage the initiatives funded through HAVA. The SEC will be responsible for accounting for all expenditures, funding levels, program controls, and outcomes.

The SEC will implement HAVA by providing equipment, supplies, services, and training programs and materials to the counties. All counties in South Carolina will be beneficiaries of the improvements funded by HAVA:

- As part of the statewide uniform voting system, counties will receive one voting unit for every 200 registered voters.
- Education programs will be developed by the SEC for county election commissions and boards of registration.
- Training programs and materials will be developed by the SEC and distributed to county election commissions to conduct consistent Poll Manager training.
- Voter education programs and materials will be developed by the SEC and distributed to county election commissions and boards of registration.

Next year's State Plan will reflect options for funding for local voter education projects.

**Performance Measures for Local Units**

Funds will be centrally managed. The SEC will monitor the performance of each initiative that is funded by requirements payments in the following areas:

- **Financial Controls**: Working with the State Budget Office, State Treasurer, and State Comptroller General, SEC will develop and use standard financial reporting for all initiatives funded by HAVA. SEC will be prepared for periodic federal audits.





| Section 303: Computerized Statewide Voter Registration List and Voters Who Register by Mail | S.C. Status | | | Implementation |
|---|---|---|---|---|
| | Meets Requirement | Meets Requirement Partially | New Capability to be Implemented | |
| requirements upon voting for the first time. | | | | |
| (B) INCOMPLETE FORMS – If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | | | Yes | Standard procedure will be developed for all county offices to notify voters that their application was incomplete and give them a period of time to submit missing information. |
| (c) PERMITTED USE OF LAST 4 DIGITS OF SOCIAL SECURITY NUMBERS – The last 4 digits of a social security number described in subsections (a)(5)(A)(i)(II) and (b)(3)(B)(i)(II) shall not be considered to be a social security number for purposes of section 7 of the Privacy Act of 1974 (5U.S.C. 522a note). | | | | |
| (d) EFFECTIVE DATE – | | | | |

- **Compliance with Standards**: SEC will develop and use standard program management reporting for all initiatives that are funded by HAVA. The State Auditor's Office will also conduct a statewide single audit to ensure that the SEC complies with all Federal laws, regulations and program compliance requirements.

- **Program Results**: SEC will develop key performance indicators for each initiative funded by HAVA. See *Component 8: Performance Goals and Measures* for specific goals and measures.





# 3. Provision for Education and Training

*How the State of South Carolina 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.*

## 3.1 Training for Election Officials

As mandated by South Carolina law, the SEC currently administers a statewide election official training and certification program. This program provides professional development courses related to the voter registration and election community to all members and staff of the County Voter Registration Boards and Election Commissions.

To receive certification, a voter registration or election official or staff member must complete required components, including core components and electives, within 18 months. Following initial certification, each official must take at least one training course each year to remain certified.

Two types of certification are offered:

- Voter Registration or Election Commission Members and Directors

  This certification requires completion of three core courses (Duties of Voter Registration Board, Duties of Election Commission, Budgeting/Reimbursement of Election Expenses), two voter registration/election electives, and two additional electives.

- Voter Registration or Election Commission Staff

  This certification requires completion of two core courses (Absentee Registration/Balloting, Office Procedures), two voter registration/election electives, and one additional elective.

Various components are offered each quarter throughout the year. Components are held in Columbia, regionally and in conjunction with an annual conference for voter registration and election officials.

As part of the HAVA State Plan, County Election Commissioners and Board of Voter Registration members will be certified as Poll Managers within a specified length of time after their appointment. These Commissioners will be encouraged to monitor polling places all day on Election Day.

## 3.2 Training for Poll Managers

*Note: since South Carolina law defines "Poll Workers" as "Poll Managers," this section refers to Poll Managers, instead of Poll Workers.*

As mandated by South Carolina law, training for Poll Managers is a county responsibility. The SEC provides training material to the counties for use in their training program.

Planned enhancements to Poll Manager training as part of the implementation of common systems and procedures prescribed by HAVA are described below.

Every Poll Manager will be certified using state-standardized training and testing. This training and testing program will be developed by the SEC and various county election officials. Recertification will be required every five years. Persons with disabilities will be encouraged to become Poll Managers. Each manager will be permitted to work one time prior to completing certification.

The HAVA State Plan Task Force had many creative suggestions for improved training, and their report will be revisited for more ideas. In addition to the basics of operating the voting system and handling voters, the following topics will receive special focus in the state-standardized training and testing program:

- Operating the new voting system that will be selected for statewide use
- More intensive training on provisional ballots
- Voters who need special assistance (Illiteracy, Non-English speakers / readers)
- The rights of people with disabilities, the required accessibility of polling places to people with disabilities, and how to facilitate people with different disabilities
- Procedures to verify that the voter is in the correct precinct and to direct the voter to correct precinct, if needed
- Sensitivity and friendliness to voters

Testing will be "open book" to reflect the reality that poll managers are permitted to look up information at the polls.

Certification training will be conducted year round at different times of day and on different days of the week. The state's technical colleges and public television system may also be used to present training sessions. Training materials developed by the state will include a demonstration video, presentation material, and a Poll Manager handbook. Materials will be available through the SEC website. Certified managers will receive both a certificate and a badge.





In accordance with South Carolina state law, all managers are required to attend refresher training/briefings within 30 days of an election. These sessions will be held on different days and times to make them more accessible.

## 3.3 Training for Voters

Expanded voter training will be part of the implementation of the HAVA State Plan. The SEC will produce voter training material, and the counties will coordinate implementation of voter training.

When a statewide uniform electronic voting system is implemented, it will be important to get visibility and generate voter interest. A brochure and a video will be developed to promote the voting system as simple to operate, to encourage the voter to participate on Election Day, and to provide instructions on updating voter registration information. The brochure should be printed in sufficient quantities to use as handouts at voter registration offices, drivers license offices, and other government facilities. Also, the brochure and the video should be published on the website.

On an on-going basis, a concerted effort should be made to educate voters about referenda before they go into the voting booth.

Special effort will be made to reach voters with disabilities and let them know how much easier it will be to vote with the new system and improvements in the polling places. It is critical that voter information, including publications and brochures, be made available through communication vehicles that are accessible and frequently used by people with disabilities, for example:

- A well-designed fully accessible website
- E-Mail to distribution lists provided by selected disability groups (statewide cross-disability organizations can help identify disability groups)
- Non-profit organizations and other non-governmental organizations
- State agencies that work with the disability community

South Carolina County Election Commissions may participate in mock elections and other programs in the schools. Mock elections are a way to educate students and their families and to recruit and train high school students as Poll Managers.

County Election Commissions will be encouraged to demonstrate the voting system at public locations prior to an election. These demonstrations are opportunities to register voters, update voter registration information, and recruit Poll Managers.

## 3.4 Other Interested Citizens

Candidates, their workers, and poll watchers will be encouraged to take the certification training. Candidates will receive a "Candidate's Guide to Elections" and the Poll Manager handbook, both of which will be developed by the SEC. This will provide them with more information on Election Day processes and prevent misunderstandings between Poll Managers and poll watchers.





# 4. Voting System Guidelines and Processes

*How the State of South Carolina will adopt voting system guidelines and processes which are consistent with the requirements of section 301.*

As outlined in *Component 1: Meeting Title III Requirements and Other Activities*, South Carolina has decided to implement a statewide uniform electronic voting system and processes.

The voting system will be chosen through an RFP process involving State and County Election Commission officials, consultants, and other State agency personnel as needed. The RFP will be written to ensure that the system selected will meet South Carolina election laws and all requirements outlined in section 301 of HAVA.

The SEC will define and document uniform voting processes and update the relevant training material. As required by law, before any changes are made to processes that affect the voters, the proposed process will be presented for review and approval by the Justice Department under the Voting Rights Act of 1965.

# 5. Fund for Administering State Activities

*How the State of South Carolina will establish a fund for purposes of administering the State's activities, including information on fund management.*

Working with the legislature, the South Carolina Election Commission will establish a new program where the funds are kept separate from all other programs within the agency. The program will contain both federal funds and general funds. The federal fund portion will be used to maintain federal funds and the general fund portion will be used to maintain funds which are reserved under the 5% match required by HAVA.

The South Carolina Election Commission and the State Budget Office will work with the State Comptroller and the State Treasurer to follow and enforce all mandated fiscal controls and policies.





# 6. Proposed State Budget

*The State of South Carolina'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 (A) specific information on 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.*

The implementation of HAVA in South Carolina will be in four phases, each covering a calendar year, as follows:

| Phase | Implementation |
|---|---|
| Phase I (2003) | ♦ Voter registration / election administration upgrades<br>♦ Voter education and poll worker training |
| Phase II (2004) | ♦ Voting system purchases (10 punch-card counties)<br>♦ Voter education and poll worker training<br>♦ Automate voter history at the polling place |
| Phase III (2005) | ♦ Voting system purchases (12 optical-scan counties)<br>♦ Voter education and poll worker training<br>♦ Scanning/signature verification systems |
| Phase IV (2006) | ♦ Voting system purchases (24 DRE counties)<br>♦ Voter education and poll worker training |

The implementation of this four-phase plan is contingent upon receipt of the associated federal funding.

The total proposed funding[1] will come from the following sources:

| | Total Federal Funding as Proposed | South Carolina Share as Proposed | South Carolina Matching Funds |
|---|---|---|---|
| Early payments | $650 M | $6.9 M ($5 M Guaranteed) | Not applicable |
| 2003 | $850 M ($825 M to States) | $11.55 M | $ 700,000 |
| 2004 | $1.3 B ($1.1 B to States) | $15.4 M | $ 700,000 |
| 2005 | $1.1 B ($900 M to States) | $12.6 M | $ 700,000 |
| Total Funding | $3.9 B | $46.45 M | $2.1 M |

Total available funding for South Carolina is approximately $48,550,000. This money will be used to carry out the requirements of Title III as follows:

| HAVA Requirements | Total Cost | Section 101 Funds | Section 102 Funds | Section 252 & 257 Funds | 5% State Match |
|---|---|---|---|---|---|
| Standard Voting System in Punch-Card Counties | $13.4 M | | $3.45 M | $ 9.53 M | $ .43 M |
| Standard Voting System in Optical-Scan Counties | $ 4.8 M | | | $4.56 M | $ .24 M |
| Standard Voting System in DRE Counties | $18.4 M | | | $17.48 M | $ .92 M |
| Education | $ 4.0 M | $ .25 M | | $ 3.55 M | $ .2 M |
| Updating State Voter Registration System | $ 2.0 M | $ 2.0 M | | | |
| Voter Registration and Outreach Programs | $ 4.0 M | $ .2 M | | $ 3.6 M | $ .2 M |
| State Plan Creation and Management | $ 1.95 M | $ 1 M | | $ .86 M | $ .09 M |
| Total | $ 48.55 M | $ 3.45 M | $ 3.45 M | $ 39.58 M | $ 2.08 M |

[1] Fund amounts are annotated with "M" or "B" to indicate million or billion dollar amounts.





# 7. Maintenance of Prior Year Expenditures

*How the State of South Carolina, 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.*

Consistent with HAVA §254(a)(7), in using any requirements payment, South Carolina will maintain expenditure of the State for activities funded by the payment at a level equal or greater than the level of such expenditures in State Fiscal Year 2000.

The SEC has taken several reductions to the base budget since 2000. To absorb those reductions, operating expenses have been cut drastically by condensing office space, leaving vacant positions unfilled, and a reduction in force plan was implemented which eliminated one full time employee.

During the 2003 legislative session, the South Carolina General Assembly did not provide any funds for the 2004 Statewide Primaries. However, all HAVA funds will be maintained completely separate and no HAVA funds will be used to offset either the general fund or primary election fund shortfalls.

The State budget represents only a small portion of the statewide aggregate operating budget expenditures needed to sustain elections in a given fiscal year, since by South Carolina law the great majority of election administration resources are provided at the county level.

South Carolina's 46 local election office budgets typically support year-round core staff and operating expenses for continuous functions such as voter registration, information services, and IT support. In addition, county registration boards and election commissions provide the significant increase in funding associated with each specific election – for Poll Managers, temporary office staff, ballot production, mass mailings, election-day support (including personnel, equipment, and supplies), etc. In some cases, key election support resources provided at the county level may not even be included within election office budgets, but are provided through other county agencies and donations.

It is therefore important to note that the projected HAVA budget set forth in *Chapter 6: Proposed State Budget* is based on the critical budget assumption that the State will mandate that this foundation of county-funded election operations be maintained at existing levels. Without this foundation in place, the short-term infusion of funds HAVA provides would not be sufficient to maintain new State election environment in the long term.

# 8. Performance Goals and Measures

*How the State of South Carolina 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.*

The State Election Commission along with members of the South Carolina Association of Registration and Election Officials (SCARE) will establish performance goals and measure progress of achieving these goals. A list of preliminary Plan goals is provided below. An advisory team, including County Election Commissioners and the State Election Commission, will be appointed to oversee plan management and compliance with HAVA. This advisory team will revisit the goals of the plan on an on-going basis and make any changes necessary.

An important goal of the advisory team is to ensure a smooth transition for the local election commissions into a statewide uniform electronic voting system while complying with HAVA requirements and assuring accessibility for all voters in compliance with the Americans with Disabilities Act (ADA). The advisory team will determine the goals, measurements, and related timeframes in accordance with requirements outlined in HAVA.

The following is a list of plan elements, preliminary plan goals under consideration, the official in charge of ensuring the element is met, and the timeframe for meeting such element of the plan.

| Plan Element | Preliminary Plan Goals Under Consideration | Official | HAVA Timeframe |
|---|---|---|---|
| Voting System (§301) | ▪ Uniform electronic system implemented statewide<br>▪ Statewide voting system will accommodate as many disabled votes as possible<br>▪ Voter can verify / change ballot before casting<br>▪ Voter is informed or prevented from casting votes for multiple candidates for single office<br>▪ Disabled voters have accessibility to polling place<br>▪ Manual audit capability<br>▪ Uniform definition of what constitutes a vote | To Be Determined by SEC | 1/1/06 |
| Provisional Voting (§302) | ▪ Voter can ascertain whether a provisional vote was counted and obtain an explanation if the vote was not counted<br>▪ Additional voting instructions posted for provisional voting and for prohibitions on fraud | To Be Determined by SEC | 1/1/04 |





| Plan Element | Preliminary Plan Goals Under Consideration | Official | HAVA Timeframe |
|---|---|---|---|
| Voter Registration (§303a &303b) | ▪ Procedures established to track receipt of identification at registration<br>▪ Mail voter registration form revised to add mandated questions and procedures revised to notify voters of incomplete forms<br>▪ Amend the voter registration application process to use driver's license<br>▪ Joint agreement with Dept. of Motor Vehicles to coordinate verification process<br>▪ Voter documentation exemptions tracked for uniformed and overseas citizens, elderly and handicapped<br>▪ Implement image scanning and retention of the voter registration application, including the voter signature | To Be Determined by SEC | (303a) 1/1/06<br>(303b) 1/1/04 |
| Education (§254a3) | ▪ Poll Manager training developed<br>▪ Poll Manager certification process implemented<br>▪ Poll Manager pre-election refresher training implemented<br>▪ Election officials included in Poll Manager training and certification<br>▪ Voter awareness and education plan implemented<br>▪ Disabled voter awareness and education plan implemented | Garry Baum, Training Coordinator, SEC | 1/1/04 |
| Budget/Funding | ▪ Legislated program established to isolate and manage federal and state funds<br>▪ Procedures established to track budget and actual expenditures | Janet Reynolds, Finance Director, SEC | TBD |
| Complaint Procedures (§402) | ▪ Complaint process in place statewide<br>▪ Timely complaint resolution | To Be Determined by SEC | 1/1/04 |
| Absentee Ballots for UOCAVA Voters (§704) | ▪ Modify procedure to allow UOCAVA absentee voters to receive absentee ballots in all regularly scheduled elections within a two-year period | To Be Determined by SEC | 1/1/04 |

**Performance measures**

There are areas that the management team will measure to collect data and report on performance. These include:

- **Schedule**: Are goals being met, timelines followed, or at least progression towards meeting goal/timelines?

- **Ability**: Are the right people hired to oversee the state management plan to make sure plan goals are met? Are there enough financial resources to maintain those hired?

- **Effectiveness:** Is the project meeting all expectations in regards to customer satisfaction (County Election Commissions and voters)?

Other plan elements will be added as needed. The SEC and SCARE will monitor collected data for reporting purposes. This data will be distributed to local county election boards as well as to the SEC to monitor progress of ensuring all goals of HAVA are achieved.





# 9. Administrative Complaint Procedures

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

South Carolina will implement an administrative complaint procedure that complies with HAVA. A new regulation will formally establish the procedure which, in general, will follow the process described within this chapter of the State Plan.

Education materials will be provided at the polls on procedures for filing a complaint.

If a voter has a complaint on Election Day, the voter may call the County Election Commission (local, toll-free, or collect call) or visit the County Election Commission in person. Complaints that cannot be resolved at the County Election Commission level may be forwarded to the State Election Commission on a special complaint form for a paper hearing. South Carolina interprets the requirement for a complaint hearing to be satisfied by a paper hearing using this complaint form.

The complaint form will be designed and distributed by the State Election Commission. The State Election Commission will establish a numbered form containing the following fields to be completed by the complainant:

- Complainant name
- Address
- Telephone number
- County of residence
- Precinct
- Polling location
- Description of complaint
- Signature
- Notary

This form will be distributed to all County Election Commissions for distribution to poll workers for voters who wish to file a complaint. Counties may assist voters in completing the form if necessary. When a county election official, or poll worker, issues

a complaint form, the number on the form will be recorded on a complaint log which will be retained in the County Election Commission office.

The State Election Commission will have 90 days to investigate complaints and will then notify the complainant in writing of the results of that investigation. The 90 day period begins the day the complaint is filed with the State Election Commission.





# 10. Use of Title I Payment

*If the State of South Carolina 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.*

As shown in *Component 6: Proposed State Budget*, the HAVA Title I monies are an integral part of the overall funding for development and execution of the State Plan to improve administration of elections, and as such, will be used to comply with the requirements under Title III. The South Carolina Title I payment of $6,900,000 (May, 2003) represents approximately 14% of the total HAVA initiative and 36% of the 2003 budget.

The Title I monies will provide initial funding to start the process. Activities to be initiated in 2003 include:

- Develop the State Plan
- Establish criteria for a statewide uniform electronic voting system
- Issue a Request for Proposal (RFP) for a statewide uniform electronic voting system
- Upgrade the voter registration system
- Modify supporting processes for voter registration
- Establish administrative complaint procedures
- Develop voter education and poll worker training
- Improve election administration

Any monies remaining from the Title I payment will be applied toward purchase of the new voting systems selected through the RFP process. All monies will be maintained by the SEC and no funds will be distributed directly to the counties for reimbursement of previously purchased voting systems.

# 11. Ongoing Management of Plan

*How the State of South Carolina will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the law 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 Executive Director of the S.C. State Election Commission is responsible for coordination of the State's responsibilities under this Act, and therefore ultimately responsible for the ongoing management of the State Plan.

The State Plan will serve as the roadmap for HAVA implementation. As stated in *Component 8: Performance Goals and Measures*, the State Election Commission will establish a State Plan advisory team to manage and oversee the statewide plan. This State Plan advisory team will audit performance goals and measures and publish any material changes. The team will meet on a regular basis with a frequency to be set by the team.

No material changes will be made unless the change is published in the Federal Register in accordance with HAVA §255, is subject to public notice in accordance with HAVA §256, and takes effect after the expiration of the 30 day period which begins on the date the change is published in the Federal Register in accordance with HAVA §255.





# 12. Previous Year Plan

*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.*

This is South Carolina's 2003 State Plan, and is the State's initial plan. Therefore there are no changes from the previous year or successes to report relative to the implementation of HAVA.

This section will be updated in the next fiscal year, reflecting changes to the State Plan, as well as a summary of the 2003 successes.

# 13. Committee

*A description of the committee which participated in the development of the South Carolina State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.*

The HAVA State Plan task force provided broad representation across the state, and included representatives from state organizations, county organizations, legislators, and interested stakeholders.

| Name | Organization |
|---|---|
| Adell Adams | Richland County Election Commission |
| David Alexander | Office of Research and Statistics |
| Marci Andino | State Election Commission |
| Susan Barden | S.C. State Senate Judiciary Committee |
| Russell Barrett | Florence County Election Commission |
| Garry Baum | State Election Commission |
| Conway Belangia | Greenville County Registration/Elections |
| James Blake | Marion County Voter Registration/Elections |
| Bobby Bowers | Office of Research and Statistics |
| Lesly Bowers | Protection and Advocacy for People with Disabilities |
| Marilyn Bowers | Pickens County Voter Registration/Elections |
| Tommie Brice | Calhoun County Voter Registration/Elections |
| Brett Bursey | S.C. Progressive Network |
| Hoyt Campbell | Darlington County Registration/Elections |
| Pete Cantrell | Protection and Advocacy for People with Disabilities |
| Mike Cinnamon | Richland County Election Commission |
| Eliza Claxton | NAACP |
| John Darby | Governor's Office |
| Rusty DePass | State Republican Party |
| Benjamin Duncan II | Governor's Office |
| Lelia Ferguson | Protection and Advocacy for People with Disabilities |
| Agnes Garvin | Beaufort County Voter Registration/Elections |
| Cheryl Goodwin | State Election Commission |
| Adlena Graham | NAACP |
| Wayne Hale | State Election Commission |
| John Harrison | S.C. House of Representatives |
| Betsy Hartman | Office of State CIO |





| Name | Organization |
|---|---|
| Rita Henderson | Laurens County Voter Registration/Elections |
| Lynn Hill | Lee County Voter Registration/Elections |
| Pat Jefferson | Sumter County Voter Registration/Elections |
| Ruth Jordan | NAACP |
| L.Z. Keitt | NAACP |
| Carol Khare | State Democratic Party |
| Carolyn Lecque | Charleston County Election Commission |
| Hannah Majewski | State Election Commission |
| Larry Martin | S.C. State Senate |
| Mariah C. Miller | NAACP |
| Thomas L. Moore | S.C. State Senate |
| Cindy Peel | State Election Commission |
| Cathy Pelletier | Disability Action Center, Columbia |
| Edith Redden | Williamsburg County Voter Registration/Elections |
| Janet Reynolds | State Election Commission |
| James H. Ritchie | S.C. State Senate |
| Shan Rose | League of Women Voters |
| Drew Royall | Department of Disabilities and Special Needs |
| Donna Royson | State Election Commission |
| John Russell | Governor's Office |
| John Scott | S.C. House of Representatives |
| Gary Simrill | S.C. House of Representatives |
| Steve Skardon | Palmetto Project |
| Gilbert Smith | S.C. Independent Living Council |
| Tanya Thompson | Protection and Advocacy for People with Disabilities |
| David Williams | Legislative Council, Columbia |
| Ron Wilson | York County Voter Registration/Elections |

The task force was divided into five teams, each of which focused in depth on a specific functional area of HAVA: Administration and Funding, Education, Voting System Standards, Statewide Voter Registration System, and Accountability.

On-going management of the State Plan will be handled by the SEC with help from a new advisory team to be appointed.

**State Plan for South Dakota**
**Public Comment Draft Document**
**As required by Public Law 107-252 Section 253(b)**
**Help America Vote Act**

**Chris Nelson**
**Secretary of State**
**State Capitol, Suite 204**
**500 East Capitol**
**Pierre, SD 57501-5070**

**June 4, 2004**

On October 29, 2002 President George W. Bush signed HR 3295, "Help America Vote Act of 2001," or HAVA. This bill, now Public Law 107-252, was introduced, passed, and signed into law to address the growing concerns of election discrepancies, voter fraud, antiquated voting equipment, and accessibility by those with disabilities. HAVA introduces extensive election reform by introducing uniform and nondiscriminatory election technology and administration requirements, establishing grant programs that provide assistance to States, and improving election technology. Each polling place and county auditors' office in South Dakota will now be equipped with a Direct Recording Electronic (DRE) voting machine. A DRE is a touch screen machine designed to make voting independent and private for those using it.

To address the requirements of HAVA the South Dakota Legislature adopted Senate Bill 13. This bill addresses the needs of HAVA by establishing guidelines for provisional voting, requiring a person to provide their driver's license number or last four digits of their Social Security Number, identifying the voter's state of issuance for their driver's license, creating guidelines for a complaint process to remedy voter grievances, and expanding South Dakota's statewide voter registration system.

A 17-member HAVA task force was formed to design a road map of how South Dakota is going to comply with the federal provisions. The group consists of the Board of Elections, county auditors, Secretary of State representatives, a state senator and representative, advocates for the community of people with disabilities, and a spokesperson from Kids Voting. These individuals have met twice and their recommendations follow in this report.

Where appropriate and necessary the South Dakota Board of Elections will oversee the state plan. South Dakota is committed to providing equal access to the voting experience to all its citizens, including persons with disabilities. Voting information will be provided, where appropriate, in alternative formats including, but not limited to Braille, disk, audio format, or enlarged font.

South Dakota has a very efficient, reliable, and trusted election process. Our implementation of HAVA is designed to enhance an all ready efficient election system. Suggestions from the task force, auditors, and public will help ensure South Dakotans have an effective and steadfast election process.

## Help America Vote Act
## State Plan for South Dakota

### SEC. 254. STATE PLAN.

**(a) IN GENERAL- The State plan shall contain a description of each of the following:**
**(1) How the State will use the requirements payment to meet the requirements of title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.**

**301 (a)(1)(B)(i) - Establish a voter education program on the effect of casting multiple votes for an office.**

The State of South Dakota currently utilizes precinct and central count optical scan ballots, hand-counted paper ballots, and punch card ballots. It is anticipated when the HAVA changes are fully implemented, South Dakota will use precinct and central count optical scan ballots, hand-counted paper ballots and DRE (Direct Recording Electronic) voting machines. There is a need under this section to provide additional education for those precincts using central count optical scan and hand-counted paper ballots. The plans for this education include:

- Auditors will include instructions on the effect of over-voting in the voter instructions posted in the voting booth.
- The Secretary of State will provide to county auditors, for each polling place, three poster sized directions on the effect of casting multiple votes for an office and other pertinent instructions in 48-point or larger font.
- Auditors will hang poster-sized instructions from the Secretary of State in the polling place in three different locations.
- Sample ballots are currently published in each official newspaper. Request administrative rule of the State Board of Elections to require the publication of voter instructions in each official newspaper as part of the notice of election.
- Include instructions on the effect of over-voting in the voter instructions printed on each ballot.
- The Secretary of State will prepare a booklet of election procedure changes for 2004 and include the above instructions.
- The Secretary of State will provide the booklet of election procedures in accessible formats including, but not limited to18-point font, Braille, disk, and tape.
- Provide, through the Secretary of State, information to statewide organizations and political parties for inclusion in their newsletters and to hand out at conventions. Encourage private entities to participate.

- The Secretary of State will provide information to the public regarding election procedure changes and the effect of over-voting.

**301 (a)(1)(B)(ii) - Establish instructions on how to correct ballot errors.**

Instructions for correction of ballot errors were rewritten in 2002 and are considered effective. The instructions are included in the voter instructions posted in the polling place and in the voting booth. It is recommended that:

- Auditors will include instructions on how to correct ballot errors in the voter instructions posted in the voting booth.
- The Secretary of State will provide to county auditors for each polling place, three poster sized directions on how to correct ballot errors and other pertinent instructions in 48-point or larger font.
- Auditors will hang poster-sized instructions from the Secretary of State in the polling place in three different locations.
- Currently sample ballots are published in each official newspaper. Request administrative rule of the State Board of Elections to require the publication of voter instructions in each official newspaper as part of the notice of election.
- The Secretary of State will prepare a booklet of election procedure changes for 2004 and include the above instructions.
- The Secretary of State will provide the booklet of election procedures in accessible formats including, but not limited to 18-point font, Braille, disk, and tape.
- Provide, through the Secretary of State, information to statewide organizations and political parties for inclusion in their newsletters and to hand out at conventions. Encourage private entities to participate.
- The Secretary of State will provide information to the public regarding election procedure changes and how to correct ballot errors.
- Ensure instructions are reviewed by a design professional for ease of reading.
- Ensure the instructions can be read or listened to by a voter with a disability.

**301 (a)(3)(B) - Provide one DRE per polling place.**

The task force anticipated there will be several different DRE units certified for sale in South Dakota. It was determined the State should purchase one brand of DRE to meet the "one DRE per polling place" requirement. The State would give these DRE's to each county. The advantage of the "one brand" concept includes uniformity for voters, economy of scale in purchasing, and uniformity in training. Counties would be free to purchase any brand of state-certified DRE for additional units.

Counties should have one unit in each polling place and one unit in the auditor's office for absentee voting. It was decided a ratio will determine how many back-up units a county will receive. These DRE's will be part of the initial purchase under this section.

The DRE's purchased to meet the requirements of this section must meet the disability requirements of HAVA.



The State will provide the 5% match required for Title II funds to purchase the required units, subject to reimbursement by the counties, as determined by the legislature.

In determining which DRE will be purchased to meet this requirement, members of the disability community will be involved in evaluating the machines.

The task force determined that it would be desirable to have the DRE contain an audio ballot in the appropriate Native American language for those areas which currently need interpreters to eliminate the need for an interpreter.

The state will not require the use of DRE units for non-federal elections but will allow the use of the units in those elections.

It was determined that the purchase of the DRE's to meet the requirements of this section would occur in 2005 or 2006.

Voter education on the new units will be important for county election officials, poll workers and the voters. The Secretary of State will work with county auditors to provide this education.

**302 - Provisional voting.**

SB13 was passed by the SD Legislature and signed into law on March 5, 2003. Sections one through eight provides for a provisional ballot process which will become effective July 1, 2003.

**302 (b) - Posting of information at the polling place.**

Posting of election instructions is currently required under state law. The instructions are posted in three locations in the polling place and in each voting booth. The text of the instructions is provided in administrative rule of the State Board of Elections. These instructions will be updated to include all of the information required under this section.

At least three sets of instructions, provided by the Secretary of State to the county auditors, printed in 48 point type should be posted.

Instructions will be placed on the Secretary of State's website. They will be made available in an audio format on the web site and at polling places. If possible, these instructions will be added to the State Library's tapes for the blind that contain other voter information.

**303 (a)(2)(A)(ii)(I) - Felony record check.**

SB 13 was passed and signed into law on March 5, 2003. Section 15 provides for a revision in South Dakota's felony notice process which will become effective January 1,

2004. The State will develop an automated link between the felony records system and the statewide voter file to send notices of felony convictions to the appropriate county auditor. This check will be done on new registrations and when convictions occur.

**303 (a)(2)(A)(ii)(II) - Death records check.**

SB 13 was passed and signed into law on March 5, 2003. Section 15 provides for a revision in South Dakota's death notice process which will become effective January 1, 2004. The State will develop an automated link between the vital statistics system and the statewide voter file to send deceased notices to the appropriate county auditor. This check will be done on new registrations and when deaths occur.

**303 (a)(5)(A)(iii) - Verify driver license or verify last four digits of SSN.**

SB 13 was passed and signed into law on March 5, 2003. Section 12 provides for verifying driver license numbers and the last four digits of a social security number. This will become effective January 1, 2004. The State will develop an automated verification link between the South Dakota driver license records system and the statewide voter file. A system will also be developed to check out-of-state driver license numbers and the last four digits of a social security number. This check will be done on all new registrations.

**303 (b)(4) - New voter registration cards.**

The South Dakota voter registration form is prescribed in administrative rule of the State Board of Elections. This rule will be amended to include the language required by HAVA.

**251(b)(2) - Other activities to improve administration of elections.**

1. A computerized link between driver license offices, the Secretary of State, and county auditors will be developed to electronically transmit new voter registration data for those who register to vote at the driver license office.

2. If there is Title I or II money, which does not need to be spent to meet the immediate requirements of HAVA, a revolving election equipment replacement fund will be established within the Election Fund to provide an ongoing source of money which counties can access to replace voting machines as needed. The fund will operate as a lease-purchase mechanism to allow counties to fund large election equipment purchases and pay for them over a period of years. Interest accrued from fund activities will stay in the account for counties to access. This will help to ensure counties can continue meeting the requirements of HAVA in the future. Legislation will be sought creating the revolving election equipment replacement fund and providing the state Board of Elections with rule making authority to establish the criteria for accessing the fund.

**254 (a)(2) For each element under item (1), determine:**



- **How we will distribute the money**
- **How we will monitor distribution of the money**
- **Criteria for eligibility of the money**
- **Method to monitor performance of recipients of the money**

**301 (a)(1)(B)(i) - Establish a voter education program on the effect of casting multiple votes for an office.**
**And**
**301 (a)(1)(B)(ii) - Establish instructions on how to correct ballot errors.**

The costs for new large print polling place instructions will be paid for by the Secretary of State. The production of any special instructions in large type fonts or audio, election information booklets or public service announcements, will be done by the Secretary of State using Title I money. The Secretary of State will monitor the distribution of the money using established state appropriation and accounting mechanisms. The Secretary of State will determine how much of the Title I money is to be used for these publications. The Secretary of State will monitor performance by comparing the items suggested in the State Plan with actual accomplishment.

**301 (a)(3)(B) - Provide one DRE per polling place.**

The Secretary of State will use the Title II money to purchase sufficient DRE's to supply one per polling place, one per county auditor's office for absentee voting. A ratio will determine how many back-up machines a county will receive. If there is money which is unspent after meeting the initial requirements of Title III, a revolving election equipment replacement fund will be established as part of the election fund to provide a source for counties to obtain funding for future voting equipment purchases including replacement of the initial DRE's when needed. The Secretary of State will monitor the distribution of the money using established state appropriation and accounting mechanisms. The Secretary of State will determine how much of the Title II money is to be used for this purchase. The Secretary of State will monitor performance by comparing the items set forth in the State Plan with actual accomplishment.

**302 - Provisional voting.**

It is not anticipated that Title II money will be needed for this requirement.

**302 (b) - Posting of information at the polling place.**

The costs for new polling place instructions placed in the voting booth will be paid for by county government. The production of any special instructions in large type fonts or audio will be done by the Secretary of State using Title I money. The Secretary of State will monitor the distribution of the money using established state appropriation and accounting mechanisms. The Secretary of State will determine how much of the Title I money is to be used for these instructions. The Secretary of State will monitor

performance by comparing the items set forth in the State Plan with actual accomplishment.

**303 (a)(2)(A)(ii)(I) - Felony records check.**

The Secretary of State will use Title I money to pay for the computer programming necessary to automate the felony records check. The Secretary of State will monitor the distribution of the money using established state appropriation and accounting mechanisms. The Secretary of State will determine how much of the Title I money is to be used for this programming. The Secretary of State will monitor performance by ensuring the programming development is completed and by thoroughly testing the programming to ensure that the felony record check is accurate.

**303 (a)(2)(A)(ii)(II) - Death records check.**

The Secretary of State will use Title I money to pay for the computer programming necessary to automate the death records check. The Secretary of State will monitor the distribution of the money using established state appropriation and accounting mechanisms. The Secretary of State will determine how much of the Title I money is to be used for this programming. The Secretary of State will monitor performance by ensuring the programming development is completed and by thoroughly testing the programming to ensure the death records check is accurate.

**303 (a)(5)(A)(iii) - Verify drivers license or verify last four digits of SSN.**

The Secretary of State will use Title I money to pay for the computer programming necessary to automate the drivers license and social security number records check. We understand there is a cost for states to access the social security records, so a portion of the funds will be used to pay for that access. We also understand the check of out-of-state driver's licenses will not be able to be automated so a portion of the funds will be used to conduct that check manually. The Secretary of State will monitor the distribution

of the money using established state appropriation and accounting mechanisms. The Secretary of State will determine how much of the Title I money is to be used for this programming. The Secretary of State will monitor performance by ensuring the programming development is completed and by thoroughly testing the programming to ensure the driver's license and social security number check is accurate.

**303 (b)(4) - New voter registration cards.**

It is not anticipated that Title II money will be needed for this requirement.

**251(b)(2) - Other activities to improve administration of elections.**

The Secretary of State will use Title I money to pay for the computer programming necessary to automate the movement of voter registration data from drivers license



offices to county auditor offices. A portion of the funds may also be needed for hardware upgrades in county auditor offices. The Secretary of State will monitor the distribution of the money using established state appropriation and accounting mechanisms. The Secretary of State will determine how much of the Title I or II money is to be used for this programming and hardware purchase. The Secretary of State will monitor performance by ensuring the programming development is completed and by thoroughly testing the programming to ensure all data transmission is accurate.

**254 (a)(3) - To meet the requirements of Title III, how will state provide programs for:**
**Voter education.**

In addition to the education initiatives set forth in the plan, education on the use of DRE voting equipment will be crucial. The Secretary of State will work with local county auditors to provide booths at regional and state fairs as well as work with presentations to schools and community clubs. Outreach efforts will be made to statewide groups and will involve persons from the disability community. Information on the new voting systems will be produced.

**Election official education and training.**

For any of the required Title III changes to be successful, training of county election officials will be critical. Currently the state provides one day of training for county election officials prior to each federal election year. This training will be expanded to a second day to cover the new requirements. Regional training may take place, if needed. Training will include the new Title III requirements including DRE operation and information on how to meet the needs of voters with disabilities.

**Poll worker training.**

County auditors are responsible for poll worker training. The Secretary of State will provide county auditors with the information they will need to train their poll workers on Title III compliance. Information on how to best meet the needs of voters with a disability will be addressed. This will include providing a PowerPoint presentation or video which can be used for the training. Tribal election officials will be encouraged to attend a poll worker training in their area to learn about the procedures used in conducting federal elections. County auditors are encouraged to work with members of the disability community to assist in providing training on disability awareness and effective ways to respond to their needs for assistance.

**254 (a)(4) - How will the State adopt voting system guidelines and processes for Section 301:**

These guidelines and processes are encompassed in state statute and administrative rule of the State Board of Elections. These either have been or will be amended as needed to comply with the requirements of Section 301.

**254 (a)(5) - Describe the election fund and the management of that fund:**

This fund has been established within South Dakota state government's accounting system. The account is managed by the Secretary of State. Any expenditure from the Election Fund must be approved through the normal state government appropriation process. Any expenditure prior to July 1, 2003 will need approval by the legislature's interim appropriations committee. Expenditures after July 1, 2003 will be included as a budgetary line item in the State's annual budget which is approved by the Legislature and Governor.

All expenditures from the fund will be subject to the normal state government accounting and audit procedures. Interest income generated by the account will be credited to the account.

**254 (a)(6) - Budget:**

- **Costs for each of the Title III requirements.**
- **How will the requirements payment be used for Title III?**
- **For what else will the requirements payments be used?**

| Section | Requirement | Amount Budgeted |
|---|---|---|
| 301 (a)(1)(B)(i) | Establish a voter education program on the effect of casting multiple votes for an office. | $2,000 |
| 301 (a)(1)(B)(ii) | Establish instructions on how to correct ballot errors. | $2,000 |
| 301 (a)(3)(B) | Provide one DRE per polling place, one per auditor's office, and an appropriate ratio of back-up machines to the counties. | $7,660,000 |
| 302 | Provisional voting. | $0 |
| 302 (b) | Posting of information at the polling place. | $2,000 |
| 303 (a)(2)(A)(ii)(I) | Felony records check. | $50,000 |
| 303 (a)(2)(A)(ii)(II) | Death records check. | $50,000 |
| 303 (a)(5)(A)(iii) | Verify driver license or verify last four digits of SSN. | $150,000 |
| 303 (b)(4) | New voter registration cards. | $0 |
| 251(b)(2) | Other activities to improve administration of elections. | $70,000 |

The requirements payments and matching funds will be used for items which are not paid for with Title I funds. Any unspent Title II money will be used for a voting equipment revolving fund to ensure South Dakota can continue to meet the mandates of this Act in future years. The interest accrued from the revolving fund will be kept in the fund and used for the grants to counties and/or entities.

**254 (a)(7) - State maintenance of effort plan.**



The state has very limited expenditures for election administration. There is no separate budgetary line item for election administration. The estimated state expenditures for FY2000 was $55,024. Most election funding is done by the counties. The current state level funding provides for one staff person in the elections department of the secretary of state's office. Normal support expenses for this person include office space, telephone, postage, travel, computer support and printing. The Secretary of State will continue to operate and fund this department as it always has. There will be no reduction in expenditure of state general funds from fiscal year 2000.

**254 (a)(8) – Adopt Performance Goals and Measures for the State and for counties:**

**301 (a)(1)(B)(i) - Establish a voter education program on the effect of casting multiple votes for an office.**

| | |
|---|---|
| Performance Goal | Eliminate overvotes |
| Performance Measurement | Those counties which have a capability to produce overvote reports from their voting systems, will produce those reports and file a summary of overvotes per race. |
| Timetable | 2004 and 2006 general elections |
| How to Measure Performance | Determine the proper instructions were posted in the polling place. Compare percentage of overvotes to votes cast in each of these elections. |
| Who will Measure | County auditors will report to the Secretary of State. |

**301 (a)(1)(B)(ii) - Establish instructions on how to correct ballot errors.**

| | |
|---|---|
| Performance Goal | Provide easily accessible instructions in each polling place. |
| Performance Measurement | Are the instructions posted? |
| Timetable | 2004 and 2006 general elections |
| How to Measure Performance | Determine the proper instructions were posted in the polling place. Precinct workers report to county auditor on compliance. |
| Who will Measure | County auditors |

**301 (a)(3)(B) - Provide one DRE per polling place.**

| | |
|---|---|
| Performance Goal | Provide one disabled accessible DRE per polling place. |
| Performance Measurement | Is there a functioning machine in each polling place? |
| Timetable | 2006 primary and general election |
| How to Measure Performance | Precinct workers report to county auditor on compliance. |
| Who will Measure | County auditors |

**302 - Provisional voting.**

| | |
|---|---|
| Performance Goal | 1. Provide notice to voters on availability of provisional ballot.<br>2. Provide provisional ballot materials at each polling |

| | |
|---|---|
| | place.<br>3. Train poll workers on provisional ballot requirements.<br>4. Offer provisional ballots to voters who qualify.<br>5. Allow all voters who claim to be registered to vote in the precinct, but who can't be confirmed to vote a provisional ballot. |
| Performance Measurement | Monitor the number of calls to county auditors or Secretary of State reporting a person was not able to vote a provisional ballot. |
| Timetable | 2004 and 2006 general elections |
| How to Measure Performance | Determine the auditors were trained by the Secretary of State, the poll workers were trained by the auditors, training materials were provided to the auditors, and provisional ballots were printed and available at the polling place. |
| Who will Measure | County auditors will report to Secretary of State. |

**302 (b) - Posting of information at the polling place.**

| | |
|---|---|
| Performance Goal | Provide easily accessible instructions in each polling place including at least three 48-point or larger font poster-sized versions. |
| Performance Measurement | Are the instructions posted? |
| Timetable | 2004 and 2006 general elections |
| How to Measure Performance | Determine the Secretary of State provided the auditors 3 poster-sized directions in 48-point font or larger addressing provisional voting and hours of operation of the polling place. Determine the auditor displayed a sample ballot, directions on overvoting, how to mark a ballot, and how to correct a ballot in each voting booth. Precinct workers report to county auditor on compliance. |
| Who will Measure | County auditors |

**303 (a)(2)(A)(ii)(I) - Felony record check.**

| | |
|---|---|
| Performance Goal | Every person convicted of a felony and sentenced to the adult state penitentiary system is removed from the voter registration list and is not able to reregister until their entire sentence is completed. Establish a computer system to conduct checks and notify auditors about felony convictions. |
| Performance Measurement | 1. Ensure each new or updated voter registration is checked against the felony conviction file.<br>2. Ensure all new felony convictions are checked against the statewide voter file.<br>3. Remove all those who are ineligible from voter file.<br>4. Secretary of State will double check felony convictions identified by this system to prevent erroneous removal |



| | |
|---|---|
| | of eligible voters. |
| Timetable | January 1, 2004 |
| How to Measure Performance | Verify accuracy of the telephone complaint against actual voter and felon records. |
| Who will Measure | County auditor and Secretary of State |

**303 (a)(2)(A)(ii)(II) - Death records check.**

| | |
|---|---|
| Performance Goal | Every deceased person is removed from the voter registration list and that no deceased person's name is added to the voter registration list. Establish a computer system to conduct checks and notify auditors about deaths. |
| Performance Measurement | 1. Ensure each new or updated voter registration is checked against the vital statistics file.<br>2. Ensure all new deaths are checked against the statewide voter file.<br>3. Remove all those who are deceased from voter file.<br>4. Secretary of State will double check death notices identified by this system to prevent erroneous removal of eligible voters. |
| Timetable | January 1, 2004 |
| How to Measure Performance | Verify accuracy of the report against actual voter and death records. |
| Who will Measure | County auditor and Secretary of State |

**303 (a)(5)(A)(iii) - Verify driver license or verify last four digits of SSN.**

| | |
|---|---|
| Performance Goal | Ensure no person is allowed to register to vote without providing an accurate driver license number or last four digits of their social security number. |
| Performance Measurement | Establish computerized and manual access system for information verification to validate all new registrations. |
| Timetable | January 1, 2004 |
| How to Measure Performance | Verify accuracy of the system by comparing actual voter and driver license records. |
| Who will Measure | Secretary of State |

**303 (b)(4) - New voter registration cards.**

| | |
|---|---|
| Performance Goal | Provide voter registration forms which comply with HAVA. |
| Performance Measurement | Check to make sure all official voter registration sites have new forms. |
| Timetable | July 1, 2003 |
| How to Measure Performance | Telephone and mail verification with sites. |
| Who will Measure | County auditor and Secretary of State |

**251(b)(2) - Other activities to improve administration of elections.**

| | |
|---|---|
| Performance Goal | Provide daily electronic transmission of new voter registration data from all driver license offices to the appropriate county auditor office. Eliminate missed voter registration deadlines because of registration card transit time. |
| Performance Measurement | Affirm all voter registrations completed at a driver license office by a registration deadline are added to the official registration list for that election. |
| Timetable | 2004 |
| How to Measure Performance | Affirm all voter registrations completed at a driver license office by a registration deadline are added to the official registration list for that election. |
| Who will Measure | County auditor and Secretary of State |

**254 (a)(9) - Describe administrative complaint procedure:**

This procedure is provided in sections 16 though 25 of SB 13 which will become effective July 1, 2003. Initial complaints will be resolved by the State Board of Elections utilizing an existing administrative complaint process. The alternative dispute process involves judicial appointment of an arbitrator to resolve the complaint.

**254 (a)(10) - What Title I funds will be used for:**

Title I funds will be used for punch card system buyouts, voter education, statewide voter registration system programming and hardware, training and materials for election personnel, travel for election personnel, state plan development and for a Help America Vote Act coordinator.

Unspent funds will be used for grants and/or to develop a revolving election equipment replacement fund to be used to ensure compliance with state and federal election laws and to improve the election process.

**254 (a)(11) - How state will conduct ongoing management of the "state plan" including who will make changes to the plan.**

The Secretary of State and State Board of Elections will monitor the activities provided for in the state plan. Any changes to the plan will be done by the State Board of Elections, with input from the HAVA Task Force members, using an open hearing process.

**254 (a)(12) - Not applicable**

**254 (a)(13) - Description of the task force:**

The HAVA state plan task force was appointed by the Secretary of State. Members of the task force include the election officials from our two largest counties, all of the State Board of Elections members, representatives from organizations representing those who are disabled, state legislators and representatives of the recognized political parties. Task force members are:

| First | Last Name | Organization Name | City |
|---|---|---|---|
| Chris | Nelson | Secretary of State | Pierre |
| Kea | Warne | Secretary of State | Pierre |
| Sue | Roust | Minnehaha County Auditor | Sioux Falls |
| Julie | Pearson | Pennington County Auditor | Rapid City |
| Patty | Pearson | Kids Voting | Pierre |
| Linda Lea | Viken | State Board of Elections | Rapid City |
| Karen | Layher | Grant County Auditor | Milbank |
| Nelva | Kristofferson | State Board of Elections | Britton |
| Gail | Brock | State Board of Elections | Huron |
| Carol | Klumper | Union County Auditor | Elk Point |
| Beth | Benning | State Board of Elections | Spearfish |
| Shelly | Pfaff | Coalition of Citizens With Disabilities | Pierre |
| Robert | Kean | SD Advocacy Services | Pierre |
| Julie | Bartling | State Representative | Burke |
| Michael | LaPointe | State Senator | Mission |
| Nick | Nemec | SD Democratic Party | Holabird |

# HELP AMERICA VOTE ACT OF 2002

# TENNESSEE'S STATE PLAN

**PUBLIC COMMENT AND REVIEW**
**JUNE 16, 2003 thru JULY 15, 2003**

As required by Public Law 107-252,
Help America Vote Act 2002, Section 253 (b)

Riley C. Darnell, Secretary of State
Brook Thompson, Coordinator of Elections
Division of Elections
312 Eighth Avenue North
9th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243

State of Tennessee
**Department of State**
Division of Elections
312 Eighth Avenue North
9th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243
Phone: (615) 741-7956 Fax: (615) 741-1278

Fellow Tennesseans:

In 2000, our nation faced new and challenging questions in the electoral process. In order to address these issues, President Bush signed into law the Help America Vote Act of 2002 (HAVA). This bill requires mandatory changes and improvements in the electoral process.

HAVA requires each state to develop a State Plan which addresses how the state will implement these mandatory requirements. A committee of state and county officials along with representatives from interest and advocacy groups has been working diligently to submit this preliminary plan for your review.

Many might ask in these difficult budgetary times how Tennessee will be able to afford these changes. As part of this Act, the federal government will provide funds to each state that submits a State Plan. These funds will serve as a foundation as Tennessee builds a stronger, more unified voting process.

I am pleased to say that here in Tennessee many of the federal election reforms are already in place and being administered at both the local and state levels. However, this Act will bring about significant changes which will serve to strengthen the foundation of our electoral process. Some of these changes include the replacement of all punchcard and lever voting systems, a statewide voter registration list, the implementation of provisional voting, and a uniform complaint grievance process.

This State Plan sets out the requirements mandated by the federal government and the specific steps we are taking to bring Tennessee into compliance with HAVA. However, the plan will not be complete until it is reviewed by you, the citizens of Tennessee. The plan will be available for your review from June 16, 2003, to July 15, 2003.

I look forward to your thoughts and ideas on how we can better Tennessee's electoral system. Although there is much work ahead, I look forward to meeting the challenges of HAVA and to improving this nation's electoral process by making Tennessee a strong leader in election reform.

Sincerely,

Brook K. Thompson
Coordinator of Elections

## PRESS RELEASE

## JUNE 13, 2003

### SECRETARY OF STATE

### STATE ELECTIONS DIVISION

### PUBLIC NOTICE OF PRELIMINARY STATE PLAN

This public notice is in accordance with the Help America Vote Act of 2002 (HAVA). According to Section 256 of HAVA, a preliminary version of the State Plan must be available for public inspection and comment thirty (30) days prior to the submission of the plan to the federal commission.

The preliminary version of the plan will be available for inspection and public comment from June 16, 2003, to July 15, 2003. The plan will be posted online at the official State website, http://www.state.tn.us/sos/election.htm. The plan will also be available through the Secretary of State, Division of Elections, at (615) 741-7956 and at all local county election offices. Copies of the plan may be mailed, emailed, or faxed. Public comments may be sent to:

Department of State
Division of Elections
Attention: Cara Harr
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9th Floor, William R. Snodgrass Tower
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**SUMMARY:**

On October 29, 2002, President Bush signed into law the Help America Vote Act of 2002, which requires mandatory changes and improvements in the electoral process. In order to make these improvements, the federal government will provide funds to the individual states. These funds will be used to improve voting systems, to implement provisional voting, and to establish a statewide voter registration database. In order to qualify for funds under Title III, each state must design a long-range plan for implementing the Act.

An advisory committee was established for the purpose of assisting in the drafting of Tennessee's State Plan. The empanelled committee included the chief election officials of the two most populous jurisdictions within the State, other local election officials, stake holders (including representatives of groups of individuals with disabilities), and other citizens. All public comments will be reviewed and taken into consideration in preparing the final draft. The final draft will be submitted to the Election Assistance Commission for publication in the Federal Register.



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# HELP AMERICA VOTE ACT OF 2002

# TENNESSEE'S STATE PLAN

## STATE PLAN REQUIRED ELEMENTS:

**HELP AMERICA VOTE ACT SECTION 254(a)** – The State Plan shall contain a description of each of the following:

*(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.*

Pursuant to Title III each State must establish uniform and nondiscriminatory election standards. HAVA requires each state to comply with certain minimum standards when implementing its voting systems. Included in this process will be the replacement of all punchcard and lever voting devices. Title III further mandates that voting systems be accessible to individuals with disabilities. Tennessee will also be required to define what constitutes a vote, implement provisional voting, and maintain a statewide voter registration system.

### A. Voting System Standards

Section 301(a) of HAVA requires each voting system, whether it be lever, optical scan, or direct recording (DRE), to (1) permit the voter to verify the votes selected by the voter on the ballot before the ballot is cast and counted; (2) provide the voter the opportunity to change the ballot or correct any error before the ballot is cast and counted; and (3) if the voter attempts to vote for more than one candidate for a single office, the system must notify the voter of the overvote before the ballot is cast and counted and provide the voter the opportunity to correct the ballot before it is cast and counted. HAVA defines a voting system in Section 301(b) as " (1) the total combination of mechanical, electromechanical, or electronic equipment (including software, firmware, and documentation required to program, control, and support the equipment) that is used (A) to define ballots; (B) to cast and count votes; (C) to report or display election results; and (D) to maintain and produce any audit trail information; and (2) the practices and associated documentation used (A) to identify system components and versions of such components; (B) to test the system during its development and maintenance; (C) to maintain records of system errors and defects; (D) to determine specific system changes to be made to a system after the initial qualification of the system; and (E) to make available any materials to the voter (such as notices, instruction, forms, or paper ballots)."



Each voting system must also be accessible for individuals with disabilities and have an audit capacity.

Currently in Tennessee, many counties meet several of the requirements set forth in HAVA. Many of our counties use a direct recording electronic voting system (hereinafter DRE), i.e., the Electronic Danaher or the Microvote system, which complies with the general requirements of Section 301 of HAVA. Approximately forty-one counties (1,357 precincts) out of the State's ninety-five counties, or approximately 43% of the State, use one of the above voting systems. These machines comply fully with Section 301 (a) (1) (A) (i), (ii), and (iii). In order to fully comply with Section 301 (a) (3), the State will ensure that at least one direct recording electronic voting system which meets the accessibility requirement for persons with disabilities will be placed in each precinct.

Tennessee also uses Optical Scan voting systems, i.e., Optical Scan ESS Central Count and Optical Scan ESS Precinct Count. The Optical Scan Precinct Count systems are in compliance with Section 301 (a) (1) (A) (i), (ii), and (iii). In order to fully comply with HAVA Section 301(a) (3), which mandates that the voting system be accessible for individuals with disabilities, counties using the precinct count system will need to purchase for each precinct at least one DRE system which meets this requirement. Those counties which use the Optical Scan Central Count system will have the option of either changing the voting system to an Optical Scan Precinct Count, which would bring them into compliance with Section 301 (a) (1) (A) (i), (ii), and (iii) of HAVA, or revamping their voting system by changing to one that uses all DRE's in every precinct. (At least one of the DRE's used by these precincts will need to comply with the requirement found in Section 301 (a) (3).) If the counties choose to switch to a precinct count voting system, one DRE machine will need to be purchased for each precinct which is accessible for individuals with disabilities and in compliance with Section 301(a) (3).

Finally, those counties which use either a lever or punchcard voting system will need to replace their entire voting system with one that complies with Section 301 of HAVA. These counties will have the option of either choosing an Optical Scan Precinct Count voting system with a DRE in each precinct which meets the requirements of Section 301 (a) (3) or purchase all DRE's which meet all the requirements of Section 301. Tennessee has submitted its application for monies under Title I and plans to use that money to purchase voting systems which fully comply with the Act.

Section 301(a) (4) mandates that the voting system provide alternative language accessibility. Although Tennessee has no jurisdiction that falls under the minority language provisions of the Voting Rights Act and therefore we are not required to comply with the alternative language provision of this Act, Tennessee will strive to purchase voting systems with the capability of meeting this requirement should the situation arise in the future. Once the above is complete, all ninety-five counties will be in full compliance with the voting system requirements of HAVA.

Tennessee Code Annotated §2-7-133 complies with Section 301 (a) (6), which requires each state to adopt a uniform definition as to what constitutes a vote.

### B. Provisional Voting and Voting Information Requirements

Section 302 of HAVA requires each state to allow an individual claiming to be a registered voter in the jurisdiction where the individual desires to vote and is eligible to vote, but whose name does not appear on the official voter registration list, to cast a provisional ballot. The provisional ballot will then be verified by the appropriate State or local election official and, if the voter is deemed to have been eligible to vote, then the ballot will be counted. If the voter is deemed to be ineligible, for whatever reason, the ballot will not be counted; however, the voter may inquire as to if and why the vote was not counted.

Prior to HAVA, Tennessee did not have a process for provisional voting. In order to comply with Section 302 (a) of HAVA, Tennessee submitted legislation to its General Assembly in March 2003. House Bill 1806/Senate Bill 1782 was passed by the 103rd General Assembly and provisional voting became effective July 1, 2003. (See Appendix A-Chapter No. 352). In conjunction with our new provisional law, a voter will be able to call the local election commission where the provisional ballot was cast and obtain information on whether the vote counted and, if the vote was not counted, the reasons why the vote was not counted. Our State law also requires us to mail a notice to any voter whose vote does not count and the reasons that the vote was not counted.

Section 302 (b) (2) mandates that certain voting information be publicly posted at each polling place on the day of each election for Federal office. That information includes a sample version of the ballot for that election; the date of the election and the hours which the polling place will be opened; instructions on how to vote, including a provisional ballot; instructions for mail-in registrants and first-time voters; general information on voting rights and general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. Tennessee currently requires a sample version of the ballot that will be used for that election to be posted along with information regarding the date and hours of the polling places. Prior to the implementation of HAVA and currently, Tennessee Code Annotated § 2-2-115(b)(7) requires any voter who registers by mail to vote in person in the first election the person votes in after such registration becomes effective. Therefore, Tennessee does not require voters to submit documentation with their ballots because all voters who register by mail must vote the first time in person at their appropriate polling places with their appropriate documentation. In order to bring Tennessee into full compliance, we will promulgate rules regarding instructions on how to vote, including a provisional ballot, and all general information on Federal and State laws regarding voting rights and acts of fraud and misrepresentation.



### C. Computerized Statewide Voter Registration List Requirements and Requirements for Voters who Register by Mail

Section 303 of HAVA requires each State to implement a uniform and nondiscriminatory "single, . . . official, centralized, interactive computerized statewide voter registration list" which is maintained at the State level and contains the name of every registered voter and assigns a unique identifier to every voter. This list shall serve as the official voter registration list for all elections for Federal office in the State of Tennessee.

Currently Tennessee has a statewide voter registration database. This list is compiled at the county level. Each county is responsible for compiling a voter registration list which contains the name of every registered voter in that particular county. Each county maintains the list and updates the voter registration records. These lists are accessible at the state level as a public record. In maintaining these lists, each county complies with the National Voter Registration Act of 1993 in removing any name from the list pursuant to Tennessee Code Annotated § 2-2-106. Tennessee Code Annotated § 2-2-106 fully complies with the list maintenance requirements found in Section 303. Tennessee also is permitted to use social security numbers on applications for voter registration and will use this number as its unique identifier.

Since Tennessee already has a strong base on which to build, the State plans to enhance its current system to bring Tennessee into full compliance with all of HAVA's requirements. Tennessee will establish a statewide voter registration list which is maintained at the State level and which assigns a unique identifier, one's social security number, to each registered voter in the State. This system will have immediate electronic access and will be updated regularly. Tennessee will also enhance the already established agreements between the Department of Safety and other motor voter agencies within the State.

HAVA Section 303(b) requires certain standards for voters who register by mail. In Tennessee, Tennessee Code Annotated § 2-2-116 requires each voter who registers by mail to appear in person to vote in the first election after which that registration becomes effective. The voter must also present satisfactory proof of identity at the polling place. Therefore, Tennessee will continue to require proper identification at each election.

*(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).*

**(A) Eligibility for requirements payment**

The Secretary of State through the Coordinator of Elections will manage the allocation of the requirements payment. The Coordinator of Elections will be responsible for the management of the funds, the allocation of the funds, and the monitoring of the funds and their performance goals.

Each county will be required to sign an agreement with the Secretary of State prior to the receipt of HAVA funds. This agreement will mandate that the county will meet all the requirements set out in this State Plan. Counties must agree to purchase certified voting systems, comply with provisional voting, and maintain a compliant voter registration list. Each county will be required to submit a semiannual report on its performance goals. Monies that are distributed to the counties for training and education will be allocated based on the voting age population; however, Tennessee reserves the right to set minimum amounts for smaller counties.

**(B) Performance methods**

The methods to be used are detailed in Section 8 of the State Plan. These methods will help the State monitor the effectiveness of the distribution of funds.



*(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.*

**A. VOTER EDUCATION**

Tennessee currently provides voters information through published sample ballots and postings at polling places. Additionally, the Division of Elections maintains a website with relevant electoral information. It is our intent to develop programs which will reach the voters of Tennessee. The Secretary of State will explore various approaches, including public announcements and mailings, as an opportunity to educate our voters on the new developments that HAVA brings to the State. Statutorily required postings at polling places will be updated to reflect the requirements of HAVA.

**B. ELECTION OFFICIALS AND POLL WORKERS**

Tennessee Code Annotated §2-12-201 requires all county administrators of elections to attend educational seminars to gain knowledge of all current laws. The seminars are held through the Secretary of State and are conducted by the Coordinator of Elections and its staff. Every year all certified administrators are required to attend an education/training seminar. This seminar includes an update on all current laws and procedures. The administrators are supplied with training materials for use throughout the year.

At the county level, Tennessee Code Annotated §2-4-108 requires the county election commission to hold a meeting within thirty days before the election to instruct election officials as to their duties during the election. This process will continue, with an emphasis being placed on the requirements of HAVA.

With the implementation of HAVA, the Coordinator of Elections will provide additional training on these requirements. Included in this training will be information on the implementation of provisional voting, who can cast a provisional ballot, and the requirements that must be met prior to election day. If counties are to receive new voting systems, training will include information on the new voting systems. We will further address the need to educate poll officials as to their duties regarding the new voting systems both on election day and during early voting. Finally, we will be working hand in hand with the county-level administrators in implementing the statewide voter registration list.

Tennessee realizes that the success of HAVA will have its cornerstone in the education of election officials, poll workers, and, most importantly, the voters. We are dedicated to the goals of HAVA and will implement the appropriate programs in order to bring Tennessee into full compliance with HAVA.

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

Tennessee currently requires the Secretary of State's Elections Division to certify all voting machines against the voting systems standards (VSS) established by the Federal Election Commission (FEC). This testing is done through a program established by the National Association of State Election Directors (NASED).

With the implementation of HAVA, the Coordinator of Elections, along with the State Election Commission, will be responsible for certifying all voting systems in the State of Tennessee. In order for a voting system to be certified, the voting system must permit voters to verify in private whom they voted for prior to the ballot being cast; permit voters to change or correct the ballot in private prior to the ballot being cast; and notify voters if they have overvoted and allow them to correct the ballot in private prior to the ballot being cast. The voting systems must also produce a permanent paper record with a manual audit capacity and be accessible for individuals with disabilities. Finally, the voting system must comply with the error rates mandated by the FEC and have a definition of what constitutes a vote and what will count as a vote.

The Coordinator of Elections, in conjunction with the Tennessee State Election Commission, will oversee a process of recertification of voting systems to ensure compliance with HAVA. This process will require all voting systems to meet all the above voting systems standards. The Coordinator of Elections will also provide this information to the local counties, and those counties will be required to conform their voting systems to the guidelines.

Once the Federal Election Assistance Commission develops new voting system standards, Tennessee will create new guidelines and processes, if necessary, to comply with those standards.

*(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.*

Tennessee has administratively established the election fund required by HAVA. The fund is set up through the Secretary of State's fiscal office and has received Title I monies. The Secretary of State's office will work with the State Department of Finance and Administration and the State Comptroller to ensure that transactions involving this fund will meet all applicable State and Federal requirements.



*(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.*

Title III requires several monumental changes in Tennessee's electoral process. These changes include the replacement and/or upgrade of over half of the voting systems in the State, the implementation of provisional voting, new requirements in voting information, and a computerized statewide voter registration list.

## A. VOTING SYSTEMS

In order for Tennessee to meet HAVA requirements, all ninety-five counties will need some type of either replacement system or upgrade to their current system. According to the information we have received, Tennessee will receive $16, 529, 000 from Title III with a State match of $869, 947. We anticipate receiving $6,105,000 from Title I, Section 101, and $2,507,000 from Title I, Section 102. This totals $26,010,947.

All ninety-five counties will need to acquire a DRE machine for each precinct that will comply not only with the HAVA disability requirement but also the other requirements of Section 301. Therefore, the State of Tennessee will purchase one of the above machines for each precinct in the State. Approximately forty-three (43) counties have either punchcard or lever voting systems. These counties will need to completely replace their current voting system with one that complies with Section 301. This will require the purchase of new machines in seven hundred and seventy-five (775) precincts in the State. Tennessee has decided that it will allot nine thousand ($9,000) dollars per precinct to meet that goal. The counties will have a choice of either purchasing voting machines that comply with HAVA or converting their system to a precinct base optical scan system that complies with HAVA. If the counties choose to buy machines, the State will purchase those machines for the counties. If a county does not use all nine thousand ($9,000) dollars per precinct, the money will be deposited in the election fund for use in accordance with Title III.

One hundred and eighty-eight (188) precincts have central base optical scan systems and will need to either convert to precinct base optical scan or purchase new voting machines which comply with HAVA. These precincts will also be allotted nine thousand dollars ($9,000) per precinct for them to upgrade their system. If the counties choose to buy DRE voting machines, the State will purchase those machines for the counties. If a county does not use all nine thousand ($9,000) dollars per precinct, the money will be deposited in the election fund for use in accordance with Title III.

### B. Provisional Voting

A bill establishing a process for provisional voting passed the Tennessee General Assembly during the 2003 session and became effective on July 1, 2003. (See Appendix A).

### C. Computerized Statewide List

The Secretary of State through the Coordinator of Elections will implement a statewide voter registration list that will comply with HAVA. The State of Tennessee has allotted $5,043,947 to upgrade the current system. The Coordinator of Elections will be responsible for the maintenance of this database and will supply support to the local counties.

### D. Training and Education

In the process of implementing the above new procedures, Tennessee will be faced with the challenge of educating our election officials, poll workers, and the voters of Tennessee. Tennessee currently provides training for county election officials, who in turn provide training for poll workers. It is our intention to enhance this training at both the State and local levels. Additionally, Tennessee will embark on a voter education project to help the public understand the new requirements of HAVA, as well as other rights and responsibilities associated with the electoral process. This will include public announcements and videos produced at the State level. Tennessee plans on allotting $1,000,000 to these projects.

### E. Other Goals

Tennessee will allot $500,000 to accessibility issues for individuals with disabilities. Tennessee has also applied for funds under Section 261 of HAVA. In order to make all polling places accessible to individuals with disabilities, Tennessee must determine where the problems exist and how to best solve those problems. Many counties have begun to survey their polling places in order to determine where improvements need to be made. To further this cause, one of the disability coalitions in Tennessee is conducting its own survey to assess each polling place. In addition to this survey, the Coordinator of Elections will gather information from the local county election offices to determine what areas need to be dealt with and the priority of those needs. We realize that many issues are not apparent to the eye of those without disabilities, and therefore we feel that it is essential to allow individuals with disabilities to lead us in this endeavor.

Improvements will include, but not be limited to:

- Parking lot accessibility, i.e. distances and types of surfaces (pavement, gravel, grass)
- Ramp access to the polling location



- Lighting inside the polling location
- Doorways that are accessible to individuals with disabilities
- Bathroom access for individuals with disabilities
- Voting areas and privacy issues while voting.

The Coordinator of Elections will require each county to submit in writing an application for Section 261 funds and the areas that will be addressed if the funds are granted.

As with any new process, there will be unexpected costs; however, it is our goal to meet every requirement set out in HAVA and to bring Tennessee to the forefront of election reform. Any money which is not used for its allotted purpose will be deposited into the election fund and used for another HAVA goal. This section of the plan is based on funding appropriated for the current Federal fiscal year. Tennessee will submit changes, if needed, to the Committee once it is determined how much money will be allotted Tennessee in future years. Tennessee reserves the right to request the stipulated waivers allowed through HAVA.

## PROPOSED HAVA FUNDING

### HAVA Federal Funding

| | |
|---|---|
| **Title I, Section 101 (administration of elections)** | **$ 6,105,000** |
| **Title I, Section 102 (replacement of punchcard/lever)** | **$ 2,507,000** |
| **Title III (requirements payments)(State plan)** | **$ 16,529,000** |
| **Tennessee State Match** | **$ 869,947** |
| **TOTAL:** | **$ 26,010,947** |

### HAVA Proposed Expenditures

| | |
|---|---|
| **Title III Accessibility for Individuals with Disabilities 2,400 precincts X $4,500/machine** | **$ 10,800,000** |
| **Title I, Section 102 (replacement punchcard/lever) 775 precincts X $9,000 per precinct** | **$ 6,975,000** |
| **Title III Requirements (Central Base Optical Scan) 188 precincts X $9,000 per precinct** | **$ 1,692,000** |
| **Statewide VR database and related costs/mandates** | **$ 5,043,947** |
| **Education and Training** | **$ 1,000,000** |
| **Accessibility issues (disabilities)** | **$ 500,000** |
| **TOTAL** | **$ 26,010,947** |



*(7) How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payments 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.*

The Secretary of State will work with the Commissioner of Finance and Administration and legislative leaders to ensure that the expenditures of the State for the activities funded by the payments remain at a level not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000. There will be a Maintenance of Effort requirement for each county receiving direct funds from HAVA.

*(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.*

The Secretary of State through the Coordinator of Elections will establish performance goals and measures to evaluate the success in carrying out these goals. In order to establish these performance goals and measures, the Coordinator of Elections will work with the county election commission offices in determining what processes will be the most successful. Counties will be required to gather and maintain needed information and submit that information to the Coordinator of Elections upon request. The counties will also be required to report the progress of the goals and measures implemented through HAVA. The Coordinator of Elections will be responsible for the ultimate success of these goals but will work hand in hand with each county to assure success.

**PERFORMANCE GOALS**

Tennessee's primary goal is to become fully compliant with HAVA through the successful implementation of the programs addressed in this State Plan. The table below outlines the element to be achieved, the timetable for meeting each element of the plan, and the official responsible for ensuring that the goal is met:

| Element | Timetable | Official Responsible |
|---|---|---|
| Voting Systems | January 1, 2006 | Coordinator of Elections and County Administrators |
| Provisional Voting | July 1, 2003 | Coordinator of Elections |
| Administrative Complaint Procedure | January 1, 2004 | Coordinator of Elections |
| Voter Education | Ongoing process | Coordinator of Elections and County Administrators |
| Poll Worker, Poll Official Training | Ongoing process | Coordinator of Elections and County Administrators |
| Polling Place Accessibility | Ongoing process | County Administrators |
| Statewide Voter Registration List | January 1, 2004; however, if the State certifies good cause for waiver, then January 1, 2006 | Coordinator of Elections |

**PERFORMANCE MEASURES**

The State will use the following criteria to measure its performance goals: voter registration and turnout; functionality of voting equipment, including voter and poll official satisfaction with the new systems; resolution of complaints, including complaints against poll workers and complaints filed under the administrative complaint procedures under section 402; and compliance with disability issues.



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

Section 402 requires each State to establish a State-based administrative complaint procedure. This procedure will allow any citizen to file a formal complaint if a violation of Title III has occurred, is occurring, or is about to occur in the near future. This procedure will be limited solely to complaints alleging a violation of Title III, which will include voting systems standards, provisional voting, voting information requirements, computerized voter registration, and requirements for voters who register by mail.

Prior to the implementation of this procedure, Tennessee used an informal mechanism for dealing with certain types of complaints. Complaints were handled at the appropriate level. For example, if a complaint came in at the county level, it was handled by that county's administrator. If the administrator could not resolve the issue, the State Coordinator of Elections was notified and would ultimately decide the issue. If needed, the Coordinator has the power under Tennessee Code Annotated Section 2-11-202(a) (5) to investigate or have investigated by local authorities the administration of the election laws and any reports of violations.

With the passing of HAVA, Tennessee will now handle all complaints involving Title III in the following manner. These procedures shall be uniform and nondiscriminatory.

1. When an allegation first comes to the attention of either a county election office or the Coordinator of Elections, a determination will be made as to whether the alleged violation falls under Title III. If it is determined that the violation falls under Title III, then the complainant may file a formal complaint. If the complainant elects to file a formal complaint, then the following procedures will be followed. The formal complaint may be a past, present, or future violation under Title III.
2. The formal complaint must be filed either directly with the Coordinator of Elections or, if filed through the county elections office, it must be directly forwarded to the Coordinator of Elections. The Coordinator of Elections has promulgated a form for such formal complaints that must be used in the filing of such complaints. The form will be available at the county election office, the Coordinator of Elections office, and online through the State's website.
3. The formal complaint must be in writing and notarized, and the formal complaint must be signed and sworn to by the complainant. If the form is sent via online, the complainant shall also send the original notarized form. The form will not be officially received until the signed and notarized form is received by the appropriate official.
4. At the request of the complainant, there shall be a hearing on the record. The Coordinator of Elections or designee shall hold the hearing. This hearing may be in person or by telephone conference call. The Coordinator of Elections may also request the parties to submit written responses to the complaint.

5. Once the Coordinator of Elections receives the formal complaint, the Coordinator of Elections or designee will decide the resolution of the complaint.
6. If, after the hearing, it is determined that a violation has occurred, the State, through the Coordinator of Elections or designee, shall provide an appropriate remedy in accordance with Title III.
7. If, under the procedures, the State determines that there is no violation, the State shall dismiss the complaint and publish the results of the procedures.
8. The Coordinator or designee shall make a final determination prior to the expiration of the 90-day period which begins on the date the complaint is filed; if filed online, the 90-day period begins on the date that the notarized, signed copy is received by the Coordinator of Elections. If it appears that this process will take more than the 90-day deadline, only the complainant may agree to a longer period of time for making such a determination.
9. If the complainant does not agree to an extension and the 90-day period expires, the complaint shall be resolved within 60 days under alternative dispute resolution. All previous proceedings, including the record and any correspondence, shall be forwarded to an administrative law judge assigned by the Secretary of State's office for alternative dispute resolution.
10. The State may consolidate formal complaints filed under these procedures.



***(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.***

The proposed expenditures of funds detailed in this State Plan account for Title I funds received to date, expected additional Title I funds, and projected Title III funds.

***(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 Coordinator of Elections will be responsible for the ongoing management of the State Plan. The State Advisory Panel will meet at least once a year to review and update the State Plan. The Coordinator of Elections may also convene the State Advisory Panel at other times during the year as deemed necessary. If material changes need to be made to the plan, those changes will be done in accordance with the requirements of HAVA.

***(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.***

This Plan is Tennessee's first State Plan submitted to the EAC. This section will be updated in the next fiscal year, 2004, and will reflect any changes to the Plan, as well as a summary of the 2003 successes.

***(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.***

Tennessee's advisory committee consisted of fifteen members comprised in accordance with the HAVA guidelines. Members include the Secretary of State; the Coordinator of Elections; several local administrators of elections, including officials from the two most populous jurisdictions; advocates for persons with disabilities; and other citizens representing groups of interest.

In order to complete the State Plan, the advisory committee met on four occasions: May 5, 2003; May 12, 2003; May 19, 2003; and June 4, 2003. Each meeting was open to the public in the State's Legislative Plaza. Notice for all meetings was done

in conformity with the Tennessee Open Meetings Act and was posted on the Elections Division website.

The State Plan was made available for public inspection and comment from June 16, 2003 to July 15, 2003, in accordance with section 256. Notice of the time for public inspection and comment was published in the Tennessee Administrative Register, on the Elections Division website, and through a press release to the Capitol Hill Press Corps. Comments were directed to the Coordinator of Elections' office. Copies of the plan were also available through the Coordinator of Elections' office and could be requested by mail, e-mail or facsimile. A copy of the plan was available at the ninety-five county election commission offices. Public comments were taken into consideration in the final draft of the plan.



## HAVA ADVISORY COMMITTEE MEMBERS

| COMMITTEE MEMBER | TITLE AND ORGANIZATION |
|---|---|
| Roland Colson | Chief of Technology<br>IS/Dept. of Safety |
| Riley C. Darnell | Secretary of State<br>State Capitol |
| Carol Francisco | President, Middle TN Council of the Blind |
| Steve Griffy | Assistant Director of Information Systems |
| Lynn Harris | Administrator of Elections<br>Wilson County |
| Jane Heathcott | Administrator of Elections<br>Dyer County |
| Darren Jernigan | Director of Government Affairs<br>Permobil Inc. |
| James Johnson | Administrator of Elections<br>Shelby County |
| Janet Kleinfelter | Assistant Attorney General |
| Vicki Koelman | Administrator of Elections<br>Montgomery County |
| Michael McDonald | Administrator of Elections<br>Davidson County |
| Judy Poulson | Treasurer, League of Women Voters |
| David Seivers | TN County Services Association |
| Brook Thompson | Coordinator of Elections |
| Carol Westlake | Tennessee Disability Coalition |

# APPENDIX A



**CHAPTER NO. 352**

**HOUSE BILL NO. 1806**

**By Representatives Rinks, Coleman, Henri Brooks, Larry Turner**

**Substituted for: Senate Bill No. 1782**

**By Senator Haynes**

AN ACT to amend Tennessee Code Annotated, Title 2, Chapter 5; Title 2, Chapter 6 and Title 2, Chapter 7, relative to elections.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 2-7-112(a), is amended by deleting subdivision (3) in its entirety and substituting instead the following language:

(3)

(A) A person shall be entitled to vote a provisional ballot under the procedures of this section if the voter claims to be properly registered in the county and eligible to vote at the precinct in the election, but whose eligibility cannot be determined by the computer signature list or by examination of the permanent registration records on file with the county election commission.

(i) If the election official cannot determine that the voter's name should have been placed on the precinct's computer signature list, then the voter shall complete an original voter registration application. At the time of registration and pursuant to section 3 of this act, the voter shall present verification of the residential address under which the person desires to vote.

(ii) After the voter has completed the voter registration application and supplied verification of his or her residential address, the voter shall complete an application for ballot pursuant to this section.

(iii) Upon completion of the application for ballot, the voter shall be given a provisional ballot and provisional ballot envelope. The provisional ballot envelope shall be of a different color from absentee ballot envelopes and shall bear a detachable slip that contains the provisional ballot affidavit. The provisional ballot affidavit shall contain the voter's printed name, social security number, date of birth, signature and any other identifying information deemed necessary by the coordinator of elections to satisfy the requirements of this section and to prevent fraudulent registration and voting.

(iv) Both the voter registration application and the application for ballot shall be deposited in the provisional ballot box. Nothing in this section shall be construed to allow election day voter registration.

(v) Pursuant to § 2-7-114(b) and (c), the voter shall vote the provisional ballot. Any county utilizing punchcard or optiscan technology shall process their ballots pursuant to rules promulgated by the state coordinator of elections. The provisions of § 2-7-116 shall govern any voter needing assistance.

(vi) Along with the voter registration applications and the applications for ballot completed by provisional voters, all provisional ballots that have been cast shall remain sealed and locked in the absentee ballot box for return to the county election commission at the close of polls.

(B)

(i) All provisional ballots shall be counted at the county election commission office by a separate central absentee ballot counting board that has been appointed in like manner to the central absentee ballot counting board established under § 2-6-302 and known as the central provisional ballot counting board. Upon completion of the counting of the absentee ballots, the county election commission may designate the central absentee ballot counting board established under § 2-6-302 as the central provisional ballot counting board. If the county election commission determines that there are fewer than one hundred (100) absentee and provisional ballots to be counted, the county election commission may act as the central provisional ballot counting board without additional compensation. When provisional ballots have been cast utilizing punchcard or optiscan technology, the counting of the provisional ballots shall be pursuant to rules promulgated by the state coordinator of elections.

(ii) After the delivery of the absentee ballot boxes containing provisional ballots to the county election commission, the central provisional ballot counting board shall unlock and open each absentee ballot box from the polling places in the presence of a majority of the judges.

(iii) The central provisional ballot counting board shall examine the records of the county election commission and the records of the Tennessee departments of health, human services, mental health and retardation, safety and veterans affairs with respect to all provisional ballots. The central provisional ballot counting board shall then determine if the person voting that ballot was entitled to vote and met the statutory requirements for registration at the precinct where the person cast a vote in the election. The central provisional ballot counting board shall also determine that the person has not already cast a ballot in the election.

(iv) If the central provisional ballot counting board determines that the person should have been registered to vote and met the statutory requirements for registration in the precinct where the voter cast the ballot and the voter has not cast a ballot in the election in a different precinct, then the central provisional ballot counting board shall remove the provision ballot affidavit from the provisional ballot envelope and place the sealed ballot with all other provisional ballots that have been determined to be countable.

(v) If the central provisional ballot counting board determines that the person should not have been registered to vote in the precinct where the voter cast the ballot or that the voter has previously cast a ballot in the election in a



different precinct, the provisional ballot envelope shall not be opened nor its provisional ballot affidavit removed, but it shall be marked "Rejected" across its face with the reason for rejection written on it and signed by at least two (2) members of the central provisional ballot counting board. It shall then be placed in the container of rejected absentee ballots. A list shall be made of such rejected ballots, and the administrator shall notify the voters by mail of the rejection and the reason for such rejection.

(C)

(i) The counting of all provisional ballots must be completed within forty-eight (48) hours of the close of polls on election day. If the county election commission determines that the counting of provisional ballots cannot be completed by the designated time, the state coordinator of elections may grant the county an extension of time and designate a time that shall be no later than the second Monday after the election.

(ii) If the county election commission determines that the counting of provisional ballots cannot be completed during the night of election day and upon the close of each counting session, the absentee ballot boxes containing the provisional ballots must be locked and sealed in the same manner established in § 2-6-311. The ballot boxes may not be unlocked except when the central provisional ballot counting board is performing its duties in compliance with this section.

SECTION 2. Tennessee Code Annotated, Section 2-7-112(c), is amended by deleting the subsection in its entirety and substituting instead the following language:

(c) For purposes of comparing the person's signature on the application for ballot, "evidence of identification" shall be a valid voter's registration certificate, Tennessee driver license, social security card, credit card bearing the applicant's signature or other document bearing the applicant's signature.

SECTION 3. Tennessee Code Annotated, Section 2-7-112, is amended by adding the following as a new, appropriately designated subsection:

(d) For purposes of registering a person to vote pursuant to subsection (a)(3), "verification of residential address" shall include, but is not limited to, a Tennessee driver license, a residential lease agreement, a utility bill or other document bearing the applicant's residential address. Such verification may be on the same or different document from those listed herein in subsection (c).

SECTION 4. Tennessee Code Annotated, Section 2-7-114(c), is amended by designating the existing language as subdivision (1) and by adding the following language as subdivision (2):

(2) If the voter is voting pursuant to § 2-7-112(a)(3), the voter shall state the voter's name and present the folded ballot to the judge assigned to receive and deposit the provisional ballots. The judge shall compare the provisional ballot number on the stub with the provisional ballot number on the voter's ballot application. The judge shall file all ballot applications in the order in which they are received. If the provisional ballot numbers are the same, the judge shall tear off and destroy the provisional ballot stub and deposit the provisional ballot in the provisional ballot envelope which contains the provisional ballot affidavit. The judge shall assure that the provisional ballot affidavit has been completed and signed by the voter. The provisional ballot, in its envelope, shall be deposited in an absentee ballot box that

satisfies the requirements of the absentee ballot boxes and has been locked pursuant to § 2-6-311.

SECTION 5. Tennessee Code Annotated, Section 2-7-124(a), is amended by adding after the words "in Tennessee" the following language:

and did not vote a provisional ballot

SECTION 6. Tennessee Code Annotated, Section 2-7-131, is amended by adding the following as a new, appropriately numbered subsection:

(f)

(1) Notwithstanding the provisions of subsections (a) through (d), the county election commission may instruct the officer of elections and a judge of a different political party to transport the locked ballot box or boxes containing voted paper ballots to the county election commission office to have such paper ballots counted by the central absentee ballot counting board pursuant to § 2-6-302. The central absentee ballot counting board of this subsection may be the same members as a counting board that has already been appointed in like manner to the absentee ballot counting board established under § 2-6-302 or it may contain different members that have been appointed in like manner to such a board. The county election commission may only exercise this option if the ballot box or boxes used in the polling place satisfy the requirements of the absentee ballot boxes and have been locked pursuant to § 2-6-311.

(2) Where the write-in feature of a direct recording electronic voting machine has been used, the county election commission may instruct the officer of elections and a judge of a different political party to transport the locked ballot box or boxes containing the voting machine printer tape containing the write-in names to the county election commission office to have such paper ballots counted by the central absentee ballot counting board pursuant to § 2-6-302. The central absentee ballot counting board of this subsection may be the same members as a counting board that has already been appointed in like manner to the absentee ballot counting board established under § 2-6-302 or it may contain different members that have been appointed in like manner to such a board.

SECTION 7. Tennessee Code Annotated, Section 2-6-302(b), is amended by adding between the words "absentee" and "ballots" the words "and provisional".

SECTION 8. This act shall take effect July 1, 2003, the public welfare requiring it.



**PASSED: May 27, 2003**

JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

JOHN S. WILDER
SPEAKER OF THE SENATE

**APPROVED this 13th day of June 2003**

PHIL BREDESEN, GOVERNOR

# Texas State Plan
# Help America Vote Act
# Pursuant to the Help America Vote Act of 2002
# (HAVA)
# September 16, 2003

Geoffrey S. Connor
Secretary of State
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us
(800) 252-VOTE(8683)





Texas State Plan

**1. How the requirements payments (i.e., Title II funds) will be used to meet the mandates in Title III (new federal requirements)**

**Brief Overview of State Elections Structure**

The Secretary of State is the chief election officer of the state and is required to maintain uniformity in elections held in the state and to advise and assist local officials who actually conduct elections. The Secretary of State also has authority to adopt administrative rules to gain uniformity in interpretation of state election laws and procedures.

The conduct of elections in Texas is decentralized. The statutory requirements for elections are set out in the Texas Election Code. The county clerk or county election administrator, in those counties that have created the office, is generally the official charged with conducting county elections. County voter registrars maintain the official list of registered voters; the voter registrar is generally either the county tax assessor-collector, or again the election administrator. The county political parties conduct primary elections in Texas, with the county chair as the chief elections official. Early voting in the primary is conducted by the county elections official.

Other elections are conducted by the political subdivision. City elections are held by the city, school district elections by the school, and so on. These political subdivisions often contract with the county to conduct their election or hold joint elections with one another, but they are not required to do so. They utilize the county list of registered voters appropriate for their locality.

The Secretary of State maintains an unofficial state list of registered voters. The Secretary of State's office houses and maintains a state master file of all registered voters. The Secretary of State also maintains the Texas Voter Registration Online System ("TVRS"), which is a voluntary online voter registration system currently used by 154 of 254 counties. For those counties utilizing the TVRS system, the state database reflects their "official" voter file. The master file has approximately 12.1 million active voters and also stores approximately 2.5 million cancelled voters at any given time. The state master file maintains two separate tables defined for either "offline" or "online" counties. An offline county updates the masterfile through a web browser application, on a weekly basis in a pre-specified standard record layout. TVRS counties update in real time with all transactions validated and updated per session. At present, voter registration systems are reviewed by the Secretary of State's office to ensure that they are capable of submitting reports in a standard format as required by the state.

Texas is a state covered under Section 5 of the federal Voting Rights Act, which requires changes in election processes to be submitted to the Voting Section of the U.S. Department of Justice ("DOJ") for review prior to enforcing the change. At the state level, the Secretary of State submits changes in state election procedures. At the local level, each county must submit

its changes to DOJ. These include polling place changes, change in the method of election, and adoption of new voting systems, among others.

According to the 2000 decennial census, the voting age population of Texas was 14,965,061. The state had 12,365,235 registered voters for the 2000 general election. In the 2002 November general election, the number of registered voters was 12,563,459.

Turnout in the 2000 November general election for state and county officers was 6,407,637, which constituted 51.8% of the registered voters and 42.8% of the voting age population. Turnout in the 2002 general election for state and county officers was 4,553,979, which constituted 36.2% of registered voters and 30.4% of the voting age population, using the 2000 census numbers.

In November 2000, the breakdown of election systems used by counties was:

| | |
|---|---|
| Paper Ballot: | 90 |
| Optical Scan: | 150 |
| Punch Card: | 14 |
| Lever Machine: | 3 |
| DRE: | 4 |

Attached as chart "A" is a list of the county by county breakdown of voting systems. The Secretary of State is the authority charged with certifying voting systems for use in the state.

How the state will meet the Title III requirements is described in the charts below.

**Voting System Standards**

| Voting System Standards | Sec. 301 | |
|---|---|---|
| **HAVA Requirement** | **State of Texas Current Status** | **Action Planned** |
| All voting systems shall permit a voter to verify/review selections before casting the vote. | Meets the requirement. Texas Election Code (TEC) Sections 64.007 and 129.001(b). | No action needed. |
| Allow voter to change or correct any error on the ballot before casting the vote. | Meets the requirement. TEC Section 64.007. | No action needed. |
| **Voting System Standards** | **Sec. 301** | |
| **HAVA Requirement** | **State of Texas Current Status** | **Action Planned** |
| Prevent or alert voter if he/she overvotes on the ballot. | Partially meets the requirement. DRE systems and precinct count optical scan systems alert the voter of an overvote.<br>Manually counted paper ballots, centrally counted optical scan ballots, and punch card ballots do not alert the voter of overvotes.<br><br>Current process on mail-in paper absentee ballots would not meet the requirement. | A voter education campaign will be implemented in these precincts no later than January 1, 2006. |
| All voting systems must be able to produce a paper audit trail of all votes cast. | Meets the requirement. TEC Section 122.001(a) | No action needed. |
| Voting systems must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for privacy and independence as other voters.<br><br>This requirement may be met by having at least one DRE or other system equipped for individuals with disabilities at each polling site. | Partially meets the requirement.<br><br>Several counties have adopted an accessible DRE voting system. Most counties do not meet this requirement. | Upgrade existing voting systems or purchase new systems. All polling places will be required to be equipped with at least one DRE no later than January 1, 2006 pursuant to House Bill 1549. |

| Voting System Standards | Sec. 301 | |
|---|---|---|
| **HAVA Requirement** | **State of Texas Current Status** | **Action Planned** |
| Voting systems shall provide alternative language accessibility pursuant to the requirements of Section 203 of the Voting Rights Act of 1965. | Meets this requirement.<br><br>Languages added pursuant to Voting Rights Act from new census data will need to be added. | No action needed.<br><br>Affected counties are currently working on program. |
| All voting systems shall have error rates (machine errors only) that do not exceed the Federal Election Commission standards. | Meets the requirement. | No action needed. This requirement was added to state law in HB 1549. |
| A uniform definition of what constitutes a vote for each voting system in use in the state. | Partially meets this requirement.<br><br>State law provides a uniform definition in place for punch card. | State law was passed to provide a uniform definition for what constitutes a vote in paper ballot and optical scan voting methods. Definitions for DRE systems will be prescribed by administrative rule no later than January 1, 2006. |

**Provisional Voting and Voting Information Requirements**

| Provisional Voting and Voting Information Requirements | Sec. 302 | |
|---|---|---|
| HAVA Requirement | State of Texas Current Status | Action Planned |
| A provisional voter is to be allowed to vote a paper ballot or an electronic ballot upon the completion of an affidavit. The ballot will be sealed in an envelope or electronically stored separately from the regular votes. The provisional ballot is to be transported to the appropriate election officials for determination of eligibility and counted if voter is deemed eligible. | Does not meet the requirement.<br><br>Current law allows a challenged voter to fill out a challenge affidavit and then vote. The vote is counted. The affidavit is turned over to the voter registrar after the election. The voter registrar verifies the registration status and if the voter registrar believes the person was not registered, the voter registrar turns it over to the local prosecutor who shall investigate. | State law was amended to provide procedures to meet this requirement effective January 1, 2004 pursuant to House Bill 1549. The Secretary of State will adopt administrative rules to provide specific procedures. |

| Provisional Voting and Voting Information Requirements | Sec. 302 | |
|---|---|---|
| HAVA Requirement | State of Texas Current Status | Action Planned |
| Each voter who casts a provisional vote shall be given written information on how he or she can ascertain whether his or her vote was counted, and if not why. | Does not meet the requirement. | State will develop written instructions to be effective January 1, 2004. |
| Establish a free access system, such as toll-free phone number or Internet website, allowing provisional voters to ascertain whether their vote was counted, and if not why. | Does not meet the requirement. | State and counties will develop a free access system to be effective January 1, 2004. |
| Post in each polling place a sample version of the ballot that will be used on election day. | Partially meets the requirement.<br>Sample ballots are optional; however, a majority of the precincts post a copy of the ballot in the precinct. | State law passed to require each precinct to post sample ballot. A definition of what a sample ballot is for DRE will need to be prescribed and distributed by January 1, 2004. |
| Post information regarding the day of the election and polling hours. | Does not meet the requirement. | State will prescribe language and distribute to local election authorities for posting no later than January 1, 2004. |





| | | |
|---|---|---|
| Post instructions on how to vote on the voting system, including how to cast a provisional vote. | Partially meets the requirement.<br><br>State law requires the posting of instructions on how to operate the voting machine or how to mark a ballot, how to get another ballot if one makes a mistake, how to receive oral instructions and assistance, and how to deposit or cast the ballot.<br><br>Texas does not have provisional voting instructions. | Prescribe instructions for casting a provisional ballot no later than January 1, 2004.<br><br>Post information on how to cast a provisional vote and distribute to election authorities no later than January 1, 2004. |

| Provisional Voting and Voting Information Requirements | Sec. 302 | |
|---|---|---|
| HAVA Requirement | State of Texas Current Status | Action Planned |
| Post general information on state and federal voting rights and the right to a provisional vote if the requirements to vote are met. | Does not meet the requirement. | State will prescribe language and counties will post information by January 1, 2004. |
| Post general information on federal and state laws prohibiting acts of fraud and misrepresentation. | Does not meet the requirement.<br><br>State law requires the Secretary of State to establish a toll-free line and post that number in each polling place to inform voters of the number to call to report election violations.<br><br>No information on federal laws. | Prescribe additional information and post by January 1, 2004.<br><br>Post information on federal laws by January 1, 2004. |
| Any voter who casts a vote as the result of a federal or state court order extending polling hours, shall do so on a provisional ballot, and it shall be kept separate from other provisional ballots. | Does not meet the requirement. | State law amended to provide for this occurrence and law becomes effective January 1, 2004. |

**Computerized Statewide Voter Registration System**

| Computerized Statewide Voter Registration System | Sec. 303 | |
|---|---|---|
| HAVA Requirement | State of Texas Current Status | Action Planned |
| State shall implement a uniform, official, centralized, interactive computerized statewide voter registration list. | Does not meet the requirement.<br><br>Currently, 153 counties use the Secretary of State voter registration program to register and maintain their lists of voters. The data is held at the Secretary of State's Office.<br><br>State law requires the state to maintain a copy of the list of registered voters, and counties have to update to the state database once a week. The state database is not considered the official list of voters. | State law was amended to require a statewide official list maintained at the Secretary of State's office. State will develop system to meet requirements no later than January 1, 2006. |
| Perform list maintenance to ensure only qualified voters appear on the list, including felons and deaths of registrants.<br><br>Ensure that only voters who are not registered or who are not eligible are removed from the computerized list. | State meets this requirement. State currently receives information from other state agencies regarding deaths and felons and provides this information to county voter registrars on a weekly basis.<br><br>State meets this requirement. Current law prescribes narrow guidelines regarding canceling a voter's registration. Only with a positive name and identification number match can a voter be canceled. The local county voter registrar, not the state, cancels voters. Voter registrars may not cancel based on information provided by a vendor unless that information is verified by the voter registrar by a public record. TEC Chapter 16 and Section 18.0121. | No action needed.<br><br>No action needed. |
| Ensure that voter registration records are accurate and updated regularly. | Does not meet the requirement. | State will include in new software developed, a method to monitor the activity of the county in maintaining accurate lists and will implement no later than January 1, 2006. |





| Computerized Statewide Voter Registration System | Sec. 303 | |
|---|---|---|
| HAVA Requirement | State of Texas Current Status | Action Planned |
| State to verify applicant's driver's license or social security number prior to approval of applicant. | Does not meet the requirement. | State law was amended to require verification. State will develop system to meet requirements and coordinate with other state agencies no later than January 1, 2006. |
| State to assign unique identifier if applicant does not have driver's license or social security number. | Does not meet this requirement. | State law was amended to require assignment of unique identifier. State will develop such system no later than January 1, 2006. |
| Require appropriate identification for first time voters if a computerized list has not been implemented. | Partially meets the requirement.<br><br>Current state law requires identification to vote in person for all voters who do not have their voter registration certificate. | State law was amended to require identification at time of registration for first time voters voting by mail effective January 1, 2004. |
| Voter registration application is required to have additional information printed on it. | Partially meets the requirement. | State will prescribe new form, print and distribute to all counties before January 1, 2004. |

**2. How Title II requirement payments will be monitored and distributed for the purpose of meeting the mandates in Title III, including determining the eligibility for receipt of payments and our methods for monitoring the performance of the local entities' continued eligibility.**

The Secretary of State will work closely with the state fiscal authorities to set up a program to transfer funds to the counties. The program to transfer funds to counties will consist of the following general requirements:

- The state will require that before a county is eligible to receive funds, the county judge must certify that the county is maintaining the funding level for election administration and voter registration to be not less than the funding pattern as of the fiscal year which began on October 1, 2002.

- The state will develop a list of authorized projects for which a county may apply to use HAVA funds. The list of projects will include voter education, election worker education, upgrading voting systems to comply with new federal standards, acquiring an accessible voting system in each polling place, upgrading voter registration software and hardware to communicate to the state voter registration master file, and other projects that are identified to comply with HAVA.
- A detailed budget estimate is described in number 6 below. The state proposes that counties be eligible for a total of $45 million in Title II requirement funds. Approximately $25.5 million will be dedicated to the county purchase of a direct recording electronic voting system ("DRE") or other accessible voting system in each polling place. Of the remaining $20 million, each county will be eligible for an amount of funds proportional to its voting age population. See attached Charts "B" and "C" for a breakdown by county of the amount of federal funds for which each county may apply. In addition, county election officers may apply directly for funds for professional election training. Funds will also be dedicated for county upgrades of voter registration election management systems to be compliant with the official statewide voter registration list. The state intends to allow the counties until September 1, 2005 to apply for these funds. Once the deadline has passed, counties may make additional applications for funding depending on how much is left after all counties have received their minimum payments and how much, if any, the state may need in requirement payments to meet HAVA mandates. The Secretary of State will adopt detailed administrative rules prescribing the application process and defining what type of programs are eligible for HAVA funding.

The Secretary of State will work with state fiscal authorities to develop a plan for monitoring and distributing requirement payments. Specifically, this grant program will fall under the general requirements of the Uniform Grant Management Standards ("UGMS") prescribed by the Governor's office. UGMS prescribes a standard set of financial management procedures and definitions and ensures accountability for expenditure of public funds.

**3. Voter Education, Election Official Education and Training, and Poll Worker Training**

**a. Voter Education Plan Goal**

The state will implement a voter education plan to educate voters from all walks of life—every eligible citizen, registered voter, and future voters will be the target audience. This plan will need to be a broad-based, inclusive, and comprehensive educational program. The intent of this voter outreach campaign will be to maintain Texans' confidence in the voting process and in the voting systems used today. The state has a responsibility to ensure that the voting process and our systems of voting are accurate, secure, and accountable. Our voter outreach efforts will need to be designed to reflect and incorporate the diverse populations of Texas through a well-executed, adaptable program, delivered in an easy-to-use format, and in alternative formats for individuals with disabilities. The mediums for delivery of this voter education program will need to be equally diverse.





**b. Educating the Voter**

- The state has sent a survey to the 254 counties, and will compile a list of their best practices and develop resources to supplement existing training materials for the voter. The Secretary of State plans to compile this information no later than December 31, 2003
- Investigate the development of an Internet online tutorial (website application which would bring up a voter's precinct number, polling place location, offices and measures on the ballot, type of voting system, and instructions on how to use the voting system). An extensive state voter registration database will be required for such development. The tutorial will also meet the state's standards for individuals with disabilities and will be in English and in Spanish. Because the tutorial is dependent on the development of the statewide voter registrar, no detailed timeline for this project is possible until the feasibility and compatibility is determined.
- A program will be developed for each type of voting system, including the hand-counted paper ballot system, to educate the voter on what constitutes a legal vote for each type of voting machine and how to correctly cast a ballot for each type of voting system no later than January 1, 2006.
- The state will prescribe an informational voting poster and materials for statewide distribution to include: sample ballots; dates and hours of voting; instructions for voters registering by mail and for first-time voters; voter rights (including the right to vote a provisional ballot, undervotes/overvotes and new identification procedures); and legal notice prohibiting voter fraud and misrepresentation no later than January 1, 2006. This information will be disseminated through various mediums: printed materials, speaker's bureau, and Internet (offered in multiple educational formats such as .pdf and PowerPoint), and will be available in alternative formats for individuals with disabilities and will be in English and in Spanish.
- The state will pursue the possibility of compiling an educational module for voter advocacy groups to educate election volunteers and candidates.
- The Secretary of State will appoint a voter education advisory committee composed of voter advocacy groups and other interested stakeholders to advise the Secretary of State on HAVA-related voter education materials and programs.

**c. Election Officials Education and Training**

- The state will develop a comprehensive training component for Election Officials to include: videos; pamphlets; updated handbooks; and an election-based training module no later than January 2004. The new training program and educational resources will explain all the components of HAVA, including: overvote and undervote; provisional voting; DREs; voters rights; the administrative hearing process; new voting system requirements; statewide

voter registration system requirements; methods of poll worker training; accessibility for people with disabilities; and alternative language requirements.

- The state will look into the possibility of developing an outreach program working with the Department of Public Safety (DPS) to provide resources and materials to improve the voter registration process no later than January 2005.
- The state will work proactively with election officials to assist and advise in the recruitment of college and university students as poll workers.
- The state will investigate the possible creation of an on-line training module for election officials, with a possible certification component no later than January 2006.

**d. Training of Poll Workers**

- The state will develop materials for a standardized curriculum for training of election judges and clerks. The training standards may include required attendance at appropriate training programs or the passage of an examination at the end of a training program. All materials and updated election official handbooks will reflect HAVA requirements no later than January 2004.
- The state will also investigate the possibility of making this module available to poll workers via the Internet, with an interactive testing component.
- Secretary of State staff will conduct on-site and video-conferencing training for election judges and clerks before each primary and general election.

**4. How the state will adopt voting system guidelines consistent with Sec. 301 (Sec. 254, a, 4).**

Voting System Standards

The state of Texas' voting systems standards contained at Section 122.001 of the Texas Election Code are already in substantial compliance with the requirements set out in Section 301(a)(1) of HAVA. Pursuant to an administrative rule adopted by the Secretary of State, Rule 81.61, before any voting system may be certified for use in a Texas election, the voting system must meet the voluntary voting systems standards promulgated by the Federal Election Commission. Texas Administrative Code § 81.61 (Tex. Sec. of State).

Overvote and Opportunity to Correct Ballot

All systems used in Texas allow a voter to change his or her vote. In a paper or optical scan ballot system, a voter may receive up to two replacement ballots if he or she makes an error marking the original ballot. Texas currently posts voting instructions that inform the voter of his or her right to replace a spoiled ballot.

Precinct-level optical scan voting systems inform the voter of an overvote in a particular race and give the voter an opportunity to correct the ballot. Texas Administrative Code § 81.52 (Tex. Sec. of State). Direct Recording Electronic voting systems ("DREs") currently certified for use in Texas and mechanical lever machines do not allow for overvoting. In





those entities using hand-counted paper ballot, central count optical scan, mechanical lever machines or punch card voting systems, the voter is not informed when he or she overvotes in a race; however, language will be added to voter instructions to inform voters of the definition and consequences of an overvote, and Texas will establish a voter education program to explain the effect of overvoting. Punch card and lever voting systems will be phased out of use. The Texas Legislature passed legislation this year to prohibit their use after January 1, 2006.

All of the systems used in Texas allow voters to view their choices before they cast their ballot. DRE voting systems are already required under current state law to present voters with a summary screen of the entire ballot to allow voters to review and change their choices prior to the final cast of the ballot.

Manual Audit

Electronic voting systems are required under state law to provide records from which the operation of the voting system may be audited. In addition, the Secretary of State has adopted an administrative rule, Section 81.61, which requires a real time audit log that records all significant election events and records the date and time of each event. Also, due to the fundamental inability of lever machines to produce a manual audit of its records, Texas has recently passed a law that prohibits the use of these systems in elections after January 1, 2006.

Accessibility

Under HAVA, the voting system must be accessible to individuals with disabilities in a manner that provides the same opportunity for access and participation as for other voters. HAVA provides that this requirement may be met by placing a DRE or other accessible voting unit in each polling place.

Texas law currently requires voting systems acquired on or after September 1, 2001 to comply with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments and Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments; and to provide a practical and effective means for voters with physical disabilities to cast a secret ballot. Detailed guidelines as to what constitutes an accessible voting system have been adopted by administrative rule which is enclosed. In all the remaining polling places throughout the state which use voting systems that do not meet the accessibility guidelines, counties will purchase at least 1 DRE per polling place in order to satisfy the requirements.

The state legislation implementing HAVA repeals the current voting system accessibility law and replaces it with language which tracks the federal law for accessibility. Until the Election Assistance Commission issues HAVA-compliant accessibility standards, Texas will continue to evaluate accessibility based on the state rule and FEC accessibility standards.



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Language Accessibility

Because Texas is a state covered by Section 1973aa-1a and Section 1973b(f)(4) of the federal Voting Rights Act, voting systems are already required to provide alternative language accessibility to the ballot. Statewide, Spanish has been required since 1975 and ballots have been required to be in English and Spanish since that time. As a result of the 2000 census, in some areas of the state, Vietnamese, Kickapoo, and Pueblo languages are required. Review of whether a voting system provides alternative languages is already an element of voting system certification in Texas.

Error rates

HAVA requires that the counting error rate of voting systems must comply with the standards established under the Federal Election Commission. Secretary of State Administrative Rule 81.61 requires that before a voting system may be certified for use in Texas, the voting system must meet the voluntary voting system standards promulgated by the Federal Election Commission. In addition, the state legislation adopted to implement HAVA amends the Texas Election Code to require that all voting systems comply with the error rate standards adopted by the Federal Election Commission.

Definition of "Vote"

Current state law contains a detailed definition of a punch card vote. Texas has recently passed legislation that fully defines what constitutes a vote cast under hand-counted paper ballot, optical scan, and lever machine systems. Texas will also adopt definitions of a valid vote for specific DRE voting systems. See Exhibit D.

**5. How the Election Fund will be established and managed (Sec. 254, a, 5).**

The Texas Legislature created an "Election Improvement Fund" as a dedicated account in the general revenue fund and consists of federal funds designated for election improvement, matching funds from the state or a political subdivision, and depository interest earned on the assets of the fund. The state has appropriated funds to satisfy the five percent match requirement of Section 253 of HAVA in House Bill 1549, 78th Regular Session, 2003. The five percent match is estimated to be about $2.9 million dollars, but no official information has been distributed to the state regarding the exact amount of money the state is eligible for under the Title II requirements payment. The fund will be managed according to the Uniform Grant Management Standards prescribed by the Governor.

**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.**

The budget below is based on the state's best estimate. Exact costs for the statewide voter registration system, free access system for provisional voters, voter education, and poll worker education are not currently known. If actual costs deviate by more than 5% for any one budget





item, the Secretary of State will reconvene the HAVA Advisory Committee for advice on how to reallocate the funds.

| Title I Funds | Estimated Amount |
|---|---|
| | |
| Punch card and lever replacement | $ 6,269,521 million |
| Preliminary Planning for Statewide Voter Registration System | $ 500,000 thousand |
| State Plan Administration | $ 2 – 4 million |
| Voter education | $ 2 – 3 million |
| Election Official and Poll Worker Training | $ 2 – 3 million |
| Upgrade or replacement of county voter registration election management systems for compatibility with new voter registration system | $ 6 million |
| County Education Fund | $1 – 2 million |
| Title I Budget Total | $ 19.77 – 24.77 million |
| Title I Federal Funds Received | $ 23,476,116 million |
| | |
| **Title II Funds** | |
| | |
| Free Access System for Provisional Voters | $ 1 million |
| Statewide Voter Registration System | $ 10 – 15 million |
| Accessible voting system in every polling place | $ 25.5 million |
| Grant funding to counties for HAVA compliance | $ 20 million |
| Title II Budget Total | $ 56.5 – 61.5 million |
| Title II Estimated Federal Funds | $ 57 million |
| Title II State Matching Funds | $ 2.9 million |
| Title II Estimated Funding Total | $ 59.9 million |
| **Titles I and II Estimated Budget** | **$ 76.27 – 86.27** |
| **Titles I and II Estimated Funding** | **$ 83,376,116 million** |

**7. Statement that the state will, in using the requirements payments, provide for maintaining the funding for activities funded by the payments at a level not less than the fiscal year ending before November 2000 (Sec. 254, a, 7).**

The Secretary of State, through the state's budgetary process and the distribution of the requirements payment, will ensure that expenditures of the state for activities funded by the payment will be at a level that is not less than expenditures maintained by the state for the fiscal year ending prior to November 2000.

**8. How the state will adopt performance goals and measures to determine success in carrying out the plan (Sec. 254, a, 8).**

The Secretary of State and county election officials are responsible for ensuring the success in meeting each performance goal. Each county's voter registration and elections office also have a substantial responsibility in meeting performance goals in that the counties will monitor performance measures and will report to the state on a regular basis.

**The performance goals include:**

**ELIMINATION OF PUNCH CARD VOTING AND LEVER EQUIPMENT**

a. Timetable: January 1, 2006
b. Criteria: Replacement of punch card voting equipment and lever machines in 17 counties that used voting equipment in 2000.
c. How criteria is measured: Assess 17 counties after January 1, 2006 to determine if any punch card or lever machines are being used in federal elections.
d. The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.

**VOTING SYSTEM STANDARDS**

a. VOTING SYSTEMS
(1) Timetable: January 1, 2006
(2) Criteria: All voting precincts in the state will have a voting system that provides voters an opportunity to check for and correct ballot errors in a private and independent manner, notifies the voter of any overvotes cast and the effect of casting an overvote, allows the voter to correct the overvote before the ballot is cast, has a manual audit capacity, and an error rate that does not exceed the existing rate established by the FEC or Office of Election Administration. For the precincts that do not have such a system in place, an extensive voter education program will be developed and used in each county. A program will be developed for each type of voting system and paper ballot to educate the voter on what constitutes a legal vote for each type of voting machine and how to correctly cast a ballot for each type of voting system.
(3) How the criteria is judged: Assess all counties to ensure 100% participation in using voting systems that meet the HAVA requirements or using the education program developed by the Secretary of State.
(4) The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.





b. ACCESSIBLILITY FOR INDIVIDUALS WITH DISABILITIES
(1) Timetable: January 1, 2006
(2) Criteria: Provide at least one direct recording voting device in each polling place in the state that will allow voters with disabilities the opportunity to cast a ballot without assistance.
(3) How criteria is judged: Assess each county to ensure 100% of the polling places have implemented a direct recording voting device that allows voters with disabilities the opportunity to cast a ballot without assistance.
(4) The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.

c. ALTERNATE LANGUAGE ACCESSIBILITY
(1) Timetable: Currently
(2) Criteria: Provide alternative language accessibility pursuant to the federal Voting Rights Act.
(3) How criteria is judged: Texas has provided alternative language for all voting systems, voting materials and forms used in the polling place since 1975. Before a voting system is certified by the Secretary of State, the voting system must demonstrate alternate language accessibility.
(4) The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.

**PROVISIONAL VOTING**

a. PROVISIONAL BALLOTS PROVIDED
(1) Timetable: January 1, 2004
(2) Criteria: Provide provisional ballots to ensure no individual is turned away at the polls.
(3) How criteria is judged: Assess all counties to ensure the new procedures for provisional voting are in place and that all election workers have been trained on the new procedures.
(4) The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.

b. FREE ACCESS SYSTEM
(1) Timetable: January 1, 2004
(2) Criteria: Implement a free access system in each county so that the voters can determine if their provisional ballot was counted.
(3) How criteria is judged: Success of meeting this performance goal is based on the establishment of a free access system in each county so that voters can determine if their provisional ballot was counted.
(4) The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.

c. INFORMATIONAL VOTING POSTER
(1) Timetable: January 1, 2004
(2) Criteria: Voter information must be posted at each polling place, to include: sample ballots; dates and hours of voting; instructions for voters registering by mail and for first time voters; voter rights (including the right to vote a provisional ballot); and legal notice prohibiting voter fraud and misrepresentation.
(3) How criteria is judged: Survey all counties to ensure that the voting poster is included with election supplies and that all election workers have been instructed to post such information in the polling place.
(4) The Secretary of State will prescribe and distribute informational posters to all counties prior to January 1, 2004. The county election officials are responsible for ensuring the poster is properly posted in each precinct.

**STATEWIDE VOTER REGISTRATION SYSTEM**

a. COMPUTERIZED STATEWIDE VOTER LIST
(1) Timetable: January 1, 2006
(2) Criteria: Implementation of a single, uniform, official, centralized, interactive, computerized statewide voter registration list that is defined, maintained, and administered at the state level.
(3) How criteria is judged: Success of meeting this performance goal is based on the implementation of a statewide voter registration system that meets the requirements of HAVA.
(4) The Secretary of State in conjunction with the county election officials is responsible for meeting this measure.

b. NEW VOTER REGISTRATION APPLICATION
(1) Timetable: January 1, 2004
(2) Criteria: Prescribe, print and distribute new voter registration applications that meet the requirements of HAVA.
(3) How criteria is judged: The Secretary of State will prescribe, print and distribute a new voter registration application to all counties prior to January 1, 2004.
(4) The Secretary of State in conjunction with the county election officials is responsible for meeting this measure.

The Secretary of State and the counties will create a report to include specific data to identify the successes of each county as it relates to the implementation of the Help America Vote Act of 2002 (HAVA). The Secretary of State will compile the data in the reports and create a statewide report on the programs. The report will include an indication of whether each county met the performance goals. If the Election Assistance Commission or any other federal agency should prescribe such a report or survey, the state will use the federal form in lieu of the state form.





**9. Description of state based administrative complaint procedures (Sec. 254, a, 9):**

The Secretary of State will adopt an administrative complaint procedure through its rulemaking authority. Complaints will be limited to those arising from violations of Title III of HAVA. As required under Section 402(2) of HAVA, complaints shall be required to be in writing, signed by the complainant, and notarized. The Secretary of State will have authority to consolidate complaints for efficiency and to resolve any complaints through an informal process, if warranted.

Review of the complaint will be held pursuant to the right of notice, hearing, and adjudication as set out in the administrative rule.

**10. A description of how payments for punch card replacement and early out money affects the activities under the plan, including the amount of funds available (Sec. 254, a, 10).**

Texas has received the Title I money for GSA. Payments for the punch card and lever voting system replacement will be distributed to eligible counties pursuant to administrative rules adopted by the Secretary of State. These rules will be according to federal law and the Uniform Grant Management Standards

**11. Description of how the state will conduct ongoing management of the plan (Sec. 254, a, 11):**

The Secretary of State will adopt the State of Texas Uniform Grant Management Standards and administrative rules to establish an effective management program. When material changes are necessary, the Secretary of State will propose the change in the Texas Administrative Register through the rulemaking process. In addition, the Secretary of State intends to continue working with the HAVA Advisory Committee as the plan is implemented. The State Plan provides a general framework of HAVA implementation in Texas, but the Secretary of State will be required to adopt administrative rules to define specific procedures for provisional voting and other issues, and will be designing many new forms. As rules are proposed and as new voter forms are drafted, the Secretary of State will distribute the drafts to the HAVA Advisory Committee for comments and suggestions. The Secretary of State will formally reconvene the HAVA Committee no later than June 2004 to assess Texas' progress under the State Plan.

**12. Description of how the plan reflects changes from the state plan for the previous fiscal year.**

Not applicable.

**13. A description of the committee that participated in the development of the plan (Sec. 254, a, 13).**

An advisory committee was appointed by the Secretary of State to help develop the State Plan. We enlisted professional associations, voter advocacy groups and other relevant associations,

and requested that each association appoint a representative to serve on the advisory committee. The Committee conducted public meetings on the following dates: April 3, 2003, May 1, 2003, and June 27, 2003. Minutes of all Committee meetings are posted on the Secretary of State website at http://www.sos.state.tx.us/elections/hava/index.shtml. The Preliminary Texas State Plan was posted on the web on July 25, 2003 and also published in the Texas Register on August 1, 2003. Public comment was accepted through September 2, 2003.





**Advisory Committee Members:**

Teresa Aguirre
Texas Association of Counties

Phil Barrett
Texas Department of Information Resources

Paul Bettencourt
Harris County Tax Assessor-Collector

Paulette Burke
Texas County & District Clerks Association
Rockwall County Clerk

Brett Carr
Senate State Affairs

The Honorable Mary Denny
Texas State Representative
Chair, House Elections Committee

Judge Robert Eckels
County Judges and Commissioners Association

Frank Elder
Assistant Chief
Texas Department of Public Safety

Claude Foster
ACLU of Texas, Inc.

Barbara Hankins
Texas League of Women Voters

David Hanna
Texas Legislative Council

Beverly Kaufman
Harris County Clerk

Bob Lydia
President
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Molly Beth Malcolm
Chairwoman
Texas Democratic Party

Germaine Martinez
Program Specialist
Texas Department of Public Safety

The Honorable Jane Nelson
Texas State Senator

Jodi Park
Coalition of Texans with Disabilities

Nina Perales
MALDEF

Sharon Rowe
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Bruce Sherbet
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Sandra Vice
State Auditor's Office

Bea Westbrook
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Texas Association of Tax Assessor-Collectors
Newton County Tax Assessor Collector





Chad Wilbanks
Texas Republican Party

Don Willett
Deputy Attorney General, General Counsel
Office of the Texas Attorney General

**CHART A**
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| County | Voting_System | Voter_Registration | Precincts |
|---|---|---|---|
| ANDERSON | Optical Scan | 27803 | 25 |
| ANDREWS | Paper | 7914 | 5 |
| ANGELINA | Optical Scan | 49562 | 40 |
| ARANSAS | Optical Scan | 14304 | 7 |
| ARCHER | Optical Scan | 6466 | 14 |
| ARMSTRONG | Paper | 1448 | 9 |
| ATASCOSA | Optical Scan | 23531 | 25 |
| AUSTIN | Optical Scan | 14905 | 19 |
| BAILEY | Paper | 3807 | 8 |
| BANDERA | Optical Scan | 11712 | 12 |
| BASTROP | Optical Scan | 31939 | 22 |
| BAYLOR | Paper | 3063 | 6 |
| BEE | Optical Scan | 16736 | 18 |
| BELL | AVM | 142709 | 43 |
| BEXAR | Optical Scan | 871783 | 626 |
| BLANCO | Paper | 5990 | 9 |
| BORDEN | Paper | 493 | 8 |
| BOSQUE | Optical Scan | 10378 | 18 |
| BOWIE | Optical Scan | 54522 | 37 |
| BRAZORIA | Punch Card | 147811 | 68 |
| BRAZOS | Punch Card | 80133 | 109 |
| BREWSTER | Paper | 6170 | 8 |
| BRISCOE | Paper | 1307 | 7 |
| BROOKS | Optical Scan | 7013 | 10 |
| BROWN | Optical Scan | 23759 | 18 |
| BURLESON | Optical Scan | 10406 | 16 |
| BURNET | Optical Scan | 22453 | 24 |
| CALDWELL | Optical Scan | 20183 | 20 |
| CALHOUN | Optical Scan | 13627 | 30 |
| CALLAHAN | Optical Scan | 9075 | 8 |
| CAMERON | Optical Scan | 148854 | 84 |
| CAMP | Paper | 6364 | 13 |
| CARSON | Paper | 4766 | 10 |
| CASS | Optical Scan | 19232 | 26 |
| CASTRO | Paper | 4933 | 9 |
| CHAMBERS | Punch Card | 17479 | 14 |
| CHEROKEE | Optical Scan | 27795 | 29 |
| CHILDRESS | Paper | 3990 | 5 |
| CLAY | Paper | 7240 | 17 |
| COCHRAN | Paper | 2291 | 8 |
| COKE | Paper | 2523 | 8 |



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| | | | |
|---|---|---|---|
| COLEMAN | Paper | 6731 | 15 |
| COLLIN | Punch Card | 296171 | 127 |
| COLLINGSWORTH | Paper | 2360 | 8 |
| COLORADO | Optical Scan | 12040 | 19 |
| COMAL | Optical Scan | 55994 | 31 |
| COMANCHE | Paper | 8613 | 17 |
| CONCHO | Paper | 1942 | 9 |
| COOKE | Optical Scan | 23932 | 26 |
| CORYELL | Optical Scan | 35643 | 21 |
| COTTLE | Paper | 1542 | 6 |
| CRANE | Paper | 2811 | 5 |
| CROCKETT | Optical Scan | 2698 | 5 |
| CROSBY | Paper | 4277 | 11 |
| CULBERSON | Paper | 2153 | 7 |
| DALLAM | Paper | 2889 | 10 |
| DALLAS | Optical Scan/DRE | 1248325 | 791 |
| DAWSON | Paper | 8749 | 12 |
| DEAF SMITH | Optical Scan | 10390 | 9 |
| DELTA | Paper | 3208 | 11 |
| DENTON | Optical Scan | 274386 | 126 |
| DEWITT | Paper | 12321 | 17 |
| DICKENS | Paper | 1590 | 7 |
| DIMMIT | Optical Scan | 8311 | 8 |
| DONLEY | Paper | 2609 | 10 |
| DUVAL | Optical Scan | 10490 | 12 |
| EASTLAND | Optical Scan | 11125 | 10 |
| ECTOR | Punch Card | 68622 | 42 |
| EDWARDS | Paper | 1463 | 6 |
| ELLIS | Optical Scan | 68026 | 60 |
| EL PASO | Punch Card/DRE | 352359 | 156 |
| ERATH | Optical Scan | 19166 | 27 |
| FALLS | Paper | 10126 | 13 |
| FANNIN | Optical Scan | 17605 | 20 |
| FAYETTE | Optical Scan | 13477 | 28 |
| FISHER | Paper | 2944 | 11 |
| FLOYD | Paper | 4623 | 12 |
| FOARD | Paper | 1141 | 5 |
| FORT BEND | Optical Scan | 202706 | 104 |
| FRANKLIN | Paper | 5644 | 10 |
| FREESTONE | Optical Scan | 10594 | 16 |
| FRIO | Optical Scan | 10415 | 11 |
| GAINES | Optical Scan | 6767 | 9 |

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| | | | |
|---|---|---|---|
| GALVESTON | Optical Scan | 176888 | 77 |
| GARZA | Paper | 3033 | 10 |
| GILLESPIE | Optical Scan | 14619 | 16 |
| GLASSCOCK | Paper | 783 | 5 |
| GOLIAD | Optical Scan | 5063 | 11 |
| GONZALES | Optical Scan | 12901 | 16 |
| GRAY | Optical Scan | 15618 | 15 |
| GRAYSON | Optical Scan | 73550 | 54 |
| GREGG | Optical Scan | 77898 | 23 |
| GRIMES | Optical Scan | 12440 | 21 |
| GUADALUPE | Optical Scan/DRE | 53774 | 83 |
| HALE | Paper | 21017 | 19 |
| HALL | Paper | 2340 | 8 |
| HAMILTON | Optical Scan | 5281 | 15 |
| HANSFORD | Paper | 3332 | 9 |
| HARDEMAN | Paper | 2927 | 6 |
| HARDIN | Optical Scan | 33215 | 18 |
| HARRIS | Punch Card | 1886581 | 935 |
| HARRISON | Optical Scan | 42548 | 29 |
| HARTLEY | Paper | 3080 | 7 |
| HASKELL | Paper | 4904 | 11 |
| HAYS | Punch Card | 66201 | 35 |
| HEMPHILL | Paper | 2334 | 9 |
| HENDERSON | Optical Scan | 45629 | 31 |
| HIDALGO | Optical Scan | 244668 | 95 |
| HILL | Optical Scan | 18995 | 28 |
| HOCKLEY | Optical Scan | 14282 | 16 |
| HOOD | Votronic II | 28996 | 16 |
| HOPKINS | Optical Scan | 18462 | 22 |
| HOUSTON | Optical Scan | 14802 | 22 |
| HOWARD | Punch Card | 19511 | 21 |
| HUDSPETH | Paper | 1669 | 12 |
| HUNT | Optical Scan | 47934 | 36 |
| HUTCHINSON | Optical Scan | 17761 | 15 |
| IRION | Paper | 1278 | 6 |
| JACK | Paper | 5076 | 11 |
| JACKSON | Paper | 9507 | 13 |
| JASPER | Optical Scan | 21709 | 20 |
| JEFF DAVIS | Paper | 1664 | 6 |
| JEFFERSON | Punch Card | 166238 | 106 |
| JIM HOGG | Optical Scan | 4150 | 5 |
| JIM WELLS | Optical Scan | 25972 | 22 |



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| | | | |
|---|---|---|---|
| JOHNSON | Optical Scan | 71597 | 35 |
| JONES | Optical Scan | 10607 | 16 |
| KARNES | Optical Scan | 8603 | 22 |
| KAUFMAN | Optical Scan | 44137 | 35 |
| KENDALL | Optical Scan | 17757 | 12 |
| KENEDY | Optical Scan | 398 | 7 |
| KENT | Paper | 823 | 7 |
| KERR | Optical Scan | 31923 | 17 |
| KIMBLE | Paper | 2920 | 8 |
| KING | Paper | 208 | 5 |
| KINNEY | Paper | 2500 | 5 |
| KLEBERG | Optical Scan | 18927 | 31 |
| KNOX | Paper | 3021 | 11 |
| LAMAR | Optical Scan | 30558 | 33 |
| LAMB | Paper | 9295 | 13 |
| LAMPASAS | Optical Scan | 10417 | 10 |
| LASALLE | Optical Scan | 4334 | 7 |
| LAVACA | Optical Scan | 13079 | 20 |
| LEE | Paper | 8647 | 13 |
| LEON | Optical Scan | 10617 | 15 |
| LIBERTY | Optical Scan | 42270 | 30 |
| LIMESTONE | Optical Scan | 13438 | 21 |
| LIPSCOMB | Paper | 2040 | 10 |
| LIVE OAK | Paper | 7416 | 15 |
| LLANO | Optical Scan | 12860 | 13 |
| LOVING | Paper | 211 | 5 |
| LUBBOCK | Optical Scan | 154157 | 94 |
| LYNN | Paper | 4377 | 15 |
| MADISON | Optical Scan | 6921 | 9 |
| MARION | Paper | 7771 | 16 |
| MARTIN | Paper | 3029 | 10 |
| MASON | Optical Scan | 2641 | 9 |
| MATAGORDA | Optical Scan | 23095 | 19 |
| MAVERICK | Optical Scan | 21783 | 15 |
| MCCULLOCH | Paper | 5657 | 11 |
| MCLENNAN | Optical Scan | 126842 | 98 |
| MCMULLEN | Paper | 682 | 6 |
| MEDINA | Optical Scan | 22582 | 24 |
| MENARD | Paper | 1841 | 7 |
| MIDLAND | Optical Scan | 71598 | 54 |
| MILAM | Optical Scan | 14626 | 22 |
| MILLS | Paper | 3178 | 11 |

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| | | | |
|---|---|---|---|
| MITCHELL | Paper | 5411 | 7 |
| MONTAGUE | Optical Scan | 12616 | 15 |
| MONTGOMERY | Optical Scan | 183958 | 73 |
| MOORE | Optical Scan | 10063 | 9 |
| MORRIS | Optical Scan | 8715 | 11 |
| MOTLEY | Paper | 972 | 7 |
| NACOGDOCHES | Optical Scan | 35171 | 29 |
| NAVARRO | Optical Scan | 27168 | 35 |
| NEWTON | Optical Scan | 9633 | 22 |
| NOLAN | Optical Scan | 10692 | 10 |
| NUECES | Optical Scan | 202443 | 123 |
| OCHILTREE | Paper | 5084 | 5 |
| OLDHAM | Paper | 1616 | 8 |
| ORANGE | Optical Scan | 55751 | 30 |
| PALO PINTO | Optical Scan | 17677 | 20 |
| PANOLA | Optical Scan | 15291 | 22 |
| PARKER | Optical Scan | 57041 | 34 |
| PARMER | Optical Scan | 4848 | 10 |
| PECOS | Optical Scan | 8324 | 10 |
| POLK | Optical Scan | 38064 | 21 |
| POTTER | Optical Scan | 57656 | 32 |
| PRESIDIO | Paper | 4222 | 8 |
| RAINS | Paper | 5637 | 8 |
| RANDALL | Optical Scan | 73860 | 32 |
| REAGAN | Paper | 2007 | 7 |
| REAL | Paper | 2516 | 7 |
| RED RIVER | Paper | 8776 | 26 |
| REEVES | Punch Card | 7854 | 13 |
| REFUGIO | Optical Scan | 5773 | 11 |
| ROBERTS | Paper | 831 | 6 |
| ROBERTSON | Optical Scan | 10957 | 17 |
| ROCKWALL | Optical Scan | 29470 | 14 |
| RUNNELS | Paper | 7283 | 10 |
| RUSK | Optical Scan | 30719 | 38 |
| SABINE | Optical Scan | 8026 | 11 |
| SAN AUGUSTINE | Optical Scan | 6749 | 12 |
| SAN JACINTO | Optical Scan | 14750 | 12 |
| SAN PATRICIO | Optical Scan | 44969 | 34 |
| SAN SABA | Optical Scan | 3747 | 8 |
| SCHLEICHER | Paper | 1835 | 5 |
| SCURRY | Optical Scan | 11383 | 12 |
| SHACKELFORD | Paper | 2491 | 8 |



**CHART A**
**The Secretary of State of Texas**
**County Voter Registration and Precincts Report**
**2000 General Election**
**November 7, 2000**

| | | | |
|---|---|---|---|
| SHELBY | Optical Scan | 15688 | 15 |
| SHERMAN | Paper | 1768 | 8 |
| SMITH | Punch Card | 101184 | 72 |
| SOMERVELL | Paper | 4884 | 7 |
| STARR | Optical Scan | 25984 | 11 |
| STEPHENS | Optical Scan | 5928 | 11 |
| STERLING | Paper | 1056 | 5 |
| STONEWALL | Paper | 1331 | 10 |
| SUTTON | Paper | 2601 | 6 |
| SWISHER | Paper | 5358 | 11 |
| TARRANT | Optical Scan | 851104 | 535 |
| TAYLOR | Punch Card | 82560 | 39 |
| TERRELL | Paper | 791 | 5 |
| TERRY | Optical Scan | 8123 | 9 |
| THROCKMORTON | Paper | 1325 | 6 |
| TITUS | Optical Scan | 15008 | 20 |
| TOM GREEN | Optical Scan | 64504 | 60 |
| TRAVIS | Optical Scan | 572429 | 230 |
| TRINITY | Optical Scan | 11477 | 20 |
| TYLER | Optical Scan | 13398 | 18 |
| UPSHUR | Optical Scan | 23463 | 21 |
| UPTON | DRE | 2399 | 7 |
| UVALDE | Optical Scan | 16568 | 16 |
| VAL VERDE | Optical Scan | 24782 | 21 |
| VAN ZANDT | Optical Scan | 31922 | 29 |
| VICTORIA | AVM | 55130 | 36 |
| WALKER | Optical Scan | 29556 | 19 |
| WALLER | Optical Scan | 20123 | 20 |
| WARD | Optical Scan | 7071 | 9 |
| WASHINGTON | Optical Scan | 19281 | 22 |
| WEBB | Optical Scan | 88029 | 42 |
| WHARTON | Optical Scan | 22612 | 23 |
| WHEELER | Paper | 3895 | 11 |
| WICHITA | Punch Card | 81059 | 53 |
| WILBARGER | Paper | 8830 | 13 |
| WILLACY | Optical Scan | 10932 | 13 |
| WILLIAMSON | Optical Scan | 161568 | 85 |
| WILSON | Optical Scan | 20462 | 17 |
| WINKLER | Optical Scan | 4491 | 6 |
| WISE | Optical Scan | 29900 | 23 |
| WOOD | Optical Scan | 20984 | 12 |
| YOAKUM | Optical Scan | 4722 | 7 |

**CHART A**
**The Secretary of State of Texas**
**County Voter Registration and Precincts Report**
**2000 General Election**
**November 7, 2000**

| | | | |
|---|---|---|---|
| YOUNG | Paper | 12154 | 13 |
| ZAPATA | Optical Scan | 6566 | 8 |
| ZAVALA | Optical Scan | 8726 | 7 |



CHART B State Plan Draft
Estimated Fund Allocation for an Accessible Voting System in Each County Polling Place

| County | Precincts | Money | Total |
|---|---|---|---|
| ANDERSON | 25 | $3,000.00 | $75,000.00 |
| ANDREWS | 5 | $3,000.00 | $15,000.00 |
| ANGELINA | 40 | $3,000.00 | $120,000.00 |
| ARANSAS | 7 | $3,000.00 | $21,000.00 |
| ARCHER | 14 | $3,000.00 | $42,000.00 |
| ARMSTRONG | 9 | $3,000.00 | $27,000.00 |
| ATASCOSA | 25 | $3,000.00 | $75,000.00 |
| AUSTIN | 19 | $3,000.00 | $57,000.00 |
| BAILEY | 8 | $3,000.00 | $24,000.00 |
| BANDERA | 12 | $3,000.00 | $36,000.00 |
| BASTROP | 22 | $3,000.00 | $66,000.00 |
| BAYLOR | 6 | $3,000.00 | $18,000.00 |
| BEE | 18 | $3,000.00 | $54,000.00 |
| BELL | 43 | $3,000.00 | $129,000.00 |
| BEXAR | 626 | $3,000.00 | $1,878,000.00 |
| BLANCO | 9 | $3,000.00 | $27,000.00 |
| BORDEN | 8 | $3,000.00 | $24,000.00 |
| BOSQUE | 18 | $3,000.00 | $54,000.00 |
| BOWIE | 37 | $3,000.00 | $111,000.00 |
| BRAZORIA | 68 | $3,000.00 | $204,000.00 |
| BRAZOS | 109 | $3,000.00 | $327,000.00 |
| BREWSTER | 8 | $3,000.00 | $24,000.00 |
| BRISCOE | 7 | $3,000.00 | $21,000.00 |
| BROOKS | 10 | $3,000.00 | $30,000.00 |
| BROWN | 18 | $3,000.00 | $54,000.00 |
| BURLESON | 16 | $3,000.00 | $48,000.00 |
| BURNET | 24 | $3,000.00 | $72,000.00 |
| CALDWELL | 20 | $3,000.00 | $60,000.00 |
| CALHOUN | 30 | $3,000.00 | $90,000.00 |
| CALLAHAN | 8 | $3,000.00 | $24,000.00 |
| CAMERON | 84 | $3,000.00 | $252,000.00 |
| CAMP | 13 | $3,000.00 | $39,000.00 |
| CARSON | 10 | $3,000.00 | $30,000.00 |
| CASS | 26 | $3,000.00 | $78,000.00 |
| CASTRO | 9 | $3,000.00 | $27,000.00 |
| CHAMBERS | 14 | $3,000.00 | $42,000.00 |
| CHEROKEE | 29 | $3,000.00 | $87,000.00 |
| CHILDRESS | 5 | $3,000.00 | $15,000.00 |

CHART B State Plan Draft
Estimated Fund Allocation for an Accessible Voting System in Each County Polling Place

| | | | |
|---|---|---|---|
| CLAY | 17 | $3,000.00 | $51,000.00 |
| COCHRAN | 8 | $3,000.00 | $24,000.00 |
| COKE | 8 | $3,000.00 | $24,000.00 |
| COLEMAN | 15 | $3,000.00 | $45,000.00 |
| COLLIN | 127 | $3,000.00 | $381,000.00 |
| COLLINGSWORTH | 8 | $3,000.00 | $24,000.00 |
| COLORADO | 19 | $3,000.00 | $57,000.00 |
| COMAL | 31 | $3,000.00 | $93,000.00 |
| COMANCHE | 17 | $3,000.00 | $51,000.00 |
| CONCHO | 9 | $3,000.00 | $27,000.00 |
| COOKE | 26 | $3,000.00 | $78,000.00 |
| CORYELL | 21 | $3,000.00 | $63,000.00 |
| COTTLE | 6 | $3,000.00 | $18,000.00 |
| CRANE | 5 | $3,000.00 | $15,000.00 |
| CROCKETT | 5 | $3,000.00 | $15,000.00 |
| CROSBY | 11 | $3,000.00 | $33,000.00 |
| CULBERSON | 7 | $3,000.00 | $21,000.00 |
| DALLAM | 10 | $3,000.00 | $30,000.00 |
| DALLAS | 791 | $3,000.00 | $2,373,000.00 |
| DAWSON | 12 | $3,000.00 | $36,000.00 |
| DEAF SMITH | 9 | $3,000.00 | $27,000.00 |
| DELTA | 11 | $3,000.00 | $33,000.00 |
| DENTON | 126 | $3,000.00 | $378,000.00 |
| DEWITT | 17 | $3,000.00 | $51,000.00 |
| DICKENS | 7 | $3,000.00 | $21,000.00 |
| DIMMIT | 8 | $3,000.00 | $24,000.00 |
| DONLEY | 10 | $3,000.00 | $30,000.00 |
| DUVAL | 12 | $3,000.00 | $36,000.00 |
| EASTLAND | 10 | $3,000.00 | $30,000.00 |
| ECTOR | 42 | $3,000.00 | $126,000.00 |
| EDWARDS | 6 | $3,000.00 | $18,000.00 |
| ELLIS | 60 | $3,000.00 | $180,000.00 |
| EL PASO | 156 | $3,000.00 | $468,000.00 |
| ERATH | 27 | $3,000.00 | $81,000.00 |
| FALLS | 13 | $3,000.00 | $39,000.00 |
| FANNIN | 20 | $3,000.00 | $60,000.00 |
| FAYETTE | 28 | $3,000.00 | $84,000.00 |
| FISHER | 11 | $3,000.00 | $33,000.00 |
| FLOYD | 12 | $3,000.00 | $36,000.00 |



CHART B State Plan Draft
Estimated Fund Allocation for an Accessible Voting System in Each County Polling Place

| | | | |
|---|---|---|---|
| FOARD | 5 | $3,000.00 | $15,000.00 |
| FORT BEND | 104 | $3,000.00 | $312,000.00 |
| FRANKLIN | 10 | $3,000.00 | $30,000.00 |
| FREESTONE | 16 | $3,000.00 | $48,000.00 |
| FRIO | 11 | $3,000.00 | $33,000.00 |
| GAINES | 9 | $3,000.00 | $27,000.00 |
| GALVESTON | 77 | $3,000.00 | $231,000.00 |
| GARZA | 10 | $3,000.00 | $30,000.00 |
| GILLESPIE | 16 | $3,000.00 | $48,000.00 |
| GLASSCOCK | 5 | $3,000.00 | $15,000.00 |
| GOLIAD | 11 | $3,000.00 | $33,000.00 |
| GONZALES | 16 | $3,000.00 | $48,000.00 |
| GRAY | 15 | $3,000.00 | $45,000.00 |
| GRAYSON | 54 | $3,000.00 | $162,000.00 |
| GREGG | 23 | $3,000.00 | $69,000.00 |
| GRIMES | 21 | $3,000.00 | $63,000.00 |
| GUADALUPE | 83 | $3,000.00 | $249,000.00 |
| HALE | 19 | $3,000.00 | $57,000.00 |
| HALL | 8 | $3,000.00 | $24,000.00 |
| HAMILTON | 15 | $3,000.00 | $45,000.00 |
| HANSFORD | 9 | $3,000.00 | $27,000.00 |
| HARDEMAN | 6 | $3,000.00 | $18,000.00 |
| HARDIN | 18 | $3,000.00 | $54,000.00 |
| HARRIS | 935 | $3,000.00 | $2,805,000.00 |
| HARRISON | 29 | $3,000.00 | $87,000.00 |
| HARTLEY | 7 | $3,000.00 | $21,000.00 |
| HASKELL | 11 | $3,000.00 | $33,000.00 |
| HAYS | 35 | $3,000.00 | $105,000.00 |
| HEMPHILL | 9 | $3,000.00 | $27,000.00 |
| HENDERSON | 31 | $3,000.00 | $93,000.00 |
| HIDALGO | 95 | $3,000.00 | $285,000.00 |
| HILL | 28 | $3,000.00 | $84,000.00 |
| HOCKLEY | 16 | $3,000.00 | $48,000.00 |
| HOOD | 16 | $3,000.00 | $48,000.00 |
| HOPKINS | 22 | $3,000.00 | $66,000.00 |
| HOUSTON | 22 | $3,000.00 | $66,000.00 |
| HOWARD | 21 | $3,000.00 | $63,000.00 |
| HUDSPETH | 12 | $3,000.00 | $36,000.00 |
| HUNT | 36 | $3,000.00 | $108,000.00 |

CHART B State Plan Draft
Estimated Fund Allocation for an Accessible Voting System in Each County Polling Place

| | | | |
|---|---|---|---|
| HUTCHINSON | 15 | $3,000.00 | $45,000.00 |
| IRION | 6 | $3,000.00 | $18,000.00 |
| JACK | 11 | $3,000.00 | $33,000.00 |
| JACKSON | 13 | $3,000.00 | $39,000.00 |
| JASPER | 20 | $3,000.00 | $60,000.00 |
| JEFF DAVIS | 6 | $3,000.00 | $18,000.00 |
| JEFFERSON | 106 | $3,000.00 | $318,000.00 |
| JIM HOGG | 5 | $3,000.00 | $15,000.00 |
| JIM WELLS | 22 | $3,000.00 | $66,000.00 |
| JOHNSON | 35 | $3,000.00 | $105,000.00 |
| JONES | 16 | $3,000.00 | $48,000.00 |
| KARNES | 22 | $3,000.00 | $66,000.00 |
| KAUFMAN | 35 | $3,000.00 | $105,000.00 |
| KENDALL | 12 | $3,000.00 | $36,000.00 |
| KENEDY | 7 | $3,000.00 | $21,000.00 |
| KENT | 7 | $3,000.00 | $21,000.00 |
| KERR | 17 | $3,000.00 | $51,000.00 |
| KIMBLE | 8 | $3,000.00 | $24,000.00 |
| KING | 5 | $3,000.00 | $15,000.00 |
| KINNEY | 5 | $3,000.00 | $15,000.00 |
| KLEBERG | 31 | $3,000.00 | $93,000.00 |
| KNOX | 11 | $3,000.00 | $33,000.00 |
| LAMAR | 33 | $3,000.00 | $99,000.00 |
| LAMB | 13 | $3,000.00 | $39,000.00 |
| LAMPASAS | 10 | $3,000.00 | $30,000.00 |
| LASALLE | 7 | $3,000.00 | $21,000.00 |
| LAVACA | 20 | $3,000.00 | $60,000.00 |
| LEE | 13 | $3,000.00 | $39,000.00 |
| LEON | 15 | $3,000.00 | $45,000.00 |
| LIBERTY | 30 | $3,000.00 | $90,000.00 |
| LIMESTONE | 21 | $3,000.00 | $63,000.00 |
| LIPSCOMB | 10 | $3,000.00 | $30,000.00 |
| LIVE OAK | 15 | $3,000.00 | $45,000.00 |
| LLANO | 13 | $3,000.00 | $39,000.00 |
| LOVING | 5 | $3,000.00 | $15,000.00 |
| LUBBOCK | 94 | $3,000.00 | $282,000.00 |
| LYNN | 15 | $3,000.00 | $45,000.00 |
| MADISON | 9 | $3,000.00 | $27,000.00 |
| MARION | 16 | $3,000.00 | $48,000.00 |



CHART B State Plan Draft
Estimated Fund Allocation for an Accessible Voting System in Each County Polling Place

| | | | |
|---|---|---|---|
| MARTIN | 10 | $3,000.00 | $30,000.00 |
| MASON | 9 | $3,000.00 | $27,000.00 |
| MATAGORDA | 19 | $3,000.00 | $57,000.00 |
| MAVERICK | 15 | $3,000.00 | $45,000.00 |
| MCCULLOCH | 11 | $3,000.00 | $33,000.00 |
| MCLENNAN | 98 | $3,000.00 | $294,000.00 |
| MCMULLEN | 6 | $3,000.00 | $18,000.00 |
| MEDINA | 24 | $3,000.00 | $72,000.00 |
| MENARD | 7 | $3,000.00 | $21,000.00 |
| MIDLAND | 54 | $3,000.00 | $162,000.00 |
| MILAM | 22 | $3,000.00 | $66,000.00 |
| MILLS | 11 | $3,000.00 | $33,000.00 |
| MITCHELL | 7 | $3,000.00 | $21,000.00 |
| MONTAGUE | 15 | $3,000.00 | $45,000.00 |
| MONTGOMERY | 73 | $3,000.00 | $219,000.00 |
| MOORE | 9 | $3,000.00 | $27,000.00 |
| MORRIS | 11 | $3,000.00 | $33,000.00 |
| MOTLEY | 7 | $3,000.00 | $21,000.00 |
| NACOGDOCHES | 29 | $3,000.00 | $87,000.00 |
| NAVARRO | 35 | $3,000.00 | $105,000.00 |
| NEWTON | 22 | $3,000.00 | $66,000.00 |
| NOLAN | 10 | $3,000.00 | $30,000.00 |
| NUECES | 123 | $3,000.00 | $369,000.00 |
| OCHILTREE | 5 | $3,000.00 | $15,000.00 |
| OLDHAM | 8 | $3,000.00 | $24,000.00 |
| ORANGE | 30 | $3,000.00 | $90,000.00 |
| PALO PINTO | 20 | $3,000.00 | $60,000.00 |
| PANOLA | 22 | $3,000.00 | $66,000.00 |
| PARKER | 34 | $3,000.00 | $102,000.00 |
| PARMER | 10 | $3,000.00 | $30,000.00 |
| PECOS | 10 | $3,000.00 | $30,000.00 |
| POLK | 21 | $3,000.00 | $63,000.00 |
| POTTER | 32 | $3,000.00 | $96,000.00 |
| PRESIDIO | 8 | $3,000.00 | $24,000.00 |
| RAINS | 8 | $3,000.00 | $24,000.00 |
| RANDALL | 32 | $3,000.00 | $96,000.00 |
| REAGAN | 7 | $3,000.00 | $21,000.00 |
| REAL | 7 | $3,000.00 | $21,000.00 |
| RED RIVER | 26 | $3,000.00 | $78,000.00 |

CHART B State Plan Draft
Estimated Fund Allocation for an Accessible Voting System in Each County Polling Place

| | | | |
|---|---|---|---|
| REEVES | 13 | $3,000.00 | $39,000.00 |
| REFUGIO | 11 | $3,000.00 | $33,000.00 |
| ROBERTS | 6 | $3,000.00 | $18,000.00 |
| ROBERTSON | 17 | $3,000.00 | $51,000.00 |
| ROCKWALL | 14 | $3,000.00 | $42,000.00 |
| RUNNELS | 10 | $3,000.00 | $30,000.00 |
| RUSK | 38 | $3,000.00 | $114,000.00 |
| SABINE | 11 | $3,000.00 | $33,000.00 |
| SAN AUGUSTINE | 12 | $3,000.00 | $36,000.00 |
| SAN JACINTO | 12 | $3,000.00 | $36,000.00 |
| SAN PATRICIO | 34 | $3,000.00 | $102,000.00 |
| SAN SABA | 8 | $3,000.00 | $24,000.00 |
| SCHLEICHER | 5 | $3,000.00 | $15,000.00 |
| SCURRY | 12 | $3,000.00 | $36,000.00 |
| SHACKELFORD | 8 | $3,000.00 | $24,000.00 |
| SHELBY | 15 | $3,000.00 | $45,000.00 |
| SHERMAN | 8 | $3,000.00 | $24,000.00 |
| SMITH | 72 | $3,000.00 | $216,000.00 |
| SOMERVELL | 7 | $3,000.00 | $21,000.00 |
| STARR | 11 | $3,000.00 | $33,000.00 |
| STEPHENS | 11 | $3,000.00 | $33,000.00 |
| STERLING | 5 | $3,000.00 | $15,000.00 |
| STONEWALL | 10 | $3,000.00 | $30,000.00 |
| SUTTON | 6 | $3,000.00 | $18,000.00 |
| SWISHER | 11 | $3,000.00 | $33,000.00 |
| TARRANT | 535 | $3,000.00 | $1,605,000.00 |
| TAYLOR | 39 | $3,000.00 | $117,000.00 |
| TERRELL | 5 | $3,000.00 | $15,000.00 |
| TERRY | 9 | $3,000.00 | $27,000.00 |
| THROCKMORTON | 6 | $3,000.00 | $18,000.00 |
| TITUS | 20 | $3,000.00 | $60,000.00 |
| TOM GREEN | 60 | $3,000.00 | $180,000.00 |
| TRAVIS | 230 | $3,000.00 | $690,000.00 |
| TRINITY | 20 | $3,000.00 | $60,000.00 |
| TYLER | 18 | $3,000.00 | $54,000.00 |
| UPSHUR | 21 | $3,000.00 | $63,000.00 |
| UPTON | 7 | $3,000.00 | $21,000.00 |
| UVALDE | 16 | $3,000.00 | $48,000.00 |
| VAL VERDE | 21 | $3,000.00 | $63,000.00 |



CHART B State Plan Draft
Estimated Fund Allocation for an Accessible Voting System in Each County Polling Place

| | | | |
|---|---|---|---|
| VAN ZANDT | 29 | $3,000.00 | $87,000.00 |
| VICTORIA | 36 | $3,000.00 | $108,000.00 |
| WALKER | 19 | $3,000.00 | $57,000.00 |
| WALLER | 20 | $3,000.00 | $60,000.00 |
| WARD | 9 | $3,000.00 | $27,000.00 |
| WASHINGTON | 22 | $3,000.00 | $66,000.00 |
| WEBB | 42 | $3,000.00 | $126,000.00 |
| WHARTON | 23 | $3,000.00 | $69,000.00 |
| WHEELER | 11 | $3,000.00 | $33,000.00 |
| WICHITA | 53 | $3,000.00 | $159,000.00 |
| WILBARGER | 13 | $3,000.00 | $39,000.00 |
| WILLACY | 13 | $3,000.00 | $39,000.00 |
| WILLIAMSON | 85 | $3,000.00 | $255,000.00 |
| WILSON | 17 | $3,000.00 | $51,000.00 |
| WINKLER | 6 | $3,000.00 | $18,000.00 |
| WISE | 23 | $3,000.00 | $69,000.00 |
| WOOD | 12 | $3,000.00 | $36,000.00 |
| YOAKUM | 7 | $3,000.00 | $21,000.00 |
| YOUNG | 13 | $3,000.00 | $39,000.00 |
| ZAPATA | 8 | $3,000.00 | $24,000.00 |
| ZAVALA | 7 | $3,000.00 | $21,000.00 |

CHART C State Plan Draft
Estimated Fund Allocation to Counties for General HAVA Requirements

| County | VAP | | |
|---|---|---|---|
| TEXAS | 14,965,061 | $1.30 | $19,454,579.30 |
| ANDERSON | 43,678 | $1.30 | $56,781.40 |
| ANDREWS | 8,903 | $1.30 | $11,573.90 |
| ANGELINA | 57,974 | $1.30 | $75,366.20 |
| ARANSAS | 17,151 | $1.30 | $22,296.30 |
| ARCHER | 6,358 | $1.30 | $8,265.40 |
| ARMSTRONG | 1,589 | $1.30 | $2,065.70 |
| ATASCOSA | 26,373 | $1.30 | $34,284.90 |
| AUSTIN | 17,215 | $1.30 | $22,379.50 |
| BAILEY | 4,597 | $1.30 | $5,976.10 |
| BANDERA | 13,292 | $1.30 | $17,279.60 |
| BASTROP | 41,589 | $1.30 | $54,065.70 |
| BAYLOR | 3,135 | $1.30 | $4,075.50 |
| BEE | 24,794 | $1.30 | $32,232.20 |
| BELL | 169,236 | $1.30 | $220,006.80 |
| BEXAR | 996,458 | $1.30 | $1,295,395.40 |
| BLANCO | 6,368 | $1.30 | $8,278.40 |
| BORDEN | 550 | $1.30 | $715.00 |
| BOSQUE | 13,003 | $1.30 | $16,903.90 |
| BOWIE | 67,135 | $1.30 | $87,275.50 |
| BRAZORIA | 172,664 | $1.30 | $224,463.20 |
| BRAZOS | 119,680 | $1.30 | $155,584.00 |
| BREWSTER | 6,902 | $1.30 | $8,972.60 |
| BRISCOE | 1,305 | $1.30 | $1,696.50 |
| BROOKS | 5,459 | $1.30 | $7,096.70 |
| BROWN | 27,943 | $1.30 | $36,325.90 |
| BURLESON | 12,047 | $1.30 | $15,661.10 |
| BURNET | 25,779 | $1.30 | $33,512.70 |
| CALDWELL | 23,068 | $1.30 | $29,988.40 |
| CALHOUN | 14,767 | $1.30 | $19,197.10 |
| CALLAHAN | 9,527 | $1.30 | $12,385.10 |
| CAMERON | 221,932 | $1.30 | $288,511.60 |
| CAMP | 8,447 | $1.30 | $10,981.10 |
| CARSON | 4,700 | $1.30 | $6,110.00 |
| CASS | 22,869 | $1.30 | $29,729.70 |
| CASTRO | 5,541 | $1.30 | $7,203.30 |
| CHAMBERS | 18,507 | $1.30 | $24,059.10 |
| CHEROKEE | 34,383 | $1.30 | $44,697.90 |



CHART C State Plan Draft
Estimated Fund Allocation to Counties for General HAVA Requirements

| | | | |
|---|---|---|---|
| CHILDRESS | 5,989 | $1.30 | $7,785.70 |
| CLAY | 8,271 | $1.30 | $10,752.30 |
| COCHRAN | 2,554 | $1.30 | $3,320.20 |
| COKE | 2,922 | $1.30 | $3,798.60 |
| COLEMAN | 7,053 | $1.30 | $9,168.90 |
| COLLIN | 350,368 | $1.30 | $455,478.40 |
| COLLINGSWORTH | 2,360 | $1.30 | $3,068.00 |
| COLORADO | 15,171 | $1.30 | $19,722.30 |
| COMAL | 58,107 | $1.30 | $75,539.10 |
| COMANCHE | 10,475 | $1.30 | $13,617.50 |
| CONCHO | 3,328 | $1.30 | $4,326.40 |
| COOKE | 26,421 | $1.30 | $34,347.30 |
| CORYELL | 55,305 | $1.30 | $71,896.50 |
| COTTLE | 1,448 | $1.30 | $1,882.40 |
| CRANE | 2,722 | $1.30 | $3,538.60 |
| CROCKETT | 2,914 | $1.30 | $3,788.20 |
| CROSBY | 4,898 | $1.30 | $6,367.40 |
| CULBERSON | 2,018 | $1.30 | $2,623.40 |
| DALLAM | 4,244 | $1.30 | $5,517.20 |
| DALLAS | 1,599,868 | $1.30 | $2,079,828.40 |
| DAWSON | 11,148 | $1.30 | $14,492.40 |
| DEAF SMITH | 12,380 | $1.30 | $16,094.00 |
| DELTA | 3,964 | $1.30 | $5,153.20 |
| DENTON | 312,866 | $1.30 | $406,725.80 |
| DE WITT | 15,253 | $1.30 | $19,828.90 |
| DICKENS | 2,250 | $1.30 | $2,925.00 |
| DIMMIT | 6,847 | $1.30 | $8,901.10 |
| DONLEY | 2,972 | $1.30 | $3,863.60 |
| DUVAL | 9,252 | $1.30 | $12,027.60 |
| EASTLAND | 14,050 | $1.30 | $18,265.00 |
| ECTOR | 84,303 | $1.30 | $109,593.90 |
| EDWARDS | 1,546 | $1.30 | $2,009.80 |
| ELLIS | 77,716 | $1.30 | $101,030.80 |
| EL PASO | 462,199 | $1.30 | $600,858.70 |
| ERATH | 24,889 | $1.30 | $32,355.70 |
| FALLS | 13,440 | $1.30 | $17,472.00 |
| FANNIN | 23,992 | $1.30 | $31,189.60 |
| FAYETTE | 16,747 | $1.30 | $21,771.10 |
| FISHER | 3,304 | $1.30 | $4,295.20 |

CHART C State Plan Draft
Estimated Fund Allocation to Counties for General HAVA Requirements

| | | | |
|---|---|---|---|
| FLOYD | 5,332 | $1.30 | $6,931.60 |
| FOARD | 1,203 | $1.30 | $1,563.90 |
| FORT BEND | 240,980 | $1.30 | $313,274.00 |
| FRANKLIN | 7,159 | $1.30 | $9,306.70 |
| FREESTONE | 13,645 | $1.30 | $17,738.50 |
| FRIO | 11,592 | $1.30 | $15,069.60 |
| GAINES | 9,402 | $1.30 | $12,222.60 |
| GALVESTON | 183,289 | $1.30 | $238,275.70 |
| GARZA | 3,506 | $1.30 | $4,557.80 |
| GILLESPIE | 16,327 | $1.30 | $21,225.10 |
| GLASSCOCK | 935 | $1.30 | $1,215.50 |
| GOLIAD | 5,135 | $1.30 | $6,675.50 |
| GONZALES | 13,421 | $1.30 | $17,447.30 |
| GRAY | 17,282 | $1.30 | $22,466.60 |
| GRAYSON | 82,620 | $1.30 | $107,406.00 |
| GREGG | 81,588 | $1.30 | $106,064.40 |
| GRIMES | 17,715 | $1.30 | $23,029.50 |
| GUADALUPE | 63,693 | $1.30 | $82,800.90 |
| HALE | 25,532 | $1.30 | $33,191.60 |
| HALL | 2,753 | $1.30 | $3,578.90 |
| HAMILTON | 6,270 | $1.30 | $8,151.00 |
| HANSFORD | 3,795 | $1.30 | $4,933.50 |
| HARDEMAN | 3,526 | $1.30 | $4,583.80 |
| HARDIN | 34,715 | $1.30 | $45,129.50 |
| HARRIS | 2,416,022 | $1.30 | $3,140,828.60 |
| HARRISON | 45,441 | $1.30 | $59,073.30 |
| HARTLEY | 4,385 | $1.30 | $5,700.50 |
| HASKELL | 4,646 | $1.30 | $6,039.80 |
| HAYS | 73,683 | $1.30 | $95,787.90 |
| HEMPHILL | 2,412 | $1.30 | $3,135.60 |
| HENDERSON | 55,426 | $1.30 | $72,053.80 |
| HIDALGO | 368,461 | $1.30 | $478,999.30 |
| HILL | 23,961 | $1.30 | $31,149.30 |
| HOCKLEY | 16,098 | $1.30 | $20,927.40 |
| HOOD | 31,407 | $1.30 | $40,829.10 |
| HOPKINS | 23,605 | $1.30 | $30,686.50 |
| HOUSTON | 17,807 | $1.30 | $23,149.10 |
| HOWARD | 25,488 | $1.30 | $33,134.40 |
| HUDSPETH | 2,203 | $1.30 | $2,863.90 |



CHART C State Plan Draft
Estimated Fund Allocation to Counties for General HAVA Requirements

| | | | |
|---|---|---|---|
| HUNT | 56,268 | $1.30 | $73,148.40 |
| HUTCHINSON | 17,310 | $1.30 | $22,503.00 |
| IRION | 1,298 | $1.30 | $1,687.40 |
| JACK | 6,712 | $1.30 | $8,725.60 |
| JACKSON | 10,448 | $1.30 | $13,582.40 |
| JASPER | 26,165 | $1.30 | $34,014.50 |
| JEFF DAVIS | 1,668 | $1.30 | $2,168.40 |
| JEFFERSON | 186,727 | $1.30 | $242,745.10 |
| JIM HOGG | 3,613 | $1.30 | $4,696.90 |
| JIM WELLS | 26,975 | $1.30 | $35,067.50 |
| JOHNSON | 90,294 | $1.30 | $117,382.20 |
| JONES | 16,111 | $1.30 | $20,944.30 |
| KARNES | 12,081 | $1.30 | $15,705.30 |
| KAUFMAN | 50,486 | $1.30 | $65,631.80 |
| KENDALL | 17,277 | $1.30 | $22,460.10 |
| KENEDY | 293 | $1.30 | $380.90 |
| KENT | 682 | $1.30 | $886.60 |
| KERR | 33,760 | $1.30 | $43,888.00 |
| KIMBLE | 3,412 | $1.30 | $4,435.60 |
| KING | 236 | $1.30 | $306.80 |
| KINNEY | 2,511 | $1.30 | $3,264.30 |
| KLEBERG | 22,949 | $1.30 | $29,833.70 |
| KNOX | 3,073 | $1.30 | $3,994.90 |
| LAMAR | 35,831 | $1.30 | $46,580.30 |
| LAMB | 10,353 | $1.30 | $13,458.90 |
| LAMPASAS | 12,864 | $1.30 | $16,723.20 |
| LA SALLE | 4,143 | $1.30 | $5,385.90 |
| LAVACA | 14,562 | $1.30 | $18,930.60 |
| LEE | 11,148 | $1.30 | $14,492.40 |
| LEON | 11,610 | $1.30 | $15,093.00 |
| LIBERTY | 50,777 | $1.30 | $66,010.10 |
| LIMESTONE | 16,451 | $1.30 | $21,386.30 |
| LIPSCOMB | 2,214 | $1.30 | $2,878.20 |
| LIVE OAK | 9,570 | $1.30 | $12,441.00 |
| LLANO | 14,333 | $1.30 | $18,632.90 |
| LOVING | 54 | $1.30 | $70.20 |
| LUBBOCK | 180,367 | $1.30 | $234,477.10 |
| LYNN | 4,506 | $1.30 | $5,857.80 |
| MCCULLOCH | 6,019 | $1.30 | $7,824.70 |

CHART C State Plan Draft
Estimated Fund Allocation to Counties for General HAVA Requirements

| | | | |
|---|---|---|---|
| MCLENNAN | 156,687 | $1.30 | $203,693.10 |
| MCMULLEN | 652 | $1.30 | $847.60 |
| MADISON | 10,207 | $1.30 | $13,269.10 |
| MARION | 8,496 | $1.30 | $11,044.80 |
| MARTIN | 3,136 | $1.30 | $4,076.80 |
| MASON | 2,902 | $1.30 | $3,772.60 |
| MATAGORDA | 26,575 | $1.30 | $34,547.50 |
| MAVERICK | 29,838 | $1.30 | $38,789.40 |
| MEDINA | 27,925 | $1.30 | $36,302.50 |
| MENARD | 1,788 | $1.30 | $2,324.40 |
| MIDLAND | 80,975 | $1.30 | $105,267.50 |
| MILAM | 17,582 | $1.30 | $22,856.60 |
| MILLS | 3,835 | $1.30 | $4,985.50 |
| MITCHELL | 7,777 | $1.30 | $10,110.10 |
| MONTAGUE | 14,528 | $1.30 | $18,886.40 |
| MONTGOMERY | 207,036 | $1.30 | $269,146.80 |
| MOORE | 13,368 | $1.30 | $17,378.40 |
| MORRIS | 9,759 | $1.30 | $12,686.70 |
| MOTLEY | 1,084 | $1.30 | $1,409.20 |
| NACOGDOCHES | 44,995 | $1.30 | $58,493.50 |
| NAVARRO | 32,830 | $1.30 | $42,679.00 |
| NEWTON | 11,127 | $1.30 | $14,465.10 |
| NOLAN | 11,521 | $1.30 | $14,977.30 |
| NUECES | 224,528 | $1.30 | $291,886.40 |
| OCHILTREE | 6,254 | $1.30 | $8,130.20 |
| OLDHAM | 1,420 | $1.30 | $1,846.00 |
| ORANGE | 61,783 | $1.30 | $80,317.90 |
| PALO PINTO | 20,004 | $1.30 | $26,005.20 |
| PANOLA | 17,015 | $1.30 | $22,119.50 |
| PARKER | 64,139 | $1.30 | $83,380.70 |
| PARMER | 6,721 | $1.30 | $8,737.30 |
| PECOS | 12,160 | $1.30 | $15,808.00 |
| POLK | 31,698 | $1.30 | $41,207.40 |
| POTTER | 81,747 | $1.30 | $106,271.10 |
| PRESIDIO | 4,915 | $1.30 | $6,389.50 |
| RAINS | 6,968 | $1.30 | $9,058.40 |
| RANDALL | 77,100 | $1.30 | $100,230.00 |
| REAGAN | 2,189 | $1.30 | $2,845.70 |
| REAL | 2,333 | $1.30 | $3,032.90 |



CHART C State Plan Draft
Estimated Fund Allocation to Counties for General HAVA Requirements

| | | | |
|---|---|---|---|
| RED RIVER | 10,900 | $1.30 | $14,170.00 |
| REEVES | 9,214 | $1.30 | $11,978.20 |
| REFUGIO | 5,784 | $1.30 | $7,519.20 |
| ROBERTS | 665 | $1.30 | $864.50 |
| ROBERTSON | 11,485 | $1.30 | $14,930.50 |
| ROCKWALL | 30,127 | $1.30 | $39,165.10 |
| RUNNELS | 8,398 | $1.30 | $10,917.40 |
| RUSK | 35,581 | $1.30 | $46,255.30 |
| SABINE | 8,258 | $1.30 | $10,735.40 |
| SAN AUGUSTINE | 6,822 | $1.30 | $8,868.60 |
| SAN JACINTO | 16,647 | $1.30 | $21,641.10 |
| SAN PATRICIO | 46,260 | $1.30 | $60,138.00 |
| SAN SABA | 4,460 | $1.30 | $5,798.00 |
| SCHLEICHER | 2,115 | $1.30 | $2,749.50 |
| SCURRY | 12,245 | $1.30 | $15,918.50 |
| SHACKELFORD | 2,421 | $1.30 | $3,147.30 |
| SHELBY | 18,518 | $1.30 | $24,073.40 |
| SHERMAN | 2,186 | $1.30 | $2,841.80 |
| SMITH | 128,208 | $1.30 | $166,670.40 |
| SOMERVELL | 4,874 | $1.30 | $6,336.20 |
| STARR | 33,555 | $1.30 | $43,621.50 |
| STEPHENS | 7,313 | $1.30 | $9,506.90 |
| STERLING | 993 | $1.30 | $1,290.90 |
| STONEWALL | 1,307 | $1.30 | $1,699.10 |
| SUTTON | 2,904 | $1.30 | $3,775.20 |
| SWISHER | 6,040 | $1.30 | $7,852.00 |
| TARRANT | 1,039,747 | $1.30 | $1,351,671.10 |
| TAYLOR | 92,895 | $1.30 | $120,763.50 |
| TERRELL | 794 | $1.30 | $1,032.20 |
| TERRY | 9,143 | $1.30 | $11,885.90 |
| THROCKMORTON | 1,384 | $1.30 | $1,799.20 |
| TITUS | 19,600 | $1.30 | $25,480.00 |
| TOM GREEN | 76,879 | $1.30 | $99,942.70 |
| TRAVIS | 619,336 | $1.30 | $805,136.80 |
| TRINITY | 10,625 | $1.30 | $13,812.50 |
| TYLER | 16,034 | $1.30 | $20,844.20 |
| UPSHUR | 25,771 | $1.30 | $33,502.30 |
| UPTON | 2,406 | $1.30 | $3,127.80 |
| UVALDE | 17,795 | $1.30 | $23,133.50 |

CHART C State Plan Draft
Estimated Fund Allocation to Counties for General HAVA Requirements

| | | | |
|---|---|---|---|
| VAL VERDE | 30,474 | $1.30 | $39,616.20 |
| VAN ZANDT | 35,841 | $1.30 | $46,593.30 |
| VICTORIA | 59,586 | $1.30 | $77,461.80 |
| WALKER | 50,642 | $1.30 | $65,834.60 |
| WALLER | 24,277 | $1.30 | $31,560.10 |
| WARD | 7,573 | $1.30 | $9,844.90 |
| WASHINGTON | 22,868 | $1.30 | $29,728.40 |
| WEBB | 123,255 | $1.30 | $160,231.50 |
| WHARTON | 29,351 | $1.30 | $38,156.30 |
| WHEELER | 3,969 | $1.30 | $5,159.70 |
| WICHITA | 98,544 | $1.30 | $128,107.20 |
| WILBARGER | 10,582 | $1.30 | $13,756.60 |
| WILLACY | 13,730 | $1.30 | $17,849.00 |
| WILLIAMSON | 175,065 | $1.30 | $227,584.50 |
| WILSON | 22,956 | $1.30 | $29,842.80 |
| WINKLER | 5,033 | $1.30 | $6,542.90 |
| WISE | 34,990 | $1.30 | $45,487.00 |
| WOOD | 28,725 | $1.30 | $37,342.50 |
| YOAKUM | 4,972 | $1.30 | $6,463.60 |
| YOUNG | 13,458 | $1.30 | $17,495.40 |
| ZAPATA | 8,157 | $1.30 | $10,604.10 |
| ZAVALA | 7,644 | $1.30 | $9,937.20 |



## Chart D-Definitions of "Vote"

| | |
|---|---|
| Punch Card | Current law-Section 127.130(d) of the Texas Election Code:<br><br>(d) Subject to Subsection (e), in any manual count conducted under this code, a vote on a ballot on which a voter indicates a vote by punching a hole in the ballot may not be counted unless:<br><br>(1) at least two corners of the chad are detached;<br><br>(2) light is visible through the hole;<br><br>(3) an indentation on the chad from the stylus or other object is present and indicates a clearly ascertainable intent of the voter to vote; or<br><br>(4) the chad reflects by other means a clearly ascertainable intent of the voter to vote.<br><br>(e) Subsection (d) does not supersede any clearly ascertainable intent of the voter. |
| **Optical Scan, Direct Recording Electronic, and Paper Ballot Systems** | Effective January 1, 2004, Section 65.009(d) of the Texas Election Code will provide:<br><br>The intent of the voter in marking a ballot may be determined by: (1) a distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition; (2) an oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition; (3) a line drawn through: (A) the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office; (B) the name of each political party except one in a manner that clearly indicates a preference for the political party not marked; or (C) a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or (4) any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition. |

# Utah State Plan on Election Reform

**Amended on September 25, 2003**

## Introduction

On October 29, 2002, President Bush signed the Help America Vote Act (HAVA) into law. Under this Act, each state is required to submit a State Plan which will be the guiding document for all changes to the elections process over the next several years.

Under the direction of Lt. Governor Olene S. Walker, the Utah State Plan Committee on Election Reform held its first meeting on November 8, 2002. Through many subsequent meetings with this committee and other groups, Utah has completed its initial state planning process.

It is anticipated that this document will be revised several times as the State works toward improving elections. Most of the items included in the plan are based on the assumption that the Help America Vote Act will be fully funded by Congress over the next 3 years.

## Authority

This plan is prepared under the authority of 42 USC 15404.

## Utah—A Brief Overview of our Current Practices and Procedures

A. Voting Equipment

Utah is primarily a punch card state. Twenty-three of Utah=s twenty-nine counties use the punch card, two counties use optical scan and four counties use paper ballots. The greatest portion of our time and money will be spent replacing the punch cards and training elections officials and voters on new equipment. It is our goal to have greater uniformity in our state and to ensure that all individuals have access to the election process.

B. Statewide Database

In addition to the purchase of new equipment, Utah is working to ensure that our statewide database is a single, centralized database. Our in-house IT staff is currently developing this database with the assistance of several county clerks and their IT departments. The state will have the responsibility of training the county clerks on the new system.



C. HAVA Compliance

During the 2003 Legislative Session HB 102, HB 103, SB 55 and SB 68 were passed as part of the HAVA compliance package requested by Lt. Governor Walker. Utah is now in compliance with the voter ID and provisional ballot requirements of HAVA.

D. Voter Outreach

Voter outreach has been a top priority in the State and will continue to be. Utah is especially committed to ensuring the participation of young people in the election process.

Four years ago, Lt. Governor Walker established the College Council on Civic Awareness, which is made up of representatives from all the college campuses in Utah. Each council member has an organization on his or her own college campus that plans voter outreach and voter registration activities. The mission of this group will be expanded to include encouraging college students to serve as poll workers and assisting voters and election judges in learning new technology.

In order to educate young people about the importance of voting, Utah is actively involved in the Student/Parent Mock Election. Also, all young adults receive a combination birthday card/voter registration form on their eighteenth birthday.

The Lt. Governor's Office also partners with a local cable company and community leaders to produce public service announcements that encourage voting. We have also partnered with local grocery stores and other community groups to "get the word out." We plan to continue these partnerships in reaching out to voters and educating them on the many changes that will occur in the elections process.

Utah publishes a Voter Information Pamphlet, which contains valuable information about candidates, ballot issues, voter registration and what to expect at the polling place. It is currently inserted into every newspaper in the State. It is our goal to ensure that this Pamphlet is mailed to every household in the State. The Pamphlet is also accessible to persons who are blind or visually impaired as it is made available in Braille and on audiotape.

E. Legislative Changes

Lt. Governor Walker and the county clerks are working with the Utah Legislature to implement early voting. After several discussions, the county clerks and the State Plan Committee determined that because voting equipment is only used twice each year, early voting would allow us to administer the election without purchasing excess equipment.

**Timeline**

| Date (Approximate) | Action |
|---|---|
| October 29, 2002 | HAVA signed into law. |
| November 8, 2002 | Lt. Governor Walker convenes the first meeting of the State Plan Committee. |
| November 13, 2002 | Lt. Governor Walker presents an outline of goals under the new federal law to the Utah County Clerks Association. |
| November 20, 2002 | Lt. Governor Walker presents an outline of goals under the new federal law to the Utah Legislature=s Government Operations Interim Committee. |
| February 7, 2003 | Lt. Governor Walker presents an outline of the goals to the Utah county commissioners. |
| April 1, 2003 | Final meeting of State Plan Committee. |
| April 17, 2003 | Lt. Governor Walker presents the State Plan to the county clerks and county commissioners. |
| April 24, 2003 | Utah opts in on Title I money, including punch card buyout funds. |
| April 28, 2003 | Lt. Governor Walker releases State Plan for public comment. |
| May-June 2003 | Public hearings. |
| To be determined when Commission is formed | Submit State Plan to Election Assistance Commission (Federal) and State Administrative Rules. |
| January 2004 | Award contract for voting equipment. |
| June 2004 | Implement equipment in a few select precincts. |
| January 2005 | Begin conversion from punch card (statewide). |
| January 2006 | Complete statewide database conversion. |
| November 2006 | Complete voting equipment conversion. |



**Required Descriptions**

*Sec. 254. State Plan.*

*(a) IN GENERAL.—The State plan shall contain a description of each of the following:*

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

A. Utah will "opt in" on the punch card buyout. All punch card machines will be replaced with a Direct Recording Electronic (DRE) voting system by 2006, assuming the State receives full funding from the federal government. The State will select the DRE voting system through the State Request for Proposal (RFP) process. The DRE system will meet the requirements of title III of HAVA. One unit per polling place will include an audio component for voters who are blind or visually impaired.

It is anticipated that the State will first purchase one piece of DRE equipment for every polling place in the State to comply with Title III of HAVA. With adequate funding and a decision made on the type of equipment the State will purchase, this implementation may begin as early as June 2004. If full funding is received, the punch card replacement will continue through 2005 until all are replaced by November of 2006. The State will be responsible for working with the counties to implement and maintain the equipment.

B. The Lt. Governor's Office is currently working with the county clerks on defining a vote as required by HAVA. A bill will be presented in the 2004 general session of the legislature.

C. Utah=s provisional ballot procedure complies with federal law. Beginning in 2004, counties will either provide a toll-free number or website where voters can find out if their ballot was counted.

D. The new materials required by HAVA to be displayed in the polling places will be in place for the June 2004 primary election. The State, in cooperation with the county clerks, will design the materials to ensure uniformity. The new materials will include information on obtaining a provisional ballot, a voter's bill of rights, information regarding voter fraud and other general voting instructions.

E. Utah=s statewide voter database will be modified to be a single, centralized database. It will be developed by the Lt. Governor=s Office in coordination with county clerks. All counties will be on-line by 2006.

F. Utah complies with the HAVA requirements for the additional wording on voter registration forms. Utah law now requires first-time voters in a jurisdiction to present identification at the time of registration or at the polls on election day. These requirements were put into law during the 2003 legislative session.

*(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 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).*

A. The State Plan Committee will meet twice each calendar year to review all payments made out of the fund.

B. A county may request monies from the fund only for the purpose of purchasing new equipment when the number of registered voters increases. Requests must be made in writing to the Lt. Governor and approved by the State Plan Committee. The State Plan Committee will oversee all payments made from the fund.

C. Counties must do the following in order to receive equipment purchased by the State:

1. Ensure the physical accessibility of polling places based on the survey provided by the Lt. Governor's Office or a comparable survey.

2. Comply with title III of the Help America Vote Act.

3. Appropriate at least the same amount of funding based on their budget during the 2000 general election year for each subsequent general election year. This requirement is in place until all federal monies in the election fund are spent.

4. Commit to maintenance of voter registration lists and cooperate with the State in establishing a shared voter registration database.

5. Develop a county plan in coordination with the State Plan by September 1, 2003. The Lt. Governor's Office will provide written guidelines on the items that must be included in the county plan.

6. Enter into a contract with the State before voting equipment is delivered. The contract will allow the counties to own the voting equipment and require them to provide storage, proper maintenance and security.



7. Establish a free access system (toll-free number or website) that an individual who casts a provisional ballot may access to find out whether the absentee ballot was counted and if not, the reason it was not counted.

8. Comply with the complaint procedures outlined by the State, which includes informing the citizens of the process.

9. Post the new required information at the polling place that is provided by the State in accordance with Utah Code 20A-5-102.

10. Comply with the fiscal responsibilities under the proposed budget in *Section 6* of this plan.

D. Counties must meet deadlines established by HAVA and this plan for the replacement of punch cards or return monies for precincts where the machines are not replaced.

*(3) How the State will provided 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.*

The Lt. Governor's Office is responsible for further definition of these recommendations. It is anticipated that the Lt. Governor's Office will hire a full-time project manager to oversee voter education and training and that a more specific plan will be developed at a later time.

A. The State will use the Lt. Governor=s College Council on Civic Awareness to recruit trainers and poll workers. Utah will seek grants to train college students on the new voting equipment so that they, in turn, can train poll workers and voters.

B. The State will work with the advocates for persons with disabilities to devise an outreach and education program to train these voters on the new equipment. The Division of Services for the Blind and Visually Impaired has volunteered to coordinate this training.

B. The State, in cooperation with the county clerks, will design a uniform and standardized training for all judges by the 2006 election. All judges will be required to attend training, except in cases of emergency.

C. Legislation will be introduced to make pay for election judges uniform statewide.

D. Legislation will be introduced to allow 17-year-olds to work at polling places. We will work with Office of Education to help students get credit for working at polls.

E. Legislation will be introduced to fund the mailing of the Voter Information Pamphlet to every household.

F. The State, in conjunction with a college and/or university, will design a certification program for county clerks, their staffs and others.

G. The new machines will be demonstrated in malls and other public places. The State and counties will also contact businesses, service organizations, church groups, civic groups and others to demonstrate the new voting equipment.



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

The State Plan Committee will ensure that the voting system selected and purchased by the State of Utah is compliant with title III of HAVA.

*(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.*

The Lt. Governor's Office has established a fund to receive federal money. All disbursements from the fund will need two out of three of the following signatures: Lt. Governor, Director of Elections and/or Office of Planning and Budget representative.

*(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.*

The proposed budget assumes that Utah will receive 28 million dollars if HAVA is fully funded and we are able to fund a 5% match. Currently the State has $140,000 set aside towards the 5% match. The additional match will come from county contributions to the fund, which will total approximately 1.2 million dollars under the proposed budget.

Budget information is likely to change periodically. Revisions will be on file in the Utah State Elections Office. It is anticipated that no funds will be spent during Fiscal Year 2003.

| **Amount (in dollars)** | **Purpose (Over a ten year period)** |
|---|---|
| 3 million | Rotating fund for the purchase of additional equipment as numbers of registered voters increase |
| 1 million | Maintenance of equipment, technical support, 1 full-time employee, programming of equipment |
| 1.5 million | Mailing of Voter Pamphlet to every household |
| .5 million | Training of elections officials and judges |
| 20.5 million* | New electronic voting equipment (punch card replacement)<br>➢ 1st machine—Purchased by the State out of the Election Fund.<br>➢ 2nd machine—Counties contribute $170, remainder paid by the State from the Fund.<br>➢ 3rd machine—Counties contribute $170, remainder paid by the State from the Fund (only 4/5 of the precincts are eligible for the 3rd machine.)<br>➢ 4th machine—Counties contribute $170, remainder paid by the State from the Fund (only 3/4 of the precincts are eligible for the 4th machine.)<br>➢ 5th machine—Counties contribute $170, remainder paid by the State from the Fund (only 3/4 of the precincts are eligible for the 5th machine.)<br>➢ Additional machines—purchased by the counties at a price negotiated by the State with the vendor. |
| 1 million | Statewide database, maintenance, 1 full-time employee |
| .5 million | Voter outreach and education, signs, PSA's |
| **28 million** | **Total if fully funded** |

* Estimate. A detailed breakdown of county cost is on file in the State Elections Office.



*(7) How the State, in using the requirements payment, will maintain 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.*

| **Item** | **Amount** |
|---|---|
| 25% of Voter Registration Coordinator=s salary | $6,000 |
| 25% of Voter Outreach Coordinator=s salary | $6,000 |
| Voter Registration Forms | $14,630 |
| Mailings | $2,283 |
| Other Office Expenses (phone, etc.) | $1750 |
| Voter Information Pamphlet | $305,370 |
| **Total Maintenance Of Effort** | **$336,033** |

The documentation on how the State arrived at this maintenance of effort is on file with the State Elections Office.

*(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 held responsible for ensuring that each performance goal is met.*

A. Provisional ballot (Target date 2004)
- Number of complaints from voters turned away from the polls before and after the implementation of the provisional ballot.
  Responsibility: county clerks
- Track the number of provisional ballots issued and the number counted.
  Responsibility: county clerks

B. Statewide Database (Target date 2005)
- Accuracy of the Statewide database: complete voter history, number of duplicates, NVRA mailings sent and number of responses received.
  Responsibility: Lt. Governor's Office, county clerks

C. Polling Places (Target date 2004)
- Number of inaccessible polling places and the number corrected.
  Responsibility: county clerks, Lt. Governor's Office, disability advocates (grants)

D. Equipment (Target date 2006)
- Satisfaction of the visually impaired with the new equipment—survey.
  Responsibility: Disability advocates on State Plan Committee
- Number of punch card machines replaced.
  Responsibility: Lt. Governor's Office, county clerks

E. Education and Training (Target date 2006)
- Accessibility of election materials to voters with disabilities. This includes the Voter Information Pamphlet and other materials in audio and Braille.
  Responsibility: Lt. Governor's Office
- Number of judges trained on new equipment.
  Responsibility: Lt. Governor's Office, county clerks
- Number of county clerks, staffs and other election officials trained and certified by the State.
  Responsibility: Lt. Governor's Office
- Number of households who receive the Voter Information Pamphlet in the mail.
  Responsibility: Lt. Governor's Office



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

A. All administrative complaint proceedings will be designated as informal and conducted in accordance with Utah Code Title 63, Chapter 46b, *Administrative Procedures Act*.

B. A committee will be formed to review the notarized complaints. The committee will consist of two political party representatives, two county clerks (one urban and one rural), the state elections office, and two advocacy representatives (including one from the visually impaired community). After reviewing the complaint, the committee may refer it to mediation or court as necessary.

C. It is anticipated that most complaints that are received over the phone or other written complaints will be resolved immediately without using the formal complaint procedure.

*(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.*

As previously stated, Utah will accept the title I payments for the punch card buyout. However, at the date of the submission of this plan, no federal funds have been received. Payments will be allocated according to the proposed budget described in *Section 6*.

*(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 State Plan Committee will meet at least twice each calendar year to review the budget. At these meetings the committee will also review the progress of the items addressed in the State Plan and make necessary changes. The State Plan committee will also convene as needed when requested by the Lt. Governor.

*(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.*

This section is not applicable to the current year.



*(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 Plan Committee met from November 2002 to June 2003 to develop the State Plan. Minutes were kept at each of the meetings to document the discussions and the decisions made by the committee. Minutes of those meetings are on file in the State Elections Office. Committee members are:

Hon. Patrice Arent, Utah State Senate (D)
Hon. Dan Eastman, Utah State Senate (R)
Bill Gibson, Division of Services for the Blind and Visually Impaired
Kim Jackson, Utah County Clerk (R)
Linda Lunceford, Weber County Clerk (R)
Amy Naccarato, Director, State Elections Office
Liz McCoy, Disability Law Center
Hon. Loraine Pace, Utah State House of Representatives (R)
Sandy Peck, League of Women Voters
Robert Pero, Carbon County Clerk (D)
Steve Rawlings, Davis County Clerk (R)
Thom Roberts, Attorney General=s Office
Scott Simpson, Executive Director, Utah Republican Party
Sherrie Swensen, Salt Lake County Clerk (D)
Todd Taylor, Executive Director Utah Democrats
Hon. Olene S. Walker, Lieutenant Governor

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# Vermont State Plan
# To Implement the Help America Vote Act of 2002

**(As required by Public Law 107-252, Section 253(b))**

**Published by the Vermont Secretary of State, Deborah L. Markowitz**
**With the Advice of the Vermont State Advisory Committee**

**Final Plan As Submitted**

**July 28, 2003**

July 28, 2003

Dear Citizens of Vermont,

I am proud to share this Final Vermont State Plan for implementing the Help America Vote Act (HAVA) of 2002. Passed by Congress in response to the 2000 Presidential Election, HAVA requires state and local governments to reform elections processes and systems and it provides federal funding to help with these improvements.

We are fortunate that in such difficult budgetary times Vermont will have the necessary federal resources to build on our strong foundation of election accomplishments and make the improvements required by the Act. These changes will enhance the integrity of our voter registration process, increase privacy and independence for voters with disabilities, improve the elections systems that support our election process and provide better information to Vermonters on how to vote.

A steering committee of state and local elections officials, legislators and representatives of interest and advocacy groups have worked with our staff to develop the Vermont State Plan to implement HAVA 2002. The draft plan was published on May 16, 2003 and widely circulated in print copies and posted on the website of the office of the secretary of state. Two public hearings were held on May 27, 2003, at the Sharon Elementary School in Sharon, Vt., at 5:30 p.m. and on June 2, 2003, at the Williston Town Offices in Williston, Vt., at 7:00 p.m. We received no public comments at these hearings.

Our office received one email comment on the draft state plan from the Vermont League of Cities and Towns relating to towns using paper ballots. We have clarified one statement at page 11 of the plan so that all who read the state plan will understand that any town in Vermont can continue to use paper ballots with a hand count to tabulate the vote until the town electorate decides to vote to use voting machines. However, every polling place in Vermont will have at least one voting system that can be used privately and independently by blind or visually impaired voters no later than January 1, 2006.

I want to thank the HAVA Advisory Committee and four working groups' members who have committed considerable time and dedication to the creation of this plan. Their involvement ensures that Vermont will have an accessible, uniform, statewide voting system that will meet both the spirit and letter of the law. I look forward to continuing to work with these groups and with all election officials in Vermont to continue to improve Vermont elections through the implementation of HAVA.

Sincerely,

Deborah L. Markowitz
Secretary of State

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### Introduction to Vermont Elections Administration

Under the Vermont Constitution and Vermont statutes, the Office of the Secretary of State, Elections Division, receives all petitions and consent forms for statewide and federal candidates, receives consent forms from local and county clerks for candidates for the general assembly and county office and then prepares all of the ballot styles for each polling place for all Primary and General Elections. The Office of the Secretary of State also provides all election warnings and notices, all election supplies and materials including absentee envelopes, tally and summary sheets and the Official Return of Vote form that must be completed for each polling place.

In Vermont, and most of New England, the principal form of administration of government activities is the Town or City and not County government. In Vermont, the municipal Board of Civil Authority (BCA) selects the location of polling places and supervises and administers all elections. Each Board of Civil Authority is composed of Selectboard members, the Town Clerk and elected Justices of the Peace. The Town Clerk serves as the Presiding Officer unless the Town has voted otherwise, or if a town has more than one polling place, in which case the BCA appoints additional presiding officers.

There are 280 polling places within 246 municipalities in Vermont (9 Cities and 237 Towns) that have responsibility for administering primary and general elections within the jurisdiction. As part of the implementation of HAVA we will be recommending the elimination of more than one polling place to several towns with less than 1,000 voters on the checklist. The 246 municipalities range in size from a population of 38,889 in Burlington to only 96 residents in Searsburg. Burlington, with 31,778 and Essex Town, with 13,948 are the only municipalities in Vermont with over 10,000 voters on the checklist. More than 50% of Vermont's municipalities (134 towns) have less than 1,000 voters on the checklist, including 30 towns with less than 300 voters.

As of the 2000 census, the voting age population in Vermont was 461,304. As of the 2002 General Election, 409,000 voters were on the 246 Vermont checklists and 233,000 voters participated in the general election. We believe that the 409,000 (number of voters on the checklists in Vermont) is inflated due to the provisions of the NVRA that mandate that a voter remain on a checklist for at least two general elections after the local election authority has reason to believe the voter has moved if he or she does not respond in writing to authorize removal from the checklist.

In the 2002 General Election, 184 municipalities voted using paper ballots with hand counting performed under the direction of the local Board of Civil Authority. Sixty-two (62) municipalities used optical scanner vote tabulating machines (one of 4 models, all of which are NASED approved). Approximately 26% of Vermont voters used Accuvote optical scanner machines, at 35 polling places, 17% used Optec IIIP machines at 24 polling places, 12% used Optec Eagle machines at 14 polling places, and 3% used ES & S Model 100 machines at 5 polling places.

Under current Vermont law, the Town must vote to decide to use voting machines instead of the paper ballot hand count method. We expect that approximately 10 to 20 more towns may vote to use voting machines within the next 5 years. We expect that many towns, especially those towns with less than 1,000 voters on the checklist will continue to vote using the paper ballot hand count method.

**Narrative of Required Elements in Vermont State Plan**

The Vermont State Plan is organized according to the outline provided in Section 254 of the Help America Vote Act. The following thirteen sections correspond to the thirteen elements that must be included in the state plan as set out in Section 254(a) of HAVA2002. Each section contains a description of current election administration and then outlines how Vermont will implement the requirements of HAVA2002.

**I. Section 254(a)(1). How the State of Vermont will use the first Requirements Payment to meet the requirements of Title III and to improve the administration of federal elections (after the requirements of Title III have been met).**

Background

Vermont has established a Vermont Election Fund, and the payment of $5 million under Title 1, Section 101, sometimes called "Early Out Money" has been deposited into this special fund. HAVA2002 provided this first payment of No Year, No Match funds to allow states to use this funding to prepare its state plan, meet requirements of Title III, and to improve the administration of federal elections.

Because Vermont has a small statewide population, yet a large number of local jurisdictions administering elections, Vermont has the opportunity to develop and implement some unique processes and technologies to meet the requirements of Title III, improve the administration of federal elections, and yet maintain local administration of elections. This local control is an important part of the fabric of rural life in Vermont and New England.

Our smaller jurisdictions, towns with checklists of less than 1,000 voters, may feel strongly that they want to continue the tradition of using paper ballots with hand counting by local election officials under the supervision of the Presiding Officer and Board of Civil Authority. It is a system of administration that has worked very well in Vermont for over 100 years and allows interested residents to actively participate in their local governance.

If as we predict, many towns take the option to continue using paper ballots, Vermont may be able to use a portion of the proposed requirements payments to assist towns in maintaining machines and programming machines.

Under current Vermont statutes, checklists are maintained by the Town Clerk and Board of Civil Authority in each municipality in Vermont. The Vermont House Local Government Committee has introduced a committee bill to implement HAVA that includes an amendment to create a statewide checklist to be maintained by the Office of the Secretary of State.

Vermont will use the $5 million of "no year, no match" money that we have already deposited into the Vermont Election Fund to begin to meet the requirements of Title III in Vermont FY 2003 and FY 2004. Vermont is requesting the first requirements payment in order to continue to meet the mandates of Title III and to carry out other activities to improve the administration of federal elections in future fiscal years. Vermont proposes to use the early out money and the first requirements payment to meet Title III requirements as follows:



**Develop and implement the Statewide Voter Registration Checklist**

- Within the Office of the Secretary of State, the Elections Division will define, maintain, and administer the single, uniform, official, centralized, interactive computerized statewide voter registration list on or before January 1, 2006. Vermont has requested a waiver of the January 1, 2004 deadline in order to have sufficient time to develop the system, purchase and install the necessary hardware and software in up to 246 municipalities, and train officials in 246 jurisdictions in the use of the system.
    - We estimate that meeting these requirements will cost between $600,000 and $1,000,000.
    - The statewide checklist will involve continuing costs to maintain at an estimated $100,000 each year.
    - It is extremely difficult to predict whether our planned training and support for local election officials will be sufficient or whether we will need to add additional staff to accomplish this ongoing support.

**New federal voter registration requirements for mail-in registrants**

- New Application to the Checklist must be prepared, printed and distributed to include either Driver's license number, last 4 digits of the SSN, or unique identifier assigned by the Secretary of State.
- SOS and Commissioner of Motor Vehicles have entered into an agreement to match information in the checklist and DMV databases.
- New Application asks eligibility questions exactly as stated in HAVA2002, §303(b)(4)(A).
    - We estimate that meeting these requirements will cost $20,000.
    - The requirements will involve continuing costs to maintain at $20,000 for each odd numbered year.

**Voting Systems Standards Requirements**

Because the state, through its Secretary of State, is already producing all of the ballots for all federal elections in Vermont, legislation has been introduced in Vermont to amend our statutes to allow the Secretary of State to designate one voting machine to be used by all municipalities that vote to use voting machines.

If the State of Vermont designates one voting system to be used by all municipalities that have voted to use machines, the state would purchase the new voting machines for the towns that have already purchased a different machine rather than give the money to local units of government to purchase machines.

This would allow the state to select one voting system that can best meet the needs of all Vermont voters, including the disabled, blind and visually impaired and also allow the state to use one database and desktop publisher to prepare all the ballots, instead of the fragmented system now in use.

- Replacing optic scanning machines to meet the voting system standards will cost an estimated $600,000.

**Access to Voting for People with Disabilities: Privacy and Independence**:

Vermont will implement this requirement by purchasing a voting system for each polling place in Vermont that is accessible to the disabled including the blind and visually impaired.

As of May 2003, we have heard from members of the Vermont community of disabled and blind persons that a voting system that uses computer assisted technology similar to the computers that are being used by blind and visually impaired persons already would be the most attractive solution to providing privacy and independence when voting. We have not found any vendors that have pursued this means of meeting this requirement. We will continue to pursue this idea with the Vermont Association for the Blind and Visually Impaired as well as other groups and vendors.

If by June of 2004, we find a voting system that we believe meets the needs of the blind and visually impaired and all of the voting system standards requirements, the Office of the Secretary of State may request budget authority to purchase ten voting systems to be used in Burlington, Essex, and 4 smaller jurisdictions in the 2004 Primary and General Elections.

- This will cost $200,000 for purchase of machines, programming and maintenance, training of local election officials and voter education.

If use of the demonstration or test voting systems in 2004 is successful, the one voting system will be purchased for each Vermont polling place for use in 2006.

- This will cost an estimated $2,750,000 for purchase of 275 voting systems, programming for the 2006 elections, training of local election officials and voter education.

**Alternative Language Accessibility:** HAVA incorporates the requirements of the Voting Rights Act of 1965 for voting systems to provide alternative languages under specified criteria. Vermont, as of the 2000 census, does not have sufficient non-English speaking residents to require provision of voting information and materials in other languages.

- No costs associated with the requirement for Vermont.

**Error Rates:** All voting machines now in use in Vermont meet the federal standards for accuracy. We will continue to require that any voting machine must meet these standards in order to be used in Vermont.

- No costs associated with the requirement for Vermont.

**Ballot correction and replacement ballots for "overvotes":** Vermont plans a voter education program to educate voters using paper ballots on the risks of overvoting, instructions for marking ballots, and the voter's right to request a replacement ballot if needed to correct an overvote or incorrect marking. Vermont will amend its state statutes to require voting systems to be set to reject any ballot that contains an overvote. Voters and election officials will be trained to offer replacement ballots.

- This will cost an estimated $20,000 in each election year.

**Definition of a Vote:** The Vermont Statutes provide a clear description of what constitutes a vote and states clearly that the majority of election officials present at the polling place will be the final decision makers of a voters intent. In addition, the training manual for local election officials published by the Office of the Secretary of State includes three pages of examples of markings on a ballot, with instructions for determining the voter's intent. Our office will promulgate a rule incorporating these clear instructions. Our statutes and the rules that will be adopted by the Office of the Secretary of State are in compliance with the requirements of HAVA2002.

- This will cost $5,000 to adopt the rule and publicize the rule.

**Manual Audit Capability:** The Vermont statutes mandate the approval of voting machines by the Secretary of State. The statutes also require the Secretary of State to prepare an Official Return of Vote form to be completed for each polling place by the Presiding Officer. This Official Return of Vote form provides an audit trail including:

- Election Date
- Polling Place name
- Number of voters on the checklist
- Number of voters who were checked in at the entrance checklist
- Number of ballots counted
- Number of ballots spoiled
- Number of ballots blank
- Breakdowns of the votes counted for each race including:
  - --total votes for each candidate
  - --total votes for each write-in
  - --total number of blank for the race
  - --total number of spoiled for the race
  - --total number of write-ins
  - --total number of votes cast in the race

In addition, Vermont statutes require that the presiding officer place the following in ballot bags which are then sealed, labeled, and stored for 22 months in the municipal vaults:

- exit checklist, if used,
- alternate materials including the paper tapes from all voting machines, if used,
- all summary and tally sheets,
- all ballots.

The sealed ballot bags can only be opened upon order of the Superior Court and must be kept for 22 months. In the 184 municipalities using paper ballots and hand count method, the ballot of each voter is preserved. In the 62 municipalities using optic scan machines, the original ballot of each voter is also preserved. At the present time, all election results are reported to canvassing committees by the Official Return of Vote. There is no transmission of results by electronic or telecommunication means.

- Vermont currently meets this requirement. There are no costs associated with continuing to meet this requirement.

**Maintenance of voting machines or voting systems:** Under Vermont law, each municipality purchases its own voting machines, maintains the machines, and has the machines programmed for each election.

The Office of the Secretary of State will promulgate rules to provide for security of the machines, require regular maintenance, and implement safeguards and protocol for programming and testing machines.

- This will cost $50,000 in the first year to study the issues, develop policy and make recommendations.
- Vermont has not yet decided how to use future requirements payments to pay for maintenance costs. The Vermont State Plan will be amended when a decision has been made on the future maintenance issue.

**Recounts:** Vermont statutes provide extremely detailed instruction and requirements for recounts of all state or federal elections to be conducted by the County Clerk under the supervision and guidance of the Superior Court Judge.

- Vermont meets this requirement. There will be no costs.

**Provisional Voting:** Vermont statutes currently provide for an affidavit that a voter can complete at a polling place in order to swear or affirm that an application to the checklist [voter registration form] was submitted in a timely manner and through no fault of the voter the application did not reach the proper election official in order to be added to the checklist. If the affidavit is completed, the election official can add the person to the checklist and the person can be given a ballot.

The House Local Government Committee has introduced legislation to allow for a provisional ballot to be given to a voter for federal offices if the affidavit is not accepted. The provisional voting provisions in this legislation comply with all requirements of HAVA2002. Vermont already has a toll free telephone line and toll free TTY relay service that can be used by voters to ascertain if their provisional ballot was counted or if the application to be added to the checklist on the provisional ballot envelope was denied. The voter will be given this toll free number at the polling place. All provisional ballots will be forwarded to the Office of the Secretary of State with the Official Return of Vote within 48 hours of the election and the Elections Division will respond to voter inquiries.

- It will cost an additional $40,000 in each election year to meet this requirement. It will cost an additional $20,000 for the Presidential Primary.

**Voting Information Requirements:** The Vermont statutes already require a substantial amount of voting information to be distributed by the Office of the Secretary of State. State statutes provide that the warning and notice to voters must include: instructions on how to vote the ballot and how to cast a vote for each type of voting machine or ballot, notices to contact our office for complaints or any questions, information on elections fraud or misrepresentation, and a full listing of all races to be voted with notice of polling place and hours. In addition, the Elections Division publishes a "Candidate Information Publication" that contains information on each federal and statewide candidate along with a sample ballot. Our Elections Division maintains an ever growing website with detailed information for voters on how to register to vote, a listing of polling place locations and hours, information about accessibility of each polling place, and election results.

In addition to information already provided, we will revise our warning and notices starting in the 2004 Elections to include all of the information required by HAVA2002:



- sample ballot that will be used for the election in that polling place. (already done)
- information regarding the date of the election and the hours during which the polling place(s) will be open. (already done)
- instructions on how to vote, including how to cast a vote and how to cast a provisional ballot. (will add provisional ballot information)
- instructions for mail-in registrants and first-time voters.
- general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated. (will expand existing information)
- general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. (will expand existing information)

- We anticipate that the additional warning and notice requirements will cause an increase in the size of the paper used for the warnings and notices and will cost an additional $10,000 for each of the Primary and General Election warnings & notices, or an additional $20,000 in every even numbered election year.

**Election Official Education and Training, Poll Worker Training and Voter Outreach**

Vermont currently offers considerable election official and poll worker training. The Advisory Committee has recommended additional training and education opportunities along with increased voter outreach as discussed in Section III below.

- The additional education, training, and voter outreach will cost an additional $60,000 in each election year.

**II. How state will distribute and monitor the distribution of the Requirements Payment to local government or other entities including: Criteria used to determine eligibility for payment; and Methods to be used to monitor performance of units or entities that receive payments consistent with performance goals and measures adopted in #8 of the state plan.**

For the Vermont Fiscal Years 2003 and 2004, the State of Vermont will not distribute any federal funds from either the early out money or any requirements funds directly to local government or other entities. We will not distribute any federal funds to local government or other entities in Federal Fiscal Years 2003 or 2004.

The State of Vermont has responsibility to prepare and deliver all ballots for the primary and general elections involving federal candidates, all warnings and notices, all election supplies and materials. The State of Vermont will also be developing the statewide checklist and the voter outreach and election official training described in this plan. In addition the Office of the Secretary of State expects to provide services, other materials, and training to the municipalities in order to meet the requirements of Title III.

Our office has conducted a survey to determine what is needed by each of the 246 municipalities in order to use a statewide voter checklist. We will conduct additional surveys and needs assessments to determine what is needed by each municipality to meet additional Title III requirements.

It is our plan for the Office of the Secretary of State to purchase and distribute hardware, software, equipment, supplies, training, and all necessary goods and services in order for the state and each municipality to meet the requirements of Title III. Our office does not intend to distribute requirements payments to municipalities.

If for any reason we find that we need to distribute requirements funds to local governments, we will use the following criteria for payment:

1. The Elections Division will prepare and distribute a listing of approved sources of hardware, software, services, and other materials along with an approved guideline of quantities of items based upon the size of the checklist and the number of polling places needed to serve the voters of the municipality.
2. The Selectboard or legislative body of a municipality must submit a request for approval prior to any expenditure for which the municipality will expect to be reimbursed detailing the hardware, software, services, or other materials on the approved list that need to be purchased in order to comply with named provisions of Title III.
3. The business officer will verify that the request is for approved materials and meet the established guidelines for product and quantities before sending an approval to the town of the request.
4. The Town Treasurer will then submit proof of purchase in accordance with the materials approved by the state in order to be reimbursed from HAVA funds.

**III. How the State of Vermont will provide programs for voter education, election official education and training, and poll worker training to assist in meeting Title III requirements.**

Vermont has had a state statutory requirement for the Office of the Secretary of State to provide voter information, election official education and poll worker training since the 1980's. Our Secretary of State, Deb Markowitz, has already significantly increased the types and amounts of information and increased the number of different venues for providing voter information and public official training over the last four years.

**Voter Information Program and Voter Outreach**

Vermont already maintains a free telephone hotline for voter inquiries and this hotline will now also respond to requests from voters to discover if any provisional ballot cast was counted, or if not counted, the reason why it was not counted.

Vermont also already maintains a free website that provides voter information, a listing of all polling places and polling hours and that also provides free public access to elections division staff who respond to inquiries on all voting and elections questions by email or telephone.

The Elections Division currently provides the following as required by state law:

- At every polling place, state law requires that voting information including the warning, (which lists the date of election, hours of the polling places, list of polling places and listing of all races and issues to be on the ballot), a detailed "Notice to Voters" with instructions regarding voter registration, absentee balloting, and voting at the polling place, and a complete checklist and a sample ballot must be posted.



- A sample ballot is provided and must be posted with each warning and at each polling places. In addition, the Secretary of State makes electronic versions available to encourage local newspapers to include a sample ballot. A sample ballot is also included in a candidate information publication prepared and distributed by the Secretary of State at least one week prior to the general election.
- Our notice to voters and voter registration forms currently include general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.
- Our notice to voters includes the toll free number to the Office of Secretary of State to report any violations of voter rights or to complain about any activity during the registration or voting process.

At the present time the Secretary of State voluntarily provides the following additional voter information resources that were not required by law prior to HAVA2002:

- Vermont already maintains a free telephone hotline for voter inquiries and voter complaints.
- Vermont also already maintains a free website that provides voter information, a listing of all polling places and polling hours, and that also provides free public access to elections division staff who respond to inquiries on all voting and elections questions.
- The Secretary of State and a number of municipal clerks prepare taped public service announcements with voter information prior to registration deadlines with information regarding voter registration, absentee or early voting opportunities, and other voter information.

Vermont will add the following information to our Voter Information and Education notices:

- We will add to our detailed instructions to voters which include how to cast a vote, instructions on how to cast a provisional ballot and how to contact state officials if these rights are alleged to have been violated.
- Vermont's telephone hotline will now also respond to requests from voters to discover if any provisional ballot cast was counted, or if not counted, the reason why it was not counted.
- We will provide instructions for mail-in voter registrants and first-time voters under section 303(b) to all municipal clerks for posting, as well as posting information on our website.

The voter education and outreach working group proposed a public education plan that was recommended by the Advisory Committee, and accepted by the Secretary as follows:

1. **Voter Rights Poster** – Revise the current poster to include the new requirements under HAVA. If possible, have the poster professionally produced with graphics so that it is attractive and easy to read. Include 800# for complaints. Expand distribution to include town clerks, high schools, social service agencies, public libraries, etc . . . Perhaps have separate poster for presidential primary explaining how the primary works.
2. **Voting Video** – Re-produce the voter education video to include the new requirements under HAVA. Have the actors represent a broader cross-section of the community (young people, obviously blind voter.) Broaden distribution to town clerks, league of women voters, public television as well as cable access. Perhaps create second video to provide to high schools to educate high school seniors on how to vote in Vermont.
3. **Candidate Information Guide** – Continue to produce candidate information guide. In addition to its circulation through the clerks and newspapers, contact the Independent and Counterpoint to see if they can get this information to disabled Vermonters.

4. **Vote Here Today Posters** – Print more and distribute to town clerks to notify public when absentee voting begins.
5. **Birthday Card** – start a program to send a birthday card to Vermonters who turn 18 year olds with voter registration opportunity. Use drivers license data and look for ways to reach disabled teens.

**Election Official Education and Poll Worker Training**

Vermont law, 17 V.S.A.§2457, currently requires the Office of the Secretary of State to provide workshops and information materials for election officials (Vermont law does not use the word "poll worker" but rather uses the term "election official" more broadly to include both BCA members or appointed election officials. If only BCA members or Justices of the Peace can perform a task, then BCA or JP is used in the Vermont Statutes). In compliance with this law, the Secretary of State does the following:

- Every two years the Elections Division updates its guide for local election officials, Elections Perspectives, which provides extremely detailed instructions regarding all aspects of primary and general elections from applications to the checklist through recounting of elections.
- Every two years the Secretary of State and the Elections Divisions provides at least 6 workshops in various locations around the state for the training of elections officials.
- Every two years, videotapes of the workshop are made available at no cost to election officials unable to attend a live workshop.
- These 2 hour election official training videotapes are also shown on public access TV stations throughout the State of Vermont.
- Vermont law currently requires the presiding officer of each municipality or an assistant designated by the board of civil authority to attend at least one workshop.
- The Elections Division presents at least one additional workshop to municipal clerks, on the elections process and procedures.
- Every two years the Elections Division reprints the Vermont Election Laws in a large type, easy to use format for election officials, candidates and interested citizens.

In order to address the additional requirements for election official education and training, the Office of the Secretary of State will add the following information to our training workshops, videotapes and printed materials:

- Elections Division memoranda to Town Clerks re: HAVA requirements for ID to be provided by persons who register by mail.
- Inclusion of written materials in next Elections Perspectives 2003 of all HAVA requirements for voter registration, use of voting systems, and provisional voting.
- Elections Division memoranda to Town Clerks re: HAVA requirements for provisional voting.
- Additional "Train the trainers" workshops for Town Clerks on all HAVA requirements so that they can provide additional training to local BCA members and election officials.

At the recommendation of the Elections Official Working Group as approved by the Vermont State Advisory Committee, the Secretary of State will also:

1. Update Elections Perspectives: Revise Elections Perspectives to include the new requirements under HAVA, including an appendix outlining the complaint procedures and the guidelines for counting votes by determining voter intent.



2. Elections Officials Workshops Presented by the Office of the Secretary of State -- Continue to present at least six workshops for election officials around the state in the summer preceding the Primary and General Elections. If possible, try to schedule additional workshops so that we can have one in each county or combined neighboring counties.
3. Elections Workshop Video – Re-produce the elections workshop video to include the new requirements under HAVA. Continue to make the video available to all local election officials and to public access TV.
4. Add Presentations by the Office of the Secretary of State at other Public Official Training Seminars - Provide additional elections officials training focusing on HAVA requirements and changes to state election laws at Vermont Clerks and Treasurers Association meetings, Vermont League of Cities and Towns Seminars, and TOEC/MOMs sessions (Training sessions for local elected officials in spring and fall).
5. Elections Bulletins– Continue to send Elections Bulletins to all Town and City Clerks (and County Clerks when needed) at regular intervals to remind officials of approaching deadlines and duties.
6. Elections Website - Continue to add training materials to the Elections web site for election officials to use as reference resources and to download for local training.

## IV. How Vermont will adopt voting system guidelines and processes that are consistent with the requirements of section 301.

The Office of the Secretary of State will propose the adoption of rules and/or additional statutory language to address the requirements in section 301:

- Propose one type of optical scanning or other approved voting system for use by all machine towns in Vermont by January 1, 2006.
- Continue to allow Towns to continue to use paper ballots hand counted by election officials until the town electorate votes to use voting machines along with access to at least one voting system accessible to disabled voters including the blind or visually impaired in each polling place.
- In all polling places, whether machine or paper, the voting system must:
    - Permit the voter to verify the votes selected on the ballot before the ballot is cast or counted. (This is already done on all of our voting systems in Vermont--we propose additional posters in each voting booth to remind voters to review and verify selections before casting the ballot)
    - Provide each voter with the opportunity to change the ballot or correct any error before the ballot is cast through issuance of a replacement ballot. (Vermont law already provides that each voter shall be able to obtain replacement ballots to correct errors up to a total of three ballots. Vermont included this reminder in a voter rights poster in 2002 in all polling places--we will update and circulate this poster as well as other voter education materials to stress the option to obtain a replacement ballot if an error is made.)
    - Notify the voter that the voter has "overvoted" by selecting more than 1 candidate for a single office on the ballot and provide the voter with the opportunity to correct the ballot before the ballot is cast.

- In jurisdictions using paper ballots, we will meet this requirement by establishing a voter education program specific to the paper ballot system that notifies each voter of the effect of casting multiples votes for an office and providing voters with instructions on how to correct the ballot before it is cast by obtaining a replacement ballot. We will update and circulate a voter's rights poster and other voter education materials to address overvoting on paper ballots and the right to and how to obtain replacement ballots.
- In jurisdictions using optic scanning machines, we have introduced legislation, H. 460, that we expect to pass, that will require voting machines to be set to reject overvotes. We will also educate election officials and poll workers regarding overvotes and replacement ballots.
- All voting systems in Vermont already provide a permanent paper record with a manual audit capacity. Vermont law already provides that the actual paper record must be used for any recount conducted.
- Not later than December 31, 2005, Vermont will adopt by rule uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting systems in use in Vermont.

The following recommendations from the Voting Systems Working Group were approved by the Vermont State Advisory Committee and accepted by the Secretary of State, Chief Election Official in Vermont to be incorporated into our Vermont State Plan to implement HAVA2002:

1. Continue to research the developing technology and products available for voting systems (for municipalities with over 1,000 voters on the checklist) until FY 2005. The marketplace is changing and new products are being developed.
2. Focus on finding a voting system for all voters that can:
   A. Provide a voter verifiable paper audit trail and allow the voter to complete a paper ballot that will then be scanned or that will produce a paper ballot for the voter to review before the vote is cast and the voter leaves the voting machine. It is important to have a paper record of each vote in the event of a recount.
   B. Allow the machine to be set to reject "overvotes" and give the voter a chance to spoil that ballot and vote a new ballot.
   C. If technically possible, allow the machine to be set to reject a ballot if the entire backside of the ballot is blank, indicating that the voter most likely failed to turn over the ballot. If this is not technically possible, continue to research and discuss whether it is better to set the machines to reject ballots where any one race is blank, or to reject only if the entire ballot is blank (indicating that the ballot was most likely marked incorrectly.)
   D. Export an anonymous record of each vote into a secure data file in order to support the option to use rank order ballots or instant runoff voting.
3. In order to meet the needs of persons with disabilities, including the blind or visually impaired, focus on finding a voting system that can:
   A. Allow blind and visually impaired voters to vote privately and independently at each polling place.
   B. If technically possible, find a voting system that uses a computer and printer or a telephone or some equipment that could be used for other purposes that is equipped with special hardware and software to allow private and independent voting by the blind but would allow the municipality to use the equipment for other tasks for the 18 months in each two year election cycle when it is not needed for elections.
   C. Consult with the state agencies and advocacy groups for the blind and visually impaired to research all possibilities.



   D. Use HAVA funds to purchase one set of equipment for each polling place in the state for the blind and visually impaired to be able to vote independently and privately.
4. Reconvene the working group as needed to review proposals when staff finds voting systems that it considers the best technology at the best cost to meet the needs outlined above.
5. Reconvene the working group to discuss and recommend the best ways to fund changes to voting systems for municipalities that use voting machines for all voters.
6. Encourage municipalities to wait until 2006 to purchase or upgrade voting systems, as there may be significant improvements to technology or lowering of purchase prices.
7. Introduce legislation in January 2004 to allow the Secretary of State to use the ballot design used for optic scanning machine ballots for all municipalities using paper ballots in order to have all voters become accustomed to marking an optic scan ballot.

The Office of the Secretary of State will reconvene the Voting Systems Working Group and the Vermont State Advisory Committee when it has completed research on emerging technologies and is ready to make a recommendation of a voting machine for use in all machine towns, and to recommend a voting system for each polling place that will be accessible to persons with disabilities including the blind and visually impaired. In any event, Vermont will have voting systems in place, including a voting system accessible to the blind and visually impaired in each polling place, that meet all of the requirements of HAVA2002 not later than January 1, 2006.

**Privacy and Independence for Disabled Voters**

Legislation has been introduced to require the use of new voting systems to allow voters with disabilities to use the voting systems privately and independently. If the Office of the Secretary of State finds a suitable voting system for testing in 2004, we will seek a supplemental budget adjustment appropriation to fund the purchase of the test machines.

In addition, the Office of the Secretary of State will continue to work with state agencies, advocacy groups, and other interested citizens to select, then promote and describe the accessible voting machines. The Office of the Secretary of State has a TTY relay service that is available and is listed on every election warning. The Office of the Secretary of State will use websites, newsletters, radio public service announcements and other communication tools to reach disabled voters.

We will also work with Vermont disability advocacy organizations to provide education and training for persons with disabilities in the voting process and also to train local election officials in providing access to persons with disabilities.

The opportunity already exists under Vermont law for any voter to be assisted by the person of his or her choice in marking a ballot at the polling place, or to vote by absentee ballot in the 30 days preceding an election at the office of the municipal clerk, or by having an absentee ballot mailed to the voter, or if physically ill or disabled, to have an absentee ballot delivered by two justices of the peace.

As of the fall of 2002, there were only a handful of polling places that did not provide full access to persons with disabilities. Our Office of the Secretary of State will encourage all Vermont municipalities that do not have full access for persons with disabilities to apply for grants from the U.S. Secretary of Health and Human Services under Section 261 of HAVA2002.

**Alternative Language Accessibility:** HAVA incorporates the requirements of the Voting Rights Act of 1965 for voting systems to provide alternative languages under specified criteria. Vermont, as of the 2000 census, does not have sufficient non-English speaking residents to require provision of voting information and materials in other languages.

**Error Rates:** All voting machines now in use in Vermont meet the federal standards for accuracy. We will continue to require that any new voting machine must meet these standards.

**Ballot correction and replacement ballots for overvotes:** Vermont law currently provides that each voter can request up to three additional ballots if a ballot is spoiled by an overvote or incorrect marking. Voters Rights Posters were created and posted in all polling places during the 2002 General Election reminding voters in easily understood language of the right to request replacement ballots. The Office of the Secretary of State with the assistance of the 246 municipal clerks and Boards of Civil Authority will prepare a voter education video that will be distributed to public access TV stations throughout Vermont to increase voter awareness of the availability of replacement ballots and ballot marking instructions. We will continue to provide Voter Rights Posters and other written materials to educate voters. Our office will continue to use media releases, public service announcements, and our web site to provide this information to voters. We will also highlight this voter education information in our training programs for election officials. In a small, rural state like Vermont, it is frequently the one on one conversational education of voters by local officials that is most effective.

**Definition of a Vote:** The Vermont Statutes provide a clear description of what constitutes a vote and states clearly that the majority of election officials present at the polling place will be the final decision makers of a voters intent. In addition, the training manual for local election officials published by our office will include three pages of examples of markings on a ballot, with instructions for determining the voter's intent. Our office will promulgate a rule incorporating these clear instructions. Our statutes and the rules that will be adopted by the Office of the Secretary of State are in compliance with the requirements of HAVA2002.

**Manual Audit Capability:** Vermont currently meets this requirement. The current Vermont statutes mandate the approval of voting machines by the Secretary of State. The statutes also require the Secretary of State to prepare an Official Return of Vote form to be completed for each polling place by the Presiding Officer. This Official Return of Vote form provides an audit trail including:

- Election Date
- Polling Place name
- Number of voters on the checklist
- Number of voters who were checked in at the entrance checklist
- Number of ballots counted
- Number of ballots spoiled
- Number of ballots blank
- Breakdowns of the votes counted for each race including:
  - --total votes for each candidate
  - --total votes for each write-in
  - --total number of blank for the race
  - --total number of spoiled for the race
  - --total number of write-ins
  - --total number of votes cast in the race



In addition, Vermont statutes require that the presiding officer place the following in ballot bags which are then sealed, labeled, and stored for 22 months in the municipal vaults:

- exit checklist, if used,
- alternate materials including the paper tapes from all voting machines, if used,
- all summary and tally sheets,
- all ballots.

The sealed ballot bags can only be opened upon order of the Superior Court and must be kept for 22 months. In the 184 municipalities using paper ballots and hand count method, the ballot of each voter is preserved. In the 62 municipalities using optic scan machines, the original ballot of each voter is also preserved. At the present time, all election results are reported to canvassing committees by the Official Return of Vote. There is no transmission of results by electronic or telecommunication means.

Any new voting systems purchased in Vermont will meet the manual audit requirement.

**Maintenance of voting machines or voting systems:** Under Vermont law, each municipality purchases its own voting machines, maintains the machines, and has the machines programmed for each election.

The Office of the Secretary of State will promulgate rules to provide for security of the machines, require regular maintenance, and implement safeguards and protocol for programming and testing machines.

**Recounts:** Vermont statutes provide extremely detailed instruction and requirements for recounts of all state or federal elections to be conducted by the County Clerk under the supervision and guidance of the Superior Court Judge.

## V. How state will establish a State Election Fund, including description of fund management.

The State of Vermont has established the Vermont Election Fund by including this special fund in the Budget Adjustment Act of 2003 and in the appropriations bill for FY 2004. The Title I, section 101 "early out money" payment has been deposited in to the Vermont Election Fund and all requirements payments from the federal government that are provided under HAVA2002 will be placed in this special fund.

- The state will deposit all requirements payments into this fund.
- The state will deposit all interest gained on any funds in the Elections Fund back into the Vermont Elections Fund.
- All amounts appropriated or otherwise made available by the state for carrying out the activities for which the requirements payment is made to the state shall be deposited into the Vermont Election Fund.
- Such other amounts as may be appropriated under law shall be deposited into the Vermont Election Fund.

**VI. Describe the states proposed budget for activities based on state's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on:**

- The cost of activities required to meet the requirements of Title III;
- The portion of the requirements payment which will be used to carry out activities to meet Title III requirements; and
- The portion of the requirements payment that will be used to carry out other activities to improve the administration of federal elections.

The Office of the Secretary of State has developed a proposed budget with the assistance of the Advisory Committee. We have proposed a budget adjustment for Vermont FY 2003 for the expenditure of $60,000 of Title 1, early out money. We have proposed a budget of $558,000 from Title 1 funds for Vermont FY2004. We will amend our plan when we have more detailed budget proposals for future Vermont fiscal years. Based upon our best estimates of the cost to implement HAVA2002, the State of Vermont will be able to fund the cost of many of the Title III requirements through the use of Section 101 "early out money" and the first requirements payment. However, the State of Vermont is planning to use any remaining funds from the requirements money to pay for the continued maintenance and support of the systems implemented to meet the Title III requirements. There will be considerable annual continuing expenditures to maintain the systems once established.

The following table indicates the federal funds anticipated and the Vermont state match that will need to be appropriated in order to obtain the Requirements Payments from federal years FY 2003, FY 2004, and FY 2005. As the election reform payment for FY 2003 amount was a total of $830 million, significantly less than the $1.4 billion that was originally authorized, we are unable to provide firm estimates of the amounts that will be appropriated for requirements payments in federal FY 2004 and FY 2005.

| Federal Fiscal Year | Vermont's share of Federal Funds Received or Expected | Vermont's 5% Match Required* | Status of Payments |
|---|---|---|---|
| Early Out / Title I | $5,000,000 | None required | Deposited in VT. Election Fund |
| FY 2003 Requirements Payments | $4,150,000 | $218,300 | P.L.108-7 (Joint House Resolution 2 passed.) |
| FY 2004 | Estimated over $5,000,000 | .0526 times Vermont's share | Not yet appropriated |
| FY 2005 | Unknown | .0526 times Vermont's share | Not yet appropriated |

Vermont is using the Title I funds to begin implementation of HAVA requirements in FY 2003 and FY 2004. Vermont is aware that the cost of maintaining and continuing to operate under the requirements in HAVA will extend long after the annual requirements payments have ended. Vermont is intentionally planning to implement the requirements of HAVA in ways that will preserve funding to continue to meet the HAVA requirements in future years.



The following table provides the Vermont budget based on levels of funding anticipated as of May 2003. The table will need to be amended if there are significant changes in federal funding or if the Vermont legislature does not provide a match for requirements payments. These estimated costs provided below are based upon the funding information available in May 2003 and upon the cost estimates done in the spring of 2003. The budget will be revised as new information becomes available. We will also provide a detailed budget for each fiscal year to the Vermont legislature.

| **HAVA Requirements** | **Estimated Total Implementation Project Costs through FY 2006** | **Implementation Period in Vermont FY's** |
|---|---|---|
| Voting Systems | $1,400,000 | FY 2005 and FY 2006 |
| Voting System for disabled for each polling place | $2,750,000 | FY FY 2005 and FY2006 |
| Voting Systems Maintenance, Programming & Support | $2,500,000 | FY 2005 and FY 2006 |
| Provisional Voting | $ 100,000 | FY 2005 and FY 2006 |
| Statewide Voter Checklist | $1,500,000 | FY 2004 and FY 2005 |
| New Applications to Checklist & Voter Education Projects | $ 350,000 | FY 2004, FY 2005 and FY 2006 |
| Mail-in Registrants/New notices to voters | $ 100,000 | FY 2005 and FY 2006 |
| Election official training | $ 400,000 | FY 2005 and FY 2006 |
| Administrative Complaint Procedures | $ 50,000 | FY 2004 and 2005 |
| Military/overseas voting | $ 50,000 | FY 2005 |
| Management of State Plan | $ 100,000 | FY 2003, FY 2004 and FY 2005 |
| Other activities to carry out improvements to federal elections | $ 100,000 | |
| **Totals for Initial Implementation** | **$9,400,000** | **FY 2003 to FY 2006** |

**VII. That the state 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.** (MOE is the acronym for "maintenance of effort")

The Vermont fiscal year that ended prior to November 2000 was Vermont FY 2000, which ran from July 1, 1999 to June 30, 2000. The Elections Division budget and expenditures for the base year of Vermont FY 2000 was $150,000. Vermont will continue to appropriate this amount as our maintenance of effort in all years where requirements payments are requested and received into the Vermont Election Fund.

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

The State of Vermont will adopt performance goals and measures to determine the success of the State and the success of municipal governments to carry out the Vermont State Plan, meet all requirements of Title III, and improve the administration of all elections that include a federal office in Vermont.

The State has included timetables for meeting elements of the plan within this plan.

The State used the following process to develop criteria to measure performance goals:

- The Advisory Committee with the assistance of 4 working groups recommended criteria to measure performance.
- The working groups solicited information from other resources to assist in the development of criteria to measure performance goals.
- The working groups and elections division staff surveyed town clerks and other officials to obtain information to assist in establishing timetables.
- The Advisory Committee with the assistance of the working groups recommended the following timetables to meet elements in the state plan and performance goals.

The Secretary of State will continue to monitor performance as it works with the town clerks advisory committee and the state legislature to implement the requirements of HAVA and of this state plan. The legislature has incorporated reporting requirements into legislation that has been introduced to implement HAVA in Vermont.

At the state level, the Secretary of State, as the Chief Elections Official, and the Director of Elections and Campaign Finance will be responsible for ensuring that each performance goal is met. At the local election administration level, the Town Clerk will be responsible for certifying to the Director of Elections that each performance goal has been met as shown in the following table.

| Requirements of HAVA Plan | Responsible Official(s) | Completion Dates |
|---|---|---|
| Voting Systems | Director of Elections & Towns | January 1, 2006 |
| Provisional Voting | Director of Elections | January 1, 2004 |
| Statewide Voter Checklist | Director of Elections & IT staff | January 1, 2006 (Waiver to be Requested) |
| Education and Training | Secretary of State & Director of Elections | Ongoing & Continuing throughout each election year |
| Budget & Fiscal Controls | Business Manager & Director of Elections | Ongoing |
| Complaint Procedures | Director of Elections | January 1, 2004 |



**X. Description of the uniform, nondiscriminatory state-based administrative complaint procedures in effect under §402.**

The Office of the Secretary of State in Vermont already provides a telephone hotline for citizens to use to ask questions or make complaints regarding all elections issues from application to the checklist through final recounts. Our office also maintains a website that provides details of elections information and web pages devoted to the requirements and implementation of HAVA2002.

Our office will use the above mechanisms in addition to the NOTICE TO VOTERS published and posted with each federal election WARNING to provide information about the availability of administrative complaint procedures to address any complaint alleging a violation of any provision of Title III.

The Office of the Secretary of State has introduced legislation, H. 460 to give the Secretary authority to adopt rules to implement a uniform and nondiscriminatory Administrative Complaint Process. As soon as the authorizing legislation has passed, the Secretary will adopt by rule procedures that will include the following (at a minimum):

1. Any person may file a written and notarized complaint signed and sworn to by the person filing the complaint that a violation of any provision of Title III has occurred, is occurring, or is about to occur.
2. All signed, sworn, written and notarized complaints will be investigated by the elections division staff if related to an activity conducted by a municipal official, or by a representative of the office of the attorney general if the allegations are related to activities conducted by the Elections Division.
3. If requested by the complainant, there shall be a hearing on the record.
4. If, under the procedures the Chief Elections Officer determines that there is a violation of any provision of Title III, the state shall provide the appropriate remedy.
5. If, under the procedures, the state determines that there is no violation, the state shall dismiss the complaint and publish the results of the procedures.
6. The final determination by the Chief Elections Officer shall be made prior to the expiration of a 90-day period that began on the date the complaint was filed, unless the complainant consents to a longer period for making the determination.
7. If the state fails to meet the 90-day deadline, the complaint shall be resolved within an additional 60 days by Alternative Dispute Resolution procedures established for purposes of this section. The record (if any) and other materials from any proceedings conducted under the complaint procedures shall be made available for use under the alternative dispute procedures.

**X. 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.**

The information requested in this section has been provided above in Section I and Section VI because the State of Vermont will be able to fund some of the requirements of Title III and the activities proposed to be carried out under this plan with the Title I, Section 101 "early out

money". Vermont has asked for a budget adjustment for Vermont FY 2003 to allow the Office of the Secretary of State to expend $60,000 of the Title I funds received to hire staff to work with the Director of Elections on the development of the statewide voter checklist , training of local officials, and to implement HAVA requirements. The proposed FY 2004 budget to the Vermont legislature includes a request for appropriation of $558,000 of the Title I funds in our Vermont Election Fund primarily to begin to develop and implement the statewide checklist.

**XI. 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 proposed change is put through all of the development and process used to promulgate the state plan.**

The Director of Elections, under the direction of the Chief Elections Official, will provide the ongoing management of the state plan. The Director of Elections, along with the Elections Division staff, will work with the 246 municipalities in Vermont to accomplish all of the goals of the plan.

The Elections Division will provide management of the plan through:

- a series of special HAVA implementation memoranda to municipal clerks & municipal legislative bodies providing detailed information on each new practice or procedure required by HAVA;
- ongoing "Train the Trainers" sessions for municipal elections administrators;
- a series of training sessions for municipal clerks and municipal staff in the use of the voter registration system;
- a series of training sessions for presiding officers and election officials in the use of the voting systems in place in Vermont, for both machine and paper towns.

The Elections Division will monitor progress and make appropriate adjustments to ensure that each project completion date will be met. If at any time suitable progress is not being made toward the project goals, the Director of Elections will recommend corrective action to municipalities, vendors, or any other person engaged in activities in furtherance of the state plan. If unexpected delays occur that cannot be remedied by corrective action, the Director of Elections will recommend amendment of the annual Vermont State Plan to the Chief Elections Official. If amendment is recommended, the changes will be discussed with the Advisory Committee and will be adopted using the process and procedures outlined in Sections 255 and 256 of the Help America Vote Act.

**XII. In second or future years of state plan, a description of how the plan reflects changes from the state plan for the previous fiscal year and how the state succeeded in carrying out the state plan for the previous fiscal year.**

This is the first Vermont State Plan and therefore this section is not applicable.



**XIII. Description of the committee that participated in development of the state plan and description of the process and procedures used to conform with §255 and §256.**

The Advisory Committee that participated in the development of the Vermont State Plan was selected by the Chief Elections Officer, Vermont Secretary of State, Deb Markowitz, to meet the statutorily mandated representation set out in HAVA as well as to represent various geographical sections of Vermont, to include rural and metropolitan representatives, to include citizens from municipalities using optical scanning machines as well as municipalities using paper ballots, and to include representatives from a variety of citizen and advocacy groups.

We thank the following for their willingness to serve on the Advisory Committee for the Vermont State Plan to implement the Help America Vote Act of 2002:

**VERMONT STATE ADVISORY COMMITTEE**

Annette Cappy
Brattleboro Town Clerk

Senator William Doyle
Senate Gov't Operations Committee

Marge Gaskins, Director
League of Women Voters

Keith Goslant
Citizen, City of Barre

Duncan Hastings
Town Administrator
Town of Johnson

Jo LaMarche
Assistant Clerk
City of Burlington

Deborah Lisi-Baker
Representative for Disability Rights

Kevin Loso
Justice of the Peace
City of Rutland

Neale Lunderville
Office of the Governor

Cheryl Moomey
Essex Town Clerk

Jim Pelkey
Franklin County Clerk

Linda Spence
Manchester Town Clerk

Rep. Joyce Sweeney
Local Gov't Committee

Kathy West
COVE Representative

In order to encourage public participation, the Secretary of State added a special web section to our website to post information about the HAVA requirements, the Advisory Committee and State Plan development, minutes, announcements of meetings and public hearings, and contact information for interested citizens.

In order to foster even greater participation from stakeholders, the Secretary of State invited volunteers to serve on four working groups to provide detailed research and recommendations to the Advisory Committee. We thank the following for their willingness to participate in the four working groups:

**ELECTION OFFICIAL EDUCATION**

Bobbi Brimblecombe
Marshfield Town Clerk

Karen B. Horn
VT League of Cities & Towns

Sandy Grenier
St. Johnsbury Town Clerk

Nora Wilson
Marlboro Town Clerk

**STATEWIDE CHECKLIST**

Deb Beckett
Williston Town Clerk

Joyce L. Mazzucco
Randolph Town Clerk

John Cushing
Milton Town Clerk

Kim Pombar
Northfield Town Clerk

Rep. Gail Fallar
VT House of Representatives

Ernie Saunders
New England Municipal Resource Corp.

Jack Hoffman
VT Broadband Council

Chip Sawyer, Project Manager
Center for Rural Studies

**VOTER EDUCATION**

Dominic Cloud
VT League of Cities & Towns

Ed Paquin
VT Protection & Advocacy

Leslie Gensburg
East Burke

Kate Robinson Schubart
Citizen, Town of Hinesburg

Patricia McCoy
Poultney Town Clerk

Lindy Wells
Worcester Town Clerk

**VOTING SYSTEMS**

John Bauer
Citizen, Hyde Park

Bill Dick
Brandon Town Clerk

Ken Scott
Duxbury Town Clerk

Cora Benoir
Braintree Town Clerk

Donna Kinville
South Burlington Clerk

Harrison Spencer
VT Human Rights Commission

Terry Bouricious
IRV Contact

Joshua Powers
Citizen, Town of Royalton

Bridget Collier
Greensboro Town Clerk

Velma Plouffe
Richmond Town Clerk



The Advisory Committee and working groups met at regularly scheduled public meetings from February 10, 2003 until June 16, 2003. Minutes from the Advisory Committee, and minutes and recommendations from the working groups are available at the Office of the Secretary of State.

In conformance with Section 255, the Chief State Election official, the Vermont Secretary of State, has developed the state plan through a committee of appropriate individuals including all mandated individuals and representatives of stakeholders as described in detail in above.

In conformance with Section 256, a Draft for Public Comment of the Vermont State Plan has been made available for public inspection and comment on the website of the Secretary of State, in the offices of each Town or City Clerk in Vermont as well as made available upon request to any citizen.

- Vermont has published public notice that the Plan is available for inspection in all daily newspapers throughout the State of Vermont, through the State Department of Libraries section that officially warns all public meetings, by Press Release, and by notice in the Secretary of State opinions which is mailed directly to over 1500 municipal officials in Vermont.
- The Chief Election Official, the Vermont Secretary of State, has solicited public comments through public meetings, public hearings, emails, and correspondence, and the Advisory Committee and Chief Election Official have taken the public comments into account in preparing this plan that will be filed with the Election Administration Commission and published in the Federal Register.

**--End of Vermont State Plan for federal FY 2003 and Vermont FY 2003 and FY 2004--**

# VIRGIN ISLANDS ELECTIONS PLAN

**To Implement the**

## Help America Vote Act of 2002

**Submitted to**
**Joint Board of Elections**
**By the Virgin Islands HAVA State Plan Committee**
**July 2003**

**JOHN ABRAMSON, JR.**
SUPERVISOR OF ELECTIONS

CORRINE HALYARD-PLASKETT
NATALIE THOMAS
DEPUTY SUPERVISORS OF ELECTIONS

TERRITORY OF VIRGIN ISLANDS
SUPERVISOR OF ELECTIONS
P.O. BOX 1499, KINGSHILL
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July, 2003

Fellow Virgin Islanders:

I am very pleased to offer this draft of the Virgin Islands plan for implementing the Help America Vote Act (HAVA) of 2002; this plan represents the territory's unified effort to develop a long-range plan for implementing the Act. The chaotic November 2000 Presidential Election has led to an unprecedented interest in election reform, thus the HAVA Act. HAVA requires state and territorial governments to reform elections processes and systems and it provides federal funding to help with these improvements.

In 1997 the Joint Board of Election started the election reform process and has maintained it as a continuous process. What does all of this mean to the Virgin Islands? It means change in the way we do things and probably more changes than at any pervious time in history. There certainly are additional burdens and additional cost, which must be picked up at the territorial level, but it means opportunity. The territory stands to benefit from the federal government. It is an outstanding opportunity to direct federal resources to those local areas that require improvement.

A state plan committee consisting of territorial representatives, community organization, former and present board members elections officials, representatives of interest and advocacy groups have been working on the Virgin Islands State HAVA Plan since February. I am presenting the plan in draft form and encouraging broad public input before finalizing the proposals.

Please review the plan and let the Election System know what you think. You can comment through July 31, 2003. Written comments may be forwarded to the above address or to our e-mail address, electionsys@unitestates.vi, at our website (www.vivote.com) or in one of three public hearings that will be held around the territory in July.

I want to thank the HAVA State Plan Committee members who have committed considerable time and dedication to the creation of this plan. Their involvement ensures that the Virgin Islands will have an accessible, uniform, territory-wide voting system that will meet both the spirit and letter of the law. We look forward to your being a part of the team establishing a strong and successful partnership with the Election System, through the implementation of HAVA and active community participation.

Sincerely,

John Abramson, Jr.
Supervisor of Elections

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## Executive Summary

As early as 1972 the Virgin Islands has had a long history of improving its elections process and systems. On December 6, 1972 the Legislature passed Act 3353. The purpose of the act was to establish the Virgin Islands Election Reform Commission, whose mission was to conduct a comprehensive study of the election code, and all aspects of the electoral process, including, but not limited to:

(1) a review of voting procedures for the purpose of determining methods and procedures to make voting easier and faster;
(2) a review of the procedures for canvassing of ballots and for determining ways to provide an accurate and speedy canvass;
(3) a study of the use of electronic voting machines, computerized tabulation of ballots and modern election procedures;
(4) a review of the Virgin Islands Election Code with recommended revisions to implement, and other recommendations of the Commission for the overall improvement of the electoral process in the Virgin Islands.

The 1972 commission's study placed the Virgin Islands in the forefront of election reform and ushered in electronic voting machines during the mid eighty's. In 1997 the Joint Board of Elections established "Election Reform" as a major priority. The Election System of the Virgin Islands embarked on the process of election reform to operate as a more cost efficient entity while increasing electoral participation and awareness by the voters.

The Help America Vote Act (HAVA) of 2002 and companion federal funding provide the opportunity to make enhancements to the Virgin Islands election system that will support improved voter access, strengthen the overall integrity of the elections process, pave the way for voting by mail, internet voting, and host a variety of modern day registration methods.

HAVA was enacted to make sweeping reforms to the nation's voting process. The Act addresses improvements to voting systems and voter access that were identified following the 2000 Presidential Election. It includes requirements for a centralized voter registration database, privacy and independence in the voting process, access for people with disabilities, and voter outreach. As a condition of receiving federal funding, each state and territory is required to submit a plan that meets the requirements of the Act.

In February 2003, the Joint Boards of Election authorized and appointed a state planning committee comprised of territorial and local elections officials, community organizations, and representatives of advocacy groups to undertake the HAVA planning process. During the planning process, representatives from the aforementioned organization established subcommittees and generated ideas, as well as programs for the Virgin Islands' response to HAVA and gave the Joint Board of Elections guidance on what would be required for the successful implementation of the federal requirements.

This draft plan represents the collective input and recommendations of the state plan committee, along with comments from the general public. Members of the public participated in public hearings, which gave members of the community the opportunity to comment on this draft in three public hearings that were held territory wide in July 2003. After the public comment

process, the Joint Board of Elections considered public input and submitted a final plan to the federal government.

The Virgin Islands is in a good position to implement the HAVA requirements. Many of the election reforms required by the Act are already addressed in the election laws, elections procedures and in election reform that is being considered by the Joint Board of Elections. This preliminary state plan identifies the priorities and specific steps the territory will take to meet the mandates of HAVA. It also discusses additional improvements which may be undertaken if there is any remaining or additional federal funding after all of the requirements have been met.

In summary, the HAVA State Plan Committee is recommending the following activities as part of the Virgin Islands response to the Help America Vote Act:

1. Purchase new voting machines to be used throughout the territory.

2. Fine tune existing computerized territory-wide voter registration which is the single database of all registered voters.

3. Increase access to the elections process for people with disabilities through the use of specially designed Direct Recording Electronic (DRE) voting systems, improve facilities, train elections staff, and enhance public outreach.

4. Implementation of a comprehensive voter information program with components in information, education and outreach. This program will inform voters about how to exercise their rights, responsibilities, the voting process, how to use the voting machines and about provisional and absentee ballots. Implementation of a toll-free line that allows voters direct access to election staff.

5. Train all poll workers, elections officials and election staff in Title III requirements of the Act.

6. Develop and implement pilot programs for testing of new equipment and technologies.

7. Design, develop and implement a program to improve the verification and identification of voters at the polls and registration sites, as well as expedite voter processing at the polls on Election Day.

To receive federal funding, the Virgin Islands must certify that it has established a Territorial Election Fund that is separate and distinct from the state General Fund and that it has an administrative complaint procedure for HAVA Title III violations. Legislation to that effect was introduced to the 25th Legislature of the Virgin Islands. Bill 25-0050 was passed on June 16, 2003 and signed into law on July 14, 2003 becoming Act No. 6584. The Joint Board of Elections is now ready to certify to the federal government that it is eligible to receive HAVA funding.



While HAVA increases responsibility for elections administration at the territory level to achieve greater uniformity and consistency, all policies, rules and regulations will apply throughout the territory.

Finally, this plan should be viewed as a living document that will need to be updated and refined over time to reflect the territory's progress in implementing the provisions of HAVA. The Virgin Islands welcomes the challenges of the Help America Vote Act and looks forward to receiving appropriate financial support from the federal government to fulfill its mandate.

## Introduction

The Virgin Islands has a long history of improving its elections process and systems. As far back as 1954, 1963, 1972, 1986 and 1997 comprehensive improvements were made to the Election System of the Virgin Islands. Election Reform has become a normal and continuous part of the election process. The Joint Board of Election has a standing election reform committee. Evaluation and analysis has become the hallmark of the system to improve the overall delivery of service to electors.

Many of the requirements of the HAVA Act have already been implemented throughout the Virgin Islands. In 1986 the Virgin Islands government purchased Direct Recording Electronic Machines (DRE's). The Joint Board of Elections insisted on having voting equipment with a paper audit trail; this feature has been incorporated in all V.I. voting machines since 1986. The V.I. has had an active statewide voter database since 1996. The Election System of the V.I. has been issuing picture voter identification cards and utilizing unique voter identification numbers since 1986. Since 1963, voter registration forms have included questions on citizenship status, and confirmation of acquiring the age of 18.

Recently the Joint Boards of Elections modified the territory's complaint procedure with a built in appeals process. Additionally, the territory has defined what is meant by a vote. Placing the territory of the Virgin Islands ahead of the curve on the improvement of the administration of elections on the local level.

HAVA mandates the establishment of standards for providing increased consistency in the treatment of provisional ballots, one voting device per precinct able to allow the disabled, blind or visually impaired and those with English language difficulties to be able to vote independently and privately; the development of a territory-wide certification/decertification process; and the improvement of election administration for absentee ballots and military and overseas members, etc. . . The Election System stands ready to improve these areas and the overall quality of service to Virgin Islands electors.

The Election System of the Virgin Island has worked diligently to enhance voter confidence and participation. This is demonstrated by the high level of citizen participation, not only in elections, but in designing the Virgin Islands elections process. Many of the improvements that HAVA seeks to achieve have already been built in to the territory's election system as it has evolved over the years. For those activities that are not currently part of the Virgin Islands system, HAVA will provide the direction, mandates, and funding to allow the territory to move beyond the planning stage for better voter services.



## Voting System Standards

Section 301 of the Help America Vote Act requires that voters have the opportunity in a private and independent manner to verify the votes they have selected, to change their ballot or correct any errors, and that the voting devise notify the voter of the effect of selecting more than one candidate for a single office before a ballot is cast and counted. HAVA also directs states and territories to adopt uniform and nondiscriminatory standards that define what constitutes a vote, requires manual audit capacity, requires establishment of an error rates standards for the voting systems, and mandates increased access to the elections process by people with disabilities. The Virgin Islands have achieved most of these mandates.

***Privacy and Independence*** – Virgin Islands statutes require that all voting systems approved by the Joint Boards of Elections secure the secrecy of voting to each voter. Voters are required to use privacy booths at their polling sites. The curtain covering the voting machine allows for full privacy. To enhance voter independence and to make the process of voting and correcting a ballot more convenient, the Shouptronic 1242 voting machines used in the Virgin Islands have the following features built into the program; a voter can select a candidate or answer a question by simply pressing the button next to the candidates of choice or the answer to the desired question. A red light will go on next to the button indicating the voter's choice. To change a selection the voter again presses the button next to the original choice and the light will go off. To make a new selection the voter then presses the button next to his new choice. The Shouptronic 1242 voting machine does not allow a voter to select more than the maximum number of candidates for the specific office.

***Ballot correction and replacement ballots*** – HAVA allows states and territories using paper ballots to conduct a voter outreach effort to provide voters with instructions on how to correct ballots or request replacement ballots. To ensure the information given to voters is easy to read and understand, and to ensure uniformity, the Election System of the Virgin Islands is planning to build a comprehensive voter outreach program reflecting the intent of HAVA. The program will acquaint voters with the ballot format, the methods used to cast a valid vote, how to use the voting machines, how to request an absentee ballot, the use of provisional ballots, and how to request a replacement ballot. The program will include voters' pamphlets, use of the agency's election websites and related links, media use through press releases, public service announcements, and to the extent funding allows, commercial advertising. In the Virgin Islands, voters must complete, sign, and submit a replacement ballot request form before a new ballot is issued. Upon receipt of a request for a replacement ballot, elections officials verify registration and ensure that the voter has not already cast a ballot.

- ***Manual Audit Capacity*** The election law of the Virgin Islands requires each election official to produce and maintain an audit trail of statistical information. All systems purchased and in use by the Election System of the V.I. are certified to have manual audit capacity and the ability to produce a paper record required by HAVA. The audit trail is produced by a Ballot Image Retention System, specifically designed for the U.S. Virgin Islands.
- ***Access to the Voting Process for People with Disabilities*** –HAVA requires voting systems to be accessible for voters with disabilities and seniors who need special assistance in a manner that provides the same opportunity for access, participation, privacy, and independence as other voters. This requirement may be met by providing at least one Direct Recording Electronic (DRE) voting system at each polling place. A DRE voting system records votes by means of a ballot display with mechanical or electro-optical components that can be activated by the voter by using a touch screen and audio prompts.

***Direct Recording Electronic (DRE) Voting System Acquisition*** – Voters with disabilities or those who are unable to read, write or mark a ballot may declare, under oath, that they are disabled or unable to read. The voter may have the assistance of a person of his own selection. In compliance with HAVA, the Virgin Islands' State Plan goal, in relation to persons with disabilities, is to provide these people the same opportunity for access to polling places, voting booths, participation in the voting process, privacy to vote alone, independence in voting, and to preserve dignity, thus guaranteeing equality to persons with disabilities in the Virgin Islands.

- **HAVA §301: Voting Systems Standards**
  - Purchase new voting machines to accommodate all persons with disabilities
  - Purchase mobile voting machines for persons with disabilities not able to enter the polling place
    - One at each polling place
    - Travel to disabled individuals on request and upon cause
  - Train poll workers to understand the new voting equipment
    - 1-2 persons at each polling place must be trained for the voting machine that will be used by persons with disabilities
      - On election day, have alternates available in case the trained 'experts' are not available
  - Provide sensitivity training so that the workers are more comfortable with a particular persons' disability and they understand how to accommodate it
  - Using funds provided under Title II, make all polling places accessible for persons with disabilities
    - Before the Virgin Islands can apply for funds under Title II, surveys of all polling places must be done using Government Accounting Office's (GAO) Polling Place Accessibility Data Collection Instrument
      - Hire consultant to perform surveys of 31 sites
    - "Accessible" should be defined as satisfying the requirements under the Americans with Disabilities Act
    - Examples



      - Minimum width requirements for entrances and exits; curb cuts and/or ramps; elevator or ramp on stairs (if above first floor); handrail on stairs; adequate parking spots for disabled drivers; prohibition of barriers that impede access to the voting booth; if main entrance is not accessible, sign must be posted directing voters to accessible entrance.
  - If full accessibility at all polling places is not possible before November 2004, accommodations should be made for
    - Curbside voting for persons with disabilities, upon request
    - Mobile machine that travels to homes of persons with disabilities
  - Absentee voting
    - Permanent absentee ballot alternative for people with disabilities
  - Text Telephone Devise (TTD) Access
    - Ensure that the Board of Elections have TTD capability
  - Outreach
    - Inform community, especially individuals with disabilities, regarding the new machines available and greater accessibility
  - Create 1-800# that answers questions about elections, particularly elections improvements and accessibility for persons with disabilities

- Vote by mail procedures will be amended to address this change.

People with disabilities will participate in the evaluation of various DRE systems that are currently available. Groups who advocate on behalf of people with disabilities will help the Elections System of the Virgin Islands coordinate this involvement to ensure the participation of people with a wide variety of disabilities. The territory will use a portion of the Title I funds to get a jump-start on purchasing DRE machines.

1. ***Voter Outreach*** – With the addition of DREs and the HAVA requirement to make the elections process accessible to people with disabilities, the territory will begin a concerted effort to inform voters with disabilities about the resources available. The Virgin Islands will develop a coordinated communication effort to inform people with disabilities how they can access the elections process and what types of accommodations are available to assist them in voting privately and independently.

2. ***Training*** – Through a partnership between the territory and disability advocacy groups, elections workers will receive sensitivity training in assisting people with disabilities and on-going responsibility for providing access, independence, and privacy to the voting process by voters with disabilities.

***Alternative Language Accessibility*** - HAVA requires that voting systems provide alternative language accessibility under the Voting Rights Act of 1965. Virgin Islands law requires all election related material to be printed in both English and Spanish. The Election System of the Virgin Islands. will look into the possibility of utilizing sign language translators and interpreters.

| Requirement | Territory of the Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 301. VOTING SYSTEMS STANDARDS** | | |
| (a) REQUIREMENTS- Each voting system used in an election for Federal office shall meet the following requirements | | |
| (1) IN GENERAL- | | |
| (A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall | | |
| (i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; | Meets Requirement | Purchase additional units |
| (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and | Meets Requirement | Develop an audit method for issuance of replacement absentee ballots |
| (iii) if the voter selects votes for more than one candidate for a single office-- (I) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. | Meets Requirement | See subparagraph B |
| (B) A state or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by | The Virgin Islands does not utilize paper ballot voting systems. | |
| (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and | Partially meets.<br>• Voters are notified of opportunity to request a replacement ballot if they lose or mismark their ballot. | The territory will review and revise ballot materials and implement a voter outreach program with special emphasis on this requirement. |

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***Error Rates*** – All voting systems utilized in the Virgin Islands are required to meet the federal standards for accuracy. The following standards will apply to any new voting systems purchased by the state and counties, including DREs:

- For each processing function, the voting system shall achieve a target error rate of no more than one in 10 million ballot positions, with a maximum acceptable error rate in the test process of one in 500,000 ballot positions. The error rate applies separately to each of the following functions:

  For all DRE systems:
  - Recording the voter selection of candidates and contests into voting storage;
  - Independently from voting data storage, recording voter selections of candidates and contests into ballot image storage.

***Definition of Vote*** – A vote in the Election System of the United States Virgin Islands is defined as the following: "A vote is the expression of one's will, preference, or choice formally manifested by a qualified elector, in regard to a decision to be made upon any proposed measure or the selection of representatives."

| Requirement | Territory of the Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error) | Meets Requirement. | No action needed. |
| (C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. | Meets Requirement. | No action needed. |
| (2) AUDIT CAPACITY- | | |
| (A) IN GENERAL- The voting system shall produce a record with an audit capacity for such system. | Meets Requirement. | No action needed. |
| (B) MANUAL AUDIT CAPACITY- | | |
| (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system. | Meets Requirement. | No action needed. |
| (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. | Meets Requirement. | No action needed. |
| (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used. | Meets Requirement. | No action needed. |
| (3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES- The voting system shall- | | |
| (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; | Partially Meets.<br>• assist the voter at the voter's request. | The territory will meet this requirement through the purchase of DRE machines for use in each of its polling sites |



| Requirement | Territory of the Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and | Does not meet requirement. | The territory will meet this requirement through the purchase of DRE machines for use in each of its polling sites. |
| (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph). | Does not meet requirement. | The territory will meet this requirement upon implementation of the voting system standards referenced above. |
| (4) ALTERNATIVE LANGUAGE ACCESSIBILITY- The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a). | Meets Requirement | No action needed. |
| (5) ERROR RATES- The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act. | Meets Requirement | No action needed. |
| (6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE- Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. | Meets Requirement | No action needed. |

## Provisional Voting and Voting Information Requirements

***Provisional Voting***

The Election System of the Virgin Islands does not currently offer provisional balloting as part of its voting system. In compliance with Section 302 of HAVA, when voters say they are registered to vote and the voters name is not found on the official registration list at the polling place where they appeared, voters will be offered the opportunity to cast a provisional ballot. The voter must make a written affirmation to an election official that the voter is registered to vote in the election district and eligible to vote in that election. Once the provisional ballot has been cast elections officials will then confirm eligibility and whether the voter has already voted. Officials will determine whether or not the ballot can be counted based on territorial law.

The Virgin Islands plans to utilize a form letter informing the voter as to whether the ballot was counted or not. If not the voter will be informed as to why not.

***Voting Information, education and outreach***

The Virgin Islands currently publishes and posts voting information in several places –elections offices, Legislature Buildings, Territorial Court, on the agency's websites, and in other locations. To comply with HAVA, the Elections System of the Virgin Islands will make any necessary revisions to voting materials to ensure voters have proper instructions on:

- the date of the election
- due date/time of registration activities
- the location and address of elections offices
- instructions on how to vote a ballot
- instructions on how to request an absentee ballot, replacement ballot or provisional ballot and how to check the status of a provisional ballot
- instructions for first-time voters with information on voting rights and what to do if these rights are alleged to have been violated
- general information on federal and state election laws regarding fraud and misrepresentation

The Virgin Islands plans to implement a multi-purpose, toll-free line that voters can use to get voting assistance, ask questions about the voting process, check the outcome of their provisional ballot, or report potential fraud. Information disseminated to the community will be in English and Spanish.

Information regarding the effect of the Help America Vote Act on the election process in the Virgin Islands will be made available to the electorate.



1. Upon written, e-mail, telephone, office walk-in request, instructions regarding the use of voting equipment will be supplied via one or all of the following media:

   A. Voice instructions over the phone live or pre-recorded;
   B. Interactive website with voting machine instructions, absentee and provisional ballot information;
   C. Printed pamphlets available by mail or pick up at various public locations

2. Development of pamphlets or flyers covering specific topic areas including, but not limited to:

   A. How to vote using voting machines, including write-ins
   B. How to vote by absentee ballot
   C. The new provisional ballot
   D. Types of votes and how they can affect the outcome of an election (i.e., Bullet Voting, Blank Ballots, the "No" Vote, Block Voting, District and Sub-district Voting)

**Voter Education**

The education component will encompass the elements of the voter information and outreach segments, adding and including the following:

1. With the addition of new voting equipment, materials and programs will be developed for the purpose of educating the public in their use.

2. With the passage of new laws, rules and regulations, materials will be developed for the purpose of informing the electorate of the effects of these changes.

3. Update materials and guides used by the V. I. Election System:

   A. The Poll Workers Handbook will be reviewed, and, where necessary, updated to conform to the new laws, rules and regulations developed and passed as a result of the mandates of the Help America Vote Act.

B. The current Rules and Regulations for Conducting an Administrative Hearing will be reviewed, and, where necessary, updated to conform with the new laws, rules and regulations developed and passed as a result of the mandates of the Help America Vote Act.

C. The current Rules and Regulations for Write-In Candidates will be reviewed, and, where necessary, updated to conform with the new laws, rules and regulations developed and passed as a results of the mandates of the Help America Vote Act.

D. The current Rules and Regulations governing Absentee Voting Procedures will be reviewed, and, where necessary, updated to conform with any new laws, rules and regulations developed and passed as a results of the mandates of the Help America Vote Act.

E. Per the mandate of HAVA, a manual governing the use and procedures for the Provisional Ballots will be developed.

4. In the interest of developing a well-informed electorate in the Virgin Islands, a curriculum unit will be developed for use in the Secondary Schools of the Virgin Islands, to be used as a part of the Civics program in the schools. The materials to be developed will include, but not be limited to the following topics:

A. a description of the Elections System of the Virgin Islands
B. a definition of a "vote"
C. how to vote using the voting machines
D. how to vote by provisional ballot
E. how to vote by absentee ballot
F. a presentation of statistics illustrating the importance of the individual vote
G. the role and function of political parties
H. the effect of candidacies where no political party affiliation is declared
I the roles of the three branches of government (Legislative, Executive and Judicial)
J. the duties and responsibilities of the various executive departments



K. a description of the current method of districting, and an overview of other districting , sub districting and apportionment methods as a way to select our Senators.

These materials will be prepared through the Election System of the Virgin Islands, and will seek the cooperation of the V. I. Department of Education, and the University of the Virgin Islands. Civic and political groups will be solicited to provide materials relating to the topic areas of specific interest (i.e., a brief history of the party or group, and/or position statements on issues of interest to the party or group).

**Voter Outreach**

Clear, consistent, user-friendly outreach materials are important tools to increase accurate voter registration, increase voter turnout in all elections while insuring a minimum of voting errors. The goal of the outreach program is to inform voters of the means to obtain absentee, replacement and provisional ballots, assure access to the electoral process by voters with disabilities, or those who lack proficiency in the English language. The purpose of the outreach component is to increase voter participation and registration. The outreach component will be administered like an election campaign, similar to that of a candidate on the campaign trail working to get the people's attention, and their vote.

1. Election System of the Virgin Islands (ESVI) will utilize the existing website (VIVOTE.COM) to provide information about HAVA/VI. This information will include: impact on voting in the Virgin Islands; information on new election procedures; voting information; upcoming voter registration drives; information on the hotline; and upcoming events being conducted by the Board of Elections. This website will be linked to other related websites such as: Advocacy Groups, Professional Organizations; Chamber of Commerce; Unions; Political Parties; Rotary Clubs; Lions Clubs; Public Housing Communities; Schools; Elected and Appointed Officials; Civic Organizations; Churches; Senior Citizens; Youth Groups; and Disabled Community.

2. Telephone Hotline will educate voters and provide them with information that will assist them in voting or registering to vote.

3. Pamphlets will be distributed at voter registration drives; when people register to vote; at high schools and at the university; at public places and at swearing-in ceremonies of new citizens.

4. Posters will be used to demonstrate how to use new voting machines, and will provide

information such as the hotline number and website address.

5. Television, Radio and Newspapers will be the outlets used to reach the greatest possible number of voters to inform them on how and why it is important to vote. Several other resources can also be used: flyers, videos, public service announcements; paid commercial announcements; promotional items and visual displays.

6. Assist with mock elections in schools so that students will get an idea of what goes on at the polls during an election.

7. Update the election related information as quickly as possible to keep voter's interest and attention.

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| quirement | Territory of the Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **C. 302. PROVISIONAL VOTING AND VOTING FORMATION REQUIREMENTS.** | | |
| ) PROVISIONAL VOTING REQUIREMENTS- If an individual clares that such individual is a registered voter in the jurisdiction in ich the individual desires to vote and that the individual is eligible to te in an election for Federal office, but the name of the individual es not appear on the official district register of eligible voters for the lling place or an election official asserts that the individual is not gible to vote, such individual shall be permitted to cast a provisional llot as follows: | | |
| (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. | Partially meets Requirement. | Will develop system to separate provisional ballots. |
| (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is-- | | |
| (A) a registered voter in the jurisdiction in which the individual desires to vote; and | Meets Requirement. | No action needed. |
| (B) eligible to vote in that election. | Meets Requirement. | No action needed. |
| (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate territorial election official for prompt verification under paragraph (4). | Meets Requirement. | No action needed. |

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| quirement | Territory of the Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (4) If the appropriate territorial local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under territorial law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with territorial law. | Meets Requirement. | No action needed. |
| (5)(A) At the time that an individual casts a provisional ballot, the appropriate territorial local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet. | The Virgin Islands plans to utilize a form letter informing the voter as to whether the ballot was counted or not. If not the voter will be informed as to why not. |
| (B) The appropriate territorial local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. | Does not meet. | The Virgin Islands plans to utilize a form letter informing the voter as to whether the ballot was counted or not. If not the voter will be informed as to why not. |

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## Computerized Territory-wide Voter Registration Program

***Virgin Islands Centralized Voter Registration System***

Section 303 of the Help America Vote Act requires states and territories to implement a "single, uniform, official, centralized, interactive, computerized territory-wide voter registration list" that is defined, maintained, and administered at the state/territorial level. The list must contain the name and registration information of every legally registered voter in the state/territory and assign a unique identifier to each voter. Election officials in the state/territory must be able to obtain and update the information contained in the computerized list.

The Virgin Islands has been viewed as a national and regional leader in making the elections process and voter registration data accessible to its citizens. As elections administration became more complex, V.I. elections officials saw the need for integrating voter registration into a single database and began studying the concept of a centralized system in the1990's.

Currently, official voter registration records are created and maintained at the territorial level. Each district elections office updates and separately maintains voter registration records. Periodically and during the conduct of elections, elections officials conduct checks for voter registration duplicates and corrects this duplication. Databases are updated manually by removing the duplicates.

In compliance with HAVA, the Virgin Islands have already established a single territory-wide voter registration database with integrated election management capabilities. While the election management component may not reflect the unique features of each existing system, it will provide at least the current functionality of existing election management systems.

- The system contains a centrally administered database maintained and administered by the territorial level officials. It contains the name and registration information of every registered voter in the territory.
- The system enable elections officials to remove cancelled voters from the list under the Virgin Islands law.
- The system keeps and report voter history.
- The system ensures that names of each registered voter appear on the computerized list and election officials will ensure that only voters who are not eligible to vote are removed from the active list.
- The system ensures that duplicate voter records are identified on a real time, interactive basis.
- The system assigns a unique voter identifier number for each registered voter.
- The system has the ability for verification and query capabilities with other agency databases within the territory.
- The system includes adequate technological security measures to prevent unauthorized access to the system and its data files as required by Virgin Islands law.

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The Virgin Islands will be expanding the existing centralized voter registration system to improve voter verification and identification at the polling places. This will be accomplished through the purchase of some two hundred ten (210) laptop computers which will be connected from the polling places to the centralized voter registration system at the main office.

***Mail-In Registration***

HAVA Section 303 includes new identification requirements for voters who register by mail and who have not previously voted in an election for federal office. As part of this mandate, states/territories must develop new voter registration forms that include:

- The question, "Are you a citizen of the United States of America?"
- The question, "Will you be 18 years of age on or before election day?"
- The statement, "If you check 'no' in response to either of these questions, do not complete this form."
- A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid additional identification requirements when voting for the first time in a federal election. Sufficient identification must include valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

The Virgin Islands has had a registration form requesting this information since 1963. A copy of the voter registration form is included in the Appendix. The territorial government issues initial voter identification cards for all registered voters. The Virgin Islands does not presently allow voter registration by mail. Because of the implementation of the HAVA Act, it is anticipated that the request for election reform will be forwarded to the Legislature of the Virgin Islands to include registration by mail



| Requirement | Territory of the Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| **SEC. 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.** | | |
| (a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS- | | |
| (1) IMPLEMENTATION- | | |
| (A) IN GENERAL- Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the computerized list), and includes the following: | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (ii) The computerized list contains the name and registration information of every legally registered voter in the State. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |

| Requirement | Territory of the Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (iv) The computerized list shall be coordinated with other agency databases within the State. | Partially meets requirement.<br>• No direct, coordinated link with all other agencies. | Will make additional improvement to the system. Through improved voter registration software. Will coordinate direct links with other V.I. government agencies |
| (v) Any election official in the State, may obtain immediate electronic access to the information contained in the computerized list. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (vi) All voter registration information obtained by election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (vii) The chief State election official shall provide such support as may be required so election officials are able to enter information as described in clause (vi). | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (B) EXCEPTION- The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office. | | |
| (2) COMPUTERIZED LIST MAINTENANCE- | | |
| (A) IN GENERAL- The appropriate election official shall perform list maintenance with respect to the computerized list on a regular basis as follows: | | |

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|---|---|---|
| (i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6). And Title 18 section 116 Virgin Islands Code. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (ii) For purposes of removing names of ineligible voters from the official list of eligible voters-- (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (B) CONDUCT- The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that-- | | |
| (i) the name of each registered voter appears in the computerized list; | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and | Meets requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (iii) duplicate names are eliminated from the computerized list. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST- The appropriate election official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |

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| Requirement | Territory of the Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS- The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following: | | |
| (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (5) VERIFICATION OF VOTER REGISTRATION INFORMATION- | | |
| (A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS- | | |
| (i) IN GENERAL- Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes-- (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |

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| (ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER- If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED- The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law. | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (B) REQUIREMENTS FOR STATE OFFICIALS- | | |
| (i) SHARING INFORMATION IN DATABASES- The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. | Does not meet.<br>• No current Memorandum of Understanding (MOU) between Division of Motor Vehicles (DMV), Commissioner of Police; no technology in place to support this. | The Joint Board of Elections will work to the extent possible with DMV to meet this requirement. |
| (ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY- The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)). | Does not meet.<br>• No current Memorandum of Understanding (MOU) between DMV and Commissioner of Social Security; no technology in place to support this. | The Joint Board of Elections will work to the extent possible with DMV to meet this requirement. |
| (b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL- | | |
| (1) IN GENERAL- Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if-- | | |
| (A) the individual registered to vote in a jurisdiction by mail; and | | |
| (B)(i) the individual has not previously voted in an election for Federal office in the State; or | | |

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| Requirement | Territory of the Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|
| (ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a). | | |
| (2) REQUIREMENTS- | | |
| (A) IN GENERAL- An individual meets the requirements of this paragraph if the individual-- | | |
| (i) in the case of an individual who votes in person-- (I) presents to the appropriate State or local election official a current and valid photo identification; or (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; | Partially Meets Requirement. | Develop rules and regulations for voter identification |
| (ii) in the case of an individual who votes by mail, submits with the ballot-- (I) a copy of a current and valid photo identification; or (II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter | Does Not Meet Requirement. | Recommend amendment to V.I. law allowing vote by mail. |
| (B) FAIL-SAFE VOTING- | | |
| (i) IN PERSON- An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a). | Does Not Meet Requirement. | Recommend amendment to V.I. law allowing provisional ballots. |
| (ii) BY MAIL- An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a). | Does Not Meet Requirement. | Recommend amendment to V.I. law allowing vote by mail. |
| (3) INAPPLICABILITY- Paragraph (1) shall not apply in the case of a person-- | | |
| (A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either-- | | |
| (i) a copy of a current and valid photo identification; or | Does Not Meet Requirement. | Recommend amendment to V.I. law allowing vote by mail. |



| | | |
|---|---|---|
| (ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter; | Does Not Meet Requirement. | Recommend amendment to V.I. law allowing vote by mail. |
| (B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either-- (I) a driver's license number; or (II) at least the last 4 digits of the individual's social security number; and | Does Not Meet Requirement. | Recommend amendment to V.I. law allowing vote by mail. |
| (ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or | Meets Requirement | Will make additional improvement to the system. Through improved voter registration software. |
| (C) who is-- | | |
| (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.); | Meets Requirement.<br>• Title 18 VIC section 664 defines absentee voters. | No action needed. |
| (ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or | Meets Requirement.<br>• Title 18 VIC section 585 outlines voter Assistance in Marking Ballot statute that identifies those voters eligible for assistance and the assistance provided | No action needed. |
| (iii) entitled to vote otherwise than in person under any other Federal law. | Meets Requirement. | No action needed. |
| (4) CONTENTS OF MAIL-IN REGISTRATION FORM- | | |
| (A) IN GENERAL- The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: | | |
| (i) The question `Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States. | Partially Meets Requirement. | Questions are asked on the in office voter registration form. Recommend amendment to V.I. law allowing vote by mail. |

| Requirement | | Territory of the Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| | (ii) The question 'Will you be 18 years of age on or before Election Day?' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on Election Day. | Partially Meets Requirement. | Questions are asked on the in office voter registration form. Recommend amendment to V.I. law allowing vote by mail. |
| | (iii) The statement 'If you checked 'no' in response to either of these questions, do not complete this form.' | Partially Meets Requirement. | Questions are asked on the in office voter registration form. Recommend amendment to V.I. law allowing vote by mail. |
| | (iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time. | Does Not Meet Requirement. | Recommend amendment to V.I. law allowing vote by mail. |
| | (B) INCOMPLETE FORMS- If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law). | Does Not Meet Requirement. | Recommend amendment to V.I. law allowing vote by mail. |

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## Training

### Training

A sound training program is crucial to the success of any election reform being undertaken by the Virgin Islands. Changes in the way training is currently conducted will be necessary and must be flexible enough to reach persons with diversified skills, education and personalities.

The current training program lacks a specific entity that primarily focuses on training issues. Training, for the most part, is informal and is conducted days prior to an election.

Training is conducted in the form of meetings and conferences where information is distributed, new regulations are discussed and the general atmosphere serves more like a refresher course. The current circumstances which precludes a more comprehensive training approach, that can be conducted early and formally, is a lack of adequate personnel.

Recognizing that each voting district has some characteristics that are unique, but acknowledging that the end result must be the same in all districts – an efficient and effective election – a comprehensive, standard and uniformed training program will be developed and implemented in the Virgin Islands:

**MANAGEMENT & OVERSIGHT**

The responsibility for training will be that of the Joint Boards of Election and the Office of the Supervisor of Elections. Resources necessary to conduct the training will be acquired. Qualified personnel in the training and marketing fields will be recruited.

**DEVELOPMENT & PLANNING**

Training needs will be assessed in conjunction with the requirements of HAVA. The assessment will identify all affected groups, level and depth of training required.

Through research various training methods will be identified and utilized in developing a methodology best suited for our needs. Specific focus will be placed on HAVA's compliance requirements for flexibility, easy access, adaptability, effectiveness in retention and a capacity for re-use by trainees.

The assessment and research will be used to develop a training document that will outline the approach. The document will include:

- A diagram of all election officials to be trained, their responsibilities and the interconnectivity of each role.

- A statement of strategic direction and objectives to be met.
- The content and specific details of training, based on HAVA's requirements and existing local laws.
- Method to be utilized for each specific group of worker.
- A system for output review to determine effectiveness of training.

Certification will become a requirement for selected areas of training.

**IMPLEMENTATION**

Training will be implemented based on the results and final outcome of the research and assessment process. Various methods will be employed due to the diversification of the trainees. Training modules that will be instructor led, paper base and on line will be used. To ensure success, testing will become an integral part of the process and will be conducted prior to delivery and during the training process to allow for any modifications or adjustments.



**Administrative Complaint Procedure**

Section 402 of HAVA requires the territory of the Virgin Islands to create territory-based administrative complaint procedures to assure state compliance with Title III of HAVA. The Virgin Islands plans to manage complaints informally, formally and through mediation. When this informal process does not satisfy the voter, a formal administrative complaint procedure will be available as well as mediation. The procedures must meet the following requirements:

- The procedures are uniform and nondiscriminatory.
- Any person who believes there is a violation of Title III (past, present or future) may file a complaint.
- Complaints shall be in writing and notarized, signed and sworn by the person filing the complaint.
- The state may consolidate complaints.
- The state shall provide an appropriate remedy if it finds a violation has occurred.
- If no violation is found, the complaint shall be dismissed and the results of the procedures published.
- Complaints shall have a final resolution within 90 days of the complaint being filed, unless the complainant consents to a longer period.
- If the complaint cannot be resolved within that period, an alternative dispute resolution procedure must be provided.

This complaint procedure is intended to be less formal than most administrative procedures, with potential violations being more likely to represent system-wide problems than individual voting rights. Thus, the possible remedies will be less personal in nature. Therefore, the Virgin Islands proposes to implement these requirements in the following manner, through appropriate administrative rules adopted by the Joint Boards of Election:

- The procedures are solely for complaints alleging a violation of Title III, including voting system standards, instructions on correcting voting errors, ID requirements for voting in federal elections if registration was by mail, computerized voter registration, contents of registration forms, and provisional voting.
- Complaints will be accepted only if made in writing, signed under oath by the person filing the complaint and notarized. The complaint must be filed directly with the Office of the Supervisor of Elections. The Office of the Supervisor of Elections will provide a form on-line that contains the required elements. Elections officials will be encouraged to resolve HAVA complaints informally if possible, but if a person wishes to file a formal complaint, the complaint must be provided and the person directed to submit it to the Office of the Supervisor of Elections

- *Hearing on the record:* The informal hearing is intended to affect a resolution of the matter by reconciling the parties' differences and/or rectifying the alleged action(s). If, after preliminary review of the matter, it is the judgment of the Supervisor of Elections that the Office of the Supervisor of Elections should not address the case, the informal procedure shall be terminated and the Supervisor of Elections shall advise the complainant of other available procedures that are available to them.
If the Supervisor of Elections finds that the Office of the Supervisor of Elections should

address the complaint, the Supervisor of Elections will initiate the informal complaint procedure. The Supervisor of Elections may communicate directly with the respondent specifically, outlining the alleged infractions and attempt to resolve the matter. If this resolves the complaint, no other person will be contacted. The Supervisor of Elections may also meet both parties, make inquiries to ascertain pertinent fact, and consult with others to facilitate the process. If, under this procedure, it is determined that there is a violation of any provision of Title III, an appropriate remedy shall be instituted. If, under this procedure, it is determined that there is no violation of any provision of Title III, the complaint shall be dismissed and the results of the procedures shall be published. If this option does not resolve the matter, all other options remain open to the complainant.

- *Appropriate remedy:* A remedy must be in conformance with territorial elections law and will not include financial payments to complainants or civil penalties for election officials, even if it is determined that a violation of Title III has occurred. Remedies may include written findings that a violation of Title III has occurred, strategies for insuring that violation does not occur again and, if it appears that the complaint involves a systemic problem, possible actions by the Office of the Supervisor of Elections to provide better instructions, training, or procedures for all election officials to avoid future violations.
- *Publish the results:* Office of the Supervisor of Elections will publish the results of all complaints so that the public can see the outcome, by posting the closing letters to the system's website, with links based on who filed the complaint, or a date, or a topic.

- *Make a final determination in 90 days*: When charges of a problem/violation are substantiated and probable cause is determined. The appropriate District Board, in consultation with the Supervisor of Elections, will render a determination regarding the proposed disciplinary and/or corrective action. The Supervisor of Elections input will be limited to issues presented in the case and specific questions regarding compliance with federal and territorial mandates. Decisions regarding corrective action shall be exclusively the province of the appropriate District Board. The District Board will be responsible for the implementation of all such disciplinary/corrective action. At a minimum, the action taken should be designed to protect the complainant from any future procedural or statutory violations. Consistent with the Election System's employee confidentiality policies, the complainant may not be fully advised of actions imposed. The District Board, in consultation with the Attorney General, will determine whether further hearing opportunities are required prior to determination of proposed discipline. The territory shall make a final determination with respect to the complaint prior to the expiration of the 90-day period, which begins on the date; the complaint is filed, unless the complainant consents to a longer period for making such a determination. If the territory fails to meet the deadline 90-day period, the complaint shall be resolved within 60 days under alternative dispute resolution procedure. The record and other material from any proceeding conducted under the complaint procedures shall be made available for use under the alternative dispute resolution procedure.



- The *alternative dispute resolution* procedures will be mediation. It is mandated pursuant to P.L. 107-252 section 402(1)(I). Upon preliminary review of the allegations, the Joint Board of Elections will determine whether the case is appropriate for mediation. Examples of those that may not be appropriate for mediation include complaints that involve discrimination against a group or class, reflects a pattern and practice of discrimination, or criminal violation. (This is not an exhaustive listing). If the complainant's selection of mediation is appropriate, the Supervisor of Election will initiate the mediation process within fifteen (15) business days. The Supervisor of Election may serve as the mediator or assign the case to a mediator. The mediator must be neutral, objective, and agreeable to both parties. The mediator will promptly arrange a meeting of both parties, during which the parties will develop a memorandum of understanding as to the purpose and scheduling of the mediation sessions. The mediator will preserve this documentation. At the conclusion of the successful mediation, the parties will develop and the mediator will preserve an agreement for resolution of the complaint and future interactions between both parties. The written agreement will be signed by both parties and submitted to the Supervisor of Elections. The agreement will take effect immediately according to its own terms.

| Requirement | | Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| **SEC. 402. ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES** | | Meets Requirement. | Will modify to meet HAVA requirements. |
| (a) ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES | | | |
| (1) ESTABLISHMENT OF PROCEDURES AS CONDITION OF RECEIVING FUNDS- If a State receives any payment under a program under this Act, the State shall be required to establish and maintain State-based administrative complaint procedures which meet the requirements of paragraph (2) | | Meets Requirement. | No action required. |
| (2) REQUIREMENTS FOR PROCEDURES- The requirements of this paragraph are as follows: | | | |
| | (A) The procedures shall be uniform and nondiscriminatory. | Meets Requirement. | No action required. |
| | (B) Under the procedures, any person who believes that there is a violation of any provision of title III (including a violation, which has occurred, is occurring, or is about to occur) may file a complaint. | Meets Requirement. | No action required. |
| | (C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint. | Meets Requirement | No action required. |
| | (D) The State may consolidate complaints filed under subparagraph (B). | Meets Requirement | No action required. |
| | (E) At the request of the complainant, there shall be a hearing on the record. | Meets Requirement | No action required. |



| Requirement | | Virgin Islands Current Status (Meets Requirement, Partially Meets, Does Not Meet) | Actions Planned |
|---|---|---|---|
| | (F) If, under the procedures, the State determines that there is a violation of any provision of title III, the State shall provide the appropriate remedy. | Meets Requirement | No action required. |
| | (G) If, under the procedures, the State determines that there is no violation, the State shall dismiss the complaint and publish the results of the procedures. | Meets Requirement | No action required. |
| | (H) The State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period, which begins on the date, the complaint is filed, unless the complainant consents to a longer period for making such a determination. | Meets Requirement | No action required. |
| | (I) If the State fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures. | Meets Requirement | No action required. |

## Funding Distribution and Controls

The Virgin Islands intends to use the following principles in determining the use and distribution of Title I and Title III funds:

1.) The Joint Boards of Elections will use federal funding first to address requirements placed on the territory by the new law and discretionary improvements to elections systems will be funded second.
2.) That Election System will make election improvements visible to the public as early in the process as possible.

**Effect of Title I Payments**

Working under the above guidelines, theVirgin Islands expects to use its Title I allocation for the following activities, which are estimated as follows:

- Purchase additional voting machines/curb side voting - $696,000.
- Purchase of DREs for assuring access for voters with disabilities - $34,000
- Conducting a pilot project for the testing of equipment and technology -$270,000

**Additional Funding (Title III Requirements Payment)**

If Virgin Islands receive federal funding in addition to the Title I monies, the territory will use these funds as follows:

- Improve centralized voter registration system, - $779,160
- Improve verification and identification of voters at the polling place - $1,083,000
- Voter information, education and outreach, other Title III requirements/
- Training of election staff, board, poll workers, technicians, and media $497,000
- Planning preparation and project management /
- Fund costs incurred by the Elections System for meeting requirements and any other priorities specified by the state HAVA plan, including staff positions to implement HAVA, training, and voter outreach responsibilities placed on the Election System of the V.I./
- Fund special efforts to address needs, such as upgrades of vote tally systems and improvements to physical space. $570,840
- Provisional Voting $70,000

## Election Fund

The Virgin Islands has prepared legislation for consideration by the 2003 Legislature to create a Virgin Islands Election Fund so federal funds can be received as soon as they are available. The Election Fund will be separate and distinct from the General Fund of the Territorial Treasury and interest earned by the Fund will be credited to the Election Fund. The Fund consists of amounts appropriated or otherwise made available by the Legislature of the Virgin Islands or the territory for carrying out the mandates and activities of the federal Help America Vote Act of 2002. Bill 25-0050 was passed in the Legislature on June 16, 2003 and signed in law by the Governor Charles W. Turnbull on June 26, 2003. A copy of ACT No.6574 is appendix "A"



## Distribution of Funds

The Joint Boards of Elections and the Office of the Supervisor of Elections will manage activities and projects mandated by HAVA payments. The territory will be responsible to account for all expenditures, funding levels, program controls and outcomes in accordance with the requirements of HAVA.

## Maintenance of Effort

In compliance with HAVA Section 254(a)(7), in using any requirements payment, the Virgin Islands will maintain expenditures of the territory for activities funded by the payment at a level equal to or greater than the level of Title III expenditures in the territory for FY 2000 or $1, 401, 300.00. The intent of funding provided under HAVA is to pay for new or enhanced efforts, not to supplant existing funding at the territorial level. It is therefore important to note that the projected HAVA budget is based on a critical assumption that the state and counties will maintain this foundation of election operating expenditures at existing levels. Without this foundation, the short-term infusion of HAVA funds will not be sufficient to maintain the new territorial election environment in the long-term.

## Budget

Federal appropriations for HAVA were less than the amounts authorized by legislation. The following table shows the assumptions the territory is using regarding federal funding. The Virgin Islands federal share numbers are based upon information from the U.S. General Services Administration, Office of the Chief Financial Officer.

| Federal Fiscal Year | Total Federal Funds | Virgin Islands Federal Share | 5% State Match Requirement* |
|---|---|---|---|
| **Early Payments** (Title I Funds) | $650,000,000 (appropriated) | $ | $0 |
| **2003** | $800,000,000 (appropriated) | $500,000 | $25,000 |
| **2004** | $481,000,000 (President's Budget) | $500,000 | 25,000 |
| **2005** | $600,000,000 (authorized) | $ | $ |
| **Total** | **$2,531,000,000** | **$1,000,000** | **$50,000** |

*Source the U.S. General Services Administration, Office of the Chief Financial Officer. Based on P.L. 107-252: "Help America Vote Act of 2002."*

*5% State Match Requirement is calculated as 5% of the **total** of the combined territorial and federal portions of expenses. This calculation requires a multiplier of .0526 (i.e., 5/95 ~ .0526) of the federal funds. For FY 2003, the $200,000 territorial match is 5.26% of the federal contribution of $4,000,000. Of the combined expenditure of $4,000,000, the territorial match of $200,000 is 5%.

Virgin Island is assuming that the costs of complying with HAVA will not end after federal appropriations have ceased in 2005. Therefore, the territory is considering holding in the Election Fund any unspent federal funds remaining after all HAVA requirements have been met and using the interest earned from these funds to pay on-going maintenance and program costs.

In addition, the Virgin Islands plans to use Title I early funding to pay for Title III requirements. When the requirements payment is received, the territory will reimburse itself for the Title I funds used in meeting Title III requirements. The territory will then be responsible for the 5% match for those reimbursed funds.



## Budget for HAVA Activities

| HAVA Requirements | Total Cost | Title III Funds | Title I Funds | Section 252 & 257 Funds | 5% State Match |
|---|---|---|---|---|---|
| Voting System Standards (S-301) | | | | | |
| • Purchase additional voting machines/ curb side voting | **$596,000** | | $596,000 | | $29,800 |
| • DRE Purchase | **$34,000** | | $34,000 | | $1,700 |
| • Ballot Correction Information | **$100,000** | | $100,000 | | $5,000 |
| • Conduct Pilot Program for the testing of equipment and technology | **$270,000** | | $270,000 | | $13,500 |
| Improve the centralized Voter Registration (S-303) | **$779,160** | $779,160 | | | $38,958 |
| Voter Information, education & outreach and Election Worker Training (S-254) | **$497,000** | $497,000 | | | $24,850 |
| Improve verification and identification of voter at the polling place | **$1,083,000** | $1,083,000 | | | $54,150 |
| Provisional Voting and Voting Information Requirements (S-303) | **$70,000** | $70,000 | | | $3,500 |
| State Plan Creation and Management/Physical Space changes/fund cost incurred | **$570,840** | $570,840 | | | $28,542 |
| TOTAL | **$4,000,000** | $3,000,000 | $1,000,000 | $1,401,300 | 200,000 |

** Unspent federal funds will be set-aside in the Virgin Islands Election Fund for payment of long-term costs of complying with HAVA*

## Plan Management

Title II of the Help America Vote Act requires each state to describe how it will manage the implementation of its proposed HAVA plan. This description must include who is responsible for implementation and monitoring, the process for changing the state plan, implementation timelines, and reporting requirements for counties and projects. The Virgin Islands will conduct plan management at three levels:

1. **HAVA State Plan Committee** – The primary responsibility of the State Plan Committee during implementation is to recommend and oversee the process of making needed changes to the State Plan. The HAVA State Plan Committee will report directly to the Supervisor of Elections. It is recommended that the State Plan Committee meet at least quarterly during the first year or two of implementation.

2. **Office of the Supervisor of Elections** – Responsibility for implementation of the plan will be carried out at the territorial level. The Supervisor of Elections is responsible for reporting to the Joint Boards of Elections on HAVA funds, and resource needs/expenditures coordinating decision-making, to ensure implementation activities are on track.

3, **Project/Task Level** – Individual leaders will have responsibility for the day-to-day coordination and implementation of distinct projects within the HAVA plan. These individuals may be members of the HAVA State Plan Committee, or Election System staff. These individuals are responsible for reporting project activities, progress, to the Supervisor of Elections who will determine appropriate reporting based upon the needs, requirements, complexity, and risk factors of each project.

The Territory understands and agrees to comply with HAVA requirements related to ongoing management of the state plan. The HAVA State Plan Committee will lead an annual process for plan revisions that includes the following steps:

| | |
|---|---|
| **April 1–April 30, 2003** | Stakeholders discuss and recommend needed plan revisions. |
| **May 1–May 31, 2003** | State Plan Committee members review recommendations from stakeholders and staff and decide on draft changes. |
| **July 15– July 31, 2003** | Public comment period. |
| **August 1–August 10, 2003** | Comment, review and approval by the Joint Boards of Elections. Plan revisions are finalized. |
| **August 15, 2003** | Revised plan is submitted to the federal commission for publication in the Federal Register. |



No material changes to the plan or the administration of the plan will be made during the first year unless the change is developed and published in the Federal Register in accordance with HAVA Section 256.

## Performance Goals

The Office of the Supervisor of Elections, in collaboration with District Boards of Elections, will establish HAVA performance goals and institute a process to measure progress toward these goals. Performance goals will provide a high level view of a particular project's direction.

| *Activity* | *Completion Date* |
|---|---|
| **Section 301 – Ballot Correction** | |
| Voter Education Materials in all Vote by Mail Ballot Materials | January 1, 2006 |
| **Section 301 – Accessibility for Individuals with Disabilities** | |
| Use of DREs in elections | January 1, 2006 |
| **Section 302 - Provisional Voting Requirements** | |
| Implementation of toll-free line | January 1, 2004 |
| **Section 303 – Computerized Statewide Voter Registration List** | |
| System is fully operational | January 1, 2006 |
| **Section 303 – Mail-In Voter Registration Forms** | |
| Establishment of mail in voter registration and new forms in use | January 1, 2004 |

The territory will measure the following five critical areas for each project. Appropriate territorial personnel will develop the necessary matrix to collect performance data. The measures will provide the territory with the ability to understand, predict, and improve overall performance and communicate expectations at the state and local levels.

- **Scope:** measures internal or external events that may affect cost, implementation schedule or quality.
- **Schedule:** measures progress toward goals.
- **Resources:** measures personnel and financial investment to ensure that the right people are on a project at the right time.
- **Quality:** measures effectiveness of the project to ensure that it meets expectations.
- **Risk:** measures likelihood and impact of certain events on operations.

## Audits and Internal Controls

According to the Statements on Auditing Standards (SAS) No. 1, section 220, "In all matters relating to the assignment, an independence in mental attitude is to be maintained by the auditor or auditors." The accounting profession has established, through the AICPA's Code of Professional Conduct, precepts to guard against the presumption of loss of independence.

Any audits conducted of the HAVA program for the Election System of the V. I. Will be made in accordance with the American Institute of Certified Public Accountants (AICPA) Audit and Accounting Guide, *Audits of State and Local Governmental Units*, and generally accepted government auditing standards for financial audits (*Government Auditing Standards*), issued by the Comptroller General of the United States.

The Joint Boards of Elections will ensure that the Territory and any Territory sub recipient of grants or other payments under this Act maintain records in accordance with the record keeping requirements of the Act (section 902) and all such records will be available for audit. The Joint Boards of Elections will also ensure itself and all sub recipients are audited on a regular basis as determined by the Federal Election Assistance Commission and in accordance with the Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.



*ELECTION SYSTEM OF THE VIRGIN ISLANDS*
**TIMELINE CHART FOR HAVA REQUIREMENTS 301**

| TASKS | COMPLETION DATE |
|---|---|
| 1. Develop as required by HAVA section 402, (Title III), administrative complaint procedures. | **May 15, 2003** |
| 2. Election System to look into the possibility of using sign language translators and interpreters in order to provide access for the blind and visually impaired. | **August 15, 2003** |
| 3. Begin communication effort in order to inform disabled persons how to access the election process and how they can be assisted in voting privately and independently. | **October 15, 2003** |
| 4. TTD Access – Board of Elections to have TTD capability. | **July 13, 2004** |
| 5. Purchase mobile voting machines for persons with disabilities not able to enter the polling place | **July 15, 2004** |
| 6. Continue to provide Voter Identification. Require individuals voting in person to present identification, copy of current utility bill, bank statement, government check, paycheck or government document showing name and address or drivers license number or last four digits of social security number. | **July 15, 2004** |
| Purchase new voting machines. | **July 30, 2004** |
| 7. Train poll workers to understand the new voting equipment | **July 30, 2004** |
| 8. Absentee voting- Provide permanent absentee ballot alternative for people with disabilities. | **August 15, 2004** |
| 9. Sensitivity training for election officers so that they can assist disabled persons and also ongoing responsibility for providing access, independence and privacy to the voting process by voters with disabilities. | **August 15, 2004** |
| 10. Direct Recording Electronic (DRE) Voting System Acquisition as required and to allow privacy and independence along with preserving the dignity of the disabled. | **September 1, 2004** |
| 11. Implement provisional voting in order to allow persons to vote whose names do not appear on the voter's list. Also special form letter for voter to inform them of ballot status | **September 1, 2004** |
| 12. Implement multi-purpose toll-free line that voters can use to access voting assistance, ask questions about the process, check the outcome of their provisional ballot, or report potential fraud. | **February 15, 2004** |
| 13. Begin improvements to the centralized voter registration system. | **February 15, 2004** |
| 14. Outreach – Inform community, especially individuals with disabilities, regarding the new machines available and fact of greater accessibility. | **February 15, 2004** |
| 15. Create 1-800 (toll-free) multi-purpose number for questions about elections, particularly improvements and accessibility for persons with disabilities. | **February 15, 2004** |
| 16. Develop audit method for issuance of replacement ballots. | **April 30, 2004** |
| 17. Develop registration by mail program | **January 1, 2005** |
| 18. Begin removal of voters from the voter registration list under Virgin Islands Law | **January 1, 2005** |

| | |
|---|---|
| 19. Coordination with other agency's database between Motor Vehicle Bureau and V.I. Election System in order to verify accuracy of information. | January 1, 2006 |
| 20. Agreement between Motor Vehicle Bureau and Social Security. | January 1, 2006 |

Help America Vote Act of 2002
Virginia State Plan
– July 2003 –
Adopted by the Virginia State Board of Elections 7/31/2003
Fully formatted Plan available at http://www.sbe.state.va.us

## Introduction

### The State of Elections in Virginia

Virginia is fortunate in that some of the requirements of HAVA are already in place and only minor adjustments are necessary to bring those elements into full compliance with the mandates of the Act. The State has had provisional (called "conditional" in Virginia) voting, identification requirements and a voting equipment certification process in place for many years. The State Board of Elections (SBE) has made special efforts to address deficiencies in the accessibility of Virginia's 2277 polling places.

In other areas, Virginia still has a lot of work to do. The State has had a single statewide voter registration list, but the system is 30 years old and requires replacing, as it does not comply with many of the requirements of HAVA. While the State certifies voting equipment, over 62% of our precincts used punch card or lever machines in November 2000. While the State has made it easier for persons with disabilities to vote (e.g., curb side voting), not all persons with disabilities are able to vote in a private and independent manner.

The following sections discuss the State of Elections in Virginia and provide snapshots of the State's status on meeting HAVA requirements.

#### *Voting Systems*

The Code of Virginia (hereinafter referred to as "Code") requires that the SBE certify any mechanical or electronic voting system or equipment before any locality may purchase (or lease) the system or equipment (Code §24.2-625 et seq.). The certification procedure adopted by the three-member Board (hereinafter referred to as "the Board") first requires certification by an Independent Testing Authority (ITA) and then Virginia-specific hardware and software testing, financial certification and field-testing. Virginia retains a consultant well versed in the technology and issues surrounding the implementation of new voting technology; the consultant conducts the hardware and software tests and makes recommendations. The Virginia Department of Accounts reviews all financial documents.

Each of Virginia's 134 localities purchases (from the list of certified equipment) and maintains its own voting equipment. In early 2002, the Board certified its first two Direct Recording Electronic (DRE) voting systems, both of which are adaptable for non-visual use. Virginia has now certified seven different DREs from five different vendors. The State will conduct certification testing for another five vendors during the summer of 2003.

There are five categories of equipment in use in Virginia: paper, optical scan, mechanical lever, punch card, and DRE (either touch screen or button). These categories are in use as follows:

| Type | # of Precincts | # of Central Absentee Precincts | Units | Tabulators/Booths |
|---|---|---|---|---|
| Paper | 28 | 24 | – | – |
| Optical Scan | 493 | 42 | – | 610/2652 |
| Mechanical Lever | 1065 | – | 2553 | – |
| Punch Card | 275 | 5 | – | 328/2638 |
| DRE | 416 | 1 | 1657 | – |
| Totals: | 2277 | 72 | 4210 | 938/5290 |

Finally, since 2001 SBE has, on an annual basis, reviewed, adopted and distributed uniform definitions of what constitutes a valid vote for paper, punch card and optical scan ballots in a recount or other hand count.

#### *Polling Place Accessibility*

Beginning in January 2002, SBE has dedicated considerable effort towards ensuring that polling places are ADA (Americans with Disabilities Act) compliant. At that time, SBE sent out a survey to every registration office and required that each locality evaluate each polling place for accessibility based on defined ~~requirements. As of that~~ date, 12.6% of Virginia's precincts were not compliant based on the self-evaluation. As of January 1, 2003, these self-evaluations resulted in only 12 precincts (out of 2277 total) reported as out of compliance. While SBE has also begun site visits to verify the reports on the self-evaluations, budgetary considerations have precluded the audit program necessary to ensure 100% compliance.

#### *Provisional Voting*

Provisional voting (called "conditional voting" in the Code) has been available to Virginia voters since 1975. When a person offers to vote as a registered voter in the precinct, but their name cannot be found on the precinct registered voter list, an officer of election will call the local general registrar. If the general registrar is not available, or cannot state that the person is in fact registered to vote, then that person must be allowed to vote a paper "conditional" ballot. If the registrar is available and confirms that the person *is* a registered voter in that precinct, they would vote in the same manner as other voters. If registered in another precinct, the officer of election refers the voter to the correct precinct.

The conditional voter must provide, subject to the penalties for making false statements pursuant to Code §24.2-1016 (on a green envelope supplied by the State Board) the identifying information required in Code §24.2-652. An officer of election informs the voter that a determination of the voter's right to vote shall be made by the electoral board on the following day and advises the voter of the beginning time and place for the board's meeting. The electoral board only counts the ballot if it finds, by the time of their meeting, that the person was in fact registered and qualified to vote in that precinct (Code §24.2-653).

The most common reason for provisional ballots to be used and counted is that the voter's name could not be found on the printed list at the polls because of a spelling variation, name change, hyphenation (used or missing), or the inversion of parts of the voter's name. Conditional ballots have also been counted when the voter successfully appealed his removal from the list, a completed and timely application was found, or it was determined that the voter's name was removed in error. Conditional ballots are usually not counted because no record could be found of the person's registration, the voter was in the wrong precinct, or the voter had applied after the registration deadline for that election. Conditional (provisional) voting ensures that qualified voters whose names cannot initially be found on the list at the polls will, nevertheless, have their votes counted.

#### *Voting Information*

Virginia now provides public information at the polls on each Election Day including:

- A sample ballot; (HAVA §302(b)(2)(A))
- Instructions on how to cast a ballot specific to the equipment or ballot style in use; (HAVA §302(b)(2)(C))
- Instructions on ID requirements; (HAVA §302(b)(2)(D))
- General information on voting rights, on the right to cast a conditional ballot and on how to contact officials if these rights might have been violated. (HAVA §302(b)(2)(E))

#### *Voter Registration List*

Virginia uses a centralized voter registration system (Code §24.2-404) known as the Virginia Voter Registration System (VVRS), first developed in 1973. Virginia was the second state in the nation to have a centralized voter registration database. In 1988, VVRS underwent a substantial revision that moved the system from batch-driven to interactive. While the system has evolved over time to meet ever-expanding requirements, it is, and throughout its life has been, a COBOL application resident on a Unisys mainframe. The State provides secure access to the VVRS for each locality by frame relay circuits that run between each locality's voter registration office and the Department of Information Technology (where the Unisys mainframe resides).

While VVRS is a statewide secure system, it does not meet all of the requirements of HAVA (e.g., temporary, federal-only registrants are kept outside the system thus creating two lists that are manually merged into one paper list for each election). The system is costly to maintain and costly to modify. Indeed, several studies completed in the 1990's[1] recommended replacement of the system.

In 2000, SBE began development of a replacement system, dubbed "VVRS-II." Due to a budget impasse in 2001, there was no second year funding (required to complete the project) and the development effort ended well short of a final usable product.

***Registration by Mail and Voter ID***

The National Voter Registration Act (NVRA) mandated that states allow voters to register by mail and at designated agencies such as the Department of Motor Vehicles. Before its 1996 implementation in Virginia, most voters (other than military and overseas voters) were required to register in person in front of a registrar. Initially, the state required first time mail registrants (other than certain exempt classes such as military and overseas voters, and students away at school), to vote in person the first time they voted in Virginia, and to present identification at that time. The in-person requirement is still in the Code, but the state legislature in 2000 extended the ID requirement to all voters voting in person at the polls. In 2002, the state further extended the ID requirement to include absentee voters who voted in person at a registrar's office or satellite absentee location established by the registrar.

The current Virginia ID requirement is that the voter present one of the types of ID specified in the Code, or signs a statement affirming his identity, under felony penalty for false statements, in lieu of presenting ID. The specified forms of identification are:

- A Commonwealth of Virginia voter registration card;
- A Social Security card;
- A valid Virginia driver's license;
- Any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or
- Any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.

***Training and Voter Education***

The SBE is required (Code §24.2-103) to provide training for General Registrars and Electoral Board members. SBE meets this mandate by holding annual training, providing a secure web site that contains various training documents including a Handbook and providing on-going support.

Virginia has also invested in providing information to the public. The SBE web site has won national recognition[2] for the services it provides including:

- The most frequently requested registration and election statistics are available for viewing/download.
- All voter registration and candidate forms along with all candidate bulletins and a summary of the Virginia Campaign Finance Disclosure Act are available for download.
- A suite of interactive web applications, developed over the past four years, allows Virginia citizens to:
  - Securely verify their voter registration status;
  - Find the location of their polling place;
  - Contact their elected representatives;
  - Securely track the status of their absentee ballot application;
  - View candidate names and addresses for upcoming elections;
  - View campaign finance disclosure reports for General Assembly, Governor, Lieutenant Governor, and Attorney General candidates; and
  - View real-time election results on election night as the local election offices report them.

In addition, the SBE provides brochures on statewide ballot issues and constitutional amendments, distributes them through local elections offices for the public and polling places, publishes newspaper ads, provides posters for polling places and posts the information to the state web site.

## Elements of the State Plan

### 1. How Virginia will use the Requirements Payments

***§301(a), Voting Systems Standards Requirements***

Virginia intends to maintain its system of voting equipment certification and to maintain the diversity of choices for localities. To meet the requirements of HAVA, the state will:

- Review and update (if necessary) state certification standards and ensure that these standards fully comply with the requirements of §301 including voter verification (in a private and independent manner), audit capacity, accessibility and error rates.
- Use Title III funding to purchase one DRE for every precinct, including central absentee precincts where they exist. (§301(a)(3))
- Use FY04 and FY05 Title III funding to assist localities in purchasing additional equipment or modifying existing equipment to meet the requirements of this section.
- Ensure that new equipment will be able to provide for alternative language accessibility (although this is not now required in Virginia). (§301(a)(4))
- Conduct audits (i.e., site visits) to ensure that 100% of Virginia's 2277 polling places meet the requirements of the Americans with Disabilities Act (ADA) and applicable Virginia law.
- Update its uniform definitions of what constitutes a vote to reflect the requirements of new systems. (§301(a)(6))

***§302, Provisional Voting and Voting Information Requirements***

PROVISIONAL VOTING

Virginia currently permits provisional voting, called "conditional voting," (Code §24.2-653) that meets most of the requirements of the Act. To bring Virginia procedures into full compliance, the state will:

- Develop the written information required under §302 (a)(5)(A). SBE will distribute this information to the localities and post it on the state's web site.
- Develop a free-access system that may include either a toll-free number or a web site or both. SBE currently has a toll-free number, however, the phone system is antiquated and cannot accommodate the requirements of this section. The SBE web site already hosts some secure interactive applications (e.g., check registration status, track absentee ballot). Due to the manual nature of the current system for tracking conditional ballots, implementation of a new web application to track these ballots will depend on the development of a new voter registration system. The state anticipates implementing the toll-free number to meet the initial deadline and may establish a secure web site once the new voter registration system is in place. (§302(a)(5)(B))

VOTING INFORMATION

Virginia now meets many of the requirements for the posting of information at the polls on Election Day. SBE will modify or add documents so that the material posted at each polling place is in full compliance with the Act. Specifically:

- SBE will prepare and distribute information regarding the date of the election and the hours during which the polls are open; (HAVA §302(b)(2)(B))
- SBE will prepare and distribute instructions on how to cast a provisional (conditional) ballot; (§302(b)(2)(C))
- SBE will modify the information on identification requirements to reflect the new requirements of the Act for applicable voters; (§302(b)(2)(D))
- SBE will prepare and distribute general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation. (§302(b)(2)(F))

Finally, HAVA requires that, if a court order extends the closing time of the polls, the state must consider ballots cast after the normal closing time as provisional ballots and local election officials must segregate these provisional ballots from the other ballots for that election. This provision would not apply to anyone who is in line by the normal closing time for the polls (and who is already allowed to vote in the usual manner). It would only apply to those who arrive after the normal closing time, and who vote because of a court order extending the voting hours. SBE will seek legislation to comply with this requirement (§302(c)) in 2004.

***§303, Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail***

COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST

Although Virginia now has a computerized statewide voter registration list, it does not meet all of the requirements of HAVA. Based on experience, it will be expensive to modify the system to bring it in to compliance. Instead, Virginia will develop a new system using the project management guidelines developed and promulgated by the state's Department of Technology Planning (COV ITRM Guideline GOV2003-02.2). The new system will:

- Serve as the single system for storing and managing the official list of registered voters in Virginia. (§303 (a)(1)(A)(i))
- Contain the name and registration information for every legally registered voter in the state including all temporary registrants. (§303 (a)(1)(A)(ii))
- Assign a unique identifier to each legally registered voter in the state. The Virginia Constitution (Article II, §2) requires that voter registration applicants provide a social security number on the registration application. However, as SBE cannot disclose this number to the public (Code §24.2-405), the VVRS assigns each voter a different and unique 9-digit number. The state expects this practice to continue under the new system. (§303 (a)(1)(A)(iii))
- Coordinate with other agency databases within the State. SBE expects to work with the Department of Motor Vehicles (DMV), the State Police, the Courts, the Office of Vital Records and Health Statistics (in the Department of Health) and other agencies to create close coordination between the new system and other existing agency databases. (§303 (a)(1)(A)(iv))
- Allow immediate electronic access for any election official in the State. Some local election officials who do not have voter registration responsibilities (e.g., Electoral Board members) may be permitted read-only access, however, all General Registrars and their assistants will be permitted full access privileges. (§303 (a)(1)(A)(v))
- Ensure that all voter registration information obtained by General Registrars is entered on an expedited basis at the time the information is provided. SBE will review current procedures and training documents and revise them as needed. (§303 (a)(1)(A)(vi))
- Serve as the official voter registration list for the conduct of all elections in the State. (§303 (a)(1)(A)(viii))

SBE will also provide the technical support necessary to ensure that local election officials (e.g., General Registrars) can keep the list current and enter information about voters on an expedited basis (§303 (a)(1)(A)(vii)). Further, SBE will ensure that the security of the system meets the requirements of §303(a)(3) and Virginia's *Information Technology Security Standard* (COV ITRM Standard SEC2001-01.1).

SBE will perform list maintenance as prescribed by applicable law. The current voter registration system uses a "confirmation" process (Code §24.2-428-429) to implement the requirements of the National Voter Registration Act of 1993 (NVRA). SBE annually mails confirmations to voters believed to have moved. The State also cooperates with the State Police on felony convictions and with the Office of Vital Records and Health Statistics on deaths. Much of the list maintenance now involves manual verification and inactivation. The VVRS will only identify duplicate names within a locality, not between localities. The system does identify duplicate social security numbers (SSNs) statewide upon initial entry. VVRS does not permit duplicate registrations under the same SSN. The new system will improve on the current system and include the current processes (§303 (a)(4)(A)) as well as additional safeguards to ensure that:

- The name of each registered voter appears on the list (§303 (a)(2)(B)(i));
- Only voters who are not registered or who are not eligible to vote are removed (§303 (a)(2)(B)(ii));
- Duplicate names are eliminated (§303 (a)(2)(B)(iii)); and
- Eligible voters are not removed in error from the official list (§303 (a)(4)(B)).

As Virginia is both permitted to use social security numbers (SSNs) and provides for the use of SSNs on applications for voter registration, the State is exempt from the requirements of §303 (a)(5). Virginia does intend to build in verification procedures that include closer coordination with the DMV database and verification through DMV with the Social Security Administration's database.

VOTERS WHO REGISTER BY MAIL

Virginia already requires all voters voting in person to present one of a list of specified IDs, or sign a statement attesting to their identity in lieu of presenting ID. In federal elections beginning in 2004, a different set of ID requirements, as mandated by federal law, will apply to any first-time Virginia voter who:

- Registered to vote by mail after January 1, 2003, and
- Has not previously voted in a federal election in Virginia, and
- Registered stating, subject to felony penalties for false statements pursuant to § 24.2-1016, that he does not have a social security number, or provided a social security number which could not be matched to an existing State identification record bearing the same number, name and date of birth in the Virginia Division of Motor Vehicles database.

When voting the first time in a federal election (while these federal ID requirements remain in effect for Virginia), these voters will need to present at the polls (or send with their mailed ballot a copy of):

- A current and valid photo identification, or
- A copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter.

Such voters may not sign the state affirmation of identity form in lieu of presenting one of the federally required IDs. They also will not be able to use any of the state-specified IDs that do not include a photo (i.e. a voter registration or social security card). Any such voter not presenting the required ID or copy will vote a Conditional Ballot. The electoral board will count such Conditional Ballot only if it verifies that the voter is entitled to vote in that precinct.

The new federal ID requirements do not apply to any voter who:

- Is entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.), or
- Is provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)), or
- Is entitled to vote otherwise than in person under any other Federal law, or
- Submits a copy of an appropriate ID (from the federal list) with their application. (Virginia will modify the mail-in voter registration form to include this request.)
- This federally mandated ID requirement would not apply to *any Virginia voter* once Virginia's computerized Voter Registration System has met all the requirements of §303(a) of HAVA. Since upgrading the current system to meet those requirements is one of Virginia's top priorities, the state anticipates that these federal ID requirements will only be in effect for the 2004 federal elections, and that the state will be exempt by 2006 at the latest.

Finally, Virginia is in the process of redesigning the voter registration application to include the questions and statement required under §303 (b)(4). The new application form will go into effect as soon as possible and no later than January 1, 2004. Local registration offices are already required to notify applicants denied registration of the reasons for the denial and to provide a new application to such applicants (Code §24.2-422). SBE will review and modify (if necessary) internal procedures to ensure full compliance with §303 (b)(4)(B) and will individually notify affected voters.

*§304, Minimum Requirements*

Virginia understands that the requirements of Title III are minimum requirements and that the State may establish election technology and administration requirements that are more stringent. Any more stringent requirements that the State imposes will comply with all Title III requirements, the laws described in §906 and the Code of Virginia.

**2. How Virginia will distribute and monitor Requirements Payments**

SBE will manage all activities funded by the Requirements Payments and the Secretary of the SBE will authorize all expenditures. SBE may disburse Requirements Payment funds to localities for the purchase or modification of voting equipment to meet accessibility requirements (§301 (a)(3)).

SBE will coordinate, to the maximum extent possible, the purchase of voting equipment among localities to ensure the lowest per unit cost for each locality. The State will negotiate with each certified voting equipment vendor to achieve volume pricing on state contract. In some cases, localities may choose to purchase directly from a certified vendor; in these cases, SBE may reimburse localities based on the lowest negotiated state contract pricing.

SBE will adhere to the Code and established federal and state accounting policies and standards when distributing federal funds.

**3. Education and Training**

Virginia plans to implement an aggressive program of voter education, election official education and training and poll worker training. The State views this program as vital to the success of the HAVA implementation effort. The HAVA Training Program may contain, among other things, the following elements:

***Training for Election Officials and Officers of Election***

- Create information on Basic Procedures for training Officers of Election. SBE will provide standard information and allow localities to provide their own custom content.
- Create interactive web-based systems for Officers of Election that include testing.
- Create and make training presentations available through the SBE web site.
- Create an upgraded and enhanced secure web site that includes a variety of training material and tools for General Registrars and Electoral Boards.
- Implement regional training for General Registrars and Electoral Board members.

***Voter Education***

- Provide voter information to every voter along with the Voter Registration Card. The information will include information about voters' rights; the process; accessibility; special considerations for students, uniformed and overseas voters; and absentee procedures. The information may be available in languages other than English.
- Use community or civic associations, newsletters to get information out.
- Prepare Public Service Announcements for distribution to radio and television stations.
- Publicize election information in grocery stores, public buses, and libraries and on the Internet.
- Use other organizations and their structures to educate voters. Provide demonstration equipment to these organizations.
- Make resource material available for teachers and professors (developed by teachers and professors) on the SBE web site.
- Require that voting machine vendors provide practice machines and include training in their contracts.
- Set up voting equipment for practice sessions, especially at DMV, malls, and public libraries.
- Create interactive web pages for each type of voting equipment. These pages would include a voting demonstration and allow the voter to practice voting. Require that vendors provide the emulation software as part of their package.
- Ensure that the SBE web site fully complies with the new Virginia accessibility and usability standards.
- Make sure that other state agency web sites link to the SBE web site in a prominent way.
- Seek law change to allow inclusion of neutral voter education material (e.g., information on registration status, brochure on constitutional amendments) in the mailing with the absentee ballots.
- Encourage colleges and universities to keep registration materials readily available and publicized.

**4. Voting System Guidelines and Processes**

Virginia law requires that the SBE certify any mechanical or electronic voting system or equipment before any locality may purchase (or lease) the system or equipment (Code §24.2-625 et seq.). The procedure adopted by the Board requires that new equipment pass a Qualification Test (conducted by an ITA designated by the SBE), a Certification Test (conducted by a consultant on retainer to SBE) and Acceptance Tests (field testing conducted in one or more localities).

The Qualification Test evaluates the hardware and all software elements to ensure compliance with the requirements of both the design and the SBE. The ITA examines all hardware to determine its suitability for election use. At this level, engineering or development prototypes are not acceptable unless the vendor can show that the equipment to be tested will perform in all respects the same as, and is constructed in a manner representative of, standard production units. The ITA also examines and tests voting system software to ensure that it adheres to the performance standards specified in federal standards.

The Certification Test verifies that the design and performance of the voting system comply with all applicable requirements of the Code of Virginia. A consultant, on retainer to SBE, evaluates all system functions that are essential to the conduct of an election. The test environment includes the preparation and operation of election and voting databases and the validation, consolidation and reporting of administrative and voting data as required by law. Vendors must also provide detailed technical and corporate financial information.

Acceptance Tests confirm that the purchased or leased system is identical to the certified system and that the equipment and software are fully functional and capable of satisfying the administrative and statutory requirements of the jurisdiction conducting the test. Typically, the Acceptance Test demonstrates the system's ability to:

- Process simulated ballots for each precinct or polling place.
- Reject over votes and votes in invalid ballot positions.
- Produce an input to or generate a final report of the election and interim reports as required.
- Generate system status and error messages.
- Generate system audit reports.
- Comply with and enable voter and operator compliance with the procedures, regulations and statutes of the jurisdiction.

The Board will review the standards to ensure full compliance with the requirements of §301 and revise *The Virginia Voting Systems and Equipment Certification Guidelines: Submission Procedures* (the document provided to all vendors seeking to introduce new equipment) as needed. Current Virginia law permits the Board sufficient latitude to incorporate any changes that may be necessary.

The Board will also continue current practice and, before each general election, update its uniform definitions of what constitutes a vote to reflect the requirements of new systems.

**5. Election Fund**

SBE will establish The Virginia Election Fund through an administrative procedure as permitted by State law. The Secretary of the State Board of Elections will authorize all payments made from the fund and the Treasurer of Virginia will be the signatory of all checks issued from the fund. Account codes will be set up that will allow the State to track receipts and disbursements for §101, §102, Requirements Payment, and State Matching (5%) funds separately. The fund will be interest bearing.

The Secretary of the State Board of Elections will work with the agency's fiscal officer, the Department of Planning and Budget and the Treasurer of Virginia to ensure that fund management follows all appropriate federal and state policies and procedures.

### 6. Budget for Title III Requirements

As of July 2003, federal appropriations were substantially lower than authorized by the Act. In creating a budget, the state made certain assumptions about future funding levels, summarized in the table below:

| ($ in millions) Federal Fiscal Year | Total Federal funds projected | Virginia Federal Share | 5% State match requirement* | Total funds projected for Virginia |
|---|---|---|---|---|
| Early Payments (Title I Funds) | $650.0 (appropriated) | $11.6 | — | $11.6 |
| 2003 | $833 (appropriated) | $20.6 | $1.1 | $21.7 |
| 2004 | $500.0 (Pres. Bush's Budget) | $11.6 | $0.6 | $12.2 |
| 2005 | $600.0 (authorized) | $14.2 | $0.8 | $15.0 |
| **Total:** | **$2,583.0** | **$58.0** | **$2.5** | **$60.5** |

* 5% match calculated by multiplying the Virginia Federal Share by 0.0526.

Based on these funding levels, the state developed a budget (through the end of CY05) that reflects only appropriated funds (and corresponding state matching funds) and the costs of implementation and maintenance associated with Title III requirements and other activities associated with the Act. As information becomes available about future funding levels, Plan revisions will adjust the budget accordingly.

| ($ in millions) HAVA Requirements | Total Cost | §101 Funds | §102 Funds | §252 & 257 Funds | State matching funds | Total Projected | Not yet Funded |
|---|---|---|---|---|---|---|---|
| **Title III Requirements** | | | | | | | |
| §301 Voting System Standards | | | | | | | |
| Punch card & Lever buy-out | **$23.2** | | $4.5 | | $1.1 | **$5.6** | $17.6 |
| DRE purchase | **$9.4** | | | $7.0 | | **$7.0** | $2.4 |
| Accessibility Audits | **$0.5** | $0.5 | | | | **$0.5** | $0 |
| §302 Provisional voting and voting information | **$1.0** | | | $1.0 | | **$1.0** | $0 |
| §303 Computerized statewide voter registration system and mail registration | **$12.1** | $3.1 | | $9.0 | | **$12.1** | $0 |
| **Other Election Reform Activities** | | | | | | | |
| §254 Voter education | **$5.0** | | | $1.0 | | **$1.0** | $4.0 |
| §254 Election official education and training | **$3.5** | | | $1.0 | | **$1.0** | $2.5 |
| §254 Poll worker training | **$5.0** | | | $1.5 | | **$1.5** | $3.5 |
| §402 Grievance Procedure | **$0.4** | $0.4 | | | | **$0.4** | $0 |
| §702 Single state UOCAVA[3] Office | **$0.5** | $0.5 | | | | **$0.5** | $0 |
| Plan creation, implementation and management | **$2.5** | $2.5 | | | | **$2.5** | $0 |
| **Totals:** | **$63.1** | **$7.0** | **$4.5** | **$20.5** | **$1.1** | **$33.1** | **$30.0** |

Note that:

- Only appropriated funds have been budgeted as available. Any unbudgeted appropriated funds will be used either to supplement the budget priorities set forth in this plan or to provide for long-term maintenance and operational support of new systems adopted or implemented under this Plan.
- The total amount needed ($63.1 million) is higher (by $2.6 million) than the total amount projected for the State over the life of the authorization ($60.5 million).
- The systems put in place by this Plan will require on-going maintenance beyond the life of the authorization for funding. Systems' maintenance will affect both state and local budgets for the foreseeable future.
- The state expects that as FY04-05 appropriations are made the budget will be adjusted, and that some of the unfunded needs may be met.
- The State is in no position to supplement the 5% match to make up for the shortfall.
- Should a shortfall exist, some of the programs described in this Plan will either remain under funded (and thus not fully implemented) or will go unfunded entirely.
- Voter education, election official education and training, poll worker training and polling place accessibility will be high priorities for future appropriations.
- Should excess funds (i.e., funds remaining after the requirements are met and all Other Election Reform Activities are funded) remain, they will maintain the new systems in years following the life of the Act.

### 7. Maintenance of Effort

In accordance with HAVA section 254 (a)(7), Virginia will maintain expenditures of the State for activities funded by the Requirements Payment at a level equal to or greater than the level of such expenditures in State FY00. The total spent on meeting the specific requirements of Title III in that FY was $778,994. This amount is a fraction of the total amount spent on elections by the State.

In addition, in Virginia, much of the expense of both federal and state elections is born by the 134 localities. The cost of poll workers' pay and training, voting equipment, ballot generation and absentee ballot processing all are costs born by local governments. Virginia will ensure that localities continue to maintain levels of expenditures sufficient to fund elections and that the localities will not use HAVA funds for routine registration- and election-related expenses. As discussed in Section 2 of this Plan, some payments to localities may occur on a reimbursement basis for the purchase of voting equipment; SBE will make no payments to cover the costs associated with the "normal" business of Virginia's local registration and election offices.

### 8. Performance Goals and Measures for Virginia and localities

The Secretary of SBE, through an executive agreement with the Governor, will establish high-level goals and performance criteria and will have the ultimate responsibility for ensuring the success of Virginia's HAVA implementation effort. The Deputy Secretary will have day-to-day operational responsibility for the implementation.

SBE will establish a HAVA Implementation Team (HIT), composed of the Secretary; Deputy Secretary; Assistant Secretary for Elections and Training; Assistant Secretary for Operations & Policy; the Chairman of the Virginia Electoral Board Association; the Chairman of the Virginia Registrars Association; representatives from the Office of the Secretary of Administration, the Office of the Secretary of Technology, the Office of Governor, the Office of the Lieutenant Governor, the Office of the Attorney General and other such members as the Secretary deems appropriate.

The HIT will draft specific goals and performance measures and submit them to the Board for approval. The HIT will, as the implementation proceeds, continually evaluate existing goals and measures and propose adjustments as needed. The Board will approve all performance goals, measures and adjustments to the same.

***Performance Goals***

Virginia's goal is to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in the State Plan. The following table provides the functional division of the responsibility for implementation. Only titles have been included so that accountability remains with a position and not with a specific person.

| Plan Elements | State Official | Time frame |
|---|---|---|
| Voting Systems §301 | Asst. Sec. for Elections & Training | Compliant by January 1, 2006 |
| Provisional Voting §302 | Asst. Sec. for Operations & Policy | Compliant by July 1, 2004 |
| Voter Registration List §303(a) | Asst. Sec. for Operations & Policy | Compliant by January 1, 2006 |
| Voter Registration §303(b) | Asst. Sec. for Operations & Policy | Compliant by January 1, 2004 |
| Education and Training §254(a)(3) | Asst. Sec. for Elections & Training | On-going |
| Polling Place Accessibility | Asst. Sec. for Elections & Training | On-going |
| Budget and Fiscal Controls | Asst. Sec. for Operations & Policy | On-going |
| Grievance Procedures | Deputy Secretary | Implemented by January 1, 2004 |
| UOCAVA Office | Asst. Sec. for Operations & Policy | Compliant by January 1, 2004 |

***Performance Measures***

The HIT will develop specific and detailed goals and measures and will use five broad categories of measures in evaluating each goal:

- Scope: will measure whether the scope of a given project is appropriate given the reality of internal and external factors.
- Schedule: will measure the progress toward goals including (at least) target start and stop dates, actual start and stop dates, percentage complete.
- Resources: will measure personnel and financial investment to ensure that the staffing and financial resources are sufficient for a given project at a given time.
- Quality: will measure the effectiveness of the project to ensure that it meets expectations.
- Risk: will measure the likelihood of certain events and the impact of those events on the project.

### 9. Complaint Procedures

SBE now has informal grievance procedures and will adopt formal grievance procedures. For informal grievances, SBE has a toll free number and an e-mail address that any member of the public might use to file a complaint. The appropriate SBE staff, in many cases the Secretary, handles these informal complaints. Under current Virginia law, all written complaints are public documents open to public inspection.

The Board will adopt a formal procedure that meets the requirements of §402. Specifically:

- The procedures will be uniform and nondiscriminatory (§402 (a)(2)(A)).
- Under these procedures, any person who believes that there is a violation of any provision of Title III may file a complaint (§402 (a)(2)(B)).
- Any complaint filed under the procedures must be in writing and notarized, and signed and sworn to by the person filing the complaint (§402 (a)(2)(C)).
- The Secretary of the SBE will receive all formal complaint filings. The Deputy Secretary will be responsible for tracking all formal complaints, conducting an initial investigation and making an initial attempt to resolve the issue through administrative means.
- The Secretary may consolidate similar formal and informal complaints into a single complaint (§402 (a)(2)(D)).
- Should attempts at resolution fail, and at the request of the complainant, there will be a hearing on the record, conducted by the three-member Board (§402 (a)(2)(E)).
- If the Board determines that there is a violation of any provision of Title III, the Board will specify the appropriate remedy (§402 (a)(2)(F)).
- If the Board determines that there is no violation, it will dismiss the complaint and publish the results of the proceedings (§402 (a)(2)(G)).
- The Board will make a final determination on any complaint within the 90 days following the day on which the complaint is filed unless the complainant consents to a longer period for such determination (§402 (a)(2)(H)).
- If the Board fails to meet the 90-day deadline, the complaint will be resolved within the next 60 days under alternative dispute resolution procedures adopted by the Board. The record and other materials from any such proceedings will be available for use under the alternative dispute resolution procedures (§402 (a)(2)(I)).
- SBE will notify in writing each complainant that files a formal complaint of the disposition of the complaint.

### 10. Use of Title I Funds

Virginia anticipates using Title I funds to jump-start the development of the new statewide voter registration system, establish and maintain the administrative grievance procedure, partially address polling place accessibility and administer the plan over the life of the plan. SBE will also fund the new UOCAVA office and explore the feasibility of further streamlining the process for UOCAVA voters once this central office is established.

Current staffing levels at SBE are insufficient to implement the requirements and additional new staff will augment the existing SBE structure.

Title I funds will be used as follows:

| ($ in millions) Title I Expenditures | Total Cost | §101 Funds | §102 Funds |
|---|---|---|---|
| **Title III Requirements** | | | |
| §301 Voting System Standards: Punch card & Lever buy-out | **$23.2** | — | $4.5 |
| §301 Accessibility Audits | **$0.5** | $0.5 | — |
| §303 Computerized statewide voter Registration system and mail registration | **$12.1** | $3.1 | — |

| Other Election Reform Activities | | | |
|---|---|---|---|
| §402 Grievance Procedure | **$0.4** | $0.4 | — |
| §702 Single state UOCAVA Office | **$0.5** | $0.5 | — |
| Plan creation, implementation and management | **$2.5** | $2.5 | |
| Other priorities or maintenance and on-going support | | $0.2 | — |
| **Totals:** | **$39.2** | **$7.2** | **$4.5** |

If Title III funds are available, and if Virginia can appropriately use these funds for any of the expenditures listed under Title III requirements, in advance of spending these Title I funds, then the state will use Title III funds. If Title I funds must be used due to the unavailability of Title III funds, and Title III funds are later made available, the Title I funds will be reimbursed from Title III funds for appropriate expenditures, unless not allowed by law. Any excess §101 funds will be used either to supplement the budget priorities as discussed in Section 6 of this Plan or to provide for long-term maintenance and operational support of new systems adopted or implemented under this Plan.

### 11. Management of State Plan

The Secretary of the State Board of Elections will have overall responsibility for the implementation and management of the State Plan and will make regular reports to the Board. The Deputy Secretary will have day-to-day operational responsibility for the implementation of the plan with the Assistant Secretaries managing the implementation of the aspects of the plan that fall within their purview.

Current SBE staffing is insufficient for the proper administration and implementation of the Act. Additional staff will supplement the current SBE structure, particularly in the areas of voting equipment, accessibility, training and policy.

The Board will establish an annual review procedure that will include (at a minimum) an evaluation process that measures progress against the performance standards adopted the prior year and a procedure for adopting changes to the State Plan.

Virginia understands that no material changes in the administration of the plan will be made unless the change:

(A) Is developed and published in the Federal Register in accordance with section 255;
(B) Is subject to public notice and comment in accordance with section 256; 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.

### 12. Changes from the Previous Year's Plan

Not applicable.

### 13. The HAVA Advisory Committee and its Procedures.

Virginia's HAVA Advisory Committee (HAC) is a diverse group of citizens including representatives from various constituency groups, local election officials and representatives from state agencies. Jean Jensen, Secretary of the SBE, chaired the committee. The HAC met three times before the release of this plan for public comment and provided essential guidance particularly on the issues of accessibility, voter education and training. Further, the HAC reviewed drafts of the State Plan and was instrumental in disseminating the plan, holding public hearings and soliciting citizen input.

The Committee membership, including each person's affiliation, may be found at: http://www.sbe.state.va.us/web_docs2/hava/ .

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[1] *Review of the State Board of Elections*, Joint Legislative Audit and Review Commission of the Virginia General Assembly, House Document No. 18, Commonwealth of Virginia, Richmond, 1999, pp. 102-104.
[2] Gracie 2002, *Grace Hopper Government Technology Leadership Awards 2002, Virginia Election and Voter Services.*
[3] UOCAVA: Uniformed and Overseas Citizens Absentee Voting Act.

# Washington State Plan

As required by the

HELP AMERICA VOTE ACT of 2002 (HAVA)

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THE OFFICE OF THE SECRETARY OF STATE

SECRETARY OF STATE
SAM REED

The Help America Vote Act of 2002 moves the elections process in our country into the 21st Century. I commend Congress and the President for recognizing the importance of our democracy by investing in the elections process with this sweeping legislation.

I am pleased to present to you Washington's plan for implementing the Help America Vote Act (HAVA). In this plan, we have provided a comprehensive review of the changes and enhancements necessary to comply with the new federal requirements imposed by HAVA.

We, in Washington, have a long and proud tradition of independence and integrity in our electoral process. Our governing structure, which shares the responsibility for administering elections between state and local government, serves us well.

Therefore, we approached the development of our state plan with the following guiding principles:

1. To build on the strength of the relationship between local and state governments in Washington;
2. To approach implementation with the goal of retaining our role as leaders in election administration;
3. Where practical, to place the burden of implementation on those responsible for the administration of elections—not on the voter; and
4. To maximize available resources to sustain implementation costs beyond the availability of federal funding.

Please take a moment to review this progressive plan for the future of our state's election process. Elections in Washington will be enhanced through the construction of a statewide voter registration database—bringing security and consistency to our voter registration rolls. Access to voting will be improved through the implementation of secure, modern voting systems, and voters with disabilities will be provided the opportunity to vote independently for the first time with the help of new technology.

This sweeping legislation demands skilled, trained, professional election officials. We will continue to call for the highest level of integrity and performance from those who administer elections in our state and we will continue to operate in an open, accessible manner.

I welcome the challenges presented in this plan and invite your input and contributions to meeting the principles outlined in the Help America Vote Act.

Together we will ensure the state of Washington remains a national leader in elections administration. With best regards,

SAM REED
Secretary of State

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## 1. Introduction:

### An Overview of Elections in Washington

Elections are currently administered in the state of Washington at the county level. State law[1] designates the Secretary of State as "...the chief election officer for all federal, state, county, city, town, and district elections...", but the specific duties of that office are essentially limited to those areas of election administration where the coordination of efforts involves more than a single county. These include, but are not limited to candidate filings, certification of election returns, multi-county and state recounts, voter outreach and registration activities, and voter information efforts.

Additionally, the state administers a Certification and Training Program for local election officials, serves as the approving authority for voting systems used in the state, oversees the initiative and referendum process, engages in a vigorous voter outreach and education program, and produces and distributes a state voters and candidates pamphlet prior to each state general election. This pamphlet is mailed to every household in the state and is also available in alternative formats for people with disabilities. General elections in Washington are held annually.

In 38 of Washington's 39 counties, the chief election officer is the elected County Auditor. In King County, Washington's largest county, the chief election officer is the Director of the Records, Elections, and Licensing Services Division. This individual is appointed by the elected County Executive. When, in this report, the term 'County Auditor' is used, it should be understood to include this officer unless specifically noted to the contrary.

In three counties (Clallam, Snohomish, and Whatcom) the auditor position is non-partisan, by virtue of a county charter provision. The remaining County Auditors, excluding King County, are partisan elected officials. All County Auditors serve a four year term.

As the chief election officer, the County Auditor is responsible for all aspects of election management. The auditor's responsibilities include voter registration and the maintenance of voter registration records, voter outreach and voter education, the hiring and training of election board workers, the printing of ballots, the issuing of absentee ballots, and the tabulating of election returns. The certification of election returns at the county level is done by the County Canvassing Board.[2] The County Canvassing Board consists of the County Auditor, the Prosecuting Attorney, and the Chair of the County Legislative Authority, or their designated representatives.

The state's chief election officer—the Secretary of State—is a partisan officer, elected to a four-year term with other statewide officers in presidential election years. The Secretary of State certifies the returns of state primaries and general elections.

Elections are conducted in Washington pursuant to the provisions of applicable federal law, the Washington State Constitution, the Revised Code of Washington (RCW), and the Washington Administrative Code (WAC). Election statutes are scattered throughout the 91 titles of the Revised Code of Washington, but general election provisions are found mainly in Title 29 of the Code. Title 29 grants the Secretary of State broad administrative rule-making authority pursuant to the Administrative Procedures Act, and election rules adopted pursuant to the provisions of that Act are found in Title 434 of the WAC. As a general principle, the State Constitution and Title 29 RCW spell

out what must be done and when it must be accomplished. Chapter 434 WAC generally details how these acts are to be performed.

The Constitution of the State of Washington enshrines "Freedom of Elections" in the Declaration of Rights: "All Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."[3] Under Article VI the State Constitution establishes qualifications for voting and requires that all elections be conducted by secret ballot. Other constitutional provisions provide for the recall of elected officials, vest legislative power equally with the people, with the initiative and referendum process, and the legislature, set the qualification for state and legislative office (US citizenship and qualified elector in the state or district), and establish the responsibility of the Secretary of State for canvassing statewide election returns.

Additionally, election administrators at the state and local level rely on an extensive library of court cases, prosecuting attorney opinions, and attorney general opinions to facilitate the administration of elections.

At the 2002 General Election[4], Washington's voting age population was estimated at 4,536,596. This figure includes non-resident military and students. The voting eligible population—excluding non-residents and non-citizens—was estimated at nearly 4,167,093.[5] Of that number, 3,209,648 were registered to vote (77.0%). 1,808,720 ballots were cast at the 2002 General Election—a 56.35% turnout of those registered. Of that number, 1,233,727 ballots were cast by mail (68.21%). Currently two of Washington's counties—Clallam and Ferry—vote entirely by mail ballot.

There has been a slow but steady expansion of absentee voting and vote-by-mail over the last 25 years. Washington has had absentee ballot on demand for a number of years, but two fairly recent legislative enactments have greatly increased the popularity and use of mail voting. In the mid-1980's, the state legislature authorized permanent absentee voting for those with disabilities and for those over the age of 65. In the early 1990's this was extended to any voter who desired such status. Additionally, voters were afforded the opportunity to become 'ongoing' absentee voters at the time of registration. Some counties have actively encouraged voters to take advantage of this procedure, with the result being that in those counties the vast majority of ballots are cast by mail.

A second legislative change, again enacted first during the 1980's and subsequently expanded, has significantly increased the number of vote-by-mail precincts and the number of elections that can be conducted entirely by mail ballot. Any precinct with fewer than 200 active registered voters may be designated a vote-by-mail precinct, odd-year primaries (non-partisan offices) may be conducted by mail, and any county, city, town, or junior taxing district may request that non-partisan special elections be conducted by mail ballot.

Washington may rightly be considered a leader among states in the administration of elections. The state has been at the forefront of such innovative and progressive changes as the secret ballot, the Franchise for 18 year olds, Women's Suffrage, Motor Voter, the expanded use of absentee ballots, the extensive use of provisional ballots, voter information and education programs, the development of a Certification and Training Program for local election administrators, and numerous other areas of election administration.

Appendix A details Washington's registered voters, votes cast, and absentee data by county for the 2002 General Election. Additionally, included in Appendix B is a county-by-county breakdown of the types of voting systems used.

## 2. How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under Section 251(a)(2), to carry out other activities to improve the administration of elections. (Sec. 254, (a)(1))

### a. Voting System Standards

To comply with the second-chance voting requirements, counties using poll-site based ballot counting devices shall operate them in a manner consistent with HAVA and existing state law, which states:

> "Each poll-site ballot counting device must be programmed to return all blank ballots and overvoted ballots to the voter for private re-examination. The election officer shall take whatever steps are necessary to ensure that the secrecy of the ballot is maintained. The precinct election officer shall provide information and instruction on how to properly mark the ballot." [6]

The voter will be allowed a replacement ballot if needed.

Counties using Direct Recording Device (DRE) voting devices shall operate them in a manner consistent with HAVA— allowing each voter to review their selections and correct errors before finalizing and casting their ballot. DRE and other voting devices and systems shall ensure that review and error correction procedures are accessible to individuals with disabilities, and respect individual voter privacy. The Secretary of State will adopt administrative rules requiring counties using only DRE voting devices in polling places to have Optical Scan paper ballots available to any voters who select not to vote on the DRE equipment.

To comply with the second-chance voting requirement for mail-in voting and counties with central count equipment the state will embark on a cooperative voter education plan with the counties. This program will have two parts. The first part is an overall general publicity campaign informing voters of the need to double check their optical scan ballots and that they have the option of obtaining a new ballot if they make an error. The second part is a local campaign conducted by each County Auditor that is specific to the voting system employed by the county. The system-specific campaign will be developed cooperatively by groups of county and state election officials working with each system. The state will organize a web-based presence and a media plan. To the extent available, requirements payments will be used to fund these activities. The Secretary of State will consult with experts and stakeholders on disability and alternative language issues regarding the development of each of these programs. This will include advice on all aspects of the cooperative voter education plan, the media and web-based presence, and local campaigns.

All voting systems used in Washington State will comply with the HAVA requirements for audit capacity and existing state law, which defines a ballot as "a physical or electronic record of the choices of the individual voter..."[7]

These systems will also comply with requirements concerning alternate language accessibility contained in the Voting Rights Act and ballot presentation standards for voters with limited eyesight.

The state will ensure the purchase of DRE voting systems for each county for the purpose of meeting the disability access provisions of Title III. This will be accomplished in the 16 former punch card counties via the federal punch card buyout money. The remaining 23 counties will be funded through the requirements payments based on the availability of funds. The state will provide DRE purchasing funds via a formula[8], which is based on a number of variable factors such as the number of poll sites, distribution of the projected disabled and senior population, and the total number of registered voters. The formula determines a payment for each county to purchase the required DRE equipment. This amount represents the maximum contribution that the state will provide for purchasing any county DRE system. The county may negotiate a contract and purchase any qualifying system but the county will be responsible for costs in excess of their share of the federal money. If the contracted costs are less than the county share, the remainder is available to the county to use for compliance with other Title III requirements.

The state will negotiate with voting systems vendors for optional-use state contracts. The Department of Information Services will assist in this effort. The intent is to gain maximum economies of scale for the state and to allow counties to conduct their purchases without duplicating costly local bid-letting processes. Each county may purchase from the state contract(s), or negotiate a contract on their own. Counties may also make purchases from other county contracts through inter-local agreements.

The state will forward the federal money directly to contracted vendors on behalf of each county. This will occur after a contract has been signed by the county with a vendor for a qualifying system, and an inter-local agreement has been signed between the county and the Secretary of State guaranteeing compliance with HAVA. If a county signs a contract that exceeds its share of the federal funds, the county is responsible for the remaining cost. If the contract amount is less than the county share of the federal funds, the remainder is retained in the state election fund.

The state will work with any county that is all vote-by-mail to determine an adequate number of DRE machines for the courthouse or election office and other locations in the county, for disability access. The state will confer with experts on disabilities issues in making this assessment. The intent is to adequately serve the geographic areas and communities of each county. The state will work with county election officials and the legislature to create laws and procedures covering DRE installations in county facilities and early-voting location DRE installations.

Washington State has already adopted administrative rules providing uniform definition for what constitutes a vote. This was done by a committee of state and local election officials. The general public and all state and local officials were provided an opportunity, through the provisions of the Administrative Procedures Act, to comment on the proposed rules. See Appendix C for a copy of the administrative rules.

## b. Provisional Voting

Washington is a pioneer in provisional voting. Our system is election tested and voter approved. Washington adopted procedures for provisional voting in 1977, although the practice had existed unofficially for a number of years prior to that. In order to implement additional requirements in HAVA, the Secretary of State will adopt administrative rules for tracking the resolution of an individual voter's provisional ballot by local elections officials. Administrative rules will be adopted for informing the voter (and only the voter) if requested by free access. The rules may include options such as a toll-free telephone or TTY number or notification by mail or other accessible format as identified by the voter. The counties will be required, by administrative rule, to inform the voter how they can learn the resolution of their ballot. The rules may require the counties accomplish this by posting a notice in the polling location, or handing out the information on a card with the toll-free number. The rules will ensure that voters with disabilities will be informed in a manner and format which is accessible and understandable. Requirements payments, to the extent available, may be used for the development of systems to provide voters free access to information regarding the resolution of their provisional ballot.

## c. Voting Information Requirements

Depending on availability, requirements payments may be used to produce posters for each type of voting system. The posters will be available to counties for placement in each poll site. The Secretary of State will consult with the Governor's Committee on Disability Issues and Employment and the Washington Assistive Technology Alliance regarding alternative methods for conveying this information at the polls to disabled individuals. The posters will contain the following information:

- How to cast a vote
- How to cast a provisional ballot
- Instructions for mail-in registrants and first-time voters
- General information on voting rights and provisional balloting
- General information on federal and state laws

The adoption of administrative rules requiring counties to display the poster or a poster produced by the county containing, at a minimum, the same information, a sample ballot, the date of the election, and the times the poll site is open at the polling place is required. These rules will also specify requirements and recommendations with respect to placement, format, and other characteristics which will ensure the poster and the information included on it are accessible to individuals with disabilities.

All voting-related materials will be provided in alternative formats necessary to accommodate the needs of individuals with various disabilities.

## d. Computerized Statewide Voter Registration List

Section 303 of HAVA requires states to implement a "single, uniform, official, centralized, interactive, computerized statewide voter registration list that is defined, maintained, and administered at the state level." The list must contain the name and registration information of every legally registered voter in the state and must assign a unique identifier to each voter in the state.

In Washington State there are two separate voter registration files. Currently, official voter registration records are created and maintained at the county level. Each county elections office updates and separately maintains voter registration records. The state also keeps a file for use in checking petition signatures.

During the last seven years the Secretary of State has been working to create a modern, centralized signature-checking system. This effort was initially driven by a desire to economize, and to improve the accuracy and efficiency of the state petition signature verification process. When the state began automating the process, telephone modem access was used to link to county voter files. As the project evolved, county voter computer files were compiled, with signature images attached, in a database in Olympia.

The project gathered new functions and requirements over time, including list comparisons and address updates intended to improve the usability and quality of voter registration information. This included county-to-county list comparisons, looking for duplicate registrations and multiple voters, as well as Department of Corrections information on felons whose voting rights have been removed.

Washington will establish a single, statewide voter registration database with integrated election management capabilities available for all 39 counties and the Secretary of State's office. Phase I of this project will implement a single, interactive state-wide voter registration database (VRDB) designed to interact with county election management systems and to interact in some fashion with commercial election management systems (EMS) operating at the county level. The overriding principle of this phase is to meet all minimum HAVA requirements.

After successful implementation of Phase I, the Secretary of State's office will work cooperatively with the County Auditors to tightly integrate VRDB and EMS in Phase II, allowing the state to provide greatly enhanced voter information services to the counties. Phase II will also look at increasing the standardization of election management processes and may include building an EMS in-house to replace county EMS systems, or building additional tools and linkage mechanisms. This will increase options for the state system to merge election data from the other applications used locally to administer elections with the VRDB.

Requirements payments, to the extent available, will be used for the development of the VRDB. Additionally the payments may be used to purchase the following: hardware for the system; hardware for local election officials to run the system; connectivity between the VRDB and local EMS systems; or licenses for EMS systems for local elections officials so they have systems that communicate with the VRDB.

During the 2004 Washington State legislative session the Secretary of State will seek executive request legislation to bring state law into compliance with the statewide voter registration database requirements contained in HAVA.

## The Statewide Voter Registration Database System will:

- Be a centrally administered database maintained and administered by the Secretary of State which will interact with commercial election management systems (EMS) operating at the county level;
- Ensure that names and registration information of every valid registered voter appear on the state's computerized list and will ensure coordination with county election officials, that only voters validly registered on the state list will be eligible to vote;
- Allow any election official in the state to obtain information contained in the computerized list and to update the registration information related to voters residing in their jurisdiction;
- Allow voter registration information obtained by any election official to be entered into the state computerized list on an expedited basis. Duplicate voter records and verification of driver's license numbers or the last four digits of social security numbers will be identified on an expedited basis as well;
- Provide for authenticating new registration applications, using the driver's license number or last four digits of the social security number in coordination with the Washington State Department of Licensing. In addition, the system will provide ongoing verification of valid registrations by coordinating with computerized lists provided by the Department of Corrections to remove felons, and computerized lists provided by the Department of Health Services to remove deceased voters;
- Ensure that invalid registrations are removed in a timely manner. (i.e., the system will prevent or remove "moved out of state," duplicate, deceased, and felon registrations from voter lists;)
- Assign a unique voter identifier number to each registered voter;
- Track and report changes made to voter records, as well as voting history for each voter;
- Verify voter status to differentiate between active, inactive, canceled/suspended, and pending;
- Track statistical data about voter registration activity at the state, county and precinct levels and include statistics required by the National Voter Registration Act of 1993;
- Provide comprehensive technological security measures to prevent unauthorized access to the system and the computerized voter list;
- Be implemented through a partnership between the counties, the County Technical Advisory Committee, and the Secretary of State;
- Be designed around Washington's primary election requirements and all applicable state laws;
- Encourage uniformity of registration data formats, fields and other technical specifications between counties, to facilitate the interactivity of the system;

- Be implemented proactively to protect and encourage the full voting rights of all eligible citizens; and
- Ensure adequate safeguards to prevent the disenfranchisement of eligible citizens.

## e. Requirements for voters who register by mail

The state will consult with experts on disability issues regarding the accessibility of mail-in registration forms. The State Elections Division is currently matching data on mail-in registration forms against the Department of Licensing database. The State, in cooperation with County Auditors, will develop practices and policies to fully comply with the requirements for first time voters who register by mail. The state may, based on the availability of funds, use requirements payments to implement these practices and policies. The state will consult with experts on disability issues regarding the accessibility of mail-in registration forms.

The state may, based on the availability of funds, use requirements payments to produce mail-in voter registration forms that contain the two newly-required questions; Will you be at least 18 years old at the time of the next election? and, Are you a citizen of the United States of America? The forms will also be altered so that applicants can record their driver's license number and/or the last four digits of their social security number. See Appendix E for a PDF version of the form that is available on the Secretary of State's website.

3. 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 payments; 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). (Sec. 254, (a)(2))

The Secretary of State will manage activities and projects funded by the HAVA requirements payments, and the state will account for all expenditures, funding levels, program controls and outcomes in accordance with state and federal laws.

To comply with disability access requirements, the state will provide funds to counties via a formula based on a number of variable factors such as the number of poll sites, projected distribution of disabled and senior populations, and total number of registered voters. The formula determines a payment for each county to purchase the required DRE systems. This amount represents the maximum contribution that the state will provide for purchasing any county DRE system. The state will forward the federal money directly to contracted vendors on behalf of each county. This will occur after a contract has been signed by the county with a vendor for a qualifying replacement system and an inter-local agreement has been signed between the county and the Secretary of State guaranteeing compliance with HAVA.

The Secretary of State will establish a local government grant program to assist County Auditors in complying with HAVA requirements. After initial state compliance with HAVA requirements, a portion of the requirements payments authorized in Title II will be allocated for local government grants. The Secretary of State will administer the grant program and will be responsible for meeting federal auditing requirements. The Secretary of State may make the award of grants contingent on a local match or maintenance of effort requirement.

**Examples of Activities eligible for Local Government Grant Funding**

This list is not comprehensive and the state may fund grant applications for activities not listed as long as the activities are associated with compliance with the Title III requirements of HAVA.

- Replacement or upgrade of voting equipment.
- Purchase of additional voting equipment.
- Development and production of poll worker recruitment and training materials.
- Voter education programs.
- Publication of a local voters pamphlet.
- Toll-free access system to provide notice of the outcome of provisional ballots.
- Purchase or lease of election management system hardware and software.
- Training for local election officials.

The performance measures detailed in section 9 of this plan will be used to monitor compliance with the mandate of the Act. After January 1, 2006, when all the deadlines have passed, the Secretary of State will produce a report on how the performance goals have been met.

4. 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. (Sec. 254, (a)(3))

## a. Election Officials Education and Training

Washington State requires that each county has at least two certified election administrators on staff. These administrators are certified through the "Certification and Training Program," which trains election administrators, administers the certification program, and reviews county election offices for compliance with state and federal law. The training and compliance reviews ensure consistency in the application of election law from county to county. The Certification and Training program will institute new training programs on the requirements in HAVA that include: Voting System Requirements, Statewide Voter Registration System Requirements, methods of poll worker training, election recounts, and accessibility for people with disabilities and alternative language requirements as part of the certification training. The Program will ensure during its regular election review procedures compliance and consistency with HAVA requirements. (See Appendix D for state laws outlining the Certification and Training Program.)

Experts on disability issues will be consulted in developing the curriculum for the accessibility for people with disabilities and alterative language requirements of the certification training.

## b. Poll Worker Training

State administrative rules will be adopted requiring poll worker training in managing voting systems at the poll site, system requirements that ensure accurate tabulation of votes, how voters may correct their ballots, how to handle unusual situations, accessibility for people with disabilities, alternative language requirements, provisional ballots, and how to process mail-in registrants and first-time voters. Experts on disability issues will be consulted in developing the curriculum for the accessibility training for poll workers, which will include information about how to treat respectfully and effectively respond to requests for accommodations. Special efforts will be made to promote recruitment of individuals with disabilities, speakers of alternative languages and other minority-groups as poll workers.

The Secretary of State intends to apply for grants under the Help America Vote College program outlined in Title V of the act. The state will work proactively with counties that have difficulties recruiting poll works to supplement the number of workers with college students. The workers would receive the same training outlined above.

## c. Voter Education Plan

Voter education encompasses the combination of activities intended to help voters make informed choices about candidates and ballot measures and then indicate those choices accurately and effectively when voting. Voter education includes informing voters about candidates, what the ballot will look like, how to use voting equipment, how to properly cast a ballot, where a polling place is located, the hours polls are open, and how to register to vote.

The audience for the voter education program includes every eligible citizen and registered voter in the state. The goal of the voter education plan is to provide educational programs for voters and to facilitate a firm understanding of our state's election process, including the laws and administrative rules that govern Washington elections.

HAVA places significant emphasis on reaching out to students in our schools, community colleges and universities to improve voter education and outreach, expand voter registration and participation, and furnish poll workers and other needed personnel to assist County Auditors in conducting elections. The Secretary of State has developed a comprehensive student voter outreach program in cooperation with educators, student representatives and County Auditors, for the purpose of encouraging students at all levels to take an active part in our democracy as citizens and voters.

The Voter Education Plan will include strategies designed to increase the participation of people with disabilities in the voting process, and understanding of the efforts being made to ensure that voting is accessible to all. The Washington Protection and Advocacy System will be invited to actively participate in the development of the plan and its implementation. In addition, the Voter Education Plan will promote strategies designed to serve the needs and ensure the voting rights of speakers of alternative languages and other eligible citizens.

EXAMPLES OF VOTER EDUCATION:

With the increasing ease, access, and effectiveness of the Internet, election administrators should develop websites that provide educational and outreach information. The following is a sample list of educational and outreach activities.

- Voters Pamphlet for the state and every county (printed and online)
- Web-based education through Election Information Reporting System
- Voter Outreach Through Education website
- Sample ballot with pictures and comprehensive instructions
- High school voter outreach/education tours
- Weekly voter outreach through "offices" in public locations
- Booths at county fairs, public/farmers markets, street fairs, and other public events
- Audio video instructions on the Secretary of State's website detailing how to properly cast a ballot on each type of voting system used in Washington
- Projects, modifications, or auxiliary aids for improving the accessibility of voting for individuals with disabilities
- Accessibility surveys of polling places
- Outreach visits to disability service providers, advocacy groups, and policy-making organizations (e.g., Developmental Disabilities Council, Independent Living Centers)

5. How the state will adopt voting system guidelines and processes which are consistent with Sec. 301. (Sec. 254, (a)(4))

Current state laws require examination and approval of all voting systems prior to sale or use in the state. Before the state examines a voting system, it must first be approved by an Independent Testing Authority (ITA) for compliance with federal voting systems standards. These standards are currently established by the Federal Elections Commission (FEC) and, under HAVA, are established by the National Institute for Standards and Technology (NIST). The ITA process includes examination of the system hardware and a complete review of the software source code, which is held in escrow by the ITA. During the state certification review, systems are examined for their ability to comply with the election processes unique to Washington, including rotation of partisan candidate names on primary ballots, accommodating precinct splits, and tabulating votes in a blanket primary. Voting systems must also be certified and in use in another state prior to approval for sale or use in Washington.

The state will update current voting system standards by adopting Federal Standards either in administrative code or proposing legislation. This will include the HAVA definition of a voting system contained in Sec. 301(6) (b). Legislation may also be proposed on early voting and in-person

courthouse or election office lobby voting. The state will review the administrative code to ensure the strength of language concerning programming for the primary, rotation, and split precincts.

The Secretary of State will define the administrative structure of voting system standards by adopting administrative rules that:

- define information on voting system ownership;
- assign responsibility for programming, testing, logic and accuracy testing, notification of processes, documentation of systems, system security;
- provide for version control and certification by the county of system hardware and software version (this version control will rely on version number and file size confirmation);
- define procedures for web availability of a certified systems listing, including version number, version file size, certification application process, document review process, certification system review and testing process, demonstration hearing, verification of system compliance to standards for an accessible system, and notification to vendors and counties via the web.

Further, the state will create a process for de-certification defined in administrative code, covering complaint procedures, investigation procedures, hearing methods, and issuance of de-certification or withdrawal of certification. This will also allow withdrawal of certification for older systems no longer in use, and will include a procedure for notification of counties with antiquated systems that have withdrawal pending.

The state will embark on a cooperative voter education plan with the counties for second chance voting. This will have two parts. The first part is an overall general publicity campaign informing voters about the need to double check their optical scan ballots. The second part is conducted by each county specific to the voting system employed by the county. The system specific campaign will be developed cooperatively by groups of county and state election administrators working with each system. The state will organize a web-based presence and a media plan. The state will also confer with experts on disability issues in developing informational materials and technical assistance resources for counties and state election administrators.

The Steering Committee and the Secretary of State recognize that the elimination of punch card voting and the disability access requirements in HAVA have created an incentive and, in a limited context, a directive for counties to purchase electronic voting equipment. Input received during the public comment period and at the public hearings raised concerns regarding the security of direct recording electronic (DRE) voting equipment.

Public comments focused primary on the issue of a 'paper trail' or other hard-copy audit trail as a back-up or alternative to the electronic record of individual votes. While a paper audit trail exists both in state and federal law, citizens commenting on the plan advocate that this be a "voter verified" paper or other medium that allows voters to verify their choices independently of the DRE's electronic record at the time they cast their vote.

Consistent with the HAVA requirements for audit capacity, the definition of a ballot under Washington State Law includes "a physical or electronic record of the choices of an individual voter..." The DRE systems certified for use in Washington meet that standard.[9]

It is acknowledged that the public dialogue on the issue of voter verification is continuing—in Washington and throughout the United States. As referenced in this plan, the Secretary of State will require that all existing and future voting systems certified for use in Washington meet federal, voluntary voting system standards as they are adopted in accordance with HAVA or by state law.

In reviewing proposed changes to voting system requirements, the Secretary of State will advocate for standards that are consistent with the following criteria, adapted from the report and findings of an ad hoc Task Force on Touch Screen Voting established in February 2003 by the California Secretary of State:

- Voting equipment should and must meet the requirements of federal and state laws requiring access to voting.
- The time requirements for product development and certification are significant issues in terms of the timing of the development of potential market solutions to address issues related to voter verification.
- Any recommendations to change current voting equipment recognize the paramount importance of a successful election in terms of voter confidence, and no recommendations should be utilized to undermine the successful administration of these elections.
- Any proposed method of verification must not inconvenience voters, create lines at the polling place, or otherwise discourage voters from casting a ballot.
- Any new equipment options should be as simple to administer as possible so as to not create unnecessary complexity at the polls.
- There are a number of logistical challenges that are present with any paper-based voting system using printers and these challenges need to be explored and understood in greater detail.
- Local jurisdictions, if they desire independent verification on their systems, should have a range of verification options to choose from, which could include paper-based and/or electronic options.[10]
- Federal funds appropriated by HAVA, to the extent available, should be provided to assist in the costs of upgrading any system that does not meet voting system requirements implemented as a result of HAVA or state implementing legislation. County Auditors are strongly encouraged to include language in acquisition contracts requiring no cost or low cost upgrades to keep voting systems current with evolving voting system standards.

The Secretary of State will establish a Stakeholder Advisory Committee similar in nature and composition to the State Plan Steering Committee to assist in reviewing voting systems certification standards and other voting system requirements, and to encourage continued public confidence in state and federal voting systems regulations.

6. How the State will establish a fund described in subsection (b) for the purposes of administering the State's activities under this part, including information on fund management. (Sec. 254, (a)(5))

The Washington State Legislature established an Elections Fund during the 2003 Legislative Session specifically for receiving federal funds under HAVA.[1] The law reads in part:

> NEW SECTION. Sec. 1. A new section is added to chapter 29.04 RCW to read as follows:(1) The election account is created in the state treasury. (2) The following receipts must be deposited into the account: Amounts received from the federal government under Public Law 107-252 (October 29, 2002), known as the "Help America Vote Act of 2002," including any amounts received under subsequent amendments to the act; amounts appropriated or otherwise made available by the state legislature for the purposes of carrying out activities for which federal funds are provided to the state under Public Law 107-252, including any amounts received under subsequent amendments to the act; and such other amounts as may be appropriated by the legislature to the account. (3) Moneys in the account may be spent only after appropriation. Expenditures from the account may be made only to facilitate the implementation of Public Law 107-252.

The State Elections Division within the Office of the Secretary of State will manage the fund. The state is responsible for accounting of all expenditures, funding levels, program controls and outcomes in accordance with state and federal laws.

7. The State's proposed budget for activities under this part, based on the State's best estimates of the costs for 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 payments 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. (Sec. 254, (a)(6))

The Secretary of State has received the Title I state payment of $12.8 million.

Over the next three federal fiscal years (2003-2005), the Secretary of State estimates that Washington is eligible to receive up to $62.8 million in requirements payments authorized in Title II. At the time of submission of this plan, full funding for Fiscal Year 2003 was not appropriated by Congress and it is impossible to estimate how much will be appropriated in each of the subsequent fiscal years. The Secretary of State will request, in the 2003-05 state supplemental budget, the amount necessary to meet the 5 percent matching requirement for these payments.

The Secretary of State intends to budget HAVA funding based on the following priorities: 1) federal funding will be used first to address requirements placed on the state and counties by the new law and discretionary improvements to elections systems will be funded second; 2) that election system improvements visible to the public are made early in the process by state and county election officials. The Secretary of State will consult with local election officials and other stake holders in administering all HAVA funds.

The following budget is based on a broad estimate of costs and activities necessary to meet the mandates of HAVA. It was developed under the assumption that full federal appropriation of funds authorized in the Act is unlikely, but that additional appropriations will be made in future federal fiscal years. Based on the variability of funding, this budget will be modified and adjusted accordingly.

**Preliminary Estimated Budget**

| ACTIVITY | FUNDING | PURPOSE |
|---|---|---|
| Punch card replacement | $7.1M | Replace punch card equipment with systems that fully comply with HAVA requirements. |
| Disability access | $8.6M | Place at least one DRE meeting HAVA accessibility standards in each polling location in the state and adequately place DRE's in counties voting entirely by mail. |
| Statewide Voter Registration Database | $6M | Develop a Statewide Voter Registration Database that meets the requirements of HAVA |
| Upgrade/Replacement of county Election Management Systems for compatibility | $5M | Upgrade or replace county election management systems so they are compatible with the Statewide Voter Registration Database |
| Voter Education for Second-Chance voting requirement | $2M | Develop and execute general publicity campaign and system specific voter education materials to comply with second-chance voting requirements. |
| Voting Information Requirements | $2M | Develop and produce posters containing required information and other instructional materials. |
| Provisional Voting | $1M | Develop systems to provide voters free access to the dispensation of their provisional ballot. |
| Administrative Complaint Procedure | $1M | Adopt, train and administer state based administrative complaint procedure. |
| Requirements for first time voters who register by mail | $2M | Match registrant information in the Department of Licensing database and produce new forms. |
| Voter Education, Election Official Education and Training, and Poll Worker Training | $6M | Develop and execute programs to provide quality voter education, election official education and training, and poll worker training. |
| Improvements to Voting System Standards Program | $500,000 | Provide additional quality control and training. |
| Monitoring of Performance Goals and Production of Report | $250,000 | Ensure compliance with HAVA |
| Development of State Plan and On-going Management of the State Plan | $1.5M | To ensure the continued management of the HAVA activities in cooperation with local election officials. |

After initial compliance with HAVA requirements, and further federal funding authorization, a portion of the remaining funds will be allocated to the local government grants program. Interest earned on the federal funds may also be used for the local government grant program.

8. How the State, in using the requirements payments, 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. (Sec. 254, (a)(7))

Washington will maintain expenditures of the state for activities funded by the payment at a level equal to or greater than the level of such expenditures in state FY 2000— $2,870,710.[12]

9. 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. (Sec. 254, (a)(8))

The Secretary of State, with the cooperation of County Auditors, is responsible for ensuring the success in meeting each performance goal. The Secretary of State will consult with stakeholders in refining these performance goals and measures as the State Plan is implemented.

After January 1, 2006, when all the deadlines have passed the Secretary of State will produce a report on how performance goals have been met. The performance goals include:

## a. Elimination of punch card voting equipment

i. Timetable: January 1, 2006

ii. Criteria: Replacement of punch card voting equipment and compliance with Title III HAVA requirements for the 16 counties that utilized punch card equipment in the 2000 General Election.

iii. How Criteria is Judged: Success of meeting this performance goal is based on the number of punch card voting systems still in use after January 1, 2006.

iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

### b. Voter education program on how to correctly cast a ballot for each type of voting system

i. Timetable: January 1, 2006

ii. Criteria: Establishment and implementation of a voter education program specific to each type of voting system that clearly explains to voter how to correctly cast a ballot, correct an error, how to obtain a replacement ballot, and the effect of casting multiple votes for an office.

iii. How Criteria is Judged: Success of meeting this performance goal is based on the establishment and implementation of a voter education program developed in cooperation with County Auditors that is specific to each type of voting system used in Washington.

iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

### c. Accessibility for individuals with disabilities

i. Timetable: January 1, 2006

ii. Criteria: Implementation of at least one Direct Recording Electronic voting device that mets the accessibility standards in each polling place in the state and adequate placement of this equipment throughout counties that have adopted vote-by-mail, and significant involvement by people with disabilities and other stakeholders in implementation of this equipment.

iii. How Criteria is Judged: Success of meeting this performance goal is based on the placement of at least one accessible Direct Recording Electronic voting device in each polling place in the state and adequate placement of this equipment throughout counties that have adopted vote-by-mail, and evidenced by increased participation on the part of people with disabilities in the voting process.

iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

### d. Provisional Voting

i. Timetable: January 1, 2004

ii. Criteria: Implementation of a free access system in each county so that the voters can determine if their provisional ballot was counted.

iii. How Criteria is Judged: Success of meeting this performance goal is based on the establishment of a free access system in each county so that the voters can determine if their provisional ballot was counted.

iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

### e. Posting of voting information

i. Timetable: January 1, 2004

ii. Criteria: Posting of the required information in each polling location.

iii. How Criteria is Judged: Success of meeting this performance goal is based on the posting of the required information in each polling location in the state.

iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

### f. Statewide Voter Registration Database

i. Timetable: January 1, 2006

ii. Criteria: Implementation of a "single, uniform, official, centralized, interactive, computerized statewide voter registration list that is defined, maintained, and administered at the state level".

iii. How Criteria is Judged: Success of meeting this performance goal is based on the implementation of a statewide voter registration system that meets the requirement of HAVA.

iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

10. A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under Section 402. (Sec. 254, (a)(9))

The Secretary of State will adopt a State-based Administrative Complaint Procedure consistent with the requirements of HAVA in Washington Administrative Code. The procedure will follow the "Brief Adjudicative Proceedings" provisions authorized in the Administrative Procedures Act.[13] After publishing the preliminary version of the State Plan for the required public comment period, the Secretary of State will move forward with adopting the administrative rules outlining the State-based Administrative Complaint Procedure.

The rules will clearly state that the State-based Administrative Complaint Procedure does not apply to, or alter, voter registration challenges in RCW chapter 29.10 or election contests in RCW chapter 29.65, or trigger a recount as outlined in RCW chapter 29.64.

Elements of the State-based Administrative Complaint Procedure to be adopted include:

- Procedures must be uniform and non-discriminatory;
- Complaint must be filed with the Secretary of State no later than 30 days after the certification of an election regarding violations that have already occurred, are presently occurring, or will occur in the future;
- The complaint procedure will be clearly posted at all polling places, and forms and information will be made available to voters in accessible formats and alternative languages. All election workers will be provided with training regarding the appropriate response to complaints;
- The Secretary of State designates one or more presiding officers;

- When necessary, presiding officers shall be trained in the requirements of accommodation for disability, and with issues related to barriers to access and accommodations;
- The presiding officer(s) shall give each party an opportunity to explain their views in writing or, the complainants option, at a hearing on the record within ten days after the filing of the complaint;
- The presiding officer(s) will issue a written decision;
- The complainant shall be informed in writing or in a format that s/he can understand of the right to a hearing on the record.
- Any aggrieved party may request an administrative review of the initial determination by the Secretary of State or a designee and that review and determination is final;
- If final determination is not made within 45 days the complaint shall be arbitrated and a final determination made within 30 days;
- Final determinations shall be posted on the Secretary of State's website and copies available to the public at reproduction costs;
- The procedures will apply only to violations of Title III of HAVA;
- Individuals will be advised that they may receive consultation from the state's protection and advocacy system for violations of the disability access requirements;
- The state may consolidate complaints; and
- County elections officials will be encouraged to resolve complaints informally if possible, but if the person wishes to file a complaint they must be provided a form to do so.

Legislation will be proposed during the next legislative session that will apply the State-Based Administrative Complaint Procedure to all elections.

11. 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. (Sec. 254, (a)(10))

Punch card replacement will cover 16 counties in Washington State. Of these counties, which are listed in an attachment, 14 are true punch card counties and two are Data Vote punch card systems. One of the eligible counties completed part of the process by replacing their punch card system with an optical scan system that includes poll site-based optical scan second-chance voting. This conversion took place subsequent to the 2000 General election but prior to the enactment of HAVA. It is the intent of the Secretary of State to reimburse this county directly.

It is the intent of the Secretary of State that the punch card buyout money be used to complete the installation of a complete HAVA-compliant system in each of the punch card counties. This means the total removal of punch card voting, the installation of an optical scan absentee voting system for absentee voting and the installation of either an optical scan and/or DRE system at the poll sites in each county. The DRE minimum installation for each poll site required under Section 301 for disability access will be accomplished with the punch card buyout money for the punch card counties.

The state will allocate the punch card buyout money via a formula.[14] The formula works with several variable factors that include the number of central count optical scan ballot counters, the number of poll sites, projected distribution of disabled and senior populations and the total number of registered voters. The formula determines each county's share of the federal punch card buyout funding. This amount represents the maximum contribution that the state will provide for replacing the county's system. The county may negotiate a contract and purchase any qualifying system but the county will be responsible for costs in excess of their share of the federal money.

The state will negotiate with voting systems vendors for optional-use state contracts. The Department of Information Services will assist in this effort. The intent is to gain maximum economies of scale for the state and to allow counties to conduct their purchases without duplicating costly local bid-letting processes. Each county may purchase from the state contract(s), or negotiate a contract on their own. Counties may also make purchases from other county contracts through inter-local agreements.

The state will pay the federal buyout money directly to contracted vendors on behalf of each county. This will occur after a contract has been signed by the county with a vendor for a qualifying replacement system and an inter-local agreement has been signed between the county and the Secretary of State guaranteeing compliance and complete replacement of punch card voting by the county. If a county signs a contract that exceeds their share of the federal buyout, the county is responsible for the remaining cost. If the contracted costs are less than the county share the remainder is available to the county to use for compliance with other Title III requirements.

Early out election administration improvement funding will be budgeted in the same manner as requirements payment, based on the following priorities: 1) funding will be used first to address requirements placed on the state and counties by the new law and discretionary improvements to election systems will be funded second; 2) that election system improvements visible to the public are made early in the process by state and county election officials.

12. 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). (Sec. 254, (a)(11))

Washington State has a long history of being a national leader in both innovation and quality of election services provided to its citizens. The development of a very high level of trust and coordination between local election officials and the Secretary of State has created fertile ground for original ideas and fresh ways to solve problems and improve service. New ideas get a clear and thorough discussion and, when implemented, are administered with the highest level of professionalism. By actively seeking local election official input, the most effective means of meeting HAVA requirements will be identified while still allowing Washington State to take advantage of the opportunities provided by HAVA.

Ongoing management of the State Plan is the responsibility of the Secretary of State as the Chief Election Officer. The Secretary of State recognizes that HAVA requires significant enhancements in the administration of elections in Washington State. To ensure that implementation of HAVA and ongoing management of the State Plan in Washington is progressive, the Secretary recognizes four guiding principles: 1) building on the strength of the relationship between local and state government in Washington; 2) approach implementation with the goal of retaining our role as leaders in election administration; 3) where practical, place the burden of implementation on those responsible for administration of elections—not on the voter; and 4) maximize available resources to sustain implementation costs beyond the availability of federal funding.

The Secretary of State will not make any material change in the administration of the State Plan unless the change:

- is developed and published in the Federal Register in accordance with Section 255 of the Act in the same manner as the State Plan;
- is subject to public notice and comment in accordance with Section 256 of the Act in the same manner as the State Plan; and
- takes effect only after the expiration of the 30-day period that begins on the date the change is published in the Federal Register.

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. (Sec. 254, (a)(13))

Three separate committees were established to draft and review the state plan. In order to continue the cooperative relationship between state and local officials, numerous local election administrators were included in the process. These committees include: the Steering Committee, Election Administrator Advisory Group, and the Drafting Committee.

## Steering Committee

The Secretary of State appointed the following persons to the Steering Committee as required by Section 255:

- Janet Anderson, Representing the League of Women Voters
- Norma Brummett, Representing the Washington State Association of County Auditors
- Deborah Cook, Washington Assistive Technology Alliance
- David Danner, Representing the Office of the Governor
- Terry Denend, Assistant Director, King County Records, Election and Licensing Services Division (Served in the place of the Director at several meetings.)
- Gayatri Essey, Community Representative
- Kelly Haughton, Representing the Washington State Libertarian Party
- Dean Logan, Director of Elections
- Pat McCarthy, Pierce County Auditor (Required as the Chief Election official from the 2nd most populous jurisdiction)
- Sam Reed, Secretary of State
- Bob Roegner, Director, King County Records, Election and Licensing Services Division (Required as the Chief Election official from the most populous jurisdiction)
- Karla Rutherford, Washington Initiative for Supported Employment
- Michael Snyder, Representing the Washington State Democratic Party
- Kristina Swanson, Representing the Washington State Association of County Auditors
- Michael Young, Representing the Washington State Republican Party
- Counsel to the Committee, Jeff Even, Assistant Attorney General
- Staff to the Committee, John Pearson & Bill Huennekens, Office of the Secretary of State

This committee provided feedback on initial drafts of the State Plan. The Steering Committee reviewed the preliminary draft released on 30 May for public notice and comment and considered suggestions or recommendations made during the 30 day public comment period.

While not all members of the steering committee agreed on all elements of the State Plan, each member contributed to the process. The Steering Committee was united in its dedication to ensuring free, fair, open and honest elections for every citizen and resident of the State of Washington.

## Election Administrator Advisory Group

- Sheryl Moss, Office of the Secretary of State, Group Facilitator
- Julie Moore, King County
- Diana Housden, Klickitat County
- Lori Augino, Pierce County
- Bob Terwilliger, Snohomish County
- Steve Homan, Thurston County
- Tim Likness, Clark County
- Mila Jury, Okanogan County
- Diana Soules, Yakima County

This group worked closely with the Drafting Committee on the actual development and production of the various drafts of the State Plan.

## Drafting Committee

- John Pearson, Facilitator and Coordinator
- Office of the Secretary of State Elections Division Staff including:
  Bill Huennekens, Dave Elliott, Erika Aust, Shawn Merchant, Hal Lymus, Paul Miller,

Carolyn Berger, Justin Anderson, Sheryl Moss and Tracy Buckles

- Jeff Even, Assistant Attorney General
- Jeff Wise, Office of the Secretary of State Executive Staff

## Drafting Committee met weekly to update the status of the plan.

This committee researched and drafted the State Plan. The members used resources from outside the Elections Division and agency as necessary. These resources included staff from the Fiscal Division of the Office of the Secretary of State, Office of Financial Management, Department of Information Services, Department of Licensing, Office of Governor, County Auditors, local elections staff, and members of disability advocacy groups.

Dean Logan, John Pearson, Bill Huennekens, Jeff Even, Dave Elliott, Sheryl Moss and Erika Aust acted as reviewers for all elements of the plan and served as a resource for all members of the Drafting Committee.

## Voter Registration Database Advisory Group

- Tracy Buckles, Office of the Secretary of State
- Tina Clarke, Office of the Secretary of State
- Dave Elliott, Office of the Secretary of State
- Hal Lymus, Office of the Secretary of State
- Paul Miller, Office of the Secretary of State
- Kay Ramsey, Office of the Secretary of State
- Roger Carpenter, Clark County
- Suzanne Sinclair, Island County
- Karen Cartmel, Jefferson County
- Lori Augino, Pierce County
- Mike Rooney, Pierce County
- Mike McLaughlin, Spokane County
- Steve Homan, Thurston County
- Pete Griffin, Whatcom County
- Diana Soules, Yakima County

This group, which existed prior to the passage of HAVA, was utilized by the Drafting Committee members working on portions of the plan dealing with the statewide voter registration database.

## Public Notice and Comment

As required by HAVA, the Secretary of State worked with the media to inform the public of the release of the state plan, how to obtain a copy of the plan, and how to submit comments. Further, electronic copies of the preliminary draft of the plan were sent to each County Auditor. On May 30, 2003, the Secretary of State presented a summary of the preliminary draft of the state plan at a media briefing on Television Washington (TVW), the public affairs channel in Washington that is similar to C-Span. The program aired live and was replayed several times. Finally, a notice was published in the Washington State Register detailing how to obtain a copy of the plan, and how to submit comments. The notice read:

Secretary of State Sam Reed has released the Preliminary Washington State Plan required under the Help America Vote Act of 2002, Public Law 107-252, 116 Stat 1666 (2002). The Preliminary Washington State Plan is available for public comment and review for 30 days beginning Friday, May 30, 2003. Copies are available from the Secretary's website at http://secstate.wa.gov/ or may be obtained by contacting the Office of the Secretary of State at: 360.902.4169; toll free 1.800.448.4881; TDD/TTY 1.800.422.8683; email elections@secstate.wa.gov; Mail PO Box 40229, Olympia, WA 98504-0229. The information is available in alternative formats upon request for individuals with disabilities. Comments must be received by Saturday, June 28, 2003.

Public hearings were conducted on the preliminary draft of the State Plan in four locations across the state: Yakima, July 8, 10:00 am – 12:00 pm; Pasco, July 8, 6:00 pm – 8:00 pm; Vancouver, July 9, 6:00 pm – 8:00 pm; and Olympia, July 10, 10:00 am – 12:00 pm. These locations are all in counties that must switch from punch card voting equipment. Each of the hearings included a summary of the preliminary plan by committee staff and then testimony from the public. Everyone who wished to testify at the public hearings was afforded an opportunity. Eighty seven individuals signed in and attended the hearings and approximately forty individuals testified.

In addition to the public comments received at the public hearings, over 330 comments were received via the internet/email, phone, or regular mail. The majority of the comments requested a requirement for a voter verified paper audit trail for Direct Recording Electronic voting equipment. Many of the comments also requested that any newly purchased voting system be able to count a ranked ballot. These requirements are not suggested in the state plan because they are policy issues that are more appropriately addressed through the legislative process and are not requirements found in HAVA or elements of implementing HAVA. Elements are included in the state plan to address the continued integrity of voting systems in Washington.

Some citizens gave strong support to the proposed plan, while others highlighted other issues and concerns. These included: importance of absentee voting; raising active voter participation via election-day holidays, increased voter outreach and same-day registration; voting by immigrants and speakers of alternative languages (for and against); budget incentives for County Auditors; and full voting rights and access for citizens with disabilities. In addition to comments by individual citizens (and vendors) submissions were also received on behalf of several groups, including political and citizens organizations, and Rock the Vote.

Finally, the Washington Protection and Advocacy System provide a comprehensive set of suggestions and recommended changes. Many of these suggestions were incorporated in the plan and their effort is greatly appreciated.

## Timeline

Feb 13—Steering Committee meeting, briefing of HAVA and work plan for developing State Plan.

March 14—Election Administrator Advisory Committee meeting, review of HAVA and meet with drafting committee members.

April 17– Steering Committee meeting, briefing and review of preliminary draft and the significant issues and options for implementing HAVA.

April 25 –Election Administrator Advisory Committee meeting, briefing and review of first draft.

May 1—Steering Committee meeting, briefing and review of first draft.

May 21—Steering Committee meeting, review second draft.

May 30—Draft finished and available for public notice and comment as required by section 256.

June 28—Public notice and comment period finished.

June 30—July 11—Consideration of public comments regarding preliminary version of the plan.

July 2—Steering Committee meeting, consider public comments.

July 8—Public hearings on Preliminary Draft of State Plan in Yakima and Pasco.

July 9—Public hearings on Preliminary Draft of State Plan in Vancouver.

July 10—Public hearings on Preliminary Draft of State Plan in Olympia.

September 3—Submission of State Plan to the federal government, FEC or new Election Assistance Commission if constituted.

APPENDIX A

## 2002 General Election Statistics

| COUNTY | TOTAL REGISTERED VOTERS | TOTAL BALLOTS CAST | TURNOUT | BALLOTS CAST BY MAIL | PERCENTAGE OF BALLOTS CAST BY MAIL OF TOTAL BALLOTS CAST BY MAIL |
|---|---|---|---|---|---|
| Adams | 6,088 | 3,651 | 59.97% | 3,250 | 89.01% |
| Asotin | 11,907 | 6,247 | 52.46% | 2,567 | 41.09% |
| Benton | 77,043 | 41,345 | 53.66% | 24,299 | 58.77% |
| Chelan | 32,703 | 20,378 | 62.31% | 16,898 | 82.92% |
| Clallam | 39,383 | 27,956 | 70.98% | 27,956 | 100% |
| Clark | 174,687 | 93,975 | 53.79% | 71,957 | 76.57% |
| Columbia | 2,473 | 1,851 | 74.84% | 1,279 | 69.09% |
| Cowlitz | 49,860 | 27,576 | 55.30% | 23,957 | 86.87% |
| Douglas | 16,354 | 9,227 | 56.42% | 6,377 | 69.11% |
| Ferry | 3,878 | 2,765 | 71.29% | 2,765 | 100% |
| Franklin | 18,100 | 10,228 | 56.50% | 8,278 | 80.93% |
| Garfield | 1,505 | 1,012 | 67.24% | 657 | 64.92% |
| Grant | 32,121 | 18,401 | 57.28% | 10,858 | 59.00% |
| Grays Harbor | 31,725 | 18,842 | 59.39% | 11,051 | 58.65% |
| Island | 39,992 | 26,086 | 65.22% | 17,798 | 68.22% |
| Jefferson | 18,561 | 13,746 | 74.05% | 9,508 | 69.16% |
| King | 1,031,348 | 548,353 | 53.16% | 327,431 | 59.71% |
| Kitsap | 125,344 | 79,011 | 63.03% | 62,706 | 79.36% |
| Kittitas | 16,636 | 10,182 | 61.20% | 5,346 | 52.50% |
| Klickitat | 11,006 | 6,492 | 58.98% | 2,189 | 33.71% |
| Lewis | 41,543 | 23,924 | 57.58% | 16,396 | 68.53% |
| Lincoln | 6,227 | 4,389 | 70.48% | 3,302 | 75.23% |
| Mason | 27,231 | 17,253 | 63.35% | 10,406 | 60.31% |
| Okanogan | 19,165 | 11,985 | 62.53% | 8,877 | 74.06% |
| Pacific | 12,375 | 7,781 | 62.87% | 4,566 | 58.68% |
| Pend Oreille | 7,025 | 4,769 | 67.88% | 928* | 19.46% |
| Pierce | 347,702 | 192,734 | 55.43% | 158,913 | 82.45% |
| San Juan | 9,721 | 7,064 | 72.66% | 4,766 | 67.46% |
| Skagit | 59,156 | 33,681 | 56.93% | 17,886 | 53.10% |
| Skamania | 5,607 | 3,531 | 62.97% | 2,513 | 71.06% |
| Snohomish | 318,170 | 181,075 | 56.91% | 117,308 | 64.78% |
| Spokane | 226,493 | 132,843 | 58.65% | 101,714 | 76.56% |
| Stevens | 26,587 | 14,644 | 55.07% | 6,493 | 44.33% |
| Thurston | 130,689 | 73,859 | 56.51% | 57,411 | 77.73% |
| Wahkiakum | 2,484 | 1,892 | 76.16% | 1,345 | 71.08% |
| Walla Walla | 26,062 | 15,438 | 59.23% | 8,349 | 54.08% |
| Whatcom | 91,656 | 55,066 | 60.07% | 36,202 | 65.74% |
| Whitman | 21,414 | 10,931 | 51.04% | 3,208* | 29.34% |
| Yakima | 89,627 | 48,537 | 54.15% | 36,017 | 74.20% |
| TOTAL | 3,209,648 | 1,808,720 | 56.35% | 1,233,727 | 68.21% |

APPENDIX B

## Voting Systems

| COUNTY | SYSTEM | VENDOR | TYPE | CENTRAL/POLLSITE |
|---|---|---|---|---|
| Adams | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Asotin | BCCS Punch Card 228 | Webb systems | Punch Card | Central |
| Benton | ES&S Opscan 150 | Election Systems and Software | Punch card | Central |
| Chelan | Global Accuvote | Global Election Systems | op-Scan | Both |
| Clallam | BCCS Punch Card 228 | Webb systems | Punch Card | Central |
| Clark | BCCS Punch Card 228 | Webb systems | Punch Card | Central |
| Columbia | Opscan 150 | Election Systems and Software | op-Scan | Central |
| Cowlitz | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Douglas | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Ferry | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Franklin | Data-vote | Sequoia Pacific | Punch Card | Central |
| Garfield | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Grant | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Grays Harbor | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Island | BCCS Punch Card 228 | Webb systems | Punch Card | Central |
| Jefferson | Optech 4C Model 200 | Election Systems and Software | op-Scan | Central |
| King | Global Accuvote | Global Election Systems | op-Scan | Both |
| Kitsap | Optech 4C Model 200 | Election Systems and Software | op-Scan | Central |
| Kittitas | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Klickitat | Global Accuvote | Global Election Systems | op-Scan | Both |
| Lewis | BCCS Punch Card 228 | Webb systems | Punch Card | Central |
| Lincoln | BCCS Punch Card 228 | Webb systems | Punch Card | Central |
| Mason | BCCS Punch Card 228 | Webb systems | Punch Card | Central |
| Okanogan | BCCS Punch Card 228 | Webb systems | Punch Card | Central |
| Pacific | BCCS Punch Card 228 | Webb systems | Punch Card | Central |
| Pend Oreille | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Pierce | Optech 4C-400/IIIPe | Election Systems and Software | op-Scan | Both |
| San Juan | Global Accuvote | Global Election Systems | op-Scan | Both |
| Skagit | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Skamania | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Snohomish | Optech 4C-400/ AVC Edge DRE | Sequoia Voting Systems | op-Scan /DRE | Both |
| Spokane | ES&S Opscan 550 Mdl 100 | Election Systems and Software | op-Scan | Both |
| Stevens | ES&S Opscan 150 | Election Systems and Software | Punch Card | Central |
| Thurston | ES&S Opscan 150 | Election Systems and Software | Punch Card | Central |
| Wahkiakum | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Walla Walla | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Whatcom | BCCS Punch Card 228 | Webb systems | Punch Card | Central |
| Whitman | ES&S Opscan 150 | Election Systems and Software | op-Scan | Central |
| Yakima | Data-vote | Sequoia Pacific | Punch Card | Central |

APPENDIX C

## Washington State Administrative Code on Uniform Definition of a Vote

WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot upon breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election; (2) "Duplicating ballots" is the process of making a true copy of valid votes from ballots that may not be properly counted by the vote tallying system to blank ballots of the same type and style, or as directed by the canvassing board;

(3) "Ballot enhancement" is the process of adding or covering marks or punches on an optical scan ballot to ensure that the electronic voting equipment will tally the votes on the ballot in the manner intended by the voter, or as directed by the canvassing board;

(4) "Readable ballot" is any ballot that the certified vote tallying system can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title. In the case of punch cards, this means all voting response positions are cleanly punched and removed from the card;

(5) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without alteration. Unreadable ballots may include, but not be limited to, ballots with damage, write-in votes, incorrect or incomplete marks or punches, and questions of vote intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;

(6) "Valid signature" is the verified signature of a registered voter eligible to vote in the primary or election as contained in the voter registration files of the county. A mark with two witnesses on an absentee ballot, a mail ballot precinct ballot, or a vote-by-mail ballot shall be considered a valid signature.

WAC 434-261-070 Manual inspection of ballots. (1) Upon breaking the seals and opening the ballot containers from the precincts, all voting positions on voted ballots shall be manually inspected on both sides of the ballot and every voting position for unreadable ballots. The same manual inspection process shall apply to absentee ballots, mail ballot precinct ballots, and vote-by-mail ballots. This manual inspection shall include examining each voter response position, and is a required part of processing ballots used with all electronic vote tabulating systems.

(2) The inspection of ballots tabulated at the poll site is not required provided that the poll site ballot programming provisions of RCW 29.51.115 are being complied with.

(3) If the manual inspection process detects any physically damaged ballots, unreadable ballots which might not be correctly counted by the tabulating equipment, or that contain marks or punches

that differ from those specified in the voting instructions contained on or with the ballot but clearly form a discernible and consistent pattern on the ballot to the extent that the voter's intent can be clearly determined, the county may either:

(a) Refer the ballots to the county canvassing board;

(b) Duplicate the ballots if authorized by the county canvassing board as per WAC 434-261-090; or

(c) Enhance the ballots if authorized by the county canvassing board and enhancement can be accomplished without permanently obscuring the original marks or punches of the voters as per WAC 434-261-080 and 434-261-085.

(4) In the case of punch card ballots, if two or more corners or attachment points are detached in a punch position, the vote is valid and the chad must be removed without duplication, enhancement, or reference to the county canvassing board. If less than two corners are detached, then subsection (3) of this section shall apply.

WAC 434-261-075 Manual inspection of ballot—Acceptability of marks or punches.

(1) If the voter returns voting responses by mail on any form other than the ballot sent, the votes thereon shall be acceptable and tallied provided that:

(a) Only votes for offices or measures for which the voter is eligible are counted.

(b) The candidate or measure response position for which the voter is voting can be clearly identified.

(c) The ballot issued is not returned, or if returned, contains no marks or punches indicating an attempt to vote it.

(d) A valid signature on an absentee oath is on file with the county auditor.

The votes accepted must then be duplicated to a ballot that can be read by the electronic voting equipment as prescribed in WAC 434-261-090.

(2) Corrected absentee ballots shall be counted in the following manner:

(a) If a voter follows the instructions for correcting a vote, either the written instructions or others given to the voter by the county auditor, the correction shall be made and the corrected vote tabulated. The county auditor may enhance or duplicate the ballot.

(b) If a voter appears to have corrected their ballot in a manner other than as instructed, the vote for that candidate or issue shall not be tabulated unless the voter provides written instructions directing how the vote should be counted.

(3) Where a voter has indicated a write-in vote on their ballot which duplicates the name of a candidate who already appears on the ballot for the same office, the ballot shall be enhanced or duplicated to count one vote for the candidate indicated. Such a vote shall not be considered an overvote or a write-in vote.

(4) An absentee ballot, a mail ballot precinct ballot, and a vote-by-mail ballot shall not be counted if a voter signs the oath with a mark and does not have two witnesses attest to the signature.

(5) If a ballot contains marks or punches that differ from those specified in the voting instructions, those marks or punches shall not be counted as valid votes unless there is a discernable and consistent pattern, to the extent that the voter's intent can clearly be determined. If there is such a pattern, the ballot shall be enhanced or duplicated to reflect the voter's intent.

WAC 434-261-080 Ballot enhancement—Optical scan systems. Ballots shall only be enhanced when such enhancement will not permanently obscure the original marks of the voters. Ballots shall be enhanced by teams of two or more people working together. When enhancing ballots, the county shall take the following steps to create and maintain an audit trail of the actions taken with respect to those enhanced ballots:

(1) Each ballot to be enhanced must be assigned a unique control number, with such number being marked on the face of the enhanced ballot;

(2) A log shall be kept of the ballots enhanced and shall include at least the following information:

(a) The control number of each ballot enhanced;

(b) The initials of at least two people who participated in enhancing each ballot; and

(c) The total number of ballots enhanced;

(3) Enhanced ballots and ballots to be enhanced shall be sealed into secure storage at all times, except when said ballots are in the process of being enhanced, are being tabulated, or are being inspected by the canvassing board.

WAC 434-261-085 Ballot enhancement—Punch card systems. Ballots shall only be enhanced when such enhancement will not permanently obscure marks or punches of the voters. Teams of two or more people working together shall enhance ballots. When enhancing ballots, the county auditor shall take the following steps to create and maintain an audit trail of the actions taken with respect to those enhanced ballots:

(1) Each ballot to be enhanced must be assigned a unique control number, with such number being marked on the enhanced ballot.

(2) A log shall be kept of the ballots enhanced and shall include at least the following information:

(a) The control number of each ballot enhanced;

(b) The initials of at least two people who participated in enhancing each ballot; and

(c) The total number of ballots enhanced.

(3) When the county canvassing board rejects one or more votes on a ballot that contains other valid votes, as in the case of special ballots, the ballot must be duplicated without the rejected vote(s) or

the vote(s) may be overvoted on the original ballot. When overvoting, the punch made by the county auditor shall be clearly indicated on the ballot and shall follow the rules for enhancement.

(4) Enhanced ballots and ballots to be enhanced shall be sealed into secure storage at all times, except when said ballots are in the process of being enhanced, are being tabulated, or are being inspected by the canvassing board.

WAC 434-261-090 Ballot duplication. A ballot may be duplicated only if the intent of the voter's marks on the ballot is clear and the electronic voting equipment might not otherwise properly tally the ballot to reflect the intent of the voter. Ballots shall be duplicated by teams of two or more people working together. When duplicating ballots, the county auditor shall take the following steps to create and maintain an audit trail of the actions taken with respect to those duplicated ballots and the corresponding duplicate ballots:

(1) Each ballot to be duplicated and the corresponding duplicate ballot must be assigned a unique control number, with such number being marked upon the face of each ballot, the purpose being to insure that each duplicate ballot may be tied back to the original ballot;

(2) A log shall be kept of the ballots duplicated and shall include at least the following information:

(a) The control number of each ballot duplicated and the corresponding duplicate ballot;

(b) The initials of at least two people who participated in the duplication of each ballot; and

(c) The total number of ballots duplicated;

(3) Duplicated ballots and the corresponding duplicate ballots, as well as ballots requiring duplication shall be sealed into secure storage at all times, except when said ballots are in the process of being duplicated, are being tabulated, or are being inspected by the canvassing board.

WAC 434-240-200 Absentee ballot—Instructions to voters. Included with each absentee ballot provided to applicants must be instructions for properly voting the ballot and for returning it in a manner that will guarantee the voter secrecy of his or her ballot. The instructions shall include the following:

(1) Detailed instructions for correctly marking the ballot;

(2) Detailed instructions on how the voter must correct a spoiled ballot. To make a correction on an absentee ballot, voters shall be instructed to cross out the incorrect vote and to vote the correct choice;

(3) Instructions on how the voter is to complete and sign the affidavit on the return envelope, or if unable to sign their name, that their mark be witnessed by two other persons;

(4) Instructions on how the voter is to place his or her ballot in the security envelope and place the security envelope in the return envelope;

(5) Instructions regarding postage, if required;

(6) Notice to the voter that the ballot must be postmarked not later than election day.

(7) Instructions on how to obtain a replacement ballot.

County auditors shall be permitted to use any existing stock of absentee ballot instructions, in the form specified by state law or administrative rule prior to January 1, 2002. Upon exhaustion of that stock or not later than December 31, 2002, county auditors shall comply with the provisions of this regulation when ordering absentee ballot instructions.

WAC 434-238-090 Instructions to voters. Instructions shall be included with the mail ballot, the return envelope, and ballot envelope delivered to the voter. The instructions shall include all information required for absentee ballots. The instructions shall also:

(1) Advise the voter that the election is to be by mail ballot, the amount of postage required on the return envelope, and that regular polling places will not be open;

(2) List the location of the place where the voter may obtain a replacement ballot if his or her ballot is destroyed, spoiled, or lost;

(3) List the location(s), dates, and times where the voter may deposit his or her ballot prior to or on election day in the event the ballot is not mailed;

(4) Advise the voter that in order for his or her ballot to be counted it must be either postmarked not later than the day of the election or deposited at a designated place;

(5) Advise the voter that any person attempting to vote when he or she is not entitled or who falsely signs the affidavit shall be guilty of a felony, punishable by imprisonment for not more than five years or a fine of not more than ten thousand dollars, or both such fine and imprisonment; and

(6) State that every voter has the right to vote his or her ballot in secret.

APPENDIX D

## Washington State Law on the Certification and Training Program

RCW 29.60.010 Election administration and certification board—Generally.

(1) The Washington state election administration and certification board is established and has the responsibilities and authorities prescribed by this chapter. The board is composed of the following members:

(a) The secretary of state or the secretary's designee;

(b) The state director of elections or the director's designee;

(c) Four county auditors appointed by the Washington state association of county auditors or their alternates who are county auditors designated by the association to serve as such alternates, each appointee and alternate to serve at the pleasure of the association;

(d) One member from each of the two largest political party caucuses of the house of representatives designated by and serving at the pleasure of the legislative leader of the respective caucus;

(e) One member from each of the two largest political party caucuses of the senate designated by and serving at the pleasure of the legislative leader of the respective caucus; and

(f) One representative from each major political party, as defined by RCW 29.01.090, designated by and serving at the pleasure of the chair of the party's state central committee.

(2) The board shall elect a chair from among its number; however, neither the secretary of state nor the state director of elections nor their designees may serve as the chair of the board. A majority of the members appointed to the board constitutes a quorum for conducting the business of the board. Chapter 42.30 RCW, the open public meetings act, and RCW 42.32.030 regarding minutes of meetings, apply to the meetings of the board.

(3) Members of the board shall serve without compensation. The secretary of state shall reimburse members of the board, other than those who are members of the legislature, for travel expenses in accordance with RCW 43.03.050 and 43.03.060. Members of the board who are members of the legislature shall be reimbursed as provided in chapter 44.04 RCW.

[1992 c 163 § 3.]

RCW 29.60.020 Powers and duties of board.

(1) The secretary of state and the board created in RCW 29.60.010 shall jointly adopt rules, in the manner specified for the adoption of rules under the administrative procedure act, chapter 34.05 RCW, governing:

(a) The training of persons officially designated by major political parties as elections observers under this title, and the training and certification of election administration officials and personnel;

(b) The policies and procedures for conducting election reviews under RCW 29.60.070; and

(c) The policies and standards to be used by the board in reviewing and rendering decisions regarding appeals filed under RCW 29.60.070.

The initial policies and standards adopted under (c) of this subsection shall be adopted concurrently with adoption of the initial policies and procedures adopted under (b) of this subsection.

(2) The board created in RCW 29.60.010 shall review appeals filed under RCW 29.60.050 or 29.60.070. A decision of the board regarding such an appeal shall be supported by not less than a majority of the members appointed to the board. A decision of the board regarding an appeal filed under RCW 29.60.070 concerning an election review conducted under that section is final. If a decision of the board regarding an appeal filed under RCW 29.60.050 includes a recommendation that a certificate be issued, the certificate shall be issued by the secretary of state as recommended by the board.

(3) The board created in RCW 29.60.010 may adopt rules governing its procedures.

[1992 c 163 § 4.]

RCW 29.60.030 Duties of secretary of state.

The secretary of state shall:

(1) Establish and operate, or provide by contract, training and certification programs for state and county elections administration officials and personnel, including training on the various types of election law violations and discrimination, and training programs for political party observers which conform to the rules for such programs established under RCW 29.60.020;

(2) Administer tests for state and county officials and personnel who have received such training and issue certificates to those who have successfully completed the training and passed such tests;

(3) Maintain a record of those individuals who have received such training and certificates; and

(4) Provide the staffing and support services required by the board created under RCW 29.60.010.

[2001 c 41 § 11; 1992 c 163 § 5.]

RCW 29.60.040 Training of election administrators.

A person having responsibility for the administration or conduct of elections, other than precinct election officers, shall, within eighteen months of undertaking those responsibilities or within eighteen months of July 1, 1993, whichever is later, receive general training regarding the conduct of elections and specific training regarding their responsibilities and duties as prescribed by this title or by rules adopted by the secretary of state under this title. Included among those persons for whom such training is mandatory are the following:

(1) Secretary of state elections division personnel;

(2) County elections administrators under RCW 36.22.220;

(3) County canvassing board members;

(4) Persons officially designated by each major political party as elections observers; and

(5) Any other person or group charged with election administration responsibilities if the person or group is designated by rule adopted by the secretary of state as requiring the training.

The secretary of state shall reimburse election observers in accordance with RCW 43.03.050 and 43.03.060 for travel expenses incurred to receive training required under subsection (4) of this section.

Neither this section nor RCW 29.60.030 may be construed as requiring an elected official to receive training or a certificate of training as a condition for seeking or holding elective office or as a condition for carrying out constitutional duties.

[1992 c 163 § 6.]

RCW 29.60.050 Denial of certification—Review and appeal.

(1) A decision of the secretary of state to deny certification under RCW 29.60.030 shall be entered in the manner specified for orders under the administrative procedure act, chapter 34.05 RCW. Such a decision shall not be effective for a period of twenty days following the date of the decision, during which time the person denied certification may file a petition with the secretary of state requesting the secretary to reconsider the decision and to grant certification. The petitioner shall include, in the petition, an explanation of the reasons why the initial decision is incorrect and certification should be granted, and may include a request for a hearing on the matter. The secretary of state shall reconsider the matter if the petition is filed in a proper and timely manner. If a hearing is requested, the secretary of state shall conduct the hearing within sixty days after the date on which the petition is filed. The secretary of state shall render a final decision on the matter within ninety days after the date on which the petition is filed.

(2) Within twenty days after the date on which the secretary of state makes a final decision denying a petition under this section, the petitioner may appeal the denial to the board created in RCW 29.60.010. In deciding appeals, the board shall restrict its review to the record established when the matter was before the secretary of state. The board shall affirm the decision if it finds that the record supports the decision and that the decision is not inconsistent with other decisions of the secretary of state in which the same standards were applied and certification was granted. Similarly, the board shall reverse the decision and recommend to the secretary of state that certification be granted if the board finds that such support is lacking or that such inconsistency exists.

(3) Judicial review of certification decisions shall be as prescribed under RCW 34.05.510 through 34.05.598, but shall be limited to the review of board decisions denying certification.

[1992 c 163 § 7.]

RCW 29.60.060 Election review section.

An election review section is established in the elections division of the office of the secretary of state. Permanent staff of the elections division, trained and certified as required by RCW 29.60.040, shall perform the election review functions prescribed by RCW 29.60.070. The staff may also be required to assist in training, certification, and other duties as may be assigned by the secretary of state to ensure the uniform and orderly conduct of elections in this state.

[1992 c 163 § 8.]

RCW 29.60.070 Review of county election procedures.

(1)(a) The election review staff of the office of the secretary of state shall conduct a review of election-related policies, procedures, and practices in an affected county or counties:

(i) If the unofficial returns of a primary or general election for a position in the state legislature indicate that a mandatory recount is likely for that position; or

(ii) If unofficial returns indicate a mandatory recount is likely in a statewide election or an election for federal office.

Reviews conducted under (ii) of this subsection shall be performed in as many selected counties as time and staffing permit. Reviews conducted as a result of mandatory recounts shall be performed between the time the unofficial returns are complete and the time the recount is to take place, if possible.

(b) In addition to conducting reviews under (a) of this subsection, the election review staff shall also conduct such a review in a county periodically, in conjunction with a county primary or special or general election, at the direction of the secretary of state or at the request of the county auditor. If any resident of this state believes that an aspect of a primary or election has been conducted inappropriately in a county, the resident may file a complaint with the secretary of state. The secretary shall consider such complaints in scheduling periodic reviews under this section.

(c) Before an election review is conducted in a county, the secretary of state shall provide the county auditor of the affected county and the chair of the state central committee of each major political party with notice that the review is to be conducted. When a periodic review is to be conducted in a county at the direction of the secretary of state under (b) of this subsection, the secretary shall provide the affected county auditor not less than thirty days' notice.

(2) Reviews shall be conducted in conformance with rules adopted under RCW 29.60.020. In performing a review in a county under this chapter, the election review staff shall evaluate the policies and procedures established for conducting the primary or election in the county and the practices of those conducting it. As part of the review, the election review staff shall issue to the county auditor and the members of the county canvassing board a report of its findings and recommendations regarding such policies, procedures, and practices. A review conducted under this

chapter shall not include any evaluation, finding, or recommendation regarding the validity of the outcome of a primary or election or the validity of any canvass of returns nor does the election review staff have any jurisdiction to make such an evaluation, finding, or recommendation under this title.

(3) The county auditor of the county in which a review is conducted under this section or a member of the canvassing board of the county may appeal the findings or recommendations of the election review staff regarding the review by filing an appeal with the board created under RCW 29.60.010.

[1997 c 284 § 1; 1992 c 163 § 9.]

RCW 29.60.080 Powers and duties of county auditor and review staff.

The county auditor may designate any person who has been certified under this chapter, other than the auditor, to participate in a review conducted in the county under this chapter. Each county auditor and canvassing board shall cooperate fully during an election review by making available to the reviewing staff any material requested by the staff. The reviewing staff shall have full access to ballot pages, absentee voting materials, any other election material normally kept in a secure environment after the election, and other requested material. If ballots are reviewed by the staff, they shall be reviewed in the presence of the canvassing board or its designees. Ballots shall not leave the custody of the canvassing board. During the review and after its completion, the review staff may make appropriate recommendations to the county auditor or canvassing board, or both, to bring the county into compliance with the training required under this chapter, and the laws or rules of the state of Washington, to safeguard election material or to preserve the integrity of the elections process.

[1992 c 163 § 10.]

RCW 29.60.090 Election assistance and clearinghouse program.

The secretary of state shall establish within the elections division an election assistance and clearinghouse program, which shall provide regular communication between the secretary of state, local election officials, and major and minor political parties regarding newly enacted elections legislation, relevant judicial decisions affecting the administration of elections, and applicable attorney general opinions, and which shall respond to inquiries from elections administrators, political parties, and others regarding election information. This section does not empower the secretary of state to offer legal advice or opinions, but the secretary may discuss the construction or interpretation of election law, case law, or legal opinions from the attorney general or other competent legal authority.

[1992 c 163 § 11.]

APPENDIX E

STATE OF WASHINGTON
SECRETARY OF STATE

## Mail-In Voter Registration Instructions

### Voter Registration & Voting

**Voter qualifications**

To register to vote in the state of Washington, you must be:

- ✔ **A citizen of the United States**
- ✔ **A legal resident of Washington state**
- ✔ **At least 18 years old by election day**

If you have been convicted of a felony you must have your rights restored before you register to vote.

In the state of Washington, you do not have to register by political party or declare political party membership to vote in the state's regular primaries or general elections.

**Registration deadlines**

In order to vote in the next election, your Mail-In Voter Registration must be **postmarked** at least **30 days** before the next election. Otherwise, your registration will not take effect until after the upcoming election.

If you miss the 30-day deadline, you can still sign up in time for the election — but you must register in person at your county elections department no later than **15 days** before the election.

**Change of residence**

If you move to a **new** county, you must complete a new voter registration.

If you move within the **same** county, you do not need to re-register, but you must request a transfer of your registration. This can be done by using a mail-in voter registration form, or by calling or writing your county elections department.

*NOTE: You must re-register or transfer your registration at least **30 days** before the election to be eligible to vote in your new precinct.*

**Keep your registration up-to-date!**

If we do not have your current name or address, you may not be able to vote in the next election. Use the mail-in registration form to send your name or address change.

**Voting by absentee ballot**

Any registered voter may vote by absentee ballot. You do not need to be ill or "absent" to be an absentee voter.

You may request an absentee ballot as early as 90 days before an election. (No absentee ballots are issued on election day except to hospitalized voters). **The request for an absentee ballot must be made to your county auditor or elections department** (not to the Secretary of State).

One-time absentee ballot requests may be made either by phone, fax or by mail. You may also sign up to automatically receive an absentee ballot before each election. Just check the "Yes" box in the Ongoing Absentee Voter Request section of the Mail-In Voter Registration Form.

NOTE: Absentee ballots must be signed and postmarked or delivered to the county election officer **on or before election day**.

**Questions?**

Information and assistance is available on the Secretary of State's Web site at www.secstate.wa.gov/voting or through the Secretary of State's toll-free Voter Information Hotline at **1-800-448-4881** (TDD 1-800-422-8683). You can find your County Auditor or County Elections Department under Government Listings in your telephone directory, or see the County Auditors List on the Secretary of State Web site.

### Using the Mail-In Voter Registration Form

CLICK FORM HERE

**You can use the Mail-In Registration Form to:**

- Sign up to vote in Washington state.
- Update your registration if you move to a new address or change your name.
- Apply to become a permanent absentee voter.

This is a "fillable" form, which means you can use your computer's keyboard to type information in the requested fields as you view the form onscreen. Please note, however, that you must print the completed form and sign the hard copy document in the requested sections. Because original written signatures are required, forms may not be transmitted by e-mail.

Please complete all sections. Once you have printed and signed the completed form, place it in an envelope and mail it to:

**OFFICE OF THE SECRETARY OF STATE**
**VOTER REGISTRATION BY MAIL**
**PO BOX 40230**
**OLYMPIA, WA 98504-0230**

If you are qualified and the information on your form is complete, you will be mailed a voter registration card which will identify your voting precinct.

***Important** — See the "Registration Deadlines" and "Change of Residence" sections at left.*

## Mail-In Voter Registration Form

State of Washington

To fill out this form, simply click in the boxes and type the requested information. Please complete all boxes (1-12). When you are finished, print the document and sign it in Boxes 9 and 11. Then place in an envelope and mail to:

**Office of the Secretary of State**
**Voter Registration by Mail**
**PO Box 40230 • Olympia, WA 98504-0230**

**TO REGISTER TO VOTE, YOU MUST BE:**
- ✓ A citizen of the United States of America
- ✓ A legal resident of the State of Washington
- ✓ At least 18 years old by election day

Need help? Click Here for our Instructions & Assistance Page

*FORM MUST BE PRINTED AND SENT BY REGULAR MAIL. DO NOT E-MAIL.

WARNING: If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, or by a fine of up to ten thousand dollars, or both imprisonment and fine. (RCW 29.07.070)

1 Are you a citizen of the United States of America? ☐ Yes ☐ No* | 2 Will you be 18 years of age on or before election day? ☐ Yes ☐ No* | For Official Use Only

*NOTE: If you checked "NO" in response to box 1 or 2 above, do not complete this form.

3 Last Name | First Name | Middle Initial | ☐ Male ☐ Female

4 Address Where You Live | City or Town | ZIP Code

5 Address Where You Get Your Mail (If Different Than #4) | City or Town | State | ZIP Code

6 Date of Birth (Month/Day/Year) | 7 Daytime Phone Number (for area code) | E-Mail Address (Optional)

Federal Law requires you to provide your Driver's License number. If you do not have a Washington Driver's License, you must provide the last 4 digits of your Social Security Number. Failure to provide this information may prevent your registration from being processed.

8 WA Driver's License # | Last 4 Digits of Social Security #

**ONGOING ABSENTEE REQUEST**
I would like to receive absentee ballots for all future elections:
YES ☐ NO ☐ CHECK ONE.

**Voter Declaration** - Read and Sign Boxes 9 and 11.

"I declare that the facts on this voter registration form are true:
- I am a citizen of the United States;
- I am not presently denied my civil rights as a result of being convicted of a felony;
- I will have lived in Washington at the address for thirty days immediately before the next election at which I vote;
- I will be at least eighteen years old when I vote."

9 Date Signed ____/____/____ (Month / Day / Year)

SIGN HERE X

10 Last Name | First Name | Initial

11 SIGN HERE X

12 If you previously registered under this name, enter address:
Name
Street
City
County
State ZIP
Please sign as previously registered:
X

APPENDIX F

Preliminary Estimated DRE Funding Formula

(subject to change based on funding and alteration of variables)

| | | PAYOUT | POLLSITES |
|---|---|---|---|
| min softw payout | $900,000.00 | $37,500.00 | 1,244 |
| DRE payout | $7,464,000.00 | $6,000.00 | |
| total payments | $8,364,000.00 | | |

| COUNTY | COUNTY PAYMENT | SOFTWARE/INST MINIMUMPAYOUT | 2002 VR TOTAL | 2002 POLLSITE TOTAL | DRE POLLSITE PAYOUT |
|---|---|---|---|---|---|
| Adams | $49,500 | $37,500.00 | 6,088 | 2 | $12,000 |
| Chelan | $85,500 | $37,500.00 | 32,703 | 8 | $48,000 |
| Columbia | $43,500 | $37,500.00 | 2,473 | 1 | $6,000 |
| Cowlitz | $121,500 | $37,500.00 | 49,860 | 14 | $84,000 |
| Douglas | $91,500 | $37,500.00 | 16,354 | 9 | $54,000 |
| Ferry | $49,500 | $37,500.00 | 3,878 | 2 | $12,000 |
| Garfield | $43,500 | $37,500.00 | 1,505 | 1 | $6,000 |
| Grant | $313,500 | $37,500.00 | 32,121 | 46 | $276,000 |
| Grays Harbor | $205,500 | $37,500.00 | 31,725 | 28 | $168,000 |
| Jefferson | $127,500 | $37,500.00 | 18,561 | 15 | $90,000 |
| King | $3,439,500 | $37,500.00 | 1,031,348 | 567 | $3,402,000 |
| Kitsap | $205,500 | $37,500.00 | 125,344 | 28 | $168,000 |
| Kittitas | $109,500 | $37,500.00 | 16,636 | 12 | $72,000 |
| Klickitat | $103,500 | $37,500.00 | 11,006 | 11 | $66,000 |
| Pend Oreille | $49,500 | $37,500.00 | 7,025 | 2 | $12,000 |
| Pierce | $613,500 | $37,500.00 | 347,702 | 96 | $576,000 |
| San Juan | $67,500 | $37,500.00 | 9,721 | 5 | $30,000 |
| Skagit | $313,500 | $37,500.00 | 59,156 | 46 | $276,000 |
| Skamania | $79,500 | $37,500.00 | 5,607 | 7 | $42,000 |
| Snohomish | $1,075,500 | $37,500.00 | 318,170 | 173 | $1,038,000 |
| Spokane | $607,500 | $37,500.00 | 226,493 | 95 | $570,000 |
| Wahkiakum | $61,500 | $37,500.00 | 2,484 | 4 | $24,000 |
| Walla Walla | $205,500 | $37,500.00 | 26,062 | 28 | $168,000 |
| Whitman | $301,500 | $37,500.00 | 21,414 | 44 | $264,000 |
| Totals | $8,364,000.00 | $900,000.00 | 2,403,436 | 1,244 | $7,464,000.00 |

APPENDIX G

## Preliminary Estimated Punch card Buyout Funding Formula

(subject to change based on funding and alteration of variables)

| | PAYOUT | BALLOT BALLOT COUNTERS | POLLSITES | COUNTER NUMBER |
|---|---|---|---|---|
| total $ | $6,799,430.00 | | | |
| Ballot counter payout | $1,500,000.00 | $50,000 | 30 | 39,000 |
| DRE payout | $2,514,000.00 | $6,000 | 419 | |
| soft/inst mn payout | $562,500.00 | $37,500 | | |
| Spokane payment | $1,000,000.00 | | | |
| payouts | $5,576,500.00 | | | |
| prorate $ | $1,222,930.00 | | | |

| COUNTY | TOTAL COUNTY PAYMENT | INSTALLATION MINIMUM PAYMENT | SOFTWARE & BALLOT COUNTER MINIMUM # OF BALLOT COUNTERS | SOFTWARE & BALLOT COUNTER PAYOUT | 2002 VR TOTAL | 2002 POLLSITE TOTAL | DRE POLLSITE PAYOUT | 2002 PERCENT PUNCH VR | YEAR PRORATE $ TOTAL | |
|---|---|---|---|---|---|---|---|---|---|---|
| Asotin | $171,561.54 | $37,500.00 | 1 | $50,000.00 | 11,907 | 11 | $66,000.00 | 1.48% | $18,061.54 | $14.41 |
| Benton | $416,365.29 | $37,500.00 | 2 | $100,000.00 | 77,043 | 27 | $162,000.00 | 9.56% | $116,865.29 | $5.40 |
| Clallam | $215,239.44 | $37,500.00 | 2 | $100,000.00 | 39,383 | 3 | $18,000.00 | 4.88% | $59,739.44 | $5.47 |
| Clark | $954,479.90 | $37,500.00 | 5 | $250,000.00 | 174,687 | 67 | $402,000.00 | 21.67% | $264,979.90 | $5.46 |
| Franklin | $162,955.60 | $37,500.00 | 1 | $50,000.00 | 18,100 | 8 | $48,000.00 | 2.25% | $27,455.60 | $9.00 |
| Island | $336,163.22 | $37,500.00 | 2 | $100,000.00 | 39,992 | 23 | $138,000.00 | 4.96% | $60,663.22 | $8.41 |
| Lewis | $428,515.91 | $37,500.00 | 2 | $100,000.00 | 41,543 | 38 | $228,000.00 | 5.15% | $63,015.91 | $10.31 |
| Lincoln | $138,945.64 | $37,500.00 | 1 | $50,000.00 | 6,227 | 7 | $42,000.00 | 0.77% | $9,445.64 | $22.31 |
| Mason | $320,806.27 | $37,500.00 | 1 | $50,000.00 | 27,231 | 32 | $192,000.00 | 3.38% | $41,306.27 | $11.78 |
| Okanogan | $206,571.08 | $37,500.00 | 1 | $50,000.00 | 19,165 | 15 | $90,000.00 | 2.38% | $29,071.08 | $10.78 |
| Pacific | $214,271.44 | $37,500.00 | 1 | $50,000.00 | 12,375 | 18 | $108,000.00 | 1.53% | $18,771.44 | $17.31 |
| Stevens | $271,829.39 | $37,500.00 | 1 | $50,000.00 | 26,587 | 24 | $144,000.00 | 3.30% | $40,329.39 | $10.22 |
| Thurston | $837,740.04 | $37,500.00 | 4 | $200,000.00 | 130,689 | 67 | $402,000.00 | 16.21% | $198,240.04 | $6.41 |
| Whatcom | $578,531.51 | $37,500.00 | 3 | $150,000.00 | 91,656 | 42 | $252,000.00 | 11.37% | $139,031.51 | $6.31 |
| Yakima | $545,453.75 | $37,500.00 | 3 | $150,000.00 | 89,627 | 37 | $222,000.00 | 11.12% | $135,953.75 | $6.09 |
| Totals | $5,799,430.00 | $562,500.00 | 30 | $1,500,000.00 | 806,212 | 419 | $2,514,000.00 | 100% | $1,222,930.00 | $7.19 |

## Footnotes

1 RCW 29.04.070 (Codification of all election laws will change in 2004 as the result of reform legislation.)

2 Pursuant to RCW 29.62.015 the members of the canvassing board are the County Auditor, Prosecuting Attorney and chair of the legislative authority.

3 Article I, § 19.

4 See Appendix A for a table with this information.

5 Data taken from http://elections.gmu.edu/VAP_VEP.htm and certified election returns from local election officials

6 RCW 29.51.115

7 RCW 29.01.006(k)

8 See Appendix F for DRE Funding Formula

9 RCW 29.01.006(l)k)

10 For example, a jurisdiction may consider selecting a specified percentage of voting precincts where each ballot is printed out for comparison with the electronic tally.

11 Chapter 48 Laws of 2003

12 Figure provided by the Fiscal Division of the Office of the Secretary of State

13 RCW Chapter 34.05

14 See Appendix G for the punch card buyout formula

## INTRODUCTION

In West Virginia, the Secretary of State serves as the chief election official over all elections conducted in the state. However, elections are currently administered at the county level. The clerks of the county commissions of the fifty-five counties serve as the chief election officials. The clerks of the circuit courts and the county commissions carry out significant election responsibilities as well. Collaboration between the Secretary of State and the county officials is essential to the conduct of successful elections. In addition to fulfilling federal election responsibilities, the progressive networking initiatives between the Office of the Secretary of State and all county officials supports 1.06 million voters and strives for successful elections to be conducted on state, county and municipal levels of government.

Since 2001, West Virginia has taken significant steps toward election reform through new programs that encourage voter participation, education and clean elections, as well as significant legislative changes during the 2001, 2002 and 2003 legislative sessions. Implementing these state legislative reforms and the Help America Vote Act of 2002 (HAVA) will require considerable effort and resources from both the Secretary of State's Office and the counties. There will need to be system upgrades, redesigned processes, and new training programs. Additionally, the success of the State's election reform efforts requires implementation at an appropriate point in the election cycle, so that the counties may utilize new processes in a timely manner.

This State Plan is organized as specified in HAVA Section 254. Each section of this document corresponds to a subsection of Section 254 and addresses a State Plan requirement specified in HAVA. The plan outlines program milestones to address large-scale system or procedural changes. In developing the West Virginia State Plan, the Secretary of State worked with the HAVA Advisory Committee to encourage collaboration with all stakeholders.

Joe Manchin III
Secretary of State

West Virginia Secretary of State
State Plan

## STATE PLAN REQUIRED ELEMENTS (HAVA §254)

### 1. Title III Requirements and Other Activities

*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. -- HAVA §254 (a)(1)*

#### 1.A §301(a), Voting Systems Standards Requirements

*Deadline for Compliance: January 1, 2006; no waiver permitted.*

The State Election Commission must certify any voting system used in West Virginia. The State Election Commission is a five-member board made up of four gubernatorial appointees with no more than two from the same political party. The fifth member is the current Secretary of State. Any vendor that wishes to sell voting equipment must request an evaluation by the State's two computer experts (one democrat and one republican). After the evaluation, the experts prepare a report for the State Election Commission notifying them whether or not the voting system meets the statutory requirements. The Commission then determines whether to approve the equipment based on that report.

The State currently uses five types of voting systems in its 55 counties, including paper (10), lever (3), punch-card (12), optical scan (29) and direct recording equipment (1).

During the 2003 legislative session, the West Virginia Legislature passed Senate Bill 648, which adopted the voting system standards in HAVA. West Virginia's early and active pursuit of voting system improvements mandated by HAVA has placed the State on course to fulfill HAVA requirements within the statutory timeframes.

The State will ensure the purchase of one Direct Recording Electronic (DRE) voting apparatus for each voting precinct in each county for the purpose of meeting the disability access provisions of Title III. This will be accomplished in the 12 punch card and 3 lever counties via the federal punch card and lever buyout money. The remaining 40 counties will be funded through the requirements payments based on the availability of funds. The

formula determines a payment for each county to purchase the required DRE systems.

The State will negotiate with each of the voting system vendors for lowest-price state contracts. The intent is to gain maximum economies of scale for the State and to allow counties to conduct their purchase without costly, local bid-letting procedures.

The State will forward the federal money directly to contracted vendors on behalf of each county. This will occur after a contract has been signed by the county with a vendor for a qualifying replacement system, and an agreement has been signed between the county and the Office of the Secretary of State which guarantees compliance with HAVA.

In addition to numerous voting system requirements, §301(a) also requires states to define what constitutes a legal vote for each type of voting system used in the State. The State will define a legal vote in a uniform manner for each voting system used in the state through instructional manuals to be provided to election officials. The State will incorporate the West Virginia Code and case law into the definition.

**1.B §302, Provisional Voting and Voting Information Requirements**
*Deadline for Compliance: January 1, 2004; no waiver permitted.*

HAVA addresses the process of provisional voting to ensure that no individual who goes to the polls intending to cast a ballot is turned away without having the opportunity to vote. Before the passage of HAVA, West Virginia allowed provisional voting through the issuance of a "challenged ballot." During the 2003 legislative session, the legislature addressed the State's existing provisional voting law to determine those elements needing modification in order to fully comply with HAVA. Through the passage of Senate Bill 648, West Virginia's provisional voting law was amended to fully comply with HAVA.

With the passage of this bill, the State's provisional voting laws allow a voter whose name does not appear on the poll book to cast a provisional ballot, provided the voter completes a certification in which he or she affirms under penalty of perjury that he or she is registered in the county and lives in the precinct. Election officials must provide provisional voters with provisional





ballots identical to the ballots issued to other voters in the precinct. Each county is required to maintain a full record of provisional ballot voting, including voter information, the action taken in canvassing the ballot, the precinct, and any other information requested by the Secretary of State. On request, a provisional voter may learn whether the voter's ballot was counted and, if not, why.

At the time that a voter casts a provisional ballot, the election officials must provide the voter with information explaining provisional voting. In addition, this information will be published through the media, voting educational materials and posted at the polling place on election day. West Virginia law requires the posting of election information on the door and in the voting booth at each polling place.

The State must also establish a free access system for the voter to use to find out if his or her vote counted. In West Virginia, phone calls to one's local county courthouse are toll free. However, the Secretary of State will implement a toll free call system for voters located outside their resident county. In addition, the Secretary of State will provide information about provisional votes on the website.

In addition to provisional voting requirements, HAVA §302 mandates that states publicly post specific information at the polls on election day. The State currently displays voting information at each polling place, although county clerks must adjust the content slightly to comply with HAVA.

HAVA §302 further provides that voters who vote pursuant to a court or other order, during extended hours after the normal close of a polling place, cast provisional ballots. These ballots must be kept separate from other provisional ballots. The State did not previously include this requirement as part of its provisional voting law and procedures, and consequently, is updating procedures accordingly.

**1.C §303, Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail**
*Deadline for Compliance: January 1,2004; State can submit a certification stating "good cause" that will move the deadline for §303(a) compliance to January 1, 2006.*

Currently, official State voter registration records are created and maintained at the county level. Each county clerk updates and separately maintains voter registration records for its county, with each of the State's 55 counties using one of two local systems. The Secretary of State does, however, maintain an aggregate list. On a monthly basis counties send data files to the Secretary of State, and these are merged into the read-only database. The State's current system is not the "single, uniform, official, centralized, interactive, computerized statewide voter registration list" required by HAVA.

Moreover, information gathered and maintained on State voters does not uniformly include driver's license numbers or partial social security numbers, as required by HAVA. While West Virginia requests the last four digits of the individual's social security number, it is not required. The mail-in voter registration form must be redesigned to accommodate information required by HAVA. This will be completed in June 2003 in accordance with State law. Also, the voter registration and polling place voter qualification processes must be modified to allow for the verification of identification provided by first-time voters who register by mail.

During the 2003 legislative session, the West Virginia Legislature amended the law to comply with the voter registration requirements of HAVA.

West Virginia is currently acquiring the preliminary data to begin the process of implementing the voter registration system. Upon submission of the plan, a Request for Proposal (RFP) will be prepared with the goal of being fully implemented by the 2004 election. The RFP will require the purchase of the entire system to include set up in the Secretary of State's Office, set up in the county clerks' offices, one PC computer and scanner per county and adequate training of state personnel and county personnel. It will also require interfacing with the West Virginia Department of Motor Vehicles (DMV), West Virginia Vital Statistics, the agency responsible for recording deaths in the State, and the agency(s) responsible for tracking felonies. The Secretary of State has begun meeting with the DMV and will be meeting with Vital Statistics to coordinate implementation.

**1.D §304, Minimum Requirements**

The State understands that the requirements laid out in HAVA Title III are minimum requirements, and that the State may establish election technology





and administration requirements that are more stringent. Any more stringent requirement that the State imposes will comply with all Title III requirements, as well as the laws described in HAVA §906. The State legislation is in full compliance with all HAVA requirements and with the relevant laws listed in HAVA §906.

**1.E §305, Methods of Implementation Left to Discretion of State**

The State chose various means to comply with the requirements of HAVA Title III. Specific details on the implementation methods chosen can be found in Sections 1.A through 1.C of this State Plan. The specific details of implementation that require the purchase of equipment and software cannot be established until actual purchase price is determined.

**1.F §251(b) (2), Other Activities**

In addition to the requirements of Title III, the requirements payments will be used to improve elections by assisting all counties with the conversion to a DRE voting system. This will provide consistency among the counties for voters, candidates and election officials. It will also allow for more effective training and education.

## 2. West Virginia's Distribution of Requirements Payment

*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). -- HAVA §254 (a)(2)*

### 2.A Eligibility of local units to receive the payment

The Secretary of State will centrally manage initiatives funded by requirements payments. The Secretary of State will be accountable for all expenditures, funding levels, program controls, and outcomes. The State will follow applicable West Virginia law regarding the distribution of federal funds.

Each of the fifty-five counties will be eligible to take advantage of the same opportunities to receive financial assistance for the purchase of DRE voting equipment. The Secretary of State's Office will negotiate a statewide contract to purchase voting equipment to find the most cost effective method of purchasing equipment. Each county will be able to purchase equipment from the statewide contract, and the Secretary of State's Office will facilitate the distribution of the purchase price to the vendor.

The counties will be given a variety of financial options including grants and zero interest loans to assist each county to comply with HAVA and to fully convert to DRE voting equipment. The program will ensure a perpetual fund for the counties to make sure that the equipment is adequate and meets both the state law and HAVA for years to come.

### 2.B Performance measures for local units

Funds will be centrally managed as described in Section 2.A, and the Secretary of State will monitor the initiatives for which those funds are authorized. The performance measures will be built into the program





because the Secretary of State will make sure that the voter registration system and the approved voting system(s) all meet the requirements of HAVA. Furthermore, the Secretary of State will be responsible for purchasing the equipment and distributing it to the counties. Therefore, controls and measurements will be established and reviewed with each step to fully implement the program.

### 3. Voter Education, Election Official Education and Training, and Poll Worker Training

*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. -- HAVA §254 (a) (3)*

Education and training programs are critical to a successful program of election reform in West Virginia. The successful implementation of HAVA will require that all stakeholders (poll workers, election officials, voters, etc.) are educated about the new processes and new technologies that HAVA requires. Due to the passage of HAVA and because the West Virginia Legislature has passed significant election legislation in 2001, 2002 and 2003, training and education at all levels must be substantially recreated.

Currently, training and education target three groups: election officials in the counties, poll workers and voters. The Secretary of State's Office and the counties provide a variety of educational information to the voters which include various pamphlets, sample ballots published in local newspapers, press releases, voting information posted at the polling place, and information on the website. In the future, the Secretary of State's Office will strive to provide election information in alternate formats to be utilized by the disabled community.

In addition, the Secretary of State has instituted a program of voter education called SHARES (Saving History and Reaching Every Student). This program utilizes six individuals responsible for different regions of the state to embark on a wide variety of voter education that touches all citizens in West Virginia from elementary students to the elderly. This program has been credited for helping to increase voter participation during the 2002 election for the first time in sixteen years. This program will continue to be very active in voter education and will constantly be utilized in new and different ways to reach more citizens and educate them about election processes, voters rights, and the importance of registering and voting.

The Secretary of State has introduced a new program of voter education called "Candid Candidate" which will be utilized in the 2004 election to give the voters more information about their candidates. Each candidate will be able to participate in this program by submitting a short video giving pertinent information regarding personal information, background and views on issues. While this will not directly





affect a specific requirement of HAVA, the Secretary of State believes that any peripheral information that can be provided to voters will result in more interest in the electoral process and more educated voters participating in the elections.

The Secretary of State's Office is required by the West Virginia Code to provide training to county election officials about election laws and procedures. Because the State has five types of voting systems and different election officials responsible for conducting absentee voting as well as other differences among the counties, training county election officials is extremely difficult. Each segment of training has to be customized to the specific county or it is somewhat ineffective. When the counties begin to convert to DRE voting systems, it will become much easier to train large segments of the State that use the same procedures.

Currently, county election official training is provided in a variety of forms. First of all, the Secretary of State's Office provides a variety of manuals to be used by the county election officials including election cycle calendars, absentee voting, and canvassing. The Secretary of State also publishes and provides each county copies of the election statutes and rules. The Secretary of State's Office also provides a variety of training meetings for the county officials and corresponds regularly regarding new issues and changes in law or procedures.

Perhaps the most significant form of training to county election officials comes in the form of individual consultations by telephone or meetings with the elections division daily during the Secretary of State's regular business hours. In addition to the existing forms of training, the Secretary of State plans to provide regional "train the trainer" education to assist the counties in instituting an effective poll worker training program.

The county clerks are responsible for training poll workers for each election using materials produced and provided by the Secretary of State. The Secretary of State will be revising all current training materials to give more effective training based on voting systems, revisions to West Virginia law during the last three legislative sessions and new HAVA requirements.

### 4. Voting System Guidelines and Processes

*How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301. -- HAVA §254 (a) (4)*

In March 2003, the West Virginia Legislature passed Senate Bill 648, which adopted the voting system requirements of HAVA in addition to the existing voting system requirements. Many of the requirements of voting systems under HAVA were consistent with or similar to existing West Virginia law.

Senate Bill 648 becomes effective on June 5, 2003. All voting systems approved for use in West Virginia must be evaluated by computer specialists and certified by the State Election Commission. Any future evaluations and certifications will require the system to meet the HAVA requirements. All current systems used in elections in West Virginia will be also required to meet the HAVA requirements. This information will be conveyed to all county officials, certified vendors and certified printers in the form of training, manuals and ballot specifications provided by the Secretary of State's Office.



West Virginia Secretary of State
State Plan

### 5. West Virginia's HAVA Fund Management

*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. -- HAVA §254 (a) (5)*

With the passage of Senate Bill 648 in March 2003, the legislature has established two new funds for election reform expenditures that are kept separate and distinct from all other programs within the agency. The federal fund will be used to maintain federal fund receipts and expenditures. The state fund will be used to budget and expend general funds representing the 5% match required under HAVA.

The Secretary of State will work with the State Auditor to follow and enforce all mandated fiscal controls and policies.

### 6. West Virginia's HAVA Budget

*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. -- HAVA §254 (a)(6)*

The following budget is based on the assumption that West Virginia will receive approximately $5,000,000 in Title I funds and approximately $5.5 million in requirements payment for federal fiscal year 2003. It is also based on the assumption that the State will receive approximately $9,000,000 during federal fiscal year 2004. The West Virginia Legislature has already appropriated $800,000 in funds for the five percent match.

In addition, this budget is based on estimated costs for the various expenditures. The State will not truly know how much each of these will cost until RFP's are received and contracts are negotiated.





| HAVA Requirements | Estimated Total Cost | Source of Funding | Implementation Period |
|---|---|---|---|
| Centralized Voter Registration System (Including software, hardware, training at state and county) | $3,000,000 | Title I and Requirements Payments | FY 2003 and 2004 |
| Education Program (Including poll worker powerpoint, printing brochures, etc.) | $500,000 | Requirements Payments | FY 2003 to 2006 |
| Administrative Costs (Including free-access system for provisional ballots and contractual labor) | $300,000 | Requirements Payments | FY 2003 to 2006 |
| Voting Equipment (Including one DRE/precinct and replacement of punch card and lever machines) | $16,500,000 | Title I and Requirments Payments | FY 2003 to 2006 |
| | | | |
| **Total** | $20,300,000 | | |

### 7. Maintenance of Effort

*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. -- HAVA §254 (a)(7)*

Consistent with HAVA §254(a)(7), in using any requirements payment, West Virginia will maintain expenditures of the State for activities funded by the payment at a level equal to or greater than the level of such expenditures in State FY 2000 of $42,329, which ended June 30, 2000. These funds represent the portion of the expenditures made by the Secretary of State during fiscal year 2000 for activities carried out by the elections division that are consistent with the activities to be funded by the requirements payment.

As in many states, the majority of all election expenditures are incurred by individual county budgets. Statewide elections occur every even year in conjunction with the federal elections. In addition, the counties are responsible for special elections for county issues such as levies and bonds. West Virginia's 55 county budgets typically support year-round core staff and operating expenses for continuous functions such as voter registration, information services, and technical support. Furthermore, the counties provide the significant increase in funding associated with each specific election such as poll workers, temporary office staff, and ballot production.

It is therefore important to note that the projected HAVA budget set forth in Section Six of this Plan is based on the assumption that the counties will also maintain election expenditures at existing levels.





### 8. HAVA Performance Goals and Measures

*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. -- HAVA §254 (a)(8)*

The Secretary of State will establish performance goals and procedures to measure the progress toward the achievement of each of the goals set out in this plan to assure full compliance with HAVA. The plan itself will be the criteria used to determine performance and success. The counties will have a substantial responsibility in carrying out the various goals of the plan. Therefore, the counties will be reporting to the Secretary of State on a variety of indicators regarding the progress and success of each component.

State responsibilities, such as implementing a centralized, state-wide voter registration system, will be monitored at each step of implementation by the Secretary of State through RFP, bidding process, and contract negotiation. This process will provide county officials with structure and continued measurable targets for accomplishment.

| Plan Element | Official Responsible | Timetable |
|---|---|---|
| Voting Systems | Secretary of State/County Officials | January 1, 2006 |
| Provisional Voting | County Clerks | January 1, 2004 |
| Voter Registration | Secretary of State | January 1, 2004 |
| Education and Training | Secretary of State/County Officials | January 1, 2004 |
| Complaint Procedure | Secretary of State | January 1, 2004 |
| Elimination of Punch Card and Lever Machine | Secretary of State/County Officials | January 1, 2004 (with waiver until January 1, 2006, if necessary) |
| Management of State Plan and HAVA funds | Secretary of State | Continuous |

**9. State-Based Administrative Complaint Procedures**

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402. -- HAVA §254 (a)(9)*
*Deadline for Compliance: Prior to certification of State Plan, but no later than January 1, 2004; no waiver permitted.*

Prior to the passage of HAVA, the Secretary of State handled election complaints in accordance with the standard operating procedures established in 2001. Most complaints were handled informally to most effectively resolve immediate problems. When an individual was dissatisfied with any attempt to resolve the problem through informal means, the individual could file a formal complaint. This procedure required written complaints that were reviewed and investigated. Upon gathering all significant information, the Secretary of State determined the appropriate action given the limitations of authority that the Secretary of State has over county officials.

Most complaints are resolved through education of election officials and amending election procedures at the county level. However, under certain circumstances, the Secretary of State turns complaints over to law enforcement agencies such as the West Virginia State Police, county prosecutors or the United States Department of Justice.

In March 2003, the West Virginia Legislature passed Senate Bill 648, which adopted the complaint procedure required by HAVA. The procedure is somewhat more formal than the previous procedure, but uses the same type of process by making the Secretary of State the central office for receiving complaints, allows the Secretary of State to gather needed information, and then requires the Secretary of State to take the appropriate action. Generally, the only action that can be taken by the Secretary of State given his constitutional and statutory authority is to notify the appropriate agency of wrongdoing and to suggest resolutions.

After the implementation of the new process, most election complaints will still likely be resolved through the informal process of contacting parties by phone or in writing to get immediate resolutions. However, when complaints do become part of the formal process, the Secretary of State will require that the complaint be made in writing and notarized. The complainant will be given a hearing, if requested, and a decision will be made within ninety days of receiving the complaint, unless the





complainant agrees to an extension. If not resolved within ninety days, the complaint will be handled through alternate dispute resolution.

If the Secretary of State determines that no violation has occurred, a written decision will be issued. If the determination is made that a violation has occurred, the Secretary of State will contact the county officials and/or law enforcement with request that the violation be remedied or prosecuted.

**10. Effect of Title I Payments**

*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. -- HAVA §254 (a)(10)*

To date, the State of West Virginia has received five million dollars in Title I funds.

§101. Payments to States for activities to improve administration of elections.

West Virginia is eligible for approximately $3.017 million under section 101. This funding will be used to purchase the statewide voter registration system, since it is one of the first expenses that will be incurred in accordance with the act.

§102. Replacement of punch card or lever voting machines.

West Virginia is eligible for approximately $2.381 million under section 102. In accordance with HAVA, these funds will be used to purchase one DRE voting apparatus per precinct. This apparatus will be equipped with the disability components to comply with the voting system requirements in section 301. These funds will also be a portion of the purchase required to completely replace the punch card and lever machine equipment in the fifteen counties currently using those systems.





**11. West Virginia's HAVA State Plan Management**

*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). -- HAVA §254 (a)(11)*

West Virginia intends to use the State Plan as the foundation for implementation of HAVA. Due to the small staff of the Secretary of State's Office, organization and planning for implementation will be crucial to its success. The State expects the HAVA program to be ongoing for several years. In fact, the funds will be utilized in such a way to make the election fund perpetual to provide for election needs of the counties for many years to come. These funds will allow for upgrading of voting equipment so that the State is not faced with obsolete voting systems in a few years.

The Secretary of State has hired a HAVA director to oversee the administration of the act and perhaps more importantly to work directly with the counties to assist with implementation by traveling to the counties to provide assistance. The duties of the SHARES compliance officers will also be expanded to increase their educational duties. In addition, the HAVA advisory committee will be kept in place to work through issues and share information and ideas with the county officials and the public.

The State understands and agrees to comply with HAVA requirements related to ongoing management of the State Plan. More specifically, the State agrees that it may not make any material change in the administration of the State Plan unless the change:

(A) is developed and published in the Federal Register in accordance with HAVA §255 in the same manner as the State Plan;

(B) is subject to public notice and comment in accordance with HAVA §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).





**12. Changes to State Plan from Previous Fiscal Year**

*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. -- HAVA §254 (a) (12)*

This FY 2003 Plan is the State's first plan under HAVA. This section will be updated in the FY 2004 Plan, reflecting changes to the Plan, as well as a summary of 2003 successes.

**13. State Plan Advisory Committee**

*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 255 and section 256. -- HAVA §254 (a)(13)*

The State's HAVA Advisory Committee consists of individuals representing a cross-section of election stakeholders. The State Plan Committee was selected by the State's chief election official, Joe Manchin III, Secretary of State.

Members of the HAVA Advisory Committee, and the organizations that they represent, are as follows:

- Member from Secretary of State's Office to act as chairman:
  - Larry Puccio
- Representative from the Governor's Office:
  - Frank Lee
- Two members of the legislature (one from each house):
  - Senator Jon Hunter
  - Delegate Virginia Mahan
- Two county clerks (from the two most populous counties):
  - Alma King, Kanawha County
  - Karen Cole, Cabell County
- Two circuit clerks:
  - Barb Core, Marion County
  - Virginia Sine, Berkeley County
- Two county commissioners:
  - Tim McCormick, Ohio County
  - Bob Bell, Monongalia County
- Two mayors:
  - Emmett Pugh, Beckley
  - Tony Paesano, Follansbee
- Members of the disabled community
  - James Dague
  - Bob Peck, WV Advocates
  - Darren Burton, American Federation for the Blind
  - Penny Hall, WV ADA Coordinator
  - Kevin Maynus, Mountain State Centers for Independent Living





  - David Stewart, Statewide Independent Living Council
- One member from each political party:
  - Marie Prezioso, Democrat
  - Gary Abernathy, Republican
  - Frank Young, Mountain
- Members from Veteran Community
  - Bob Vass, Veterans Military Representative
  - Larry Lynch, Division of Veterans Affairs
- Member of the League of Women Voters
  - Deidra L. Halley
- Member from Senior Citizen Community
  - Zerbie Swain, WV Senior Services
- Members from the public:
  - Johnny White
  - Ivin Lee, WV Human Rights Commission
  - Ron Radcliff
  - Janice Maynard
  - Norm Steenstra, WV Citizens Action Group
  - Kenny Perdue, WV AFL-CIO
  - Margaret Jarvis, WV AFL-CIO
  - Dick Kennedy, Chas. Regional Chamber of Commerce
  - Gary Williams, County Clerk of Boone

The State Plan Committee will comply with the requirements of §255 and §256 of HAVA.

**W**isconsin

# State Plan

# Help America Vote Act of 2002

**Wisconsin State Elections Board**
**Kevin J. Kennedy, Executive Director**

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State of Wisconsin\ Elections Board

## Certification

I, Kevin J. Kennedy, Executive Director of the Wisconsin State Elections Board, certify I am the chief State Election Official for the State of Wisconsin. Section 5.05 (1)(a), Wisconsin Statutes.

Pursuant to Section 253 (b) (1) of the Help America Vote Act of 2002, I certify the attached State Plan for the State of Wisconsin contains each of the elements described in Section 254 of the Help America Vote Act of 2002 with respect to federal fiscal year 3; the Plan has been developed in accordance with Section 255 of the Help America Vote Act of 2002 and meets the notice requirements of Section 256 of the Help America Vote Act of 2002.

Dated this 19th day of August, 2003.

Kevin J. Kennedy, Executive Director
Wisconsin State Elections Board

## Introduction

Wisconsin has a rich history of citizen participation in the electoral process. Wisconsin has developed a series of political innovations to enable citizens to select their leaders as part of the democratic process. These innovations include the development of the open primary in 1903, the establishment of an independent state agency to administer elections in 1974 and the implementation of election day registration in 1976. A list of the nine citizens currently serving on the State Elections Board is set out in Appendix 1.

The Help America Vote Act of 2002 (HAVA) provides a unique opportunity to add to Wisconsin's electoral tradition and develop a strong partnership between state and local election officials. Elections in Wisconsin are conducted by municipal election officials. Local election officials recruit and train poll workers, maintain voter records, issue absentee ballots, and establish and equip polling places including acquiring voting equipment. County election officials are responsible for the preparation of ballots and notices for county, state and federal elections. They also provide a significant contribution in coordinating the work of local election officials to increase efficiency in the delivery of election services. The State Elections Board is responsible for providing leadership in election administration by establishing standards to ensure uniformity and safeguarding the vote of all electors.

The mission of the State Elections Board is to enhance representative democracy by ensuring the integrity of the electoral process. The Elections Board directs its energies toward providing for an informed electorate, both in regard to understanding the election system and to being aware of the activities and finances of candidates for public office. Under the auspices of HAVA, the State Elections Board, working in cooperation with county and municipal election officials, will ensure that Wisconsin elections continue to be administered through procedures that guarantee that the vote of each individual counts and that the will of the electorate prevails. The shared vision for all participants in Wisconsin's electoral process is that elections are open, fair, impartial and free from error.

Following the 2000 Presidential Election, the nation's voting process was the subject of numerous studies by legislators, scholars, citizen groups and election officials. Each study provided a different focus, but a consensus formed around key elements that were essential to the integrity of the election process. The State Elections Board has posted these studies on its website at: http://elections.state.wi.us/sebpage55.html.

Hundreds of pieces of legislation were introduced in Congress and state legislatures, including 25 separate bills in Wisconsin during the 2001-2002 legislative session, to change the way elections are administered. Members of the election community worked with Congress to secure passage of legislation that maintained state and local control over the administration of elections while establishing minimum standards to ensure public confidence in the integrity of the voting process.

The Help America Vote Act of 2002 (HAVA) was enacted by Congress to make sweeping reforms in the way elections are conducted. The Act addresses improvements to voting systems and voter access. It includes requirements for a centralized voter registration database, privacy and independence in the voting process, access for people with disabilities and voter outreach.

As a condition of receiving federal funding, each state is required to submit an implementation plan that meets the requirements of the Act.

In December 2002, the State Elections Board began the process of preparing a study for the state legislature to present a plan for designing, developing and implementing a statewide voter registration system. This was the initial step in preparing for the implementation of one of the key elements of HAVA that brings state and local officials together to improve accessibility for Wisconsin's voters. The report was given to the State Elections Board on May 15, 2003.

In January 2003, the Executive Director of the State Elections Board, Wisconsin's chief election official, appointed a State Plan Committee comprised of county and municipal election officials, representatives of advocacy groups and other citizens to assist in the HAVA planning process. The group has met three times to discuss the planning process and provide direction for the development of this plan.

This initial plan represents the collective input and recommendations of the State Plan Committee and numerous citizens, legislators and advocacy groups who have been following the plan development process. Members of the public were given the opportunity to comment on the preliminary plan in public hearings that were held in Brookfield on May 21, 2003, Madison on June 4, 2003, and Eau Claire on June 9, 2003. Written comments on the preliminary plan were also accepted for consideration through June 20, 2003. After the public comment process, the State Elections Board considered the public input in preparation of this plan for submission to the federal government.

Wisconsin is in a good position to implement the HAVA requirements. Many of the election reforms required by the Act are already addressed in current state laws and procedures. This initial state plan identifies the priorities and specific steps state and local election officials will take to meet the requirements of HAVA. It also discusses what additional improvements may be undertaken if there is remaining or additional federal funding after all of the requirements have been met.

The State Plan Committee is recommending the following activities as part of Wisconsin's response to HAVA:

- Design and implementation of a computerized statewide voter registration system that is the single database of all registered voters.

- Purchase and deployment of voting equipment that meets the standards established by HAVA.

- Increased access to the election process for people with disabilities through the use of specially designed voting systems, improvements to facilities, training of elections staff and enhanced public outreach. This will include an evaluation of every polling place in the state during the implementation of HAVA to identify barriers to accessibility and full voter participation.

- Implementation of a comprehensive program that informs voters about the election process in Wisconsin including where to obtain information on the voting process, how to correct ballots, how to request replacement ballots and how to obtain relief for possible violations or irregularities in the administration of state and federal election procedures.

- Implementation of a toll-free telephone line that allows voters to check the status of their provisional ballots, determine whether or not their ballot was counted and enable electors to report possible voting fraud and voting rights violations.

- Training of all election officials including chief inspectors, municipal and county clerks, along with State Elections Board staff.

To receive federal funding, Wisconsin must certify that it has established a State Election Fund that is separate and distinct from the state General Fund. The state must also provide the federal Election Assistance Commission with a plan for the implementation of a uniform, nondiscriminatory administrative complaint procedure to resolve alleged HAVA Title III violations. Legislation to make those changes will be introduced in the 2003 Wisconsin Legislature. Once these changes are in place, the State Elections Board will certify to the federal government that it is eligible to receive HAVA funding.

While HAVA increases responsibility for election administration at the state level to achieve greater uniformity and consistency, municipal election officials are charged with the conduct of elections and are crucial to all aspects of the election process. As Wisconsin moves forward in carrying out this plan, the State Elections Board will continue to encourage coordination, cooperation, and collaboration between local and state officials on the innovations and technology that will be developed in response to HAVA.

Finally, this plan should be viewed as a living document that will need to be updated and refined over time to reflect the state's progress in implementing HAVA. The State Elections Board and the Election Administration Council will review the plan in January of each year in order to incorporate changes that reflect the state's progress in implementing HAVA and address new election–related challenges. Wisconsin welcomes the challenges of the Help America Vote Act and looks forward to receiving appropriate financial support from the federal government.

## Section 1 – Title III Requirements and Other Activities

*How the State will use the requirements payments to meet the requirements of Title III, and, if applicable under Section 251(a)(2), to carry out other activities to improve the administration of elections.*

The total amount of federal funding available as requirements payments under Section 254 of HAVA to Wisconsin is uncertain. Congress has not appropriated funds beyond federal fiscal year 3 (FFY 3). The initial appropriation provides an estimated $15.39 million in requirements payments. HAVA requires the state to match this payment by appropriating an amount equal to 5% of the total spent. In order to match the initial federal payment, the state must appropriate $810,000 in Fiscal Year 4.

The State Plan Committee has established the following priorities for the use of requirements payments and the corresponding state match:

- Design, develop and implement a statewide voter registration system.
- Evaluate new voting systems and all polling places for HAVA Section 301 and disability access compliance.
- Develop an implementation and acquisition plan for compliant voting systems.
- Develop training and education programs for voters, election officials and poll workers.

HAVA establishes a number of requirements that all states must meet whether or not federal funds are accepted. The specific choices on the methods of complying with these requirements is left to the discretion of the state. HAVA Section 305. A brief description of the requirements and how Wisconsin will meet the requirements is set out below.

**Voting Systems Standards Requirements - HAVA Section 301 (a)**
*Deadline for Compliance: January 1, 2006; no waiver permitted.*

HAVA establishes standards for voting systems. The deadline for meeting these standards is January 1, 2006. Each voting system used in an election for Federal office shall meet the following requirements:

- In general, the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall:
    - Permit the voter to verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast and counted;
    - Provide the voter with the opportunity in a private and independent manner to change the ballot or correct any error before the ballot is cast and counted including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error; and
    - If the voter selects votes for more than one candidate for a single office:
        - notify the voter that the voter has selected more than one candidate for a single office on the ballot;
        - notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and
        - provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

  A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet these requirements by establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

  The voting system shall ensure that any notification preserves the privacy of the voter and the confidentiality of the ballot.

- The voting system shall produce a record with an audit capacity for the system. The record shall be a permanent paper record with a manual audit capacity. The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. The paper record produced shall be available as an official record for any recount conducted with respect to any election in which the system is used.

- The voting system shall be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence as for other voters. This requirement can be satisfied through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

- The voting system shall provide alternative language accessibility pursuant to the requirements of the Voting Rights Act of 1965.

- The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under the voting systems standards issued by the Federal Election Commission.

- Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.

There is no voting system approved for use in Wisconsin that meets each of these standards. Presently 87% of the state's voters use optical scan voting systems, 10% of the state's voters use paper ballots and 3% of the voters use lever voting machines. Wisconsin began the transition from punch card voting in 1993. Punch card voting was eliminated in Wisconsin following the 2001 spring elections.

The optical scan voting system meets the general requirements on privacy and independence. It also meets the audit capacity requirements. Because 13 counties use a central count tabulation system for optical scan ballots, state, county and municipal election officials will have to develop a voter education program. This is also the case for municipalities using paper ballot voting.

Where Wisconsin falls short on the federal standards is providing access for individuals with disabilities. The state will evaluate new voting systems' disability access compliance and develop an implementation and acquisition plan for compliant voting systems. This is one of the priority uses of the requirements payments.

Wisconsin is not presently subject to the alternative language requirements of the Voting Rights Act of 1965. However, Wisconsin has a growing number of individuals whose participation in the political process would be enhanced by having voting information available in a language other than English. As part of the evaluation and acquisition of new voting systems, the State Elections Board will ensure that any new system has the capability to meet this requirement. The state will also develop voter information materials in alternative languages.

Wisconsin requires any electronic voting system to be qualified against the voting systems standards established by the Federal Election Commission before it can be used in the state. The qualification must be done by an independent testing laboratory approved by the National Association of State Election Directors (NASED). The State Elections Board recently directed that all new voting systems must meet the most current national standards. The State Elections Board has drafted legislation to require the Board to evaluate voting systems for compliance with the error rate requirements following each general election.

Current law establishes uniform standards of what constitutes a vote. S. 7.50, Wis. Stats. The Elections Board has drafted legislation to permit the agency to promulgate administrative rules to establish similar requirements for new voting systems that may be approved by the Elections Board.

**Provisional Voting Requirements - HAVA Section 302 (a)**
*Deadline for Compliance: January 1, 2004; no waiver permitted.*

HAVA requires a state to provide an individual the opportunity to vote a provisional ballot if the individual asserts that he is registered, but the voter's name does not appear on the poll list or an election official asserts that the individual is not eligible to vote. The individual must complete a written affirmation that he is a registered voter in the jurisdiction and eligible to vote in that election. The individual is then permitted to vote a provisional ballot. The provisional ballot is not counted unless the municipal clerk can verify that the individual is a registered voter in the jurisdiction and eligible to vote in that election.

Wisconsin is exempt from this requirement because it has a system of election day registration that permits a voter whose name does not appear on the poll list to register at the polling place. Under current law, a voter must provide proof of residence or have the registration application corroborated by an elector of the municipality who has proof of residence.

**Voting Information Requirements - HAVA Section 302 (b)**
*Deadline for Compliance: January 1, 2004; no waiver permitted.*

HAVA requires that specific information be posted at each polling place on election day. The required information is:

- A sample version of the ballot that will be used for that election;
- Information regarding the date of the election and the hours during which polling places will be open;
- Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;
- Instructions for mail-in registrants and first-time voters;
- General information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
- General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

Wisconsin law currently requires two sample ballots to be posted at the polling place along with instructions on how to vote, including how to cast a vote. S. 5.35 (6) Wis. Stats. The Elections Board has drafted legislation to add the required information to the current posting requirements.

**Voters Allowed to Vote After the Polls Close Pursuant to a Court Order - HAVA Section 302 (c)**
*Deadline for Compliance: January 1, 2004; no waiver permitted.*

HAVA requires that any individual who votes after the polls close pursuant to a court order shall vote a provisional ballot. The ballot shall be separated and kept apart from other provisional ballots.

The Elections Board has drafted legislation that treats the ballot in a manner similar to a challenged ballot under S. 6.95 Wis. Stats. The ballot is marked with an indication that it is cast pursuant to a court order, but the voter's serial number is not included on the ballot. The ballot is counted, but if the court order is overturned, the ballot can be retrieved and the canvass results changed to reflect the court action.

**Computerized Statewide Voter Registration List Requirements - HAVA Section 303 (a)**
*Deadline for Compliance: January 1, 2004; State can submit a certification stating "good cause" that will extend the deadline for compliance to January 1, 2006.*

HAVA requires the State, acting through the chief State election official, to implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State. HAVA requires the computerized list to have the following attributes:

- The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State.
- The computerized list contains the name and registration information of every legally registered voter in the State.
- Under the computerized list, a unique identifier is assigned to each legally registered voter in the State.

- The computerized list shall be coordinated with other agency databases within the State.

- Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.

- All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.

- The chief State election official shall provide such support as may be required so that local election officials are able to electronically enter voter registration information into the computerized list on an expedited basis.

- The computerized list shall serve as the official voter registration list for the conduct of all elections for federal office in the State.

Under current law, voter registration is required in municipalities with a population of more than 5,000. S. 6.27 Wis. Stats. Only 320 of the state's 1,850 municipalities have voter registration. All voter registration records are maintained at the local level.

In December 2002, the Elections Board requested and received supplemental funding to conduct a study on the development and implementation of a statewide voter registration system (SVRS). The agency hired a consultant to conduct the study under the direction of the Elections Board staff. The primary deliverable of the study is a report for the legislature that describes an implementation plan and credible cost estimate for the development and implementation of a statewide voter registration system. The report was completed on May 15, 2003. It will be submitted to the legislature so that appropriate funding and authorization can be included in the Board's HAVA implementation legislation. A copy of the report is available from the State Elections Board.

The study included the development of business and functional requirements for the system in conjunction with local election officials and other users. A steering committee consisting of representatives of the Elections Board, the Department of Transportation, the Department of Corrections, the Department of Health and Family Services and the Department of Electronic Government is monitoring the project. A Request for Information (RFI) was solicited from the universe of potential vendors to assist in determining a credible cost estimate and perform a gap analysis on the business and functional requirements.

This project will be the focus of the initial use of the requirements payments. The Elections Board has established a timeline for rolling out the statewide voter registration system for the 2006 election cycle. The Elections Board has drafted legislation to implement this requirement. The Elections Board plans to apply for a waiver of the January 1, 2004 deadline.

**Requirements for Voters Who Register by Mail - HAVA Section 303 (b)**
*Deadline for Compliance: January 1, 2004; no waiver permitted.*

HAVA requires an individual who registers by mail and who has never voted in the state before registering by mail to provide specific identification before being permitted to vote. The identification specified in HAVA includes a current and valid photo identification or a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. If the voter does not provide the required identification, the individual must vote on a provisional ballot.

An absentee voter, subject to this requirement may provide a copy of the identification as part of the absentee voting process. Local election officials will have to track first-time voters and secure the required identification. This can be done after the voter registers and before election day.

Because Wisconsin has election day registration, it is exempt from using provisional ballots. However, the Elections Board has drafted legislation to implement this requirement. Election day registration provides voters with an enhanced opportunity to participate in the electoral process. It is expected that most individuals that are required to provide identification will be able to register at the polling place under the current election day registration provisions. S. 6.55 Wis. Stats.

## Section 2 – Distribution of Requirements Payment

*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 Section 1 of the State plan, including a description of the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and 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 Section 8 of the State Plan.*

The state does not plan to distribute any of the initial requirements payments to local government. The state will provide infrastructure support to local government to implement the requirements of HAVA. The projected cost for development and implementation of the statewide voter registration system along with the acquisition of voting systems that comply with HAVA requirements will likely exceed the amount of federal funds available for requirements payments. Local government will have to share in the cost of HAVA compliance.

The state will provide and maintain a statewide voter registration system that will replace the systems currently used by municipalities with voter registration. The state will also use the requirements payments to acquire HAVA compliant voting systems. The state will provide voter information and election official training as part of the implementation of HAVA.

If the state uses the requirements payments for election administration infrastructure rather than distributing funds, local government does not have to expend additional resources monitoring compliance to ensure the integrity of the use of the funds. If the state makes the infrastructure investment with the requirements payments, it avoids using limited federal funds to monitor the performance of local government on the use of payments received from the state.

## Section 3 – Voter Education, Election Official Education and Training, and Poll Worker Training

*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.*

Training and education for voters and election officials is the foundation which provides for efficient and cost-effective elections. Informed voters and trained election officials are key elements in the integrity of the electoral process. The State Elections Board currently conducts regular information and training meetings at various locations in the state for county and municipal clerks and other election officials. Administrative meetings are designed to explain the election laws and the forms and rules of the Board, to promote uniform procedures and to assure that clerks and other officials are made aware of the integrity and importance of the vote of each citizen. S. 5.05(7), Wis. Stats. To enhance this process, State Elections Board personnel and resources will be supported by future federal funding. The State will also provide resources and work through election official user groups, including the Wisconsin County Clerks Association, the Wisconsin Municipal Clerks Association, the Wisconsin Towns Association and the League of Wisconsin Municipalities for education and training. The State Elections Board will also reach out to engage other citizen groups to provide voter information and education and stimulate interest in the democratic process.

The State Elections Board will implement the statutory requirement for chief inspector training and certification. The initial training and certification will consist of a comprehensive presentation to local election officials by a team of State Elections Board personnel and local election officials. These sessions will begin in 2003 and be held at several locations throughout the state. Continuing certification will be maintained through 6 hours of training over a two-year period. This additional training may include attendance at a presentation conducted by the Elections Board staff, training conducted by the municipal clerk that is approved by the Elections Board, or participation in a WisLine Teleconference session. The training program will be supplemented by a manual designed as a reference for use at the polling locations. The Elections Board is required to conduct regular training and administer examinations to ensure that individuals who are certified are knowledgeable concerning their authority and responsibilities. S. 7.31(5), Wis. Stats.

The State Elections Board has applied for HAVA Section 261 funds to promote disability access. Some of these funds will be used to train election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with the full range of disabilities in elections for federal office.

The State Elections Board plans to organize and present a series of on-site training seminars for local election officials, including poll workers. These sessions will be designed to present information to election officials, poll workers, and election volunteers on how best to promote access and participation for individuals with the full range of disabilities in elections. The information for these presentations will be developed in collaboration with representatives of groups of individuals with disabilities and local election officials.

The State Elections Board also plans to develop a training video based on the model developed by North Carolina to supplement the training seminars.

The State Elections Board plans to collaborate with representatives of groups of individuals with disabilities and local election officials to develop informational materials that promote participation in the voting process. The materials will provide information about the accessibility of polling places, voter registration and where to obtain information about candidates and issues.

The State Elections Board will acquire equipment and adapt its website to provide a source of access to information that promotes participation in the voting process for individuals with the full range of disabilities. This includes a TTY, instant messaging capabilities, voice recognition software and alternative formats for the materials developed in connection with Section 261 activities.

The State Elections Board will establish an education committee under the auspices of the Election Administration Council to evaluate the needs for voter education and election official training. Following identification of areas requiring education, the Elections Board and the Election Administration Council will determine training standards including delivery method, information updating, creation of methods to assure continued training and evaluations to assure objectives have been achieved. Outreach programs will be provided on the statewide voter registration system to access information, along with education on voter registration, the voting process, operation of voting mechanisms, locating polling places and contact information related to election participation. This will include development of training and outreach programs to expand understanding and assistance for people with disabilities in exercising their right to vote. Materials will be developed by the State Elections Board and will be provided to county and municipal clerks to supply to the public.

Postings on election day at polling locations will include a sample version of the ballot, information on the date of the election, the hours of the polling place, instructions on provisional ballots, instructions for mail-in registrants and first-time voters and general information on voter rights and laws prohibiting fraud and misrepresentation. These instructions will also be available on the State Elections Board website: http://elections.state.wi.us/ and in the form of brochures for citizens.

## Section 4 – Voting System Guidelines

*How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.*

Under current law, Wisconsin has established a set of standards for the approval of electronic voting systems. S. 5.91, Wis. Stats. The State Elections Board has drafted legislation that adds the HAVA voting system standards to the current statutory requirements. The Elections Board has also promulgated administrative rules detailing the process for approving electronic voting systems for use in Wisconsin. ElBd Ch. 7, Wis. Adm. Code.

Wisconsin requires any electronic voting system to be qualified against the voting systems standards established by the Federal Election Commission before it can be used in the state. The

qualification must be done by an independent testing laboratory approved by the National Association of State Election Directors (NASED). The State Elections Board recently revoked the approval for any electronic voting system that has not been qualified to the most recent standards established by the Federal Election Commission in December 2002.

The agency action permits any municipality that currently uses an optical scan voting system to continue to use the system. All new equipment approved for use in Wisconsin will meet the most current federal standards. The State Elections Board will evaluate new voting systems for HAVA Section 301 and disability access compliance and develop an implementation and acquisition plan for compliant voting systems.

The State Elections Board plans to hold a series of vendor fairs in the Spring of 2004 in cooperation with the state's eight Independent Living Centers to enable citizens with disabilities and local election officials to observe the proposed changes in voting systems that will permit all citizens to vote in a private and independent manner. This will also enable vendors to receive direct feedback from the citizens that will be using the new voting equipment before it is submitted for approval in Wisconsin.

## Section 5 - HAVA Election Fund Management

*How the State will establish a separate election fund for purposes of administering the State's activities under this part, including information on fund management.*

The State Elections Board introduced legislation, 2003 Assembly Bill 123, that establishes the appropriate federal account to meet the HAVA requirement for a separate election fund for managing the receipt and distribution of HAVA payments and state matching funds. This legislation was passed by the legislature and signed into law by the governor on July 24, 2003. 2003 Wisconsin Act 35.

The State Elections Board has requested creation of one Full Time Equivalent (FTE) federally funded position to manage the fund and assure compliance with federal grant requirements. Agency staff has met with the State Controller's office to set up the fund and review the applicable administrative guidelines. The Legislative Audit Bureau will conduct a financial and compliance audit of the fund as part of the state's adherence to the federal Single Audit Act of 1984.

## Section 6 – Wisconsin's HAVA Budget

*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 the costs of the activities required to be carried out to meet the requirements of Title III; the portion of the requirements payment which will be used to carry out activities to meet such requirements; and the portion of the requirements payment which will be used to carry out other activities.*

The total amount of federal funding available to Wisconsin under HAVA is uncertain. Congress has not appropriated funds beyond federal fiscal year 3 (FFY 3). Funds have been appropriated under HAVA Title I for activities to improve the administration of elections and replacement of punch card or lever voting machines. Funds have also been appropriated under HAVA Title II to meet Title III requirements.

The State Elections Board has received payments under HAVA Section 101. The State Elections Board plans to use the funds to reimburse the agency for staff training costs associated with HAVA and agency costs associated with the preparation of the State Plan.

The agency also plans to use the payments to hire four Full Time Equivalent (FTE) agency staff to implement HAVA requirements. Title I payments will also be used to hire a consultant to design the Request for Proposal (RFP), select a vendor and project manage the implementation of the statewide voter registration system. The State Elections Board also plans to use a portion of the payments to work with local election officials and governing bodies to identify cost reduction applications as part of the pre-implementation efforts for the statewide voter registration system. The Governor's biennial budget provides for funding the chief election inspector training program with HAVA funds. This will be done with Title I payments.

Remaining Section 101 funds will be used for costs associated with the voter education, election official training and disability access requirements of HAVA. The use of Title I funds is subject to executive and legislative approval.

Wisconsin has also received HAVA Section 102 payments to be used as reimbursement for the acquisition of electronic voting systems that replace punch card voting systems and lever voting machines used at the November 2000 election. The three counties that used punch card voting systems and the 15 municipalities that used lever voting machines have not purchased replacement equipment that complies with HAVA Section 301. The State Elections Board will evaluate new voting systems for HAVA Section 301 and disability access compliance and develop an implementation and acquisition plan for compliant voting systems.

The State Elections Board applied for HAVA Section 261 funds to assure access to the election process for persons with disabilities. The payments will be used to fund activities in four areas: accessibility, privacy and independence, training and information. These funds should be available in September, 2003. The State Elections Board staff has worked with representatives of disability advocacy groups to develop a program of activities to carryout the objectives of the disability access grants.

The initial Title II appropriation provides approximately $15.39 million in requirements payments. HAVA requires the State to match this amount by appropriating an amount equal to 5% of the total amount spent. In order to match the initial federal payment, the State must appropriate $810,000 in Fiscal Year 4. The current state fiscal crisis has presented a challenge for the state to find the funding for the required match. The State Elections Board continues to work with the Governor's office, the legislature and local government organizations to identify funding sources to enable the state to leverage the available federal funding.

The State Plan Committee has established the following priorities for the use of Title II requirements payments and the corresponding state match.

- Design, develop and implement a statewide voter registration system.
- Evaluate new voting systems for HAVA Section 301 and disability access compliance.

- Develop an implementation and acquisition plan for compliant voting systems.
- Develop training and education programs for voters, election officials and poll workers.

If no additional federal funding is appropriated, Wisconsin will not be able to fund the requirements mandated by HAVA. Wisconsin must also appropriate the required 5% spending match. At this point only $333,000 of the $810,000 needed in FY 4 has been set aside by the Legislative Joint Committee on Finance.

Wisconsin's proposed implementation budget based on known and anticipated federal funding is set out in the accompanying tables. The proposal is subject to executive and legislative budget decisions.

### Estimated HAVA-Related Receipts

| Federal Fiscal Year | Total Federal Funds | Wisconsin Federal Share | 5% State Match Requirement* |
|---|---|---|---|
| **Early Payments (Title I Funds HAVA Sections 101 and 102)** | $650,000,000 (appropriated) | $7,002,800 | $0 |
| **2003 (Title II Funds HAVA Section 251)** | $833,000,000 (appropriated) | $15,390,000 | $810,000 |
| **2003 (Title II Funds HAVA Section 261)** | $13,000,000 | $184,400 | $0 |
| **2004 (Title II Funds)** | $481,000,000 (President's Budget) | $8,887,000 | $468,000 |
| **2005 (Title II Funds)** | $600,000,000 (authorized) | $11,085,000 | $583,000 |
| **Total** | **$2,577,000,000** | **$42,549,200** | **$1,861,000** |

Source: Federal Funds Information for States, Issue Brief 03-08, FY 2003 Election Reform Funding, March 5, 2003.

*5% State Match Requirement is calculated as 5% of the total of the combined state and federal portions of expenses. This calculation requires a multiplier of .0526 (i.e., 5/95 ~ .0526) of the federal funds. For FY 4, the $810,000 state match is 5.26% of the federal contribution of $15,390,000. Of the combined expenditure of $16,200,000 the state match of $810,000 is 5%.

The amounts listed for FFY 4 and FFY 5 are estimates based on information available at the time the plan was prepared. The state match had not been appropriated at the time the plan was prepared.

### Estimated HAVA-Related Expenditures

| HAVA Requirements | Total Cost | Section 101 Funds | Section 102 Funds | Section 251 Funds | Section 261 Funds | 5% State Match |
|---|---|---|---|---|---|---|
| Statewide Voter Registration System | **$26,295,000** | $4,182,000 | | $21,007,500 | | $1,105,500 |
| Voting System Standards – Acquire Accessible Voting Equipment | **$16,418,800** | | $1,308,800 | $14,354,500 | | $755,500 |
| Voting Information Toll Free Access | **$200,000** | $200,000 | | | | |
| Disability Access | **$387,400** | $203,000 | | | $184,400 | |
| Voter Outreach and Election Official Training | **$889,000** | $889,000 | | | | |
| State Plan Management | **$220,000** | $220,000 | | | | |
| **TOTAL** | **$44,410,200** | $5,694,000 | $1,308,800 | $35,362,000 | 184,400 | $1,861,000 |

The proposed expenditures are based on the assumption that the funding level set out in the chart detailing anticipated HAVA funding sources is available for use by the state.

Wisconsin is assuming that the costs of complying with HAVA will not end after federal appropriations have ceased. The State Elections Board plans on holding in the Election Fund any unspent federal funds remaining after all HAVA requirements have been met and using the interest earned from these funds to pay on-going maintenance and program costs at the state and local levels.

Based on these funding levels, the State HAVA budget is representative of the activities to implement and conduct operations and maintenance through June 30, 2007 (FY 7) for the HAVA Title III requirements and "other" activities. The budget will be revised over time based on the most current information available regarding federal funding.

The duration for the budget is based on HAVA deadlines and projected funding. The federal government has not appropriated the full funding authorized in HAVA. It is essential that the federal government follow through on its commitment to assist in the funding of the HAVA mandated changes. The lack of full federal funding will make implementation of HAVA virtually impossible.

The State is also concerned that beyond the three years of federal funding, the ongoing costs of operating and maintaining the statewide voter registration system and new voting equipment will be considerably higher than current local budgets for these efforts and any unspent money in the State Election Fund. The operation and maintenance of the new infrastructure will be a financial burden when HAVA funding is no longer available.

## Section 7 – Maintenance of Effort

*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.*

Wisconsin will maintain the level of state expenditures for HAVA requirements at the same or greater level as the State spent in the fiscal year (FY 2) ending before the November 2000 election. In that fiscal year, the State Elections Board spent no funds on activities related to HAVA requirements. The agency's election-related budget consisted of two Full Time Equivalent (FTE) elections specialists. These positions have been maintained despite a reduction in the agency staffing level as a result of the current fiscal crisis.

The positions will continue to be funded with state funds. All HAVA payments will be used to augment the preexisting level of state funding for election administration. Any payments distributed to local government will be conditioned on a continuing maintenance of effort to ensure that federal funds do not replace existing local government expenditures on election administration.

## Section 8 – HAVA Performance Goals and Measures

*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.*

Performance goals and measures will be developed by the State Elections Board staff in consultation with the Election Administration Council. The performance goals will provide a high level description of the implementation elements of the State Plan. For each performance goal, a set of performance measures will be developed to measure the success of state and local election officials in meeting the described goal. The performance measures will include criteria for evaluating the scope, scheduling, resources, quality and risk management associated with each project.

Each performance goal will be part of a single or composite project activity designed to implement the elements of the State Plan. The projects will be under the general direction of the executive director of the State Elections Board. Each project will have a leader who will be responsible for ensuring that each performance goal is met.

The performance measures will be developed under the direction of each project leader. The criteria for the performance measures will be drawn in part from statutory requirements and the timetables established by HAVA and the state election calendar. The Election Administration Council and local election officials will assist agency staff in developing qualitative measures for determining the successful implementation of the elements of the State Plan. The executive director will assign a staff member to monitor the overall development of performance criteria and collect information that measures the progress toward meeting the established criteria.

The State Plan Committee has identified eight general project activities around which performance goals and measures will be developed. They are described below. The names and titles of current agency staff described in this section are set out in Appendix 2.

Statewide Voter Registration System

The agency's Elections, Training and Information Technology Director is the project director for the design, development and implementation of the statewide voter registration system. The State Elections Board plans to hire a consultant to work with agency staff and a liaison from the Department of Electronic Government to develop the performance goals and measures associated with this project. This project is part of the implementation of Sections 1 and 3 of the State Plan.

Voting Systems Standards

The State Elections Board plans to hire a staff member whose primary responsibility will be to evaluate new voting systems for HAVA Section 301 and disability access compliance and develop an implementation and acquisition plan for compliant voting systems. This individual will be a part of the agency elections team under the direction of the Elections, Training and Information Technology Director. The elections team will work with the Election Administration Council and local election officials to develop the performance goals and measures associated with this project. This project is part of the implementation of Section 1 of the State Plan.

Accessibility to the Electoral Process

The State Elections Board plans to hire a staff member whose primary responsibility will be to promote increased access to the election process for people with disabilities through the use of specially designed voting systems, improvements to facilities, training of elections staff and enhanced public outreach. This individual will be a part of the agency elections team under the direction of the Elections, Training and Information Technology Director. The elections team will work with the Election Administration Council, representatives of groups of individuals with disabilities and local election officials to develop the performance goals and measures associated with this project. This project is part of the implementation of Sections 1 and 3 of the State Plan.

Voter Education

The agency elections team under the direction of the Elections, Training and Information Technology Director will work with the Election Administration Council and local election officials to develop the performance goals and measures associated with this project. This project is part of the implementation of Sections 1 and 3 of the State Plan.

Election Official Training

The agency elections team under the direction of the Elections, Training and Information Technology Director will work with the Election Administration Council and local election officials to develop the performance goals and measures associated with this project. The chief election inspector training and certification program is a significant element of this project. The

implementation of the statewide voter registration system will also have a significant training component. This project is part of the implementation of Sections 1 and 3 of the State Plan.

Complaint Procedures

The administrative complaint procedure will be established by the proposed HAVA implementation legislation. The agency Legal Counsel will work with the Election Administration Council to develop the performance goals and measures associated with this project. This project is part of the implementation of Section 9 of the State Plan.

Budget and Fiscal Controls

The State Elections Board plans to hire a staff member whose primary responsibility is to manage the receipt and disbursement of HAVA payments. This individual will work under the direction of the Campaign Finance and Agency Operations Director, and serve as a member of the agency budget team. This individual is responsible for ensuring that all financial transactions are in compliance with applicable state and federal procurement requirements. This individual will also monitor the development of all project performance criteria and collect information that measures the progress toward meeting the established criteria. The agency budget team will develop the performance goals and measures associated with this project. This project is part of the implementation of Sections 1, 2, 5, 6, 7, 8 and 10 of the State Plan.

Plan Management

The Executive Director of the State Elections Board, will work with the Election Administration Council, agency staff and local election officials to manage the State Plan. The State Elections Board views the State Plan as a dynamic, living document. The Election Administration Council will continue to meet to revise and refine the State Plan to reflect the goals of HAVA and respond to legislative and executive direction. The State Elections Board and the Election Administration Council will review the plan in January of each year in order to incorporate changes that reflect the state's progress in implementing HAVA and addressing new election-related challenges.

The Executive Director will work with the Election Administration Council to develop the performance goals and measures associated with this project. The State Elections Board has drafted legislation that requires the Legislative Audit Bureau to conduct a program audit of the agency to evaluate the implementation of HAVA. This will enable an outside entity to review the management of the State Plan.

This project is part of the implementation of Sections 11, 12 and 13 of the State Plan.

## Section 9 – State-Based Administrative Complaint Procedures

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under Section 402.*

The State Elections Board has drafted legislation that establishes an administrative complaint procedure to comply with HAVA Section 402. The draft procedure is consistent with current election complaint procedures set out in S. 5.06, Wis. Stats., and ElBd Ch. 10, Wis. Adm. Code. The current compliance review procedures meet the HAVA requirements for a uniform, nondiscriminatory State-based administrative complaint procedure.

Currently, an elector who believes that the action or inaction of an election official concerning nominations, qualification of candidates, voting qualifications, ward division and numbering, recall, ballot preparation, election administration, or the conduct of elections is contrary to law or that the actions or inactions of an election official with respect to any such matter constitute an abuse of discretion, may file a complaint with the State Elections Board and the agency may order appropriate relief. The decision of the Board may be appealed to the courts. Any elector who believes that an election official is acting in violation of the law may request the appropriate district attorney or, in some cases, the attorney general to petition a court for appropriate relief. However, the recount procedure is the exclusive judicial remedy for addressing any alleged irregularity, defect, or mistake committed during the voting or canvassing process.

The draft legislation creates another procedure for addressing alleged noncompliance with any provision of HAVA relating to voting system standards, provisional voting, voting information, registration procedure and administration, and voter identification. Whenever any person (whether an individual or another entity and whether inside or outside this State) believes that a violation of HAVA has occurred, is occurring, or is proposed to occur with respect to an election for national office in this State, that person may file a written, sworn complaint with the State Elections Board. The agency must grant the complainant a formal hearing upon request and must issue a decision on the complaint, together with an order for any appropriate relief, within 89 days. The relief may not include any order affecting the right of any person to hold an elective office or affecting the canvass of an election on or after the date of that election.

## Section 10 – Use of Title I Payments

*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.*

The State Elections Board has received payments under HAVA Title I. The State Elections Board plans to use the HAVA Section 101 payments to reimburse the agency for staff training costs associated with HAVA and agency costs associated with the preparation of the State Plan. The payments will also be used to hire four FTE agency staff to implement HAVA requirements. Section 101 funds will also be used to hire a consultant to design the Request for Proposal (RFP), select a vendor and project manage the implementation of the statewide voter registration system. The Governor's biennial budget provides for funding the chief election inspector training program with HAVA funds. In the next biennium, these costs will also come from the Section 101 payments.

Section 101 funds may also be applied to the development of an election information management system for the State Elections Board. Remaining Section 101 payments will be used for costs associated with the voter education, election official training and disability access requirements of HAVA.

The state has also received HAVA Section 102 payments to be used as reimbursement for the acquisition of electronic voting systems that replace punch card voting systems and lever voting machines used at the November 2000 election. The three counties that used punch card voting systems and the 15 municipalities that used lever voting machines have not purchased replacement equipment that complies with HAVA Section 301. The State Elections Board will evaluate new voting systems for HAVA Section 301 and disability access compliance and develop an implementation and acquisition plan for compliant voting systems. Section 102 payments will be part of the acquisition funds that apply to the voting equipment purchased for the qualifying counties and municipalities.

## Section 11 – State Plan Management

*How the State will conduct ongoing management of the plan.*

The State Elections Board has drafted legislation that establishes an Election Administration Council whose members are appointed by the chief State election official, the Board's executive director, consistent with the directions set out in HAVA Section 255 (a). The State Elections Board views the State Plan as a dynamic, living document. The Election Administration Council will continue to meet to revise and refine the State Plan to reflect goals of HAVA and respond to legislative and executive direction. The State Elections Board and the Election Administration Council will review the plan in January of each year in order to incorporate changes that reflect the state's progress in implementing HAVA and addressing new election–related challenges.

The State will not make any material change in the administration of the plan unless the change is developed and published in the Federal Register in accordance with HAVA Section 255 in the same manner as the original State Plan. Any modifications to this State Plan will be subject to public notice and comment in accordance with HAVA Section 256. The revised State Plan will take effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

The State Elections Board has drafted legislation that requires the Legislative Audit Bureau to conduct a program audit of the agency to evaluate the implementation of HAVA. This will enable an outside entity to review the management of the State Plan.

## Section 12 – Changes to State Plan from Previous Fiscal Year

*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.*

This State Plan is the first State Plan required under the Help America Vote Act of 2002. This section will be updated in the next fiscal year, reflecting changes to the State Plan, as well as a summary of the 2003 successes.

## Section 13 – State Plan Committee

*A description of the committee which participated in the development of the State Plan in accordance with HAVA Section 255 and the procedures followed by the committee.*

The State Plan Committee was appointed in January 2003 by the Executive Director of the State Elections Board, Wisconsin's chief election official. S. 5.05 (1)(a), Wis. Stats. The committee consists of 17 Wisconsin citizens from throughout the State. There are nine local election officials, including the chief election officials for the City of Milwaukee and Milwaukee County. The committee has three representatives of groups of individuals with disabilities. A list of the committee members is attached to the State Plan as Appendix 3.

The committee held meetings in Madison on February 28, March 12 and April 24, 2003. Committee members also reviewed the draft legislation developed by the State Elections Board to implement HAVA and provided comments to the agency's executive director for inclusion in the draft legislation. Committee members also attended public hearings held on May 21, June 4 and June 9, 2003, as part of the opportunity for public comment on the Preliminary State Plan.

## Appendix 1 – State Elections Board Members 2003-2005

**KIRBY BRANT**
Madison

**SHANE FALK**
Madison

**DONALD R. GOLDBERG**
Milwaukee

**DAVID HALBROOKS**
Milwaukee

**PATRICK J. HODAN**
Brookfield

**MARTHA LOVE**
Milwaukee

**GORDON MYSE**
Sturgeon Bay

**JOHN P. SAVAGE**
Milwaukee

**JOHN C. SCHOBER**
New Berlin

## Appendix 2 – State Elections Board Staff

**KEVIN J. KENNEDY**
Executive Director

**BARBARA A. HANSEN**
Elections, Training and Information Technology Director

**SHARRIE HAUGE**
Campaign Finance and Agency Operations Director

**GEORGE DUNST**
Legal Counsel

## Appendix 3 - State Plan Committee Members

**LYNN BREEDLOVE**
Wisconsin Coalition for Advocacy

**CAROLYN CASTORE**
Citizen Action/League of Women Voters

**PAULA DORSEY**
Operation Big Vote

**FAITH ELFORD**
City Clerk, City of Fort Atkinson, Jefferson County

**DOUGLAS D. HAAG**
Commissioner, Milwaukee County Board of Election Commissioners

**JULIETTA HENRY**
Executive Director, City of Milwaukee Board of Election Commissioners

**PATRICK HODAN**
Member, State Elections Board

**MARCIA KELLY**
Town Clerk, Town of Dale, Outagamie County

**KEVIN J. KENNEDY**
Executive Director, State Elections Board

**NAN KOTTKE**
County Clerk, Marathon County

**MARK RICCOBONO**
National Federation of the Blind of Wisconsin

**AUDREY RUE**
Town Clerk, Town of Blooming Grove, Dane County & Town Clerk, Town of Brigham, Iowa County

**HOWARD SEIFERT**
Wisconsin Council on Developmental Disabilities

**HELEN STEFFEN**
County Clerk, Burnett County

**JIM VILLIESSE**
City Clerk, City of New London, Outagamie & Waupaca County

**SANDI WESOLOWSKI**
City Clerk, City of Franklin, Milwaukee County

**ALFONSO ZEPEDA-CAPISTRAN**
Latinos United for Change and Advancement (LUChA)

**State of Wyoming**
**Secretary of State**

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# Help America Vote Act Wyoming's State Plan

As required by Public Law 107-252, Help America Vote Act 2002 Section 253(b)

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## INTRODUCTION & BACKGROUND

Wyoming is a frontier state, which by federal definition means that it has fewer than 6 residents per square mile. In fact, Wyoming is the least populated state in the United States with fewer than half a million people living in 97,000 square miles. There is much open space between ranch houses and between the very small towns and cities. (See Appendix A) Even the two largest cities are small by national standards with approximately 50,000 people in each. Wyoming's least populated county, which is an area larger than the State of Delaware, has only 2,500 people. Wyoming's largest county geographically, is larger than the State of Maryland. Sweetwater County hosts approximately 40,000 people whereas Maryland has over 4.7 million people. While most states struggle to provide adequate services to people concentrated in metropolitan areas, we struggle to provide full services to a few people in remote places.

Wyoming elections have been locally funded and locally administered. For generations the Wyoming County Clerks have conducted elections untainted by the problems that have arisen in larger U. S. jurisdictions. The Secretary of State serves as the state's chief election official. The working relationship with the local election officials has been extremely close and collegial. When election problems or questions arise it's not unusual for a citizen to speak directly with the Secretary of State, who in turn, calls the County Clerk and they jointly resolve any issues. The voter turnout in Wyoming has always been exemplary. In the last six presidential elections, voter turnout averaged 60% of the voting age population and averaged 88% of all those registered to vote. In comparison to national statistics, Wyomingites are near the top in exercising their right to vote.

Because of the closeness of the election in the 2000 presidential race, the national focus was turned on the election process. Because of that, the Help America Vote Act of 2002 (HAVA) requires significant reforms of the election process. Among other things, there are national mandates for election equipment, voter registration, education of voters and election workers. Each state must develop a long-range plan to implement the Act and our successful planning will result in Wyoming receiving federal funding to assist with this implementation.

This preliminary plan was developed over the past eight months under the leadership of the Wyoming Secretary of State and his staff with the participation of the Wyoming County Clerks and other stakeholders. Those who participated in developing this plan are hopeful the proposed revisions to the administration of elections in Wyoming will bring uniformity to essential duties, improve the education of both voters and election workers, encourage greater accessibility for individuals with disabilities or language barriers, and provide the best available voting and registration systems for all counties.

Although HAVA increases the state-level responsibility for election administration in order to improve uniformity, elections will still be administered by the locally elected County Clerks. Therefore, the key element of Wyoming's election administration will continue to be cooperation among the Secretary of State and his staff, County Clerks and other stakeholders throughout the state.

Wyoming will update and refine the State Plan as necessary over time to reflect election reform progress and future plans. If there are material changes to the State Plan, there will be opportunity for public comment and the changes will be published in the Federal Register.

# State Plan Non-Required Elements

## Universal Access

Wyoming has a wonderful heritage of being progressive in allowing its citizens to vote. On December 10, 1869, John A. Campbell, Wyoming's first Territorial Governor, signed the landmark bill which made Wyoming the first state to expressly grant women the right to vote. To this day, Wyoming continues to encourage the participation of all citizens who are eligible to vote, even providing the convenience of allowing voter registration on election day.

> "Since equality in the enjoyment of natural and civil rights is only made sure through political equality, the laws of this state affecting the political rights and privileges of its citizens shall be without distinction of race, color, sex or any circumstance or condition whatsoever other than individual incompetency or unworthiness duly ascertained by a court of competent jurisdiction"
>
> *Wyoming State Constitution, Article 1, Section 3.*

These words in our Wyoming Constitution, written more than a century ago, continue to inspire and challenge us to assure that all citizens in Wyoming can fully exercise their political rights. Our nation and our state have made great strides in extending political equality but there are still challenges ahead. The State of Wyoming values the participation of its citizens in the election process. Therefore, Wyoming commits to assuring that all citizens, including those with disabilities, can fully participate in the election process by casting their ballots confidentially and independently. With the enactment of the Help America Vote Act, there are additional resources available to help assure that voters with disabilities will enjoy equality in exercising their right to vote.

## Voting Rights of Military Members and Overseas Citizens

The State of Wyoming acknowledges the value of our members of the armed forces and overseas workers and continues to encourage them to exercise their right of citizenship by voting. Therefore, although not required by HAVA to be addressed in the state plan, we wish to inform the public that the State of Wyoming plans to make the necessary changes, or in some cases continue with current procedures, in order to comply with the amendments to Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) that were enacted in the Help America Vote Act of 2002 (HAVA), Title VII, pertaining to the voting rights of military members and overseas citizens. The Office of the Wyoming Secretary of State will be designated as the single office responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent military and overseas voters. The Secretary's Office, in conjunction with County Clerks, will ensure that all requirements of Title VII of HAVA are met.



Section

# 1

# Title III Requirements and Other Activities

*How Wyoming 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.*

## Section 301(a), Voting Systems Standards Requirements

The State, with the assistance of the County Clerks' Association of Wyoming, conducted an evaluation of the voting systems currently used in the State's 23 jurisdictions. The evaluation measures included both the system requirements under HAVA and the Voting System Performance and Test Standards as revised by the Federal Election Commission in 1999.

The voting systems currently used throughout the State include the following: lever in three counties; punch card in five counties; central count optical scan in six counties precinct optical scan in eight counties; and direct recording electronic equipment in one county.

Punch card and central count optical scan systems will be replaced as they do not meet the requirements and it is believed the voting population will be better served by conforming equipment rather than by development of educational programs for varying voting systems.

Lever machines and the Guardian Electronic 1242 direct recording system will be replaced as they do not meet the accessibility requirements and there are no current provisions for adaptations to make these systems compliant.

As funding becomes available, replacement equipment and DREs (Direct Recording Equipment commonly referred to as touch screens) for each polling place will be purchased to meet the accessibility requirements. Provided full funding is received, this will occur by no later than January 2006.

Placement of new voting systems will be coordinated with substantial training of county election personnel and public outreach to voters. The Wyoming County Clerks' Association and the Secretary of State's election office will work together to provide voter outreach and education programs. Requirement funds will be used for these efforts.

Because of the substantial cost of voting equipment, it would be unwise to purchase so much equipment for the state at one point in time and not plan for maintenance and eventual replacement. Therefore, purchase and placement of the equipment may take place in phases as federal funds become available. Funds will be set aside in a reserve account which can be used for ongoing replacement, maintenance and repair purposes.

## Section 302, Provisional Voting and Voting Information

### Provisional Voting & Ballot Disposition Information

Voters whose qualifications to vote are challenged, and the challenge is not resolved at the polling place, will be offered the right to cast a provisional ballot. The need for provisional voting in Wyoming is rather limited, however, because Wyoming allows election-day voter registration. This means voters whose names do not appear on a poll list have an immediate remedy by registering to vote and then casting a ballot.

Provisional voting procedures have been added to Wyoming statutes however to further increase voter access. In the 2002 session of the Wyoming legislature, the Election Code was amended to allow for provisional voting.

The State of Wyoming already provides for the use of provisional ballots in primary and general elections. To implement the changes required by HAVA, the State will promulgate rules and recommend legislative changes so that the law is consistent with HAVA. A Provisional Voting Work Group has been formed composed of County Clerks, personnel from the Secretary of State's Office, county election deputies and others, and the proposed rules will be based largely on their recommendations. They have created the forms necessary to implement the rules as well as educational materials to apprise the public of their rights.

Provisional voters will be able to access a state website or make contact with the local County Clerk to learn the ballot disposition. Because use of provisional voting will be very limited, providing such free access should be at no or very little cost. It is anticipated that provisional voting will require spending the least amount of Requirements Payments Funds.

### Voting Information

Wyoming law currently requires full public notice of an election. Notice is achieved through newspaper advertisements and posting notices in communities that do not have general newspaper circulation. Information is also provided using radio, local and state websites, direct mailings and various postings. Publication of the following is required by law: sample ballots, election dates, polling place locations and hours, ballot marking instructions, voter registration qualifications and deadlines and absentee voting information.

Much voting information is currently required by law to be posted at polling places. To insure consistency and to insure all voters are given the information they need, the Secretary of State will prepare an informational poster of voter rights to be posted at all polling places. Requirements payments will be used to design, print and distribute the poster or other materials.



## Section 303, Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register By Mail

The Wyoming Secretary of State provides a centralized voter registration database with a limited number of reports and lists which can be generated for use by County Clerks at cost. In an effort to improve the voter registration information they can provide, many Wyoming counties have purchased and designed their own voter registration systems. All counties do update to the state database even if they make no other use of the state system.

A new voter registration system must be implemented to effectively serve Wyoming voters and to comply with Section 303 of HAVA. Requirements payments will be used for a new single, uniform, official, centralized, interactive, computerized, statewide voter registration system in Wyoming.

The State of Wyoming will implement a voter registration system which meets the requirements of HAVA by January 2006 and the State will use a portion of the available funding to meet the voter registration requirements of Title III as described below.

1. Initially, funding is to be used for planning and assembling the people who will help shape the voter registration system.

A Voter Registration (VR) Work Group has been formed composed of County Clerks, personnel from the Secretary of State's Office, county election deputies, and county and state technology staff. All County Clerks have been contacted regarding their voter registration systems. Those that like all or part of their systems have been requested to demonstrate them to a sub-group of state and county officials from the VR Work Group. The VR Work Group will further evaluate all the VR systems.

The County Clerks will be surveyed regarding the technological aspects of their current VR systems. Vendors of VR software will be invited to educate the VR Work Group about their products. The VR Work Group will also give careful consideration to the VR systems of those states which have already met the requirements of HAVA and are willing to provide information to Wyoming.

The VR Work Group will then develop in detail the required specifications for a statewide system based on all of the above information concerning the characteristics and components necessary for a properly functioning VR system. All County Clerks will be invited to review and comment upon the draft specifications. These shall include the full specifications of the recommended VR system, the hardware and software recommended, the pros and cons of likely alternate systems, the plan for the conversion of the existing statewide data, the schedule for implementation, and the estimated costs for purchase or building the system, and the costs and plans for maintenance, modifications, and enhancements of the system.

2. State law largely controls selection of a vendor or contractor for the computerized statewide voter registration system. This purchase will constitute the major use for the available funding allocated to acquisition and implementation of a single, uniform, official, centralized, interactive, computerized statewide voter registration list.

3. Funding will also be necessary for the implementation of the selected VR system after the hardware and software are delivered. Expenses will include the education and training of election officials and their staff who will be responsible for using the system, electronic testing of the VR system, and finally the first use and final implementation of the system.

4. Simultaneously the State will develop interagency agreements for access to felony records and death records. The State will also develop an interagency agreement for access to driver's license numbers. Finally the State will enter into an agreement for the purpose of verifying applicable Social Security information.

5. Once the voter registration program is implemented, there will be an ongoing need for maintenance, upgrades and likely future modifications. As with voting systems, it would be unwise to make large expenditures and implement a voter registration system at one point in time and not plan for maintenance and/or revisions. Therefore, substantial funds will be reserved for such activities through and beyond 2006.



Section

# 2

## Wyoming's Distribution of Requirements Payment

*How Wyoming 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).*

### Eligibility of Local Units to Receive Payments

In order to streamline audit functions, the Secretary of State will retain responsibility for all requirements payments. The state will receive, expend and account for all HAVA monies. Wyoming County Clerks, our "local units", will work directly with the state to research Title III needs, research compliance costs and recommend spending priorities. The HAVA budget will be developed working closely with the County Clerks.

The Wyoming Secretary of State will manage requirements payments and will be responsible to account for all receipts and expenditures. Based on recommendations of the State HAVA Advisory Committee and the various work groups, the Secretary of State will provide for equipment purchases for the benefit of the voting public, taking into consideration special needs of certain voters. Preliminary cost estimates indicate all punch card and lever voting machines can be replaced and a touch screen can be placed in each established polling place with anticipated requirements payments if full funding is received.

The Wyoming Secretary of State will purchase or pay for the development of the statewide voter registration system including costs associated with implementation in each county.

Any additional Requirements Payment Funds will be used to implement the state's HAVA plan or will be retained in the state's HAVA account.

## Performance Measures for Local Units

The Wyoming Secretary of State will insure all requirements payments are accounted for in accordance with the performance measures adopted under Section 254(a)(8) of HAVA. The initial and subsequent budgets will be developed in concert with the local units and will include timelines and priorities to assist in fund expenditures.



Section

# 3

# Voter Education, Election Official Education and Training, and Poll Worker Training

*How Wyoming 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.*

## Education and Training Needs

As is stated elsewhere in this document, Wyoming's implementation of Help America Vote Act of 2002 will require substantial changes in voting systems. Five counties presently use punch card machines, three counties use lever machines and at least six counties use an optical scan central count system. Therefore, at least 14 of Wyoming's 23 counties will see major changes in how ballots are cast or counted. This alone will necessitate a large education and training effort. Not only will election officials and poll workers need training on the new equipment, every voter at the affected polls will be faced with a new scenario.

Wyoming's implementation of a statewide voter registration system where one has not existed before is another major change precipitated by HAVA. A comprehensive voter registration system will require extensive training for those who operate it.

In addition to these obvious changes, there are many other aspects of HAVA which require more subtle changes in the conduct of elections. Most Wyoming voters encounter the election system only once every two years. The cumulated effect of so many changes translates into a large learning curve which could be intimidating to voters.

Therefore, Wyoming acknowledges that extensive efforts must be made in educating the general public and subsets thereof. Efforts to assist senior citizens, individuals with disabilities, military and overseas voters, young voters, minority groups and many other groups of Wyoming citizens will be essential to successful implementation of HAVA.

In addition to educating the general public, special interest groups, the press and others, there must also be the development of education and training programs for election officials and poll workers to enhance uniformity and consistency of elections throughout the state.

## Education and Training Development

Because of the vastness of some of these issues, this work must take place over a period of time which allows for thoughtful analysis of the issues and development of effective approaches to the education and training. Therefore, following the work of developing and publishing this state plan, the Secretary of State will form Education & Training Work Group(s). The purpose of the group(s) will be to make specific recommendations pertaining to all the education and training issues. Those invited to assist with these efforts will include, but are not limited to, county clerks and other election workers, representatives of special populations and special interest groups, the press and Secretary of State staff.

Although the details of how to educate and train so many people in a way that will enhance the election process in Wyoming will not be worked out until after the Education & Training Work Group(s) have ample time to thoughtfully consider many issues, it is clear that such an extensive education and training effort will be costly. Therefore, substantial funds must be allocated not only for initial education and training efforts, but also for ongoing efforts for years to come.



Section
# 4

# Voting System Guidelines and Processes

*How Wyoming will adopt voting system guidelines and processes, which are consistent with the requirements of Section 301.*

## Voting Machines

In the November 2000 election, Wyoming had 101 precincts using punch card or lever machines and at least six counties where optical scan ballots were centrally counted. These voting systems would violate Section 301 of HAVA. A few Wyoming precincts had a voting system accessible for individuals with disabilities consistent with Section 301(a)(3). Additionally, current Wyoming laws regulating voting machine criteria do not address all Section 301 requirements.

Therefore, legislation is being drafted by the Secretary of State to mandate that all voting systems used in Wyoming must comply with HAVA Title III Section 301 requirements by 2006. The draft legislation will be presented to a Wyoming legislative interim committee to prepare for introduction to the entire legislative body at the 2004 legislation session.

Voting systems and/or equipment which do not comply with HAVA (punch card, lever and central-count optical scan) will be replaced. The Secretary of State working with the County Clerks' Association will establish equipment replacement priorities.

After it is determined which system(s) will be used, rules will be promulgated through the usual state rule making process to address uniform use of the equipment and will designate what constitutes a vote for each specific type of voting equipment.

Section
5

# Wyoming's HAVA Fund Management

*How Wyoming will establish a fund described in subsection (b) for purposes of administering the state's activities under this part, including information on fund management. HAVA 254(a) (5)*

The Wyoming Legislature passed House Bill 172, Help America Vote Act, during the 2003 legislative session. The bill became Chapter 131, Section 339 of Wyoming's Supplemental Appropriations bill and Chapter 183 of the 2003 Session Laws. This legislation provided that

> "The secretary of state is authorized to adopt rules and regulations necessary to comply with the requirements of the Help America Vote Act of 2002, Public Law 107-252, including a state-based administrative complaint procedure."

The legislation also appropriated $500,000 for the purpose of meeting the 5% state match requirement under the Help America Vote Act of 2002.

Specific accounts have been established within the Secretary of State's budget for the purposes of HAVA. he accounts are organized in such a way that state matching funds will be held separately until they are needed to match federal funds. The accounts also provide that interest earned from the funds will remain in the fund as required by HAVA. Additionally, monies expended from Title I and Title II can be accounted for separately.

A system of financial management allows Wyoming to provide clear evidence of proper use of the funds and allows for a clear audit trail. Wyoming's audit procedures are contained in *Wyoming State Auditor's Office Accounting Policies and Procedures* which can be accessed at http://sao.state.wy.us



Section
6

# Wyoming's Proposed Budget

*Wyoming'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 – HAVA 254(a) (6)*

## Assumptions

Wyoming has developed its state plan based on the following budgetary assumptions:

That Wyoming will receive the full $20 Million funding based on formulas contained in the federal law.

That all cost figures are estimates only and expenditures may vary significantly. This is particularly true since:

- the details of implementing the plan are not yet known,
- there is still need for input from those integrally involved with elections in Wyoming, from special interest groups and from the public in general,
- cost estimates could be increased or decreased by the bidding process, by forming coalitions which may result in economies of scale, and by the nature of a market where a limited number of experienced vendors will be serving many states simultaneously.

## Budget

It is anticipated that the greatest costs of implementing HAVA in Wyoming will be:

- developing and implementing a statewide voter registration system;
- replacement of punch card and lever voting machines and changing central count systems to precinct count systems;
- providing one touch screen for each polling place to comply with HAVA requirements to increase accessibility; and
- education and training of election workers and the public.

Collectively, it is anticipated these activities will cost 70% of total HAVA funds, or $14 Million.

There will be other, lesser costs needed for HAVA compliance and the cost of those activities is expected not to exceed 5% of the state's HAVA funds, or $1 Million.

As discussed elsewhere in the plan, Wyoming anticipates substantial ongoing costs for maintenance of systems, replacement of equipment and ongoing education. 25% of the state's HAVA funds, or $5 Million, will be reserved for those activities.

It would be unwise to build systems or purchase equipment that could not be maintained or would not function properly because of obsolescence. Therefore, as each portion of the plan is implemented, the appropriate 25% of the designated funds will be retained for maintenance and replacement costs. This will tie Wyoming's financial commitment directly to the portion of HAVA funds received from federal appropriations. Full federal funding will be needed for total implementation of Wyoming's HAVA plan and for total compliance with the HAVA requirements.



Section

# 7

# Maintenance of Effort

*How Wyoming, 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.*

## HAVA 254(a) (7)

Wyoming will comply with all HAVA maintenance of effort requirements. Consistent with HAVA 254(a)(7), in using any requirements payment, Wyoming will maintain expenditures of the state for activities funded by the payment at a level equal to or greater than the level of such expenditures in Wyoming FY 2000.

In the Fiscal Year ending June 2000, the Secretary of State's Office employed 22 full time employees. In addition to the Secretary of State and his Deputy, there were eight individuals in the Corporations Division, four in the Securities Division, two in the Technology Division, five in the Services Division and one in the Elections Division. Because of the small size of the agency, funds are neither appropriated nor expended by division. Rather, all funds are appropriated and expended through one administration budget.

In calculating the maintenance of effort, all expenditures for the election staff's salary, benefits and overtime were included as were travel and overhead costs. Also included were all funds expended for state voter registration mainframe services, voter information printing costs and other election publications. Thus, total maintenance of effort for the year ending June 2000 was $135,000.

Section

8

# HAVA Performance Goals and Measures

*How Wyoming 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.*

## HAVA 254(a) (8)

Performance goals provide an overview of a project's direction and performance measures are indicators of the success of implementation and movement toward those goals.

The Secretary of State, as Wyoming's chief election official, and each County Clerk, as the county's chief election official, have substantial responsibility in implementing HAVA. The Wyoming Secretary of State, in collaboration with the Wyoming County Clerks and other appropriate stakeholders, will establish performance goals and will institute a process to measure progress toward the achievement of these goals.

The Wyoming Secretary of State believes establishing performance goals and measures must be done thoughtfully, taking time for a full discussion. The Secretary of State also believes that many of the stakeholders should have opportunity to provide input and make recommendations about appropriate goals and measures as they relate to the various aspects of HAVA implementation. This input will be valuable after decisions are made pertaining to voting systems, voting equipment and other major aspects of HAVA. Specific performance goals and measures will be established following a period for input and discussion. A list of key goals and dates is provided on the following page.

Once established, the performance goals and measures must be continuously reviewed, modified and updated to be useful. To that end, Wyoming's goals and measures will be reviewed annually with input from the County Clerks and review by the Wyoming HAVA Advisory Committee.



**Performance Goals and Measures**

| Goal | Due Date |
|---|---|
| Replace all punch card/lever machines | Not later then January 1, 2006 |
| Replace all central count voting equipment | Not later than January 1, 2006 |
| Provide 1 DRE (touch screen) voting machine for every polling place | Not later than January 1, 2006 |
| Establish a computerized statewide voter registration system that meets the requirements of HAVA | Not later than January 1, 2006 |
| Implement provisional voting which meets the requirements of HAVA | Not later than January 1, 2004 |
| Implement state based complaint procedure which meets the requirements of HAVA | Not later than date for submission of state plan |
| Implementation of voting information at polling places | Not later than January 1, 2004 |

Section

# 9

# State Based Administrative Complaint Procedure

*A description of the uniform, nondiscriminatory state based administrative complaint procedures in effect under Section 402.*

## Summary of Complaint Procedures for the State Plan

As required by Section 402 of the Help America Vote Act of 2002, the State of Wyoming has created a state-based complaint procedure for the fair, prompt, and efficient resolution of complaints concerning the conduct of federal elections as reformed by Title III of HAVA.

The procedure is initiated by the filing of a simple complaint form with the Wyoming Secretary of State. Complaints must be in writing, notarized, signed, and sworn, and they must contain a minimum of information about the person complaining and the nature of the complaint. The form and the questions are designed to be as simple as possible and will be accepted in letter form when that is substantially the same. Complaints are then dealt with in a three-step process.

## Initial Screening of Complaints

Immediately upon receipt of a complaint, it will be screened to determine whether it satisfies the legal requirements of Section 402 of HAVA and the Rules for Election Complaint Procedures promulgated by the Wyoming Secretary of State. Complaints which do not allege violations of Title III of HAVA or do not meet the other legal requirements will be dismissed, but if they appear to be of substance, they may also be referred to other appropriate authorities. Notice of the dismissal will include a statement that the complainant is not precluded from refiling a complaint which conforms to the legal requirements.



## Administrative Resolution of Complaints

A complaint which meets the legal requirements is then the subject of an informal administrative process which includes an investigation into the factual basis of the complaint and communication with the complainant, possible witnesses, and the election officials, if any, who are alleged to have, directly or indirectly, contributed to the violation. The designee of the Secretary of State has great flexibility in handling this informal process and is expected to make every attempt to work with the parties to resolve it. If no violation is found, a decision and order will be entered dismissing the matter, and the complainant will be notified that he or she has ten (10) calendar days to request a hearing on the record. If there is no timely request for a hearing, the matter is concluded.

If a violation is found, the parties will be encouraged to work out a mutually agreeable resolution with the assistance of the designee of the Secretary of State. When the decision and order are entered, the adverse party, if any, will be notified of the decision. Also, the complainant will be notified that if dissatisfied with the outcome, he or she has ten (10) calendar days to request a hearing on the record. If there is no timely request for a hearing, the matter is concluded.

## Administrative Hearing on the Record

The final phase anticipated occurs after a timely written request for a hearing on the record. This phase consists of an informal administrative hearing before the Secretary of State or an appointed hearing officer for which the major objective is to provide a speedy, fair, and efficient resolution of the complaint. The complaint may be conducted by telephone or in person at a location convenient to the parties, and again the procedure to be followed is very flexible. The hearing may result in a finding of no violation, or a finding of a violation for which the State shall order an appropriate remedy. Remedies may direct procedures to be followed by election officials and may include corrective action plans. Appropriate remedies are those designed to assure compliance with the letter and spirit of Title III of HAVA and may not include monetary damages or any punitive order.

During the hearing, accommodations will be made for persons with disabilities as necessary, and others to assist with their presentations may accompany all parties. The agency record of each complaint shall be confidential until the matter is finally determined, at which time notice of dismissals shall be published on the website of the Secretary of State. Use of a hearing officer does not alter the final decision making authority of the Secretary of State.

## Extension of Time for Alternative Dispute Resolution

All complaints are expected to be resolved within ninety (90) days. When resolution is not complete after ninety (90) days and the complainant has not consented to an extension of time, the Secretary of State will refer the case to the Wyoming Attorney General or other appropriate person for alternate dispute resolution proceedings. Again, informality is encouraged although there is the possibility of a hearing governed by the contested case procedures of the Wyoming Administrative Procedure Act. The matter must be concluded in sixty (60) days.



Section

# 10

# Effect of Title I Payments

*If Wyoming 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.*

## Payments for Activities to Improve Administration of Elections, Replacement of Punch Card or Lever Voting Machines.

Because of low population, Wyoming is a state which received the guaranteed minimum payment of $5 million in Title I funds. The Title I funds will be:

- used to supplement Title II funds in accomplishing the objectives of Title III; or
- used to accomplish Title I activities; or
- used to meet other goals addressed in Wyoming's HAVA plan; or
- held in a reserve account until needed for maintenance, upgrades, replacement of hardware, software or other election materials or used in accordance with Wyoming's HAVA plan.

Section
# 11

## Wyoming's HAVA State Plan Management

*How Wyoming 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 will be responsible for the ongoing management of Wyoming's HAVA plan. The plan will be an evolutionary document. The Secretary anticipates continued input from County Clerks and many other groups and interested parties. It is also anticipated that more information and data will be gathered and more creative thinking will emerge through the implementation process.

Implementation of such an enormous project will evolve over time; we must address the far-reaching ramifications detail-by-detail and decision-by-decision. Full implementation of the vision of this plan will take shape day by day.

Flexibility will be the key to reaching the best end result. Modifications to the plan are anticipated. However, in accordance with Section 254(a)(11) of HAVA, no material change in the administration of the plan will be made unless there is prior public notice. Such notice of a proposed change will be published in the Federal Register and the change will take effect only after expiration of the required waiting period.



Section
# 12

## Changes to State Plan from Previous Fiscal Year

*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.*

This is Wyoming's initial plan under HAVA, so there are no changes to report. Such changes will be addressed in future plans.

Section

# 13

# State Plan Development and Committee

*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 255 and Section 256.*

## Wyoming HAVA Advisory Committee

The Wyoming Secretary of State requested the assistance and participation of individuals representing a cross-section of election stakeholders to serve as the HAVA Advisory Committee. The Committee met numerous times from January 2003 through June 2003 to consider elections issues and make recommendations regarding the state plan to the Secretary of State. Meeting dates of the Advisory Committee began in January 2003 and concluded in June 2003. Specific meeting dates can be found on the Secretary of State's website at: http://soswy.state.wy.us/election/hava/Committes.htm. The Committee composition complies with the provisions of Section 255. Members of Wyoming's HAVA Advisory Committee are as follows:

Bobbi Bailiff, Sweetwater County Clerk
Mary Ann Collins, Natrona County Clerk
Jackie Gonzales, Albany County Clerk
Debbye Lathrop, Laramie County Clerk
Margaret Brown, League of Women Voters
Peggy Corbin, AARP
Joe Evans, Wyoming County Commissioners Association
David Kendall, Wyoming Association of Municipal Clerks and Treasurers
Blaine Nelson, Student Representative
Peggy Nighswonger, State Elections Director
Phil Noble, Governor's Chief of Staff
Daniel Zwonitzer, Governor's Policy Analyst
Ed Osborne, Colonel, Ret.ired, Military Representative
Scott Roybal, Minority Population Representative
Mary Shea, Republican Party
Linda Stoval, Democratic Party
Jeanne Thobro, Protection & Advocacy Services, Inc.
Facilitator - Pat Arp, Deputy Secretary of State



## Plan Development Procedures

The Wyoming Secretary of State requested the assistance and participation of groups and individuals to analyze, research and make recommendations to the Wyoming HAVA Advisory Committee on the various aspects of HAVA. Because of their extensive experience with and understanding of administering elections, the Wyoming County Clerks were heavily represented on these work groups. Composition of the work groups, which were organized to address specific issues, are provided below:

- State-based complaint procedures

Mary Lankford, Sublette County Clerk
Linda Smith, Carbon County Clerk
Julie Freese, Fremont County Clerk
Jeanne Thobro, Protection & Advocacy Services, Inc.
Rowena Heckert, Elections Consultant
Jim Mitchell, Attorney General's Office
Mark Husmann, Secretary of State's Office
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

- Military and overseas voters

Irene Hansen, Uinta County Clerk's Office
Brenda Miech, Sheridan County Clerk's Office
Bonnie Geissler, Sheridan County Clerk's Office
Debbie Valdez-Ortiz, Laramie County Clerk's Office
Ed Osborne, Colonel, Retired, Military Representative
Lori Klassen, Secretary of State's Office
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

- Provisional voting

Mary Lankford, Sublette County Clerk
Lynne Fox, Uinta County Clerk
Sharon Sample, Sweetwater County Clerk's Office
Deb Bush, Park County Clerk's Office
Sharon Nethercott, Teton County Clerk's Office
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

- Voter registration system

Paulette Thompson, Weston County Clerk
Julie Freese, Fremont County Clerk
Sherry Daigle, Teton County Clerk
Margie Irvine, Fremont County Clerk's Office
Darryl Eads, Albany County Clerk's Office
Sharon Sample, Sweetwater County Clerk's Office
Andrea Byrne, Secretary of State's Office
Dawn Hill, Secretary of State's Office
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

- Voting systems

Bobbi Bailiff, Sweetwater County Clerk
Mary Ann Collins, Natrona County Clerk
Jackie Gonzales, Albany County Clerk
Debbye Lathrop, Laramie County Clerk

- Disability issues

Becky Freeman, Niobrara County Clerk
Mary Lankford, Sublette County Clerk
Connie Tschetter, Crook County Clerk
Jeanne Thobro, Protection & Advocacy Services, Inc.
Rowena Heckert, Elections Consultant
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

- Plan writing

Lynne Fox, Uinta County Clerk
Rowena Heckert, Elections Consultant
Lori Klassen, Secretary of State's Office
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

Work groups have reported to the HAVA Advisory Committee making recommendations for the state plan and for plan implementation. The election stakeholders sitting on the Advisory Committee considered these recommendations and subsequently made their plan recommendations to the Wyoming Secretary of State. Because much of the implementation work lies ahead, many of these groups will continue working for years to come.



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## Attachment A

For dot map graphic, please see the Wyoming Secretary of State's website at:

http://soswy.state.wy.us/election/hava/Stateplan.htm