Federal Register

Friday,
April 25, 2008

Part II

Election Assistance Commission

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

ELECTION ASSISTANCE COMMISSION

Publication of State Plan Pursuant to the Help America Vote Act

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

ACTION: Notice.

SUMMARY: Pursuant to sections 254(a)(11)(A) and 255(b) of the Help America Vote Act (HAVA), Public Law 107–252, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** material changes to the HAVA State plans previously submitted by Alaska, Florida, Minnesota, New Jersey, Nevada, Oregon, and South Dakota.

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

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

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

SUPPLEMENTARY INFORMATION: On March 24, 2004, the U.S. Election Assistance Commission published in the **Federal Register** the original HAVA State plans filed by the fifty States, the District of Columbia and the Territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. 69 FR 14002. HAVA anticipated that States, Territories and the District of Columbia would change or update their plans from time to time pursuant to HAVA section 254(a)(11) through (13). HAVA sections 254(a)(11)(A) and 255 require EAC to publish such updates.

The revised State plans from Florida, New Jersey, Oregon, South Dakota, Nevada, and Alaska address material changes in the respective budgets of the previously submitted State plans. South Dakota and New Jersey submitted certifications under HAVA section 251(b)(2) allowing the State to use requirements payments for activities other than meeting the requirements of Title III. Minnesota and Oregon have provided updates to how the states plan to meet the Title III requirements, including implementation of the HAVA section 301 voting system standards and the HAVA section 303 statewide voter registration list.

In accordance with HAVA section 254(a)(12), all the State plans submitted for publication provide information on how the respective State succeeded in carrying out its previous State plan. The States all confirm that these material changes to their respective State plans were developed and submitted to public comment in accordance with HAVA sections 254(a)(11), 255, and 256.

Upon the expiration of thirty days from April 25, 2008, the States are eligible to implement the material changes addressed in the plans that are published herein, in accordance with HAVA section 254(a)(11)(C).

EAC wishes to acknowledge the effort that went into revising this State plan and encourages further public comment, in writing, to the State election official listed below.

Chief State Election Officials

Ms. Gail M. Fenumiai, Director, Alaska State Division of Elections, 240 Main Street, Suite 400, P.O. Box 110017, Juneau, Alaska 99811–0017, Phone: (907) 465–4611, Fax: (907) 465–3203

The Honorable Kurt Browning, Secretary of State, Department of State, R.A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399–0250, Phone: (850) 245–6500, Fax: (850) 245–6125, E-mail: *secretaryofstate@dos.state.fl.us*

The Honorable Mark Ritchie, Secretary of State, 180 State Office Building, 100 Martin Luther King Blvd., St. Paul, Minnesota 55155–1299, Phone: (651) 201–1324, Fax: (651) 215–0682

Ms. Donna Kelly, Assistant Attorney General, Office of the Attorney General, Department of Law and Public Safety, Division of Law, 25 Market Street, P.O. Box 112, Trenton, New Jersey 08625–0112, Phone: (609) 599–6877, Fax: (609) 292–0690

Mr. Matthew M. Griffin, Deputy Secretary for Elections, Office of the Secretary of State, 101 N. Carson Street, Suite 3, Carson City, Nevada 89701–4786, Phone: (775) 684–5708, Fax: (775) 684–5725

The Honorable Bill Bradbury, Secretary of State, 136 State Capitol, Salem, Oregon 97310–0722, Phone: (503) 986–1523, Fax: (503) 986–1616

The Honorable Chris Nelson, Secretary of State, State Capitol, Suite 204, 500 East Capitol Avenue, Pierre, South Dakota 57501–5070, Phone: (605) 773–3537, Fax: (605) 773–6580, E-mail: *sdsos@state.sd.us*

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

Dated: April 9, 2008.

Rosemary Rodriguez,

Chair, U.S. Election Assistance Commission.

BILLING CODE 6820–KF–P

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STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

February 8, 2008

United States Election Assistance Commission
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005

Dear Commissioners:

In accordance with section 255 of the Help America Vote Act of 2002 (HAVA), I am pleased to file with the United States Election Assistance Commission (EAC), for publication in the *Federal Register*, this letter and the enclosed 2008 State of Alaska HAVA State Plan.

As required by section 254(a)(12) of HAVA, Section 12 of Alaska's State Plan as amended, describes the material changes that Alaska made to the State Plan filed in 2005. The 2008 Alaska State Plan contains material changes throughout each section of the Alaska State Plan. In addition, Sections 6 and 8 contain important information on how Alaska's budget to implement the requirements of HAVA changed and how Alaska succeeded thus far in meeting the specific HAVA requirements.

The amendments to the Alaska State Plan were developed in accordance with section 255 of HAVA and the requirement for public notice and comment prescribed by section 256 of HAVA.

On behalf of the State of Alaska, I thank the EAC for its assistance and look forward to our continued collaboration to improve the administration of elections in Alaska.

Sincerely,

Gail Fenumiai
Director

Enc: 2008 State of Alaska HAVA State Plan

State of Alaska

HAVA State Plan
2008 Updated

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

Gail M. Fenumiai, Director
Alaska State Division of Elections
240 Main Street, Suite 400
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"Although Alaska initially had few changes to make to our election laws, our voter registration system, and election equipment to comply with HAVA, Alaska has improved, and will continue to improve. Our election processes will comply with both state and federal legal requirements in order to maintain public trust and confidence in the election process and ensure that democracy is upheld through the ballot box."

Lieutenant Governor Sean Parnell, State of Alaska

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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 planning, implementing 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 geographically-based election regions managed by Election Supervisors. The Election Supervisors are responsible for voter registration and election management activities for all elections within their region, as designated by the Director. In addition to the four regional offices located in Juneau, Anchorage, Fairbanks and Nome, the Division has opened a satellite office of the Region II Elections Office in the fastest growing municipality in Alaska, the Matanuska-Susitna Borough. The Division also opened an Absentee and Petition Office in Anchorage to facilitate and improve absentee voting by mail and by fax. The Region II satellite office in the Matanuska-Susitna Borough and the Absentee office were both opened in the spring of 2006 and continue to provide improved access to voter registration and voting.

Alaska Statute Title 15 and Alaska Administrative Code Title 6 govern the federal and state election process. 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 election process that directly affects the voter.

The Division of Elections maintains a statewide electronic voter registration mainframe 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 voter 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. Because the old mainframe system is antiquated, the Division began working on the development and implementation of a new pc-based, statewide voter registration database in 2005. Although the new system is not completed, the Division has prepared the technical requirements of a new system and will continue our work on the development of a new system.

Alaska has nearly 470,000 registered voters. According to the Alaska Department of Labor and Workforce Development, the estimated voting age population in 2005 was 454,226. 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 choose to maintain their Alaska residency even if they currently live outside the state.

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. Voter registration applications are also available on the Division's website www.elections.alaska.gov for easy access.

Individuals may register to vote in person, by mail, by fax machine or by scanning a completed voter registration application and sending via email. Voters must be registered to vote at least 30 days before an election. If a voter's registration application is incomplete, the Division notifies the voter in writing and provides the voter an opportunity to complete a new voter registration application. The only exception to the registration deadline is during Presidential elections. A voter may register and have their vote count for President and Vice President on Election Day.

Alaska has 40 State House districts and 20 State Senate districts. Within these districts, there are 439 precincts, each with a designated polling place. Following is a breakdown of voter turnout during the past several general elections:

1996 = 59.1%

1998 = 50.1%

2000 = 60.8%

2002 = 50.5%

2004 = 66.6%

2006 = 51.1%

Alaska has 151 rural communities with precincts that are isolated from connecting road systems; the only way to access these communities is by airplane or boat. Of the 439 precincts in Alaska, 34 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 and continues to expand the use of the Optical Scan voting system throughout the State. There are 149 hand count precincts and 290 Optical Scan precincts, all of which use a uniform paper ballot 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.

In addition to hand count and Optical Scan units, Alaska makes available a touch screen voting unit in every precinct during an election in which a federal race appears on the ballot to comply with the requirements of HAVA. The touch screen voting units, which were first introduced during the 2006 Primary election, allow voters with disabilities the ability to cast a private and independent ballot. In accordance with Alaska Statute, each touch screen voting unit is equipped with a voter-verifiable paper audit trail (VVPAT). The VVPAT is considered the "official ballot" during recounts. With the implementation of touch screen voting, the Division has and continues to develop a variety of forms, brochures and instructions in an effort to train election officials and educate the public about touch screen voting.

In 2003, the Division of Elections updated many sections of the election law to comply with HAVA, namely HB 266, signed into law by the Governor on June 16, 2003. This bill addressed improving the questioned ballots (Alaska's form of provisional voting), the definition of a questioned voter, voter registration, training of election officials, preparation of election materials, forms, and supplies for polling places, voter identification, absentee voting, and counting ballots. In 2005, HB 94 passed additional amendments also affecting voting. These bills updated several forms to conform with HAVA standards, specifically:

a) a new voter acknowledgement card;
b) a revised by-mail ballot return envelope;

c) a revised by-mail ballot return envelope used by military and overseas voters;
d) a revised voted ballot envelope used by voters who must submit proof of identification when voting by mail;
e) a revised poster instructing voters how to complete the ballot and providing information regarding questioned voting used during primary and general elections;
f) a revised poster displaying specific election information, and how to report fraud;
g) a revised poster which details the types of identification which voters may present when voting in-person;
h) an informational flier regarding questioned voting used during primary and general elections; and
i) a new voter registration application, questioned and absentee-in person voted ballot envelope.

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 mail absentee ballot.

Absentee By Mail – Any qualified voter in Alaska may apply to receive an absentee ballot by mail. Alaska Statute 15.20.081 was amended in 2003 to improve accommodation for absentee uniformed services and overseas voters to allow a single absentee by mail ballot application to be valid through the next two general elections. In addition, this statute was further amended in both 2005 and 2006, to reduce the number of witness signatures required on an absentee by mail ballot from two witnesses to a single witness and to change the deadline for when an absentee by mail ballot application must be received by the Division. The deadline changed from seven days prior to an election to ten days prior to an election.

Early and Absentee In Person Voting – Beginning 15 days prior to Election Day, any qualified voter may vote early in the office of the Election Supervisor overseeing the jurisdiction where the voter is registered. In addition to early voting, any qualified voter may vote an absentee in person ballot through an absentee voting official. Alaska has numerous absentee voting locations available throughout the State, and all locations are published on the Division's website at least 45 days prior to an election. The dates and hours of the absentee voting locations are advertised in local papers, and all absentee voting locations are listed in the Official Election Pamphlet that is mailed to every household where there is a registered voter. An absentee voting location may have ballots available to voters for a single, multiple, or all 40 house districts.

Absentee By Fax Voting – Beginning 15 days prior to Election Day, any qualified voter may apply for a faxed ballot. Absentee by fax applications are available on the Division's website, from any elections office, and in the Division's election pamphlets that are mailed to all voters. When a voter chooses to vote via fax, the voter is faxed a ballot to the fax number specified, and the voter may return the voted ballot either by fax or by mail. Alaska Statute 15.20.066 was amended in 2005 to require only one witness signature to sign and attest to the date on which the voter signs the certificate.

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 pick up and deliver the ballot and other voting material to the voter. After the voter votes the ballot, the representative returns the voted ballot to the election official. Special Needs voting is available at the polls on Election Day or through any absentee voting official.

Questioned Voting – Questioned, or Provisional, voting is available for any voter who does not have identification and 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. Following an election, questioned ballots are delivered to the appropriate regional election office for verification in the statewide voter registration database of eligibility before being counted.

Each absentee, questioned, and special needs ballot cast is placed inside a secrecy sleeve and then sealed inside an envelope. The outside of the envelope contains voter information: name, address, identifier, and signature. A bipartisan review board located in each regional office reviews the voter's ballot envelope, the data is entered into the voter registration database, and the envelope is assigned a sequence number. At the time the ballot envelope is reviewed, the registration database searches for other voting activity by that voter for the same election and reports if the voter has voted more than once.

In addition to conducting all statewide and federal elections, the Division of Elections is also responsible for conducting elections in areas of the State that are not incorporated into municipal governments. These elections include rural school board, coastal resource area, liquor option, incorporation, dissolution and consolidation elections. In 2004, the Division conducted a by mail election for Alaska Seafood Marketing Institute as well. Although the Division is not responsible for

conducting local municipal elections such as those for borough assembly or city council, it provides voter registration lists, precinct registers and voter history for municipal elections. The Division also assists municipalities by providing for the use of the Division's polling place equipment and in some areas, ballot counting equipment.

Since the 2005 State Plan, the State has become compliant with more Help America Vote Act (HAVA) requirements such as:

- An accessible touch screen voting unit, equipped with a voter verifiable paper trail, is available in every precinct during elections where a federal race appears on the ballot.
- The requirements for a new statewide voter registration database have been developed to replace the antiquated, existing voter registration database, and the Division continues to work on implementation of this new database.
- With new office locations in Anchorage and the Matanuska-Susitna Borough, the Division is even more accessible to voters.
- The Division has expanded its HAVA section to include a HAVA Election Systems Manager position responsible for the overall supervision and administration of the Division's HAVA program and a new HAVA Program Assistant position responsible for improving polling place accessibility and outreach to the disability community statewide.
- Other projects, such as the development of the Division's media plan, will increase voter participation and outreach.

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 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. Prior to 2006, the State used a hybrid of two types of voting systems in its 439 established polling locations: 149 precincts use a hand count paper ballot system, and 290 precincts use an Optical Scan (Accu-Vote OS 2000) paper ballot system. Since the 2005 State Plan, the State has transitioned an additional 2 communities from hand count to Optical Scan and has implemented the use of one touch screen voting unit in each polling place and each early voting location. The State will continue to expand the use of the electronic voting system in hand count precincts to improve the overall administration of elections. Absentee and questioned ballot counting is also conducted using the Optical Scan voting system.

In 2002, the State enacted legislation requiring that the new voting systems purchased allow voters with disabilities or visual impairments to use the systems privately and independently. With the passage of HAVA, the State was required to purchase DRE units for each established polling location. The Division requested and received a capital appropriation for FY04 to purchase 55 Accu-Vote touch screen voting units. The Division used HAVA funds to purchase an additional 45 units, bringing the statewide total to 100 touch screen units. In July, 2006, the Division purchased an additional 405 units, bringing the statewide total to 505 touch screen voting units. Every unit is equipped with a voter verifiable paper audit trail (VVPAT), which allows the voter to confirm their selections before casting their ballot. The touch screen voting units were first used statewide during the 2006 Primary election, and were used again during the 2006 General election. The touch screen voting units will be used during Primary and General elections for state and federal offices.

The touch screen voting units provide a variety of accessible features for blind and visually impaired voters, including: alternative language capability, headsets offering audio ballots, as well as keypad and stylus options for voters with dexterity difficulties. The Division will also work to add an audio translation of Alaska's unwritten native languages to the touch screen voting units.

The State purchased transport cases for the touch screen voting units in May 2006 and used them during the 2006 election year. The transport cases were intended to provide a stable platform and secure container in which to ship the touch screen voting units through the United States Postal Service to Alaska's remote and often frigid polling locations. The transport cases were sent on small aircraft and upon arriving in many communities were transported to the polling place by ATV. Many cases returned damaged due to the transportation methods available in rural Alaska. The Division is currently looking into whether the damaged cases should be repaired, or if an entirely new case should be designed to better handle the shipping stress to and from remote polling locations.

Transporting the touch screen units and training election officials to use the new technology in rural Alaska is a significant expense to the Division for each election the voting units are used. The Division provided extensive training programs for election staff in preparation for the 2006 election cycle and will continue to improve upon our training programs. The manufacturer of the touch screen units, as part of the contract, will continue training division staff in the proper use of the new equipment.

During the summer of 2006, the Division hosted public demonstrations in Juneau, Anchorage and Fairbanks to familiarize the public with the units, and educate voters on the accessible features of the touch screen units. The Division advertised the demonstrations using local newspapers, media releases, public service announcements, the Division's website and through personal invitation. Representatives from local disability agencies were contacted, and invited to attend the demonstration. During the event, people were invited to try out the machines and cast a sample ballot. Brochures, instructions and forms were available for the public to learn more about the touch screen units. Feedback received during the demonstrations helped prepare better instructions on how to train election workers on the touch screen unit. Separate demonstrations were also held for state legislators and media members to report accurately to Alaska's constituency on the use of the new voting equipment.

Due to the increased public scrutiny of electronic voting systems, Alaska has continuously had to defend the testing, security and auditing processes used in Alaska to ensure safe and accurate elections. With recent studies that have identified vulnerabilities in the voting system used in Alaska and

elsewhere, the Division will begin working with the University of Alaska to review the testing and security procedures used in Alaska and make recommendations for improvements. The Division intends to implement the findings and recommendations provided by the University of Alaska in anticipation of the 2008 Primary and General elections.

Maintenance

To accommodate and house the 505 touch screen voting units, the State acquired additional storage space. Heated and accessible storage space was needed for the elections offices as well as some of the communities that have multiple units stored at their locations. In some cases, the Division relocated regional offices to ensure access to the new voting equipment.

The Division has developed procedures for the shipping and storage of the touch screen voting units to the polling locations. Election workers in these rural locations are responsible for setting up and operating the units; training and familiarity is very important. The touch screen voting units are shipped by small bush plane and then may be transported to the polling place by four-wheeler, snow machine, dog sled or by foot on dirt paths to the polling locations. Based on the 2006 election cycle, the Division found that the cost to ship the touch screen voting units one way to rural locations was $55 per unit.

In 2006, the Division created procedures to contract with rural election workers to store the touch screen voting units in the community between the Primary and General elections in order to avoid significant damage and costs associated with the transport of the voting units. Based on the contract, the election worker agrees to:

1. Provide heated storage of the touch screen voting unit and printer in a secure, locked location;
2. Charge the touch screen voting unit battery, and conduct an election readiness check on the voting unit and printer for use in the General Election as directed by the regional supervisor;
3. Deliver the touch screen voting unit and printer to polling place for the General Election;

4. Deliver the touch screen voting unit and printer to the US Postal Service for return shipment after Election Day, or as directed by the regional supervisor.

In return, the State of Alaska pays the election worker a storage fee of $75.00 after the election, provided that the election worker complies with the terms of the agreement.

The State budgets for increased costs associated with shipping election materials to polling locations. Currently the State mails election materials (ballots, supplies, etc.) to its remote polling locations. In addition to these election materials, each precinct receives a touch screen unit.

Due to transportation issues, limited space and lack of resources available in the Division's Nome office, the Division developed a program to utilize the Matanuska-Susitna Borough satellite office for storage, maintenance and shipping of the touch screen units used in the polling places assigned to the Nome region.

The Division has begun design of an inventory and equipment maintenance program to ensure that all election equipment is maintained and repaired in a timely manner. In addition, the Division will need to develop a program and procedures for modification to the voting system based on EAC certification. In preparation for the 2008 election year, staff in the regional offices and the satellite and absentee offices are tasked with conducting routine maintenance inspections and identifying potential problems on the units before breakdowns occur. The inventory system will increase user accountability and allow for better equipment tracking.

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

The State currently has a provisional voting process established, known as "Questioned Voting."

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

In 2004, the Division established a toll-free access system to provide voter information. This system allows 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 Division has two toll free-access systems, as outlined below:

a. The Division currently uses 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 for determining ballot type eligibility during the Primary Election. At this time, the Division has not expanded the current polling place locator system to include ballot count automation. The Division plans to implement this system in the future with the new voter registration system.

b. The Division provides a toll-free telephone number that allows voters to determine whether their questioned ballot was counted. When a voter casts a questioned ballot, the election official provides them with written instructions on how to access the system to determine whether their ballot was counted, partially counted, or rejected.

In addition, the Division anticipates that in 2008 voters will have the opportunity to check the status of their absentee ballot application and verify their vote count by using an absentee ballot locator portal on the Division's website.

In accordance with Alaska Statute, the Division sends a letter to each absentee and questioned voter whose vote was not counted or was only partially counted. The Division will continue this practice in addition to the systems outlined above.

Voting Information

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

distributes to each registered voter's household a *Primary Voter Pamphlet* if a ballot measure appears on the Primary ballot.

State law requires full public notice of an election (AS 15.15.070). This public notice is achieved through newspaper advertisements and posting notices in communities that do not have newspapers of general circulation. Advertisements include information regarding the date and time of the election, the offices up for election or retention, absentee voting, any questions or propositions that appear on the ballot and information on polling place changes. Other methods of informing voters include radio advertisements, media releases and conferences, public service announcements, direct mailings, and information posted on the Division of Elections website. In addition, there are sample ballots, posters, informational flyers and instructions posted in polling locations as well as at all elections offices.

The Division modified registration, questioned and absentee voting forms as well as other election materials to meet HAVA requirements. In 2003, the Division submitted the forms to the U.S. Department of Justice (DOJ) Civil Rights Division and received preclearance. The Division will continue to make modifications to election materials based on "best practices" produced by the EAC.

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, it is not a fully interactive system. VREMS is an antiquated system, maintained in the Natural programming language and is on a mainframe. As technology has advanced, it has become difficult for the Division to find programmers knowledgeable in Natural programming.

In 2005, the Division prepared and released a request for proposal for vendors to develop and implement a new statewide voter registration system. Since that time, the Division has worked with a vendor on the development of a new registration system that will meet updated technology requirements and allow for better management of the State's voter registration and election processes. Although the system was not fully implemented by the anticipated date of December, 2007, the importance of upgrading the voter registration system is not diminished and the Division will continue to assign resources to the development of the system.

The State of Alaska is in full compliance with the requirement to verify voter registration information as required in Section 303(a)(5). A Memorandum of Agreement dated August 2003 between the Division of Elections and the Division of Motor Vehicles (DMV) 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 maintained in the DMV database. The Alaska DMV has completed the process of verifying the last four digits of the social security number information with the American Association of Motor Vehicle Administrators (AAMVA). The verification program is currently used by the Division staff processing voter registration applications received by mail or by fax to verify the identity of voters.

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) The State of Alaska, Division of Elections conducts all Federal elections. Therefore, there will be no distribution of requirement payments to local governments or entities.

The Division serves Alaskans through four regional offices located in Juneau, Anchorage, Fairbanks, and Nome in addition to the Matanuska-Susitna satellite office and the Absentee & Petition Office in Anchorage. The Division of Elections manages funds necessary for improving the elections' system, voter registration, voter access and education, outreach, and to ensure the regional needs are met and that the State remains in compliance with the Act.

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

(B) The Division monitors the funds in accordance with the statewide performance measures adopted under section 254 (a)(8). The Division centrally manages the distribution of all funds appropriated to the Election Fund, including but not limited to the requirements payments. Alaska incorporates priorities and timelines into the budgeting process to ensure it implements mandates and improvements in a wise and timely manner.

The Division of Legislative Audit annually audits the State of Alaska. 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.

The State of Alaska Division of Elections monitors the duties and hours of staff and HAVA funded offices by requiring a bi-monthly justification to be completed and used to exhibit accountability. Additionally, the Division of Elections conducts quarterly meetings to ensure the focus and scope of responsibilities is in alignment with improving federal elections within the State of Alaska. The first quarterly meeting was held on September 10, 2007.

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. The Director's Office coordinates all outreach efforts for statewide and federal elections. These outreach efforts include numerous public notices, newspaper and radio advertising, public service announcements, direct mail, other publications (such as brochures and pamphlets), speeches and presentations, and continuous direct contact with the statewide media. As an ongoing effort to provide voter education and outreach to Alaska's minority language groups, the Division will continue to make improvements to the language assistance plan.

When a ballot measure appears during a Primary election, the Division distributes a *Primary Voter Pamphlet (PVP)* to every registered voter household in Alaska. The *PVP* contains detailed information regarding the ballot measure(s) and general information regarding the election. Before every General election, each registered voter household in Alaska is mailed an *Official Election Pamphlet (OEP)*. The Division of Elections produces a 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. The election pamphlets are translated onto an audio tape which is made available at the State Library and the regional offices so the election information contained in the books is in an accessible format for disabled voters. The Division also prepares and distributes a Filipino (Tagalog) version of every pamphlet to voter's registered in House District 36, in compliance with Section 5 of the Voting Rights Act, 42 U.S.C. 1973c.

In addition to printed materials, the Division's website provides a vast array of information on voter registration, election issues, election results, historical information and electronic versions of all election pamphlets. In 2005, the Division launched a new, streamlined website to increase public

access and usability. New additions to the website include information on the touch screen voting unit, expanded explanations of voting methods, and increased information on ballot measures and the initiative process. The Division will continue to expand the website, and plans to add additional polling place accessibility and language assistance information to the website's offerings.

The Division provides an interactive toll-free telephone system for voters to obtain their polling place location, and determine their party affiliation. An additional, separate toll-free system allows voters to determine whether their questioned ballot was counted.

As new voting systems and election laws are implemented, Alaska continues its voter outreach efforts. With the implementation of the new touch screen voting units in 2006, demonstrations were held in locations around the state to educate voters on the accessible features and security measures of the units. The Division targeted the demonstrations specifically at assisting the disability community. Local disability agencies were contacted, and invited to attend the demonstrations. Furthermore, the Division prepared supplemental brochures for election officials which review proper etiquette for voters with special needs. The Division's HAVA Program Assistant will continue to prepare and conduct outreach demonstrations during future elections.

Before 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. Division staff continues to provide voters with information on what ballots are available during each Primary election, and who is eligible to vote each ballot.

The Division strives to enhance its educational efforts through positive relationships with the media. The Division is currently working to develop a Media Plan, which will detail the Division's outreach programs. The Division continues to participate in radio and television interviews and responds to questions from the print media regularly, beginning several months before a statewide election.

The Division recognizes the need to enhance its outreach and communications program to continue educating the voting public. The Division currently offers a variety of methods to communicate with and educate the public, including:

- Launching a redesigned website for increased accessibility and usability.
- Providing two toll-free access systems for voters to obtain voter registration and election information as well as determine whether their ballot was counted.
- Publishing the Division's election security and testing procedures.
- Coordinating public outreach/training with organizations assisting the disability community on use of the new touch screen voting units.
- Developing the Youth Vote Ambassador Program, where students have the opportunity to serve as election poll workers on Election Day.
- Creating two new Division offices in the Matanuska-Susitna Borough, and Anchorage to better serve voters.
- Improving Election Day signage, including signs that help voters identify the accessible features available at the polling place.
- Increasing public outreach through advertisements, public service announcements and media releases and taking steps to provide copies of all outreach in required minority languages.

In addition to the efforts described above, the Division continues to strive to:

- Implement an interactive statewide database.
- Coordinate voter education and awareness efforts with Alaska Native organizations and community groups, including groups providing services to individuals with disabilities.
- Target voter education efforts to address the needs of the disability community and individuals with alternative language needs.
- Develop a college student voter education program.
- Provide awareness training for all Division employees and election officials to recognize the special needs of voters with disabilities.

Election Official Training

Election officials are essential to achieve an efficient, secure, and reliable election process. In Alaska, the four 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 field workers
- Absentee ballot review boards
- Questioned ballot review boards
- Regional Accu-Vote boards
- State Review Board

With the implementation of touch screen voting, Alaska recognized the need to re-shape its precinct election boards to improve the election process. Prior to 2006, Alaska used a precinct election board consisting of an election chairperson and election judges. The chairperson is responsible for supervising the overall election activities in the polling place. In 2006, an additional worker was added to each precinct election board as the "co-chairperson". The co-chairperson was the election worker responsible for the touch screen voting unit in that polling place.

Improving and implementing statewide training resources and procedures is an ongoing process improved upon each election year. Working as a team, the HAVA section and 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 at each precinct: hand count or Optical Scan. In addition, every precinct receives training on and instructional materials for the touch screen voting unit. Among the materials developed for use with the touch screen units are: the *Touch Screen Voting Unit Handbook*, the *Touch Screen Voting Unit Brochure*, *Touch Screen Voting Procedures Poster* and the *Touch Screen Opening and Closing Instructions*. In 2006, the regional offices conducted hands-on training sessions in two modules; election procedures and equipment procedures. The equipment procedures module provided an opportunity for election workers to experience the operation of the touch screen voting equipment and practice setting it up, voting, printing election results and taking the unit down. This module added an additional 2-3 hours to each training session.

Alaska faces many unique challenges when providing election official training, especially for precinct election boards in the field on Election Day. Due to the State's vast size and the large number of precincts not connected by a road system, our training programs are categorized into two groups: urban and rural.

Prior to 2004, in order to train precinct polling place officials in rural Alaska, Election Supervisors and their assistants spent 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 were often required and the election training official could train only one community per day. With 439 precincts throughout the state, the challenge to provide training is formidable. Because traveling for training was so time intensive, election workers were trained so far in advance of the election that training materials were not always finalized. In addition, election workers may not have been appointed or agreed to serve in all precincts, and those who did receive training may not retain the procedures at the time of the election.

During the 2004 and 2006 election year, the Division used "hub training" for the training of its election workers in rural areas of Alaska. The purpose of this training method is for the Division to more effectively train election workers closer to Election Day. When utilizing "hub training", the Division sends the chairperson and co-chairperson from each selected rural precinct to one larger, more "central" community where all the workers are trained simultaneously. The chairperson and co-chairperson then return home and train the election judges at their precinct. "Hub training" has enabled the Division to train rural election workers closer to Election Day, and has provided an improvement to the conduct of elections in rural areas of Alaska.

Urban-based training is generally conducted closer to the Election Day. However, travel is required to some urban communities and these officials may be trained 30 – 45 days before the election. Election boards in Anchorage, Fairbanks, Juneau and Nome are trained one-two weeks prior to the election. In 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 the Division faces to properly train election workers, handbooks for the various types of officials are critical to their ability to conduct their duties correctly. The Division continues to develop the handbooks in such a way that if an election official has not received in person training, the official will still be able to clearly understand and implement proper procedures on Election Day by receiving telephone instructions and looking at the handbooks.

In an effort to ensure all election officials have the training and resources available to conduct successful elections, the Division started to implement a systematic approach to training that includes:

- Development of a new regional and community-needs comprehensive statewide training plan. This includes improved training methods and the hiring of regional training coordinators, bringing the rural-based training closer to Election Day.
- Improvement of training and Election Day materials and handbooks that are more flexible, accommodating updates and changes. New materials include information on the touch screen voting units and awareness training materials for assisting voters with disabilities.
- Continued research for implementation of better election officials training options, including DVD and VHS 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.
- Incorporating recommendations provided by the EAC for successful practices for poll worker recruitment and training.

Office Expansion

Using HAVA funds appropriated in 2002, the Division of Elections created three new elections offices across the State. Opened in the spring of 2006, the offices provide additional ways for voters to access the Division, and allow for more staff to focus on improving HAVA compliance. The three new office locations – the Absentee & Petition Office in Anchorage and the two satellite offices in Kenai and the Matanuska-Susitna Borough – employ a total of 6 full time employees. In 2006, the satellite offices prepared for the Primary and General elections by doing tasks such as voter registration and outreach.

In 2007, it was determined that the Kenai satellite office had not been utilized by the public as had been initially projected, and was closed in October, 2007. The Matanuska-Susitna satellite office and the Absentee & Petition Office remain funded by HAVA due to their heavy usage by voters. The staff and resources in the offices are utilized entirely for the preparation of the 2008 election year and for improving the election process. During the 2007 year, projects for the offices included: developing a statewide media plan, testing and repairing voting equipment and assisting with polling place accessibility surveys in preparation for the 2008 election cycle. Between June 2007 and January 2008, the Division performed monthly tracking and submitted to the Election Administration Commission quarterly reports justifying the use of HAVA monies to fund the offices. In addition, the reports identified what progress was made on each project. In preparation for 2008 Presidential election, the Absentee and Petition Office will be contacting all military and overseas voters to verify the ballot mailing address on file is still accurate.

Accessibility

The Division continues to improve accessibility in polling places across the State. In August 2007, the Division created a HAVA Program Assistant position using Health and Human Services accessibility grant funds. The HAVA Program Assistant's responsibility is to focus on the improvement of voter accessibility, including: creating and maintaining the statewide accessibility information database, conducting polling place accessibility surveys, updating the Division's website, and the purchasing and administration of all polling place equipment.

Prior to the 2008 election cycle, the HAVA Program Assistant will work with other election officials to survey newly established polling places as well as older locations to find areas where accessibility

equipment can enhance the polling location. With the help of the State ADA Coordinator, the Division will identify equipment needs for each location, and make arrangements for the purchase and installation of accessibility equipment prior to the 2008 Primary election. The HAVA Program Assistant will also work with the Alaska Disability Law Center to survey Alaskans with disabilities on their satisfaction with the voting process.

If significant accessibility improvements are made to polling places statewide, the Division may chose to include a summary of polling place improvements in the Official Election Pamphlet (OEP) to educate voters on the enhancements. A summary of changes may also be incorporated on the Division's website.

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.

In 2005, the Alaska Legislature enacted Alaska Statute 15.20.910, which provides for "Standards for voting machines and vote tally systems." Under this law, the Division Director may approve voting systems or vote tally systems depending on relevant factors, including whether the Federal Election Commission (FEC) has certified the system to be in compliance with the voting system standards approved by the FEC. According to State law, the voting system or vote tally system must be equipped with a voter verifiable paper audit trail (VVPAT).

The Division meets all of the voting system requirements required under HAVA as outlined in the attached matrix. The State's touch screen voting units are equipped with a VVPAT that can be used during any recount or election contest. The VVPAT also allows for compliance with Alaska Statute 15.15.430(a)(3) which now requires that, "unless a ballot for an election district contains nothing but uncontested offices, a hand count of ballots from one randomly selected precinct in each election district that accounts for at least five percent of the ballots cast in that district." According to Alaska Statute, if there is a difference of over one percent between the results of the hand count and the results certified by the election board, the entire house district must be recounted. The hand count procedure was first used in the 2006 Primary election, and again during the 2006 General election. During the 2006 election cycle, the hand count results did not differ significantly from the results certified by the election board, and a district-wide recount was not necessary for any race.

To maintain compliance with the Act and Alaska Statute, Alaska will continue providing one touch screen voting unit in every polling location during elections where a federal race appears on the ballot.

Requirements	Status of Alaska's Current Voting Systems (Meets, partially meets or does not meet)	Planned Action
Section 301. VOTING SYSTEM STANDARDS		
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 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.

Requirements	Status of Alaska's Current Voting Systems (Meets, partially meets or does not meet)	Planned Action
(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 -		

Requirements	Status of Alaska's Current Voting Systems (Meets, partially meets or does not meet)	Planned Action
(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.	Meets requirements.	No action necessary.
(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 a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;	Meets requirements.	No action necessary.
(B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other	Meets requirements.	No action necessary.

Requirements	Status of Alaska's Current Voting Systems (Meets, partially meets or does not meet)	Planned Action
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).	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.

Requirements	Status of Alaska's Current Voting Systems (Meets, partially meets or does not meet)	Planned Action
(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.	Meets requirements.	No action necessary.

Section 5. Alaska's HAVA Election Fund

How the State has established 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 Alaska Department of Administration, Division of Finance and the Department of Revenue, Division of Treasury, the Division of Elections established an election fund within the State's treasury whose appropriations are accounted for separately within the State accounting system. The General Fund and Other Non-Segregated Investments (GeFONSI) fund contain both federal and general funds. Accounting structures are in place to ensure that 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 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's Finance Officer and the Division of Elections' Administrative Supervisor works 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 (HAVA Section 254 (a)(1)), 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 I-Early payments:

HAVA authorized $650 million in one-time payments to states: $325 million for making improvements to the administration of elections and $325 million for the replacement of punch card and lever voting machines. States are not required to provide matching funds for Title I monies.

Title I mandated that each eligible state receives a minimum of $5,000,000. Alaska's portion was determined by the small state minimum and received $5,000,000 in April 2003 for making improvements to elections. Alaska was not eligible to receive funds under Section 102 since Alaska replaced its punch card voting system before 2000. However, Alaska did receive a one-time reimbursement payment made to states that replaced such equipment prior to 2000. (See "reimbursement payment" on Page 36-37.)

All Title I money has been distributed to the states.

Title II- Requirements payments:

Title II authorizes $3 billion in additional payments to states over a three year period, annually for meeting the requirements of Title III and for activities to improve the administration of elections if all Title III requirements have been satisfied.

Congress appropriated $830 million for FY 2003 and just under $1.5 billion for FY 2004 requirements payments to states. While the FY 2003 funding fell short of the $1.4 billion authorized in HAVA, FY 2004 funding exceeded the $1.0 billion authorized. Distribution of these funds began in June 2004.

Payments under Title II are formula based and 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. To determine the 5% State match based on the federal requirements payment, multiply Alaska's requirement's payment portion by .0526 (5 divided by 95). See Table 6.1 for Alaska's requirements payment amounts and State match funds.

Accessibility Grants:

Title II also authorizes the Secretary of Health and Human Services to distribute payments to states to assure access for individuals with disabilities. Alaska has applied for and received $400,000 in accessibility grants for FY 2003, FY 2004, FY 2005 and FY 2006. To date, the Division has not spent these funds; however, using these funds, the Division has created a new HAVA Assistant position, which is responsible for statewide accessibility. In 2007, the Division submitted an application for another accessibility grant for Election Assistance for Individuals with Disabilities (EAID). All accessibility grant funds will be expended in accordance with the requirements of Title II Section 261.

Reimbursement Payment:

The Consolidated Appropriations Resolution, Public Law 108-7, signed February 20, 2003, provided $15,000,000 in Federal appropriated funds to the General Services Administration

(GSA), for Election Reform Reimbursements. This one-time reimbursement was for states that purchased electronic voting equipment to replace punch card and lever voting machines prior to 2000 making them ineligible to receive funds under Title I Section 102 of HAVA. Alaska qualified for and received a one-time reimbursement of $1.1 million deposited back into the State's General Fund for electronic voting machines purchased in 1998 to replace all punch card voting equipment.

Table 6.1 outlines the portion of funds available according to GSA Estimates Requirements Payments to States FY02-FY04.

Table 6.1

Federal Fiscal Year	Federal Funds	Alaska's Payment Portion	5% State Match Requirement
(§ 101) 2002 Title I Section 101	$650,000.0	$5,000.0	None
(§ 252, 257) 2003 Title II Section 251	$830,000.0	$4,150.0	$298.6
(§ 252, 257) 2004 Title II Section 251	$1,500,000.0 ($ rounded up)	$7,446.8	$469.2
Total	$3,580,000.0	$19,596.8	$768.0

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 2006. 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

Description	Collocation	Inception to Date Actuals	Encumbrances	Total Obligated
AR 2217 HAVA Title II First Requirement Pmt				
Voter Registration System	1222701	$413,452	$158,629	$572,081
Voter Verifiable	1222702	$757	$0	$757
Voter Education	1222703	$0	$0	$0
Accessibility for Voters	1222704	$1,275,656	$9,990	$1,285,646
Language Accessibility	1222705	$30,363	$0	$30,363
Provisional Voting	1222706	$0	$0	$0
Voting Info Requirements	1222707	$0	$0	$0
Computerized List Maintenance	1222708	$0	$0	$0
Technological Security	1222709	$0	$0	$0
DMV Requirements	1222710	$21,957	$28,043	$50,000
SSN Requirements	1222711	$0	$0	$0
By Mail Requirements	1222712	$0	$0	$0
Military & Overseas	1222713	$0	$0	$0
Polling Place Requirements/Improvements	1222714	$2,971	$0	$2,971
AR 2217 Totals		**$1,745,156**	**$196,662**	**$1,941,818**
AR 2218 HAVA Title I - Meeting Requirements				
Meeting Requirements w/ Title I	1992218	$256,911	$0	$256,911
Accessible Voting Equipment	1221801	$491,547	$22,884	$514,431
Voter Registration System	1221802	$206,029	$0	$206,029
Military & Overseas	1221803	$0	$0	$0
Polling Place Accessibility Improvements	1221804	$42,319	$0	$42,319
Provisional Voting	1221805	$0	$0	$0
Voter Education	1221806	$75	$0	$75
Admin Complaint Procedures	1221807	$0	$0	$0
Management of State Plan	1221808	$495	$0	$495
Language Accessibility	1221809	$5,585	$1,150	$6,735
Free Access	1221810	$2,103	$0	$2,103
DMV Requirements	1221811	$3,734	$0	$3,734
Forms	1221812	$34,179	$0	$34,179
AR 2218 Totals		**$1,042,977**	**$24,034**	**$1,067,011**
AR 2219 Title I Improve Election Administration				
Absentee Office	1922125	$484,368	$0	$484,368
Wasilla Satellite Office	1922190	$439,302	$0	$439,302
Kenai Satellite Office (closed 10/15/07)	1922200	$565,514	$0	$565,514
Primary CC Early HAVA	1992219	$374,906	$0	$374,906
AR 2219 Totals		**$1,864,090**	**$0**	**$1,864,090**
AR 2208 VREMS Replacement to DIMS				
Replace VREMS to DIMS (EN# 0166374)	1992208	**$2,651,173**	**$0**	**$2,651,173**
Grand Totals		**$7,303,396**	**$220,696**	**$7,524,092**

Additional Notes for Title III requirements:

(1) *Voting System* - Alaska purchased Optical Scan units in 1998 to replace its punch card voting system. Alaska has 439 voting precincts. Sixty-six percent of the precincts are equipped with Optical Scan and 34 percent are hand-count precincts. The estimated $5.5 million will be used to implement a HAVA-compliant DRE voting system and to purchase additional Optical Scan units for a portion of Alaska's precincts. In addition, the Division plans to purchase more memory cards for the Accu-Vote Optical Scan voting machines. Installation, training and maintenance costs are included in this figure.

Since Alaska purchased its computerized statewide voting system, replacing punch card voting equipment, prior to November of 2000, Alaska is not eligible to seek reimbursement under Title I, Sec 102 for these expenditures. However, outside of HAVA, PL 108-7 included $15 million in funds to states who purchased Optical Scan systems prior to the 2000 election. So far, only five states, which include Alaska, were eligible for compensation from the $15 million appropriation. Alaska received a $1.1 million reimbursement that was deposited into the State's general fund and is not included in the State's budget for implementing requirements of HAVA.

(2) *Provisional Voting* - Provisional voting, known as *Questioned* voting in Alaska, has been available to voters in Alaska since the early 1980s. There were minimal changes needed to meet the provisional voting requirements of HAVA.

(3) *Computerized Statewide Voter Registration System* - Alaska is working on replacing the antiquated Voter Registration Election Management System (VREMS) with a new pc-based database system.

The estimated costs associated with implementing the requirements in HAVA are based on the funding information available at the time that the plan was updated. The budget will be revised

appropriately to reflect the most current information available on federal funding and 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 even calendar years. 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, production of election pamphlets, information technology support, and the purchasing of equipment and supplies. The maintenance of effort for the State's FY00 budget represents a portion of the total operating budget that is appropriated to carry out election administrative activities in an even fiscal year.

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. Therefore, the Director is ultimately responsible for ensuring that the Division meets each performance goal. 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	Completed
Provisional Voting §302	Director of Elections	Completed
Voter Registration §303(a) §303(b)	Director of Elections	§303(a) Implemented §303(b) Implemented
Other Activities §101 (b)(1), §251 (b)(2)		
Technical Infrastructure	Election Admin. Supervisor	Continuous
Free-Access System	Admin Asst. Supervisor HAVA Coordinator	Implemented
Education and Training §254(a)(3)	Regional Supervisors Election Special Assistant HAVA Section	Continuous
Budget and Fiscal Controls §254(a)(2) §254(a)(6) §254(a)(7) §254(a)(10)	Admin. Asst. Supervisor Election Administrative Supervisor Director	Continuous State monitors HAVA account each month
Complaint Procedures §254(a)(9) §402	Director of Elections	Completed

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 constitute a new article 6 AAC 25.400 – 490 that is now a part of the Division's administrative regulations set out at Title 6, Chapter 25 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 State will dismiss the complaint and publish the results. The Division will make a final determination on a complaint within 90 days. If the Division cannot meet this deadline, the complaint will proceed under alternative dispute resolution procedures.

The Division adopted these administrative regulations on August 29, 2003.

Additionally, the Division developed an Administrative Complaint form that can be found at any Division of Elections office and on the Division's web site.

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 established an Election Fund.

Current activities carried out under the plan have improved the administration of elections for federal office and the election process as a whole.

Upon receipt of Title I monies, the Division of Elections is using 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.**

  The State plan is created and updated by the HAVA Project Coordinator, and costs for plan maintenance are tracked by that position.

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

  Implementation and development of the Division's website, the maintenance of the free-access systems, and preparation of training materials used by voters have been completed to comply with the Act. In addition, the Division provides touch screen voting unit demonstrations to the public and specifically targets members and groups of the disabled community.

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

The Division has improved training systems with the goal of training more election workers closer to an election. The challenge continues to be training citizens with diverse physical, social and cultural differences across a vast geographical area in a short time period. In order to bring election worker training closer to Election Day, the Division has created a new training assistant position for each region. In some regions of the state, the Division trained election workers one month before the election.

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

The Division is continuing the process of implementing a new statewide voter database to replace the antiquated VREMS system.

In addition, the Division has developed methods to improve how the touch screen voting units are shipped, and has created procedures that result in less transportation costs and damage to the units.

- **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 Indigenous Native citizens, and to individuals with limited proficiency in the English language.**

The Division has developed a polling place survey and worked in coordination with the State ADA coordinator on the assessment of polling places within Alaska. In 2007, the Division plans to evaluate newly established polling places in preparation for the 2008 election year. Improvements to polling places for 2008 will be made using the Health and Human Services accessibility grant funds.

Using Health and Human Services accessibility grant funds, the Division is obtaining a new HAVA Program Assistant position, which will be solely responsible for surveying polling places statewide, assisting with training of staff, and developing methods to inform the public about the improvements made to locations.

In addition, the Division is working on developing an updated statewide language assistance program that specifies what type of assistance is available to minority language voters across the state.

- **Establishing free-access telephone 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. Additionally, voters may contact another toll-free number to determine the count of their ballot or file an administrative complaint. With the development and implementation of the new DIMS registration system, the Division hopes to make the information provided by those telephone systems also available on the Division's website.

Voters also have the option of checking the status of their absentee ballot by using the Division's absentee ballot locator. Using this web-based tool, voters can log on with an identifier such as a social security number and see if their application has been processed, a ballot has been sent, and if a voted ballot was received back.

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 Lieutenant Governor, as the "Chief State Election Official" under Section 253(e), is responsible for coordination of the State's responsibilities under this Act. The Division Director, appointed by the Lieutenant Governor, oversees the day-to-day operations of the Division. Therefore, the Lieutenant Governor is ultimately responsible for continuous management and implementation of the State Plan. These responsibilities include tracking resource requirements, managing HAVA funds, and ensuring that additional implementation projects are in compliance and on schedule.

The Division employs both a HAVA Project Coordinator and a HAVA Election Systems Manager to oversee the implementation of HAVA-related projects and activities. Under the purview of the Director, the HAVA Project Coordinator and HAVA Election Systems Manager strive to continually improve polling place accessibility and language assistance programs, increase voter outreach efforts, and manage the implementation and use of all voting equipment and the voter registration database. In addition, the HAVA Project Coordinator is responsible for updating the HAVA State Plan.

The updated HAVA State Plan is 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 is being managed closely to achieve compliance, maximize improvements to all aspects of the election process, and continue 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.

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.

The State of Alaska's 2008 HAVA Updated State Plan remains consistent, with steady progress towards the goals established in the initial 2003 and the updated 2005 State Plan. The State of Alaska passed legislation to bring the state into compliance with HAVA requirements; developed new staff positions to manage HAVA; updated forms and training materials; and continues to design improved voter outreach programs.

Since the 2005 State Plan, the Division has launched a new, improved website, developed additional educational brochures for voters and election workers, and created two new offices to increase the Division's accessibility to voters around the state. The Division now also distributes to every registered voter household an election pamphlet during all Primary elections where a ballot measure appears on the ballot.

Since the 2005 State Plan, the Division purchased 405 touch screen units using HAVA Funds, and, during the 2006 election year, fully implemented the touch screen voting units in compliance with Sec. 301. Each unit was retrofitted with a VVPAT to allow the voter to confirm their selections before casting their ballot and for use during the hand count verification process or a recount. Shipping containers for the units were designed and procured to safely ship the touch screens to and from the polling place locations. The Division developed and distributed informational brochures and training manuals for voters and election workers, highlighting the accessible features of the units and how to use them. The Division also held public demonstrations across the State to educate the public on the new voting units.

The Division established procedures for conducting a hand count verification procedure following every election in accordance with Alaska Statute. The Division is required to hand count ballots from one randomly selected precinct in each election district that accounts for at least five percent of the ballots cast in that house district. These procedures were utilized in the 2006 Primary and General Elections.

The Division commissioned the University of Alaska, Anchorage to conduct a study to examine the security and accuracy of the State's voting system and to make recommendations for improvements.

The State of Alaska is in full compliance with the requirement to verify voter registration information as required in Section 303(a)(5). A Memorandum of Agreement dated August 2003 between the Division of Election and the Division of Motor Vehicles (DMV) 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 maintained in the DMV database. The Alaska DMV has completed the process of verifying the last four digits of the social security number information with the American Association of Motor Vehicle Administrators (AAMVA). The verification program is now fully operational.

The Division continues to make progress with the implementation of the new voter registration system which will replace the outdated mainframe system. The Division continues to commit resources to development and technical requirements of the new system.

In 2005, the Alaska Legislature enacted A.S. 15.20.910, which defines "Standards for voting machines and vote tally systems".

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. The Division continues to seek consultation from the State Attorney General's office in our implementation of HAVA.

No public meetings are planned for this year. The Division will provide the State Plan Committee with a copy of the updated 2008 HAVA State Plan for review and comment. Additionally, the 2008 State Plan will be posted on the State's online public notice system and on the Division of Elections' website.

In 2007, Lieutenant Governor Sean Parnell updated the membership of the State Plan Committee. The State Plan Committee members continue 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:

Whitney Brewster, former Director of the Division of Elections, Chair of the Committee

Alyce Houston, Region I Election Supervisor, Juneau

Carol Thompson, Absentee & Petition Manager, Anchorage

Michelle Speegle, Region III Election Supervisor, Fairbanks

Edna Baker, Region IV Election Supervisor, Nome

Jim Beck, Executive Director, Access Alaska

Lynne Koral, First Vice-President, Alaska Independent Blind

Jason Burke, State of Alaska ADA Coordinator

Sarah Felix, Assistant Attorney General, State of Alaska

FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

KURT S. BROWNING
Secretary of State

April 30, 2007

The Honorable Donetta Davidson, Chair
United States Elections Assistance Commission
1225 New York Avenue, N.W., Suite 1100
Washington, D.C. 20005

Dear Commissioner Davidson:

In accordance with Section 255 of the Help America Vote Act of 2002 (HAVA), I am submitting a paper version and a disk containing the revised State of Florida HAVA Plan (2006 update) for publication in the Federal Register.

The HAVA State Plan (2006 Update) complies with section 253(b)(1) regarding conditions for receipt of funds, with section 254(a) regarding description and material changes to the State Plan from prior fiscal years, and with section 255 regarding development and filing of the State Plan. We regret that due to time constraints, the HAVA Plan (2006 Update) weaves both material and non-substantive changes into the existing HAVA Plan, rather than highlighting the changes in a separate supplement.

As you aware, the 2007 Florida Legislature is in session and there are a few pending election legislative proposals, at least one of which, if enacted, may necessitate a revision to our budget projections contemplated in the attached plan. We will obviously apprise the Commission in the appropriate manner of any material changes to the State of Florida's HAVA Plan.

On behalf of the State of Florida, thank you and the other members for your assistance and I look forward to continuing our collaborative effort to improve election administration.

Sincerely,

Kurt S. Browning
Secretary of State

Enclosures

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STATE OF FLORIDA HAVA PLAN

2006 UPDATE

As required by the

HELP AMERICA VOTE ACT OF 2002 (HAVA)

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KURT S. BROWNING
SECRETARY OF STATE
STATE OF FLORIDA

INTRODUCTION BY THE CHIEF ELECTION OFFICER

I am pleased to present the 2006 Update to Florida's HAVA State Plan in accordance with the Help America Vote Act. This state plan represents Florida's ongoing long-range plans for implementing the election reforms initiated by HAVA for federal elections.

This most recent revision is the product of the thoughtful guidance, dedication and input of former Secretary Sue M. Cobb and the new HAVA Planning Committee that she appointed in September 2006. Chaired by former Secretary of State Jim Smith, the 13-member Committee included individuals from various constituency groups and governmental interests. At the time, I served on the Committee in my capacity as the Supervisor of Elections for Pasco County. The Committee was tasked with revising the plan to reflect compliance with HAVA and include substantive changes and updates on ongoing activities since the Plan's last update in June 2004. In the interim of finalizing and submitting the 2006 update to the HAVA State Plan, Secretary Cobb's term expired and I was honored by being appointed as her successor.

The HAVA State Plan (2006 Update) complies with section 253(b)(1) regarding conditions for receipt of funds, with section 254(a) regarding description and material changes to the State Plan from prior fiscal years, and with section 255 regarding development and filing of the State Plan. This update also weaves in non-substantive changes (e.g. corrections to spelling, punctuation, reformatting, etc.).

Most importantly, this plan projects a budget for HAVA activities through Fiscal Year 2010-11. The projected budget recognizes that Supervisors of Elections have a continuing need for funds to provide voter education and to recruit and train qualified poll workers. As the Chief Election Officer, I am committed to working with and supporting our Supervisors as we continue to ensure that elections in Florida are a model for the rest of the nation.

Kurt S. Browning
Secretary of State

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 occurs 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 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. Statewide polls taken the day of the 2002 and 2004 General Elections 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 is spreading 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.**

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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 (Public Law 107-252 – October 29, 2002) requires all States to develop and implement a statewide plan. Specifically section 254 requires the state plan to include and describe the following thirteen primary elements:

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

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

1. 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 (DRE or "touch screen") 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 2002 Voting System Standards (VSS) 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. The Bureau is currently in the process of reviewing and comparing Division rules on voting system standards against the 2005 Voluntary Voting Systems Guidelines adopted by the Elections Assistance Commission. The federal guidelines augment and update the 2002 VSS and take effect December 2007.

Florida's 67 counties have authority to purchase and to maintain the appropriate certified voting system for their registered voters. Following the 2000 General Election, the State of Florida provided $24 million to assist counties in purchasing new certified voting systems. For the fiscal year 2004-05 the Florida Legislature additionally appropriated $11.6 million to assist Supervisors of Elections with purchasing DREs in order to provide one accessible voting system at each polling place. For the fiscal year 2005-06 the Legislature appropriated $13,406,163 to reimburse sixteen counties that acquired accessible voting systems prior to July 1, 2004. In addition, there were eight counties that received a total of $63,215 as reimbursement for existing DREs that were not included in the fiscal year 2004-05 appropriations.

Only two types of voting methods are certified for use in Florida's 67 counties— Direct Recording Electronic (DRE or "touch screen") voting systems and Marksense with precinct-based tabulation. There are three manufacturers who have certified voting systems for use in Florida: Diebold Election Systems, Inc. (DESI); Elections Systems and Software, Inc. (ES&S); and Sequoia Voting Systems, Inc. (SP).

The following chart details the types of voting systems used in Florida, the respective manufacturer, and the number of counties using the voting systems.

Voting Systems and Number of Counties in Use For Precinct and Absentee Voting*

Florida Certified Voting System	Precinct Equipment	Accessible Equipment	Central Count Method	Counties
Diebold Voting System Release 1-18-19, Version 2	AccuVote OS	AccuVote TSx DRE	Optical scan	22
Diebold Voting System 2005 B (Blended) + (Plus Audio)	AccuVote OS	AccuVote TSx DRE	Optical scan	9
ES&S Voting System Release 4.5, Version 1	Optech III P Eagle	iVotronic DRE	Optical scan	7
ES&S Voting System Release 4.5, Version 2	Model 100	iVotronic DRE	Optical scan	14
ES&S Voting System Release 4.5, Version 2	iVotronic DRE	iVotronic DRE	Optical scan	11
Sequoia AVC "Edge" Voting System Release 4.3.320	Edge I DRE	Edge I DRE	Optical scan	4

*Current for time period October 2006

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 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:

2. Section 301(a) Voting System Standards and Requirements

a. 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 as required?

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."

The Florida Voting System Standards (Rule 1S-5.001, Florida Administrative Code, rev. 01/05) 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." Additionally, these standards 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."

b. 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.
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." Additionally, the Florida Voting System Standards 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."

Section 101.5608(2)(b), *Florida Statutes*, requires that "[a]ny 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 Section 101.5611, *Florida Statutes*. A spoiled ballot shall be preserved, without examination, in an envelope

KURT S. BROWNING
SECRETARY OF STATE
STATE OF FLORIDA

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."

c. 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." Subsection (4) of that same section requires systems using paper ballots to 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 over voted or under voted.

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."

The Florida Voting System Standards (Rule 1S-5.001, F.A.C.) 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." The standards also 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."

d. 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)?

Yes, and no further actions are required.
The Florida Legislature 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.*

In addition, Rule 1S-2.032, *Florida Administrative Code (F.A.C.)*, (Uniform and General Election Ballot Design) instructs all voters on 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 instructions for how to correct the error through issuance of a replacement ballot are:

> *If you make a mistake, don't hesitate to ask for a new ballot. If you erase or make other marks, your vote may not count.*

The HAVA Planning Committee (2003) 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 101.65, *Florida Statutes*, requires the printed instructions to include the following statement:

> *1. VERY IMPORTANT. In order to ensure that your absentee ballot will be counted, it should be completed and returned as soon as possible so that it can reach the Supervisor of Elections of the county in which your precinct is located no later than 7 p.m. on the day of the election.*

e. 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 marked 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,* details the policy and procedure local canvassing boards are to follow for handling absentee ballots to ensure that the confidentiality of the ballot is maintained.

f. 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 (2003) 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 (2003) 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. Pursuant to that authority, the Florida Voting System Standards (Rule 1S-5.001, F.A.C., last rev. 01/05 but under current bi-ennial review):

- Provides 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."

- Requires 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.

- Requires 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.

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.

Section 102.166(5)(d), *Florida Statutes*, requires the Department of State to adopt detailed rules prescribing additional recount procedures for each certified voting system which shall be uniform to the extent practicable. Rule 1S-2.031, F.A.C., addresses 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

g. 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?

Yes, and no further actions are required.
Prior to the enactment of HAVA, the Secretary of State appointed the 2001 Select Task Force on Voting Accessibility to conduct a comprehensive review of Florida's election laws and procedures relative to the obstacles for voters with disabilities and to develop solutions for overcoming those obstacles. The Task Force recommended legislation to ensure that such voters could fully exercise their right to a secret ballot, as guaranteed by section 1 of article VI of the Florida Constitution. In 2002, many of the Task Force's recommendations of the task force were passed by the Legislature and signed into law. (See 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.

Although HAVA's definition of what constitutes a voting system as found in Section 301(b), is comprehensive, it did not specifically define the standards necessary for making a voting system accessible to persons with disabilities. Florida had already performed the difficult and time consuming work of defining what makes a Florida voting system accessible for persons with disabilities. Those accessible voting systems standards are found in Section 101.56062, *Florida Statutes* (Chapter 2002-281, *Laws of Florida*). Moreover, the intent of the Legislature to comply fully with Federal requirements is clearly set out in section 101.56063, *Florida Statutes*, as follows:

> 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.

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Accordingly, the HAVA Planning Committee (2004) recommended that the Division require that all new certified voting systems comply with the requirements of Section 101.56062, *Florida Statutes*. That section requires any voting system certified in the state to have the capability to include an accessible voter interface device that would allow the system to meet 14 categories of accessible standards. This section also mandated that at least one accessible voter interface device actually be installed in each precinct in elections after July 1, 2005. The section was later amended in 2005 to require the installation of at least one accessible voter interface device be in each polling place in lieu of each precinct. This change conformed to language in HAVA. Further, any purchase of a voting system by a governmental entity after July 1, 2004 is required to include a contract for future upgrades and sufficient equipment to meet the general standards and the accessibility standards for certifying voting systems under section 101.5606 and section 101.56062, *Florida Statutes*, respectively.

The 2004 Florida Legislature triggered the accessibility standards found in Section 101.56062, *Florida Statutes*, (Chapter 2002-281, Laws of Florida) by making HAVA funds available to counties through the Department of State. The language read as follows:

> From the funds in Specific Appropriation 2871I, $11,600,000 shall be distributed by the Department of State to county Supervisors of Elections for the purchase of Direct Recording Equipment (DRE) or other state approved equipment that meets the standards for disability requirements which is accessible to persons with disabilities to ensure that each county has one accessible voting system for each polling place.

The funds were distributed according to the number of machines that are accessible for persons with disabilities that were needed in order for each county to have one per polling place. No Supervisor of Elections was to receive any funds until the county Supervisor of Elections certified to the Department of State: 1) the number of precincts in the county; 2) the number of polling places in the county; 3) the number of voting machines the county has that meet the disability requirement; 4) the county's plan for purchasing the DREs; and 5) the date that the county anticipates being in compliance. The Department of State determined the number of DREs needed in each county based on the certifications provided by the Supervisors of Elections. Any county that received funds from Specific Appropriation 2871I and was not in compliance with the accessibility requirements in Section 301(a)(3) Title III of the Help America Vote Act by January 1, 2006, was required to return those funds to the State.

In January 2006 the Division of Elections surveyed each of the 67 Supervisors of Elections to determine whether counties had accessible voting systems for each polling place or if signed contracts were in place to acquire accessible voting systems in the event delivery had yet not taken place. Two counties did not have signed contracts for purchasing

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accessible voting systems by January 1, 2006. Both counties had to return the funds pursuant to the conditions of the memorandum of agreement between the Department of State and the Supervisors of Elections as well as language included in the Appropriations Act. In 2006, the Florida Legislature re-appropriated the funds to redistribute the voting systems assistance funds to those two counties. Pursuant to language in the Appropriations Act, distribution of the funds was contingent upon the Department of State receiving a certificate from each county certifying that "accessible voting equipment meeting the requirements of section 301(a) of Title III of the Help America Vote Act had been delivered, accepted by the county, and was ready for use in an election."

The HAVA Planning Committee (2004) also encouraged the Legislature to continue to support accessible voting for persons with disabilities by mandating that provisional ballots for voters with disabilities be provided to them by a system that meets the requirements of Section 101.56062, *Florida Statutes*, by January 1, 2006. Section 101.048, *Florida Statute* specifically states "...the Supervisor of Elections may, and for persons with disabilities shall, provide the appropriate provisional ballot to the voter by electronic means that meet the requirements of section.101.56062, as provided for by the certified voting system."

Florida is currently in compliance with HAVA requirements for accessibility equipment. By 2004, all three vendors (Diebold Election Systems, Inc., Elections Systems and Software, Inc., and Sequoia Voting Systems, Inc.) had certified accessible voting equipment with audio ballot capability. By 2005, two of the three vendors being used in Florida had certified accessible voting equipment with the electronic provisional ballot capability. The third vendor obtained certification for their system with the electronic provisional ballot capability in January 2006.

The HAVA Planning Committee (2004) also discussed polling place accessibility even though this topic is not required to be addressed in the HAVA plan. It was noted that the State of Florida had taken the initiative to contract with the Disability Relations Group to help it comply with HAVA. In addition, the Division of Elections applied for polling place accessibility funding with the U.S. Department of Health and Human Services (HHS). To date, the Department has received four grants from HHS for a total amount of $2,203,909.

Several members of the HAVA Planning Committee (2004) noted there is a sense of urgency to bring polling places into compliance. One Committee member referred to a United States Supreme Court decision that required government to comply with the Americans with Disabilities Act. The HAVA Planning Committee (2004) recommended that the State of Florida address the polling place issue quickly by asking the Governor to provide emergency funding to bring polling places into ADA compliance.

The HAVA State Planning Committee (2006) recommends that the Florida Legislature encourage vendors to continue to develop enhancements and new technologies that meet or

exceed federal and state requirements for accessibility in voting systems and polling places. For example, legislation could be enacted that provides for limited provisional certification and use of innovative hardware and software for voting systems that have not yet been proven to meet full certification requirements. The Committee also encourages the Division of Elections to continuously review and update voting systems certifications standards that allow for new technologies to be appropriately certified for use in elections.

Section 101.294, *Florida Statutes,* now states that vendors may not provide an uncertified voting system, voting system component or voting system upgrade. In addition, vendors are required to provide the local governing body or Supervisor of Elections with a sworn certification that the voting system, voting system component or voting system upgrade being provided has been certified by the Division of Elections.

h. 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.

i. 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). Additionally, the Florida Voting System Standards (Rule 1S-5.001, F.A.C., rev. 01/05) require that all configurations must support all voter interface functions at a minimum, in English, Spanish, and Haitian Creole. Counties using Marksense voting systems must meet the requirements of Section 203 of the Voting Rights Act by printing ballots in the required languages.

j. 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 meet the error rate established by the 1990 Federal Elections Commission and is in compliance with HAVA requirements. The Division of Elections is committed to periodic update of its voting systems standards which are under current review. Although not bound by guidelines adopted by the Election Assistance

Commission, to the extent reasonably feasible and logistically adopted by the Election Assistance Commission, the Division of Elections will review its standards against the 2005 Voluntary Voting System Guidelines (effective 2007) and to the extent reasonably feasible, logistically possible and compliant with state law, the Division shall consider those standards and any subsequent standards in any update to its state standards.

k. 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(4)(a), *Florida Statutes*, states that "a vote for a candidate or ballot measure shall be counted if there is a clear indication on the ballot that the voter has made a definite choice." Subsection (b) further 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:

- Exclusively provide that the voter must properly mark or designate his or her choice on the ballot; or
- 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.

3. 2006 Auditor General Findings

In 2006, the Auditor General conducted an operational audit on the Department of State's administration of the Federal Help America Vote Act of 2002 during the period July 1, 2004 through February 28, 2006, and other select activities through May 23, 2006. See Report 2006-194, "Department of State - Help America Vote Act (HAVA) and the Florida Voter Registration System (FVRS) - Operational Audit." In Finding #1: Voting System Certification Checklist, the Auditor General states that the Department had implemented voting system certification procedures that incorporated the requirements included in Section 101.5606, *Florida Statutes*. However, the report notes that a procedure was not in place to evidence for the public record that the voting systems being certified had met the requirements of Florida law.

The Division of Elections web site provides public access to information on all certified voting system vendors by system title, county, vendor or precinct voting method. In addition, the Department has drafted a document (Florida Voting Systems certification Checklist & Test Record) that could provide a mechanism to document the Department's processes performed relating to Section 101.5606, *Florida Statutes*.

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(b)(2), to carry out other activities to improve the administration of elections.

1. 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 he or she is attempting to vote but his or her name does not appear on the official list of eligible voters, the individual is permitted to cast a provisional ballot.

a. *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 post 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 *or identity* is in question. The Division of Elections' Polling Place Procedures Manual (DS-DE 11) instructs poll workers to read informational signs that appear in print on the walls of the polling place and to offer magnifying sheets for visually impaired voters. Additionally, pursuant to Section 101.043(3), *Florida Statutes*, (effective January 1, 2006), persons who fail to provide photo identification and signature must be allowed to cast a provisional ballot.

b. 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, *Florida Statutes*, states that any voter claiming to be properly registered and eligible to vote at a particular precinct, but whose eligibility cannot be determined or whose eligibility is challenged by any person, 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 he or she is registered to vote and is a qualified

voter of the county in which he or she is attempting to vote, and has not previously voted in the election. If it is determined that the person voting the provisional ballot was not registered or entitled to vote at the precinct where the person cast a vote in the election, the provisional ballot shall not be counted and the ballot shall remain in the envelope containing the Provisional Ballot Voter's Certificate and Affirmation and the envelope shall be marked "Rejected as Illegal."

Currently, in Florida, in order for provisional ballots to count they must be cast in the precinct in which the voter is registered. This means that votes for President, U.S. Senate or other statewide officials such as Governor and Attorney General, would not be counted if a voter cast a provisional ballot at a wrong precinct. Section 302 of HAVA does not specify what constitutes the appropriate jurisdiction for casting and counting a provisional ballot. The section requires: If an individual states that [s/he] 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...such individual shall be permitted to cast a provisional ballot...

(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation ...stating that the individual is—
(A) A registered voter in the jurisdiction in which the individual desired to vote; and
(B) Eligible to vote in that election.

The HAVA State Plan Committee (2006) finds that the issue before the Committees in 2003 and 2004 regarding the definition of jurisdiction for purposes of determining whether someone is in the appropriate place to vote has since been resolved by the Florida Legislature and the courts. They have determined that jurisdiction refers to precincts and that in order to vote a provisional ballot a person must be in his or her designated precinct location.

c. 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, *Florida Statutes*, was amended in 2005 (effective January 1, 2006) in several places to permit a person casting a provisional ballot to have the right to present written evidence supporting his or her eligibility to vote to the Supervisor of Elections by not later than 5 p.m. on the 3rd day following an election. Section 101.111, *Florida Statutes*,

permits any elector or poll watcher to challenge the eligibility of any elector, including one who casts a provisional ballot, by filing an oath, using a specified form.

Section 101.048(2)(a), *Florida Statutes,* states the county canvassing board shall examine each provisional ballot envelope, other evidence presented by the provisional voter and any evidence presented by a challenger to determine by a preponderance of the evidence 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.

d. 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.

e. 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.
Subsections (5)-(6) of section 101.048, *Florida Statutes,* provide that each person casting a provisional ballot shall be given written instructions and information on how to determine whether his or her vote was counted.

f. 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?

Yes, and no further actions are required.
Subsections (5) and (6) of Section 101.048(5), *Florida Statutes,* require 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:

(5) Each person casting a provisional ballot shall be given written instructions regarding the person's right to provide the Supervisor of Elections with written evidence of his or her eligibility to vote and regarding the free access system established pursuant to subsection (6). The instructions shall contain information on how to access the system and the information the voter will need to provide to obtain information on his or her particular ballot. The

instructions shall also include the following statement: "If this is a primary election, you should contact the Supervisor of Elections' office immediately to confirm that you are registered and can vote in the general election."

(6) Each Supervisor of Elections shall 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. Information regarding provisional ballots shall be available no later than 30 days following the election. The system established must restrict information regarding an individual ballot to the person who cast the ballot.

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 has established the free access system for his or her county.

g. 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.
Section 101.048, *Florida Statutes,* 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.

2. 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.

a. 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.

b. 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.
Currently, all cards that are posted in accordance with section 101.031, *Florida Statutes*, in polling places include the hours the polls will be opened. 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 sample ballots posted in polling places in accordance with section 101.20(1), *Florida Statutes*, include the date of the election. 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.

d. 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?

Yes, and no 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*, requires the Supervisor of Elections to provide instructions at each polling place on the proper method for casting a ballot for the specific voting system used in that jurisdiction.

Section 97.026, *Florida Statutes,* amended in 2002, states the intent of the Legislature that all forms required to be used under Florida's elections laws shall be made available, upon request, in alternative formats. It was further amended, in 2005 (effective January 1, 2006), to permit the Department of State to adopt rules to administer this provision. The Department produces, upon request, instructions and forms in alternative formats.

The Division of Elections distributes periodically to all 67 counties posters that include instructions to voters that are to be displayed at each polling place on Election Day. A copy of the poster in English and Spanish is included in Appendices A-B. In Miami-Dade County, the posters are printed in English, Spanish and Creole. These posters inform voters about what specific forms of identification are acceptable, when they would need to vote a provisional ballot, instructions on how to cast a provisional ballot, and instructions on how to provide written evidence of eligibility. Effective as of January 1, 2006, sections 101.031, and 101.043, Florida Statutes, now provide that a voter can no longer prove his or her identify by signing an affidavit. Specific forms of identification are required without which the person must be allowed to vote a provisional ballot.

e. Section 302(b)(2)(D) Are instructions for mail-in registrants and first-time voters under section 303(b) posted on Election Day?

Yes, and no further actions are required.
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 Division of Elections distributes periodically to all 67 counties posters that provide instructions to mail-in registrants and first-time voters. A copy of the poster in English and Spanish is included in Appendices A-B. In Miami-Dade County, the posters are printed in English, Spanish and Creole.

f. 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*, last amended in 2005, requires the Supervisor of Elections in each county to post 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 or identity is in question.
6. If his or her registration or identity is in question, cast a provisional ballot.
7. Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.
8. Vote free from coercion or intimidation by elections officers or any other person.
9. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

g. Section 302(b)(2)(E): Is contact information posted for voters who allege their rights have been violated?

Yes, and no further actions are required.
As indicated before, 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.

Additionally, the Division of Elections has updated and reprinted the Voter's Bill of Rights and Responsibilities, as modified in 2005, on to the posters. These posters are distributed to all 67 counties and displayed at each polling place on Election Day. The posters have been updated to provide voters with contact information if they believe their voting rights have been violated. The specific instruction states: *You may have other voting rights under state and federal laws. If you believe your voting rights have been violated, please contact Florida Department of State, Division of Elections, 1-877-868-3737*, a toll-free number.

A copy of the poster in English and Spanish is included as Appendices C and D. In Miami-Dade County, the posters are printed in English, Spanish and Creole.

h. 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 post 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."

i. 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.
Section 101.049, *Florida Statutes,* permits, under special circumstances, 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. Provisions related to persons with disabilities were added in 2005 (effective January 1, 2006) and are described in another section of this report.

j. Section 302(d): The effective date for complying with the Provisional Voting and Voting Information requirements is on and after January 1, 2004.

The Provisional Voting and Voting Information Requirements were completed as required by HAVA on January 1, 2004.

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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(b)(2), to carry out other activities to improve the administration of elections

1. Introduction

The Help America Vote Act of 2002 (HAVA) establishes minimum requirements for a single, centralized, computerized statewide voter registration list that will serve as the single system for storing and managing the official list of registered voters throughout the State. The basis for developing and maintaining a single registration system is (1) to ensure with accuracy and timeliness that all eligible voters can vote and (2) to ensure that all ineligible persons cannot vote.

The Florida Legislature authorized the Secretary of State to create and administer a statewide voter registration system as required by HAVA. In addition, the Florida Legislature authorized the Secretary of State to delegate voter registration duties and records maintenance activities to voter registration officials whose responsibilities shall be performed in accordance with state and federal law. These changes were effective January 1, 2006.

2. Computerized Statewide Voter Registration List Requirements

a. *Section 303(a)(1)(A)(i)-(vii) through 303(a)(5): 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?*

Yes, and no and further actions are required.

Florida Voter Registration System Implementation

The Department of State began designing a new statewide voter registration system in 2003 which would comply with HAVA. The new system known as the Florida Voter Registration System (FVRS) is designed to interface and operate with the 67 county voter registration systems to maintain a single, uniform, official, centralized, interactive computerized voter registration system. The local Supervisor of Elections is responsible for updating voter registration information, entering new voter registrations, and acting as the official custodian of voter registration documents at the county level. In addition, each

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local Supervisor of Elections ensures that list maintenance duties are conducted in accordance with Section 98.015, 98.065, and 98.075, *Florida Statutes*. However, the Secretary of State, as chief election officer, is responsible for implementing, operating, and maintaining the statewide voter registration system as required by HAVA (Section 98.035, *Florida Statutes*).

The FVRS became fully operational in January 2006 and complies with all of HAVA requirements under Section 303 (a) as follows:

i. The FVRS is the single uniform, official, centralized, interactive statewide voter registration system for storing and managing the official list of registered voters throughout the State (Section 98.035, *Florida Statutes*).

ii. The FVRS contains the name and registration information of every legally registered voter in the state (Section 98.035, *Florida Statutes*).

iii. The FVRS provides each legally registered voter in Florida with a unique identifier (Section 98.035, *Florida Statutes*).

iv. The FVRS is coordinated with other agency databases including the Department of Health, the clerk of the circuit court, the United States Attorney's office, the Department of Law Enforcement, the Board of Executive Clemency, the Department of Corrections, and the Department of Highway Safety and Motor Vehicles (Section 98.093, *Florida Statutes*).

v. Any authorized election official in Florida, including any authorized local election official, may obtain immediate electronic access to the voter registration information in the FVRS (Sections 97.012 and 98.015, *Florida Statutes*).

vi. All voter registration information obtained by authorized local election officials in Florida is electronically entered into FVRS on an expedited basis at the time the information is provided to the local official (Section 97.053 and 98.015, *Florida Statutes*).

vii. The Secretary of State as chief election officer provides support as may be required so that local election officials are able to enter information (Section 97.012, *Florida Statutes*).

viii. The FVRS serves as the "official" voter registration list for the conduct of all elections for Federal office in the Florida (Section 98.035, *Florida Statutes).*

In order to oversee further the voter registration requirements of HAVA and the Florida law, the Secretary of State established the Bureau of Voter Registration Services in 2005. The Bureau of Voter Registration Services has four management areas:

- Office of Bureau Chief: Manages the overall operations of the Bureau and FVRS.
- Voter Services Section: Processes voter registrations and enters data into the FVRS.
- The Compliance and Regulation Section: Assesses county and agency records to perform credible and reliable checks on potential ineligible voters.
- NVRA Section: Coordinates operations of the 1993 National Voter Registration Act and the Florida Voter Registration Act.

3. Computerized List Maintenance

a. *Section 303(a)(2): Does Florida have the appropriate State or local election official to perform various list maintenance functions on a regular basis including a removal process in accordance with NVRA of 1993?*

Does Florida have a process in place to remove ineligible voters from the list of eligible voters that complies with Section 8 of 42 U.S.C. 1973?

Does Florida's FVRS list maintenance procedure ensure that each registered voter's name will appear on the list, that duplicate names are eliminated from the list, and that only persons who are not registered or who are not eligible to vote are removed from the computerized list?

Yes, and no further actions are required.

Computerized List Maintenance

The FVRS is maintained according to the HAVA requirements to ensure that the names and registration information of every legally registered voter in the State are on the computerized list. Only supervisors of elections are authorized to remove voters who are not eligible. Two primary maintenance processes occur to ensure that the voter registration records are accurate and current.

Each of Supervisor of Elections is required to conduct a bi-ennial general list maintenance program in a nondiscriminatory manner and in compliance with the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote act of 2002 (Section 98.065, *Florida Statutes*). This list maintenance process includes actions such as incorporating changes of address notices and requests, designating inactive voters, and removing voters from the list. At the state level, the Bureau of Voter Registration Services also conducts daily list maintenance activities pursuant to Section 98.075, *Florida Statutes*,

in a uniform, nondiscriminatory manner and in compliance with the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002. This process culminates with activities by the local supervisors of elections who make the final determination of whether to remove an ineligible registrant from the computerized list. The Bureau initially identifies duplication registrations for subsequent resolution and removal by the local supervisors of elections. The Bureau also identifies through credible and reliable checks of comparative data obtained from various state agencies those registrants who have been adjudicated mentally incapacitated and their right to vote have not been restored, and who have been convicted of a felony and whose rights have not been restored before forwarding the information to the supervisors of elections for removal of those voters in accordance with Section 98.075, Florida Statutes. All other registrants who may be ineligible based on other criteria such as age, lack of U.S. citizenship, fictitious name, or non-legal residence) are similarly subject to the notice and removal process in Section 98.075, Florida Statutes, regardless of the source of the information in accordance with the HAVA requirement to ensure against removing eligible voters in error.

4. Technological Security of Computerized List

Section 303(a)(3):Does Florida have the appropriate State or local official to provide adequate technological security measures to prevent the unauthorized access to the FVRS?

Yes and no further actions are required.

a. Technological Security of Computerized List/Risk Management

Pursuant to the requirements of chapter 282, *Florida Statutes*, the Department of State, as is required of all agencies, conducts, and periodically updates, a comprehensive risk analysis to determine the security threats to data and information technology resources within the department and its divisions and bureaus. The Florida Voter Registration System (FVRS) is now included as a part of that risk analysis. The risk analysis information is confidential and exempt from the provisions of Section 119.07(1), *Florida Statutes*, except to the Auditor General so that he or she may perform post-auditing duties.

In 2006, the Department of State requested that the Auditor General conduct an operational audit of the Florida Voter Registration System. In response to certain findings highlighted in the subsequently issued Auditor General's report, entitled "*Department of State-Help America Voter Act (HAVA) and the Florida Voter Registration System (FVRS)-Operational Audit,*" (Report No. 2006-194), the Department completed a baseline risk assessment of FVRS in June 2006. Additionally, the Department took other major steps in response to the report including the creation of a system security plan and the execution of a memorandum of understanding between the Department of State and each of the 67 county Supervisors of

Elections regarding information security issues and protocols. The Department has designated a chief information security manager for FVRS who provides assistance or guidance as needed to local system security administrators in each of those counties and is developing a formal training program.

Additionally, the Department is reviewing its overall and local Information Technology (IT) recovery disaster and regional response plans known collectively as "COOP plans" for purposes of ensuring full integration of the FVRS system into such plans. The Department is periodically updating technological security policies at the department level and updating authorization procedures. Moreover, the Department continues to develop improved capabilities for documenting all FVRS users and access.

b. IT Governance Model

The Department of State is providing adequate technological security measures to prevent unauthorized access to the Florida Voter Registration System in accordance with section 303(a)(3) of the Help America Vote Act and in a manner consistent with the U.S. Elections Assistance Commission's "Voluntary Guidance on Implementation of Statewide Voter Registration Lists, July 2005" At a minimum, the Department has established standard technological security and access protocols for FVRS to protect the voter registration data from unauthorized and illegal access, modification and disclosure, particularly in consideration of data designated as confidential and/or exempt under Florida's Public Records Law. As an added security measure, the FVRS has been designed to track and record complete transactional history within the database for purposes of subsequent audit and accountability. For recovery and restoration purposes, a full backup of all FVRS data is performed on a daily basis and such tape copy is stored in a protected off-site location.

c. Data Integrity

The Department continues to improve on its measures to ensure the integrity of the FVRS data. For example, it has improved its systematic ongoing match process for identifying duplicate records each time a new voter registration applicant is entered into FVRS. Working in conjunction with the Florida Department of Law Enforcement, the Department will expand, as time and resources permit, its systematic 'credible and reliable review' process to existing registered voter records in order to identify potentially ineligible persons based on initial comparisons against felony conviction data. The Department continues to use other agency databases to conduct data matching and verification functions associated with the voter registration process. Also as part of the Department's responsibility to oversee the process for ensuring accurate and current registration records in FVRS, the Department is reviewing and will review periodically bi-annual certifications filed by the respective Supervisors of Elections regarding their efforts to conduct registration list maintenance and registration record maintenance activities based on address changes and grounds for ineligibility, respectively.

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5. Minimum Standards for Accuracy of State Voter Registration Records

Section 303(a)(4):Does Florida have a minimum standard of accuracy for voter registration records which removes registrants consistent with the NVRA of 1993 who have not responded to notices and who have not voted in 2 consecutive general elections for Federal office? Does Florida have safeguards to ensure that eligible voters are not removed in error from the FVRS?

Yes, and no further actions are necessary.

The FVRS is updated regularly as required by HAVA to remove registrants who are ineligible to vote consistent with the National Voter Registration Act of 1993. The Florida Legislature put in safeguards to ensure that eligible voters are not removed in error as required by HAVA (Sections 98.065 and 98.075 *Florida Statutes*). Additionally if any person is removed erroneously or illegally from the FVRS, the name of the elector shall be restored by a voter registration official upon satisfactory proof, even though the registration period is closed (Section 98.081, *Florida Statutes*).

Excerpted below are the statutory notice and due process procedures that a Supervisor of Elections must follow before he or she can remove ineligible voters who have been adjudicated mentally incapacitated and have not had their voting rights restored, or who have been convicted of a felony and whose rights have not been restored:

Section 98.075(7), Florida Statutes-- PROCEDURES FOR REMOVAL

(a) If the supervisor receives notice or information pursuant to subsections (4)-(6), the supervisor of the county in which the voter is registered shall:

1. Notify the registered voter of his or her potential ineligibility by mail within 7 days after receipt of notice or information. The notice shall include:

a. A statement of the basis for the registered voter's potential ineligibility and a copy of any documentation upon which the potential ineligibility is based.

b. A statement that failure to respond within 30 days after receipt of the notice may result in a determination of ineligibility and in removal of the registered voter's name from the statewide voter registration system.

c. A return form that requires the registered voter to admit or deny the accuracy of the information underlying the potential ineligibility for purposes of a final determination by the supervisor.

d. A statement that, if the voter is denying the accuracy of the information underlying the potential ineligibility, the voter has a right to request a hearing for the purpose of determining eligibility.

e. Instructions for the registered voter to contact the Supervisor of Elections of the county in which the voter is registered if assistance is needed in resolving the matter.

f. Instructions for seeking restoration of civil rights following a felony conviction, if applicable.

2. If the mailed notice is returned as undeliverable, the supervisor shall publish notice once in a newspaper of general circulation in the county in which the voter was last registered. The notice shall contain the following:

a. The voter's name and address.

b. A statement that the voter is potentially ineligible to be registered to vote.

c. A statement that failure to respond within 30 days after the notice is published may result in a determination of ineligibility by the supervisor and removal of the registered voter's name from the statewide voter registration system.

d. An instruction for the voter to contact the supervisor no later than 30 days after the date of the published notice to receive information regarding the basis for the potential ineligibility and the procedure to resolve the matter.

e. An instruction to the voter that, if further assistance is needed, the voter should contact the Supervisor of Elections of the county in which the voter is registered.

3. If a registered voter fails to respond to a notice pursuant to subparagraph 1. or subparagraph 2., the supervisor shall make a final determination of the voter's eligibility. If the supervisor determines that the voter is ineligible, the supervisor shall remove the name of the registered voter from the statewide voter registration system. The supervisor shall notify the registered voter of the supervisor's determination and action.

4. If a registered voter responds to the notice pursuant to subparagraph 1. or subparagraph 2. and admits the accuracy of the information underlying the potential ineligibility, the supervisor shall make a final determination of ineligibility and shall remove the voter's name from the statewide voter registration system. The supervisor shall notify the registered voter of the supervisor's determination and action.

5. If a registered voter responds to the notice issued pursuant to subparagraph 1. or subparagraph 2. and denies the accuracy of the information underlying the potential ineligibility but does not request a hearing, the supervisor shall review the evidence and make a final determination of eligibility. If such registered voter requests a hearing, the supervisor shall send notice to the registered voter to attend a hearing at a time and place specified in the notice. Upon hearing all evidence presented at the hearing, the supervisor shall make a determination of eligibility. If the supervisor determines that the registered voter is ineligible, the supervisor shall remove the voter's name from the statewide voter registration system and notify the registered voter of the supervisor's determination and action.

(b) The following shall apply to this subsection:

1. All determinations of eligibility shall be based on a preponderance of the evidence.

2. All proceedings are exempt from the provisions of chapter 120.

3. Any notice shall be sent to the registered voter by certified mail, return receipt requested, or other means that provides a verification of receipt or shall be published in a newspaper of general circulation where the voter was last registered, whichever is applicable.

4. The supervisor shall remove the name of any registered voter from the statewide voter registration system only after the supervisor makes a final determination that the voter is ineligible to vote.

5. Any voter whose name has been removed from the statewide voter registration system pursuant to a determination of ineligibility may appeal that determination under the provisions of s. 98.0755.

6. Any voter whose name was removed from the statewide voter registration system on the basis of a determination of ineligibility who subsequently becomes eligible to vote must reregister in order to have his or her name restored to the statewide voter registration system.

Additionally, in order to monitor the supervisors of elections' voter registration records maintenance activities, supervisors are required to file bi-annual reports on the activities conducted during the first 6 months and the last 6 months of the year. These certification reports must include the number of persons to whom notices were sent pursuant to subsection (7) of section 98.075, *Florida Statutes*, the number of persons who responded to the notices, the number of notices returned as undeliverable, the number of notices

published in the newspaper, the number of hearings conducted, and the number of persons removed from the statewide voter registration systems and the reasons for such removals. If the department determines that a supervisor has not satisfied the requirements of Section 98.075, *Florida Statutes*, the department shall satisfy the appropriate requirements for that county. A supervisor of elections' failure to comply with these requirements constitutes a violation of Section 104.051, *Florida Statutes*.

A voter may appeal the determination of ineligibility as outlined in Section 98.0755, *Florida Statutes*. The appeal must be filed in the circuit court of the county where the person was registered. The notice of appeal is subject to the time and manner requirements in the Florida Rules of Appellate Procedure and acts as supersedeas. Trial in the circuit court is de novo and governed by the rules of that court. Unless the person can show that his or her name was erroneously or illegally removed from the statewide voter registration system, or that he or she is indigent, the person must bear the costs of the trial in the circuit court. Otherwise, the cost of the appeal must be paid by the Supervisor of Elections.

6. Verification of Voter Registration Information

Section 303(a)(5): 1. Does Florida's voter registration application process require either a driver's license number or last four digits of the social security number? 2. Does Florida's voter registration application process assign the applicant with a unique identification number which identifies the applicant for voter registration purposes?3.Does Florida have a process to determine whether the information provided by the voter registration applicant is sufficient to meet the requirements of HAVA , in accordance with State law? 4. Do Florida's Secretary of State and the Executive Director of the Department of Highway and Safety Motor Vehicles have an agreement to match voter information in their respective databases? 5. Does the Executive Director of the Department of Highway Safety and Motor Vehicles have an agreement with the Commissioner of Social Security under 205(r)(8) subparagraph C?

Yes, and no further actions are necessary.

Florida has a uniform statewide voter application which requires the driver's license number or the last four digits of the social security number (Section 97.052, *Florida Statutes*). FVRS assigns each applicant an unique identifier for purposes of processing their applications. (Section 97.053, *Florida Statutes*).

Florida has a process to determine whether the information provided by the voter registration applicant is sufficient to meet the requirements of HAVA, in accordance with State law (Sections 97.053 and 97.057, *Florida Statutes*). The Florida Department of State entered into an agreement with the Florida Department of Highway Safety and Motor Vehicles to match and verify the accuracy of the information on the voter registration application. In turn, under HAVA, the Executive Director the Department of Highway Safety and Motor Vehicle entered into an agreement in November 2005 with the

Commissioner of Social Security Administration to verify that the last 4 digits of the social security numbers provided on the applications. The Department of State is in the process of updating its agreement with the Department of Highway Safety and Motor Vehicles to reflect the transition from development and implementation of the Florida Voter Registration System to its maintenance and operation (Section 97.057, *Florida Statutes*).

7. Deadline 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?

Yes and no further actions are required.
The State practically could not meet the initial January 1, 2004 deadline. Substantial professional and technical work was required to design and establish a computerized statewide voter registration list that meets HAVA's standards. Pursuant to Section 303(d)(1)(B) and Chapter 2003-415, *Laws of Florida*, the State sought a waiver from the Federal Election Commission (FEC) and the Elections Assistance Commission (the successor to the FEC) to extend the deadline from January 1, 2004, to January 1, 2006, based on the State's certification that it could not meet the deadline for good cause and the reasons for its failure to meet such deadline. The Election Assistance Commission granted the waiver and the State of Florida met the January 2006 deadline for establishing a computerized statewide voter registration list.

8. Requirements for Voters Who Register By Mail

a. 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.
Because many voters register by mail instead of in-person, the procedures used for mail registration are also 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.

Persons who register by mail and have not voted in an election for federal office must 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, for 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 mail registrants 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).

The following sections of Florida law conform to HAVA's mail registration and other voter registration requirements:

- Section 97.052(3)(f), *Florida Statutes,* requires 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) & (b), *Florida Statutes,* 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,* specifies at length the requirements for identification that a first-time voter can use and complies with other HAVA requirements outlined previously.
- Section 101.043, *Florida Statutes,* permit a voter to submit to a poll worker at the time of voting a current and valid picture identification with a signature.

b. 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."

Florida's statewide uniform voter registration application complies with HAVA's mail voter registration form developed under section 6 of the National Voter Registration Act of 1993. The application adopted through Rule 1S-2.040, Florida Administrative Code pursuant to Section 97.052, Florida Statutes, is available by request from the Division of Elections, by download at: http://election.dos.state.fl.us or by contacting any local Supervisor of Elections office.

Element 2. Local Government Payments and Activities

Section 254(a)(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 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).

1. 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.

Prior to HAVA, there was one major exception. 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.

2. Distribution of Payments

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. During the HAVA Planning Committee (2003) 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 (2003) recommended that the estimated $11.74 million received pursuant to Section 102 of HAVA be distributed by the Florida Legislature 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.[1] The Florida Legislature acted in 2003 to distribute Section 102 federal funds in the amount of $11,581,377 to the State of

[1] 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.

Florida and not the counties. The $11,581,377 reimbursement is almost one-half the amount the State of Florida invested to replace outdated voting machines between 2001 and 2003.

- **Accessible Voting Systems for Voters with Disabilities**

The HAVA Planning Committee (2003) recommended that HAVA funds should be distributed to counties during the 2004-05 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 was $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, the HAVA Planning Committee (2003) recommended 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.

In the fiscal year 2004-05 the Legislature appropriated $11.6 million to assist Supervisors of Elections (SOEs) with purchasing DREs in order to provide one accessible voting system at each polling place. Those appropriated funds were distributed to SOEs that had not acquired accessible voting systems by July 1, 2004. There were 51 counties that did not have accessible voting systems at that time. The Division of Elections distributed the funds to fifty-one (51) Supervisors of Elections for this purpose pursuant to the terms of a memorandum of agreement.

In the fiscal year 2005-06 the Legislature appropriated funds to reimburse counties that acquired accessible voting systems prior to July 1, 2004. Funds in the amount of $13,406,163 were distributed to the sixteen counties that had purchased accessible voting systems prior to July 1, 2004. The appropriation was included in the fiscal year 2005-06 General Appropriations Act, specific appropriation 2931. In addition, there were eight counties that received a total of $63,215 as reimbursement for existing DREs that were not included in the fiscal year 2004-05 appropriations. The funds were distributed according to the number of machines that are accessible for persons with disabilities that were needed in order for each county to have one per polling place.

No Supervisor of Elections was to receive any funds until the county Supervisor of Elections certified to the Department of State:

1) the number of precincts in the county;
2) the number of polling places in the county;
3) the number of voting machines the county has that meet the disability requirement;
4) the county's plan for purchasing the DREs; and
5) the date that the county anticipates being in compliance.

In January 2006 the Florida Department of State's Division of Elections surveyed each SOE to determine whether counties had accessible voting systems for each polling place or if signed

contracts were in place to acquire accessible voting systems in the event delivery had yet not taken place. Two counties, Leon and Union, did not have signed contracts for purchasing accessible voting systems by January 1, 2006. Both counties had to return the funds pursuant to the conditions of the memorandum of agreement between the Department of State and the Supervisors of Elections as well as language included in the Appropriations Act.

The Legislature re-appropriated the voting systems assistance funds for redistribution to Leon and Union counties during the fiscal year 2006-07. Pursuant to language in the Appropriations Act, distribution of the funds was contingent upon the Department of State receiving a certificate from each county certifying that "accessible voting equipment meeting the requirements of section 301(a) of Title III of the Help America Vote Act had been delivered, accepted by the county, and was ready for use in an election." The Department of State received the required certificates from Leon and Union County Supervisors of Elections in July 2006 and issued state warrants to each SOE to redistribute the funds.

- **Statewide Voter Education Program**

For the fiscal year 2003-04, the Florida Legislature appropriated a total of $2,976,755 to be made available to each county for voter education programs. The distribution was based on a funding level per individual voter multiplied by the number of registered voters in each county for the 2002 General Election. To determine the funding level per individual voter, the Division of Elections divided the total amount of funds appropriated in FY 2003-04 by the total number of registered voters in the State of Florida for the 2002 General Election. The HAVA Planning Committee (2004) also recommended that local governments receive $3,000,000 for comprehensive voter education efforts for the fiscal year 2005-06.

For each fiscal year 2004-05 and 2005-06, local governments received $3 million for comprehensive voter education efforts. For the fiscal year 2004-05, the Department distributed an amount to each eligible Supervisor of Elections equal to the funding level per voter multiplied by the number of registered voters in the county for the 2004 Presidential Preference Primary. The Department determined the funding level per voters in the state for the 2004 Presidential Preference Primary. The HAVA Planning Committee (2003) had recommended that local governments receive a total of $9 million dollars ($3 million each fiscal year) for comprehensive voter education efforts for the fiscal year 2005-06. HAVA funds for voter education were to be distributed using a similar formula as used in 2003-04.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.

For the fiscal year 2006-07, the Florida Legislature appropriated $2 million to distribute to Supervisors of Elections to assist with voter education activities. Each county was required to provide matching funds of 15%.

Funds for voter education programs were distributed to county Supervisors of Elections for the following purposes: mailing or publishing sample ballots; conducting activities pursuant to the Standards for Nonpartisan Voter Education as provided in Rule 1S-2.033, F.A.C.; print, radio, or television advertising to voters; and other innovative voter education programs, as approved by the Department of State. No Supervisor of Elections received any funds until the county Supervisor of Elections provided to the Department of State a detailed description of the voter-education programs, such as those described above, to be implemented.

In June 2006, the Auditor General conducted an operational audit on the Department of State's administration of the federal Help America Vote Act of 2002 during the period July 1, 2004 through February 28, 2006. See Auditor General Report 2006-194, Department of State Help America Vote Act (HAVA) and the Florida Voter Registration System (FVRS). The report indicated in Finding #7 (voter education) that "one county failed to include four of the five voter education elements contained in the Standards for Nonpartisan Voter Education." The Department of State responded to the Auditor General's report by stating its understanding that HAVA funds paid to counties under the voter education program are not required to be expended for all elements shown in the Department's rule applicable to minimum standards for voter education. For some of the smaller rural counties, the amount of HAVA funds received for voter education programs is insufficient to cover the full costs of all elements in the rule. In these instances, the counties must provide the additional funds needed to implement all voter education activities listed in the rule. Therefore, the Department has not required counties to include each element in the rule in their voter education plans. They have been required to include only the other education activities that will be paid for with HAVA funds.

In addition, the Auditor General Report noted that the activities reported in the expenditure report for one county included an activity that was not included in the county's Plan which was submitted to the Department, though these expenditures would have been allowable. The Department has since updated its voter education procedures to more closely monitor each county's activities as shown in the respective voter education reports following each general election to make sure that the required elements are completed. In addition, the Department will closely compare county-planned activities with actual voter education activities. The Department is also in the process of developing procedures to follow when discrepancies are noted between *planned* and *actual* voter education activities. These procedures will be included in any future memorandums of agreement between the Department and SOEs in which funding is provided to SOEs contingent upon approval of a plan.

In order for a county Supervisor of Elections to be eligible to receive state funding for voter education, each county certified that they would provide matching funds for voter education in the amount equal to fifteen percent of the amount to be received from the state. Additionally, to be eligible, a county must segregate state voter education distributions and required county matching dollars in a separate account established to hold only such funds. Funds in this account must be used only for the activities for which the funds were received. Any funds remaining in

the fund at the end of the fiscal year shall remain in the account to be used for the same purposes for subsequent years or until such funds are expended.

The Auditor General's Report 2006-194 also noted in Finding #7 (Voter Education) "the expenditure report for one county failed to delineate, as required by the standard reporting form, the State and county funds expended. The Auditor General recommended that the Department ensure that all plans are in compliance with Department rules and Agreements and that voter education expenditures correspond with detailed descriptions in the Plans. In addition, the Auditor General recommended the Department ensure that the matching expenditures are reported separately on the expenditure report. In response, the Department is revising the language in its memorandum of agreements with the SOEs to require that counties report the expenditures made with HAVA funds separately from expenditures made with county funds. Any future agreements between the Department and SOEs to distribute funds to the counties will include the revised language.

The Division of Elections monitors the performance of the contract agreements entered into between the State and each county, in accordance with State procedures. Each county must meet the contractual requirements before payment is approved. Standard auditing procedures for monitoring the use of federal funds are used for the receipt and the distribution of HAVA funds. These standard procedures may include random program 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.

- **Payments to Other State Entities**

Through the 2005-06 fiscal years, the Division of Elections recommended that the Department of Highway Safety and Motor Vehicles and the Florida Department of Law Enforcement also receive HAVA funding to assist in the development of the new statewide voter registration system. The Division of Elections entered into a contractual agreement with these other state-level departments and monitors the contracts in accordance with standard auditing procedures for monitoring the use of federal funds. The Divisions will maintain contracts with these two agencies to ensure the accuracy of the voter registration records/information stored in the statewide voter registration system.

Element 3. Voter Education, Election Official Education & Training, Poll Worker Training

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.

1. 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 (Chapter 2001-40, Laws of Florida) 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 2002-2006 legislative sessions 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.

Under Section 98.255, *Florida Statutes*, all 67 county Supervisors of Elections are required to file voter education plans with the Division of Elections in the Department of State in order to qualify for State funds. The Department of State, as directed by the Legislature, also established minimum standards for nonpartisan voter education to be met by each county (Rule 1S-2.033, Florida Administrative Code, "Standards for Nonpartisan Voter Education," effective May 30, 2002).

Significant changes to Florida's election laws and the advent of new voting equipment have also 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 102.014, *Florida Statutes*, directs the Division of Elections to "develop a statewide uniform training curriculum for poll workers" and dictates that "each supervisor shall use such curriculum in training poll workers"

(effective January 1, 2006). The Florida State Poll Workers Training Manual is currently in the final stages of production. A draft of the training manual was distributed at the Florida State Association of Supervisors of Election's summer conference and ideas from this manual are already being implemented in some counties.

2. Voter education: *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?*

a. **Introduction:** Voter education in Florida is a joint responsibility of the Department of State and the 67 county Supervisors of Elections. Both levels of government play a role in designing, implementing, and evaluating voter education activities. Both must constantly react to election-related legislation passed by the Florida Legislature.

The State of Florida has adopted extensive voter education requirements and funded county voter education programs ($6,000,000 in 2001, $2,976,755 for fiscal years 2003-04, and $3,000,000 for fiscal year 2004-05). The HAVA Planning Committee (2003) recommended and the state approved an additional $3 million for the fiscal year 2005-06. For the fiscal year 2006-07, $2 million was appropriated by the Legislature for voter education.

Each of the 67 county supervisors of elections is required to file "a detailed description of the voter-education programs" in order to receive state funds (Section 98.255, *Florida Statutes*) There are four broad categories of voter education for which these funds may be used: mailing or publishing sample ballots; conducting activities described in the Standards for Nonpartisan Voter Education provided in Rule 1S-2.033, *F.A.C.*; for print, radio, or television advertising to voters; and for other innovative voter education programs, as approved by the Department of State. An analysis of the 2006 county plans shows that most are using their funds for a wide variety of activities within each broad category. Examples include:

Sample Ballots: printing; mailing; distribution of audio sample ballots on CD.

Nonpartisan Voter Education: registration displays in various types of locations; educational brochures; pamphlets; newsletters; pencils; utility bill stuffers; postcards, voter education packets; signs & banners; informational flyers; distribution of buttons, lapel pins, magnets, fans, key chains, jar openers, coloring books, tape measures, bags, bumper stickers, bookmarks, calendars, pens, posters, "I voted" stickers, and other novelty and promotional items featuring voting-oriented information; conducting school elections on county voting equipment; purchasing accessible equipment to use for public demonstrations; promotions for early and absentee ballot voting; voter guides; community events booths; an Electronic Message board constantly updated by the supervisor.

Media Advertising (print & electronic): public service announcements; special programs on availability and use of voting equipment; educational videos (e.g., "First Vote") to be aired on public education and/or government access stations; voter preparedness guides; registration count-downs; billboards; targeted radio spots (age, race/ethnicity); digital ads to be aired at movie theatres; public service ads for condo associations and other organizations with closed circuit television outlets; infomercials; bus & taxi ads; newspaper ads and inserts; crawlers on local television channel.

Innovative Programs: website design and maintenance; new software for website and newsletter construction; interactive web sites; multi-cultural and multi-lingual (Spanish, Creole, and Portuguese) outreach; registration contests in area high schools; blinking marquee in front of the courthouse; business marquee program; portable signs; murals on local buildings; phone lines for public to use to contact supervisor's office on election night; mock Internet student elections; development of a countywide audio program for non-readers; participation in local television stations' Voter Help lines; kiosk locations to show public how new voting equipment works.

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 to: (1) Better inform their county's residents about registration and voting; and, (2) 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., population size, land area, rural-urban location, age, race/ethnicity, education), county funding levels, and media availability. For example, small counties (under 100,000) are more likely than larger ones to use their voter education funds for the basics—printing and mailing sample ballots, mailing voter guides, and notifying voters of changes in precinct locations. Larger counties (100,000+) are more likely than smaller ones to spend their funds on radio and television advertising, supervisor participation in media programs and events, targeting college students, voter registration workshops, demonstrating voting equipment, and innovative programs.

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 address (but are not limited to):

(1) Voter registration;
(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." Under Florida law, voter education must constantly be evaluated and new recommendations for improvements must be made. Section 98.255(3)(a), *Florida Statutes*, requires that "by December 15 of each general election year, each Supervisor of Elections shall report to the Department of State 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)(a) requires the "Department of State, upon receipt of such information, [to] 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." Section 98.255(3)(c) directs "the Department of State [to] reexamine the rules adopted pursuant to subsection (1) and consider the findings in the report as a basis for adopting modified rules that incorporate successful voter education programs and techniques, as necessary."

b. Supervisors of Elections' Role: 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 by county Supervisors of Elections:

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. Effective January 1, 2006, the list of voter's rights spells out each registered voter's right to "an explanation if his or her registration or identity is in question" and the right to cast a provisional ballot "if his or her registration or identity is in question."

The Department of State, or in the 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.

Posting of Instructions At Polling Place On The Voting System--Section 101.5611(1), *Florida Statutes*, requires each Supervisor of Elections "to provide instruction at each polling place regarding the manner of voting with the system. In instructing voters, no precinct official may favor any political party, candidate, or issue. Such instruction shall show the arrangement of candidates and questions to be voted on." The supervisor must also "provide instruction on the proper method of casting a ballot for the specific voting system utilized in that jurisdiction." The law requires that "such instruction shall be provided at a place which voters must pass to reach the official voting booth."

Having Information on Proposed Constitutional Amendments At Polling Place--Section 101.171, *Florida Statutes*, requires the Department of State to print and furnish to each Supervisor of Elections "a sufficient number of copies of the amendment either in poster or booklet form" and requires the supervisor to "have a copy thereof conspicuously posted or available at each polling room or early voting area upon the day of election."

Posting Information About Penalty for Vote Fraud--Section 101.5611(2) requires each Supervisor of Elections to post a notice at each polling place 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."

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 Includes But is Not Limited to Nonpartisan Voter Education--Beginning in 2003, the State Legislature has expanded its definition of voter education activities for which counties may receive state funds. There are now four broad categories of voter education for which counties may use state funds: mailing or publishing sample ballots; conducting activities described in the Standards for Nonpartisan Voter Education provided in Rule 1S-2.033, *F.A.C.;* for print, radio, or television advertising to voters; and for other innovative voter education programs, as approved by the Department of State.

Disseminating Information to Staff, Voters, and Poll Workers
County Supervisors of Elections must constantly update information disseminated to the public, poll workers, and their own staff to conform to state legislative mandates and HAVA requirements.

- Section 101.65, *Florida Statutes*, requires separate printed instructions to be enclosed with each absentee ballot on how to mark and return a ballot. (This was necessary to meet Section 301(a)(1)(B) HAVA requirements.)

- Section 97.0535, *Florida Statutes*, requires county Supervisors of Elections to inform persons registering to vote by mail that if they are registering for the first time, they will be required to provide identification prior to voting the first time.

- Section 101.6923, *Florida Statutes*, spells out the format for printed instructions that are mailed to a voter who has not provided the identification or information required by Section 97.0535, *Florida Statutes,* to the supervisors of elections by the time the absentee ballot is mailed. Effective January 1, 2006, included in the instructions is language clarifying the form of name-and-photograph identification that is acceptable under Florida law (unless excepted): "United States passport; employee badge or identification; buyer's club identification; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; or public assistance identification."

- Section 101.048(5), *Florida Statutes*, requires county Supervisors of Elections to give written instructions regarding the 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. This is consistent with Section 302(a)(5)(A)&(B) HAVA requirements.

- Section 101.64, *Florida Statutes*, requires county Supervisors of Elections to alert the absentee voter to "Please Read Instructions Carefully Before Marking Ballot and Completing Voter's Certificate." Under the law, a person casting an absentee ballot is no longer required to have his/her signature witnessed.

- Section 101.657, *Florida Statutes*, requires each elector voting early to complete an Early Voting Voter Certificate. The law spells out the format of the Early Voting Voter Certificate. A person casting an early vote is no longer required to have his or her signature witnessed.

A number of counties have used their state voter education funds to update materials available at the polling place as well as information (brochures, posters, signs, videos, public service announcements) distributed throughout the county.

c. State Role: Disseminating Information to Voters and Election Officials

- 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, press releases, 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. Prominently displayed on the Web Site home page is information on: the Voter Assistance Hotline Toll Free Number—for the general public and for people using Text Telephone (TTY); the Florida Voter Fraud Hotline Toll Free Number; Direct Recording Equipment Voting Systems; Public Logic and Accuracy Test Dates; Voting System Security Procedures Enhancements; Early Voting and Absentee reports; a direct link to the Help America Vote Act and the HAVA Planning Committee's activities and recommendations; Florida Identification Requirements for the 2006 Election Cycle; 2006 Florida Registration and Voting Guide (in English and Spanish); Early Voting Locations. The site also has a link to The Advocacy Center for Persons With Disabilities, Inc. and to the results of an Election Night Voter Report Card (Survey) on the Conduct of Election 2004, along with a 2006 Proposed Constitutional Amendments Booklet (in English and Spanish), calendars of key election dates, and reporting dates for candidates, parties, and political committees.

- Voter Education About Fraud

Section 97.012(12), *Florida Statutes,* requires the Secretary of State to "...provide election fraud education to the public."

- Voter Education Media Campaign: Get Out The Vote Foundation

During the 2004 election cycle, the Division of Elections of the Florida Department of State contracted with the Get Out The Vote Foundation, a nonprofit arm of the Florida State Association of Supervisors of Elections, to (1) "coordinate an extensive campaign to educate and inform voters on the use of touch screen voting systems;" (2) to develop a plan and informational materials to conduct a statewide voter information campaign to encourage people to register and vote.

Specifically, in FY 2003-04, the Division of Elections entered into a contract with the Get Out The Vote Foundation, Inc., in the amount of $247,500. The Foundation hired two well-known communications firms (Ron Sachs Communications and CoreMessage, Inc.) to produce voter education materials for statewide distribution. The two firms jointly produced a half-hour television news magazine-type program called "Before You Vote" designed to inform voters about new voting rules and procedures and new electronic voting machines. The program was distributed to all TV stations and cable companies in Florida for broadcast at two time periods—before both the August primary election and the November general election. Prevention of errors on election day was the primary goal of the program. The bipartisan team also produced eight 30-second TV public service announcements—four each in English and Spanish. These spots-- "Make Freedom Count"--were designed to encourage voters to vote early or by absentee ballot. An additional contract in the amount of $24,750 was issued to the Get Out The Vote Foundation to create media kits full of facts and figures for all 67 county Supervisors of Elections to use as they interface with the media.

The 2006 campaign, titled "Vote 2006: Make Freedom Count," features monthly themed activities beginning in February: Register at Work Month, Register at School Month, Register at Your Local Merchants Month, Register at Your House of Worship Month, Register Online Month, and Encourage People to Vote (August, September, & October).

- 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 of Elections 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 is posted on the Division of Elections Web Site.) 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. The Florida Legislature did this in its FY 2003-04 and FY 2004-05 appropriations bills.
(2) The Legislature should require sample ballots to be mailed to households or voters prior to each Primary and General Election. (It is now an alternative to publishing a sample ballot in a general circulation newspaper.)
(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. (Pursuant to Section 98.255(3), *Florida Statutes*, the Division has posted its Report on Voter Education Programs during the 2002 and 2004 election cycles on its website. The Reports list the effectiveness ratings for individual voter education activities as calculated by individual county Supervisors of Elections.)

A 2006 Auditor General Report (2006-194) reported that the Department of State needed to monitor the voter education plans of counties more closely. In response to the Auditor General's findings, the Department of State agreed to examine with more care each county's voter education activities so that the Standards for Nonpartisan Voter Education

(Rule 1S-2.033, F.A.C.) are properly executed. In addition, the Department agreed to monitor in more detail each county's annual voter education expenditure reports to ensure voter education plans are implemented properly and that HAVA funds are reported separately from other county election funds.

- Sample Ballot Recommendation

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." Now under Section 101.20, *Florida Statutes,* county Supervisors of Elections may mail, rather than publishing a newspaper of general circulation, a sample ballot to each registered elector or to each household in which there is a registered voter if done at least seven days prior to any election,. A high percentage of county supervisors have chosen to use their state voter education funds and local matching funds to publish *and* mail out sample ballots to registered voters. The same law requires two sample ballots be placed at each polling place, along with reduced-size sample ballots to give to any voter desiring one. Some Supervisors of Elections are using their voter education monies to pay for sample ballots to be made available at each precinct.

In its "Report on Voter Education Programs During the 2004 Election Cycle" (January 31, 2005), the Division of Elections concluded that "counties have increased the voter education services being provided and have broadened the types of activities being conducted to include several creative and innovative approaches to generating public interest in the elections process." It further concluded that "during the 2004 general election…a number of anticipated problems at the polls were averted through voter education efforts conducted by the counties, especially through local advertising campaigns that provided general election information to voters." The report also analyzed the effectiveness of fourteen broad categories of voter education: sample ballots, school outreach programs, web sites, public appearances/media events, banners, billboards, and public transportation advertisements, newspapers and mailers, miscellaneous promotional materials, voting systems demonstrations, outreach to minority, disabled, and senior communities, voter registration drives, publications, staff education, special voting programs, and other activities. The majority of the voter education programs were given an effectiveness rating of 4 or 5 indicating that the programs are considered useful and are well-received by the voters." The report did note that while "the programs are considered to be very effective by the supervisors…critical funding is still needed, particularly for smaller counties." The report is posted on the Division of Elections' website at: http://election.dos.state.fl.us/reports/electreports.shtml.

- Tracking Over- And Under-Votes

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 Presidential or gubernatorial race or if neither is present, the first race appearing on the ballot pursuant to Section 101.151(2), *Florida Statutes*. The report must include 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 is posted on the Division of Elections' website at: http://election.dos.state.fl.us/reports/electreports.shtml. The report's recommendations were:

(1) The Division of Elections must continue to monitor the overvotes and undervotes from each general election. (Required under *Florida Statutes*.)
(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. The Legislature did this in its FY 2003-04, FY 2004-05, FY 2005-06 and FY 2006-07 appropriations bills.
(3) The Division of Elections should review the recommendations for ballot instructions for incorporation into the uniform ballot rule. During the 2003 session, the Legislature passed a law delineating the content of separate printed instructions to accompany each absentee ballot (Section 101.65, *Florida Statutes*). Rule 1S-2.030 *F.A.C.* standardizes the basic form of instructions to be sent to all overseas voters.
(4) All voting system vendors should continue to improve the design of their voting systems in order to better meet the needs of Florida voters.

The procedure was used again following the 2004 election cycle. The "Analysis and Report of Overvotes and Undervotes for the 2004 General Election" study (January 31, 2005) examined "factors relating to no valid votes being cast." It found that the under- and over-vote percentage dropped to an historically low 0.4116% and attributed the drop to "an unprecedented statewide, nonpartisan voter education campaign combined with the

fact that voters continued to become more accustomed to using new technologies." The report's recommendations were:

(1) The Department of State should continue to monitor overvotes and undervotes from each General Election in order to detect any future fluctuations in these rates.

(2) The Legislature should expand the data required as part of the official canvass report to include the data required for this report, for any reports required by the federal government, and give the Department of State rule-making authority to specify the content and format of the data. The report is posted on the Division of Elections' website at: http://election.dos.state.fl.us/reports/electreports.shtml.

A number of Supervisors of Elections have implemented their own feedback systems through comment cards distributed at registration sites, workshops, and polling places. Some also allow citizens to make suggestions and complaints via their websites. Several counties have used some of their state voter education funds to solicit voter feedback and suggestions.

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.

3. Election Official Education and Training: *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 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 HAVA Planning Committee (2003) recommended 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. The Division of Elections routinely

invites city clerks and Supervisors of Elections to attend its statewide training meetings held in conjunction with FSASE meetings.

The Division of Elections performs a number of activities on behalf of the Secretary and the Department (See Office of Policy Analysis and Government Responsibility, *Justification Review*, Report No. 02-55, October 2002):

- 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,
- Provides written election information to candidates
- Oversees and approves training courses for continuing education and certification for Supervisors of Elections through which supervisors obtain credits to maintain job proficiency.
- Prepares and distributes educational materials for, and conducts the training of, Supervisors of Elections and election personnel and staff.
- 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 twice a year.
- Conducts occasionally or upon request regional workshops for supervisors and staff, universities, community colleges and State agencies
- Provides administrative and technical assistance to select task forces that may be created by the Governor, Secretary of State, or other State officials, (Florida Department of State, Division of Elections Annual Reports).

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 Florida Election Code], shall be made available upon request, in alternative formats" including the Internet (with the exception of absentee ballots).

The Florida State Association of Supervisors of Elections, through activities of its Get Out The Vote Foundation, Inc., also plays a major role in educating and training election officials (and voters). On May 25, 2004, the Foundation launched its voter education plan. Through it, all 67 county Supervisors of Elections have access to professionally prepared public media advertising materials. The Foundation has its own website (www.gotvflorida.com) which allows election officials—elected and staff— (and voters) to access easily comprehended materials on a wide range of timely topics, including Absentee Voting, Early Voting, Registering to Vote, Election Reform in Florida, Touch screen Voting Systems and Voter Verifiable Paper Ballots, Voter Identification, Restoration of Felon's Voting Rights, and Information on Direct Recording Equipment Voting Systems, along with posters, ads, and public service announcements.

4. **Poll Worker Training:** *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). Specifically, the State has adopted minimum-hours-of-training requirements, spelled out training content requirements, and mandated a statewide and uniform program for training poll workers on issues of etiquette and sensitivity with respect to disabled voters. The Department of State, Division of Elections established a polling place procedures manual, Form DS-DE 11 (Rule 1S-2.034, F.A.C.,). This manual is used as guidance for elections' officials, elections' personnel including poll workers at the polls and deputy sheriffs in the proper implementation of the election procedures and laws. State law permits inspectors, clerks, and deputy sheriffs attending poll worker training to receive compensation and travel expenses—Section 102.021(2), *Florida Statutes*.

The HAVA Planning Committee (2003) recommended state funding for poll worker training and recruitment but the Florida Legislature in 2004 did not appropriate funds for either activity. For the fiscal year 2005-06, the Legislature appropriated $4 million of HAVA Title II funds for poll worker recruitment and training. Of this $4 million, the Department of State distributed $3 million to Supervisors of Elections to assist with poll worker recruitment and training. The Legislature provided $1 million for the Department of State to develop a statewide poll worker training curriculum.

For the fiscal year 2006-07, the Legislature appropriated $1.5 million for poll worker recruitment and training activities. Of this amount, $1 million will be distributed to Supervisors of Elections to assist with recruiting and training individuals to serve as poll workers. The Legislature authorized an additional $500,000 for the Department of State to use for necessary updates and revisions to poll worker training curriculum that was developed with funds appropriated in the fiscal year 2005-06.

a. Joint Responsibility of Department of State and County Supervisors of Elections

The county Supervisors of Elections and the Department of State share statutory responsibility for poll worker training. Specifically, 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). 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." The Department recently revised the manual in January 2006 to comply with HAVA provisions and state election law changes. In accordance with Section 5 of the Voting Rights Act, it was recently re-submitted as revised and pre-cleared by the Department of Justice.

Under Section 102.014(7), *Florida Statutes*, the Department is also assigned 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."

b. **Poll Worker Training Content**

The content of poll worker training is detailed in state law. Clerks (poll workers) 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*. In addition, the "Polling Place Procedures Manual" (DS-DE 11, Rule 1S-2.034, F.A.C.), 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." This manual is to be made available in hard copy or in electronic format at the polling place.

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*.

Section 102.014, *Florida Statutes*, directs the Division of Elections to "develop a statewide uniform training curriculum for poll workers" and dictates that "each supervisor shall use such curriculum in training poll workers" (effective January 1, 2006). The Florida State Poll Workers Training Manual "contains the basic information that a poll worker will need to legally and effectively discharge his or her statutory duties" including "instruction on the needs of voters who have disabilities and those who may assist them, helping non-English-proficient voters,

managing disruptive voters or 'precinct crashers,' handling medical emergencies involving poll workers and voters, handling power and equipment failures, and dealing with spoiled ballots, and many other topics." It is organized in an easy-to-follow format, written in plain language, and it informs poll workers "why things must be done in a specific way and why certain decisions must be made."

c. 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.

d. 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*.

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 (2003) also recommended that the Division of Elections establish a procedure to evaluate the effectiveness of poll worker recruitment and training in all 67 counties. There are still no established procedures for evaluating the effectiveness of poll worker training or recruitment as there is for voter education.

However, in an effort to increase poll worker recruitment, the Department has initiated a "Be a Poll Worker" campaign which includes airing public service announcements and distributing "Be a Poll Worker" handouts at Department presentations. Some counties are using their voter education funds to recruit high school and college students as poll workers as well as the public at-large through publication and dissemination of new brochures and videos.

Element 4. Voting System Guidelines and Process

Section 254(a)(4): How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.

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 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."

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 under Rule 1S-5.001, *Fla. Admin. Code*:

- 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 and certification of voting systems. To keep Florida's voting systems standards up-to-date, Section 101.015(2), *Florida Statutes,* also requires the Department of State to conduct bi-ennial review of these rules governing standards and certification to determine the adequacy and effectiveness of such rules in assuring that elections are fair and impartial."

- 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,* provides accessibility standards that exceeds those accessibility standards of HAVA Section 301 "Accessibility for Individuals With Disabilities."

The HAVA Planning Committee (2003) had 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. Currently, Florida is in compliance with HAVA requirements for accessibility equipment. As of 2004, all three vendors (Diebold Election Systems, Inc., Elections Systems and Software, Inc., and Sequoia Voting Systems, Inc.) had certified accessible voting equipment with audio ballot capability. By 2005, two of the three vendors being used in Florida had certified accessible voting equipment with the electronic provisional ballot capability. By January 2006, the third vendor obtained certification for their system with the electronic provisional ballot capability.

In 2005, the Florida Legislature amended Section 101.56062(2), *Florida Statutes*, to require accessible voting systems to include at least one accessible voter interface device installed in each polling place (rather than in each precinct). This change conformed with HAVA requirements.

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Element 5. Florida's Help America Vote Act of 2002 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 Florida Department of State has established a trust fund in which all HAVA monies are maintained. Within this trust fund, monies received for HAVA Sections 101, 102 and Title II are 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. 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.

Any HAVA funds received by the State are 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 has final signing authority for HAVA expenditures. Any interest earned on this trust fund is returned to the principal amount of the trust.

The State uses standard auditing procedures for monitoring the use of federal HAVA funds as received and distributed. These 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 are responsible under HAVA for ensuring compliance with these requirements. The HAVA Planning Committee (2003, 2004 and 2006) each recommended 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.

The Auditor General conducted an operational audit on the Department of State's administration of the federal Help America Vote Act of 2002 during the period July 1, 2004 through February 28, 2006. In the Report 2006-194 entitled "Help America Vote Act (HAVA) and the Florida

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Voter Registration System (FVRS) – Operational", the Auditor General made the following findings pertaining to monitoring of federal funds and the Department's responses are included:

- *Finding No. 5*: Salary certifications required for employees who worked solely on the HAVA Program were not maintained. Also, personnel activity reports were not always maintained to support personnel costs charged to the HAVA Program.

  Department staff stated, "After the Department of State became aware of the requirement for individuals filling HAVA-funded positions to complete certifications regarding work performed, a form was developed that could be customized for each employee. The certifications will be prepared on a semi-annual basis to coincide with the first and last six months of the state fiscal year. The first work certification forms that the department completed cover the period from July 2005 through December 2005." Currently, all Department staff filling HAVA-funded positions are spending 100% of their time on HAVA.

- *Finding No. 6*: Contrary to Federal cost principles, payment for unused leave to a terminating employee was charged as a direct cost to the Program instead of being allocated as a general administrative expense to all activities of the governmental unit. The Auditor General's tests of salary expenditures disclosed that the Department did not allocate as a general administrative expense an unused leave payment, contrary to Federal cost principles.

  In response to audit inquiry, the Department transferred the leave payment in question from HAVA funds to General Revenue. Additionally, Department staff indicated that this payment was made in compliance with Department of Management Services Rule 60L-34.0041(6)(b), Florida Administrative Code. Department staff further indicated that Federal cost principles supported this unused leave payment. The Department has contacted the Elections Assistance Committee for guidance on disposition of unused leave payments and is awaiting their response.

- *Finding No. 8*: HAVA Program expenditures were not always properly supported. The Division of Elections is responsible for tracking and monitoring the use of HAVA funds in accordance with established State procedures and the Director of the Division of Elections has final signature authority for HAVA expenditures.

  In response to the audit inquiry, the Department staff indicated that the designated contract manager will review and certify that the request for payment is properly supported and contract requirements, milestones and deliverables have been met prior to submitting the request to Budget and Financial Services. The accounts payable supervisor in Budget and Financial Services will verify the contract manager has certified that the request for payment is properly supported and the required milestones or deliverables have been met prior to issuing payment.

Element 6 – Florida's Budget for Implementing the Help America Vote Act of 2002 (HAVA)

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.

1, 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.

2. 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. In order to recoup some of this expense, Section 102 federal funds in the amount of $11,581,377 were returned to the State of Florida as reimbursement.

3. Statewide Voter Registration System.
In 2003, the Florida Legislature directed the Department of State to begin development of a statewide voter registration system that would meet the requirements of HAVA. Accordingly, the 2003 Legislature provided $1.6 million to begin implementation of the system. Federal funds included $1 million for the Needs Assessment Phase along with nine positions to support design, development and implementation of the HAVA requirements. Of the nine positions, five reside in the Department of State and two each in the Department of Highway Safety and Motor Vehicles and the Florida Department of Law Enforcement.

Phase 2, "Prototyping & Validation of Design," began in March 2004 and included the following:

- Installation of prototyping equipment and environment
- Prototype the core system configuration and architecture
- Data conversion/migration testing (data & images)
- Prototype remote access to the core system

For the fiscal year 2005-06, estimated expenditures for the development and implementation of the Florida Voter Registration System were $10,770,103. There are 35 HAVA funded positions. Sixteen positions are assigned to the Florida Voter Registration System--twelve in Department of State and two each in the Department of Highway Safety and Motor Vehicles and the Florida Department of Law Enforcement. In addition, there are eighteen HAVA funded positions in the Bureau of Voter Registration Services and one in Legal. Proposed budget figures through FY 2010-11 are shown in the table below.

	FY 2006-07 BUDGET	FY 2007-08 PROPOSED BUDGET	FY 2008-09 PROPOSED BUDGET	FY 2009-10 PROPOSED BUDGET	FY 2010-11 PROPOSED BUDGET
FVRS - Systems					
Includes positions plus costs for software license fees and on-going maintenance costs.	3,571,028	3,678,039	3,788,260	3,901,788	4,018,721
FVRS - Bureau of Voter Registration Services					
Includes positions and regular operating expenses	1,391,434	1,421,567	1,452,604	1,484,571	1,517,498

4. Section 301 Accessible Voting Systems
The HAVA Planning Committee (2003) recommended 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 cost was $11.6 million during the 2004-05 fiscal year. In addition, the HAVA Planning Committee (2003) recommended reimbursing counties that have already purchased voting systems that meet the HAVA accessibility for voters with disabilities requirements. For the fiscal year 2004-05 the Legislature appropriated $11.6 million to assist Supervisors of Elections (SOEs) with purchasing DREs in order to provide one accessible voting system at each polling place. Funds appropriated in FY 2004-05 were distributed to SOEs that had not acquired accessible voting systems by July 1, 2004. There were 51 counties that did not have accessible voting systems at that time. The Division of Elections distributed the funds to fifty-one (51) Supervisors of Elections for this purpose pursuant to the terms of a memorandum of agreement.

For the fiscal year 2005-06 the Legislature appropriated funds to reimburse counties that acquired accessible voting systems prior to July 1, 2004. Funds in the amount of $13,406,163 were distributed to the sixteen counties that purchased accessible voting systems prior to July 1, 2004. The appropriation was included in the fiscal year 2005-06 General Appropriations Act, specific appropriation 2931. In addition, there were eight counties that received a total of $63,215 as reimbursement for existing DREs that were not included in the FY 2004-05 appropriations.

5. Voter Education

The HAVA Planning Committee (2003) recommended using HAVA funds for the development and implementation of a comprehensive statewide voter education program. For the fiscal year 2003-04, $2,976,755 was appropriated and available to Florida counties for voter education programs. For each fiscal year 2004-05 and 2005-06, local governments received $3 million for comprehensive voter education efforts. In the fiscal year 2006-07, the Legislature appropriated $2 million to distribute to Supervisors of Elections to assist with voter education activities. Each county was required to provide matching funds of 15%.

Activities relating to voter education include mailing or publishing sample ballots; conducting activities pursuant to the Standards for Nonpartisan Voter Education as provided in Rule 1S-2.033, F.A.C.; print, radio, or television advertising to voters; and other innovative voter education programs, as approved by the Department of State. No Supervisor of Elections was to receive any funds until the county Supervisor of Elections provided to the Department of State a detailed description of the voter-education programs, such as those described above, to be implemented.

6. Poll Worker Training

The HAVA Planning Committee (2003) recommended using HAVA federal funds in the amount of $250,000 for each fiscal year 2003-04, 2004-05 and 2005-06 for poll worker training. These funds were intended to supplement each county's existing poll worker training budget. The 2004 Legislature did not appropriate federal funds for conducting a poll worker recruitment campaign.

The HAVA Planning Committee (2004) once again recommended using HAVA federal funds in the amount of $500,000, beginning with FY 2005-06, for poll worker training and recruitment, with a 15% match required of each county. The Legislature appropriated $4 million for poll worker recruitment and training in FY 2005-06. Of this $4 million, the Department of State distributed $3 million to Supervisors of Elections to assist with poll worker recruitment and training. The Legislature provided $1 million for the Department of State to develop a statewide poll worker training curriculum. Each county was required to provide matching funds of 15%.

As provided for in HAVA, Section 251(b)(2)(B), States may use a portion of the requirements payment to carry out other activities to improve the administration of elections for Federal office

if the State certifies to the EAC that the amount expended does not exceed the minimum payment amount. Florida's minimum payment amount is $11,596,803.

In March 2006 the Department of State notified the EAC of its intent to use part of the requirements payment to assist county Supervisors of Elections with recruiting and training poll workers.

In FY 2006-07 the Legislature appropriated $1.5 million for poll worker recruitment and training activities. Of this amount, $1 million will be distributed to Supervisors of Elections to assist with recruiting and training individuals to serve as poll workers. The Legislature authorized an additional $500,000 for the Department of State to use for necessary updates and revisions to poll worker training curriculum that was developed with funds appropriated in FY 2005-06.

7. Statewide Poll Worker Recruitment Campaign

The HAVA Planning Committee (2003) recommended that HAVA federal funds be used to implement, through the Division of Elections, a statewide campaign to help recruit qualified poll workers. 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. The 2004 Legislature did not appropriate federal funds for conducting a statewide poll worker recruitment campaign. As indicated under the Poll Worker Training section, the Legislature did appropriate funds in the fiscal years 2005-06 and 2006-07 for poll worker training and recruitment programs.

8. HAVA Oversight and Reporting

The HAVA Planning Committee (2003) recommended that the Department of State create three full time positions to manage HAVA implementation:

- HAVA administrator
- Grants specialist
- Administrative assistant

The Florida Legislature authorized three positions within the Division of Elections for HAVA Oversight and Reporting. For the fiscal year 2003-04, $206,079 was appropriated for salaries and benefits, expenses and operating capital outlay. The three position titles are:

- Senior Management Analyst Supervisor
- Operations and Management Consultant II
- Administrative Assistant II

The estimated cost for HAVA oversight and reporting was $196,485 for the 2004-05 fiscal year and $200,719 for the 2005-06 fiscal year. Budgeted and proposed costs for the three positions assigned to HAVA oversight are included under Other Election Administration Activities in the tables that appear at the end of this section.

9. State Management (HAVA Planning Committee)
The HAVA Planning Committee (2003) recommended that the Secretary of State require it to meet twice each year in 2003-04 and in 2004-05 to make recommendations and to resubmit the HAVA State Plan to ensure that Florida is meeting the requirements of the Help America Vote Act. The HAVA Planning Committee convened twice in the 2003-04 fiscal year at an estimated cost of $30,000. The HAVA Planning Committee (2004) further recommended that it meet twice in the 2004-05 fiscal year at an estimated cost of $30,000 and twice in the 2005-06 fiscal year at an estimated cost of $30,000. The HAVA Planning Committee (2006) convened twice in Fiscal Year 2006-07 at an estimated cost of $25,000.

10. Performance Goals and Measures Adoptions
The HAVA Planning Committee (2003) recommended the Secretary of State utilize the HAVA Planning Committee to determine performance goals and measures.

The HAVA Planning Committee (2004) determined HAVA performance goals and measures during the meetings that were held to update the HAVA State Plan in 2004. Two meetings were held on May 24, 2004 and June 4, 2004. The only costs associated with developing the Performance Goals and Measures were costs related to conducting the HAVA State Planning Committee (2004) meetings.

During the HAVA meetings held in 2006 for the second update of the HAVA plan, the Committee Members updated the performance goals and measures.

11. Election Administration
The HAVA Planning Committee (2006) recommends using HAVA funds as needed for election administration activities such as printing new voter registration application forms, translating election materials, printing documents and publications, preparing training videos or other election administration activities. Estimated expenditures for these activities may vary each year and will be dependent upon annual legislative appropriations.

12. 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. In 2003, the Florida Legislature enacted Section 97.028, *Florida Statutes*, which provides the administrative complaint procedures for reporting potential violations of HAVA requirements. The process was developed and implemented without utilizing any HAVA funds. However, the HAVA Planning Committee (2006) recommends continued funding in the amount of $50,000 each year in the event expenditures are necessary to process complaints in the future.

13. Other Election Administration Activities
The HAVA Planning Committee (2004) recommended that the remaining HAVA funds be reserved for future expenses related to the following items:

1. the continued development and implementation of the Florida Voter Registration System
2. future improvements in voting technology
3. continued funds to local counties for voter education programs
4. accessibility for polling places
5. poll worker recruitment and training

Information on the State's best estimates of the costs of activities required to meet the requirements of Title III of HAVA are displayed in charts on pages 72-74. Pursuant to Section 251(b)(2)(A), States may use the requirements payment to carry out other activities to improve administration of elections for Federal office after the state has provided a certification to the EAC that it has implemented the requirements of Title III.

In March 2006, Florida notified the Elections Assistance Commission of its intent to use Title II funds to use $4,000,000.00 of the requirements payment to complete major poll worker recruitment and training efforts statewide that primarily begin in June 2006 and end by August 2006, before the primary election scheduled for September 5, 2006. Since the State had not yet met all the requirements of Title III, the State certified that the amount did not exceed the amount equal to the total minimum requirements payment amount applicable to Florida under section 252(c) of Title II of HAVA which has been determined to be $11,596,803.00. In August 2006 Florida certified to the Elections Assistance Commission (EAC) that it had fully implemented all the requirements of Title III which has allowed Florida to use HAVA requirements funds for other activities to improve the administration of elections for Federal office.

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	Election Reform Revenues 2003-2005 Fiscal Years				
	HAVA 101	**HAVA 102**	**HAVA 251**	**Total Federal Funds**	**State Matching Funds**
2003	$ 14,447,580	$ 11,581,377	$ 47,416,833	$ 73,445,790	$ 525,000
2004	0	0	$ 85,085,258	$ 85,085,258	$ 6,103,018
2005	0	0			
Total	$14,447,580.00	$11,581,377.00	132,502,091	158,531,048	$ 6,628,018

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HAVA BUDGET FUNDING BY FISCAL YEAR
2006 STATE PLAN UPDATE

	FY 2004-05 APPROPRIATION	EXPENDITURES THRU 6-30-05	BALANCE
Title III Requirements			
Sec. 303 Statewide Voter Registration System			
Section 101 and Section 251 HAVA funds			
Development/Implementation - FVRS	12,799,182	11,599,329	1,199,853
Sec. 301 Voting System Standards			
Section 251 HAVA funds			
Funding to counties/purchase disability compliant voting systems	11,600,000	11,600,000	0
Other Election Administration Activities	3,498,492	3,426,604	71,888
Section 101 and Section 251 HAVA funds			
Includes voter education, oversight and other election			
administration activities			
TOTAL	**27,897,674**	**26,625,933**	**1,271,741**

HAVA BUDGET FUNDING BY FISCAL YEAR
2006 STATE PLAN UPDATE

	FY 2005-06 APPROPRIATION	ESTIMATED EXPENDITURES THRU 6-30-06	BALANCE
Title III Requirements			
Sec. 303 Statewide Voter Registration System			
Section 101 and Section 251 HAVA funds			
FVRS - Development/Implementation - FVRS	11,396,747	10,770,103	626,644
Sec. 301 Voting System Standards			
Section 251 HAVA funds			
Reimburse counties for disability compliant voting systems	17,000,000	13,469,378	3,530,622
Other Election Administration Activities	7,195,000	6,549,599	645,401
Section 101 and Section 251 HAVA funds			
Includes voter education, poll worker recruitment and training, oversight and other election administration			
TOTAL	**35,591,747**	**30,789,080**	**4,802,667**

HAVA BUDGET FUNDING BY FISCAL YEAR
2006 STATE PLAN UPDATE

	FY 2006-07 BUDGET	FY 2007-08 PROPOSED BUDGET	FY 2008-09 PROPOSED BUDGET	FY 2009-10 PROPOSED BUDGET	FY 2010-11 PROPOSED BUDGET
Title III Requirements					
Sec. 303 Statewide Voter Registration System					
Section 251 and Section 101 HAVA funds					
FVRS – Systems	3,571,028	3,678,039	3,788,260	3,901,788	4,018,721
Includes positions plus costs for software license fees and on-going maintenance costs					
FVRS - Bureau of Voter Registration Services	1,391,434	1,421,567	1,452,604	1,484,571	1,517,498
Includes positions and regular operating expenses					
Sec. 301 Voting System Standards					
Section 251 HAVA funds					
Reimburse counties for disability compliant voting systems	591,515	0	0	0	0
Other Election Administration Activities	5,461,621	5,817,610	5,823,778	5,830,131	5,836,675
Section 101 and Section 251 HAVA funds					
Includes voter education, poll worker recruitment and training, over-sight (including positions) and other election administration activities.					
TOTAL	**11,015,598**	**10,917,216**	**11,064,642**	**11,216,490**	**11,372,894**

Element 7. 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.

1, 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.

2. Maintenance of Effort Expenditure

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 was initially determined to be $3,082,224. Pursuant to a review of the maintenance of effort during the audit conducted during the fiscal year 2005-06, Florida's required level of expenditures has since been revised to $3,570,408.

For the fiscal year 2004-05 the Department failed to meet the required maintenance of effort by $7,630. Year-end expenditures for the fiscal year 2005-06 have been finalized by the Department, and exceeded the maintenance of effort by $207,186, more than compensating for the $7,630 shortfall for the fiscal year 2004-05. In future years, the Department expects the state effort not only to meet but exceed the required maintenance of effort. 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 or $3,570,408.

The HAVA Planning Committee (2003) recommended 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. In response, the Department of State's budget staff and legislative affairs staff has maintained and continues to maintain close contact with House and Senate staff to convey the importance of continuing the Maintenance of Effort figure as a minimum level of funding.

Element 8. Performance Goals and Measures

Section 254(a)(8): 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?***

1. Introduction

Florida has a very decentralized election governance and administrative system. The legal Chief Election Official in Florida is the Secretary of State who is appointed by the Governor. At the county level, there are 67 independent Supervisors of Elections who receive their authority from the Florida Constitution and conduct elections through state law and rule. However, the Secretary of State does not supervise the day-to-day operations of the 67 local Supervisors of Elections. The Secretary of State provides guidance through technical assistance, rules, advisory opinions, voting system certification, and production of standardized election forms.

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.

2. Performance Tables

The Help America Vote Act of 2002 (HAVA) requires the State and not the local Supervisors of Elections to adopt performance goals and measures for determining statewide and local election reform success. The following tables contain the performance measures adopted by the HAVA Planning Committee (2004 and 2006) for these key elements of the plan:

1. Voting Systems
2. Voting systems guidelines
3. Absentee instructions
4. Voting systems for voters with disabilities
5. Provisional voting
6. Voter registration system
7. Voter education
8. Administrative complaint process

Planning Element:	Element #1, Section 301 – Voting Systems Element # 4, Section 254(a)(4) – Voting System Guidelines
HAVA Deadline:	January 1, 2006
Goal:	Document the performance of Florida's voting systems to continually improve the voting experience for Florida voters.
Performance Measures:	• Record and report to the Florida Legislature the number of overvotes and undervotes appearing in the first race for each General Election • List the likely reasons for such overvotes and undervotes by counties, by voting systems, and by appropriate election races • Suggest improvements to the voting process addressing such issues as voting system performance, ballot design, ballot instructions, election official training, poll worker training, voter education, and policy changes • Review rules and governing standards and certification of voting systems to determine the adequacy and effectiveness of such rules in assuring that elections are fair and impartial
Timetable (if applicable):	On-going
Process used to develop criteria:	Florida Legislature (Section 101.595, Section 101.015, *Florida Statutes*) 2001 Governor's Select Task Force Report on Election Procedures, Standards and Technology HAVA Planning Committee
Accountable official(s):	Director, Division of Elections Chief, Bureau of Voting Systems Certification Supervisors of Elections

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Planning Element:	Element #1, Section 301 – Absentee Ballot Instructions
HAVA Deadline:	January 1, 2006
Goal:	Ensure voters have sufficient absentee ballot instructions on how to make corrections by requesting a replacement ballot and the consequences of casting multiple ballots.
Performance Measures:	With receipt of absentee ballots following an election, each county will gather the following information: • Number of absentee/mail-in ballots requested • Number of replacement absentee/mail-in ballots requested • The number of returned absentee ballots not counted because of a) no signature b) non-matching signature
Timetable (if applicable):	On-going
Process used to develop criteria:	• Department of State, (Rule 1S-2.032, F.A.C.) • HAVA Planning Committee
Accountable official(s):	Director, Division of Elections Supervisors of Elections

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Planning Element:	Element #1, Section 301 – Certified Voting Systems for Voters with Disabilities
HAVA Deadline:	January 1, 2006
Goal:	Provide one accessible voting system for every polling place including non-visual accessibility for the blind and visually impaired that provides the same opportunity for access and participation as other voters.
Performance Measures:	Goal has been achieved and accessible voting machines including non-visual accessibility for the blind and visually impaired are in each polling place.
Timetable (if applicable):	Completed
Process used to develop criteria:	Florida Legislature, Sections 101.5602 and 101.56063 *Florida Statutes* Division of Elections certified voting systems HAVA Planning Committee
Accountable official(s):	Director, Division of Elections Supervisors of Elections

Planning Element:	Element #1, Section 302 – Provisional Voting
HAVA Deadline:	January 1, 2004
Goal:	Ensure that all voters whose eligibility to vote is questioned be permitted to cast a provisional ballot and notified of outcome.
Performance Measures:	With respect to the voter registration of each county, the following information will be collected to measure compliance performance: County Level • The number of provisional ballots cast in each precinct • The number of registered voters in each precinct • The number of provisional ballots that were verified and counted in each precinct • The number of provisional ballots not counted in each precinct and the reason for not counting • The reason why the person voted a provisional ballot State Level • The number of provisional ballots cast in each county • The number of registered voters in each county • The number of provisional ballots that were verified and counted in each county • The number of provisional ballots not counted in each county and the reason for not counting • The reason why the person voted a provisional ballot
Timetable (if applicable):	On-going
Process used to develop criteria:	Florida Legislature (Section 101.048, *Florida Statutes*) HAVA Planning Committee
Accountable official(s):	Director, Division of Elections Supervisors of Elections

Planning Element:	Element #1, Section 303 – Voter Registration System
HAVA Deadline:	January 1, 2006
Goal:	Establish 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.
Performance Measures:	• Goal has been achieved. The Florida Voter Registration System (FVRS) became operational in January 2006 and complies with HAVA. • Continue to monitor list maintenance functions for compliance with HAVA. • Continue to monitor security policies and operations for compliance with HAVA.
Timetable (if applicable):	On going.
Process used to develop criteria:	• Public meetings hosted by the Bureau of Voting Systems Certification in consultation with Supervisors of Elections and other involved state and federal agencies
Accountable official(s):	Secretary of State Assistant Secretary of State Deputy Secretary of State Director, Division of Elections Chief, Bureau of Voter Registration Services Supervisors of Elections

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Planning Element:	Element #3, Section 254(a)(3) – Voter Education
HAVA Deadline:	NA
Goal:	Promote a more educated electorate by providing comprehensive and varied voter education programs throughout each of Florida's 67 counties.
Performance Measures:	• County Supervisors of Elections will update and publish a Voter Guide including the information defined in Rule 1S-2.033, F.A.C. • Each Supervisor of Elections will continue to file voter education plans • The Department of State will continue to prepare a report on the effectiveness of these programs • Each county will document, where applicable: o the number and types of locations in which voter guides are distributed o the number and types of mediums for posting election related information (banners, billboards, etc.) o the number of sample ballots mailed and/or publications where they were published o voter education and registration programs for high school students o college registration/education programs on each college campus in the county o voting equipment demonstrations o where voters rights and responsibilities are posted o registration workshops held o the number and locations of radio, television and print interviews o methods used to reach non-English speaking and citizens with disabilities o number of overvotes and undervotes that occur during an election o the number of provisional ballots cast during an election
Timetable (if applicable):	• Ongoing • Supervisors of elections are required to file a report by December 15th of each general election year with the Dept. of State describing voter education programs implemented. • Department of State is required to review information submitted by Supervisors of Elections and prepare a public report, to be submitted to Governor, Senate President and Speaker of the House of Representatives, on effectiveness of voter education programs by January 31st of each year following a general election.
Process used to develop criteria:	The Florida Legislature (Sections 98.255 and 101.65, *Florida Statutes*) Department of State (Rule 1S-2.033, F.A.C.) Supervisors of Elections HAVA Planning Committee
Accountable official(s):	Director, Division of Elections Supervisors of Elections

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Planning Element:	Element #3, Section 254(a)(3) – Election Official and Poll Worker Training
HAVA Deadline:	Immediate and Ongoing
Goal:	Provide a simple, friendly voting experience for Florida voters by training election officials and poll workers through professional and frequent instruction.
Performance Measures:	• Document the number of training classes offered at the state and local levels • Document the number of Supervisors of Elections who receive certification • Document the number of election officials who receive training • Document the number of poll workers who attend the training sessions • Document and report voter satisfaction with the voting process through various methods • Report to the Florida Legislature after each election cycle the effectiveness of election official and poll worker training programs
Timetable (if applicable):	On-going
Process used to develop criteria:	HAVA Planning Committee
Accountable official(s):	Supervisors of Elections Director, Division of Elections

Planning Element:	Element #9, Section 254(a)(9) – State-Based Administrative Complaint Procedures to Remedy Grievances
HAVA Deadline:	NA
Goal:	Establish and maintain a state-based administrative complaint procedure for any individual who believes that there has been a violation of any of HAVA's Title III requirements.

Performance Measures:	The following information will be collected to subjectively measure performance:
	• Number of complaints received
	• Number of complaints resolved
	  ◦ Number of complaints resolved in 30 days or less
	  ◦ Number complaints resolved in 60 days
	  ◦ Number of complaints resolved in 90 days
	• Number of complaints unresolved
	  ◦ Description of reason complaint is left unresolved

Timetable (if applicable):	Ongoing
Process used to develop criteria:	Florida Legislature (Section 97.028, *Florida Statutes*) HAVA Planning Committee
Accountable official(s):	Director, Division of Elections Supervisors of Elections

ELEMENT 9. STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES

Section 254(a)(9): Whether Florida has complied with the requirements of HAVA Section 402(a) to establish uniform, nondiscriminatory State-based administrative complaint procedures to remedy grievances under HAVA Section 402(a)and to provide a description of those procedures

Yes, and no further actions are required.
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 that 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.

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. In addition to tracking HAVA's minimum requirements, section 97.0535, *Florida Statutes*, 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

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.

1. 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. Florida received $26,028,957 under this "early out" program. The HAVA Planning Committee (2003) recommended using Section 101 federal HAVA funds for 2003-04 activities and a combination of Section 101 and Section 251 HAVA federal funds for activities beginning in the 2004-05 fiscal year and beyond.

Section 101 funds are to be used to improve election administration. Approved use of funds under this section includes:
(1) Complying with the requirements under 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 HAVA State Plan for requirements payments.
(6) Improving, acquiring, leasing, modifying, or replacing voting systems.
(7) Improving polling place accessibility for voters with disabilities or with limited English.
(8) Establishing toll-free telephone hotlines for voters to access voting information, report voting fraud, or report voting rights violations.

Section 102 federal funds are to be used to replace punch card and lever voting systems. Following the 2000 General Election, the State of Florida assisted counties by investing approximately $24 million to replace outdated voting machines. In order to recoup some of this expense, Section 102 funds in the amount of $11,581,377 were returned to the state as reimbursement.

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 (2003, 2004 and 2006) meetings held to develop the HAVA State Plan.

2. Section 101. How Title I payments to Florida will be used for activities to improve administration of elections?

The State of Florida is using Title I and Title II funds for election reform activities necessary to ensure Florida complies with all HAVA requirements. The following list describes the major areas in which funds are used.

a. **Complying with Title III requirements for statewide voter registration database**

In 2005, the Division of Elections implemented a statewide voter registration system to comply with HAVA Title III. The Division of Elections used $1 million appropriated from Section 101 federal funds for Phase One development of the new Statewide Voter Registration system. Expenditures for Phase One included:

- Consulting fees 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.
- The purchase of hardware and software for project management and system development.
- Expenses incurred by Division of Elections' staff.
- Travel expenses for visits to every Supervisor of Elections' office and local driver license office.

In addition, Section 101 HAVA funds were used to create nine full time positions necessary for the design, development and implementation of the Statewide Voter Registration system. HAVA Title II, Section 251 funds were then used to complete the design and implementation of the Florida Voter Registration System and to fund 35 full time positions.

b. **Improving the administration of elections for Federal office.**

The HAVA Planning Committee (2006) recommends using HAVA funds as needed for election administration activities such as printing new voter registration application forms, translating election materials, printing documents and publications, preparing training videos or other election administration activities. Estimated expenditures for these activities may vary each year and will be dependent upon annual legislative appropriations.

State-based complaint procedure has been established 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. Funds may need to be expended depending on the number and type of complaints filed.

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

For each fiscal year 2004-05 and 2005-06, local governments received $3 million for comprehensive voter education efforts. In FY 2006-07, the Legislature appropriated $2 million to distribute to Supervisors of Elections to assist with voter education activities. However, the Division used Title II funds to distribute these funds. No Supervisor of Elections received any funds until they provided to the Department of State a detailed description of the voter-education programs to be implemented.

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

In the original HAVA plan, the HAVA Planning Committee (2003) recommended using HAVA funds in the amount of $250,000 for poll worker training in each fiscal year 2003-04, 2004-05 and 2005-06. The Florida Legislature, however, did not appropriate HAVA funds for this use in FY 2003-04 or FY 2004-05.

The HAVA Planning Committee (2004) revived the recommendation to use HAVA funds in the amount of $500,000, beginning with FY 2005-06, for poll worker training and recruitment, with a 15% match required of each county. The Legislature appropriated $4 million for poll worker recruitment and training in FY 2005-06. Of this $4 million, the Department of State distributed $3 million from Title II funds to Supervisors of Elections to assist with poll worker recruitment and training. The Legislature provided $1 million for the Department of State to develop a statewide poll worker training curriculum. To date, the Department has expended $ 213,956.

In FY 2006-07, the Legislature appropriated $1.5 million for poll worker recruitment and training activities. Once again, these funds were drawn from Title II in lieu of Title I funds. Of this amount, $1 million will be distributed to Supervisors of Elections to assist with recruiting and training individuals to serve as poll workers. The Legislature authorized an additional $500,000 for the Department of State to use for necessary updates and revisions to poll worker training curriculum that was developed with funds appropriated in FY 2005-06.

e. Developing the HAVA State Plan for requirements payments to be submitted under part 1 of subtitle D of Title II.

Title I funds were used to revise the HAVA State Plan in FY 2003-04. General Revenue funds were used to revise the Plan again in the FY 2006-07. 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. Following the 2000 General Election, the State of Florida assisted counties by investing approximately $24 million to replace outdated voting machines. In order to recoup some of this expense, Section 102 funds in the amount of $11,581,377 were returned to the state as reimbursement.

The HAVA Planning Committee (2003) recommended 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.

In addition, the HAVA Planning Committee (2004) recommended reimbursing counties who had already purchased voting systems that met the HAVA accessibility for voters with disabilities requirements. In FY 2004-05 the Legislature appropriated $11.6 million to assist Supervisors of Elections (SOEs) with purchasing DREs in order to provide one accessible voting system at each polling place. Funds appropriated in FY 2004-05 were distributed to SOEs that had not acquired accessible voting systems by July 11, 2004. There were 51 counties that did not have accessible voting systems at that time. The Division of Elections distributed the funds to fifty-one (51) Supervisors of Elections for this purpose pursuant to the terms of a memorandum of agreement.

For the fiscal year 2005-06 the Florida Legislature appropriated funds to reimburse counties that acquired accessible voting systems prior to July 1, 2004. Funds in the amount of $13,406,163 were distributed to the sixteen counties that purchased accessible voting systems prior to July 1, 2004. The appropriation is included in the FY 2005-06 General Appropriations Act, specific appropriation 2931. As anticipated, HAVA Section 251 funds were used. In addition, there were eight counties that received a total of $63,215 as reimbursement for existing DREs that were not included in the FY 2004-05 appropriations.

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 HAVA Planning Committee (2004) 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.

During FY 2003-04, the State of Florida applied for and received a grant from Health & Human Services (HHS) in the amount of $687,278. The Division distributed a survey to all Supervisors of Elections requesting information regarding the number of polling places that were utilized in the 2004 Presidential Preference Primary. This information was used to determine the formula for distributing the grant funds to the counties.

To date, the Department has received four grants from HHS for a total amount of $2,203,909. Grant contracts have been awarded and Supervisors of Elections have begun to request funds.

h. Establishing toll-free telephone hotlines for voters to access voting information, report voting fraud, or report voting rights violations.

The Division of Elections has already established a voter fraud hotline for individuals who believe they may have witnessed election fraud. In addition, the Division has established a hotline for voters to request voting information. There are no plans to use HAVA funds to establish an additional free voting information hotline. If this type of voting information system is desired, it will be the responsibility of each county.

3. Section 102. How payments to Florida will be used for the replacement of punch card or lever voting machines?

Following the 2000 General Election, the State of Florida assisted counties by investing approximately $24 million to replace outdated voting machines. In order to recoup some of this expense, Section 102 federal funds in the amount of $11,581,377 were returned to the state as reimbursement.

ELEMENT 11. HELP AMERICA VOTE ACT OF 2002 (HAVA) STATE PLAN MANAGEMENT

Section 254(a)(11): 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).

1. 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.

2. Management of State Plan--Section 254(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 and 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.

Also at the State level, the Secretary of State directs 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 is 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 are encouraged to play an active role in the successful implementation of the HAVA State Plan. The Division of Elections continues 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.

3. Material Changes to State Plan

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

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.***

1. Introduction

In order to proceed with the most recent update of the HAVA State Plan (June 2004), then Secretary of State Sue M. Cobb appointed a new HAVA Planning Committee for 2006. The names of the committee members are listed under Element 13 of this plan. The Collins Center for Public Policy, Inc. was selected in a public competitive process to staff the update process. The HAVA Planning Committing (2006) held two public meetings—one in Pensacola, Florida on September 21, 2006, and one in Miami, Florida on October 12, 2006.

The HAVA Planning Committee (2006) focused on three types of changes:

a. Substantive changes made by the State of Florida that bring the State into further compliance with HAVA
b. Minor updates that will not affect the State's compliance with HAVA
c. Issues that have arisen that might affect the State's future compliance with HAVA

The HAVA Planning Committee (2006) received copies of the original plan and the Help America Vote Act of 2002. All updates and changes to the original plan from the previous fiscal year were noted as follows:

a. Sections of the previous plan were deleted but were first shown in a strike-through font and approved by the committee.
b. Sections of the plan that were new were shown in an underlined font.
c. After the HAVA Planning Committee reviewed and approved the updates, the underline and strike-through fonts were removed.

Florida has updated its original HAVA State Plan to bring it into further compliance through legislative action, rule change and updated information.

KURT S. BROWNING
SECRETARY OF STATE
STATE OF FLORIDA

2. HAVA State Plan's Substantive Changes from Previous Fiscal Year

The following chart is a summary of how the HAVA State Plan has substantively changed since 2004 and how the State succeeded in carrying out the HAVA State Plan for the previous fiscal year.

Element 1-Voting Systems

Florida meets all HAVA voting system requirements.

Changes	Successes
New certified voting systems were added to the plan and decertified voting systems were deleted from the plan. Voting systems for voters with disabilities have been certified for use in each polling place.	The new certified voting systems performed as designed during the 2006 statewide Primary and General Elections.

Element 1- Provisional Voting and Voting Information

Changes	Successes
Florida's requirement for a voter to cast a provisional ballot only in the precinct in which the voter is registered was settled under Florida law, *AFL-CIO v. Hood, 885 So.2d 373 (Fla. 2004).* Under state law, persons casting provisional ballots have until 5:00 p.m. on the 3rd day following an election to present written evidence supporting their eligibility to vote.	

Element 1- Voter Registration System

Changes	Successes
Florida developed and implemented the new Florida Voter Registration System (FVRS) that meets the requirements of HAVA. The FVRS is a single, uniform, official, centralized, interactive, computerized statewide voter registration system. The FVRS became fully operational in January 2006 and complies with all of HAVA's operational requirements such as maintenance, accuracy, and security.	The new Florida Voter Registration System performed as designed during the 2006 statewide Primary and General Elections. The Secretary of State created the Bureau of Voter Registration Services to direct and facilitate the operations of the FVRS.

Element 2- Local Government Payments and Activities

Changes	Successes
In FY 2004-05, the State of Florida distributed $11.6 million to local Supervisors of Elections to purchase one accessible voting system for each polling place. In FY 2005-06, the State of Florida distributed $13,406,193 to reimburse 16 counties that acquired accessible voting systems prior to July 1, 2004. In FY 2005-06, the State of Florida distributed an additional $63,215 to reimburse 8 other counties that acquired accessible voting systems prior to July 2004 and were not included in funding provided in FY 2004-05. In FYs 2004-05 and 2005-06, the State of Florida distributed to local governments $3,000,000 each fiscal year to fund comprehensive voter education efforts. In FY 2005-06, the State of Florida distributed $3,000,000 to local Supervisors of Elections to conduct poll worker recruitment and training.	The accessible voting machines performed as designed during the 2006 statewide Primary and General Elections.

Element 3- Voter Education

Changes	Successes
The HAVA Planning Committee (2004) recommended and the Legislature approved an additional $3 million for voter education in FY 2005-06. The 2004 Voter Education Program Report to the Florida Legislature and Governor concluded that county voter education efforts were considered useful or well-received by voters. An analysis of 2006 voter education programs throughout Florida indicated a variety of programs being used including sample ballots, nonpartisan voter education, media advertising, and innovative programs. In response to findings from the 2006 Auditor General Report (2006-194), the Department of State has taken measures to closely monitor county voter education reports to ensure compliance with HAVA. The Florida Legislature directed the Division of Elections to develop a statewide uniform training curriculum for poll workers in 2006.	

Element 4- Voting System Guidelines and Processes

Changes	Successes
The State of Florida certified three accessible voting systems vendors that provide audio ballot capability. Each accessible voting system includes at least one accessible voter interface device installed in each polling place.	The State of Florida met the January 1, 2006 deadline for this HAVA planning element. The accessible voting systems performed as designed during the 2006 statewide Primary and General Elections.

Element 5- HAVA Election Fund

Changes	Successes
There were no structural changes to the HAVA trust fund.	

Element 6- HAVA Budget

Changes	Successes
Florida's FY 2006-07 budget is $11,015,598. The two largest budget items for this fiscal year are approximately $5.5 million for Election Administration and $4.9 million for the new Florida Voter Registration system. The HAVA Planning Committee (2006) reviewed and recommended the following proposed HAVA budget for the next four fiscal years with all funding supporting the FVRS and election administration activities: FY 2007-08 $10,917,216 FY 2008-09 $11,064,642 FY 2009-10 $11,216,490 FY 2010-11 $11,372,894	

Element 7- Maintenance of Effort

Changes	Successes
A 2006 Auditor General Report (2006-194) determined that Florida's Maintenance of Effort is $3,570,408. The audit also revealed that in FY 2004-05, Florida did not meet the required maintenance of effort by $ Year-end expenditures for the fiscal year 2005-06 have been finalized by the Department, and exceeded the maintenance of effort by $207,186, more than compensating for the $7,630 shortfall for the fiscal year 2004-05. In future years, the Department is expected to exceed the required maintenance of effort compensating for the $7,630 shortfall.	

Element 8- Performance Measures

Changes	Successes
The HAVA Planning Committee (2006) approved the following changes to the performance measures: Certified voting systems for voters with disabilities goal has been achieved and accessible voting machines including non-visual accessibility for the blind and visually impaired are in each polling place. The Florida Voter Registration System (FVRS) is operational. The Department of State will continue to monitor list maintenance activities performed by the Supervisors of Elections and FVRS security operations for compliance with HAVA. The Department of State will collect from each county the reason why a person voted a provisional ballot in order to improve the registration process.	

Element 9-Administrative Complaint Process

Changes	Successes
There were no changes for this element of the HAVA State Plan.	

Element 10- Effect of Title One Payments

Changes	Successes
Florida received $26,028,957 in Title I funds. These Title I funds have been used since 2003 to improve Florida election administration including replacing voting systems, educating voters, and improving access for voters with disabilities. The HAVA Planning Committee (2006) recommended using the Title I funds as needed for election administration activities such as printing new voter registration application forms, translating election materials, printing documents and publications, preparing training videos or other election administration activities. In FY 2004-05 and 2005-06, local governments received $3 million each year for comprehensive voter education efforts. In FY 2004-05, the Legislature appropriated $11.6 million to assist local governments with purchasing one accessible voting system for each polling place. However, these funds were distributed from Title II.	

Element 11- HAVA State Plan Management Section

Changes	Successes
There were no substantive changes to the HAVA State Plan Management Section.	

Element 12- HAVA Changes in State Plan for Previous Fiscal Year

Changes	Successes
The HAVA State Plan was updated to reflect changes from FY 2004-05.	

Element 13- HAVA State Plan Development and Planning Committee

Changes	Successes
The HAVA Planning Committee met once in Pensacola and once in Miami during Fall 2006 to update the HAVA State Plan. The HAVA Planning Committee welcomed eight new members: 1. The Honorable Lester Sola, Supervisor of Elections, Miami-Dade County 2. The Honorable Terry Vaughn, Supervisor of Elections, Bradford County 3. The Honorable Bill Posey, State Senator, District 24, Rockledge, FL 4. The Honorable Ron Reagan, State Representative, District 67, Sarasota, FL 5. Mr. Richard Perez, Attorney, Holland and Knight, Miami, FL 6. Dr. Alec Yasinsac, Professor, Florida State University, Tallahassee, FL 7. Mr. Reggie Mitchell, Counsel for the People for the American Way Foundation, Tallahassee, FL 8. Ms. Sallie Parks, former Pinellas County Commissioner, Palm Harbor FL	

Element 13. State Plan Development and HAVA Planning 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.

1. 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 Elections Assistance Commission.

2. Compliance: Designation and Meetings of HAVA State Planning Committee

Yes, and no further actions are required.

Florida's Secretary of State is the Chief State Election Official and 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 2006 HAVA Planning Committee for the State of Florida (appointed by then Secretary of State, Sue M. Cobb) included:

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:
Brenda Snipes, Supervisor of Elections for Broward County
Lester Sola, Supervisor of Elections for Miami-Dade County

Other Local Election Officials:
Kurt Browning, Supervisor of Elections for Pasco County
Terry Vaughan, Supervisor of Elections for Bradford County

Stakeholders/Representatives of Groups of Individuals with Disabilities:
Jim Kracht, Assistant County Attorney for Miami-Dade County and member of the American Association of Visually Impaired Attorneys, American Council of the Blind and the Florida Council of the Blind
Richard LaBelle, Executive Director of the Family Network on Disabilities of Florida, Inc.

Other Stakeholders and Citizens:
Reggie Mitchell, Florida Legal Counsel, People for the American Way Foundation
Sallie Parks, former member Pinellas County Commission
Bill Posey, State Senator, District 24
Ron Reagan, Representative, District 67
Richard Perez, Esq., Holland & Knight LLP
Dr. Alec Yasinsac, Florida State University

Florida's HAVA compliance process has involved three separate committees over the years, comprised of the following members:

2003 HAVA Committee	2004 HAVA Committee	2006 HAVA Committee
Jim Smith, Chairman Smith, Ballard and Logan	**Jim Smith, Chairman** Smith Ballard and Logan	**Jim Smith, Chairman** Smith and Ballard
Kurt Browning Supv. of Elections, Pasco County	**Kurt Browning** Supv. of Elections, Pasco County	**Kurt Browning** Supv. of Elections, Pasco County
Joe Celestin Mayor, City of North Miami	**Anna Cowin** State Senate	**Jim Kracht** Miami, Florida
Anna Cowin State Senator --District 20	**Jennifer Carroll** House of Representatives	**Richard La Belle** Family Network on Disabilities of Florida, Inc.
Dave Evans National Federation of the Blind	**Joe Celestin** Mayor, City of North Miami	**Reggie Mitchell** People For the American Way Foundation
Susan Gill Supv. of Elections, Citrus County	**David Evans** National Federation of the Blind	**Bill Posey** State Senator, District 24
Jane Gross Florida League of Women Voters	**Susan Gill** Supv. of Elections, Citrus County	**Richard Perez** Holland and Knight
Lindsay Harrington State Representative --District 72	**Jane Gross** Florida League of Women Voters	**Sallie Parks** **Former Pinellas County Commissioner**
Arthur Hernandez Arthur Hernandez, Esq.	**Arthur Hernandez** Attorney at Law	**Ron Reagan**
Shirley Green Knight Supv. of Elections, Gadsden County	**Constance Kaplan** Supv. of Elections, Miami-Dade	

Jim Kracht
Miami-Dade County

Richard LaBelle
Fla. Coalition on Disability Rights

David Leahy
Supv. of Elections, Miami-Dade County

Percy Luney
Florida A & M University

Reggie McGill
City of Orlando

Miriam Oliphant
Supv. of Elections, Broward County

Isis Segarra
Tampa, Florida

Lori Stelzer
Florida Association of City Clerks

Raiza Tamayo
US Hispanic Chamber of Commerce

County

Shirley Knight
Supv. of Elections, Gadsden County

Jim Kracht
Florida Council of the Blind
American Council of the Blind

Richard LaBelle
Attorney at Law

Percy Luney
FAMU Law School

Reggie McGill
City of Orlando

Brenda Snipes
Supv. of Elections, Broward County

Lori Stelzer
Florida Association of City Clerks

Isis Segarra
Tampa, Florida

Raiza Tamayo
U.S. Hispanic Chamber of Orlando

Representative, District 67

Lester Sola
Supv. of Elections, Miami-Dade County

Brenda Snipes
Supv. of Elections, Broward County

Terry Vaughan
Supv. of Elections, Bradford County

Alec Yasinsac
Florida State University

Each HAVA Planning Committee has 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. The Collins Center for Public Policy, Inc. a non-profit, non-partisan organization (selected in a public bidding process) and the Florida Department of State's Division of Elections have served as staff for each committee.

The HAVA Planning Committee (2006) convened two publicly noticed meetings to update the June 2004 version of the State Plan—Pensacola, Florida, on September 21, 2006, and Miami, Florida, on October 12, 2006. A majority quorum of HAVA Planning Committee members was present for both meetings. Members of the public and press were welcomed at the meeting and public comments received.

All meetings were held in accessible facilities and were compliant with the Americans with Disabilities Act. Closed captioning service was available at all meetings. Agendas were printed in Braille as well as Spanish and Creole.

The Collins Center prepared written materials for the meetings, made presentations to focus the 2006 HAVA Planning Committee on decisions that needed to be made, and took notes of proceedings at the Pensacola meeting. At the bequest of the committee, a transcript of the Miami public meeting was prepared. All agendas and other materials for the meetings were made available at the meetings. The website of the State Division of Elections also included much of this material in advance of the meetings

The HAVA Planning Committee received a draft of the plan before voting to approve the preliminary version. The Committee then forwarded it to the Division of Elections for public notice and commentary period. Staff for the Division of Elections made authorized edits to ensure consistency and accuracy of text and format of the final draft.

3. Compliance: Public Notice and Comments for State Plan

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 Election Assistance Commission.

After notice was given in the *Florida Administrative Weekly*, the preliminary version of the 2006 HAVA State Plan was posted on the Department of State's and the Governor's websites. A link was made available on the Department's website for receiving public comments. No comments were received. 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 the final updated 2006 HAVA State Plan is submitted to the Election Assistance Commission, that Commission is responsible for publishing the HAVA State Plan in the Federal Register in accordance with Section 255(b).

KURT S. BROWNING
SECRETARY OF STATE
STATE OF FLORIDA

Help America Vote Act of 2002 State Plan Chart

Help America Vote Requirement	Status: 2006 HAVA State Plan	Status: As of 10/31/06
Voting Systems--Section 301 Compliance January 1, 2006)	**Meets**	
Verify Ballot	X	Meets
Change or Correct Ballot	X	Meets
Prevent Overvotes	X	Meets
Absentee instructions	X	Meets
Absentee privacy and confidentiality	X	Meets
Paper record for audits	X	Meets
Systems for voters with disabilities	X	Meets
Future voting systems purchases comply with HAVA	X	Meets
Alternative language accessibility	X	Meets
Comply with FEC error rates	X	Meets
Define what constitutes a vote	X	Meets
Provisional Voting and Voter Information--Section 302 (Compliance January 1, 2004)	**Meets**	
Laws require notification to cast provisional ballot	X	Meets
Provisional ballots permitted with written affirmation of voter eligibility	X	Meets
Provisional ballots given to election officials for determination	X	Meets
Provisional ballots counted if voter is determined to be eligible	X	Meets
Voters provided information to ascertain if provisional ballot counted	X	Meets
"Free access system" provided to ascertain if provisional ballot counted	X	Meets
Sample ballots are posted for election	X	Meets
Date of election and polling place hours are posted	X	Meets
Voting instructions and provisional voting instructions are posted on election day	X	Meets
Voting instructions for mail-in registrants and first-time voters on election day	X	Meets
Voting rights information and provisional ballot information posted	X	Meets
Contact information posted for voters whose rights have been violated	X	Meets
Information posted on prohibition of fraud and misrepresentation	X	Meets
Provisional ballots segregated for those who vote after special extended poll hours	X	Meets

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Help America Vote Requirement	Status: 2006 HAVA State Plan	Status: As of 10/31/06
Voter Registration--Section 303 (Compliance January 1, 2004 or extension January 1, 2006)	**Meets**	
Single, uniform, official centralized, interactive computer statewide, voter registration list	X	Meets
Can Florida meet January 1, 2004 deadline? Need to apply for January 1, 2006 waiver	X	Meets
HAVA's ID requirements for voters who register by mail and not previously voted	X	Meets
HAVA's requirement for voter registration language in mail registration forms	X	Meets
Local Government Payments and Activities [Section 254(a)(2)]	**Meets**	
Describe criteria for funding	X	Updated
Describe methods to monitor performance	X	Updated
Voter Education [Section 254(a)(3)]	**Meets**	
Describe voter education programs to support Title III	X	Updated
Describe election official education and training to support Title III	X	Updated
Describe poll worker training to support Title III	X	Updated
Voting System Guidelines and Processes [Section 254(a)(4)]	**Meets**	
Describe Florida's voting system guidelines and processes consistent with Section 301	X	Meets
HAVA Election Fund [Section 254(a)(5)]	**Meets**	
Describe how Florida will establish a HAVA fund	X	Updated
Describe how Florida will manage the HAVA fund	X	Updated
Florida's HAVA Budget [Section 254(a)(6)]	**Meets**	
Describe costs of activities to meet Title III	X	Updated
Describe portion of requirements payment to carry out requirements activities	X	Updated
Describe portion of requirements payment to carry out other activities	X	Updated
Florida's Maintenance of Effort [Section 254(a)(7)]	**Meets**	
Describe how Florida will maintain election expenditures at the 1999-2000 FY	X	Updated

Help America Vote Requirement	Status: 2006 HAVA State Plan	Status: As of 10/31/06
Florida's Performance Goals and Measures [Section 254(a)(8)]	**Meets**	
Describe how Florida will adopt performance goals measures to determine HAVA success	X	Updated
Administrative complaint process [Section 254(a)(9)]	**Meets**	
Established a state-based administrative complaint process to remedy grievances	X	Meets
Effect of Title I Payments [Section 254(a)(10)]	**Meets**	
Describe how Title I payments will affect activities of HAVA plan	X	Updated
HAVA State Plan Management [Section 254(a)(11)]	**Meets**	
Describe how Florida will manage plan and make material changes to plan	X	Updated
HAVA State Plan for Previous Fiscal Year [Section 254(a)(12)]	**Meets**	
Describe how this year's plan changed from the previous fiscal year	X	Updated
HAVA State Plan Development and Planning Committee [Section 254(a)(13)]	**Meets**	
Describe the committee and procedures used to develop the HAVA plan	X	Updated

Appendix A

INSTRUCTIONS TO VOTERS

1. **Polls open at 7 a.m. and close at 7 p.m. Anyone in line at 7 p.m. will be allowed to vote.**
2. **Sample ballots will be posted in the polling room for your information.**
3. **When you enter the polling room and before being permitted to vote, you are required to present a photo ID with signature. If you do not have the proper ID, you will be allowed to vote a provisional ballot.**
4. **If you need instructions on how to use the voting equipment, ask a poll worker to assist you. After you have been given instructions, the officer assisting you will leave so that you can cast your vote in secret.**
5. **You are required to occupy the voting booth alone, unless you requested assistance at the time of registration or when you signed in at the polls.**

6.a. **For OPTICAL SCAN voting, when you are finished marking your ballot, take your ballot and put it into the precinct tabulator.**

b. **For TOUCH SCREEN voting, when you are finished voting your ballot, be sure to press VOTE or CAST BALLOT button to cast your vote.**

7. **After you cast your vote, you are required to leave the polling room and you will not be allowed to re-enter.**
8. **If your eligibility is questioned or you do not have a photo ID, you will be allowed to vote a provisional ballot. Please review carefully and follow the instructions provided with your provisional ballot. Your ballot will be presented to the County Canvassing Board for a determination as to whether your ballot will be counted.**
9. **The poll workers possess full authority to maintain order in the polling area.**

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STATE OF FLORIDA

Appendix B

INSTRUCCIONES PARA LOS VOTANTES

1. Las urnas abren a las 7:00 a.m. y cierran a las 7:00 p.m. A todo el que se encuentre en línea a las 7:00 p.m. se le permitirá votar.

2. Se desplegarán boletas de muestra en el salón de votación para su información.

3. Cuando usted entre el salón de votación y antes de que se le permita votar, a usted se le requiere presentar una identificación con fotografía y firma. Si usted no tiene la identificación apropiada, a usted se le permitirá votar una boleta provisional.

4. Si usted necesita instrucciones de cómo usar el equipo de votación, pídale a un trabajador de las urnas que le ayude. Después que a usted se le han dado instrucciones, el oficial que le ayuda se irá, para que usted pueda echar su voto en secreto.

5. A usted se le requiere ocupar la caseta de votación solo, a menos que usted haya pedido ayuda al momento del registro o cuando usted registró su llegada en las urnas.

6.a. Para la votación por ESCANEO ÓPTICO, cuando usted haya terminado de marcar su boleta, tome su boleta y póngala en el tabulador del precinto.

b. Para la votación por PANTALLA AL TACTO, cuando usted haya terminado de marcar su boleta, asegúrese de oprimir VOTE (Votar) o CAST BALLOT (Echar Boleta) para echar su voto.

7. Después que usted eche su voto, a usted se le requiere que abandone el salón de votación y a usted no se le permitirá volver a entrar.

8. Si su elegibilidad es cuestionada o usted no tiene una identificación con fotografía, a usted se le permitirá votar una boleta provisional. Por favor, revise cuidadosamente y siga las instrucciones provistas con su boleta provisional. Su boleta será presentada a la Junta Escudriñadora del Condado para una determinación respecto a si su boleta será contada.

9. Los trabajadores de las urnas poseen plena autoridad para mantener el orden en el área de votación.

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ESTADO DE LA FLORIDA

Appendix C

VOTER'S BILL OF RIGHTS

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 or identity is in question.
6. If his or her registration or identity is in question, cast a provisional ballot.
7. Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.
8. Vote free from coercion or intimidation by elections officers or any other person.
9. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

You may have other voting rights under state and federal laws. If you believe your voting rights have been violated, please contact Florida Department of State, Division of Elections, 1-877-868-3737

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KURT S. BROWNING
SECRETARY OF STATE
STATE OF FLORIDA

Appendix D

La Carta de Derechos del Votante

Cada votante registrado en este estado tiene el derecho a:

1. Votar y hacer que su voto se cuente con precisión.
2. Echar un voto si él o ella está en línea al cierre oficial de las urnas en ese condado.
3. Pedir y recibir ayuda al votar.
4. Recibir hasta dos boletas de reemplazo si él o ella comete un error antes de echar la boleta.
5. Una explicación si es que su registro o identidad se cuestiona.
6. Si su registro o identidad se cuestiona, a echar una boleta provisional.
7. Instrucciones escritas para usar al votar y, si así se pide, instrucciones verbales al votar de parte de los oficiales electorales.
8. Votar libre de coerción o intimidación de parte de los oficiales electorales o cualquier otra persona.
9. Votar en un sistema de votación que se encuentre en condiciones operantes y que permita que los votos sean echados con precisión.

Usted puede tener otros derechos electorales bajo las leyes estatales y federales. Si usted cree que sus derechos electorales han sido violados, por favor, comuníquese con el Florida *Department of State, Division of Elections* (Departamento de Estado de la Florida, División de Elecciones) al 1-877-868-3737.

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Mark Ritchie
MINNESOTA SECRETARY OF STATE

January 4, 2008

Ms. Donetta Davidson
Chair
United States Election Assistance Commission
1225 New York Avenue, Suite 1100
Washington DC 20005

Dear Ms. Davidson,

Pursuant to Section 255 of the Help America Vote Act of 2002 (P.L. 107-252) (HAVA), I am pleased to file this letter and the amendments within this letter with the Election Assistance Commission for publication in the *FederalRegister*. The amendments within this letter constitute the revision to the State Plan of the State of Minnesota for the 2008 Federal Fiscal Year, and have been developed pursuant to HAVA section 254 (a)(11), and consistent with the procedures set forth in HAVA sections 254, 255, and 256.

In accordance with section 256, the State published a notice in the *State Register* on September 24, 2007 to alert the public of the proposed amendments to the plan and the opportunity to comment. The State took the one public comment it received into account in preparing the amended plan, which is now submitted to the Commission for publication.

As required by Public Law 107-252, Help America Vote Act of 2002, Section 254(a)(12), when amending a state plan, Secretary of State Ritchie also proposes changing the plan by adding to Section 12, which provides a description of how the change in the State Plan differs from the prior State Plan and how Minnesota succeeded in carrying out the state plan in previous years. Section 13 is amended by adding section 13.4, listing the 2007 Minnesota State Plan Amendment Advisory Committee Membership Roster.

Amendments are underlined, and read as follows:

1.6 Uniform Statewide Voter Registration System

The State of Minnesota will plan, develop, and implement a statewide voter registration system to meet all 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 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.

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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.

Consistent with state statute, the Office of the Secretary of State may program the Statewide Voter Registration System to enable the Office, working with county auditors, to maintain current addresses for voters using permanent forwarding information filed with the National Change of Address (NCOA) service of the United States Postal Service.

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 will meet voter list maintenance requirements in HAVA section 303.

Amended section 12 reads as follows:

Section 12

State Plan Changes and Successes in Previous Fiscal Years

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).

The change in the 2003 State Plan, section 1.6, proposed in 2007, will allow the Minnesota Secretary of State to interface data collected by the United States Postal Service National Change of Address service with the statewide voter registration system. In the prior State Plan, interface was allowed only with other Minnesota State databases. Specific successes in carrying out the previous State Plan are the following.

12.1 2003

- Statewide implementation of administrative procedures to track registrations by mail for first-time federal voters effective January 1, 2003. (HAVA § 303(b))
- Initial State Plan – adopted July 15, 2003.
- Creation of Polling Place Accessibility Survey tool, developed in conjunction with the Minnesota State Council on Disability and others in the disability community, to be used by local jurisdictions to assess the accessibility of their local polling places.
- HAVA compliance legislation passed (Laws Special Session 1 2003, Chapter 7), appropriating funding and establishing complaint procedure.

12.2 2004

- Statewide Voter Registration System (SVRS) implemented, including Driver's License number verification and user training.
- Voter registration application forms updated to be HAVA compliant; available in 5 alternative languages.
- Updated informational materials to reflect HAVA, including brochures about voting rights, military and overseas voting, and voting for students.
- UOCAVA statewide absentee ballot system developed and implemented to support HAVA.
- The Minnesota Military Voter's brochure was cited by the Election Assistance Commission in its "Best Practices for Facilitating Voting by U.S. Citizens Covered by the Uniformed and Overseas Citizens Voting Act."
- Election Judge Training video updated with HAVA requirements.
- HAVA posters supplied to all polling locations.
- Awarded $171,645 in Election Assistance to Individuals with Disabilities grants to local government units to make polling places accessible.
- HAVA compliance legislation passed (Laws 2004, Chapter 293), modifying the statewide voter registration system, requiring the sharing of data between state agencies, and establishing the Minnesota Voter's Bill of Rights and processes for addressing incomplete registrations submitted by mail and facilitating voting by military and overseas voters under UOCAVA.
- Administrative Rules amended (Minn. Rules, Chapter 8200), establishing processes for verifying voters, notices for incomplete and deficient registrations, and updated instructions for UOCAVA and other absentee ballots.

12.3 2005

- State certification of Assisted Voting Equipment (AutoMark).
- Entered into state contract with vendor for local governmental units to purchase Assisted Voting Equipment and Precinct Count optical scan tabulators.
- HAVA compliance legislation passed (Laws 2005, Chapter 162), providing voting equipment requirements and authorizing grants to counties for voting equipment purchases and related provisions.

12.4 2006

- During FY 06, provided $29,000,000 in grants to the 87 Minnesota counties to purchase Assistive Voting Equipment for individuals with disabilities for each polling place (AutoMARK) and for certain related operating expenses.
- $3,545,822 was provided in grants to 50 counties to purchase optical scan voting equipment.
- With these grants, the counties purchased:
- 3,383 AutoMARK ballot-marking machines;
- 1,698 ES&S M100 optical scan precinct ballot tabulators; and
- ES&S M650 optical scan central count ballot tabulators.
- Statewide Voter Registration System (SVRS) version upgrade including FPCA as registration source.
- WebX training on use of Statewide Voter Registration System for county election administrators
- Awarded $259,918 in Election Assistance to Individuals with Disabilities grants to local government units to make polling places accessible.
- Provided information on new HAVA requirements at the 2006 Local Election Official Training Conference.
- Created 2006 Election Judge, Precinct Caucus, Accessible Voting Equipment and Voter Expectation videos to reflect use of AutoMARKs.
- Updated the Municipal Clerk, School District Clerk, Election Judge Training, Equipment Testing Guides to reflect use of new equipment.
- Developed a brochure "Minnesota Election Improvements for 2006," including information on the AutoMARK and other law changes.
- Attended 131 events in 75 cities across the state to demonstrate the AutoMARK and provide information on voting rights.

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- Distributed information from the Elections Improvement brochure to millions of voters across the state through every weekly and most daily newspapers.

2.5 2007

- Implemented SVRS 2.4 version upgrade including SSN verification.
- Established Working Groups with local election officials for SVRS/VR and Equipment/ERS.
- Created and provided additional WebX training on use of SVRS to election officials

Section 13 is amended by adding section 13.4, as follows:

13.4 2007 Minnesota State Plan Amendment Advisory Committee Membership Roster

MEMBER	OFFICE / REPRESENTING
Mark Ritchie	Minnesota Secretary of State
Gary Poser	Director of Elections, Office of the Secretary of State
Jim Knoblach	Governor's Office
Sen. Joe Gimse	Minnesota Senate (R - Willmar)
Sen. Linda Higgins	Minnesota Senate (DFL – Minneapolis)
Rep. Laura Brod	Minnesota House of Representatives (R – New Prague)
Rep. Bill Hilty	Minnesota House of Representatives (DFL – Finlayson)
Michelle DesJardin	Hennepin County Elections Manager
Joe Mansky	Ramsey County Elections Manager
Dennis Distad	Freeborn County/MN Association of County Officers
Patty O'Connor	Blue Earth County/MN Association of County Officers
Gene Dufault	Association of Minnesota Townships
Ann Higgins	League of Minnesota Cities
Scott Simmons	Association of Minnesota Counties
Marcia Avner	Minnesota Council of Nonprofits
Roger Banks	Council on Black Minnesotans
Margot Imdieke Cross	State Council on Disability
Oscar Echandi	Council on Chicano / Latino Affairs
Kao Ly Her	Council on Asian Pacific Minnesotans
Susan Hoyt	League of Women Voters of Minnesota
Judy Sanders	National Federation of the Blind
Jolynn Shopteese	Minnesota American Indian Affairs Council
Mai Thor	Minnesota Disability Law Center
Cynthia Weitzel	Council on Deaf & Hard of Hearing

On behalf of the State of Minnesota, I submit the above amendments for publication in the Federal Register, and thank the Election Assistance Commission for its help in the amendment process.

Sincerely,

Mark Ritchie

Mark Ritchie
Secretary of State of Minnesota

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State of New Jersey

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Governor

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DIVISION OF LAW
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TRENTON, NJ 08625-0112

ANNE MILGRAM
Attorney General

ROBERT J. GILSON
Director

September 20, 2007

Thomas Wilkey, Executive Director
Election Assistance Commission
1225 New York Avenue
N.W., Suite 1100
Washington, DC 20005

Re: New Jersey "Help America Vote Act of 2002" (HAVA)
State Plan Addendum

Dear Director Wilkey:

Enclosed please find the New Jersey State Plan Addendum, which revises the original State Plan filed on August 15, 2003, in regard to the amount of monies available for HAVA implementation and the allocation of such additional funding. In particular, the Addendum proposes the dedication, in part, of funds for the implementation of a voter-verified paper audit trail (VVPAT) for voting systems, which is an activity intended to improve the overall administration of federal elections.

By letter dated June 25, 2007, the State had previously certified to the Election Assistance Commission that it had complied with the mandated Title III requirements of HAVA, and that the State intended dedicated some of the HAVA funding to assure a VVPAT component for its voting systems.

The Addendum includes the VVPAT proposal and further details increased funding for the State's statewide voter registration system, the State management budget, and voter education and outreach.

Pursuant to Section 256 of HAVA, the proposals to revise the 2003 State Plan were developed with the assistance and input of the New Jersey HAVA State Plan Committee. Thereafter, a preliminary Addendum was subject to a 30-day public inspection and comment period, which commenced on July 13, 2007. The enclosed State Plan Addendum incorporates the public comment.

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It is now requested, pursuant to Section 255 (b), that the Election Assistance Commission cause the revised Plan to be published in the Federal Register.

Thank you for your attention to this matter. If you have any questions, please contact my office at your convenience.

Sincerely yours,

Donna Kelly
Assistant Attorney General

c: Peggy Sims, Election Research Specialist
Edgardo Cortés, Election Research Specialist

STATE OF NEW JERSEY
"HELP AMERICA VOTE ACT OF 2002"
ADDENDUM TO STATE PLAN:
SECTIONS ONE AND SIX

I. Introduction

On August 15, 2003, the State of New Jersey ("State") filed its initial State Plan ("Plan"), pursuant to the "Help America Vote Act of 2002" ("HAVA") with the Federal Election Commission (the authorized depository for the HAVA State Plans prior to the establishment of the United States Election Assistance Commission ("EAC")). The Plan detailed the manner in which New Jersey intended to meet the requirements of HAVA and the projected corresponding costs for implementation.

Section One of the Plan detailed the State's proposal to satisfy the following requirements of Title III of HAVA: providing for compliant voting systems; developing a statewide voter registration system ("SVRS");implementing provisional balloting; distributing voter information in the polling place; and establishing a state administrative grievance procedure. Title III further allows a state to undertake other activities to improve the overall administration of federal elections. Section One of the Plan listed voter education and election officials' training as activities that would further this goal.

Section Six of the Plan set forth the proposed budget for these activities. The budget was based upon the receipt of 68 million dollars in federal funding. Since filing the Plan, federal and matching state monies available for HAVA purposes have increased by an additional 28.5 million dollars.

The increase in funding allows the State to dedicate additional monies to HAVA activities already identified in the Plan, as well as provides an opportunity to consider new endeavors to improve the overall administration of federal elections. Allocation of this increased funding would materially change the State Plan. Accordingly, this Addendum reflects updates and changes to Section One and Section Six.

The Addendum has been prepared in accordance with the procedural requirements of section 253 of HAVA. The HAVA State Plan Committee convened on April 4, 2007, to provide input on the use of the additional funds. In particular, the Committee discussed allocating a portion of the funds to implement a voter-verified paper audit trail (commonly referred to as "VVPAT") for the voting systems. The Addendum reflects the Committee's input. Although HAVA does not mandate the use of a VVPAT, the EAC has acknowledged that HAVA funds may be used for such "other activities" upon the State satisfying the mandated requirements of Title III. (See EAC Letter to State of Florida, dated May 2, 2007).

Prior to the issuance of the Addendum, the State certified to the EAC, by letter dated June 25, 2007, that it is in compliance with the mandated Title III requirements, and advised the EAC that it intends to dedicate some of the HAVA monies for a VVPAT component to its electronic voting systems.

Pursuant to Section 253, the Preliminary Addendum was subject to a 30-day public comment period. The Preliminary Addendum was published on the New Jersey Division of Elections website on July 13, 2007. Only one comment was received, with the suggestion that counties have the option of using HAVA funding towards the purchase of new voting systems, instead of retrofitting current systems. This suggestion has been incorporated into the final version of the Addendum.

As fully set forth below, in furtherance of the State's interest to improve the overall administration of federal elections, and pursuant to this Addendum to its State Plan, New Jersey will allocate up to approximately 15 million dollars in the Election Fund for the purpose of providing the voting systems in every county in the State with VVPAT capability, and to increase funding for the SVRS, voter education, as well as State management.

II. Section One of the Plan

A. HAVA-Compliant Voting Systems

1. *Status at the Time of the Submission of the Plan*

At the time of the submission of the State Plan, only two of the State's 21 counties had HAVA-compliant voting systems for use in their polling places. The voting systems in the other counties were as follows:

- Seven counties had lever machines, although two of those counties, Hudson and Mercer, had already contracted for electronic voting systems, which were to be in place by 2004.
- Three counties had electronic voting systems that could not be retrofitted with audio kits to allow independent voting by voters with visual impairments.
- Nine counties had electronic voting systems that could be retrofitted with audio kits.
- Cape May and Somerset Counties were using punch card systems to count absentee ballots.

The State anticipated that HAVA funds would be used to absorb at least half of the cost of voting machine replacements or upgrades.

Section One of the Plan also noted the ongoing, national discussion among computer scientists and advocacy groups regarding the security and reliability of electronic voting machinery. This concern was the apparent genesis for the proposal that a voter-verified paper record system be used in conjunction with electronic voting systems. Although not technically required by HAVA, the Plan indicated that the Attorney General intended to study this proposal to determine if it would be beneficial for voters.

2. *Current Status of Voting Systems*

For the first federal election held in New Jersey in 2006, the June 6th Primary Election, all of the State's voting machines were HAVA-compliant as follows:

- The lever machines that were used in five counties were replaced with the Sequoia Advantage AVC full-face machine. These are the same machines that Hudson and Mercer Counties began using in 2004.
- Of the three counties with non-accessible electronic voting systems, Atlantic and Passaic Counties purchased the Sequoia Advantage AVC machine. Warren County purchased the Avante VoteTrakker full-face machine.
- The machines in the remaining nine counties were brought into full HAVA compliance by retrofitting at least one machine per election district with an audio kit
- The punch card systems in Cape May and Somerset Counties were replaced with electronic counters.

B. Compliance with Other Mandated HAVA Activities

In addition to the voting machines, the State satisfied the other mandated activities under Title II of HAVA as follows:

1. *Administrative Grievance Procedure*

By way of State statute, N.J.S.A. 19:61-6, the State implemented an administrative grievance procedure for any individual who believed that there has been, or will be, a violation of Title III of HAVA. This procedure comports with the corresponding HAVA provisions.

2. *Forms and Notices*

HAVA mandates that a state provide certain forms and notices to further voter participation in federal elections. To meet this mandate, the State revised its voter registration forms to incorporate the required provisions relating to citizenship and age, as specified in section 302 of HAVA (42 U.S.C. § 15483). The form further requires the registrant to provide his or her driver's license number or MVC non-driver ID number, and only if the registrant does not have either number, the last four digits of the social security number. For those registrants with no such form of identification, a check-off box to that effect is provided.

In addition, pursuant to Section 302 of HAVA (42 U.S.C. § 15482), the Office of the Attorney General prepares and distributes the Voter's Bill of Rights, comprised of two easy-to-read posters, to each county board of election for display in the polling places on election days.

3. *Provisional Ballots and the Free-Access System*

As noted in the initial State Plan, New Jersey has offered provisional ballots to certain voters at the polls on election day since 1996. These ballots originally were used for voters whose voter registration information in the poll book was deficient (e.g., signature missing), or for voters who had moved and did not notify the county commissioner of registration before the election. In response to HAVA, State law was amended in 2004 to allow for the use of provisional ballots for first-time registrants by mail who had not satisfied the identification requirements of section 303 of HAVA (42 U.S.C. § 15483). These amendments are set forth in N.J.S.A. 19:53C-3(i).

The related HAVA requirement that provisional ballot voters be provided with a free-access system to ascertain the disposition of their ballots was also instituted by the State and provided for in all elections, not just federal, pursuant to N.J.S.A. 19:61-4. The current system is a toll-free telephone system. The voter is connected to the appropriate county board of election, which sends the information by U.S. mail to the voter's registered address. It was determined that this procedure ensured the confidentiality of the process, which is required under HAVA.

Although not required by HAVA, the toll-free system also is available for absentee ballot voters. Written notice of the availability of this system is included in the absentee ballot materials that are sent to the voters by the county clerks.

4. *Statewide Voter Registration System*

The State of New Jersey has converted its county-based voter registration system into a statewide voter registration system ("SVRS"), as required by section 303 of HAVA (42 U.S.C. § 15483). New Jersey's SVRS is an interactive, computerized system which links the 21 county commissioner of registration offices with the following State agencies:

- Motor Vehicle Commission
- Department of Corrections
- Administrative Office of the Courts
- Parole Board
- Bureau of Vital Statistics.

The SVRS contains the official list of all the qualified registered voters in the State. The county commissioners of registration are responsible for the daily maintenance of the voter registration records of registered voters within their respective jurisdictions.

With the implementation of the SVRS, the registrant's driver's license number, MVC non-driver ID number, or the last four digits of the social security number of a registrant can be verified electronically. The system can also identify those registrants who are potentially duplicative, deceased, or criminally disqualified. In addition, the State now has the ability to maintain the complete voting history of registrants who move between counties. Prior to the SVRS, such records did not move with the registrant as there was no mechanism for the transfer of records for inter-county moves. The SVRS also has an enhanced reporting capability which allows the State to generate reports which either are required by the EAC or can be used for voting studies.

The SVRS further includes a comprehensive Election Management System ("EMS"), with various modules to allow for uniform and upgraded election administration in the county election offices. The EMS includes components for absentee ballot processing, poll worker assignments, redistricting capabilities, poll book generation, and nomination petition management.

C. The Implementation of a Voter-Verified Paper Audit Trail for Voting Systems: An Activity Intended to Improve the Overall Administration of Federal Elections

As stated in Section One of the original State Plan, New Jersey indicated its intent to study the issue of a voter-verified paper record component for each of its voting systems. This issue was brought into the national forefront by New Jersey Congressman Rush Holt (D-NJ), who introduced legislation in 2004 which would require a corresponding paper record for all votes cast on an electronic voting system. This legislation was intended to address concerns related to the possibility of computer software flaws or errors which could alter election results.

Although this proposal remains under Congressional consideration, on July 9, 2005, the State enacted a statutory requirement that, no later than January 1, 2008, a voter-verified paper record be created for each vote cast in an election. These paper records will be the official records for any recount or audit.

By enacting this legislation, the State has determined that creating a paper record for individual voter verification for all elections, including federal elections, will further voter confidence in the electoral process and underscore one of the primary objectives of HAVA – to increase voter participation in federal elections. Participation is partly dependent on voters having

the assurance and belief that their votes will be properly counted and that sufficient safeguards exist to ensure the accuracy and integrity of the election results. New Jersey has concluded VVPAT technology is a meaningful enhancement that will further this objective.

Accordingly, the use of HAVA funds for the purchase of VVPAT technology, either by retrofitting the current voting system or purchase systems with such technology, is appropriate and commensurate with the spirit and intent of the federal law. The allocation of funding for this activity is reflected in the revised Section Six of the State Plan as set forth in this Addendum.

III. Section Six of the Plan

Section Six of New Jersey's initial State Plan set forth an estimated budget for the dedication of HAVA funding to implement the Title III requirements, voter education and election officials training, disability access, and the administrative grievance procedure. In addition, the State allocated funding for state administrative costs to oversee the programs mandated by HAVA.

As noted in the Introduction, the budget was based upon a fund of approximately $68 million. The State Election Fund has received a total of $91 million. The following chart reflects the amount of monies dedicated to the requirements and activities originally listed in the Plan, the changes to several of those categories, and the inclusion of the proposed VVPAT expenditure. The State intends to dedicate up to approximately $15 million toward the purchase of VVPAT technology.

Of the activities originally listed in the Plan, the State intends to increase the SVRS line item from $20 million to $25 million, the voter education and outreach expenditure by an additional $500,000, and the State management budget from $3 million to $5.5 million.

HAVA BUDGET SUMMARY

HAVA Funding to Date: $91,692,585.00

HAVA Funding for Initial State Plan $68,175,000.00

I. Title III Requirements	Initial State Plan Estimated Cost	Current Projected Budget	Expenditures
A. Voting Systems (machine replacements and audio kit retrofitting)			
Purchases	$38,657,000	$40,500,000	
Expenditures			$37,834,429.30
Encumbered			$89,860.00
B. Statewide Voter Registration System	$20,000,000	$25,000,000	
Expenditures			$16,487,768.77
Encumbered			$5,284,332.00
C. Provisional Balloting	$1,000,000	$1,000,000	
Expenditures			$41,340.75
Encumbered			$0.00
D. Required Forms and Notices	$500,000	$500,000	
Expenditures			$139,552.11
Encumbered			$300,000.00
E. Administrative Grievance Procedures	$250,00	$250,000	
Expenditures			
Encumbered			

II. Other Activities	Initial State Plan Estimated Cost	Current Projected Budget	Expenditures
A. Disability Access	$750,000	$750,000	
Expenditures Encumbered			
B. Election Official Training	$1,000,000	$500,000	
Expenditures Encumbered			$53,240.00 $0.00
C. Voter Education and Outreach	$3,000,000	$3,500,000	
Expenditures Encumbered			$2,785,389.30 $0.00
D. State Management (Administrative Costs and Salaries)	$3,000,000	$5,500,000	
Expenditures Encumbered			$1,087,527.82 $0.00
E. VVPAT-New Program*		$15,000,000	

* This in addition to the Section 261 monies, some of which have been expended for polling place accessibility and training.

ROSS MILLER
Secretary of State

NICOLE J. LAMBOLEY
Chief Deputy Secretary of State

CHRIS LEE
Deputy Secretary for Southern Nevada

STATE OF NEVADA

OFFICE OF THE
SECRETARY OF STATE

SCOTT W. ANDERSON
Deputy Secretary for Commercial Recordings

MATTHEW M. GRIFFIN
Deputy Secretary for Elections

KATE THOMAS
Deputy Secretary for Operations

April 30, 2007

Thomas R. Wilkey, Executive Director
United States Election Assistance Commission
1225 New York Avenue N.W. Suite 1100
Washington, D.C. 20005

RE: Nevada's FY 2006-2007 State Plan

Dear Mr. Wilkey:

Nevada hereby submits the State Plan for FY 2006-2007, which has been developed pursuant to § 254 of the Help America Vote Act of 2002, P.L. 107-252 (HAVA).

We thank you in advance for arranging for publication in the Federal Register pursuant to § 255 of HAVA.

Please send confirmation that you have received Nevada's Plan, and feel free to contact me at (775) 684-5705 if you have any questions or concerns.

Respectfully,

ROSS MILLER
Secretary of State

By: _____
Matthew M. Griffin, Esq.
Deputy Secretary for Elections

RM:MG:lj

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(NSPO Rev. 1-07)

(Li 432)

State of Nevada

Fiscal Year 2006-2007

State Plan

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

Office of the Nevada Secretary of State
101 N. Carson Street, Suite 3
Carson City, NV 89701
April 25, 2007

STATE OF NEVADA
FISCAL YEAR 2006-2007
STATE PLAN

I. INTRODUCTION

On October 29, 2002, President Bush signed the Help America Vote Act (HAVA or Act) 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 has affected 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 has dramatically changed the way elections throughout the nation are conducted.

As required by HAVA, the state of Nevada (State) adopted and submitted to the federal government its first State Plan (Plan) for fiscal year (FY) 2003-04 in June 2003. Due to the delayed formation and organization of the Elections Assistance Commission (EAC), publication of that Plan in the *Federal Register* was not completed until May 2004. The following year, the State amended the Plan for FY 04-05, and after expiration of the public comment period, adopted it in July 2004. In accordance with Section 254 of the Act, the State submitted an updated Plan for FY 2004-05. Like the FY 2005-06 Plan, this State Plan (FY 06-07) was created under the direction of Secretary of State through a State Plan Advisory Committee (Advisory Committee). Nevada's FY 06-07 Plan continues to build on the framework established in previous Plans for the State to continue progress that has already been made in election reform and to achieve compliance with HAVA. FY 06-07 was a substantial year for the State in terms of meeting multiple HAVA implementation goals.

Because HAVA will continue to have a profound impact on virtually every element of the voting process in our State, we anticipate that this plan will continue to be updated and refined periodically over the coming years to ensure the continued health of our democratic process.

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 has dramatically increased the election administration responsibilities for the State, the efficient function and cooperation of local governments continue to be critical to ensuring that elections are successfully conducted. Considerable

time, effort, and resources on the state and local level is necessary for the State to continue to meet HAVA 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. From the last Plan, the number of registered voters in the State increased by approximately 200,000, and currently, the State has approximately 1.2 million registered voters spread throughout its 17 counties. Moreover, more than 1,500 state, county and municipal political campaigns come under the jurisdiction of local or state election officials during each election cycle.

All 17 counties in the State use Direct Recording Electronic (DRE) voting machines and optical scan machines for absentee voting. All 17 Nevada counties are required by state statute to exclusively use DRE machines fitted with voter verifiable paper trail printers. In response to the requirements outlined in HAVA, the State took steps to substantially upgrade the existing voting systems, redesign processes and provide updated and continual training for election administrators and the citizens of the State. Secretary of State Dean Heller took the first step toward achieving these goals in December 2003 by announcing the decision to purchase Direct Recording Electronic (DRE) voting machines for all Nevada counties. He also announced his mandate to include a voter verifiable paper trail on all newly purchased DRE machines for the 2004 election. The Secretary of State also issued a proclamation decertifying all punch-card voting machines in Nevada as of September 1, 2004. Nevada led the nation in the 2004 Presidential Election as the first state to implement DRE voting machines with voter verifiable paper trail printers. The new Secretary of State, Ross Miller, is committed to maintaining Nevada's leadership role in the area of elections. During the 2006-2007 FY, the State implemented a HAVA-compliant statewide voter registration system. Additional DRE voting machines and equipment were also purchased for each of the 17 counties. Every polling site in the State was surveyed for Americans with Disabilities Act[1] (ADA) accessibility and various types of equipment were purchased to improve access to needed areas. Such equipment included ramps, signage, magnifiers, signature cards, and audio units with a "sip and puff" feature. Videotapes for training poll workers on sensitivity to voters with disabilities were purchased for each county. In result of these efforts, polling places were fully accessible for the 2006 election cycle, ensuring all voters in the State access to their polling locations and the ability to vote with independence, privacy, and dignity. In addition, all county election officials attended training sessions which covered the following areas: poll worker training, statewide voter registration list maintenance, voting machine maintenance, voting system testing and programming, provisional voting requirements, security issues, minority language issues, requirements dealing with overseas/military voters, conducting the mandatory post election VVPAT certifications, and election day signage. The aforementioned training sessions were conducted prior to

[1] Public Law 336 of the 101st Congress, enacted July 26, 1990.

the 2006 election cycle. Nevada has been successful, and will diligently continue to, meet the requirements of HAVA and support meaningful election reform. However, continued support, resources, and funding from both the federal government and the Nevada State Legislature will be key.

In developing Nevada's FY 05-06 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. In developing this FY 06-07 update to the State Plan, the strategies for achieving these HAVA compliant goals in the previous FY 05-06 State Plan continue to be applicable: (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; (4) suggest changes to voting technology and processes to ensure accurate and reliable elections and voter confidence; and (5) develop and implement follow-through accountability activities and feedback mechanisms for complaints.

Nevada's FY 06-07 Plan, as presented herein, is limited to the extent State appropriations are made available, and is based on the assumption that adequate federal funding will be appropriated. While the State intends to fully comply with HAVA, if adequate federal funding is not made available, the manner in which the funds are disbursed or dedicated and the priorities given to particular projects may be altered from the information contained in this FY 06-07 Plan.

III. NEVADA'S STATE PLAN

A. 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((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 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 people with disabilities 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 established by the Federal Elections Commission (FEC) as of the time HAVA was adopted; and (h) have a definition of what constitutes a vote and what will be counted. These requirements have been incorporated into Nevada statutes or regulations.

Most of the federal funding that has been appropriated to date was used to upgrade the voting systems throughout the State and to purchase new systems in order to meet the requirements of Title III. As stated above, the State has implemented a uniform DRE voting system for polling places throughout the state, with all DRE machines being fitted with the voter verifiable paper trail printers. In addition, uniform optical scan voting systems are used for absentee voting throughout the State. The voting system replacement project was accomplished in September of 2004, in time for the 2004 Primary Election, and the new machines were used successfully in the 2004 General Election and in subsequent municipal elections.

To ensure proper training for election administrators and the voting citizens of Nevada, the State used, and depending on the availability of funds, may use additional requirements payments to help educate those individuals about the proper use of the new voting systems. Requirements payments were also used for maintaining,

modifying and improving all voting systems in the State 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 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 adopted legislation proposed by the Secretary of State that enacts procedures to allow for provisional voting in federal races throughout the State. The procedures[2] that were adopted meet the requirements of Section 302.

The State used 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, and will continue to make enhancements to the free access system in preparation for the 2008 federal elections. The State also continues to use requirements payments to develop procedures for provisional voting and to plan and conduct training and outreach concerning a voter's ability to receive and cast a provisional ballot. Finally, if adequate federal funding is available, the State may use requirements payments to assist 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 Secretary of State successfully sought a change to State law to require that all materials required by Section 302 be displayed at each polling place.[3] Nevada's "Voters' Bill of Rights[4]" was also established as part of this process. The law requires that the Voters' Bill of Rights be posted conspicuously at each polling place. The Voters' Bill of Rights is a declaration of the rights of each voter with respect to the voting process. Its premise is to ensure that each and every voter who wishes to exercise the right to vote is provided with the right to do so in an informed and nondiscriminatory manner. The county clerks designed and printed the materials to be posted in the 2006 elections, and depending on the availability of funds, the State anticipates using requirements payments to defray the cost of developing, printing and posting this information in the upcoming election cycle.

[2] See Nevada Revised Statutes (NRS) Sections 293.3081 through 293.3086, inclusive.
[3] See NRS 293.3025.
[4] See NRS 293.2543 through 293.2549, inclusive.

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.

a. Statewide Voter Registration System (SVRS)

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. Nevada has developed and implemented its statewide voter registration list in a timely manner prior to the 2006 election cycle.

The State had initially purchased a voter registration system to be implemented statewide and administered by the Secretary of State. The Secretary of State's selected vendor was not able to adhere to an expedited design and implementation process, which would have allowed their statewide voter registration system to remain on target for completion by January 1, 2006. In accordance with Section 303(d)(1)(B) of HAVA, the State certified that Nevada could not implement the Statewide Voter Registration List requirements by January 1, 2004, and that it met the requirements for a waiver of the deadline to January 1, 2006. The State cited as reasons for the waiver the fact that it is currently implementing the uniform voting system statewide and, given the fiscal and human resources necessary to successfully conduct the upcoming federal election with these new systems, it would not be prudent to implement the statewide voter registration system in the same election cycle. However, once the State became aware that the selected vendor was not on schedule to produce a HAVA compliant system by the upcoming election, the Secretary of State's Office initiated an internally built statewide voter registration system, which is compliant with Section 303(a) of HAVA. The Secretary of State's system was implemented prior to the 2006 deadline and has the ability to interface with Nevada's Department of Motor Vehicles and other appropriate agencies, as required by HAVA. Additionally, this statewide voter registration database allowed all 17 counties to clear thousands of records, including duplicate records, in advance of the 2006 election cycle. This capability was an additional functionality that the State built internally, which would not have been provided by the original outside vendor.

The State will continue to expend a portion of its requirements payments and Title I payments to fund additional upgrades and maintenance of the statewide voter registration system. Specifically, in addition to the basic costs of the system, the State is paying for all hardware and software necessary, as well as required training for county and city officials in the use of the system.

b. Requirements for Voters Who Register by Mail

With respect to requirements for voters who register by mail, the State revised its voter registration form in January 2003 and again in 2004 to meet the requirements of Section 303(b).

In 2003, the Secretary of State successfully sought a modification of State law[5] to ensure that 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, are HAVA compliant. The 2005 Session of the Nevada State Legislature has recently adjourned and the Secretary of State will continue to review the Plan in light of recently passed legislation and update the Plan accordingly.

4. Other Activities to Improve the Administration of Elections (Section 251(b)(2))

The State intends to continue using 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 Nevada are and continue to be in compliance with the ADA; (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 will also continue using requirements payments to fund staff positions to allow for ongoing operations and maintenance of programs and projects to sustain HAVA compliance. The State will continue to evaluate staffing needs to determine if additional positions are needed to fulfill HAVA requirements.

B. Distribution of Requirements Payments and 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

[5] See NRS293.272 and 293.2725

(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 the Secretary of State will centrally manage activities funded by requirements payments. The Secretary of State will be accountable for all expenditures, funding levels and program controls and outcomes. The Secretary of State, in conjunction with local election officials, will determine the appropriate level of support for local activities.

To the extent that the decision is made to distribute requirements payments to units of local government and other entities for carrying out the activities described in Section 254(a)(1), 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.

If requirements payments are so distributed, 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 may include, without limitation: (a) requiring the recipient to prepare and submit comprehensive timely 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.

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.

1. Voter Education

With voter participation and turnout declining nationally over the last twenty years, and with an increasing number of historically disenfranchised groups growing more skeptical about the power of their vote, the Secretary of State's office is making a concerted effort to expand Nevada's voter outreach and education efforts.

Clearly, citizens need to better understand the power of each and every vote. Education is the key to improving Nevada's voter participation rate. Besides doing a better job of teaching our citizens about the critical component voting plays in the success of a democracy, with the advent of new technologies—specifically, DRE voting machines—the educational process should include a well-developed plan to assist and train citizens on how to use new equipment. Further exploration as to reaching various socio-economic groups as well as providing information for those who have had their rights restored or qualify to have their voting rights restored will also be included.

By law, each registered voter in Nevada receives a sample ballot in the mail prior to each election. The Secretary of State's office has produced and published several informative brochures designed to better educate Nevada's citizens about the voter registration process, the significance of every single vote, and the requirements of HAVA. The agency's website (http://secretaryofstate.biz) contains a wealth of information useful to individuals and groups seeking to advance voter participation and citizen knowledge of the elections process.

The Secretary of State's office issues many media advisories and news releases throughout the year specifically designed to inform prospective voters about the elections process, along with conducting public forums relating to statewide ballot questions, and recording public service announcements regarding voting equipment and other related issues.

The 2003 Legislature moved the Advisory Committee on Participatory Democracy (ACPD) under the auspices of the Secretary of State's office, and established the goals of 75 percent voter registration and 70 percent voter turnout by those registered voters in Nevada by 2008. The 10-member ACPD was appointed by the Secretary and began the ambitious task of improving voter participation in Nevada with its inaugural meeting on March 31, 2004. The ACPD has plans to create an informational website and to work with existing groups, organizations, and individuals to foster and nurture greater voter participation.

One such undertaking was the *Easy Voter Project*, a non-partisan, bi-lingual voter education website and booklet that will help many Nevada citizens better comprehend the voting process. The *Easy Voter Project* has proven to be a successful program, which has been in place in California since 1994. According to a 1996 survey, adult school and community college student voter turnout in California increased to more

than 70 percent among students who were exposed to the *Easy Voter Project*. The project publishes an informative *Easy Voter Guide* and maintains a website that provides information on political parties, candidates and ballots measures, along with easy-to-follow instructions on how to register and vote. The Secretary of State partnered with private organizations and successfully published and distributed over 125,000 *Easy Voter Guides* statewide, in both English and Spanish. We anticipate conducting the *Easy Voter Project*, or an equivalent program, again for the 2008 elections, as well as renewing partnerships with other entities, as discussed below.

In June 2006 the Advisory Committee for Participatory Democracy (ACPD) solicited grant applications to conduct voter education and outreach to the citizens of Nevada. The grant was funded through Section 101 HAVA with minimum funding requests of $15,000 and a maximum of $65,000. The grant was limited to nonprofit, nonpartisan organizations organized for the purpose of voter education and outreach to increase participation in the election process. The Secretary of State, as recommended by the ACPD, awarded grants to four entities totaling $65,824. Each entity was required to enter into a Notice of Subgrant Award with the Secretary of State, Elections Division to ensure HAVA compliance and for reporting purposes.

Another voter outreach project the Secretary of State's office worked closely with the *New Voters Project*. Sponsored by the Pew Charitable Trusts and with strong bi-partisan support from a number of civic organizations, the *New Voters Project* is a non-partisan effort that is using a strategy that encompasses the recruitment of 18 to 24 year olds on college campuses, during large public events, partnerships with local businesses, and door-to-door canvassing. Nevada is fortunate to have been selected as one of six target states—Colorado, Iowa, New Mexico, Oregon and Wisconsin being the other five—in which the *New Voters Project* focused its attention in the 2004 presidential election season.

There are several other voter education and outreach projects the agency has partnered with, including *National Student/Parent Mock Election* and *Smackdown Your Vote.*

2. 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. The State, in conjunction with all 17 counties, has instituted a training program to provide a more centralized source of training, versus the more localized training programs that have existed in the past. In lieu of the disproportionate range of resources available at the local level across the State, building a centralized source of training has been critical in ensuring all 17 counties have access to all the training necessary to maintain their role in meeting HAVA compliance. Centralized training in 2006 covered: 1) maintenance of the statewide voter registration list; 2) DRE maintenance, testing, programming and security; 3) provisional voting and provisional phone line reporting; 4) election date signage requirements; 5) requirements under UOCAVA for overseas citizens and the military, including use of FWAB ballots; 6) ADA accessibility training for poll workers and election staff; 7) general improvements for poll worker recruitment, training and management; 8) overall communication; 9) additional federal reporting requirements; 10) conducting mandatory post election VVPAT audit and 11) additional certifications for various federal and state requirements. The State will continue to build upon the training materials and procedures created in 2006. The State will continue to increase county involvement in conducting this centralized training, including participation well beyond mere attendance. Additionally, the State will seek the involvement of other members of the community, such as persons with disabilities, to contribute to the training processes.

D. 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, explain 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 people with disabilities 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 at the time HAVA was adopted; and (h) have a definition of what constitutes a vote and what will be counted.

Existing Nevada law now mirrors the voting system guidelines and processes set forth in HAVA. 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 it meets or exceeds the standards for voting systems established by the FEC. The Secretary of State will create new guidelines and processes as necessary to ensure all voting systems in the State continue to remain in compliance with Section 301.

E. 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 State created a special election fund in the state treasury that provides the Secretary of State with the authority to deposit into this fund all federal HAVA dollars and state matching fund appropriations. This fund is fully compliant with Section 254(b) of HAVA. The Secretary of State works closely with the State's Budget Division and the State Controller's office to implement and enforce all fiscal controls and policies required by both state and federal law.

F. 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. While less than one-third of that sum was actually appropriated for FY 2003, Congress made up the difference in funding and provided full funding in FY 04. Outside of HAVA Title II Section 261 funds, no additional HAVA funding has been received since FY 04. The President did recommend $40 million for FY 05, rather than the $600 million that is authorized by HAVA. However, the State did not receive any of these funds in FY05.

Based on the foregoing, the State has created its HAVA budget assuming the following levels of funding:

Federal Fiscal Year	Federal Appropriations	Nevada's Share	5% Match
Title I Early Payments	$650 million	$5 million	n/a
2003	$833 million	$5.7 million	$304,313
2004	$1.5 billion	$10.3 million	$546,062
2005	$0	$0	$0
2006	$0	$0	$0
2007	$0	$0	$0
Total	$3.02 billion	$21.2 million	$850,375

The State has also received an additional $400,000 under HAVA Title II, Section 261 for polling place accessibility. The State has been awarded yearly increments of $100,000 over the last four years. The State began drawing these funds for the first time in 2006. Currently, $267,098 is remaining.

Because the actual level of funding that was to be authorized through FY year 2006-2007 was not initially known when the State Plan was updated for FY 2005-2006, the State's proposed HAVA budget is being updated for FY 2006-2007.

Title III Requirements:

Voting System Purchases/Upgrades:

--Continue to develop strategies to obtain funding, to the extent available, to update DRE machines and their respective VVPAT mechanism to ensure continued compliance with both federal and state law. Also provide additional touch screen systems fitted with voter verifiable paper audit trail printers as needed, particularly prior to the 2008 election cycle.

--To be funded with Title I early payments, Title II requirements payments and State matching funds.

Establishing and Maintaining a Statewide Voter Registration List:

--Initially, $4 to $5 million was allocated to cover base cost, plus an ongoing maintenance costs of approximately $100,000 per year. These parameters were based on costs associated with an initial outside vendor, whose contract was terminated based on the vendor's breach in delivering a timely and HAVA compliant statewide voter registration list and accompanying statewide database and election management system.

--The State will maintain between $2-3.5 million to cover any additional improvements made to the internally built statewide voter registration list and any additional maintenance costs which may arise.

--To be funded with Title I early payments, Title II requirements payments and State matching funds.

Provisional Voting and Voting Information Requirements:

--$150,000 was initially allocated to create and develop enhancements to 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.

Other Activities:

Ongoing assessment of polling place accessibility and ADA compliance:

--A significant portion of HAVA Title II, Section 261 funds totaling $400,000 will continue to be expended to improve polling place accessibility. The expenditures will also include training for election officials and poll workers, along with providing information about polling place accessibility to people with disabilities.

Voter education and outreach activities:

---- $150,000.00 in HAVA funding will be allocated to continue with voter education and outreach activities.

--To be funded with Title I requirements payments and State matching funds.

Election official and poll worker training initiatives:

-- $150,000, in HAVA funding will be allocated to continue training both election officials and poll workers.

--To be funded with both Title I and Title II requirements payments and State matching funds.

Additional technology and elections personnel in the office of the Secretary of State:

-- Amount to be determined based upon adequate funding.

G. 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 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 FY 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 Elections Division increased in the State's fiscal years 2001, 2002, 2003, 2004, 2005, 2006 and 2007 and are anticipated to increase in FY 08.

The Secretary of State's budget for FY 2005 for the Elections Division was approximately $410,000, and the budget in FY 06 was approximately $299,000. The proposed budget for FY 07 is approximately $590,000. 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 FY 2006 will still exceed $250,000.

H. 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, has met all critical performance goals and will continue to institute processes to measure additional progress in relation to these time-specific goals, as well as ongoing performance 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 following 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. In addition, having met HAVA compliance, the State will continue to create additional goals to continue Nevada's leadership role in election reform. 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 County Election Official	By September 2004
Voter Registration	State Elections Deputy County Election Official	Pre 2006 election cycle
Provisional Voting	State Elections Deputy County Election Official	Ongoing
Additional Personnel	State Elections Deputy	Ongoing (as needed)
Polling Place Accessibility	State Elections Deputy County Election Official	Pre 2006 election cycle, ongoing
Voter Education/Outreach	State Elections Deputy County Election Official	Ongoing
Poll Worker Training	State Elections Deputy County Election Official	Ongoing
Complaint Procedures	Deputy Attorney General	Adopted/Ongoing

Performance Measures

The State will use the following criteria to measure performance:
--voter turnout statistics
--functionality of voting systems
--accuracy of the data contained in the statewide voter registration list
--voter satisfaction with equipment (accomplished through surveys or other strategies)
--complaints against poll workers
--complaints received versus complaints resolved
--ADA compliance

These criteria were developed through the State Planning Process. The State is further committed to exploring the use of additional performance measures.

I. 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[6]. The Secretary of State adopted regulations to place these procedures into the State Administrative Code prior to submission of the FY 03-04 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 anticipated 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 alternative 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.

[6] See Appendix A for copy of Administrative Complaint Procedure.

J. 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 million in Title I payments. The State has expended a portion of these funds for the voting system upgrades described in this State Plan. In addition, the State has expended these funds for ancillary devices, equipment and services associated with the voting systems contract and for travel and training activities necessary for implementing the new voting systems and the statewide voter registration system. Finally, the State has contracted to expend a portion of these funds for voter outreach activities, including involvement in the *Easy Voter Project* described in this Plan. The effect 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 additional uses for these funds.

K. 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;

(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 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 has appointed an internal committee in his office to be overseen by the Deputy Secretary for Elections. This committee is responsible for conducting ongoing management of the State Plan. To carry out this function, the committee is required to hold meetings as deemed necessary to address HAVA related issues and keep current on the State's progress toward implementation of HAVA. The Deputy Secretary for Elections, or a designee, is to report to the State Advisory Committee the activities involved with the ongoing management of the Plan. The Secretary of State will continue to 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 advisable.

L. Changes to the State Plan from the Previous Fiscal Year

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.

Due to the delayed formation of the EAC, the State's FY 03-04 State Plan's publication in the *Federal Register* was not completed until May 2004. Because of this holdup in publication, the State did not fully implement all of its FY 2003-04 plan in that plan year and continued to progress toward implementation through the FY 2004-05 and current plan year. This FY 2005-06 State Plan incorporates the same basic theme as the FY 03-04 and the FY 04-05 plans, and generally reports upon the procedures implemented by the State in carrying out the previous plan, such as upgrades to voting systems throughout the State and specific voter education and outreach efforts undertaken by the State. The other key changes between the FY 04-05 and FY 05-06 plan center around federal and state funding changes, progress on implementation activities and development of new projects, and maintenance of efforts updates.

This current FY 06-07 State Plan updates the status of State performance goals and the various HAVA compliant projects, such as statewide voter registration. Also provided is a general update of achievements in the areas of training, accessibility, statewide voter registration, voter machine upkeep and maintenance, and outreach. This current plan further takes into account the Title II, Section 261 funds which had not been drawn prior to 2006.

M. 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 thirteen (13) members including the Secretary of State, local election officials from the two largest counties in the State and a variety of other election stakeholders[7]. The Secretary of State selected the committee membership and either he or his Chief Deputy acted as Chairman for each meeting held.

Members of the State Advisory Committee and their qualifications are as follows:

Thomas Allman, Rights Advocate/Project Coordinator, Nevada Disability Advocacy & Law
LaVonne Brooks, Executive Director, High Sierra Industries
Dan Burk, Washoe County Registrar of Voters
Jan Gilbert, N. NV Coordinator, Progressive Leadership Alliance of NV (PLAN)

[7] See Appendix B for Advisory Committee biographies and party affiliations.

Barbara Griffin, Douglas County Clerk
Ross Miller, Secretary of State
Ned Reed, Senior Deputy Attorney General (Appointee of Attorney General Cortez Masto)
Joshua J. Hicks, Legal Counsel to Governor (Appointee of Governor Jim Gibbons)
Ruben Kihuen, State Assemblyman, District 11
Larry Lomax, Clark County Registrar of Voters
Nicole Lamboley, Chief Deputy Secretary of State
Tony F. Sanchez, III, Esq., President, Latin Chamber of Commerce
Dr. Richard Siegel, President, American Civil Liberties Union of Nevada

Advisory Committee Staff in the Office of the Secretary of State and their qualifications are as follows:

Matthew M. Griffin, Esq., Deputy Secretary of State for Elections
Rajinder Rai-Nielsen, Esq., State HAVA Coordinator
Lindy Johnson, Committee Secretary, Administrative Assistant

To develop this FY 06-07 State Plan, the State Advisory Committee members, with the assistance of Staff, individually proposed revisions necessary to update the plan to reflect current circumstances. The FY 06-07 State Plan was made available for public inspection and comment for a 31-day period prior to submission of the plan to the Committee. The Secretary of State published the draft plan and notice of the comment period on April 6, 2007 in his offices, on his website, in the Nevada State Library, at all main county libraries throughout the State, all city and county clerks' offices, and at various other public agencies throughout the State. The notice made it clear that the Secretary of State would accept public comment in the form of e-mails, letters, faxes, etc. through April 11, 2007. Committee meetings were publicly held and noticed in accordance with Nevada's Open Meeting Law.[8] The committee met on April 11, 2007, to review the draft incorporating the proposed revisions and to consider comments submitted by the public. The FY 06-07 State Plan was formally adopted April 25, 2007.[9]

[8] Chapter 241 of the Nevada Revised Statutes.
[9] See Appendix C for corresponding meeting agenda.

APPENDIX A

Administrative Complaint Procedure
NAC 293.500 – 293.560, inclusive

COMPLAINTS ALLEGING VIOLATION OF TITLE III OF HELP AMERICA VOTE ACT OF 2002 (need to update)

NAC 293.500 Definitions. (NRS 293.124, 293.4685) As used in NAC 293.500 to 293.560, inclusive, unless the context otherwise requires, the words and terms defined in NAC 293.505 and 293.510 have the meanings ascribed to them in those sections.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.505 "Complainant" defined. (NRS 293.124, 293.4685) "Complainant" means a person who files a complaint with the Secretary of State pursuant to NAC 293.515.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.510 "Respondent" defined. (NRS 293.124, 293.4685) "Respondent" means a state or local election official against whom a complaint is filed pursuant to NAC 293.515.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.515 Filing; form; delivery of copy to respondents. (NRS 293.124, 293.4685)

1. A person who believes that a violation of Title III of the Help America Vote Act of 2002, Public Law 107-252, 42 U.S.C. §§ 15481 to 15502, inclusive, has occurred, is occurring or is about to occur may file a complaint with the Office of the Secretary of State.

2. A complaint filed pursuant to subsection 1 must:

(a) Be in writing, notarized and signed and sworn by the complainant. If the Secretary of State prescribes a form for the complaint, the complaint must be filed on that form.

(b) Provide the name of each respondent and a concise statement of the facts of the alleged violation of 42 U.S.C. §§ 15481 to 15502, inclusive.

(c) Be filed in the Office of the Secretary of State in Carson City:

(1) Not later than 60 days after the occurrence of the action or event that forms the basis for the complaint or for the belief of the complainant that a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, is about to occur; or

(2) Not later than 60 days after the complainant knew or, with the exercise of reasonable diligence, should have known of the action or event that forms the basis for the complaint or for the belief of the complainant that a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, is about to occur,

➥ whichever is later.

3. The complainant shall mail or deliver a copy of the complaint to each respondent not later than the date on which the complaint is filed.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.520 Review; dismissal and refiling. (NRS 293.124, 293.4685)

1. The Secretary of State or his designee will review each complaint filed pursuant to NAC 293.515 to determine whether the complaint:

(a) States a violation of 42 U.S.C. §§ 15481 to 15502, inclusive; and

(b) Complies with the requirements of NAC 293.515.

2. If a complaint fails to state a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, or does not comply with the requirements of NAC 293.515, the complaint will be dismissed without further action and notice of the dismissal will be provided to the complainant.

3. Except as otherwise provided in subsection 4, a complainant whose complaint has been dismissed pursuant to this section may refile the complaint within the time set forth in paragraph (c) of subsection 2 of NAC 293.515.

4. A complainant whose complaint has been dismissed for failure to state a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, may refile the complaint only one time.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.525 Consolidation; official record. (NRS 293.124, 293.4685)

1. The Secretary of State may consolidate complaints filed pursuant to NAC 293.515 if the complaints relate to the same action or event or raise a common question of law or fact. The Secretary of State will notify all interested parties if two or more complaints have been consolidated.

2. The Secretary of State will compile and maintain an official record in connection with each complaint filed pursuant to NAC 293.515.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.530 Hearing: Request; date; notice; nature. (NRS 293.124, 293.4685)

1. A complainant may request in a complaint filed pursuant to NAC 293.515 that the Secretary of State hold a hearing on the complaint.

2. If a complainant requests a hearing in accordance with subsection 1, the Secretary of State or his designee will conduct a hearing on the complaint, unless the complaint is dismissed pursuant to NAC 293.520. The hearing will be held not sooner than 10 days but not later than 30 days after a request for a hearing has been made in accordance with subsection 1.

3. The Secretary of State will provide notice of the date, time and place of the hearing at least 10 business days before the hearing:

(a) By mailing a copy of the notice to the complainant, each respondent and any interested person who has requested in writing to be advised of the hearing;

(b) By posting a copy of the notice in a prominent place at the Office of the Secretary of State that is available to the general public; and

(c) By posting a copy of the notice on the website of the Secretary of State.

4. A hearing held pursuant to this section is not a contested case for the purposes of chapter 233B of NRS.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.535 Hearing: Hearing officer; procedure. (NRS 293.124, 293.4685)

1. Except as otherwise provided in this subsection, the Secretary of State or his designee will act as the hearing officer for a hearing held pursuant to NAC 293.530. If the Secretary of State is a respondent in the complaint, the Secretary of State will appoint a designee who is an independent professionally qualified person to act as the hearing officer.

2. The complainant, any respondent and any interested member of the public may appear at the hearing, in person or by teleconference, and testify or present relevant evidence in connection with the complaint. All testimony to be considered in the hearing will be taken under oath. The hearing officer may limit the testimony of witnesses, if necessary, to ensure that all interested persons may present their views. The hearing officer may recess the hearing and reconvene the hearing at a later date, time and place, which must be announced publicly at the hearing.

3. A complainant, respondent or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

4. Cross-examination at the hearing will be permitted only at the discretion of the hearing officer, but a person may testify or present evidence at the hearing to contradict any other testimony or evidence presented at the hearing. If a person has already testified or presented evidence at the hearing and wishes to contradict testimony or evidence presented subsequently, that person is entitled to be heard again only at the discretion of the hearing officer, who may authorize the person to provide an oral or written response, or both.

5. The hearing will be recorded on audiotape by and at the expense of the Office of the Secretary of State. The recording will not be transcribed, but the Secretary of State, a local board of elections or any party to the hearing may obtain a transcript of the hearing at its own expense. If a board or party obtains a transcript of a hearing, the board or party shall file a copy of the transcript as part of the record and any other interested party may examine the copy of the transcript on record.

6. Any party to the proceeding may file a written brief or memorandum with the hearing officer not later than 5 business days after the conclusion of the hearing. The party shall serve a copy of any such written brief or memorandum on all other parties not later than the time the written brief or memorandum is filed with the hearing officer. No responsive or reply memorandum to such a brief or memorandum will be accepted without the specific authorization of the hearing officer.

7. At the conclusion of the hearing and after any brief or memorandum has been filed pursuant to subsection 6, the hearing officer will determine whether, by a preponderance of the evidence, a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, has occurred, is occurring or is about to occur.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.540 Review and determination when no hearing requested. (NRS 293.124, 293.4685) If a complainant has not requested a hearing on a complaint filed pursuant to NAC 293.515, the Secretary of State or his designee will review the complaint and any accompanying record and determine whether, by a preponderance of the evidence, a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, has occurred, is occurring or is about to occur. If the Secretary of State is a respondent in the complaint, the Secretary of State will appoint an independent professionally qualified person to act as his designee pursuant to this section.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.545 Remedial action or dismissal; issuance of final determination. (NRS 293.124, 293.4685)

1. If the Secretary of State or his designee, whether acting as a hearing officer pursuant to NAC 293.535 or reviewing a complaint pursuant to NAC 293.540, determines that a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, has occurred, is occurring or is about to occur, the Secretary of State or his designee will provide the appropriate remedy, including, without limitation, an order to a respondent commanding the respondent to take specified action or prohibiting the respondent from taking specified action, with respect to a past or future election. Such a remedy will not include an award of money damages or attorney's fees.

2. If the Secretary of State or his designee, whether acting as a hearing officer pursuant to NAC 293.535 or reviewing a complaint pursuant to NAC 293.540, determines that a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, has not occurred, is not occurring or is not about to occur, the Secretary of State or his designee will dismiss the complaint.

3. The Secretary of State or his designee will issue a final determination on a complaint made pursuant to subsection 1 or 2 in writing. The final determination will include an explanation of the reasons for the determination and, if applicable, the remedy selected.

4. Except as otherwise provided in NAC 293.550, a final determination of the Secretary of State or his designee on a complaint will be issued within 90 days after the complaint is filed, unless the complainant consents in writing to an extension. The final determination will be:

(a) Mailed to the complainant, each respondent and any interested person who has requested in writing to be advised of the final determination;

(b) Posted on the website of the Secretary of State; and

(c) Made available by the Secretary of State, upon request, to any interested person.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.550 Proceedings for alternative dispute resolution. (NRS 293.124, 293.4685)

1. If the Secretary of State or his designee does not render a final determination on a complaint filed pursuant to NAC 293.515 within 90 days after the complaint is filed, or within any extension period to which the complainant has consented, the Secretary of State will, on or before the fifth business day after the final determination was due to be issued, initiate proceedings for alternative dispute resolution by:

(a) Retaining an independent, professionally qualified person to act as an arbitrator, if the complainant consents in writing to his appointment as the arbitrator at the time of his appointment; or

(b) Designating in writing to the complainant the name of an arbitrator to serve on an arbitration panel to resolve the complaint. If proceedings for alternative dispute resolution are initiated pursuant to this paragraph, not later than 3 business days after the complainant receives such a designation from the Secretary of State, the complainant shall designate in writing to the Secretary of State the name of a second arbitrator. Not

later than 3 business days after such a designation by the complainant, the two arbitrators so designated shall select a third arbitrator to complete the panel.

2. The arbitrator or arbitration panel may review the record compiled in connection with the complaint, including, without limitation, the audio recording of the hearing, any transcript of the hearing and any briefs or memoranda submitted by the parties but shall not receive any additional testimony or evidence unless the arbitrator or arbitration panel requests that the parties present additional briefs or memoranda.

3. The arbitrator, or arbitration panel by a majority vote, shall determine the appropriate resolution of the complaint.

4. The arbitrator or arbitration panel shall issue a written resolution of the complaint not later than 60 days after the final determination of the Secretary of State was due pursuant to NAC 293.545. This period for issuing a written resolution will not be extended.

5. The final resolution of the arbitrator or arbitration panel will be:

(a) Mailed to the complainant, each respondent and any other person who requested in writing to be advised of the final resolution;

(b) Posted on the website of the Secretary of State; and

(c) Made available by the Secretary of State, upon request, to any interested person.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.555 Final determination or resolution not subject to appeal. (NRS 293.124, 293.4685) A final determination of the Secretary of State or his designee pursuant to NAC 293.535, 293.540 or 293.545 or the final resolution of an arbitrator or arbitration panel pursuant to NAC 293.550 is not subject to appeal in any state or federal court.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.560 Assistance in using procedures. (NRS 293.124, 293.4685) The Secretary of State will make reasonable accommodations to assist persons in using the procedures set forth in NAC 293.500 to 293.560, inclusive.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

APPENDIX B

Advisory Committee Biographies and Affiliations

State Advisory Committee Biographies

NAME	TITLE - ORGANIZATION	BIOGRAPHY
Allman, Thomas	Rights Advocate/Projects Coordinator, NDALC	Tom has been with Nevada Disability Advocacy & Law Center (NDALC) in Las Vegas. As a Rights Advocate/Projects Coordinator for 4 ½ years where he has been the HAVA, (Help America Vote Act) Coordinator. As NDALC's HAVA Coordinator under his agency's HAVA Grant has been to assure full access to the electoral process so that people with disabilities can register to vote and vote with complete independence and privacy. His duties include conducting voting rights outreach meetings to disability organizations, monitoring through site visits ADA compliance for polling places and providing monitoring and technical assistance of both State and County Election Departments to assure they are in compliance with HAVA sections as they relate to people with disabilities. His other agency duties involve coordinating the annual staff training and resolving many ADA compliance issues regarding access to private and government buildings. He has over 18 years working with people with disabilities including his over 7 years as Director of the Corrections Office for the Massachusetts Rehabilitation Commission in Boston. Both his Doctorate in Rehabilitation and Masters in Education in Counseling Psychology are from Boston College, while his J.D. is from Thomas Jefferson School of Law in San Diego.
Brooks, LaVonne	Executive Director, High Sierra Industries (HSI)	Bachelor and Master 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 HSI, 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	B.A. in Public Administration, U of North 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	B.A. Economics from UCLA. She co-founded the Progressive Leadership Alliance of Nevada (PLAN). Prior to working on economic and environmental justice issues at the state legislature for 24 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.
Griffin, Barbara	County Clerk, Douglas County	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.
Appointment: Hicks, Joshua	General Counsel to the Governor	Joshua Hicks joined the Governor's office as General Counsel in January 2007. He previously served as a Senior Deputy Attorney General in the Nevada Department of Justice, representing the Secretary of State, the Nevada Tax Commission and the Nevada Department of Taxation. While at the Nevada Department of Justice, Josh argued cases in front of various Nevada District Courts, the Nevada Supreme Court, the United States District Court for the District of Nevada, the United States Bankruptcy Court for the District of Nevada, and the United States Court of Appeals for the Ninth Circuit. He was the lead attorney on eight published cases. Josh has also served as a law clerk to both the Nevada Supreme Court and the United States District Court for the District of Nevada. He received his Bachelor of Arts degree from Santa Clara University in 1995 and his Juris Doctorate from Santa Clara University in 1998. He has been a licensed attorney in Nevada since 1998. Hicks' wide ranging areas of practice include administrative and regulatory law, election law, state tax law, bill drafting, state personnel law, open meeting law, constitutional law, and public contracts. Josh lives in Reno and is a third-generation native Nevadan. He is married to KC Hicks, who works as a registered nurse in the oncology department at Renown Health.

NAME	TITLE - ORGANIZATION	BIOGRAPHY
Kihuen, Ruben	Assemblyman, Clark District 11	Born: 1980 – Guadalajara, Jalisco, Mexico. Educated: Rancho High School, Diploma; University of Nevada, Las Vegas, B.S., Education; University of Oklahoma, Masters in Public Administration (completing). Hobbies/Special Interests: Reading, traveling, motivating youth, soccer, weight lifting and exercising, movies. LEGISLATIVE SERVICE: Nevada Assembly, 2007 (first elected November 2006). AFFILIATIONS: Board of Directors, Volunteer Center of Southern Nevada; Member, Clark County Community Development Advisory Committee; Member, North Las Vegas Citizens Advisory Committee; Volunteer, Professionals and Youth Building a Commitment (PAYBAC); Member, Latin Chamber of Commerce; Member, Nevada Hispanic Democratic Caucus; Member, National Association of Latino Elected and Appointed Officials. PERSONAL AND PROFESSIONAL ACHIEVEMENTS: Former Regional Representative to United States Senator Harry Reid; named DASHPAC National Young Leader, 2004; represented Nevada at the Next Generation Democratic Leaders Conference hosted by Senator Hillary Rodham Clinton, 2004; John F. Kennedy Award, Nevada State Democratic Party, 2006; Mexican Legend Award, Julio Cesar Chavez Educational Foundation, 2006; Community Activist of the Year, Familias Unidas de Nevada, 2005-2006; Outstanding Community Activist, City of Las Vegas, 2006; Grand Marshall, Hispanic Day Parade, 2006; Nevada High Schools Soccer Player of the Year, 1997-1998; worked as Field Organizer for the Democratic National Committee for political campaigns in Virginia, Texas, and Florida.
Lamboley, Nicole	Chief Deputy Secretary of State	Nicole Lamboley, Chief Deputy Secretary of State, was appointed by Secretary Ross Miller in January 2007. Ms. Lamboley has spent the past 18 years working in different capacities in the area of public and government affairs, about half of which have been spent working in the public sector. Prior to joining Secretary Miller's administration, she served as campaign manager for Attorney General Catherine Cortez Masto. Before that, Ms. Lamboley served as Legislative Affairs Manager for the City of Reno and was in charge of the city's state, federal and intergovernmental lobbying efforts. Her career also includes positions as Senior Regional Manager for the National Association of Manufacturers, Deputy Chief of Staff to former Nevada Governor Bob Miller, and Production Manager for the Herriman Communications' Center. Ms. Lamboley received her Bachelors degree from the University of Notre Dame and her Masters degree in Public Policy from Georgetown University
Lomax, Larry	Registrar of Voters, Clark County	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.
Miller, Ross	Secretary of State	Ross Miller was sworn into office on January 1st 2007. Ross is a third-generation Nevadan who previously served as a Deputy District Attorney in Clark County, Nevada. Ross holds a dual degree, in law (J.D.) and a Masters in Business Administration (M.B.A.), from Loyola Marymount University, in Los Angeles. He completed his undergraduate studies at Stanford University in California, earning a Bachelor of Arts major in English, with minors in Psychology and Political Science. While at Stanford, Ross served as a White House Intern, where he worked under then-Cabinet Liaison Thurgood Marshall, Jr.
Appointment: Reed, Ned	Senior Deputy Attorney General	Edward T. "Ned" Reed is a lifelong and fifth-generation Nevadan, currently serving as a Senior Deputy Attorney General representing the Nevada Secretary of State. He grew up in Reno, and graduated from Tulane University in 1975 with a B.A. in Philosophy, and after graduation served 4 years active duty military as a U.S. Army officer at Fort Hood, Texas. He attended McGeorge School of Law in Sacramento, California, graduating in 1985 with a juris doctor. Since becoming an attorney in 1985, he has served as a law clerk to the Honorable Mario Recanzone of the Third Judicial District Court in Fallon, Nevada, Deputy District Attorney in Humboldt County, Nevada, from 1987 to 1990, private practice in Reno from 1990 to 1992, and since 1992 has been a Deputy Attorney General in Carson City.

NAME	TITLE - ORGANIZATION	BIOGRAPHY
Sanchez, Tony F., III	Attorney, Jones Vargas	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 1(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 (2001-2004); 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.
Siegel, Dr. Richard	President, ACLU of Nevada	Political Science Professor Emeritus 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 Committee on Foreign Relations, and the Progressive Leadership Alliance of Nevada.

APPENDIX C

Agenda for April 11, 2007 Advisory Committee Meeting

NEVADA STATE ADVISORY COMMITTEE

AGENDA

Meeting: **Wednesday, April 11, 2007 at 1:30 p.m.**

Room 105	Room: To Be Announced
Blasdel Building	Grant Sawyer Building (via video)
209 E. Musser Street	555 East Washington Street
Carson City, Nevada	Las Vegas, Nevada

I. Introduction and Welcome
Ross Miller, Secretary of State

II. Update on Status of HAVA Compliance and State/Federal Funding Issues

III. First Review of Proposed HAVA State Plan for 2006-2007

IV. Comments of Committee Members

V. Public Comment

VI. Adjournment

Notice of this meeting has been posted at the following locations:

Offices of the 17 County Clerks/Registrar of Voters
The Capitol Building, 101 North Carson Street, Carson City, Nevada
Grant Sawyer State Office Building, 555 East Washington Street, Las Vegas, Nevada
The State Legislative Building, 401 South Carson Street, Carson City, Nevada
The State Library and Archives, 100 North Stewart Street, Carson City, Nevada

Notice of this meeting was posted on the following website:
http://secretaryofstate.biz

Posted April 6, 2007.
We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. Please notify the Elections Division at the Secretary of State's office by calling (775) 684-5705

APPENDIX D

Agenda for April 25, 2007 Advisory Committee Meeting

NEVADA STATE ADVISORY COMMITTEE

AGENDA

Meeting: **Wednesday, April 25, 2007 at 1:30 p.m.**

Room 105	Suite 1400
Blasdel Building	Grant Sawyer Building (via video)
209 E. Musser Street	555 East Washington Street
Carson City, Nevada	Las Vegas, Nevada

VII. Introduction and Welcome
Matthew M. Griffin, Deputy for Elections

* II. Second Review of Proposed HAVA State Plan for 2006-2007

VIII. Comments of Committee Members

IX. Public Comment

X. Adjournment

Items marked with '*' are items on which action may be taken

Notice of this meeting has been posted at the following locations:

Offices of the 17 County Clerks/Registrar of Voters
The Capitol Building, 101 North Carson Street, Carson City, Nevada
Grant Sawyer State Office Building, 555 East Washington Street, Las Vegas, Nevada
The State Legislative Building, 401 South Carson Street, Carson City, Nevada
The State Library and Archives, 100 North Stewart Street, Carson City, Nevada

Notice of this meeting was posted on the following website:
http://secretaryofstate.biz

Posted April 20, 2007
We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. Please notify the Elections Division at the Secretary of State's office by calling (775) 684-5705

APPENDIX E

October 3, 2006 Batch Emergency Regulations

SECRETARY OF STATE
FILING DATA

For Filing
Administrative Regulations

Agency Secretary of State

FOR EMERGENCY
REGULATIONS ONLY

Effective date ~~September 25, 2006~~ October 3

Expiration date January ~~25~~ 31, 2007

Governor's signature

Classification: ☐ PROPOSED : ☐ ADOPTED BY AGENCY : X EMERGENCY

Brief description of action Update election regulations pertaining to the statewide voter registration list required by NRS 293.675 and 42 U.S.C. 15483. Specifically, these regulations set out the procedures by which the statewide voter registration list is maintained and utilized.

Authority citation other than 233B: NRS 293.124, 293.247, 293. 4685, 293. 507, 293.5235, and 293.524.

Notice dates: N/A

Date of Adoption by Agency: September 25, 2006

Adoption Hearing: N/A

Hearing dates: N/A

Adoption Hearing: N/A

Written Statement of Emergency in Support of Emergency Regulations

The Nevada Secretary of State has determined that an emergency exists sufficient to warrant the enactment of emergency regulations pertaining to the statewide voter registration system required by the Help America Vote Act of 2002 (42 U.S.C. § 15301 et. seq.) ("HAVA") and NRS § 293.675. The reasons for the Secretary of State's determination are as follows:

- HAVA and NRS § 293.675 require the Secretary of State to establish and maintain an official statewide voter registration list. Prior to the enactment of HAVA and NRS § 293.675, official voter registration lists were maintained on a county by county basis.

- In 2004, the Secretary of State contracted with Covansys Corporation whereby Covansys Corporation was to develop a comprehensive and interactive statewide voter registration list and election management system. In early 2006, the Secretary of State was forced to terminate the contract with Covansys Corporation after it became apparent that development of the promised statewide voter registration list and election management system was significantly behind schedule and would not be ready for use in the 2006 primary and general election.

- The Secretary of State thereafter developed a comprehensive and interactive statewide voter registration list in only a few months using his own staff and resources. The statewide voter registration system was named NevVoter and is fully operational and ready for use in the 2006 general election.

- The emergency regulations set forth the procedures by which the statewide voter registration list is utilized and updated by state and county election officials. The procedures are necessary to clearly establish uniform rules by which the list is to be used by election officials throughout the State.

- The Secretary of State envisions that the emergency regulations will be enacted as permanent regulations after the 2006 general election. Due to the impending general election, the Secretary of State is currently without the time to undertake the process to enact permanent or temporary regulations for the statewide voter registration list.

September 25th, 2006.

DEAN HELLER
Secretary of State

I, Governor Kenny C. Guinn, endorse the Secretary of State Dean Heller's statement of emergency.

October ~~September~~ 3, 2006.

KENNY C. GUINN
Governor

PROPOSED EMERGENCY REGULATION OF

THE SECRETARY OF STATE

LCB File No. _____

Effective: October 3, 2006

EXPLANATION – These regulations pertain to the statewide voter registration list required by NRS 293.675 and 42 U.S.C. 15483. Specifically, these regulations set out the procedures by which the statewide voter registration list is maintained and utilized.

EXPLANATION – Matter in italics is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: NRS 293.124; 293.675.

A REGULATION relating to elections and providing other matters properly relating thereto.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive, of this regulation.

Sec. 2. Purpose.

1. The purpose of these emergency regulations is to establish standards and procedures for the processing, transmittal, and maintenance of voter registration records in a manner that conforms with the statewide voter registration list requirements set forth in the Help America Vote Act of 2002 (HAVA) (Pub. L. No. 107-252 (2002) 116 Stat. 1666, 42 U.S.C. § 15483) and NRS 293.675.

2. These emergency regulations apply to the Secretary of State and all elections officials within the State of Nevada responsible for the processing, transmittal, and maintenance of voter registration records in this state.

Sec. 3. Statewide Voter Registration Database.

1. The statewide voter registration list will be maintained in a single, official, uniform, centralized and interactive computerized database administered and maintained by the Secretary of State. The database shall be known as "NevVoter."

2. NevVoter will contain the official and exclusive voter registration list to be used for the conduct of all state and federal elections in Nevada. NevVoter shall contain the name and pertinent registration information of every registered voter in Nevada.

3. Registration information held solely in a county or local database is not considered part of NevVoter unless and until that information is electronically submitted to NevVoter as prescribed by regulation.

4. Each county or local election official must maintain interactive and compatible software and protocols that allow a daily transfer of required registration information from County Election Management Systems to NevVoter.

Sec. 4. Definitions.

As used in this Chapter, the following words have the following definitions:
1. "Active voter" means any registered voter that is legally entitled to vote.

2. "Business day" means any calendar day except Saturday and Sunday or a legal holiday pursuant to Nevada law.

3. "Canceled" means the status of a voter whose registration has been canceled pursuant to law and is therefore ineligible to vote, including but not limited to convicted felons who have not had their civil rights restored and persons who have been adjudicated mentally incompetent. A voter on canceled status is deemed not registered to vote.

4. "Critical Eligibility Criteria" means voter information that, if missing, renders a person ineligible to vote. Such information includes: name; residence address; date of birth, signature; Nevada driver's license number, last four digits of social security number, unique identification number or indication that person has signed the affidavit prescribed by NRS 293.507(5).

5. "County Elections Management System" means any computerized application and database that manages voter registration and related election functions for a county, other than NevVoter.

6. "County Elections Official" means a county clerk or registrar of voters who is responsible for collecting, maintaining and processing voter registration data within a jurisdiction in the State of Nevada.

7. "Data Exchange Standards" means the document prepared by the Secretary of State that sets forth the technical rules and requirements of NevVoter.

8. "Deficient registration record" means those records submitted to NevVoter that do not meet the NevVoter data exchange standards set forth in the "Data Exchange Standards Document".

9. "Federal election" means any general, special, primary, or runoff election for any Federal office (President, Vice President, U.S. Senator or U.S. Representative), including presidential preference primaries.

10. "Full load file" means an electronic data file containing all county voter registration records. Such a file must adhere to the format standards and requirements set forth in the "Data Exchange Standards Document".

11. "Inactive voter" means a voter whose mail is returned from the address at which he registered to vote and has not provided a County Elections Official with a new residence address. Inactive voters retain the legal right to vote, but need not be mailed election material.

12. "List maintenance notices" mean any notices mailed to a registered voter for the purpose of verifying registration information about a voter and to determine a voter's ongoing eligibility to vote.

13. "Nevada driver's license" means a voter's Nevada driver's license or state identification number that has been issued by the Nevada Department of Motor Vehicles.

14. "NevValidator" means the computer interface by which an election official can compare a Nevada driver's license number or social security number on a voter's registration record with the voter's Nevada driver's license number or social security number recorded with the Nevada Department of Motor Vehicles and the Social Security Administration.

15. "NevVoter Procedures Manual" means the most recent version of the procedures manual prepared by the Secretary of State for use by County Election Officials in the administration of NevVoter.

16. "Official Identification" means the forms of proof of residency and identity required by NRS 293.517.

17. "P-17" means the status for a voter who was under age 18 at the time his voter registration was submitted, but who will be age 18 or older by election day and who has met all other legal requirements to vote.

18. "Pending" means the status for a voter who has submitted a voter registration application that is missing certain information and includes:

(a) "Active Pending" means a voter with certain registration information that needs to be confirmed but who has otherwise provided all critical eligibility criteria, or a voter who is required to provide some type of identification before voting but who is otherwise is still eligible to vote; and

(b) "Fatal Pending" means a voter who is missing critical eligibility criteria and who is ineligible to vote until the missing information is submitted to the appropriate County Elections Official.

19. "Registration record" means electronically stored data associated with an individual registered voter.

20. "Social security number" means the last four digits of a voter's social security number issued by the Social Security Administration.

21. "Voided" means the status of a voter whose registration information has been declared void pursuant to law and is therefore ineligible to vote. A voter on voided status is deemed not registered to vote.

22. "Voting History" means the electronic record of each time a voter participates in a state or Federal election.

Sec. 5. Official Statewide Voter Registration List.

1. A County Elections Official shall submit the voter registration information required by the Data Exchange Standards Document for his respective county to NevVoter in accordance with Section 12.

2. The official statewide voter registration list for Federal elections shall be maintained in NevVoter. County Elections Officials must use the NevVoter list to determine eligibility to vote, issuance of ballots, whether or not to count a provisional ballot, and for any other election related functions.

3. For the purposes of establishing the official voter registration list for a Federal election and determining voter eligibility to vote in that election, including determining the validity of any provisional ballot cast in that election, the Secretary of State shall archive a copy of all eligible voters in NevVoter on the 19th day prior to an election. No changes may be made to the archived records prior to the upcoming election except under the following circumstances:

(a) New or updated voter registration data received pursuant to the production and filing of a certified copy of a judgment of a court of competent jurisdiction directing registration to be made;

(b) Voter registration data regarding a voter determined by the Secretary of State or a County Elections Official to have been legally registered to vote as of the close of registration; or

(c) Voter registration data submitted pursuant to NRS 293.502.

4. County Election Officials shall continue to submit information to NevVoter after the 19th day prior to an election but any such records shall not be included in the archived list for the upcoming election created pursuant to subsection 3.

5. The Secretary of State shall prepare an official statewide voter registration list for the upcoming election for distribution to each County Election Official from the archived records created pursuant to subsection 3 and which must be consistent with pollbooks, rosters, master lists, and posting logs generated from a County Elections Management System for use in the upcoming election and for all other official election purposes.

6. No later than four calendar days before an election, the Secretary of State shall prepare a final official statewide voter registration list for use in the upcoming election which reflects the archived records created pursuant to subsection 3, along with any permitted changes to those records, for distribution to each County Election Official and which must be consistent with pollbooks, rosters, master lists and posting logs generated from a County Elections Management System for use on the upcoming election day and for all other official election purposes.

7. Within 45 days of the date the election is certified, a County Elections Official must submit a full load file which includes the Voting History for each voter in a County Election Management System. The Secretary of State shall thereafter update the list created pursuant to subsection 6 with the Voter History of all eligible voters, and the list shall then be archived and preserved.

Sec. 6. Status of Voters in NevVoter.

1. Every person in NevVoter shall be assigned a status that will be used to determine eligibility to vote in an election.

2. Persons with "active," "inactive" or "active pending" status shall be considered eligible to vote.

3. Persons with "p-17" status shall be considered eligible to vote in any election that takes place on or after that person's eighteenth birthday.

4. Persons with "void," "cancelled" or "fatal pending" status shall be considered ineligible to vote. A person with any such status may be placed on a different status up to the date of the election if a County Election Official determines pursuant to law that the person's status should be changed, and that change is thereafter made to a County Election Management System and submitted to NevVoter.

Sec. 7. Action Required.

1. A County Elections Official who receives a notice from the Secretary of State or another County Elections Official requesting a change to, or cancellation of, or verification of, a voter's registration record shall commence the requested action, including sending any required notices, within five (5) calendar days after receipt of the notice. A County Elections Officials shall undertake all reasonable and legally required actions to research and comply with the requested action. A County Elections Official shall follow the procedures set forth in the NevVoter Procedures Manual.

2. In the event that a County Elections Official is required by law to provide a notice to a voter in order to comply with the requested action, a County Elections Official must complete the requested action and submit a fully complete and updated full load file to NevVoter within thirty (30) calendar days of the date the County Elections Official receives the notice set forth in subsection 1 of this section.

3. In the event that a County Elections Official is not required by law to provide a notice to a voter in order to comply with the requested action, including but not limited to data entry errors, a County Elections Official must complete the requested action and submit a fully complete and updated full load file to NevVoter within ten (10) calendar days of the date the County Elections Official receives the notice set forth in subsection 1 of this section.

4. A County Elections Official shall give priority to all notices received from the Secretary of State pursuant to subsection 1 of this section which pertain to voter registration applications submitted on and after January 1, 2006.

5. A County Elections Official who receives a notice pursuant to subsection 1 of this section before the date of an election must expedite and complete the required action by the date of the election.

6. A County Elections Official may, in his discretion, resolve any data entry errors regardless of how or by whom such errors were generated.

Sec. 8. Data Exchange Standards.

1. The Secretary of State shall regularly check and identify records that are not compliant with the Data Exchange Standards Document. County Elections Officials must correct deficient registration records in accordance with Section 7.

2. Except as provided in Section 5, County Elections Officials must submit all registration records listed in the Data Exchange Standards Document to NevVoter. Such records shall adhere to proper format as noted in the Data Exchange Standards Document.

3. The Secretary of State shall transmit registration records, notices, and other information regarding NevVoter to County Elections Officials each night.

4. Each County Elections Official must access NevVoter each business day to obtain the most current voter registration information.

5. The Data Exchange Standards Document may be accessed by elections officials by contacting the Secretary of State's Office.

Sec. 9. County Elections Management System Requirements.

Each elections official shall maintain a County Elections Management System that is able to submit information required by the Data Exchange Standards Document to NevVoter in accordance with Section 5 and Section 12. The Elections Management Systems shall also maintain and process all of the following information:

1. The voter's Nevada driver's license number, or for voters without a Nevada driver's license number, the last four digits of the voter's social security number, or for voters without a Nevada driver's license or a social security number, a record of whether the voter signed the affidavit required by NRS 293.507(5);

2. Whether the voter is an Active voter or whether critical eligibility criteria are missing;

3. Voting history of each registered voter in the county in which the elections official conducts and administers the elections;

4. Whether any voter failed to provide the requisite identification at the time his voter registration application was submitted;

5. Whether any voter registered by mail after January 1, 2006 and has not previously voted in a federal election;

6. The date and type for each mailing list maintenance notice sent to a voter, whether the voter to whom the list maintenance notice was directed responded to the notice, and any resulting updates to voter registration records;

7. For a voter who is listed in an Elections Management System as an inactive voter, the reason for the change in status to inactive voter and the date of the change;

8. For a voter who is listed in an Elections Management System as having a cancelled or void registration, the reason for the change in status to cancelled or void and the date of the change;

9. For a voter who is listed in an Elections Management System as having a pending registration, the reason for the pending status; and

10. The voter's unique identifier assigned pursuant to Section 29 of these regulations.

Sec. 10. Critically Deficient Registration Records.

A registration record submitted for the purposes of updating NevVoter that does not contain critical eligibility criteria shall be placed on fatal pending status. A County Elections Official shall take all reasonable steps to correct and resubmit the voter's registration record to NevVoter in accordance with the time periods and procedures set

forth in Section 7 of these regulations, and at the latest, by the Wednesday before an election. A voter who is the subject of the critically deficient registration record shall not be deemed eligible to vote until the deficient registration record is corrected, resubmitted to and accepted by NevVoter. This Section shall not preclude the right of an individual to cast a provisional ballot.

Sec. 11. Verification of Nevada Driver's License Numbers on Registration Applications Submitted on or After January 1, 2006.

1. Each business day the Secretary of State shall compare driver's license numbers for each voter in NevVoter with the driver's license data file from the Nevada Department of Motor Vehicles in order to match Nevada driver's license numbers for all registered voters in NevVoter.

2. The Secretary of State shall immediately notify a County Elections Official of any voters who the Secretary of State determines have an unmatched driver's license number as the result of the process in subsection 1 of this section.

3. A County Elections Official noticed pursuant to subsection 2 of this section shall take the necessary steps to correct and resubmit the voter's registration record to NevVoter in accordance with the time periods and procedures set forth in Section 7 of these regulations and the NevVoter Procedures Manual.

4. If, as a result of the procedure set forth in subsection 3 of this section, a County Elections Official determines that an unmatched driver's license number was the result of a data entry error, the County Elections Official shall correct the error and submit a full load file to NevVoter.

5. If a County Elections Official is unable to obtain a driver's license number as the result of the procedure set forth in subsection 3 of this section, a voter shall not be allowed to cast any ballot except a provisional ballot unless the voter has provided his social security number or has signed the affidavit required by NRS 293.507(5). A voter who provides proof of his correct driver's license number at a polling place shall be considered to have provided the correct number as of the last day to register for that election. A County Elections Official shall enter the correct number into a County Elections System and submit a full load file to NevVoter at the next time a full load file is required by these regulations.

6. The provisions of this section apply only to voter registration applications submitted on and after January 1, 2006.

7. The provisions of this section do not apply if a voter has provided a social security number that has been verified pursuant to Section 17 or if a voter has signed the affidavit required by NRS 293.507(5).

8. All voter registration applications submitted on and after January 1, 2006 and before an election must be processed by the date of the close of registration for that election.

Sec. 12. Full Load Files.

Except as provided in Section 5, County Elections Officials shall submit a full load file to NevVoter at least once every twenty-four hours.

Sec. 13. Updating NevVoter with New Registration Records and Changes to Existing Registration Records.

Except as provided in Section 5, whenever a County Elections Official receives a new registration record or a change to an existing registration record or makes a change to an existing registration record, whether in response to a notice from the Secretary of State or otherwise, the County Elections Official shall process such information and transmit a full load file to NevVoter in accordance with Section 12 on the same business day in which the changes are made to the County Elections Management System. Additionally, the County Elections Official shall keep a record of all changes made.

Sec. 14. State Death Records.

1. The Secretary of State shall compare all voter registration records with records of deceased persons from the Department of Health and Human Services each time the Department of Health and Human Services updates its records of deceased persons.

2. Whenever the Secretary of State receives new records of deceased persons from the Department of Health and Human Services the records shall be compared to the voter registration records in NevVoter to identify potential matches.

3. Upon identifying potential matches, the Secretary of State shall transmit notices of the potential matches to the appropriate County Elections Officials.

4. A County Elections Official shall correct and resubmit the voter's registration record to NevVoter in accordance with the time periods and procedures set forth in Section 7 of these regulations and the NevVoter Procedures Manual.

5. If a match is confirmed by the County Elections Official, the County Election Management System shall be updated accordingly and a full load file shall be submitted to NevVoter in accordance with Section 7 and Section 12. If a match is confirmed, a County Elections Official may consider the notice sent by the Secretary of State pursuant to subsection 3 of this section to be a sufficient notice to cancel a registration pursuant to NRS 293.540(1).

6. If a match is not confirmed by the County Elections Official, the County Elections Official shall notify the Secretary of State and shall not list the voter as deceased in a County Election Management System.

Sec. 15. Felony Records.

1. Each County Elections Official shall compare all voter registration records with records of convicted felons received from any law enforcement agency or from the Secretary of State whenever the County Elections Official receives updated felony records.

2. Whenever the County Election Official receives new records of convicted felons the records shall be compared to the voter registration records in County Elections Management System to identify potential matches.

3. Upon identifying potential matches, the County Election Official shall determine whether the convicted felon has had his right to vote restored pursuant to NRS 213.090, 213.155, 213.157 or 293.540.

4. If a County Election Official determines that a convicted felon has had his right to vote restored, the County Election Management System shall be updated accordingly and a full load file shall be submitted to NevVoter in accordance with Section 7 and Section 12.

5. If a County Elections Official determines that a convicted felon has not had his right to vote restored, the County Elections Official shall cancel the registration of that person in a County Election Management System and a full load file shall be submitted to NevVoter in accordance with Section 7 and Section 12.

Sec. 16. Duplicate Registration Records.

1. Each business day, the Secretary of State shall conduct checks within the NevVoter statewide registration list to identify potential duplicate registrations for the same voter within that list, based on established rotating criteria. Upon identification of potential duplicate registration records, the Secretary of State shall automatically send an electronic notice to the county or counties with the record or records created prior to the latest date.

2. A County Elections Official noticed pursuant to subsection 1 of this section shall correct and resubmit the voter's registration record to NevVoter in accordance with the time periods and procedures set forth in Section 7 of these regulations and the NevVoter Procedures Manual.

3. If a County Election Official confirms that duplicate registrations exist, all but the most current registration shall be cancelled in a County Election Management System and a full load file shall be submitted to NevVoter in accordance with Section 7 and Section 12. If a duplicate registration is confirmed, a notice sent pursuant to subsection 1 of this section shall operate as a cancellation notice for purposes of NRS 293.527.

Sec. 17. Verification of Social Security Numbers Listed on Registration Applications Submitted on or After January 1, 2006.

1. Each business day, the Secretary of State shall compare social security numbers for each voter in NevVoter with the social security number data file from the Social Security Administration in order to match social security numbers for all registered voters in NevVoter.

2. The Secretary of State shall immediately notify a County Elections Official of any voters who the Secretary of State determines have an unmatched social security number as the result of the process in subsection 1 of this section. .

3. A County Elections Official noticed pursuant to subsection 2 of this section shall take the necessary steps to correct and resubmit the voter's registration record to NevVoter in accordance with the time periods and procedures set forth in Section 7 of these regulations and the NevVoter Procedures Manual.

4. If, as a result of the procedure set forth in subsection 3 of this section, a County Elections Official determines that an unmatched social security number was the result of a data entry error, the County Elections Official shall correct the error and submit a full load file to NevVoter.

5. If a County Elections Official is unable to obtain a social security number as the result of the procedure set forth in subsection 3 of this section, a voter shall not be allowed to cast any ballot except a provisional ballot unless the voter has provided a Nevada driver's license number or has signed the affidavit required by NRS 293.507(5). A voter who provides proof of the correct social security number at a polling place shall be considered to have provided the correct number as of the last day to register for that election. A County Elections Official shall enter the correct number into a County Elections System and submit a full load file to NevVoter at the next time a full load file is required by these regulations.

6. The provisions of this section apply only to voter registration applications submitted on or after January 1, 2006.

7. The provisions of this section do not apply if a voter has provided a Nevada driver's license number that has been verified pursuant to Section 11 or if a voter has signed the affidavit required by NRS 293.507(5).

8. All voter registration applications submitted on and after January 1, 2006 and before an election must be process by the date of the close of registration for that election.

Sec. 18. Voting History.

A County Elections Official shall submit to the Secretary of State the Voter History of all voters who cast a ballot in each statewide and Federal election by the 45th day after each election.

Sec. 19. Certification of Elections Official.

By submitting a full load file to NevVoter, a County Election Official certifies that the information contained therein is accurate, is in compliance with State and Federal law, and was submitted to NevVoter via secure file transfer protocols and in accordance with applicable law.

Sec. 20. Obligations of State and Local Election Officials.

Any voter registration information obtained by a County Elections Official shall be electronically entered into the County Elections Management System and into NevVoter on an expedited basis at the time the information is provided. The Secretary of State shall provide such support as may be required so County Election Officials are able to submit any voter registration information into NevVoter.

Sec. 21. Computerized List Maintenance and Conduct.

1. A County Election Official is responsible for daily and routine upkeep and maintenance of all voter registration information in an Election Management System and any information that is submitted to NevVoter. Daily and routine upkeep must include efforts to identify and remove ineligible voters from the active voter rolls.

2. Routine upkeep and maintenance must be done in a manner that ensures that the name of each eligible and registered voter appears in NevVoter.

Sec. 22. Pollbooks, Rosters, Master Lists and Posting Logs.

A County Elections Official may print pollbooks, rosters, master lists and posting logs for use at a polling place from an Election Management System so long as the voter information on the Election Management System is identical to the voter information maintained in NevVoter as of the date on which the roster will be used and so long as the County Elections Official has made all certifications required by these regulations.

Sec. 23. Reports.

A County Election Official shall submit to the Secretary of State all reports generated by a County Election Official pursuant to the Data Exchange Standards Document.

Sec. 24. Security.

1. All transmissions of data to and from a County Elections Management System and NevVoter must be secured pursuant to the standards set forth in the Data Exchange Standards Document.

2. A County Elections Official shall ensure that any voter registration information that is deemed confidential by law is not disclosed to unauthorized personnel in any transmissions to and from NevVoter or NevValidator.

3. NevVoter and NevValidator may only be utilized by authorized personnel for election purposes. The Secretary of State may establish minimum criteria, including but not limited to background checks, for any such authorized personnel.

Sec. 25. Confidential Address Program.

All voter records that are confidential pursuant to NRS 293.5002 shall be maintained in a manner ensuring these records are accessible only to authorized personnel and shall not be accessible to the public Confidential voter records under this section shall be maintained only in a County Election Management System and shall not be submitted into NevVoter.

Sec. 26. Confidential Voter Addresses and Telephone Numbers.

A County Elections Management System shall note any voter who has requested that his address and telephone number be kept confidential pursuant to NRS 293.558. Such a notation shall be submitted to NevVoter as part of a full load file.

Sec. 27. County Elections Official Override.

A County Elections Official may override a notice from the Secretary of State or another County Elections Official sent pursuant to Sections 11, 14, 15, 16 or 17 if both the County Elections Official and the Secretary of State agree that the notice was sent in error. In the event of an override, the County Elections Official must maintain in a County Elections Management System a detailed description of the reason for the override, and must also note in the next full load file to NevVoter that an override was executed.

Sec. 28. Voters Who Are Exempt From Identification Requirements.

If a voter is exempt by law from a requirement to show identification at a polling place, such an exemption shall be noted in a County Elections Management System and shall be included in a submission of any full load file.

Sec. 29. Unique Identifier.

Each voter in NevVoter shall be assigned a unique identification number. The uniq identification number shall be assigned pursuant to the procedures set forth in t Nevada Procedures Manual and the Data Exchange Standards.

INFORMATIONAL STATEMENT FOR EMERGENCY REGULATIONS AS REQUIRED BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE _____

The following statement is submitted for the emergency regulations pertaining to Nevada Administrative Code chapter 293, in accordance with NRS 233B.066(2).

1. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and
(b) Both immediate and long-term effects.

These emergency regulations do not have any economic effect on any business or on the public.

2. The estimated cost to the agency for enforcement of the proposed regulation.

No additional cost is anticipated to enforce these emergency regulations. These regulations clarify the procedures by which the statewide voter registration list is maintained. They are applicable only to state and local election officials.

3. A description of any regulations of the state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The emergency regulations do not duplicate or overlap any other state or government agency regulations.

4. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.

The emergency regulations do not include provisions that are more stringent than a federal regulation regulating the same activity.

5. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

The emergency regulations do not establish a new fee or increase an existing fee.

APPENDIX F

July 14, 2006 Election Regulations

SECRETARY OF STATE FILING DATA	For Filing Administrative Regulations	FOR EMERGENCY REGULATIONS ONLY
[illegible]	Agency Secretary of State	Effective date
2006 JUL 14 A 10:05		Expiration date
[illegible]		Governor's signature

Classification: ☐ **PROPOSED** : **X ADOPTED BY AGENCY** ☐ **EMERGENCY**

Brief description of action Update election regulations to comply with legislative changes and otherwise clarify various portions of Title 24 pertaining to provisional voting, voter identification, post-election audits, signature stamps, ballot and petition formats, election supplies and reimbursement, polling places, absentee ballots, recounts, election boards, voting conduct, identification numbers, restoration of civil rights, voter registrations, ballot security and equipment testing. These regulations also update campaign finance regulations to comply with legislative changes and otherwise clarify various of Title 24 including updates pertaining to contributions, expenses, reporting and civil penalties.

Authority citation other than 233B: NRS 293.124, 293.247, 293.323, 293. 3677, 293. 507, 293.5235, 293.524, 293B.105, 294A.380 and 295.055.

Notice dates: Workshop 1- 2/15/06; Workshop 2 – 3/9/06; **Date of Adoption by Agency: June 7, 2006**

Adoption Hearing – 4/20/06

Hearing dates: Workshop 1- 3/2/06; Workshop 2 – 3/28/06;

Adoption Hearing – 5/23/06; Adoption Hearing – 6/7/06

REVISED ADOPTED REGULATION OF

THE SECRETARY OF STATE

LCB File No. R072-06

Effective July 14, 2006

(Note: Section 41, pertaining to personal use of campaign funds, has been removed from this regulation and is now located in R164-06)

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1, 3, 5, 10, 11, 26, 33, 34, 40, and 47, NRS 293.124; §§2 and 25, NRS 293.124 and 293.507; §§4, 6 and 7, NRS 293.124 and 293.3081; §§8 and 9, 14-21, 35-37 and 39, NRS 293.124 and 293.247; §12, NRS 293.124 and 293.250; §13, NRS.293.124 and 293.565; §22, NRS 293.124, 293.247 and 293B.103; §§23 and 38, NRS 293.124, 293.247 and 293.3677; §24, NRS 293.124 and 293.524; §27, NRS 293.124 and 293.540; §§28-32, NRS 293.124 and 293.5235; §§41-44, NRS 293.124 and 294A.380; §45, NRS 293.124, 294A.380 and 294A.420; §46, NRS 293.124, 293.247 and 295.055.

A REGULATION relating to elections; providing an interpretation of the term "official identification" for the purposes of providing proof of residence and identity to register to vote; providing an interpretation of the term "current and valid photo identification" for the purposes of allowing certain voters to vote in certain elections; providing procedures for the casting and counting of provisional ballots; making various changes concerning the use of mechanical voting systems; making various changes concerning the observation of the conducting of elections; prohibiting the use of campaign contributions for the payment of any civil or criminal penalty; and providing other matters properly relating thereto.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *For the purposes of NRS 293.517:*

1. The Secretary of State interprets "official identification" to mean a government-issued, or otherwise official, article or combination of articles, which establishes both the identity and residence of a person submitting an application to register to vote.

2. The following articles may be used to establish identity:

(a) A current and valid Nevada driver's license;

(b) A current and valid identification card issued by the Department;

(c) A current and valid identification card issued by a branch of the Armed Forces of the United States;

(d) A current and valid identification card issued by a sheriff of a Nevada county to an employee as a condition of his employment by certain business enterprises;

(e) A current and valid identification card issued by an agency of the State of Nevada or political subdivision thereof or the United States, including, without limitation, a public school, college or university;

(f) A current and valid student identification card from an accredited private school, college or university;

(g) A current and valid United States passport;

(h) A current and valid insurance plan identification card which the county clerk determines, in his discretion, to be a reliable indication of the true name and identity of the person;

(i) A current and valid tribal identification card;

(j) A current and valid employee identification card which the county clerk determines, in his discretion, to be a reliable indication of the true name and identity of the person; or

(k) Any other official article which the county clerk determines, in his discretion, to be a reliable indication of the true name and identity of the person, including, without limitation, an expired article listed in paragraphs (a) to (j), inclusive, if that article has been expired for 30 calendar days or less and is otherwise valid.

3. The following articles may be used to establish residency if the current residential address of the applicant, as indicated on the application to register to vote, is displayed on the article:

(a) Any article set forth in subsection 2;

(b) A current and valid utility bill, including, without limitation, a bill for electricity, gas, oil, water, sewer, septic, telephone, cellular telephone or cable television;

(c) A current and valid bank or credit union statement;

(d) A current and valid paycheck;

(e) A current and valid income tax return;

(f) A current and valid statement concerning the mortgage, rental or lease of a residence;

(g) A current and valid motor vehicle registration;

(h) A current and valid document issued by a governmental agency;

(i) A current and valid property tax statement; or

(j) Any other official article which the county clerk determines, in his discretion, to be a reliable indication of the true residential address of the person.

Sec. 3. *1. The Secretary of State interprets "current and valid photo identification," for purposes of NRS 293.2725, to mean an article described in subsection 2 of section 2 of this regulation, which also bears a legible photograph of the voter.*

2. A document issued by an election official to a person in the course of the administration of voter registration or an election, including, without limitation, a voter registration card, sample ballot or receipt, does not satisfy the requirements of paragraph (a) or (b) of subsection 1 of NRS 293.2725.

3. The requirements set forth in NRS 293.2725 are in addition to the requirements set forth in subsection 1 of NRS 293.517 and do not affect the mandate that a voter who failed to show proof of both identity and residency at the time the voter registered to vote must show such identification before any ballot may be cast, except that a voter may cast a provisional ballot pursuant to the provisions of NRS 293.3081 to 293.3086, inclusive.

Sec. 4. *1. A person who completes the written affirmation required by NRS 293.3082 must be provided with a provisional ballot, regardless of whether the person is at the wrong polling place or precinct.*

2. If an election official becomes aware that a person appearing to vote is a registered voter who has appeared to vote in the wrong polling place, the election official must inform the person of the location of the correct polling place for the person. The election official must also inform the person that although a provisional ballot may be cast at the incorrect precinct, the provisional ballot will not be counted unless the voter casts the provisional ballot at a polling place that is:

(a) Located in the congressional district in which the voter resides; or

(b) Not located in the congressional district in which the voter resides because the voter was directed to the incorrect polling place by an election official.

3. Except as otherwise provided in subsection 5, a county clerk shall count a provisional ballot if the county clerk determines that all the following requirements were satisfied by the date of the election for which the provisional ballot was cast:

(a) The voter was properly registered in the county where the provisional ballot was cast;

(b) The voter was a citizen of the United States;

(c) The voter was 18 years of age or older;

(d) The voter had continuously resided in the county where he registered to vote for at least 30 days;

(e) The voter had continuously resided in the precinct for which he registered to vote for at least 10 days;

(f) The voter had not been convicted of a felony or, if the voter had been convicted of a felony, the civil rights of the voter had been lawfully restored;

(g) The voter signed the required affirmation;

(h) If the provisional ballot was cast at a polling place, the voter did not cast any other ballot, including an absent or mail-in ballot;

(i) If the voter did not show proof of residence and identity at the time he registered to vote, that the voter provided official identification establishing residence and identity by 5 p.m. on the Friday following election day;

(j) The voter cast the provisional ballot at a polling place that was authorized to accept a ballot for the congressional district in which the voter resides; and

(k) The provisional ballot cast listed the correct federal offices for the congressional district in which the voter resides.

4. The county clerk shall, not earlier than 5 p.m. on the Friday immediately following election day, post and submit to the Secretary of State the totals of provisional votes counted. The county clerk shall post and submit the updated results in the same manner and form as election day results.

5. If a voter is directed by an election official to a polling place that was not located in the congressional district in which the voter resides, the voter may notify the county clerk not later than 5 p.m. on the day after election day. The county clerk must determine not later than 5 p.m. on the Friday immediately following election day whether the voter was directed to an incorrect polling place by an election official. If the county clerk determines that the voter satisfies the requirements of paragraphs (a) to (i), inclusive, of subsection 3 and was directed by an election official to an incorrect polling place not located in the congressional district in which the voter resides, the county clerk shall count the votes cast by the voter for the Office of President of the United States, the Office of Vice President of the United States and the Office of United States Senator.

Sec. 5. *A county clerk must require a person wishing to register in a county where the person has not previously been registered to comply with the provisions of NRS 293.517, regardless of whether the person was previously registered elsewhere.*

Sec. 6. *The county clerk, or his designee, shall inform any person whose name does not appear on a voter registration list as an eligible voter for a polling place, or who an election official asserts is not eligible to vote at the polling place, of the ability of the person to cast a provisional ballot.*

Sec. 7. *1. A county clerk, or his designee, shall inform each voter who casts a provisional ballot of the availability of the free access system established in accordance with NRS 293.3086.*

2. The county clerk shall provide the Secretary of State, in the format the Secretary of State prescribes, with all information on whether the provisional ballots cast by each person were counted and, if not, the reason why such a ballot was not counted. The Secretary of State will add the information to the free access system to make such information available to the voters who cast a provisional ballot.

3. The free access system must be available to a person who casts a provisional ballot for the period beginning on the eighth day immediately following the date of the election and continuing for at least 30 days after the date of the election in which the person cast the provisional ballot.

Sec. 8. *1. After each election, a county clerk shall conduct a postelection certification audit of VVPATs randomly selected pursuant to subsection 3 or 4, as applicable, to ensure that the paper record produced by a VVPAT accurately records all votes cast by voters on a mechanical recording device.*

2. A county clerk must conduct a postelection certification audit of a VVPAT by comparing each vote cast for each candidate and on each measure which was electronically recorded on the mechanical recording device to each vote cast for each candidate and on each measure which was recorded on the attached VVPAT. Such comparison may be conducted manually or by a mechanical device determined by the Secretary of State to be capable of

accurately reading the votes cast and printed and otherwise qualified for use in the State pursuant to applicable state and federal law.

3. The county clerk of a county whose population is 100,000 or more must randomly select a number of mechanical recording devices equal to 2 percent of the number of mechanical recording devices with attached VVPATs used in the election, or not less than 20 mechanical recording devices, whichever is greater, for the postelection certification audit.

4. The county clerk of a county whose population is less than 100,000 must randomly select a number of mechanical recording devices equal to 3 percent of the number of mechanical recording devices with attached VVPATs used in the election, or not less than four mechanical recording devices, whichever is greater, for the postelection certification audit.

5. The county clerk shall transmit the results of the audit to the Secretary of State within 7 working days after the date of the election.

6. Any member of the public who observes the postelection certification audit shall not interfere with the conduct of the audit.

Sec. 9. *If a voter presents a signature stamp obtained pursuant to chapter 426 of NRS for use on a document as set forth in chapter 426 of NRS, the county clerk shall require verification of the identity of the owner of the signature stamp in accordance with NRS 426.257.*

Sec. 10. NAC 293.010 is hereby amended to read as follows:

293.010 As used in this chapter, unless the context otherwise requires:

1. "Ballot stock" means the material upon which:

(a) A ballot is printed; and

(b) A voter directly indicates his vote.

2. "Department" means the Department of Motor Vehicles.

3. ***"Results cartridge" means the cartridge of a mechanical recording device which contains the electronically recorded ballots cast during the election and from which the ballots are tabulated.***

4. "Signature stamp" has the meaning ascribed to it in NRS 426.257.

5. "Voter verifiable paper audit trail printer" or "VVPAT" means the device attached to a mechanical recording device and the paper it prints to record all votes cast by a voter for any and all candidates and for or against any and all measures, enabling that voter to visually verify that the mechanical voting system has accurately recorded the votes of the voter.

6. "Voting booth" means any place or compartment used to screen a voter from the observation of others.

Sec. 11. NAC 293.040 is hereby amended to read as follows:

293.040 1. The Secretary of State will, not later than March 15 of the year in which a primary election is held, prepare and send to each county clerk a written notice which designates the ***statewide and multicounty district*** offices for which candidates are to be nominated at the primary election.

2. Within 10 days after receipt of the notice required to be sent pursuant to subsection 1, the county clerk shall publish once in a newspaper published in his county that portion of the notice which applies to his county. If no newspaper is published in his county, the publication must be made in any newspaper of general circulation which is published in the nearest county of this State.

Sec. 12. NAC 293.090 is hereby amended to read as follows:

293.090 1. Preceding every statewide question or constitutional amendment to be voted upon must be a number, to be assigned by the Secretary of State, in boldface type. ~~[not smaller than 24-point.]~~

2. The Secretary of State will prepare statewide ballot questions, the accompanying explanations, arguments and condensations, the forms for applications to register to vote, other statewide forms and election information prescribed by the Secretary of State pursuant to NRS 293.247 in the appropriate minority language to affected jurisdictions pursuant to Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a and provide them to the county clerks for distribution to the public.

3. The county clerks shall prepare all ballot questions other than those described in subsection 2, the accompanying explanations, arguments and condensations, the notice of offices to be filled and other county and local forms and election information in the appropriate minority language to affected jurisdictions pursuant to Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a.

4. If any question is to be submitted to a vote of the people, it must be printed upon the ballot or ballot page assembly in a manner which enables a voter to vote "Yes" or "No" upon the question submitted.

Sec. 13. NAC 293.120 is hereby amended to read as follows:

293.120 The county clerk shall:

1. Mail a copy of the sample ballot for the primary election, as provided in NRS 293.565, to each candidate who has filed with him a declaration of candidacy or an acceptance of candidacy.

The copy must be mailed to the mailing address which is stated in the declaration of candidacy or acceptance of candidacy.

2. Mail a copy of the sample ballot for the primary election, as provided in NRS 293.565, to each candidate who has been certified to him by the Secretary of State.

3. If a candidate's name appears on more than one type of sample ballot, mail a copy of at least one of the sample ballots to the candidate, but the county clerk shall make a copy of each sample ballot available to the candidate upon request.

4. Mail a copy of ***at least five sample ballots and provide an electronic copy of*** each sample ballot for a primary election, as provided in NRS 293.565, to the Secretary of State.

5. Post a copy of the sample ballot or a list of candidates in a conspicuous place in his office.

Sec. 14. NAC 293.150 is hereby amended to read as follows:

293.150 1. At least 2 days before any election, every county clerk shall prepare the following supplies for each polling place:

(a) One flag of the United States.

(b) ~~[Cards for providing:~~

~~(1) The appropriate warning regarding interference with the conduct of the election.~~

~~(2) Notice of the law prohibiting voting more than once.~~

~~(3) Notice of the law prohibiting electioneering within 100 feet from the entrance to the voting area or the building or other structure in which a polling place is located, as applicable.]~~ ***Any notices or other materials required to be posted at each polling place pursuant to NRS 293.177, 293.2549, 293.2955, 293.301, 293.302, 293.3025, 293.361, 293.740 and 293.780.***

(c) One copy of the statutes and regulations governing elections, or one copy of a compilation of the statutes and regulations governing elections.

(d) If a procedure for bilingual voting is used in the county, the required notices in the appropriate foreign language.

2. The county clerk may prepare for each polling place any additional supplies he considers necessary or desirable for carrying out the election.

3. On or before the day preceding the day of an election, each county clerk may deliver the election supplies to the sheriff of his county or a person designated by the clerk for further distribution. The election supplies may be delivered in sealed containers and may include any other accountable items. The sheriff or other designated person shall sign a receipt for all of the items received by him. The sheriff or other designated person shall immediately, and in a safe manner, distribute the election supplies to ***those polling places or to*** those members of election boards who are designated by the county clerk to receive and take custody of the supplies. ~~[The sheriff or other designated person shall obtain a signed receipt from each member of an election board to whom the sealed container or any other accountable item is delivered.]~~

4. When an election board accepts delivery of election supplies, it shall check the supplies against the list of inventory and immediately notify the county clerk of any shortage. The county clerk shall immediately correct the shortage.

5. At each polling place within the county, the county clerk shall provide a quantity of booths which is sufficient to allow voters to vote their ballots conveniently and in a manner that allows their voting to be screened from the view of others.

6. Each of the booths must, during the election, be provided with the necessary supplies for voting ballots. ~~[, and must be sufficiently lighted to enable voters to read clearly all of the printing on ballots or ballot page assemblies and to enable members of election boards to perform their duties.~~

~~7. Before opening the polls, the members of the election board shall carefully inspect the ballot box to ensure that nothing remains in the ballot box from a previous election. The ballot box must be locked after the inspection, and the key to any lock on the ballot box must be delivered to the chairman of the election board or, if there is no lock, the ballot box must be sealed by a seal approved by the Secretary of State. The ballot box must not be opened during the election except as otherwise provided in NRS 293B.325.]~~

Sec. 15. NAC 293.160 is hereby amended to read as follows:

293.160 1. The chairman of the election board shall designate the officer of the election board who is to make the proclamation required pursuant to NRS 293.273. That officer shall make the proclamation at the entrance or inside of the polling place.

2. During the time the polls are open, the members of an election board may take time for meals or personal needs, except that only one member may be absent at any time from a polling place where four or fewer members are employed, and only two members may be absent at any time from a polling place where five or more members are employed.

3. The election board shall, to the extent possible, prevent any person who has given assistance in voting to another from disclosing the nature of the assisted person's vote.

4. ~~[The number of replacement ballots which may be issued to a voter who spoils his ballot may be decided, in good faith, by the election board.~~

~~5. The chairman of the election board shall make a record of the cancelled ballots. The envelope in which cancelled ballots are placed must be marked with the words "cancelled ballots."~~

~~6.]~~ Any election board which receives mailing ballots from the county clerk shall follow the procedure prescribed for absent ballots in NRS 293.333 and ~~[293.355.~~

~~7.]~~ ***293.335.***

5. When it is time to close the polls, a member of the election board shall proclaim that the polls are closed for voting.

~~[8.]~~ ***6.*** After the completion of an election, all ~~[ballot boxes]~~ ***ballots and paper records of VVPATs*** must be returned by the sheriff or representative of the county clerk and placed by him in a secure storage area designated and provided by the county clerk.

~~[9.]~~ ***7.*** If an absent ballot central counting board is appointed, the members of the board shall meet at a place designated by the county clerk as soon as the polls close. The board of county commissioners shall prepare abstracts of votes on a form which was submitted by the county clerk to and approved by the Secretary of State.

Sec. 16. NAC 293.162 is hereby amended to read as follows:

293.162 1. Any registered voter of this State may be appointed to observe the conduct of voting at a polling place as the representative of:

(a) Any candidate whose name appears on a ballot for the election for which the representative is appointed; or

(b) Any political party or committee sponsored by a political party.

2. A representative appointed pursuant to subsection 1:

(a) Shall present a written certificate of his appointment to the chairman of the election board upon his arrival at the polling place. The certificate must contain:

(1) The name and signature of the representative;

(2) The name of the candidate, political party or committee appointing the person as its representative; and

(3) The precinct, polling place and date of the election for which the representative is appointed.

(b) ~~[May sit or stand at such a location near the election board as to observe and hear conveniently the activities conducted at the polling place for which he is appointed without interfering with the voting.]~~ ***Must comply with the same requirements that apply to members of the general public pursuant to NRS 293.274, 293.305 and 293.730.***

(c) May remain in the designated area in the polling place after the polls close pursuant to NRS 293.273 so as to observe the closing of the polling place. The representative shall not interfere with the closing of the polling place.

3. ***The representative shall remain in an area designated by the chairman of the election board to observe and hear conveniently the activities conducted at the polling place for which the representative is appointed without interfering with the voting. The designated area must allow for meaningful observation, but must not be located in an area that would allow an observer to infringe on the privacy and confidentiality of the ballot of the voter.***

4. No person may be appointed pursuant to this section to observe the conduct of voting at more than one polling place.

Sec. 17. NAC 293.169 is hereby amended to read as follows:

293.169 1. In a county in which the county clerk has appointed an absent ballot central counting board and posted a statement pursuant to subsection 2, the county clerk may, not earlier than 4 working days before election day and not later than 5 p.m. on the second working day before election day, deliver the absent voters' ~~[ballot boxes]~~ ***ballots*** to the absent ballot central counting board. When the ~~[ballot boxes]~~ ***ballots*** are received, the absent ballot central counting board shall:

(a) ~~[Withdraw the ballots and return the ballot boxes to the county clerk;~~

~~(b)]~~ Sort the ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting ***district, unless the system for counting the ballots produces an accounting of the ballots by precinct or voting*** district;

~~[(c)]~~ ***(b)*** Count the number of ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting district;

~~[(d)]~~ ***(c)*** Account for all ballots on the statement of ballots;

~~[(e) Duplicate any ballots that necessitate duplicating as authorized by and in the manner set forth in NRS 293B.375; and~~

~~(f)]~~ ***and***

(d) Place all the ballots ~~[, including any ballots produced pursuant to paragraph (e),]~~ and the statement of ballots into the container provided by the county clerk to transport those items to a central counting place and seal the container. The container and seal used must comply with the provisions of NRS 293.462.

2. Not later than 2 working days before the date of delivery of the ~~[ballot boxes]~~ ***ballots*** pursuant to subsection 1, the county clerk must post a statement in his office that notifies the public of any actions that will be taken pursuant to subsection 1.

3. Any absent ballots received by the county clerk after he delivers the ~~[ballot boxes]~~ ***ballots*** pursuant to subsection 1 must be:

(a) ~~[Deposited into the appropriate absent voters' ballot boxes]~~ ***Stored and secured*** pursuant to the provisions of NRS ~~[293.309 to 293.340, inclusive,]~~ ***293.325*** after those ~~[ballot boxes]~~ ***ballots*** have been returned pursuant to subsection 1; and

(b) Processed pursuant to the provisions of NRS 293.3625 to 293.397, inclusive.

4. The county clerk shall allow members of the general public to observe the handling of the absent ballots conducted pursuant to subsection 1 if those members do not interfere with the handling of the absent ballots.

Sec. 18. NAC 293.182 is hereby amended to read as follows:

293.182 1. A person who submits a petition that consists of more than one document to the county clerk for verification of the signatures shall sequentially number each page of each document in the petition, beginning with the number 1.

2. If a petition consists of more than one document, each of those documents must, in addition to any other requirements:

(a) Contain sequentially numbered spaces for:

(1) The name of each person signing the petition. ~~[;]~~

(2) The signature of the person ~~[;]~~ ***signing the petition.***

(3) The ~~[residential address of the person;]~~ ***street address of the residence where the person signing the petition actually resides, unless a street address has not been assigned. If a street address has not been assigned, the document may contain the mailing address of the person signing the petition.***

(4) The name of the county where the person is a registered voter. ~~[; and]~~

(5) The date of the signature.

(6) If the petition is a municipal initiative or referendum proposed pursuant to NRS 295.195 to 295.220, inclusive, the name of the city in which the person signing the petition is registered to vote.

(b) Have attached to it, when filed ~~[:~~

~~(1) The affidavit required pursuant to Section 3 of Article 19 of the Constitution of the State of Nevada; and~~

~~(2) An]~~ ***, an*** affidavit signed by the person who circulated the document in substantially the following form:

STATE OF NEVADA

COUNTY OF _____

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that I believe them to be genuine

signatures; and (6) that I believe each person who signed was at the time of signing a registered voter in the county of his residence.

_____

Signature of circulator

Subscribed and sworn to or affirmed

before me this ____ day of ____, ____.

_____

Notary public or other person licensed

to administer an oath

3. Any document of a petition may consist of more than one page. If a document consists of more than one page:

(a) Each page, including a blank signature page, must be numbered sequentially, beginning with the number 1 for each document;

(b) All the pages must be permanently attached in numerical order; and

(c) The ~~[affidavits]~~ ***affidavit*** required by paragraph (b) of subsection 2 must appear on the last pages of the document.

4. As used in this section, "petition" means a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, ***295.056,*** 298.109, 306.035 or 306.110.

Sec. 19. NAC 293.200 is hereby amended to read as follows:

293.200 1. The Secretary of State will reimburse the counties for the cost of the basic stock for ballots. Reimbursement will not be made for setup and other costs, including the cost of personalized printing, stitching, binding ~~[, numbering, or prepunching]~~ ***or numbering*** of the ballots.

2. Payment will be made after a claim of cost is presented to the Secretary of State. A county clerk shall present the claim not later than December 31 of a year in which a general election is held. A manufacturer's invoice showing ***an itemized list of*** all charges must accompany the claim. ***The Secretary of State will not pay claims presented more than 30 days after December 31 of the year in which the general election was held.***

Sec. 20. NAC 293.220 is hereby amended to read as follows:

293.220 1. At least 2 days before any election, the county clerk shall prepare the following supplies for each precinct:

(a) The election ~~[board register;~~

~~(b) Copies of the roster and pollbook in such a quantity and form as the clerk determines appropriate;~~

~~(c)]~~ ***roster;***

(b) A quantity of mechanical voting devices which assures an efficient flow of voters;

~~[(d) A container]~~

(c) A means for transporting ballots *and VVPATs* which ~~[is equipped]~~ *allows the ballots and VVPATs to be secured* with a lock and key, numbered seal or other device which prevents unauthorized entry;

~~[(e)]~~ *(d)* At least three copies of each sample ballot which pertains to the election;

~~[(f)]~~ *(e)* A procedural checklist for election boards; and

~~[(g)]~~ *(f)* One list of the inventory of the supplies provided to the election board. ~~[, including a notation whether the supplies have been inserted into the container for transporting ballots.]~~

2. Each county clerk may prepare for the precincts any additional supplies he considers necessary or desirable for carrying out the election.

Sec. 21. NAC 293.230 is hereby amended to read as follows:

293.230 1. Each member of the election board must be present in the polling place where he is to serve at least 45 minutes before the time the polling place is to open.

2. The election board shall set up the vote recording devices in a manner which creates the most efficient flow of voters.

~~[3. The election board shall ensure that the correct ballot page assemblies have been properly inserted into the vote recording devices. As a check, the boards shall compare a sample ballot for the particular precinct with the official ballot page assemblies being inserted into the recording devices to assure that they contain the same candidates and questions.]~~

Sec. 22. NAC 293.240 is hereby amended to read as follows:

293.240 1. After a person is identified as being a registered voter ~~[,]~~ *and has signed the roster,* a member of the election board shall ~~[give him all appropriate ballot cards and a protective sleeve and shall record the number of the card or series of the card in the pollbook opposite the voter's name.~~

~~2. The election board shall direct each voter]~~ *issue the voter a receipt, and direct him* to a voting booth ~~[which contains a vote recording device which is appropriately]~~ equipped to handle the voter's ballot. ~~[card.~~

~~3.]~~ *2.* A member of the election board shall not permit any person to enter a voting booth to vote until he ascertains that the person understands how to operate the vote recording device.

~~[4. To carry out NRS 293B.103, the election board shall:~~

~~(a) Upon issuing a ballot to a voter, retain the top portion of the ballot card or stub which is stapled to the pack of ballot cards.~~

~~(b) When the voter returns his voted ballot, give him the detachable portion which is located immediately above the ballot and contains holes for the alignment of the ballot on the recording device.~~

~~5.]~~ *3.* If it is obvious to the members of an election board that a voter is trying to delay an election by repeatedly ~~[spoiling his ballot cards,]~~ *voiding his selections and not casting a ballot, a member of the election board must warn the voter that such actions are unlawful and offer assistance if necessary. If the voter continues to try to delay the election,* the election board may take any appropriate action to expedite the election ~~[. The stub on a spoiled ballot must be left attached to the ballot.~~

~~6.]~~ *, including, without limitation, removing the voter from the polling place if the county clerk has approved his removal.*

4. Before the commencement of voting and periodically throughout the election, members of the election board shall examine the voting booths to ensure that each booth does not contain any campaign cards, political advertising, partisan notes or any other matter which constitutes an unauthorized attempt to influence the voters. ~~[During each examination, a special ballot card used to test the device must be inserted into the vote recording device to verify that the device is functioning properly. If the device uses punchcards, the special ballot card must be punched at random to verify that the device is functioning properly.]~~

Sec. 23. NAC 293.250 is hereby amended to read as follows:

293.250 1. If a difference exists between the number of persons voting and the number of ballots cast, the difference must be reported in writing to the county clerk, together with any known reasons for the difference.

2. The total number of voters must be entered by the election board on the forms provided by the county clerk.

3. The chairman of an election board is responsible for the safe delivery of the ~~[ballot cards]~~ ***ballots and VVPATs*** to the central place designated by the county clerk for the counting of ballots, except that a ballot pick-up board, if established, is responsible for the delivery.

4. After closing the polls, the election board shall compare the quantity of its ***results cartridges, VVPATs, mechanical recording devices and other essential election*** supplies which were furnished by the county clerk with the county clerk's inventory, ~~[and]~~ shall note any shortages ~~[.]~~ ***and shall immediately notify the county clerk if any shortages are noted.*** The chairman of the election board is responsible for the safe return of all supplies, including all

records, ~~[and]~~ equipment pertaining to the election ~~[.]~~ ***and essential election supplies,*** in accordance with the directions of the county clerk.

~~[5. Votes on a ballot card must not be counted if it is impossible or extremely difficult to determine the voter's intention because he has placed his ballot incorrectly in the vote recording device.]~~

Sec. 24. NAC 293.410 is hereby amended to read as follows:

293.410 1. A voter registration agency shall place in a conspicuous position in each of its offices a sign which indicates that a person may register to vote in that office.

2. A registered voter may change his name, address or political party affiliation on the application to register to vote.

3. The information required by the application to register to vote must be printed in black ***or blue*** ink with a ballpoint pen.

4. A voter registration agency may not accept an application to register to vote which includes any erasure of or line drawn through information provided by the applicant relating to his political party affiliation.

5. A voter registration agency shall include with each application to register to vote or group of applications which is transmitted to the county clerk or registrar of voters a transmittal form prescribed and provided by the agency.

6. A voter registration agency shall not void an application unless the applicant is present. If the agency voids an application, the agency shall:

(a) Write or stamp the word "void" on the front of the application;

(b) Forward the voided application to the county clerk; and

(c) Maintain a record of the voided application.

7. A voter registration agency shall ascertain whether a file stamp obliterates the portion of the application reserved for the applicant's signature. If a file stamp does obliterate this portion, the voter registration agency shall issue a new application to the applicant.

8. Before each application completed by an employee of the Department is forwarded to the county clerk or registrar of voters, it must be reviewed by a second employee of the Department who shall determine whether the application is legible. If the employee determines that an application is illegible, he shall cause a computer-generated copy of the information contained in the records relating to the applicant's driver's license or identification card to be attached to the application.

9. A voter registration agency shall, in cooperation with the county clerks and registrar of voters, conduct training programs once every 6 months to familiarize the employees of the agency with the required procedures for registering voters through the agency.

10. A voter registration agency shall maintain a record of the transmittal of each application to the county clerk or registrar of voters pursuant to the agency's schedule for the retention and disposal of records.

11. A voter registration agency shall stamp the original and the voter's copy of the completed application with the date of receipt. Except as otherwise provided in this subsection, the stamp used by the agency must not include the name of the agency. The stamp used by the Department may include the name of the Department.

Sec. 25. NAC 293.411 is hereby amended to read as follows:

293.411 The Secretary of State will assign to each county a series of numbers that must be used by the county clerk in assigning ~~[an]~~ ***a unique*** identification number to a person who ***does not have a current and valid driver's license issued by the Department or a social security number and*** wishes to register to vote pursuant to NRS ~~[293.507 and is unable, or does not wish, to provide the clerk with the number indicated on the identification described in subparagraph (1) of paragraph (a) of subsection 4 of NRS]~~ 293.507. ***Before the clerk may issue the person an identification number, the person must sign an affidavit under penalty of perjury pursuant to subsection 5 of NRS 293.507 stating that he does not have a current and valid driver's license or a social security number.***

Sec. 26. NAC 293.412 is hereby amended to read as follows:

293.412 1. A county clerk:

(a) May maintain a separate list of inactive voters or designate inactive voters as such on regular lists of registered voters and election board registers.

(b) Shall, at the request of the Secretary of State, report to the Secretary of State the total number of inactive voters.

2. The name of each inactive voter:

(a) Must be included on any list made available for public inspection pursuant to NRS 293.440 unless the person requesting the list requests the exclusion of those names.

(b) Must not be included on any list made available for public inspection pursuant to NRS 293.557.

3. The signature of an inactive voter shall be deemed to be the signature of a registered voter for all purposes regarding any petition authorized or required pursuant to title 24 of NRS.

4. ~~[Except as otherwise provided in this subsection, for the purpose of mailing sample ballots, an inactive voter shall be deemed not to be a registered voter unless he requests the city or county clerk, in person, in writing or by telephone, to provide him with a sample ballot. A county or city clerk shall mail sample ballots to all inactive voters in a mailing precinct.]~~ ***A city or county clerk is not required to send a sample ballot to an inactive voter.***

5. As used in this section, "inactive voter" means a voter designated as inactive pursuant to NRS 293.530 whose registration has not been cancelled.

Sec. 27. NAC 293.414 is hereby amended to read as follows:

293.414 1. The Secretary of State will immediately provide the county clerks with any information he receives from the Attorney General of the United States regarding the conviction of any person of a felony.

2. A county clerk may, for the purpose of making the determination ***to cancel the registration of a person*** required by subsection 3 of NRS 293.540, rely upon any information he receives from the Secretary of State pursuant to subsection 1 or from the Central Repository for Nevada Records of Criminal History regarding the conviction of any person of a felony.

3. The Secretary of State will immediately provide the county clerks with any information he receives regarding a person convicted of a felony who has had his right to vote restored and is currently eligible to register to vote.

4. A county clerk may, for purposes of determining whether a person applying to register to vote who was convicted of a felony has had his right to vote restored and is currently eligible to register, rely on:

(a) The information received from the Secretary of State pursuant to subsection 3;

(b) An order of any federal or state court restoring the right to vote to the applicant;

(c) A document issued to the applicant by a penal agency of the State of Nevada, any other state or the Federal Government verifying that the right to vote of the applicant has been restored; or

(d) A document issued by a penal agency of the State of Nevada, any other state or the Federal Government verifying that the applicant received a pardon or was discharged from probation, parole or prison before July 1, 2003.

5. If a county clerk has reason to believe that a document described in subsection 4 is invalid or forged, the county clerk shall attempt to verify the document. The county clerk must accept the document as legitimate unless he can verify that the document is invalid or forged.

Sec. 28. NAC 293.420 is hereby amended to read as follows:

293.420 1. The Secretary of State will create a standard form for use by persons who are applying to register to vote ***in person or*** by mail. The form will include:

(a) An application to register to vote, ***which may be submitted in person or*** by mail ~~[;~~

~~(b) An explanation of Nevada's laws on closed primary elections;~~

~~(c)]~~ ***to the county clerk of the county in which the applicant resides;***

(b) Instructions to assist the applicant in completing the application;

~~[(d)]~~ ***(c)*** A notice stating that the application ~~[will not be processed unless an identification number is on the application;~~

~~(e)]~~ ***must contain the Nevada driver's license number of the applicant or, if the applicant has no Nevada driver's license, at least the last four digits of the social security number of the***

applicant or, if the applicant has no social security number, a unique identification number assigned by the county clerk pursuant to NAC 293.411 and subsection 5 of NRS 293.507;

(d) A list of the addresses and telephone numbers of county election officers;

~~[(f)]~~ *(e)* A notice that ~~[the application must be complete before it is effective;]~~ *if the applicant indicates on the application that the applicant is not a citizen of the United States or will not be at least 18 years of age on or before election day, the applicant may not register to vote;*

(f) The option for the applicant to receive a sample ballot in larger type; and

(g) Instructions to the applicant to contact the county clerk if the applicant does not within ~~[20]~~ *10* days after he submits the application to the county clerk receive his voter registration card indicating that his registration has been accepted.

2. The Secretary of State will assign a control number to each application and will determine the sequence of the control numbers. The control numbers will consist of a two-digit alphabetical code followed by a five-digit numerical code.

3. The control number must be printed:

(a) On a ~~[duplicate copy of the application or a]~~ receipt of the application; and

(b) On the application to be returned to the county clerk.

4. *On application forms that do not contain a control number, including, without limitation, the Federal Post Card Application submitted to a county clerk, the county clerk must enter the control number:*

(a) On the application and a receipt of the application, if the application is submitted in person; or

(b) On the application, if the application is submitted by mail.

5. Each county clerk shall, *and the Secretary of State will,* after obtaining a series of control numbers from the Secretary of State, cause the forms to be printed. The county clerk shall continue to make available a sufficient number of the forms to meet the needs of the residents of the county.

Sec. 29. NAC 293.425 is hereby amended to read as follows:

293.425 1. The county clerk shall make the forms *to apply to register* available to individual candidates, political parties, civic groups, and groups organized for or against questions on a ballot.

2. Except as otherwise provided in subsection 3, an applicant may request such a form from the clerk in person, by telephone, in writing or by electronic facsimile machine. The clerk shall respond to each such request by mailing the requested form within 5 working days.

3. Each request for more than 50 such forms must be made on a request form prescribed by the Secretary of State ~~[.]~~ *that requires the person or group requesting such forms to describe a plan for distribution of the forms, including, without limitation, identification of the county or counties with which the person or group plans to file the completed forms.*

4. The county clerk shall *, and the Secretary of State will,* record on the completed request form the control numbers assigned to the applications which he provided in response to the request. *The Secretary of State will provide a copy of the completed request form to each county clerk in the counties identified in the distribution plan provided pursuant to subsection 3.* The county clerk shall *, and the Secretary of State will,* maintain the request for multiple applications with his records.

Sec. 30. NAC 293.430 is hereby amended to read as follows:

293.430 1. The county clerk shall, after obtaining written permission from the responsible person, make the forms to apply to register ~~[by mail]~~ available as appropriate throughout his county at:

(a) United States Post Offices;

(b) Public libraries;

(c) Local offices of public utilities;

(d) Financial institutions;

(e) Community centers for aging persons;

(f) Educational institutions;

(g) Governmental offices;

(h) Offices of county and state political central committees;

(i) Union halls;

(j) Offices of civic organizations;

(k) Campaign headquarters of presidential, federal and statewide candidates;

(l) Places of worship; and

(m) Such other locations as the county clerk deems appropriate.

2. At each location where the forms are made available, the county clerk shall post a notice requesting persons to take no more than one form per person.

Sec. 31. NAC 293.435 is hereby amended to read as follows:

293.435 1. ~~[Each such application must be received by the county clerk before the close of registration for the next election in order for the applicant to be registered for that election. An application received after the close of registration will apply to registration for the next election for which registration remains open.~~

~~2. The]~~ ***An*** applicant ***who is registering to vote*** or his assistant, who is acting in accordance with subsection 2 of NAC 293.440, shall pay any postage required to return the application to the county clerk ~~[.]~~ ***, unless the application is preprinted with the address of the county clerk of the county in which the applicant resides and the application provides for postage paid return of such application.***

2. If the application is postage paid and preprinted with the address of a county clerk of a county that is not the county in which the applicant resides, the applicant or his assistant, who is acting in accordance with subsection 2 of NAC 293.440, shall correct the address of the county clerk and pay any postage required to return the application to the county in which the applicant resides.

Sec. 32. NAC 293.450 is hereby amended to read as follows:

293.450 The notice sent pursuant to NRS 293.5235 to an applicant for registration by mail which informs him that his application is incomplete must ~~[contain a detachable portion which:~~

~~1. May be mailed back to the county clerk; and~~

~~2. Is designed to allow the applicant to furnish the necessary information.]~~ ***:***

1. Allow the applicant to provide the information needed to complete his application; or

2. If the applicant is required to complete and submit a new application, include an explanation to the applicant of the reason why a new application is required and a new application form.

Sec. 33. NAC 293B.010 is hereby amended to read as follows:

293B.010 As used in this chapter, unless the context otherwise requires ~~[, "mechanical]~~ *:*

1. "Mechanical recording device" has the meaning ascribed to it in NRS 293B.032.

2. "Mechanical voting system" has the meaning ascribed to it in NRS 293B.033.

3. "Results cartridge" means a cartridge which contains the electronically recorded ballots cast during the election and from which the ballots are tabulated.

4. "Voter verifiable paper audit trail printer" or "VVPAT" means the device attached to a mechanical recording device and the paper it prints to record all votes cast by a voter for any and all candidates and for or against any and all measures, enabling that voter to visually verify that the mechanical voting system accurately recorded the votes of the voter.

Sec. 34. NAC 293B.040 is hereby amended to read as follows:

293B.040 1. A county clerk ~~[in a county using a mechanical voting system]~~ shall:

(a) Store ~~[ballot cards]~~ *ballots, results cartridges and VVPATs* upon receipt in a vault or secure area that is accessible only by the county clerk and persons designated by him;

(b) Provide for the security and protection of the stored ~~[ballot cards;]~~ *ballots, results cartridges and VVPATs;*

(c) Control access to the stored ~~[ballot cards;]~~ *ballots, results cartridges and VVPATs;* and

(d) Maintain a record of the persons allowed access to the stored ~~[ballot cards.~~

~~2. The ballot statement must include the time that ballot boxes are removed from the polling place to be taken to the central counting place.~~

~~3.]~~ *ballots, results cartridges and VVPATs.*

2. Except as otherwise provided in this subsection, each county clerk shall, not later than the 90th day before the primary election, submit to the Secretary of State for approval a plan to carry out the provisions of paragraph (l) of subsection 2 of NRS 293.247 concerning the procedures to be used to ensure the security of the ballots ~~[.]~~ *, results cartridges and VVPATs.* If there is no change to the plan submitted in the previous year, the county clerk is not required to submit another plan to the Secretary of State. The county clerk shall notify the Secretary of State, in writing, if there is no change to the plan. The plan must include, without limitation:

(a) The person who is responsible for transporting the ~~[ballot box]~~ *ballots, results cartridges and VVPATs* from the polling place to the central counting place; *and*

(b) The time allotted for travel from the polling place to the central counting place. ~~[; and~~

~~(c) The method for verifying the number of marked and unmarked ballots.]~~

Sec. 35. NAC 293B.060 is hereby amended to read as follows:

293B.060 1. A ballot ~~[card]~~ used in performing a test of a mechanical voting system must be conspicuously marked "TEST."

2. A county using a mechanical voting system with a multiple ~~[card]~~ *ballot* reader shall, in addition to its other tests of the system, conduct an independent test of each ~~[card]~~ reader.

3. ~~[A manual tabulation of ballots must be made in each precinct for which a discrepancy is detected by]~~ *If* the tests conducted pursuant to NRS 293B.150 and 293B.165 ~~[,]~~ *detect that the ballots have not been accurately tabulated, the cause of the problem must be determined and corrected, and the ballots must be retabulated.*

4. A dedicated or equally secure computer system must be used for all tests conducted before or after an election, and for the tabulation of votes immediately after an election.

Sec. 36. NAC 293B.070 is hereby amended to read as follows:

293B.070 1. ~~[A county using a mechanical voting system shall conduct a test of the accuracy of its hardware for tabulating votes not less than 3 months before a primary election. The test deck must contain 1,000 ballot cards in a county whose population is 100,000 or more, and 200 ballot cards in a county whose population is less than 100,000. Except as otherwise provided in subsection 3, the test must be conducted in the following manner:~~

~~(a) One-fourth of the cards must have the first, fifth, ninth and every succeeding fourth voting position punched to the end of the card;~~

~~(b) One-fourth of the cards must have the second, sixth, tenth and every succeeding fourth voting position punched to the end of the card;~~

~~(c) One-fourth of the cards must have the third, seventh, eleventh and every succeeding fourth voting position punched to the end of the card; and~~

~~(d) One-fourth of the cards must have the fourth, eighth, twelfth and every succeeding fourth voting position punched to the end of the card.~~

~~2. If cards with pre-punched columns are used, the county shall also conduct a test of the accuracy of its hardware for tabulating pre-punched codes. Except as otherwise provided in subsection 3, the test must be conducted in the following manner:~~

~~(a) One-fourth of the cards must have the:~~

~~(1) Twelfth, second and sixth positions punched in the first column;~~

~~(2) Eleventh, third and seventh positions punched in the second column;~~

~~(3) Zero, fourth and eighth positions punched in the third column; and~~

~~(4) First, fifth and ninth positions punched in the fourth column.~~

~~(b) One-fourth of the cards must have the:~~

~~(1) Eleventh, third and seventh positions punched in the first column;~~

~~(2) Zero, fourth and eighth positions punched in the second column;~~

~~(3) First, fifth and ninth positions punched in the third column; and~~

~~(4) Twelfth, second and sixth positions punched in the fourth column.~~

~~(c) One-fourth of the cards must have the:~~

~~(1) Zero, fourth and eighth positions punched in the first column;~~

~~(2) First, fifth and ninth positions punched in the second column;~~

~~(3) Twelfth, second and sixth positions punched in the third column; and~~

~~(4) Eleventh, third and seventh positions punched in the fourth column.~~

~~(d) One-fourth of the cards must have the:~~

~~(1) First, fifth and ninth positions punched in the first column;~~

~~(2) Twelfth, second and sixth positions punched in the second column;~~

~~(3) Eleventh, third and seventh positions punched in the third column; and~~

~~(4) Zero, fourth and eighth positions punched in the fourth column.~~

~~3. If the software or system is not designed to allow testing to be conducted in the manner prescribed in subsection 1 or 2, the county clerk shall use the test provided by the seller of the mechanical voting system to determine the accuracy of that system.~~

~~4.~~] If an event occurs during the tabulation of ballots which requires the repair or adjustment of a ~~[card]~~ ***ballot*** reader, the ~~[card]~~ reader must be retested for accuracy before it may again be used.

~~[5.]~~ *2.* If any of the equipment used for the tabulation of ballots fails to function properly as the result of a surge in or failure of power, the prescribed methods for certification of the mechanical voting system must be completed before the system may again be used.

~~[6.]~~ *3.* A county clerk in a county using a mechanical voting system shall:

(a) Determine the most reasonable and practical method for completing the process of tabulating ballots in the event the existing system fails; and

(b) Develop a plan for the tabulation of ballots in the event that a failure in the existing system precludes the tabulation of ballots at the usual and customary location.

Sec. 37. NAC 293B.080 is hereby amended to read as follows:

293B.080 A county clerk in a county using a mechanical voting system shall develop a separate test deck ~~[~~:

~~1. For]~~ *for* each type of ballot used in the county. Such a test deck must:

~~[(a)]~~ *1.* Contain not less than the same number of ~~[cards]~~ *ballots* as there are valid voting positions for an office in that county; and

~~[(b)]~~ *2.* Allow for the testing of each precinct, including the preparation of a cumulative report of the total votes cast for each voting position and a total count of the number of precincts.

~~[2. For the determination of how the system responds to errors, including:~~

~~(a) Header cards that are upside down;~~

~~(b) Header cards that are reversed;~~

~~(c) Ballots that are upside down;~~

~~(d) Ballots that are reversed; and~~

~~(e) Invalid punches denoting a precinct or group.]~~

Sec. 38. NAC 293B.090 is hereby amended to read as follows:

293B.090 1. Before *and after* each election, *as provided in NRS 293B.140 to 293B.170, inclusive,* the county clerk in a county using a mechanical voting system shall ensure that each mechanical recording device which directly records votes electronically, *each VVPAT* and the automatic tabulating equipment and programs to be used in the election will accurately record the votes cast for all offices and on all measures by completing the tests required pursuant to *this section and* chapter 293B of NRS.

2. ***A county clerk shall, in the course of performing his other tests of the system, conduct a test to ascertain that the VVPAT correctly records on the paper record the selection made on the mechanical voting device for all offices and all measures on the ballot. If a county clerk is required to conduct an election in more than one language, the test ballots must be processed in each required language.***

3. A county clerk shall conduct the test required pursuant to subsection 2 by:

(a) Processing on a mechanical recording device, during the period prescribed in NRS 293B.150 and 293B.165, a group of logic and accuracy test ballots voted so as to record:

(1) A vote for each candidate and a vote for and against each measure on the ballot;

(2) A vote for "None of these candidates" for all statewide contests;

(3) "No selection made" for each contest and ballot measure; and

(4) In all contests in which a voter may vote for more than one candidate, each option available to the voter, from "No selection made" to the total number of candidates a voter may select.

(b) Comparing the paper record with the contests and candidate names required to be on the ballot to ensure the paper record is accurately recording and reflecting the selections made on the mechanical recording device.

4. If any error is detected during the test required pursuant to subsection 2, the error must be immediately reported to the Secretary of State. The cause of the error must be ascertained and corrected and an errorless count must be made before the particular mechanical recording device or VVPAT is approved for use in the election or certified for accuracy in the official counting of the ballots.

5. A vote is properly cast on a mechanical recording device which directly records votes electronically when:

(a) The voter selects his choice;

(b) The mechanical voting system verifies the selection of the voter;

(c) The voter submits his selections; and

(d) The mechanical voting system verifies that the selections have been submitted.

~~[3.]~~ *6.* Each mechanical recording device which directly records votes electronically must include:

(a) Instructions for casting a vote;

(b) A method for a voter to select his vote in each contest;

(c) A method for a voter to change his selection;

(d) A visual verification of the selections made by the voter for each contest;

(e) A visual notice to the voter if the voter has not made a selection in a contest or if the voter has undervoted in a contest in which the voter may select more than one candidate;

(f) Protection from an overvote;

(g) A method for the voter to review his selections and make changes before the ballot is cast;

(h) A notice advising the voter to confirm his selections before casting his ballot and informing him that casting the ballot is irrevocable;

(i) A verification that the vote has been cast; and

(j) ~~[A digital image]~~ *An electronic record* of each ballot stored by the mechanical voting system.

~~[4.]~~ *7.* A mechanical recording device which directly records votes electronically must create a trail for an audit of the mechanical voting system which substantiates that:

(a) Only ballots cast by authorized voters have been included in the tally list;

(b) All ballots have been unmodified since they were cast;

(c) All ballots cast have been accounted for; and

(d) The results of the tabulation of the ballots have been correctly accumulated from the ballots of the authorized voters and are capable of repetition with the same results.

8. Persons authorized to observe the tests conducted pursuant to NRS 293B.150 and 293B.165 must not interfere with the conduct of such tests. The results of the tests conducted pursuant to this section are confidential pursuant to NRS 293B.155.

Sec. 39. NAC 293C.110 is hereby amended to read as follows:

293C.110 The city clerk shall:

1. Mail a copy of the sample ballot for the primary city election, as provided in NRS 293.565, to each candidate.

2. Mail a copy of the sample ballot for the primary city election, as provided in NRS 293.565, to each candidate who has been certified to him by the Secretary of State.

3. If a candidate's name appears on more than one type of sample ballot, mail a copy of at least one of the sample ballots to the candidate, but the city clerk shall make a copy of each sample ballot available to the candidate upon request.

4. Mail a copy of ***at least five sample ballots and provide an electronic copy of*** each sample ballot for a primary city election, as provided in NRS 293.565, to the Secretary of State.

5. Post a copy of the sample ballot or a list of candidates in a conspicuous place in his office.

Sec. 40. NAC 293C.195 is hereby amended to read as follows:

293C.195 1. In a city in which an absent ballot central counting board has been appointed and the city clerk has posted a statement pursuant to subsection 2, the city clerk may, not earlier than 4 working days before election day and not later than 5 p.m. on the second working day before election day, deliver the absent voters' ballot boxes to the absent ballot central counting board. When the ballot boxes are received, the absent ballot central counting board shall:

(a) ~~[Withdraw the ballots and return the ballot boxes to the city clerk;~~

~~(b)]~~ Sort the ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting district ~~[;~~

~~(c)]~~ ***, unless the counting system produces an accounting of the ballots by precinct or voting district;***

(b) Count the number of ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting district ~~[;~~

~~(d)]~~ ***, unless the counting system produces an accounting of the ballots by precinct or voting district;***

(c) Account for all ballots on the statement of ballots;

~~[(e) Duplicate any ballots that necessitate duplicating as authorized by and in the manner set forth in NRS 293C.655; and~~

~~(f)]~~ ***and***

(d) Place all the ballots ~~[, including any ballots produced pursuant to paragraph (e),]~~ and the statement of ballots into the container provided by the city clerk to transport those items to a central counting place and seal the container. The container and seal used must comply with the provisions of NRS 293C.700.

2. Not later than 2 working days before the date of delivery of the ballot boxes pursuant to subsection 1, the city clerk must post a statement in his office that notifies the public of any actions that will be taken pursuant to subsection 1.

3. Any absent ballots received by the city clerk after he delivers the ballot boxes pursuant to subsection 1 must be:

(a) Deposited into the appropriate absent voters' ballot boxes pursuant to the provisions of NRS 293C.305 to 293C.340, inclusive, after those ballot boxes have been returned pursuant to subsection 1; and

(b) Processed pursuant to the provisions of NRS 293C.3615 to 293C.395, inclusive.

4. The city clerk shall allow members of the general public to observe the handling of the absent ballots conducted pursuant to subsection 1 if those members do not interfere with the handling of the absent ballots.

Sec. 41. NAC 294A.040 is hereby amended to read as follows:

294A.040 1. Any campaign contribution received or campaign expense incurred or paid on a candidate's behalf by his campaign committee, by his personal representative, or by any other authorized person during a period for which a report is required must be reported as the candidate's campaign contribution or expense.

2. Reporting requirements are not removed by special circumstances.

~~[3. A candidate's report of his campaign expenses must contain the type and amount of expenditures which he contracted for or made during the reporting period.]~~

Sec. 42. NAC 294A.075 is hereby amended to read as follows:

294A.075 The form of the report of campaign expenses required to be filed pursuant to NRS 294A.125, 294A.200, 294A.210, 294A.220, 294A.280 or 294A.360 must include:

1. For each expenditure of more than $100:

(a) The category of the expenditure;

(b) ~~[The]~~ ***Except as otherwise provided in subsection 3, the*** name and address of the person who received payment for the expenditure; and

(c) The amount and date of the payment for the expenditure.

2. The total amount spent for all categories of expenditures.

3. A report of campaign expenses required to be filed pursuant to NRS 294A.125, 294A.200, 294A.210, 294A.220, 294A.280 or 294A.360 is not required to include the names and addresses of each person who received payment for circulating a petition for purposes of gathering signatures, provided that such report contains the total amount paid to such circulators as a group and, if such payments were calculated on a per signature basis, the amount paid per signature.

Sec. 43. NAC 294A.080 is hereby amended to read as follows:

294A.080 ~~[1. The form of the report of campaign contributions required to be filed pursuant to NRS 294A.120 or 294A.125 must include the number of contributions of $100 or less that have been received by a candidate.~~

~~2.]~~ On the form of the report of campaign contributions required to be filed pursuant to NRS 294A.120 or 294A.125, if a candidate has received a series of contributions from any natural person or other entity during a reporting period and the contributions total over $100, the series must be treated as a single contribution and be separately identified on the candidate's report, with the name and address of the contributor and the date of each contribution in the series.

Sec. 44. NAC 294A.097 is hereby amended to read as follows:

294A.097 The Secretary of State may waive a civil penalty for good cause pursuant to subsection 4 of NRS 294A.420, if the person or entity that is subject to a civil penalty pursuant to subsection 2 of NRS 294A.420:

1. Files a written request for a waiver setting forth the basis for the waiver;

2. Properly files the appropriate report pursuant to the applicable provisions of NRS 294A.120, 294A.140, 294A.150, ~~[294A.180,]~~ 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360; and

3. Establishes that:

(a) Within a reasonable time before or on the date the applicable report was due, the candidate or a member of the family of the candidate, within the second degree of consanguinity ~~[,]~~ ***or affinity,*** died, had a serious medical condition or was hospitalized; ~~[or]~~

(b) The candidate is experiencing extreme financial hardship ~~[,]~~ ***to the extent that payment of the penalty would result directly in the loss or inability of the candidate to obtain the minimal necessities of food, medicine and shelter;***

(c) The candidate or each officer and representative of the entity is or was a member of the Armed Forces of the United States serving outside of the State or country within a reasonable period of time before or on the date the applicable report was due and the candidate or each officer and representative of the entity executes an affidavit under penalty of perjury attesting to such facts;

(d) The candidate has been directly impacted by a natural disaster;

(e) The entity is organized as a nonprofit under the laws of the State of Nevada, has no paid employees and is comprised only of volunteers and:

(1) The representative of the entity who is responsible for filing the appropriate report on behalf of the entity pursuant to the applicable provisions of NRS 294A.140, 294A.150, 294A.210, 294A.220, 294A.270 or 294A.280, or a member of the family of such a representative, meets the conditions set forth in paragraph (a); or

(2) The representative of the entity who is responsible for filing the appropriate report on behalf of the entity pursuant to the applicable provisions of NRS 294A.140, 294A.150, 294A.210, 294A.220, 294A.270 or 294A.280 has, without notice, severed his relationship with the entity within a reasonable time before or on the date that the applicable report was due; or

(f) The violation was not due to mere inadvertence, mistake or neglect, and circumstances exist of a similarly serious nature as set forth in this subsection to justify a waiver of the civil penalty, including, without limitation, an obligation to report for active military service or to serve in an official capacity in response to a public emergency.

Sec. 45. NAC 294A.098 is hereby amended to read as follows:

294A.098 A candidate shall not use campaign contributions to satisfy a civil penalty ***or criminal penalty*** imposed ~~[pursuant to NRS 294A.420.]~~ ***by law.***

Sec. 46. NAC 295.020 is hereby amended to read as follows:

295.020 1. A person who submits a petition that consists of more than one document to the county clerk for verification of the signatures shall sequentially number each page of each document in the petition, beginning with the number 1.

2. If a petition for an initiative or referendum consists of more than one document, each document must , ***in addition to any other requirements,*** contain the full text of the proposed measure and:

(a) Include sequentially numbered spaces for:

(1) The name of each person who signs the petition.

(2) The signature of the person signing ~~[.]~~ ***the petition.***

(3) The street address of the residence where the person signing ***the petition*** actually resides, unless a street address has not been assigned. If a street address has not been assigned, the document may contain the mailing address of the person signing ~~[.]~~ ***the petition.***

(4) The name of the county where the person who signs is a registered voter.

(5) The date of the signature.

(6) If the petition is a municipal initiative or referendum proposed pursuant to the provisions of NRS 295.195 to 295.220, inclusive, the name of the city in which the person who signs is registered to vote.

(b) Have attached to it, when filed ~~[~~:

~~(1) The affidavit required pursuant to Section 3 of Article 19 of the Constitution of the State of Nevada; and~~

~~(2) An]~~ ***an*** affidavit signed by the person who circulated the document in substantially the following form:

STATE OF NEVADA

COUNTY OF _____

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that I believe them to be genuine signatures; and (6) that I believe each person who signed was at the time of signing a registered voter in the county of his residence.

_____

Signature of circulator

Subscribed and sworn to or affirmed

before me this _____ day of _____, _____.

_____

Notary public or other person licensed

to administer an oath

3. ~~[A]~~ ***Any*** document ***of a petition*** may consist of more than one page. If a document consists of more than one page:

(a) Each page, including a blank signature page, must be numbered sequentially, beginning with the number 1 for each document;

(b) All the pages must be permanently attached together in numerical order; and

(c) The ~~[affidavits]~~ ***affidavit*** of the circulator required by NRS 295.095 or 295.205 must appear on the last pages of the document.

4. As used in this section, "petition" means a petition described in Article 19 of the Nevada Constitution or NRS 295.015 or 295.045.

Sec. 47. NAC 293.100, 293.176, 293.199, 293.290, 293.300, 293.310, 293.340, 293.360, 293.380, 294A.047, 294A.048, 294A.085 and 294A.095 are hereby repealed.

TEXT OF REPEALED SECTIONS

293.100 Ballots: Quantity required. (NRS 293.124, 293.247)

1. Each county clerk shall prepare for each precinct a quantity of ballots at least equal to the number of registered voters in the precinct.

2. For the purposes of this section, to determine the number of registered voters in a precinct for:

(a) A primary election, the county clerk shall use the number of voters who are registered on June 30 immediately preceding the date of the primary election.

(b) A general election, the county clerk shall use the number of voters who are registered on August 31 immediately preceding the date of the general election.

(c) A recall election, the county clerk shall use the number of voters who are registered on the date the call for the recall election is issued pursuant to NRS 306.040.

(d) Any special election other than a recall election, the county clerk shall use the number of voters who are registered 60 days before the date of the special election.

293.176 Examination of pollbook by representative of political party. (NRS 293.124, 293.347)

1. The county central committee of each political party shall:

(a) Not later than 90 days before an election, submit to the county clerk a copy of the form for the written statement authorizing its representatives to examine pollbooks pursuant to NRS 293.301.

(b) To the extent possible, submit to the county clerk at least 7 days before the election, a list of the names of the representatives who are authorized to examine pollbooks for each precinct.

2. Each representative who is authorized to examine pollbooks must present a written statement of authorization from the county central committee and proof of his identity to the chairman of the election board for the appropriate precinct upon his arrival at the polling place. The chairman of each election board shall not allow any person who does not provide proof of his identity and a written statement of authorization from the county central committee to examine pollbooks.

3. The chairman shall ensure that the examination of the pollbooks does not interfere with the conduct of the election.

4. This section does prevent a person who is not authorized by a political party to examine pollbooks from observing the conduct of the election.

293.199 Applicability. (NRS 293.124, 293.247) The provisions of NAC 293.199 to 293.250, inclusive, apply only to polling places in which a mechanical voting system is used.

293.290 Applicability. (NRS 293.124, 293. 247) The provisions of NAC 293.290 to 293.380, inclusive, do not apply to polling places in which a mechanical voting system is used.

293.300 Printing of ballots generally. (NRS 293.124, 293.247) The county clerk shall provide official printed ballots to be used at an election. The ballot stock must be ordered by the county clerk within 2 days after the date set for closing of registration for the election.

293.310 Size of ballots. (NRS 293.124, 293.250)

1. Official ballots for elections must be wide enough to comply with the provisions of the election laws, and must be at least 12 inches wide, including the numbered stub and the numbered perforated strip.

2. Official ballots for elections must be of a length which permits the proper placement of the required captions, headings, designations of political parties, directions to voters and names of candidates.

293.340 Form of ballots for special elections. (NRS 293.124, 293.250)

1. Each ballot for a special election must have a perforated line extending from top to bottom one-half inch from the right-hand side of the ballot. No writing or printing, except the number of the ballot, may be made upon the 1/2-inch strip formed by the perforated line.

2. The words "Yes" and "No," separated by a light-faced line, must be printed on the ballot after each question. To the right of each word must be printed a light square at least three-eighths of an inch on each side.

293.360 Supplies and equipment. (NRS 293.124, 293. 247)

1. There must be an adequate supply, as determined by the county clerk, of voting booths for each precinct.

2. The county clerk shall, at least 2 days before the day of any election, prepare the following supplies for each precinct:

(a) The election board register;

(b) Copies of the roster and pollbook in such a quantity and form as the clerk determines appropriate;

(c) A container for transporting ballots which is equipped with a lock and key, numbered seal or other device which prevents unauthorized entry;

(d) At least three copies of each sample ballot which pertains to the election; and

(e) Such other supplies as are necessary for conducting the election.

3. The county clerk shall print, in plain type, sets of instructions for voters for obtaining and marking their ballots. On the day of an election, the election board shall post at least one set of instructions in each voting booth and at least three additional sets of instructions at places open to public view in or about the polling place.

4. The chairman of each election board shall require the members of his board to prepare the ballots and any other supplies or equipment necessary for voting and may assign specific duties to the members of the election board to complete the preparation.

293.380 Procedures after voting. (NRS 293.124, 293.247)

1. After all eligible voters have cast their votes, the election board shall, in the following manner, count the number of official ballots it received:

(a) The board shall total the number of voters' signatures recorded in the roster book and enter that number on the ballot statement provided by the county clerk.

(b) The board shall then unlock or unseal the ballot box and count the number of official ballots, comparing this number with the number of signatures recorded on the ballot statement.

(c) The numbers of signatures and ballots should be the same. If they are not, the board shall recount the number of signatures and the number of ballots. If a discrepancy still exists, the board shall make a notation to that effect on the ballot statement.

2. Each member of the counting board must be present in the polling place where he is to serve not later than the time set for the closing of the polling place. If any polling place is closed early because all of the voters registered in the precinct have voted, the election board shall immediately notify the members of the counting board of the closing.

3. After the polls are closed, the election board shall compare the quantity of its supplies which were furnished by the county clerk with the county clerk's inventory and make a notation upon the inventory of any materials which were lost, used or stolen.

4. After voting is completed, the chairman of the election board shall deliver the keys to the ballot boxes to the chairman of the counting board.

5. Each chairman of a counting board shall assign duties to the members of his board in a manner which facilitates the counting of votes. If any person interferes in any way with the counting of the votes, the chairman of the counting board shall request a deputy sheriff to remove the person.

6. The members of the counting board shall count and make the record of the votes in the manner prescribed by the county clerk.

7. If the counting board rejects a ballot, it shall place that ballot in a separate envelope, seal the envelope and write upon the envelope the word "Rejected" and the reason for the rejection.

8. Every member of the counting board or the computer program and processing accuracy board as created by the county clerk pursuant to NRS 293B.385 shall sign the copy of the

election return which is required by NRS 293.383 to be posted on the outside of the polling place.

294A.047 Filing of reports of contributions made by certain persons and political organizations on behalf of candidate or group of candidates. (NRS 294A.140, 294A.210, 294A.380, 294A.420)

1. Every person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party and committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates shall:

(a) If the first contribution that is received is a contribution required to be reported pursuant to paragraph (b) of subsection 1 of NRS 294A.140, file the report required pursuant to paragraph (a) of subsection 1 of NRS 294A.140 at the time the report required pursuant to paragraph (b) of subsection 1 of NRS 294A.140 is due indicating that no contributions were received during the period set forth in paragraph (a) of subsection 1 of NRS 294A.140.

(b) If the first contribution that is received is a contribution required to be reported pursuant to paragraph (c) of subsection 1 of NRS 294A.140, file the reports required pursuant to paragraphs (a) and (b) of subsection 1 of NRS 294A.140 at the time the report required pursuant to paragraph (c) of subsection 1 of NRS 294A.140 is due indicating that no contributions were received during the periods set forth in paragraphs (a) and (b) of subsection 1 of NRS 294A.140.

(c) If the first expenditure that is made is an expenditure required to be reported pursuant to paragraph (b) of subsection 1 of NRS 294A.210, file the report required pursuant to paragraph (a) of subsection 1 of NRS 294A.210 at the time the report required pursuant to paragraph (b) of subsection 1 of NRS 294A.210 is due indicating that no expenditures were made during the period set forth in paragraph (a) of subsection 1 of NRS 294A.210.

(d) If the first expenditure that is made is an expenditure required to be reported pursuant to paragraph (c) of subsection 1 of NRS 294A.210, file the reports required pursuant to paragraphs (a) and (b) of subsection 1 of NRS 294A.210 at the time the report required pursuant to paragraph (c) of subsection 1 of NRS 294A.210 is due indicating that no expenditures were made during the periods set forth in paragraphs (a) and (b) of subsection 1 of NRS 294A.210.

2. If a report is timely filed pursuant to subsection 1, the Secretary of State will waive any civil penalty imposed pursuant to NRS 294A.420 because of the date the report is filed.

294A.048 Filing of reports of contributions by person or group of persons advocating passage or defeat of question on ballot. (NRS 294A.150, 294A.220, 294A.380, 294A.420)

1. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at any election including any recall or special election shall:

(a) If the first contribution that is received is a contribution required to be reported pursuant to paragraph (b) of subsection 1 of NRS 294A.150, file the report required pursuant to paragraph (a) of subsection 1 of NRS 294A.150 at the time the report required pursuant to paragraph (b) of subsection 1 of NRS 294A.150 is due indicating that no contributions were received during the period set forth in paragraph (a) of subsection 1 of NRS 294A.150.

(b) If the first contribution that is received is a contribution required to be reported pursuant to paragraph (c) of subsection 1 of NRS 294A.150, file the reports required pursuant to paragraphs (a) and (b) of subsection 1 of NRS 294A.150 at the time the report required pursuant to paragraph (c) of subsection 1 of NRS 294A.150 is due indicating that no contributions were received during the periods set forth in paragraphs (a) and (b) of subsection 1 of NRS 294A.150.

(c) If the first expenditure that is made is an expenditure required to be reported pursuant to paragraph (b) of subsection 1 of NRS 294A.220, file the report required pursuant to paragraph (a) of subsection 1 of NRS 294A.220 at the time the report required pursuant to paragraph (b) of subsection 1 of NRS 294A.220 is due indicating that no expenditures were made during the period set forth in paragraph (a) of subsection 1 of NRS 294A.220.

(d) If the first expenditure that is made is an expenditure required to be reported pursuant to paragraph (c) of subsection 1 of NRS 294A.220, file the reports required pursuant to paragraphs (a) and (b) of subsection 1 of NRS 294A.220 at the time the report required pursuant to paragraph (c) of subsection 1 of NRS 294A.220 is due indicating that no expenditures were made during the periods set forth in paragraphs (a) and (b) of subsection 1 of NRS 294A.220.

2. If a report is timely filed pursuant to subsection 1, the Secretary of State will waive any civil penalty imposed pursuant to NRS 294A.420 because of the date the report is filed.

294A.085 Form of report of campaign contributions: Inclusion of categories for reporting opening balance and amount of interest and income earned. (NRS 294A.380)

The form of the report of campaign contributions required pursuant to NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.270 or 294A.360 must include a category for reporting:

1. The opening balance of the campaign fund at the beginning of the first period for which the report is required; and

2. The total amount of interest and income, after deducting any applicable charges, earned from the investment of money received from campaign contributions.

294A.095 Reports regarding disposition of unspent campaign contributions: Exemption from certain filing requirements. A person who:

1. Files a report pursuant to subsection 2 of NRS 294A.180 which indicates that all the campaign contributions he has received have been expended, committed for expenditure, or otherwise disposed of; and

2. Does not receive any additional campaign contributions after the period to which that report relates,

↪ is not required to comply with the provisions of paragraphs (b) and (c) of that subsection.

DEAN HELLER
Secretary of State

RENEE L. PARKER
Chief Deputy Secretary of State

PAMELA A. RUCKEL
Deputy Secretary for Southern Nevada

STATE OF NEVADA

OFFICE OF THE
SECRETARY OF STATE

CHARLES E. MOORE
Securities Administrator

SCOTT W. ANDERSON
Deputy Secretary for Commercial Recordings

ELLICK C. HSU
Deputy Secretary for Elections

KIM A. HUYS
Deputy Secretary for Operations

NOTICE OF ADOPTION OF REGULATION

The Secretary of State – Elections Division adopted regulations assigned LCB File No. R072-06 that pertain to chapters 293, 293B, 294A, and 295 of the Nevada Administrative Code on June 7, 2006. A copy of the regulations as adopted are attached hereto.

(b) Testified at each hearing:

March 2, 2006 Workshop: 6
March 28, 2006 Workshop: 4
May 23, 2006 Hearing: 3
June 7, 2006 Hearing: 3

(c) Submitted to the agency written comments:

The American Civil Liberties Union
The Progressive Leadership Alliance of Nevada
Assemblywoman Chris Giunchigliani

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Notices soliciting comments were sent via e-mail and U.S. Mail to those individuals that had requested such notices from the Secretary of State. Notices were also sent to each of the City and County Clerks/Registrars of Voters in Nevada. Notices were also posted at the Capitol Building, State Library, the Legislative Building in Carson City, the Secretary of State's office in Reno, and the Grant Sawyer Building in Las Vegas.

A copy of the submitted written comments may be obtained by calling the Secretary of State, Elections Division at (775) 684-5705 or by writing to the Secretary of State, Elections Division at 101 North Carson Street, Suite 3, Carson City, Nevada 89701

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Changes were made to the proposed regulations based on comments we received.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and
(b) Both immediate and long-term effects.

This regulation does not have any effect on any business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

No additional cost is anticipated to enforce these proposed regulations. These regulations merely further clarify provisions already in place in the NRS or NAC.

7. A description of any regulations of the state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that these regulations duplicate.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.

These regulations do not include provisions that are more stringent than a federal regulation which regulates the same activity.

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

These regulations do not establish a new fee or increase an existing fee.

List of Bills: (as of 4/11/07)

SB57	AB79	SJR1	AJR1	SCR19
SB78	AB80	SJR2	~~AJR6~~	
SB79	AB121	SJR3	AJR8	
SB80	AB142	SJR4	~~AJR10~~	
SB121	AB160		AJR11	
SB122	AB246		AJR12	
SB144	AB301			
SB149	AB312			
SB230	AB322			
SB248	AB328			
SB303	AB335			
SB371	AB342			
SB385	AB372			
SB401	AB384			
SB411	AB450			
SB423	AB505			
SB425	AB506			
SB489	AB516			
SB492	AB517			
SB493	AB570			
SB494	AB569			
SB495	AB604			
SB517	AB605			
SB549	AB606			

ROSS MILLER
Secretary of State

NICOLE J. LAMBOLEY
Chief Deputy Secretary of State

CHRIS LEE
Deputy Secretary for Southern Nevada

STATE OF NEVADA

OFFICE OF THE
SECRETARY OF STATE

SCOTT W. ANDERSON
Deputy Secretary for Commercial Recordings

MATTHEW M. GRIFFIN
Deputy Secretary for Elections

KATE THOMAS
Deputy Secretary for Operations

December 17, 2007

Thomas R. Wilkey, Executive Director
United States Election Assistance Commission
1225 New York Avenue N.W. Suite 1100
Washington, D.C. 20005

RE: Nevada's FY 2007-2008 State Plan

Dear Mr. Wilkey:

Nevada hereby submits the State Plan for FY 2007-2008, which has been developed pursuant to § 254 of the Help America Vote Act of 2002, P.L. 107-252 (HAVA).

We thank you in advance for arranging the publication in the Federal Register pursuant to § 255 of HAVA.

Please send confirmation that you have received Nevada's Plan, and feel free to contact me at (775) 684-5705 if you have any questions or concerns.

Respectfully,

ROSS MILLER
Secretary of State

By: _____
Matthew M. Griffin , Esq.
Deputy Secretary for Elections

RM:MG:lj

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Carson City, Nevada 89701-4786
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CORPORATIONS: Suite 4000
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SECURITIES SATELLITE OFFICE
1755 E. Plumb Lane, Suite 231
Reno, Nevada 89502-3691
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Secretary of State Ross Miller Seeks Public Comments on

NEVADA'S FY 2007-2008 STATE PLAN FOR ELECTION REFORM

The President signed the Help America Vote Act of 2002 (HAVA) into law October 29, 2002, requiring the 50 States to reform state and local election procedures in order to improve and preserve the integrity of the United States voting process. HAVA affects virtually every element of the voting process, and federal funds have been made available to assist states in this task.

Federally mandated changes include, but are not limited to:

- Implementation of a Statewide Voter Registration System
- Upgrading Voting Machines throughout the State
- Improving Voter Education and Poll Worker Training
- Requiring Provisional Ballots
- Requiring voting accessibility for people with disabilities

HAVA requires each State to form a State Plan describing how the State will implement HAVA and use federal money to carry out HAVA's requirements. The Plan is developed by the Secretary of State's office and the HAVA Advisory Committee, which is made up of election officials and various members of the community. The Committee developed an initial Plan for FY 2003-2004 and finalized it after receiving public comment.

Each State must update its Plan every fiscal year and report on the State's progress toward implementation of HAVA, and the framework for continuing its activities to meet the requirements of HAVA. The HAVA Advisory Committee approved this preliminary version of the FY 2007-2008 State Plan on October 8, 2007. The Secretary of State and the HAVA Advisory Committee are now soliciting comments from the public before finalization of Nevada's FY 2007-2008 State Plan, as required by HAVA.

Accordingly, Nevada's 2007-2008 State Plan for election reform is open to public comment for a thirty day period ending November 21, 2007. **If you are interested in voicing your comments and opinions on the draft of Nevada's State Plan, please submit them in writing to be received by the Secretary of State on or before close of business on November 21, 2007.** Please address your comments to one of the following:

By postal Mail: Nevada Secretary of State Elections Division
101 North Carson Street, Suite 3
Carson City, Nevada 89701-3714

By E-mail: nvelect@govmail.state.nv.us

Copies of this notice have been posted at the following locations listed on page 2:
Nevada State Library and all the main County Libraries, all City Clerks and County Clerks/Registrars of Voters, Washoe County Registrar of Voters, Clark County Election Department, all Nevada Community Colleges, University of Nevada Reno and Las Vegas, the Attorney General's Offices in Carson City and Reno, the Grant Sawyer State Building in Las Vegas, and the Capitol Building and Legislative Counsel Bureau in Carson City.

A free copy of Nevada's draft State Plan also may be obtained by visiting the Secretary of State's office at the above location, by contacting the Elections Division at (775) 684-5705, from the Secretary of State's website at www.secretaryofstate.biz , or from your local Election Department.

State of Nevada

Fiscal Year 2007-2008

State Plan

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

Office of the Nevada Secretary of State
101 N. Carson Street, Suite 3
Carson City, NV 89701
October 8, 2007

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STATE OF NEVADA
FISCAL YEAR 2007-2008
STATE PLAN

I. INTRODUCTION

The Help America Vote Act of 2002 (HAVA or Act) 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 affects virtually every element of the voting process, focusing on the following areas:

- **Development of a Statewide Voter Registration System**
- **Replacement of Punch Card Voting Machines**
- **Improvement of Voter Education and Poll Worker Training**
- **Establishment of Opportunity to Cast Provisional Ballots**
- **Improved Accessibility for Voters with Disabilities**

Like the previous State Plans developed pursuant to HAVA, this Plan (FY 07-08) was created under the direction of the Secretary of State through a State Plan Advisory Committee (Advisory Committee).

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.

Nevada remains 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 2006, the State's demographer estimated Nevada's population at 2,623,050. Nevada's largest county, Clark County, continues to add approximately 5,000 new citizens per month. Currently, the State has approximately 1.2 million registered voters spread throughout its 17 counties. Moreover, more than 1,500 state, county and municipal political campaigns come under the jurisdiction of local or state election officials during each election cycle.

The Secretary of State's Office will continue to work closely with local election officials, advocacy groups, the State Legislature, and local and state law enforcement agencies to protect the integrity of Nevada's election process. This cooperative effort will include establishing various committees, including but not limited to, the State Training Committee, Election Command Center Committee, State Regulatory & Compliance Committee and the State IT Committee. The State will continue to mitigate costs associated with HAVA implementation and compliance and continue to be fiscally responsible in best utilizing the State's remaining funds.

III. NEVADA'S STATE PLAN

A. 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((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 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 an 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 people with disabilities 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 established by the Federal Elections Commission (FEC) as of the time HAVA was adopted; and (h) have a definition of what constitutes a vote and what will be counted. These requirements have been incorporated into Nevada statutes or regulations.

A significant amount of federal funding that has been appropriated to date was used to upgrade the voting systems throughout the State and to purchase new systems in order to comply with the above requirements. The State implemented uniform DRE voting systems for polling places throughout the state, with all DRE machines being fitted with the voter verifiable paper trail printers.

To ensure proper training for election administrators and the voting citizens of Nevada, the State has used, and depending on the availability of funds, may use additional requirements payments to educate individuals about the proper use of the voting systems. Requirements payments will be used for maintaining, modifying and improving all voting systems in the State to ensure compliance with HAVA Section 301(a) standards. Additional uses include continued education on the operation and maintenance of voting systems.

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 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 adopted legislation proposed by the Secretary of State that enacts procedures to allow

for provisional voting in federal races throughout the State. The procedures[1] that were adopted meet the requirements of Section 302.

The State will continue using requirements payments to maintain the free access system required by HAVA to provide voters who cast provisional ballots the ability to discover whether their ballot was counted. The State also continues to use requirements payments to develop procedures for provisional voting and to plan and conduct training and outreach concerning a voter's ability to receive and cast a provisional ballot. Finally, if adequate federal funding is available, the State may use requirements payments to assist local governments with funding offsets necessary to prepare and process provisional ballots.

Section 302 of HAVA also mandates that a sample ballot and other voting information be posted at polling places on Election Day. The State anticipates using requirements payments to defray the cost of developing, printing and posting this information in the upcoming election cycle.

The State Training Committee will continue to promulgate signage for counties to utilize as well as provide continued assistance in evaluating a county's election signage prior to printing and posting. The Secretary of State will continue to provide guidance and clarification in signage requirements.

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.

a. Statewide Voter Registration System (SVRS)

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 Secretary of State's Office has a HAVA compliant statewide voter registration system in place. The Secretary of State's system was implemented prior to the 2006 election cycle and has the ability to interface with Nevada's Department of Motor Vehicles and other appropriate agencies, as required by HAVA. Additionally, this statewide voter registration database allowed all 17 counties to clear thousands of records, including duplicate records.

The State will continue to expend a portion of its requirements payments and Title I payments to fund additional upgrades and maintenance of the statewide voter registration system. Additionally, the Secretary of State will continue to explore options of database interfacing with other agencies which may not currently have electronic databases. Regulations specific to statewide voter registration maintenance procedures were promulgated prior to the 2006 election cycle.

[1] See Nevada Revised Statutes (NRS) Sections 293.3081 through 293.3086, inclusive.

b. Requirements for Voters Who Register by Mail

With respect to requirements for voters who register by mail, the State revised its voter registration form in May of 2007. These recent revisions include clarifying language for identification requirements as well as providing an opportunity for county election officials to recruit poll workers.

4. Other Activities to Improve the Administration of Elections (Section 251(b)(2))

a. Improving Voting Accessibility for People with Disabilities

Every polling site in the State was surveyed for Americans with Disabilities Act[2] (ADA) accessibility and various types of equipment were purchased to improve access to needed areas. During FY 2007-2008, the Secretary of State will continue to improve accessibility, apply for additional federal funding to ensure ADA compliance and proper training of poll workers, and continue both voter outreach efforts to the people with disabilities community and statewide training on ADA compliance issues.

b. Develop State IT Committee

The Secretary of State will continue to utilize a statewide IT committee comprised of county and Secretary of State IT representatives and elections staff. This committee is headed by the Secretary of State's Office and works to: 1) address overall security improvements to voting equipment and the statewide voter registration database; 2) develop updates to the statewide voter registration database and accompanying changes to county election management systems; 3) coordinate election night reporting; 4) assist state training committee on preparing technical training materials; and 5) testing for voting machine software and state certification.

The State intends to continue using 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 Nevada are and continue to be in compliance with the ADA; (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; (e) establishing poll worker recruitment programs; and (f) continuing to develop the Secretary of State's website to offer up-to-date, detailed election information to the public.

The State will also continue using requirements payments to fund staff positions to allow for ongoing operations and maintenance of programs and projects to sustain

[2] Public Law 336 of the 101st Congress, enacted July 26, 1990.

HAVA compliance. The State will continue to evaluate staffing needs to determine if additional positions are needed to fulfill HAVA requirements.

B. Distribution of Requirements Payments and 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 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 and program controls and outcomes. The Secretary of State, in conjunction with local election officials, will determine the appropriate level of support for local activities.

To the extent that a decision is made to distribute requirements payments to units of local government and other entities for carrying out the activities described in Section 254(a)(1), 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.

If requirements payments are so distributed, 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 may include, without limitation: (a) requiring the recipient to prepare and submit comprehensive timely 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.

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.

1. Voter Education

With voter participation and turnout declining nationally over the last twenty years, the Secretary of State's office is making a concerted effort to expand Nevada's voter outreach and education efforts.

Education is the key to improving Nevada's voter participation rate. Further exploration as to reaching various socio-economic groups as well as providing information for those who have had their rights restored or qualify to have their voting rights restored will also be included.

The Secretary of State's office has produced and published several informative brochures designed to educate Nevada's citizens about the voter registration process, the significance of every single vote, and the requirements of HAVA. The agency's website (http://secretaryofstate.biz) contains a wealth of information useful to individuals and groups seeking to advance voter participation and citizen knowledge of the elections process.

The 2003 Legislature moved the Advisory Committee on Participatory Democracy (ACPD) under the auspices of the Secretary of State's office, and established the goals of 75 percent voter registration and 70 percent voter turnout by those registered voters in Nevada by 2008.

In June 2006, the Advisory Committee for Participatory Democracy (ACPD) solicited grant applications to conduct voter education and outreach to the citizens of Nevada. The grant was funded through Section 101 HAVA with minimum funding requests of $15,000 and a maximum of $65,000. The grant was limited to nonprofit, nonpartisan organizations organized for the purpose of voter education and outreach to increase participation in the election process. The Secretary of State, as recommended by the ACPD, awarded grants to four entities totaling $65,824. Each entity was required to enter into a Notice of Subgrant Award with the Secretary of State, Elections Division to ensure HAVA compliance and for reporting purposes.

The Secretary of State and the ACPD will focus on establishing partnerships with the business sector to enhance voter participation and Election Day support, while also building relationships with educational institutions and community organizations to increase youth voter participation.

2. Election Official and Poll Worker Training

The State, in conjunction with all 17 counties, has instituted a training program to provide a more centralized source of training, versus the more localized training programs that have existed in the past. In lieu of the disproportionate range of

resources available at the local level across the State, building a centralized source of training has been critical in ensuring all 17 counties have access to all the training necessary to maintain their role in achieving HAVA compliance. Centralized training in 2006 covered: 1) maintenance of the statewide voter registration list; 2) DRE maintenance, testing, programming and security; 3) provisional voting and provisional phone line reporting; 4) election date signage requirements; 5) requirements under UOCAVA for overseas citizens and the military, including use of FWAB ballots; 6) ADA accessibility training for poll workers and election staff; 7) general improvements for poll worker recruitment, training and management; 8) overall communication; 9) additional federal reporting requirements; 10) conducting mandatory post election VVPAT audit and 11) additional certifications for various federal and state requirements. The State will continue to revise and update the training materials and procedures created in 2006 through the guidance of a State Training Committee. This committee is comprised of two Secretary of State employees and four County Clerks/Registrar of Voters. Training topics will include but are not limited to: 1) restoration of felon voting rights; 2) voter identification requirements; 3) poll watchers; 4) provisional voting; 5) election security; 6) electioneering; and 7) polling place assistance.

In preparation for the 2008 Elections, comprehensive training sessions and materials addressing election issues will be conducted and distributed to all election officials. These sessions will also include independent training sessions tailored to address the various needs of Nevada's election officials.

D. 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.

Nevada law mirrors the voting system guidelines and processes set forth in HAVA section 301, as outlined in Section III(A)(1) of this Plan. 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 it meets or exceeds the standards for voting systems established by the FEC. The Secretary of State will develop new guidelines and processes as necessary to ensure all voting systems in the State continue to remain in compliance with Section 301.

E. 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 State created a special election fund in the state treasury that provides the Secretary of State with the authority to deposit into this fund all HAVA grants and state matching fund appropriations. This fund is fully compliant with Section 254(b) of HAVA. The Secretary of State works closely with the State's Budget Division and the State Controller's office to implement and enforce all fiscal controls and policies required by both state and federal law.

F. 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.

1. Total Funding Received to Date:

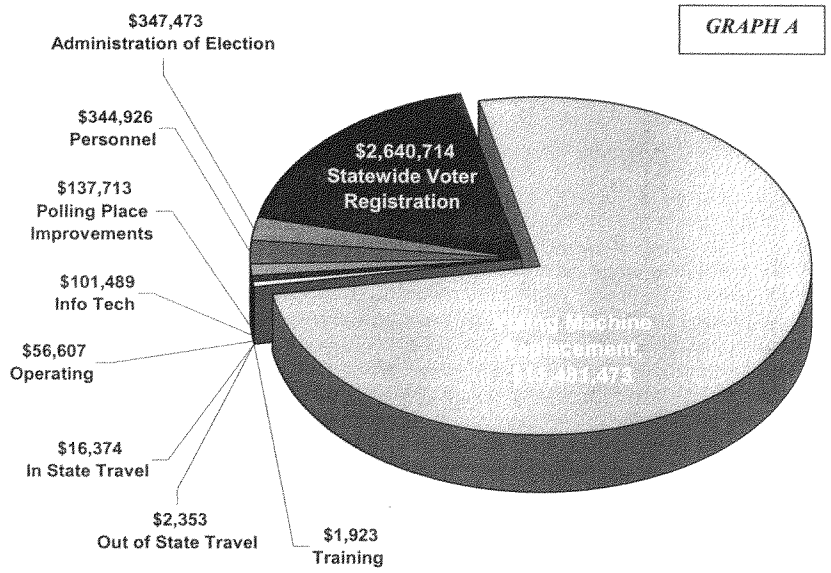
Federal Fiscal Year	Federal Appropriations	Nevada's Share	5% Match
Title I Early Payments	$650 million	$5 million	n/a
2003	$833 million	$5.7 million	$304,313
2004	$1.5 billion	$10.3 million	$546,062
2005	$0	$0	$0
2006	$0	$0	$0
2007	$0	$0	$0
Total	$3.02 billion	$21.2 million	$850,375

The State has also received an additional $500,000, under HAVA Title II, Section 261 for polling place accessibility. The State has been awarded yearly increments of $100,000 over the last five years. The State began drawing these funds for the first time in 2006. These funds will continue to be utilized for voter outreach projects, improved accessibility and poll worker training.

2. Total Funding Expended to Date:

Of the initial HAVA funding received, $15,131,081 has been expended to date to meet the various requirements set forth under HAVA.

Proportionate Breakdown of HAVA Expenditures to Date

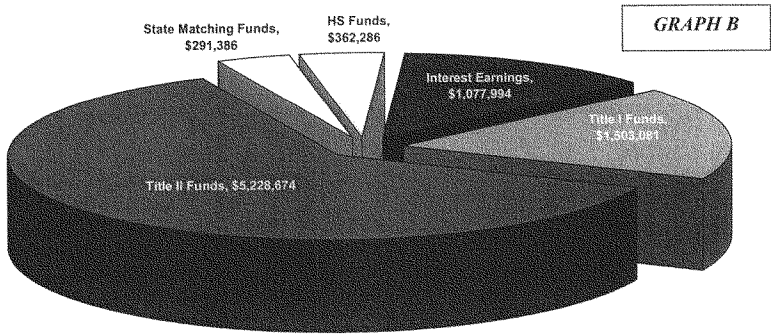


3. Total Funding Remaining to Date:

Budget Account 1051 - HAVA
Funding Received and Remaining as of June 30, 2007

Funding Source	Date Rec'd	Amount Rec'd	Amount Remaining
Title I	05/01/03	$5,000,000	$1,503,081
Title II (Federal FY 03)	08/09/04	$5,785,410	$0
Title II (Federal FY 04)	11/29/04	$10,381,400	$5,228,674
State Match - GF	07/01/04	$299,820	$0
State Match - SS	08/05/04	$550,555	$291,386
HHS Funds - FFY 2003		$100,000	$0
HHS Funds - FFY 2004		$100,000	$62,286
HHS Funds - FFY 2005		$100,000	$100,000
HHS Funds - FFY 2006		$100,000	$100,000
HHS Funds - FFY 2007		$100,000	$100,000
FY 04 Interest Earned	06/30/04	$87,430	$87,430
FY 05 Interest Earned	06/30/05	$214,828	$214,828
FY 06 Interest Earned	06/30/06	$371,193	$371,193
FY 07 Interest Earned	06/30/07	$404,543	$404,543
Totals:		**$23,595,179**	**$8,463,422**

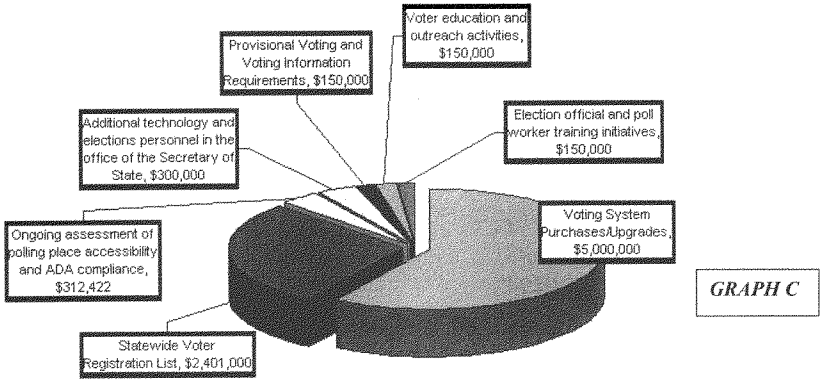
Proportionate Breakdown of Remaining HAVA Funding



4. Allocation of Remaining HAVA Funding For FY 07-08:

The remaining $8,463,422 will be utilized to continue to maintain statewide HAVA compliance. Additionally funding will be set aside to ensure that both the voting systems and the statewide voter registration database can be maintained, updated and adequately supported. As ongoing projects, funding needs have been taken into account post FY 07-08.

Estimated Allocation of Remaining HAVA Funding



GRAPH C

a. Voting System Purchases/Upgrades:
--Continue to develop strategies to obtain funding, to update DRE machines and their respective VVPAT mechanism to ensure continued compliance with both federal and state law. Also provide additional touch screen systems fitted with voter verifiable paper audit trail printers as needed prior to the 2008 and 2010 election cycles.
--To be funded with Title I early payments, Title II requirements payments and State matching funds.
--Cost to date: $11,481,473
--Expected costs for FY 07-08: $2,000,000
--Expected costs for FY 08-09: $3,000,000

b. Establishing and Maintaining a Statewide Voter Registration List:
--Approximately, $4 to $5 million was allocated to cover base cost, with estimated ongoing maintenance costs of approximately $100,000 per year.
--The State will maintain between $2-3 million to cover any additional improvements to be made to the internally built statewide voter registration list and any additional maintenance costs which may arise.
--To be funded with Title I early payments, Title II requirements payments and State matching funds.
--Cost to date: $2,640,714
--Expected costs for FY 07-08: $401,000
--Expected costs for FY 08-09: $2,000,000

c. Provisional Voting and Voting Information Requirements:
--$150,000 was initially allocated to create and develop enhancements to 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.
--Expected costs for FY 07-08: $150,000

d. Ongoing assessment of polling place accessibility and ADA compliance:
--A significant portion of HAVA Title II, Section 261 funds totaling $362,286 will continue to be allocated to improve polling place accessibility. The expenditures will also include training for election officials and poll workers, along with providing information about polling place accessibility to people with disabilities.
--Expected costs for FY 07-08: $312,422

e. Voter education and outreach activities:
-- $150,000.00 in HAVA funding will be allocated to continue with voter education and outreach activities.
--To be funded with Title I requirements payments and State matching funds.
--Expected costs for FY 07-08: $150,000

f. Election official and poll worker training initiatives:
-- $150,000, in HAVA funding will be allocated to continue training election officials and poll workers.
--To be funded with both Title I and Title II requirements payments and State matching funds.
--Expected costs for FY 07-08: $150,000

g. Additional technology and elections personnel in the office of the Secretary of State:
-- $344,926.00 has been expended on elections personnel since the implementation of HAVA in 2002.
-- Additional considerations include creating a HAVA information technology position to help maintain various aspects of HAVA compliance including programming related to voting equipment as well as statewide voter registration maintenance and further development.
--Expected costs for FY 07-08: $300,000

The State's FY 07-08 Plan, as presented herein, is limited to the extent State appropriations are made available, and is based on the assumption that adequate federal funding will be appropriated. While the State intends to fully comply with HAVA, if adequate federal funding is not made available, the manner in which the funds are disbursed or dedicated and the priorities given to particular projects may be altered from the information contained in this FY 07-08 Plan.

G. 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 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 total expenditures attributable to the Elections Division increased in the State's fiscal years 2001, 2002, 2003, 2004, 2005, 2006 and 2007 and are anticipated to increase in FY 08.

The State Legislature has the authority to approve these funding levels and has been apprised of the maintenance of effort requirements contained in HAVA. At this time, the Secretary of State's total HAVA budget is $8,463,422.00. $5,228,674.00 of this total amount is held in a Title II reserve fund, 1,503,081.00 is held in a Title I reserve fund, $291,386 consists of state match funds, $362,286 is held in HHS funding and $1,077,994.00 consists of accrued interest. Projected state funded expenses for FY 2007-2008 will still exceed $250,000.

H. 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, has met all critical performance goals and will continue to institute processes to measure additional progress in relation to these time-specific goals, as well as ongoing performance 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 in meeting the performance goals and measures to the Secretary of State within 60 days following every general election held in the State.

1. Performance Goals

In developing the FY 07-08 update to the State Plan, the strategies for achieving these HAVA compliant goals in the previous State Plans continue to be applicable: (1) obtain 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; (4) suggest changes to voting technology and processes to ensure accurate and reliable elections and voter confidence; and (5) develop and implement follow-through accountability activities and feedback mechanisms for complaints.

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. In addition, having met HAVA compliance, the State will continue to create additional goals to continue Nevada's leadership role in election reform. 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 County Election Official	Accomplished September 2004
Voter Registration	State Elections Deputy County Election Official	Accomplished in 2006
Provisional Voting	State Elections Deputy County Election Official	Ongoing
Additional Personnel	State Elections Deputy	Ongoing (as needed)
Polling Place Accessibility	State Elections Deputy County Election Official	Ongoing
Voter Education/Outreach	State Elections Deputy County Election Official	Ongoing
Poll Worker Training	State Elections Deputy County Election Official	Ongoing
Complaint Procedures	Deputy Attorney General	Adopted/Ongoing

2. Performance Measures

The State will use the following criteria to measure performance:
--voter turnout statistics
--functionality of voting systems
--accuracy of the data contained in the statewide voter registration list
--voter satisfaction with equipment (accomplished through surveys or other strategies)
--complaints against poll workers
--complaints received versus complaints resolved
--ADA compliance

These criteria were developed through the State Planning Process. The State is further committed to exploring the use of additional performance measures.

I. 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[3]. The Secretary of State adopted regulations to place these procedures into the State Administrative Code prior to submission of the FY 03-04 State Plan. The Secretary of State will continue to review and update regulatory language on an ongoing basis. The Secretary of State has assembled the State Regulatory Committee which will continually review statutes needing clarification and develop regulatory language as needed.

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 anticipated 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 alternative 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.

The Secretary of State's Office has also established a statewide Election Command Center Committee which will further modify and improve various aspects of the complaint procedures to ensure the process remains a uniform and nondiscriminatory state-based administrative process. In addition to coordinating with local law enforcement agencies, the Secretary of State's Office will work closely with local district attorneys and the State's Attorney General to ensure complaints are handled proficiently and swiftly. The Secretary of State will deploy investigators from another division of the office to assist local and state agencies investigative staff and the Elections Division during voting periods to investigate complaints as they are recorded by the Secretary of State's Election Fraud and Complaint Hotline. This committee will be a concerted effort and will work closely with the State Training Committee as well on complaint procedures.

[3] See Appendix A for copy of Administrative Complaint Procedure.

J. 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 million in Title I payments. The State has expended a portion of these funds for the voting system upgrades described in this State Plan. In addition, the State has expended these funds for ancillary devices, equipment and services associated with the voting systems contract and for travel and training activities necessary for implementing the new voting systems and the statewide voter registration system. Section 6 of this Plan specifically sets forth the State's intended additional uses for these funds.

K. 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;

(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 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 has appointed an internal committee in his office to be overseen by the Deputy Secretary for Elections. This committee is responsible for conducting ongoing management of the State Plan. To carry out this function, the committee is required to hold meetings as deemed necessary to address HAVA related issues and keep current on the State's progress toward implementation of HAVA. The Deputy Secretary for Elections, or a designee, is to report to the State Advisory Committee the activities involved with the ongoing management of the Plan. The Secretary of State will continue to 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 advisable.

L. Changes to the State Plan from the Previous Fiscal Year

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.

This FY 2007-08 State Plan incorporates the same basic theme as the previous plans, and generally reports on the procedures implemented by the State in carrying out the previous plan, such as upgrades to voting systems throughout the State and specific voter education and outreach efforts undertaken by the State.

This current FY 07-08 State Plan updates the status of State performance goals and the various HAVA compliant projects, such as statewide voter registration. Also provided is a general update of achievements in the areas of training, accessibility, statewide voter registration, voter machine upkeep and maintenance, and outreach. This current plan further takes into consideration the Title II, Section 261 funds which had not been drawn prior to 2006.

M. 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 fifteen (15) members including the Secretary of State, local election officials from the two largest counties in the State and a variety of other election stakeholders[4]. The Secretary of State selected the committee membership and either he or his Chief Deputy acted as Chairperson for each meeting held.

Members of the State Advisory Committee and their qualifications are as follows:

Ross Miller, Secretary of State
Nicole Lamboley, Chief Deputy Secretary of State
Ned Reed, Senior Deputy Attorney General (Appointee of Attorney General Cortez Masto)
Thomas Allman, Rights Advocate/Project Coordinator, Nevada Disability Advocacy & Law
LaVonne Brooks, Executive Director, High Sierra Industries
Dan Burk, Washoe County Registrar of Voters
Heidi Gansert, Assemblywoman, Washoe District 25
Jan Gilbert, N. NV Coordinator, Progressive Leadership Alliance of NV (PLAN)
Barbara Griffin, Douglas County Clerk
Joshua J. Hicks, Legal Counsel to Governor (Appointee of Governor Jim Gibbons)
Ruben Kihuen, State Assemblyman, District 11
Jennifer Lazovich, Esq., Kummer, Kaempfer Bonner Renshaw
Larry Lomax, Clark County Registrar of Voters
Dr. Richard Siegel, President, American Civil Liberties Union of Nevada
Monica Martinez Simmons, Henderson City Clerk

Advisory Committee Staff in the Office of the Secretary of State and their qualifications are as follows:

Matthew M. Griffin, Esq., Deputy Secretary of State for Elections
Rajinder Rai-Nielsen, Esq., State HAVA Coordinator
Lindy Johnson, State Advisory Committee Secretary

In developing this FY 07-08 State Plan, the State Advisory Committee members, with the assistance of staff, individually proposed revisions necessary to update the plan to reflect current circumstances. The committee met July 26, 2007, to review the initial draft incorporating the member's proposed revisions. The committee met again on October 8, 2007, to review the draft incorporating final proposed revisions by members and to consider comments submitted by the public. The FY 07-08 State Plan was formally adopted by the committee on October 8, 2007. Committee meetings were publicly held and noticed in accordance with Nevada's Open Meeting Law. The FY 07-08 State Plan was then made available for public inspection and comment for a 30-day period prior to submission to the Election Assistance Commission (EAC). The Secretary of State published the draft plan and notice of the comment period on October 23, 2007 in his offices, on his website, in the Nevada State Library, at all main county libraries throughout the State, all city and county clerks' offices, and at various other public agencies throughout the State. The notice made it clear that the Secretary of State would accept public comment in the form of e-mails, letters, faxes, etc. through November 21, 2007. After receiving no public comments, the committee-adopted FY 2007-08 Plan was subsequently submitted to the EAC.

[4] See Appendix B for Advisory Committee biographies and party affiliations.

APPENDIX A

Administrative Complaint Procedure
NAC 293.500 – 293.560, inclusive

COMPLAINTS ALLEGING VIOLATION OF TITLE III OF HELP AMERICA VOTE ACT OF 2002 (need to update)

NAC 293.500 Definitions. (NRS 293.124, 293.4685) As used in NAC 293.500 to 293.560, inclusive, unless the context otherwise requires, the words and terms defined in NAC 293.505 and 293.510 have the meanings ascribed to them in those sections.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.505 "Complainant" defined. (NRS 293.124, 293.4685) "Complainant" means a person who files a complaint with the Secretary of State pursuant to NAC 293.515.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.510 "Respondent" defined. (NRS 293.124, 293.4685) "Respondent" means a state or local election official against whom a complaint is filed pursuant to NAC 293.515.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.515 Filing; form; delivery of copy to respondents. (NRS 293.124, 293.4685)

1. A person who believes that a violation of Title III of the Help America Vote Act of 2002, Public Law 107-252, 42 U.S.C. §§ 15481 to 15502, inclusive, has occurred, is occurring or is about to occur may file a complaint with the Office of the Secretary of State.

2. A complaint filed pursuant to subsection 1 must:

(a) Be in writing, notarized and signed and sworn by the complainant. If the Secretary of State prescribes a form for the complaint, the complaint must be filed on that form.

(b) Provide the name of each respondent and a concise statement of the facts of the alleged violation of 42 U.S.C. §§ 15481 to 15502, inclusive.

(c) Be filed in the Office of the Secretary of State in Carson City:

(1) Not later than 60 days after the occurrence of the action or event that forms the basis for the complaint or for the belief of the complainant that a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, is about to occur; or

(2) Not later than 60 days after the complainant knew or, with the exercise of reasonable diligence, should have known of the action or event that forms the basis for the complaint or for the belief of the complainant that a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, is about to occur,

↦ whichever is later.

3. The complainant shall mail or deliver a copy of the complaint to each respondent not later than the date on which the complaint is filed.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.520 Review; dismissal and refiling. (NRS 293.124, 293.4685)

1. The Secretary of State or his designee will review each complaint filed pursuant to NAC 293.515 to determine whether the complaint:

(a) States a violation of 42 U.S.C. §§ 15481 to 15502, inclusive; and

(b) Complies with the requirements of NAC 293.515.

2. If a complaint fails to state a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, or does not comply with the requirements of NAC 293.515, the complaint will be dismissed without further action and notice of the dismissal will be provided to the complainant.

3. Except as otherwise provided in subsection 4, a complainant whose complaint has been dismissed pursuant to this section may refile the complaint within the time set forth in paragraph (c) of subsection 2 of NAC 293.515.

4. A complainant whose complaint has been dismissed for failure to state a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, may refile the complaint only one time.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.525 Consolidation; official record. (NRS 293.124, 293.4685)

1. The Secretary of State may consolidate complaints filed pursuant to NAC 293.515 if the complaints relate to the same action or event or raise a common question of law or fact. The Secretary of State will notify all interested parties if two or more complaints have been consolidated.

2. The Secretary of State will compile and maintain an official record in connection with each complaint filed pursuant to NAC 293.515.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.530 Hearing: Request; date; notice; nature. (NRS 293.124, 293.4685)

1. A complainant may request in a complaint filed pursuant to NAC 293.515 that the Secretary of State hold a hearing on the complaint.

2. If a complainant requests a hearing in accordance with subsection 1, the Secretary of State or his designee will conduct a hearing on the complaint, unless the complaint is dismissed pursuant to NAC 293.520. The hearing will be held not sooner than 10 days but not later than 30 days after a request for a hearing has been made in accordance with subsection 1.

3. The Secretary of State will provide notice of the date, time and place of the hearing at least 10 business days before the hearing:

(a) By mailing a copy of the notice to the complainant, each respondent and any interested person who has requested in writing to be advised of the hearing;

(b) By posting a copy of the notice in a prominent place at the Office of the Secretary of State that is available to the general public; and

(c) By posting a copy of the notice on the website of the Secretary of State.

4. A hearing held pursuant to this section is not a contested case for the purposes of chapter 233B of NRS.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.535 Hearing: Hearing officer; procedure. (NRS 293.124, 293.4685)

1. Except as otherwise provided in this subsection, the Secretary of State or his designee will act as the hearing officer for a hearing held pursuant to NAC 293.530. If the Secretary of State is a respondent in the complaint, the Secretary of State will appoint a designee who is an independent professionally qualified person to act as the hearing officer.

2. The complainant, any respondent and any interested member of the public may appear at the hearing, in person or by teleconference, and testify or present relevant evidence in connection with the complaint. All testimony to be considered in the hearing will be taken under oath. The hearing officer may limit the testimony of witnesses, if necessary, to ensure that all interested persons may present their views. The hearing officer may recess the hearing and reconvene the hearing at a later date, time and place, which must be announced publicly at the hearing.

3. A complainant, respondent or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

4. Cross-examination at the hearing will be permitted only at the discretion of the hearing officer, but a person may testify or present evidence at the hearing to contradict any other testimony or evidence presented at the hearing. If a person has already testified or presented evidence at the hearing and wishes to contradict testimony or evidence presented subsequently, that person is entitled to be heard again only at the discretion of the hearing officer, who may authorize the person to provide an oral or written response, or both.

5. The hearing will be recorded on audiotape by and at the expense of the Office of the Secretary of State. The recording will not be transcribed, but the Secretary of State, a local board of elections or any party to the hearing may obtain a transcript of the hearing at its own expense. If a board or party obtains a transcript of a hearing, the board or party shall file a copy of the transcript as part of the record and any other interested party may examine the copy of the transcript on record.

6. Any party to the proceeding may file a written brief or memorandum with the hearing officer not later than 5 business days after the conclusion of the hearing. The party shall serve a copy of any such written brief or memorandum on all other parties not later than the time the written brief or memorandum is filed with the hearing officer. No responsive or reply memorandum to such a brief or memorandum will be accepted without the specific authorization of the hearing officer.

7. At the conclusion of the hearing and after any brief or memorandum has been filed pursuant to subsection 6, the hearing officer will determine whether, by a preponderance of the evidence, a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, has occurred, is occurring or is about to occur.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.540 Review and determination when no hearing requested. (NRS 293.124, 293.4685) If a complainant has not requested a hearing on a complaint filed pursuant to NAC 293.515, the Secretary of State or his designee will review the complaint and any accompanying record and determine whether, by a preponderance of the evidence, a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, has occurred, is occurring or is about to occur. If the Secretary of State is a respondent in the complaint, the Secretary of State will appoint an independent professionally qualified person to act as his designee pursuant to this section.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.545 Remedial action or dismissal; issuance of final determination. (NRS 293.124, 293.4685)

1. If the Secretary of State or his designee, whether acting as a hearing officer pursuant to NAC 293.535 or reviewing a complaint pursuant to NAC 293.540, determines that a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, has occurred, is occurring or is about to occur, the Secretary of State or his designee will provide the appropriate remedy, including, without limitation, an order to a respondent commanding the respondent to take specified action or prohibiting the respondent from taking specified action, with respect to a past or future election. Such a remedy will not include an award of money damages or attorney's fees.

2. If the Secretary of State or his designee, whether acting as a hearing officer pursuant to NAC 293.535 or reviewing a complaint pursuant to NAC 293.540, determines that a violation of 42 U.S.C. §§ 15481 to 15502, inclusive, has not occurred, is not occurring or is not about to occur, the Secretary of State or his designee will dismiss the complaint.

3. The Secretary of State or his designee will issue a final determination on a complaint made pursuant to subsection 1 or 2 in writing. The final determination will include an explanation of the reasons for the determination and, if applicable, the remedy selected.

4. Except as otherwise provided in NAC 293.550, a final determination of the Secretary of State or his designee on a complaint will be issued within 90 days after the complaint is filed, unless the complainant consents in writing to an extension. The final determination will be:

(a) Mailed to the complainant, each respondent and any interested person who has requested in writing to be advised of the final determination;

(b) Posted on the website of the Secretary of State; and

(c) Made available by the Secretary of State, upon request, to any interested person.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.550 Proceedings for alternative dispute resolution. (NRS 293.124, 293.4685)

1. If the Secretary of State or his designee does not render a final determination on a complaint filed pursuant to NAC 293.515 within 90 days after the complaint is filed, or within any extension period to which the complainant has consented, the Secretary of State will, on or before the fifth business day after the final determination was due to be issued, initiate proceedings for alternative dispute resolution by:

(a) Retaining an independent, professionally qualified person to act as an arbitrator, if the complainant consents in writing to his appointment as the arbitrator at the time of his appointment; or

(b) Designating in writing to the complainant the name of an arbitrator to serve on an arbitration panel to resolve the complaint. If proceedings for alternative dispute resolution are initiated pursuant to this paragraph, not later than 3 business days after the complainant receives such a designation from the Secretary of State, the complainant shall designate in writing to the Secretary of State the name of a second arbitrator. Not

later than 3 business days after such a designation by the complainant, the two arbitrators so designated shall select a third arbitrator to complete the panel.

2. The arbitrator or arbitration panel may review the record compiled in connection with the complaint, including, without limitation, the audio recording of the hearing, any transcript of the hearing and any briefs or memoranda submitted by the parties but shall not receive any additional testimony or evidence unless the arbitrator or arbitration panel requests that the parties present additional briefs or memoranda.

3. The arbitrator, or arbitration panel by a majority vote, shall determine the appropriate resolution of the complaint.

4. The arbitrator or arbitration panel shall issue a written resolution of the complaint not later than 60 days after the final determination of the Secretary of State was due pursuant to NAC 293.545. This period for issuing a written resolution will not be extended.

5. The final resolution of the arbitrator or arbitration panel will be:

(a) Mailed to the complainant, each respondent and any other person who requested in writing to be advised of the final resolution;

(b) Posted on the website of the Secretary of State; and

(c) Made available by the Secretary of State, upon request, to any interested person.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.555 Final determination or resolution not subject to appeal. (NRS 293.124, 293.4685) A final determination of the Secretary of State or his designee pursuant to NAC 293.535, 293.540 or 293.545 or the final resolution of an arbitrator or arbitration panel pursuant to NAC 293.550 is not subject to appeal in any state or federal court.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

NAC 293.560 Assistance in using procedures. (NRS 293.124, 293.4685) The Secretary of State will make reasonable accommodations to assist persons in using the procedures set forth in NAC 293.500 to 293.560, inclusive.

(Added to NAC by Sec'y of State by R077-03, eff. 12-4-2003)

APPENDIX B

Advisory Committee Biographies and Affiliations

State Plan Advisory Committee: Member Biographies

NAME	TITLE/ ORGANIZATION	BIOGRAPHY
Miller, Ross	Secretary of State	Ross Miller was sworn into office on January 1st 2007. Ross is a third-generation Nevadan who previously served as a Deputy District Attorney in Clark County, Nevada. Ross holds a dual degree, in law (J.D.) and a Masters in Business Administration (M.B.A.), from Loyola Marymount University, in Los Angeles. He completed his undergraduate studies at Stanford University in California, earning a Bachelor of Arts major in English, with minors in Psychology and Political Science. While at Stanford, Ross served as a White House Intern, where he worked under then-Cabinet Liaison Thurgood Marshall, Jr.
Lambotey, Nicole	Chief Deputy Secretary of State	Nicole Lambotey, Chief Deputy Secretary of State, was appointed by Secretary Ross Miller in January 2007. Ms. Lambotey has spent the past 18 years working in different capacities in the area of public and government affairs, about half of which have been spent working in the public sector. Prior to joining Secretary Miller's administration, she served as campaign manager for Attorney General Catherine Cortez Masto. Before that, Ms. Lambotey served as Legislative Affairs Manager for the City of Reno and was in charge of the city's state, federal and intergovernmental lobbying efforts. Her career also includes positions as Senior Regional Manager for the National Association of Manufacturers, Deputy Chief of Staff to former Nevada Governor Bob Miller, and Production Manager for the Harriman Communications' Center. Ms. Lambotey received her Bachelors degree from the University of Notre Dame and her Masters degree in Public Policy from Georgetown University
Allman, Thomas	Rights Advocate/Projects Coordinator, NDALC	Tom has been with Nevada Disability Advocacy & Law Center (NDALC) in Las Vegas. As a Rights Advocate/Projects Coordinator for 4 ½ years where he has been the HAVA (Help America Vote Act) Coordinator. As NDALC's HAVA Coordinator under his agency's -HAVA Grant has been to assure full access to the electoral process so that people with disabilities can register to vote and vote with complete independence and privacy. His duties include conducting voting rights outreach meetings to disability organizations, monitoring through site visits ADA compliance for polling places and providing monitoring and technical assistance of both State and County Election Departments to assure they are in compliance with HAVA sections as they relate to people with disabilities. His other agency duties involve coordinating the annual staff training and resolving many ADA compliance issues regarding access to private and government buildings. He has over 18 years working with people with disabilities including his over 7 years as Director of the Corrections Office for the Massachusetts Rehabilitation Commission in Boston. Both his Doctorate in Rehabilitation and Masters in Education in Counseling Psychology are from Boston College, while his J.D. is from Thomas Jefferson School of Law in San Diego
Brooks, LaVonne	Executive Director, High Sierra Industries (HSI)	Bachelor and Master 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 HSI, 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	B.A. in Public Administration, U of North 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.
Gansert, Heidi	Assemblywoman, Washoe Dist. 25	LEGISLATIVE SERVICE: Nevada Assembly, 2004-2007 (first elected November 2004) - two special and two regular sessions. Assistant Minority Leader, 2007; Minority Whip, 2005. 2007 Session: Member: Assembly Committee on Commerce and Labor; Elections, Procedures, Ethics, and Constitutional Amendments; and Ways and Means. AFFILIATIONS: Advisory Board Member, Angel Kiss Foundation; Advisory Committee Member, Nevada Organ and Tissue Donor Taskforce; Republican Women of Reno; Reno Area Triathletes. PERSONAL AND PROFESSIONAL ACHIEVEMENTS: Freshman Legislator of the Year, The Las Vegas Review Journal, 2004; Freshman Legislator of the Year, Peace Officers Research Association of Nevada; President, Legislative Leadership Academy, The Council of State Governments-WEST; Past Treasurer, College of Business Alumni Association, University of Nevada, Reno; Past President, Casa de Vida Auxiliary; Past Treasurer, Alliance to the Washoe County Medical Society.

State Plan Advisory Committee: Member Biographies

NAME	TITLE/ ORGANIZATION	BIOGRAPHY
Gilbert, Jan	Northern Nevada Coordinator, PLAN	B.A. Economics from UCLA. She co-founded the Progressive Leadership Alliance of Nevada (PLAN). Prior to working on economic and environmental justice issues at the state legislature for 24 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.
Griffin, Barbara	County Clerk, Douglas County	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.
Appointment: Hicks, Joshua	General Counsel to the Governor	Joshua Hicks joined the Governor's office as General Counsel in January 2007. He previously served as a Senior Deputy Attorney General in the Nevada Department of Justice, representing the Secretary of State, the Nevada Tax Commission and the Nevada Department of Taxation. While at the Nevada Department of Justice, Josh argued cases in front of various Nevada District Courts, the Nevada Supreme Court, the United States District Court for the District of Nevada, the United States Bankruptcy Court for the District of Nevada, and the United States Court of Appeals for the Ninth Circuit. He was the lead attorney on eight published cases. Josh has also served as a law clerk to both the Nevada Supreme Court and the United States District Court for the District of Nevada. He received his Bachelor of Arts degree from Santa Clara University in 1995 and his Juris Doctorate from Santa Clara University in 1998. He has been a licensed attorney in Nevada since 1998. Hicks' wide ranging areas of practice include administrative and regulatory law, election law, state tax law, bill drafting, state personnel law, open meeting law, constitutional law, and public contracts. Josh lives in Reno and is a third-generation native Nevadan. He is married to KC Hicks, who works as a registered nurse in the oncology department at Renown Health.
Kihuen, Ruben	Assemblyman, Clark District 11	Born: 1980 – Guadalajara, Jalisco, Mexico Educated: Rancho High School, Diploma; University of Nevada, Las Vegas, B.S., Education; University of Oklahoma, Masters in Public Administration (completing). Hobbies/Special Interests: Reading, traveling, motivating youth, soccer, weight lifting and exercising, movies. LEGISLATIVE SERVICE: Nevada Assembly, 2007 (first elected November 2006). AFFILIATIONS: Board of Directors, Volunteer Center of Southern Nevada; Member, Clark County Community Development Advisory Committee; Member, North Las Vegas Citizens Advisory Committee; Volunteer, Professionals and Youth Building a Commitment (PAYBAC); Member, Latin Chamber of Commerce; Member, Nevada Hispanic Democratic Caucus; Member, National Association of Latino Elected and Appointed Officials. PERSONAL AND PROFESSIONAL ACHIEVEMENTS: Former Regional Representative to United States Senator Harry Reid; named DASHPAC National Young Leader, 2004; represented Nevada at the Next Generation Democratic Leaders Conference hosted by Senator Hillary Rodham Clinton, 2004; John F. Kennedy Award, Nevada State Democratic Party, 2006; Mexican Legend Award, Julio Cesar Chavez Educational Foundation, 2006; Community Activist of the Year, Familias Unidas de Nevada, 2005-2006; Outstanding Community Activist, City of Las Vegas, 2005; Grand Marshall, Hispanic Day Parade, 2006; Nevada High Schools Soccer Player of the Year, 1997-1998; worked as Field Organizer for the Democratic National Committee for political campaigns in Virginia, Texas, and Florida.

State Plan Advisory Committee: Member Biographies

NAME	TITLE ORGANIZATION	BIOGRAPHY
Lazovich, Jennifer	Attorney, Kummer Kaempfer Bonner Renshaw & Ferrario	Jennifer Lazovich has been with the Firm since November 2001. She is a member of the Firm's Government Affairs department, and has been practicing in the areas of zoning, land use planning, and government affairs since 1998. Ms. Lazovich holds extensive experience in public affairs and government service. She worked in Washington, D.C. in the Finance Division of the National Republican Senatorial Committee. She also served internships in the Washington, D.C. office of United States Senator Harry Reid, and the Elections Division of the Nevada Secretary of State's Office. Ms. Lazovich was admitted to the Nevada Bar in 1998. She is a member of the American Bar Association, the State Bar of Nevada, and the Clark County Bar Association. She has spoken at the Lied Institute for Real Estate Studies and is a graduate of the Leadership Las Vegas program through the Las Vegas Chamber of Commerce, a member of the North Las Vegas Chamber of Commerce and a member of the North Las Vegas 2025 Visioning Committee. She has presented and published articles on issues covering zoning, land use planning, and the Southern Nevada Public Lands Management Act of 1998.
Lomax, Larry	Registrar of Voters, Clark County	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.
Appointment: Reed, Ned	Senior Deputy Attorney General	Edward T. "Ned" Reed is a lifelong and fifth-generation Nevadan, currently serving as a Senior Deputy Attorney General representing the Nevada Secretary of State. He grew up in Reno, and graduated from Tulane University in 1975 with a B.A. in Philosophy, and after graduation served 4 years active duty military as a U.S. Army officer at Fort Hood, Texas. He attended McGeorge School of Law in Sacramento, California, graduating in 1985 with a juris doctor. Since becoming an attorney in 1985, he has served as a law clerk to the Honorable Mario Recanzone of the Third Judicial District Court in Fallon, Nevada, Deputy District Attorney in Humboldt County, Nevada, from 1987 to 1990, private practice in Reno from 1990 to 1992, and since 1992 has been a Deputy Attorney General in Carson City.
Siegel, Dr. Richard	President, ACLU of Nevada	Richard Siegel, Ph.D is Professor Emeritus of Political Science at the University of Nevada Reno, President of the American Civil Liberties Union of Nevada and Chairperson of the Nevada Committee on Foreign Relations. He served on the Board of Directors of the National ACLU from 1975 to 1988. A former consultant for the United Nations in the area of human rights, he continues to teach human rights and world politics.
Simmons, Monica M.	City Clerk, City of Henderson	Monica was appointed City Clerk in 1998 by the City Council following 20 years of service in the City Attorney's Office. During her 28-year tenure at the City, she has experienced unprecedented growth (from 23,597 to a current population of 265,000.) Monica serves on the Board of Directors for the International organization of Municipal Clerks and Administrators, representing 15 countries and a membership of 10,000. She was elected president of the Nevada Municipal Clerks' Association in 1994, and she is an active member with the League of Women Voters, Nevada Women's History Project, and the American Bar Association. Monica partnered with the University of Nevada/Reno to establish the first Nevada Municipal and County Clerks' accredited educational institute. At the request of the U.S. Department of State, she pursued the implementation of a full-service U.S. Passport Application Program in 2003. Monica continues her commitment to strengthening community relations through effective outreach programs, including Henderson's nationally recognized "Local Youth Vote" campaign and the recent implementation of "Vote Centers" during Henderson's Municipal Elections.

APPENDIX C

Agenda for July 26, 2007 Advisory Committee Meeting

NEVADA STATE ADVISORY COMMITTEE

AGENDA

Meeting: **Thursday, July 26, 2007 at 2:00 p.m.**

Room 2134	Room 4406
Nevada State Legislature	Grant Sawyer Building
401 South Carson Street	555 East Washington Street
Carson City, Nevada	Las Vegas, Nevada

I. Introduction and Welcome

II. Update on Status of HAVA Compliance and State/Federal Funding

III. First Review of Proposed HAVA State Plan for 2007-08

IV. Comments of Committee Members

V. Public Comment

VI. Adjournment

Notice of this meeting has been posted at the following locations:

Offices of the 17 County Clerks/Registrar of Voters
The Capitol Building, 101 North Carson Street, Carson City, Nevada
Grant Sawyer State Office Building, 555 East Washington Street, Las Vegas, Nevada
Nevada State Legislature, 401 South Carson Street, Carson City, Nevada
Nevada State Library and Archives, 100 North Stewart Street, Carson City, Nevada

Notice of this meeting was posted on the following website:
http://www.secretaryofstate.biz

Posted July 20, 2007

We are pleased to make accommodations for people with disabilities who wish to attend this meeting. Please notify the Elections Division at the Secretary of State's office by calling (775) 684-5705.

APPENDIX D

Agenda for October 8, 2007 Advisory Committee Meeting

NEVADA STATE ADVISORY COMMITTEE

AGENDA

Meeting: **Monday, October 8, 2007 at 2:00 p.m.**

Room 2134	Room 4412
Nevada State Legislature	Grant Sawyer Building
401 South Carson Street	555 East Washington Street
Carson City, Nevada	Las Vegas, Nevada

I. Introduction and Welcome

II. Second Review of Proposed HAVA State Plan for 2007-08

A. Inclusion of more detailed budget information

B. Other changes made in response to member comments

III. Comments of Committee Members*

IV. Committee Vote for Passage of FY 2007-08 State Plan*

V. Public Comment

VI. Adjournment*

Items marked with a "*" are items on which action may be taken.

Notice of this meeting has been posted at the following locations:

Offices of the 17 County Clerks/Registrar of Voters
The Capitol Building, 101 North Carson Street, Carson City, Nevada
Grant Sawyer State Office Building, 555 East Washington Street, Las Vegas, Nevada
Nevada State Legislature, 401 South Carson Street, Carson City, Nevada
Nevada State Library and Archives, 100 North Stewart Street, Carson City, Nevada

Notice of this meeting was posted on the following website:
http://www.secretaryofstate.biz

Posted October 3, 2007

We are pleased to make accommodations for people with disabilities who wish to attend this meeting. Please notify the Elections Division at the Secretary of State's office by calling (775) 684-5705.

APPENDIX E

Temporary Statewide Voter Registration Maintenance Regulations
Effective 5/9/07 – 11/1/07

PROPOSED TEMPORARY REGULATIONS OF

THE SECRETARY OF STATE

LCB File No. T029-07

Effective: May 9, 2007

EXPLANATION – These regulations pertain to the statewide voter registration list required by NRS 293.675 and 42 U.S.C. 15483. Specifically, these regulations set out the procedures by which the statewide voter registration list is maintained and utilized.

EXPLANATION – Matter in italics is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: NRS 293.124; 293.675.

A REGULATION relating to elections and providing other matters properly relating thereto.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive, of this regulation.

Sec. 2. Purpose.

1. The purpose of these temporary regulations is to codify standards and procedures for the processing, transmittal, and maintenance of voter registration records in a manner that conforms with the statewide voter registration list requirements set forth in the Help America Vote Act of 2002 (HAVA) (Pub. L. No. 107-252 (2002) 116 Stat. 1666, 42 U.S.C. § 15483) and NRS 293.675.

2. These regulations apply to the Secretary of State and all elections officials within the State of Nevada responsible for the processing, transmittal, and maintenance of voter registration records in this state.

Sec. 3. Statewide Voter Registration Database.

1. The statewide voter registration list will be maintained in a single, official, uniform, centralized and interactive computerized database administered and maintained by the Secretary of State. The database shall be known as "NevVoter."

2. NevVoter will contain the official and exclusive voter registration list to be used for the conduct of all state and federal elections in Nevada. NevVoter shall contain the name and pertinent registration information of every registered voter in Nevada.

3. Registration information held solely in a county or local database is not considered part of NevVoter unless and until that information is electronically submitted to NevVoter as prescribed by regulation.

4. Registration information maintained in NevVoter will be deemed official for a particular business day as of 9:00 a.m. each business morning. Mechanical and processing errors in the nightly electronic submitting process to NevVoter may affect the official status of registration information maintained in NevVoter for that particular business day.

5. Each county or local election official must maintain interactive and compatible software and protocols that allow a daily transfer of required registration information from County Election Management Systems to NevVoter.

Sec. 4. Definitions.

As used in this Chapter, the following words have the following definitions:

1. "Eligible voter" means any registered voter that is legally entitled to vote.

2. "Business day" means any calendar day except Saturday and Sunday or a legal holiday pursuant to Nevada law.

3. "Canceled" means the status of a voter whose registration has been canceled pursuant to law and is therefore ineligible to vote, including but not limited to convicted felons who have not had their civil rights restored and persons who have been adjudicated mentally incompetent. A voter on canceled status is deemed not registered to vote.

4. "Critical Eligibility Criteria" means voter information that, if missing, renders a person ineligible to vote. Such information includes: name; residence address; date of birth, signature; Nevada driver's license number, last four digits of social security number, unique identification number or indication that person has signed the affidavit prescribed by NRS 293.507(5).

5. "County Elections Management System" means any computerized application and database that manages voter registration and related election functions for a county, other than NevVoter.

6. "County Elections Official" means a county clerk or registrar of voters who is responsible for collecting, maintaining and processing voter registration data within a jurisdiction in the State of Nevada.

7. "Data Exchange Standards" means the document prepared by the Secretary of State that sets forth the technical rules and requirements of NevVoter.

8. "Deficient registration record" means those records submitted to NevVoter that do not meet the NevVoter data exchange standards set forth in the "Data Exchange Standards Document".

9. "Federal election" means any general, special, primary, or runoff election for any Federal office (President, Vice President, U.S. Senator or U.S. Representative), including presidential preference primaries.

10. "Full load file" means an electronic data file containing all county voter registration records. Such a file must adhere to the format standards and requirements set forth in the "Data Exchange Standards Document".

11. "Inactive voter" means a voter whose mail is returned from the address at which he registered to vote and has not provided a County Elections Official with a new residence address. Inactive voters retain the legal right to vote, but need not be mailed election material.

12. "List maintenance notices" mean any notices mailed to a registered voter for the purpose of verifying registration information about a voter and to determine a voter's ongoing eligibility to vote.

13. "Nevada driver's license" means a voter's Nevada driver's license or state identification number that has been issued by the Nevada Department of Motor Vehicles.

14. "NevValidator" means the computer interface by which an election official can compare a Nevada driver's license number or social security number on a voter's registration record with the voter's Nevada driver's license number or social security number recorded with the Nevada Department of Motor Vehicles and the Social Security Administration.

15. "NevVoter Procedures Manual" means the most recent version of the procedures manual prepared by the Secretary of State for use by County Election Officials in the administration of NevVoter.

16. "Official Identification" means the forms of proof of residency and identity required by NRS 293.517.

17. "P-17" means the status for a voter who was under age 18 at the time his voter registration was submitted, but who will be age 18 or older by election day and who has met all other legal requirements to vote.

18. "Pending" means the status for a voter who has submitted a voter registration application that is missing certain information or has incorrect required information and includes:

(a) "Active Pending" means a voter with certain registration information that needs to be confirmed but who has otherwise provided all critical eligibility criteria, or a voter who is required to provide some type of identification before voting but who is otherwise is still eligible to vote; and

(b) "Fatal Pending" means a voter who is missing critical eligibility criteria and who is ineligible to vote until the missing information is submitted to the appropriate County Elections Official.

19. "Registration record" means electronically stored data associated with an individual registered voter.

20. "Social security number" means the last four digits of a voter's social security number issued by the Social Security Administration.

21. "Voided" means the status of a voter whose registration information has been declared void pursuant to law and is therefore ineligible to vote. A voter on voided status is deemed not registered to vote.

22. "Voting History" means the electronic record of each time a voter participates in a state or Federal election.

23. "Active Voter" means an eligible voter whose residence address is current

Sec. 5. Official Statewide Voter Registration List.

1. A County Elections Official shall submit the voter registration information required by the Data Exchange Standards Document for his respective county to NevVoter in accordance with Section 12.

2. The official statewide voter registration list for Federal elections shall be maintained in NevVoter. County Elections Officials must use the NevVoter list to determine eligibility to vote, issuance of ballots, whether or not to count a provisional ballot, and for any other election related functions.

3. For the purposes of establishing the official voter registration list for a Federal election and determining voter eligibility to vote in that election, including determining the validity of any provisional ballot cast in that election, the Secretary of State shall archive a copy of all eligible voters in NevVoter on the 19th day prior to an election. No changes may be made to the archived records prior to the upcoming election except under the following circumstances:

(a) New or updated voter registration data received pursuant to the production and filing of a certified copy of a judgment of a court of competent jurisdiction directing registration to be made;

(b) Voter registration data regarding a voter determined by the Secretary of State or a County Elections Official to have been legally registered to vote as of the close of registration; or

(c) Voter registration data submitted pursuant to NRS 293.502.

4. County Election Officials shall continue to submit information to NevVoter after the 19th day prior to an election but any such records shall not be included in the archived list for the upcoming election created pursuant to subsection 3.

5. The Secretary of State shall prepare an official statewide voter registration list for the upcoming election for distribution to each County Election Official from the archived records created pursuant to subsection 3 and which must be consistent with pollbooks, rosters, master lists, and posting logs generated from a County Elections Management System for use in the upcoming election and for all other official election purposes.

6. Tthe Secretary of State shall prepare a final official statewide voter registration list for use in the upcoming election which reflects the archived records created pursuant to subsection 3, along with any permitted changes to those records, for distribution to each County Election Official and which must be consistent with pollbooks, rosters, master lists and posting logs generated from a County Elections Management System for use on the upcoming election day and for all other official election purposes.

7. Within 45 days of the date the election is certified, a County Elections Official must submit a full load file which includes the Voting History for each voter in a County Election Management System. The Secretary of State shall thereafter update the list created pursuant to subsection 6 with the Voter History of all eligible voters, and the list shall then be archived and preserved.

Sec. 6. Status of Voters in NevVoter.

1. Every person in NevVoter shall be assigned a status that will be used to determine eligibility to vote in an election.

2. Persons with "active," or "inactive" status shall be considered eligible to vote.

3. Persons with "p-17" status shall be considered eligible to vote in any election that takes place on or after that person's eighteenth birthday.

4. Persons with "void" or "cancelled" or "pend" status shall be considered ineligible to vote. A person with any such status may be placed on a different status up to the date of the election if a County Election Official determines pursuant to law that the person's status should be changed, and that change is thereafter made to a County Election Management System and submitted to NevVoter.

5. "Active" and "fatal pends", as defined in Section 4(18) are category statuses not appearing in NevVoter, but which may appear in local election management systems.

Sec. 7. Action Required.

1. A County Elections Official who receives a notice from the Secretary of State or another County Elections Official requesting a change to, or cancellation of, or verification of, a voter's registration record shall commence the requested action, including sending any required notices, within five (5) calendar days after receipt of the notice. A County Elections Officials shall undertake all reasonable and legally required actions to research and comply with the requested action. A County Elections Official shall follow the procedures set forth in the NevVoter Procedures Manual.

2. In the event that a County Elections Official is required by law to provide a notice to a voter in order to comply with the requested action, a County Elections Official must complete the requested action and submit a fully complete and updated full load file to NevVoter within thirty (30) calendar days of the date the County Elections Official receives the notice set forth in subsection 1 of this section.

3. In the event that a County Elections Official is not required by law to provide a notice to a voter in order to comply with the requested action, including but not limited to data entry errors, a County Elections Official must complete the requested action and submit a fully complete and updated full load file to NevVoter within ten (10) calendar days of the date the County Elections Official receives the notice set forth in subsection 1 of this section.

4. A County Elections Official shall give priority to all notices received from the Secretary of State pursuant to subsection 1 of this section which pertain to voter registration applications submitted on and after January 1, 2006.

5. A County Elections Official who receives a notice pursuant to subsection 1 of this section before the date of an election must expedite and complete the required action by the date of the election.

6. A County Elections Official may, in his discretion, resolve any data entry errors regardless of how or by whom such errors were generated.

Sec. 8. Data Exchange Standards.

1. The Secretary of State shall regularly check and identify records that are not compliant with the Data Exchange Standards Document. County Elections Officials must correct deficient registration records in accordance with Section 7.

2. Except as provided in Section 5, County Elections Officials must submit all registration records listed in the Data Exchange Standards Document to NevVoter. Such records shall adhere to proper format as noted in the Data Exchange Standards Document.

3. The Secretary of State shall transmit registration records, notices, and other information regarding NevVoter to County Elections Officials each night.

4. Each County Elections Official must access NevVoter each business day to obtain the most current voter registration information.

5. The Data Exchange Standards Document may be accessed by elections officials by contacting the Secretary of State's Office.

Sec. 9. County Elections Management System Requirements.

Each elections official shall maintain a County Elections Management System that is able to submit information required by the Data Exchange Standards Document to NevVoter in accordance with Section 5 and Section 12. The Elections Management Systems shall also maintain and process all of the following information:

1. The voter's Nevada driver's license number, or for voters without a Nevada driver's license number, the last four digits of the voter's social security number, or for voters without a Nevada driver's license or a social security number, a record of whether the voter signed the affidavit required by NRS 293.507(5);

2. Whether the voter is an Active voter or whether critical eligibility criteria are missing;

3. Voting history of each registered voter in the county in which the elections official conducts and administers the elections;

4. Whether any voter failed to provide the requisite identification at the time his voter registration application was submitted;

5. Whether any voter registered by mail after January 1, 2006 and has not previously voted in a federal election;

6. The date and type for each mailing list maintenance notice sent to a voter, whether the voter to whom the list maintenance notice was directed responded to the notice, and any resulting updates to voter registration records;

7. For a voter who is listed in an Elections Management System as an inactive voter, the reason for the change in status to inactive voter and the date of the change;

8. For a voter who is listed in an Elections Management System as having a cancelled or void registration, the reason for the change in status to cancelled or void and the date of the change;

9. For a voter who is listed in an Elections Management System as having a pending registration, the reason for the pending status; and

10. The voter's unique identifier assigned pursuant to Section 29 of these regulations.

Sec. 10. Critically Deficient Registration Records.

A registration record submitted for the purposes of updating NevVoter that does not contain critical eligibility criteria shall be placed on fatal pending status. A County Elections Official shall take all reasonable steps to correct and resubmit the voter's registration record to NevVoter in accordance with the time periods and procedures set forth in Section 7 of these regulations, and at the latest, by the Wednesday before an election. A voter who is the subject of the critically deficient registration record shall not be deemed eligible to vote until the deficient registration record is corrected, resubmitted to and accepted by NevVoter. This Section shall not preclude the right of an individual to cast a provisional ballot.

Sec. 11. Verification of Nevada Driver's License Numbers on Registration Applications Submitted on or After January 1, 2006.

1. Each business day the Secretary of State shall compare driver's license numbers for each voter in NevVoter with the driver's license data file from the Nevada Department of Motor Vehicles in order to match Nevada driver's license numbers for all registered voters in NevVoter.

2. The Secretary of State shall immediately notify a County Elections Official of any voters who the Secretary of State determines have an unmatched driver's license number as the result of the process in subsection 1 of this section.

3. A County Elections Official noticed pursuant to subsection 2 of this section shall take the necessary steps to correct and resubmit the voter's registration record to NevVoter in accordance with the time periods and procedures set forth in Section 7 of these regulations and the NevVoter Procedures Manual.

4. If, as a result of the procedure set forth in subsection 3 of this section, a County Elections Official determines that an unmatched driver's license number was the result of a data entry error, the County Elections Official shall correct the error and submit a full load file to NevVoter.

5. If a County Elections Official is unable to obtain a driver's license number as the result of the procedure set forth in subsection 3 of this section, a voter shall not be allowed to cast any ballot except a provisional ballot unless the voter has provided his social security number or has signed the affidavit required by NRS 293.507(5). A voter who provides proof of his correct driver's license number at a polling place shall be considered to have provided the correct number as of the last day to register for that election. A County Elections Official shall enter the correct number into a County

Elections System and submit a full load file to NevVoter at the next time a full load file is required by these regulations.

6. The provisions of this section apply only to voter registration applications submitted on and after January 1, 2006.

7. The provisions of this section do not apply if a voter has provided a social security number that has been verified pursuant to Section 17 or if a voter has signed the affidavit required by NRS 293.507(5).

8. All voter registration applications submitted on and after January 1, 2006 and before an election must be processed by the date of the close of registration for that election.

Sec. 12. Full Load Files.

Except as provided in Section 5, or otherwise requested by the Secretary of State, County Elections Officials shall submit a full load file to NevVoter at least once every twenty-four hours, each business day.

Sec. 13. Updating NevVoter with New Registration Records and Changes to Existing Registration Records.

Except as provided in Section 5, whenever a County Elections Official receives a new registration record or a change to an existing registration record or makes a change to an existing registration record, whether in response to a notice from the Secretary of State or otherwise, the County Elections Official shall process such information and transmit a full load file to NevVoter in accordance with Section 12 on the same business day in which the changes are made to the County Elections Management System. Additionally, the County Elections Official shall keep a record of all changes made.

Sec. 14. State Death Records.

1. The Secretary of State shall compare all voter registration records with records of deceased persons from the Department of Health and Human Services each time the Department of Health and Human Services updates its records of deceased persons.

2. Whenever the Secretary of State receives new records of deceased persons from the Department of Health and Human Services the records shall be compared to the voter registration records in NevVoter to identify potential matches.

3. Upon identifying potential matches, the Secretary of State shall transmit notices of the potential matches to the appropriate County Elections Officials.

4. A County Elections Official shall correct and resubmit the voter's registration record to NevVoter in accordance with the time periods and procedures set forth in Section 7 of these regulations and the NevVoter Procedures Manual.

5. If a match is confirmed by the County Elections Official, the County Election Management System shall be updated accordingly and a full load file shall be submitted to NevVoter in accordance with Section 7 and Section 12. If a match is confirmed, a County Elections Official may consider the notice sent by the Secretary of State pursuant to subsection 3 of this section to be a sufficient notice to cancel a registration pursuant to NRS 293.540(1).

6. If a match is not confirmed by the County Elections Official, the County Elections Official shall notify the Secretary of State and shall not list the voter as deceased in a County Election Management System.

Sec. 15. Felony Records.

1. Each County Elections Official shall compare all voter registration records with records of convicted felons received from any law enforcement agency or from the Secretary of State whenever the County Elections Official receives updated felony records.

2. Whenever the County Election Official receives new records of convicted felons the records shall be compared to the voter registration records in County Elections Management System to identify potential matches.

3. Upon identifying potential matches, the County Election Official shall determine whether the convicted felon has had his right to vote restored pursuant to NRS 213.090, 213.155, 213.157 or 293.540.

4. If a County Election Official determines that a convicted felon has had his right to vote restored, the County Election Management System shall be updated accordingly and a full load file shall be submitted to NevVoter in accordance with Section 7 and Section 12.

5. If a County Elections Official determines that a convicted felon has not had his right to vote restored, the County Elections Official shall cancel the registration of that person in a County Election Management System and a full load file shall be submitted to NevVoter in accordance with Section 7 and Section 12.

Sec. 16. Duplicate Registration Records.

1. Each business day, the Secretary of State shall conduct checks within the NevVoter statewide registration list to identify potential duplicate registrations for the same voter within that list, based on established rotating criteria. Upon identification of potential duplicate registration records, the Secretary of State shall automatically send an electronic notice to the county or counties with the record or records created prior to the latest date.

2. A County Elections Official noticed pursuant to subsection 1 of this section shall correct and resubmit the voter's registration record to NevVoter in accordance with the time periods and procedures set forth in Section 7 of these regulations and the NevVoter Procedures Manual.

3. If a County Election Official confirms that duplicate registrations exist, all but the most current registration shall be cancelled in a County Election Management System and a full load file shall be submitted to NevVoter in accordance with Section 7 and Section 12. If a duplicate registration is confirmed, a notice sent pursuant to subsection 1 of this section shall operate as a cancellation notice for purposes of NRS 293.527.

Sec. 17. Verification of Social Security Numbers Listed on Registration Applications Submitted on or After January 1, 2006.

1. Each business day, the Secretary of State shall compare social security numbers for each voter in NevVoter with the social security number data file from the Social Security Administration in order to match social security numbers for all registered voters in NevVoter.

2. The Secretary of State shall immediately notify a County Elections Official of any voters who the Secretary of State determines have an unmatched social security number as the result of the process in subsection 1 of this section.

3. A County Elections Official noticed pursuant to subsection 2 of this section shall take the necessary steps to correct and resubmit the voter's registration record to NevVoter in accordance with the time periods and procedures set forth in Section 7 of these regulations and the NevVoter Procedures Manual.

4. If, as a result of the procedure set forth in subsection 3 of this section, a County Elections Official determines that an unmatched social security number was the result of a data entry error, the County Elections Official shall correct the error and submit a full load file to NevVoter.

5. If a County Elections Official is unable to obtain a social security number as the result of the procedure set forth in subsection 3 of this section, a voter shall not be allowed to cast any ballot except a provisional ballot unless the voter has provided a Nevada driver's license number or has signed the affidavit required by NRS 293.507(5). A voter who provides proof of the correct social security number at a polling place shall be considered to have provided the correct number as of the last day to register for that election. A County Elections Official shall enter the correct number into a County Elections System and submit a full load file to NevVoter at the next time a full load file is required by these regulations.

6. The provisions of this section apply only to voter registration applications submitted on or after January 1, 2006.

7. The provisions of this section do not apply if a voter has provided a Nevada driver's license number that has been verified pursuant to Section 11 or if a voter has signed the affidavit required by NRS 293.507(5).

8. All voter registration applications submitted on and after January 1, 2006 and before an election must be processed by the date of the close of registration for that election.

Sec. 18. Voting History.

A County Elections Official shall submit to the Secretary of State the Voter History of all voters who cast a ballot in each statewide and Federal election by the 45th day after each election.

Sec. 19. Certification of Elections Official.

By submitting a full load file to NevVoter, a County Election Official certifies that the information contained therein is accurate, is in compliance with State and Federal law, and was submitted to NevVoter via secure file transfer protocols and in accordance with applicable law.

Sec. 20. Obligations of State and Local Election Officials.

Any voter registration information obtained by a County Elections Official shall be electronically entered into the County Elections Management System and into NevVoter on an expedited basis at the time the information is provided. The Secretary of State shall provide such support as may be required so County Election Officials are able to submit any voter registration information into NevVoter.

Sec. 21. Computerized List Maintenance and Conduct.

1. A County Election Official is responsible for daily and routine upkeep and maintenance of all voter registration information in an Election Management System and any information that is submitted to NevVoter. Daily and routine upkeep must include efforts to identify and remove ineligible voters from the active voter rolls.

2. Routine upkeep and maintenance must be done in a manner that ensures that the name of each eligible and registered voter appears in NevVoter.

Sec. 22. Pollbooks, Rosters, Master Lists and Posting Logs.

A County Elections Official may print pollbooks, rosters, master lists and posting logs for use at a polling place from an Election Management System so long as the voter information on the Election Management System is identical to the voter information maintained in NevVoter as of the date on which the roster will be used and so long as the County Elections Official has made all certifications required by these regulations.

Sec. 23. Reports.

A County Election Official shall submit to the Secretary of State all reports generated by a County Election Official pursuant to the Data Exchange Standards Document.

Sec. 24. Security.

1. All transmissions of data to and from a County Elections Management System and NevVoter must be secured pursuant to the standards set forth in the Data Exchange Standards Document.

2. A County Elections Official shall ensure that any voter registration information that is deemed confidential by law is not disclosed to unauthorized personnel in any transmissions to and from NevVoter or NevValidator.

3. NevVoter and NevValidator may only be utilized by authorized personnel for election purposes. The Secretary of State may establish minimum criteria, including but not limited to background checks, for any such authorized personnel.

Sec. 25. Confidential Address Program.

All voter records that are confidential pursuant to NRS 293.5002 shall be maintained in a manner ensuring these records are accessible only to authorized personnel and shall not be accessible to the public. Confidential voter records under this section shall be maintained by County Election officials and the Secretary of State will periodically verify status of confidential address program participants as requested by the Secretary of State.

Sec. 26. Confidential Voter Addresses and Telephone Numbers.

A County Elections Management System shall note any voter who has requested that his address and telephone number be kept confidential pursuant to NRS 293.558. Such a notation shall be submitted to NevVoter as part of a full load file.

Sec. 27. County Elections Official Override.

A County Elections Official may override a notice from the Secretary of State or another County Elections Official sent pursuant to Sections 11, 14, 15, 16 or 17 if both the County Elections Official and the Secretary of State agree that the notice was sent in error. In the event of an override, the County Elections Official must maintain a detailed description of the reason for the override.

Sec. 28. Voters Who Are Exempt From Identification Requirements.

If a voter is exempt by law from a requirement to show identification at a polling place, such an exemption shall be noted in a County Elections Management System and shall be included in a submission of any full load file.

Sec. 29. Unique Identifier.

Each voter in NevVoter shall be assigned a unique identification number. The unique identification number shall be assigned pursuant to the procedures set forth in the Nevada Procedures Manual and the Data Exchange Standards.

Office of the Secretary of State
Bill Bradbury
Secretary of State
Jean Straight
Deputy Secretary of State

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February 14, 2008

The Honorable Rosemary Rodriguez, Chair
U.S. Elections Assistance Commission
1225 New York Ave, N.W., Suite 1100
Washington, DC 20005

Dear Chair Rodriguez:

In accordance with section 255 of the Help America Vote Act of 2002, I am pleased to file with the U.S. Election Assistance Commission this letter and the recently revised Sections 1, 6, 12 and 13 of the Oregon State Plan. These revised sections and the remaining unchanged sections constitute the Oregon State Plan.

As required by section 254(a)(12) of the Act, the revised sections include a description of how Oregon succeeded in carrying out elements of the State Plan and the material changes to the State Plan originally filed with the Federal Election Commission in April of 2003. Section 12 describes the State's success in complying with the State Plan and the Act, and Section 1 includes a description of the material changes during this revision process.

Pursuant to Sections 255 and 256 of the Act, these revisions to the Oregon State Plan were developed by the HAVA State Planning Committee and notice of the revisions were published in statewide newspapers. The public comment period ended January 31, 2008 with a public hearing held that day. After reviewing the public comments received it was determined that no changes to the revised sections were necessary.

Thank you for accepting these revisions and for facilitating the publication of the revised sections of the Oregon State Plan in the Federal Register. I look forward to our continued collaboration to improve the administration of elections in Oregon.

Sincerely,

Bill Bradbury
Secretary of State

enclosures

Section 1. ***301. VOTING SYSTEMS STANDARDS.***

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 be notified 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 nondiscriminatory standards that define what constitutes a vote, requires manual audit capacity and error rates 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 easily 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 has replaced its punchcard voting systems through upgrades to optical scan systems to allow voters to use a pencil or a pen in completing their ballots.

In compliance with HAVA, Oregon intends to develop and implement an Alternate Format Ballot (AFB). The AFB will enable a person that, for whatever reason, is unable to access or mark a regular printed ballot, to mark, print, verify, and cast a ballot using a personal computer, scanner, and printer. The AFB will be designed to easily function across a wide breadth of computer hardware and software, including assistive technologies. This will allow voters with disabilities that have (or have access to) assistive technology in their home to vote from home, which is the cornerstone of vote by mail. To provide services to voters with disabilities that do not have (or have access to) the required technology the State will purchase at least two Accessible Computer Stations (ACS), one permanent and one portable, for each county. The ACS will, with the addition of assistive technology, provide an accessible workstation where voters with disabilities can mark, print, verify, and cast their ballot independently and privately. The voter can vote at the county elections office using the permanent ACS or at a remote location using the portable ACS. County elections staff can transport the portable ACS to a location that will best accommodate the voter.

Access to the Voting Process for People with Disabilities –HAVA requires voting systems to be accessible for voters with disabilities and seniors in a manner that provides the same opportunity for access, participation, privacy, and independence as other voters. This requirement will be met by providing an Alternate Format Ballot (AFB) directly to voters requesting them. Voters with disabilities that have, or have access to a personal computer and printer will be able to vote privately and independently from home just as other voters receiving mail-in ballots do. The AFB will be designed to easily function across a wide range of computer systems, including assistive software and hardware technologies to ensure accessibility of the AFB across a wide range of people with disabilities that use assistive technology to access information. The State will provide each county election office with at least two Accessible Computer Stations (ACS) (one permanent and one portable). The ACS will serve as accessible workstations where voters with disabilities that do not have, or have access to, an accessible computer can vote using the AFB.

1. **Alternate Format Ballot and Accessible Computer Station** – Under Oregon's vote by mail system, elections are not conducted at polling places. The state plans to provide each county with at least two accessible computer stations that will provide access to voting for people with disabilities using the AFB. Each county elections office will also have the ability to create and distribute the

AFB's in order to meet the HAVA Title III requirements for access to voting, including privacy and independence, for people with disabilities. The ACS, in conjunction with the AFB, will serve as important tools to enable voters with disabilities to cast a ballot privately and independently. The state will purchase a minimum of two ACS's per county – one for placement in county elections offices and one portable system that can be strategically deployed in a variety of locations for use by voters with disabilities or can, by request, be taken to the voter that is unable to leave home. The purchase will include training for county elections staff on how to set up, use, and troubleshoot the ACS and provide for ongoing maintenance and support of the ACS. The state will also purchase additional ACS's to be distributed within counties that have needs beyond the minimum requirement. County elections officials will make decisions about the placement of additional systems. The state will require that any ACS's set up for use in public locations outside the county elections office be set up only in those locations that are fully accessible to people with disabilities.

Development of the AFB and purchase of the ACS's will be one of the highest priority projects in Oregon's HAVA plan. The proposed timeline is to have the AFB's and the ACS's ready for beta testing in March of 2008 and implemented statewide no later than the May 2008 Primary Election. Placement of the ACS's will be reevaluated after each election and county elections officials will recommend changes based upon experience.

(Replace DRE with AFB in all other sections of the Plan)

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.—

HAVA §254(a)(6)

Anticipated Budget for HAVA Implementation

HAVA Requirements	Section 101 Funds	Section 102 Funds	Section 252 & 257 Funds	Section 261 Funds	5% State Match	Estimated Costs
Voting Systems (S-301)	$1,250,000	$1,822,758	$3,040,000	$194,140	$160,000	**$6,466,800**
Provisional Voting and Voting Information Requirements (S-302)			$1,400,000	$194,140	$70,000	**$1,664,140**
Centralized Voter Registration (S-303)*	$2,200,000		$10,500,000		$1,077,560	**$13,777,560**
Voter Outreach and Election Worker Training (S-254)	$650,000		$1,500,000	194,142	$107,500	**$2,451,642**
State Plan Creation and Management (S-402)	$100,000		$500,000		$30,000	**$630,000**
Other HAVA/State Plan Activities & Administration**			$10,823,941			**$10,823,941**
TOTAL	$4,200,000	$1,822,758	$27,763,941	$582,422	$1,445,060	**$35,814,181**

** Voter Registration costs estimated through state fiscal year (2009)*

*** Some unspent federal funds may be set aside in the state Election Fund for payment of long-term costs of complying with HAVA (Sustainability Funds).*

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.* ***HAVA §254(a)(12)***

Since the submission of the inaugural State Plan, the State of Oregon HAVA accomplishments include:

Elimination of Punch Card Systems

HAVA Administrative Complaint Procedure implemented

Centralized Voter Registration System implemented

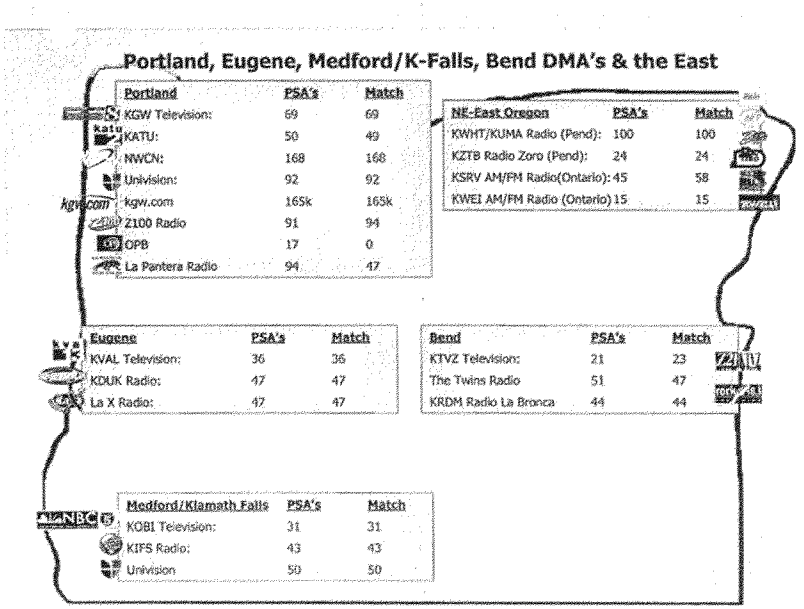
Provisional Voting
- Implemented Elections Call Center to ensure all voters have a way to check whether or not a provisional ballot has been counted.
- The Elections Call Center implemented as a full service call center to provide customer service to voters in Oregon.
- Handled 28,607 calls in October and November 2004 (General Election)
- Provided training for 8 new service representatives for 2006 election cycle
- Updated ballot drop site application for Primary and General Election
- Call Statistics for General Election:
  - The Call Center answered approximately 13,592 calls from October 1 through November 15, 2006
  - Approximately 5500 of these calls occurred over the last six business days leading up to and including Election Day
  - Approximately 75% (10,194) of the calls were served by the call center
  - The Call Center received and served approximately 70 Spanish calls

New HAVA Voter ID Requirements implemented

Education/Outreach
- Voting Your Ballot Instructions (Overvotes)
- Ballot Correction Instruction
- Replacement Ballot Instruction
- Easy to Read Voting Guides and Audio Guides
- Professional Certification for County Clerks and Staff
  - Since 2003, approximately $65,000 has been spent on CERA Professional Certification
  - Approximately 40 elections professionals from Oregon have participated
  - In 2006, of the 51 graduates across the country, 13 were from Oregon
- Media:

Reach general voting population and target audiences (younger, disenfranchised or apathetic voters) through television, radio, and web to increase voter education, registration and voter turnout in the 2006 General Election. Reach Oregonians with disabilities and make them aware of new systems that now allow them to vote privately and independently.
- Media Purchases Focus:
  - Get out the vote (some spots with minority emphasis)
  - Voter Assistance availability
  - Registration Drive

$98,000 Statewide Media Buy (English & Spanish)
21 Media Outlets Partnered in the Campaign Statewide
98% of Oregon Reached
Included Text Messaging Campaign w/Portland Radio Station Z100



Access for People with Disabilities (HHS Grants/Alternate Formats)
- Accessible Voting System
- Accessible Ballot Marking System
- Alternate Format Ballot/Accessible Voting Station

ADA Projects included:
- Installation of elevators
- Paving of a parking lot
- Widening of doorways & installation of lever set doorknobs
- Updating of Ramps & additional ADA Signage
- Installation of ADA Accessible Service Counters
- Installation of Emergency Egress Door w/ Wheel Chair Ramp
- Installation of Hand Rails & Grab Bars
- Purchase of Wheelchair accessible voting booths
- Purchase and Installation of Drive-Up Drop Box/Boxes
- Audio Voters Pamphlet
- Large Print Voter Registration Cards
- Tactile VBM Envelope
- Disability Community Public Meetings
- Vendor Fair

Improving the Overall Administration of Elections
- Elections Business System

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 – **HAVA §254(a)(13)***

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SECRETARY OF STATE

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Chris Nelson
Secretary of State

Chad Heinrich
Deputy

December 3, 2007

Commissioner Donetta Davidson
Chair
U.S. Election Assistance Commission
1225 New York Avenue, NW – Suite 1100
Washington, D.C. 20005

Dear Commissioner Davidson:

The State of South Dakota has revised its Help America Vote Act state plan.

In March of this year, South Dakota certified to the EAC South Dakota's implementing of the requirements of HAVA's title III for the purpose of making possible the use of §251 funds for carrying out other activities to improve the administration of elections for federal office as permitted by HAVA §251(b)(2). The State received the EAC's confirmation of South Dakota's certification in July.

In May South Dakota submitted to the EAC an amendment to South Dakota's state plan approved by the State Board of Elections to accommodate our intended enlarged use of §251 funds, expressly permitted by HAVA. In July, South Dakota was informed by the EAC that the amendment to the plan was not sufficient to fulfill HAVA's requirements for state plan revisions.

South Dakota has therefore followed the formal process described in §§254-257 and taken this opportunity to fully update its plan. The details of that process are included in the enclosed state plan.

Thank you in advance for publishing our current plan in the Federal Register as required by HAVA §255(b).

Sincerely,

Chris Nelson
South Dakota Secretary of State

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Fax (605) 773-6580

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

Chris Nelson
Secretary of State
State Capitol, Suite 204
500 East Capitol
Pierre, SD 57501-5070

Updated October 17, 2007 and November 28, 2007

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

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

In March of 2007 the Secretary of State certified to the EAC that South Dakota had fulfilled all of title III's requirements. The State also notified the EAC that it intended to expand its use of title II section 251 funds for other improvements to the administration of federal elections as allowed by HAVA §251(b)(2). The EAC notified the State that it must also revise its state plan to describe such use. That is the purpose for this third version of South Dakota's HAVA state plan, which also updates the State's status with respect to HAVA according to the 13 required points of HAVA §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.

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

Two posters in 48-point font posted in each polling place and instructions posted in each voting booth inform voters when to vote, how to vote, how not to overvote, how to obtain a replacement ballot, how to obtain assistance, the right to a provisional ballot, how to contact an election official if rights are violated, and how to avoid election crimes. Facsimile ballots are available in county auditor offices prior to elections, posted at each polling place, and published in newspapers. Instructions are printed on all official ballots. AutoMARK ballot marking devices do not mark overvotes. In 2006 the State published full-page newspaper advertisements describing the AutoMARK. The State educates voters through its website at www.sdsos.gov and provides booklets entitled "General Information on South Dakota Elections." In 2004, the Secretary of State prepared a booklet describing election procedure changes, which was also provided in accessible formats including 18-point font, Braille, and audio. The Secretary of State prepares a ballot question pamphlet, also made available in alternate formats. In 2008, the State will provide a voter information portal (VIP) through its website tied to the statewide voter database. VIP will include a polling place locator and sample ballot generated specific to each registered voter.

(1.2) Accessible voting device in each polling place

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

(1.3) Provisional voting

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

(1.4) Computerized statewide voter registration list

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

(1.5) Voter registration cards

The South Dakota voter registration form, prescribed in administrative rule as adopted by the State Board of Elections, has been amended to include the HAVA-required language and check boxes, including: "Are you a citizen of the United

States? Will you be 18 years of age on or before election day? If you checked 'no' in response to either of these questions, do not complete this form."

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

The State has developed a computerized link between driver license offices and county auditor offices to transmit voter registration data. A voter is able to obtain a driver license and register to vote using one form. An electronic voter registration card is generated complete with digital signature image and sent to the county for validation and then sent to the State.

The State is currently developing project ST25, which will make improvements to election night reporting, canvassing, and voter education and access.

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

(2) How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of—
(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and
(B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).

County auditors administer federal elections in South Dakota counties. In order to receive the title II section 251 grant, South Dakota was required to contribute 5% toward a total amount including the federal grant of $11,596,803. The State and counties cooperatively met the match requirement. The state legislature appropriated $198,405.80, which was spent on the statewide electronic voter file. Each county established a reserved account determined by the county's portion of all statewide registered voters. The match contributions from the 66 counties totaled $411,952.20. The amount of federal grant funds reserved by the State for the counties was based on the portion of the total 5% match that the counties contributed. This total was reduced by the cost of the HAVA-required voting system, purchased from Election Systems and Software in December of 2005. The remaining title II amount of $3,235,652.80 was reserved in the state election fund, designated to each county based on its match contribution. The Secretary of State monitors and tracks county expenditures of title II funds for ongoing title III-acceptable expenses via reports sent to the State. Additional documentation is systematically requested to ensure the acceptability of funds use. Counties are required to expend county-held accounts on title III requirements before requesting state-held funds. Counties are reimbursed

semi-annually from the state election fund. Any title II amount in the state election fund not reserved, may be used for title III requirements or for improving the administration of federal elections. The state may determine to increase the amount of the election fund reserved for individual counties.

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

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

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

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

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

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

(6) The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on—
(A) the costs of the activities required to be carried out to meet the requirements of title III;
(B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and

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

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

South Dakota received a title II section 251 payment in April of 2005 in the amount of $11,596,803. Through June 30, 2007:
$6,499,467.23 were total state-held title II funds remaining available, of which
$2,877,600.00 were state-held, county-reserved title II funds remaining available.

As of June 30, 2007, counties reported that $33,791.36 remained in reserved county-held match money accounts.

The State expects that costs to the State to continue HAVA programs will likely be reduced for some time. As current programs mature and become a part of the regular fabric of federal elections, time and effort to the HAVA task should diminish. In the near future, a dedicated state HAVA coordinator may no longer be needed. In the case of the electronic voter file, initial development costs were substantial. Annual costs have been reduced. However, costs will continue and may increase for maintenance, technical support, network connections, and specific design updates. At some future time, the State may need to develop a new computerized voter registration database system. When that might be and what that might cost are imprudent to predict. Potential amendments to HAVA of 2002 may also increase the cost of state compliance with enlarged federal requirements.

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

Since the State has fulfilled HAVA's requirements and will continue to do so, the State wishes not to restrict itself unnecessarily through this state plan. New programs to improve the administration of federal elections may develop that have not yet been contemplated. The State determines not to narrowly predict what those might be in hopes that this state plan may stand indefinitely without further revision. The State will continue to submit annual financial status and narrative reports to the EAC concerning HAVA grants as required.

With continued conservative management of the HAVA grant funds and the benefit of accumulating interest, the State may be able to indefinitely continue to meet

HAVA obligations and continue to improve the administration of federal elections in South Dakota without needing further state resources or additional federal grants.

The estimate for the development of ST25 is $200,000; support costs will continue. For ST25, South Dakota may use either title I section 101 or title II section 251 funds. South Dakota may effect additional programs as determined useful by the State.

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

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

Some counties, however, did have expenses consistent with title III requirements prior to HAVA. The EAC has allowed that South Dakota counties will be responsible for maintenance of effort according to the county fiscal year 1999. Counties have been advised to determine if there existed any spending for title III-type activities in 1999. If any existed in the county, the county will be responsible for maintaining that level every year according to the first year that the county used any federal or county funds dedicated to HAVA title III requirements.

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

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

The Secretary of State and county auditors will continue to monitor these processes. South Dakota is in compliance with federal election law and will continue to meet HAVA requirements.

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

South Dakota law was written, effective July 1, 2003, to comply with HAVA section 402. Initial complaints are resolved by the State Board of Elections using an existing administrative complaint process. The alternative dispute process involves judicial appointment of an arbitrator to resolve the complaint.

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

South Dakota received a title I section 101 payment in the amount of $5,000,000 in April of 2003. Title I funds have been used for payments to counties for punchcard voting system buyouts; voter education; statewide voter registration system programming, hardware, and connection costs; training and materials for election personnel; travel for election personnel; salary and expenses for a dedicated state HAVA coordinator; and state plan development. The State may continue to use title I funds on these programs and for other programs permitted by HAVA §101(b).

Through June 30, 2007:
Total title I section 101 funds remaining available were $4,652,191.59.

(11) How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change—
(A) is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;
(B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and
(C) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

The Secretary of State and county auditors will administer this state plan at the direction of the Secretary of State and the State Board of Elections.

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

The methods by which the State fulfilled its previous state plans have already been described in this plan. The State anticipates no major changes to its implementation

of HAVA, except that title II section 251 funds may now be used for additional improvements to the administration of federal elections.

The State has also determined that providing voters with the option of an audio interpretation in the Lakota language integrated on the device equipped for individuals with disabilities provided pursuant to HAVA §301(a)(3)(B), an element of South Dakota's voting system, as was done on the AutoMARK ballot marking devices in 11 counties for the Primary and General elections in 2006, is impractical given the amount of effort necessary, the cost to the State and counties, and the extremely limited number of users. The State expects to continue to provide a Lakota translation of the ballot question pamphlet for the General Election to the American Indian radio stations. South Dakota counties required to do so by federal law will continue to provide translations of election announcements on Indian radio stations and continue to provide live interpreters at polling places to assist American Indian voters.

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

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

Task force members and other stake holders were notified of the 2007 proposed plan and offered the opportunity to comment. The proposed plan was available for inspection and comment by the public for 30 days. The plan was posted at www.sdsos.gov and was available by request. The State notified the public of the opportunity to also comment on the proposed plan at an open hearing, which was the meeting of the State Board of Elections held in Sioux Falls on November 28, 2007, where the plan and submitted comments were presented and discussed. The State has considered all comments. The State Board of Elections has approved this state plan. This plan is now being sent to the Election Assistance Commission for publication in the Federal Register.

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