

# State of Colorado

## Help America Vote State Plan

In Accordance with Public Law 107-252, §253(b)

*“This Help America Vote State Plan is the exciting beginning of Colorado’s voting future. As the State’s election process evolves into the 21<sup>st</sup> century, HAVA 2002 will be the first among many stepping-stones to a future that melds integrity with accessibility, self-determination and independence.” --- Secretary of State Donetta Davidson*

Submitted July 15, 2003

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*The mission of the Department of State is to serve the public by performing constitutional and statutory duties of collecting, securing, and communicating information, ensuring the integrity of elections, and enhancing commerce.*

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**Department of State**

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***Donetta Davidson***  
**Secretary of State**

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*May 29, 2003*

*My Fellow Coloradoans,*

*Colorado is pleased to report on its implementation of the Help America Vote Act of 2002. Not since the Voting Rights Act of 1965 has there been such sweeping change in federal election law. It is both a challenge and a privilege to be involved in the implementation of a project of this magnitude. We look on this report as a living document that, once drafted, will evolve into a working plan of action. Through its implementation, this plan will empower Colorado voters to voice their electoral preference in an environment that ensures the independence and integrity of their vote.*

*Through the Help America Vote Act of 2002, Congress provided State Election Officials with a planning formula, responsibility, authority and funding for the implementation of that act. The success of this formula requires cooperation and support from our General Assembly and the active participation of community stakeholders in the planning process. Our General Assembly recognized the immediate impact of the Help America Vote Act of 2002 and passed our enabling legislation before they adjourned the 2003 legislative session. We are grateful to our 90 stakeholders who have met diligently and regularly to assist us with the creation of this plan and our implementation strategy.*

*The following pages are just the beginning of Colorado's voting future. As Colorado's election process evolves into the 21<sup>st</sup> century, the Help America Vote Act of 2002 will be a first among many stepping-stones to a future that melds integrity with accessibility and self-determination.*

*Donetta Davidson*

## Executive Summary

Colorado is fortunate to have over 90 citizens participating in shaping its electoral future. These participants serve on various subcommittees that provide input to the State Planning Committee. The State Planning Committee serves in an advisory capacity to the Secretary of State. The subcommittees are designed to cover specific requirements of the Help America Vote Act of 2002<sup>1</sup> (HAVA 2002) initiative.

Colorado is currently in a strong position to honor many of the HAVA requirements. Provisional voting was adopted by the State in 2000. In 2002, Colorado expanded the voting rights of active military personnel serving overseas. In 2003, Colorado expanded the law further to extend to all absent uniformed services electors, their spouses and children, and all overseas citizens, their spouses and children. Finally, in 2003, Colorado passed H.B. 03-1356, also known as the Colorado Help America Vote Act. This bill addressed the remaining HAVA requirements that Colorado needed to address.

Colorado will use the requirements payments to address the requirements identified under Title III. These requirements include, but not limited to:

- Voting standards, including auditing, accessibility, error rates and uniform definitions.
- Provisional voting and voting information
- Statewide voter registration system, including mail registration
- Other activities to improve the administration of elections

The Secretary of State will centrally manage activities funded by requirements payments. The Secretary of State will be accountable for all expenditures, funding levels, program controls and outcomes. In order to ensure a uniform and non-discriminatory approach, all affected stakeholders must have input into the process. The Secretary of State will work with local election officials to create a needs assessment instrument and determine the appropriate level of support for local activities.

The Secretary of State will reach out to its electorate, election staff and local election officials with an effective program of election education and outreach. Through a curriculum of election law, process and Election Day administration the Office of the Secretary of State will provide local election officials and their staff members with a certification program that can be completed within a two-year period. In addition, marketing techniques currently under review include not only more effective ways of recruiting judges from the political parties but also investigating ways to engage the private sector, higher education, community groups, Ad Councils and service organizations.

With regard to voting guidelines and processes, all voting systems in Colorado either already meet or will meet the error rate standards established under Section 3.2.1 of the Voting Systems Standards issued by the Federal Elections Commission. Colorado will also ensure that at least one Direct Recording Electronic voting system that meets the standards for accessibility for voters with special needs is in each polling place in the State. In addition, Colorado will require

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<sup>1</sup> Public Law 107-252 (2002), 42 U.S.C. §§15301-15545.

each county to have its integrated voting system tested and certified as meeting the requirements of HAVA 2002 and state election code.

In addressing fund management, H.B. 03-1356 established the “Federal Elections Assistance Fund”. All federal funds received by the State pursuant to HAVA 2002 will be deposited into this Fund, along with state and county monies appropriated for the purpose of meeting the State’s 5% match requirement. The Fund will be administered by the Secretary of State in accordance with the financial controls and accounting standards required by Colorado and federal law.

The Office of the Secretary of State estimates that Colorado may receive between \$43 million and \$53 million of federal funding over the next three years. Currently, Colorado estimates costs to address all the requirements of HAVA 2002 to range from \$48 million to \$67 million.

The State will maintain state expenditures for activities funded by the requirements payment at a level at or above the expenditure level that existed prior to the receipt of federal funds. Colorado’s HAVA enabling legislation establishes requirements that exceed the maintenance of effort required by HAVA 2002.

Colorado understands that accurate measurement and tracking of performance goals is paramount in achieving a successful implementation of P.L. 107-252. Performance goals provide a high-level view of a project’s direction. The State’s goal is to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in Section 8 of the State Plan.

Uniform and nondiscriminatory complaint procedures are an important aspect of HAVA 2002. The Secretary of State will develop a unified statewide complaint system process for tracking and managing suspected violations of Title III of P.L. 107-252. The State will address the complaint procedures by breaking down the tasks into the following sections:

- Submission Process
- Review Process
- Alternative Dispute Resolution
- Forms
- Manuals
- Resolution Process
- HAVA Timelines

In addressing Title I of HAVA 2002, Colorado estimates receipt of approximately \$7.1 million. These funds will be split between activities listed in §101, totaling \$4.9 million, and §102, totaling \$2.2 million.

Colorado will use the State Plan as the basis for managing the activities necessary for the implementation of HAVA requirements. The Secretary of State, with guidance from the HAVA Steering Committee, will be responsible for the management and implementation of the State Plan. In addition, Colorado will conduct plan management at four levels: Secretary of State, State HAVA Steering Committee, State HAVA Committee and Project Managers. The implementation schedule of this plan ranges from January 1<sup>st</sup>, 2003 to January 1<sup>st</sup>, 2006.

## **State Planning Committees**

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

*-- HAVA §254 (a)(13)*

Colorado is fortunate to have a very active group of over 90 citizens interested in shaping its electoral future including both members of the U.S. Senate. Members of the election, legislative, information technology (I.T.), political, legal, minority, accessibility and military communities met both the Secretary of State and Elections Director calls to action with enthusiasm. They were also fortunate to enlist members from the media and educational communities. Stakeholders from within state government are also present at the planning table to assure a smooth transition for the implementation of the statewide voter registration system.

The State HAVA Committee serves in an advisory capacity to the Secretary of State. Each member of the main committee serves on a working subcommittee. Each subcommittee is chaired by county election officials, which provide the group with invaluable experience and expertise with election statutes and processes.

The State HAVA Committee began its work on March 28, 2003. This committee has met monthly to discuss and review general implementation issues as they relate to their communities. Members spent two days in April at facilitated workshops to acquaint themselves with the details and work in groups to discuss funding, grants and “worst case scenario” issues relating to federal and state budgets and mandated procedures.

The goals of the State HAVA Committee reach far beyond making recommendations for the initial development of the State Plan. The Office of the Secretary of State and the members of the State HAVA Committee realize that the HAVA State Plan is a “living document” that will evolve as time passes. With that in mind, the State Committee will continue to meet on a regular basis to evaluate the progress in implementing the plan and discuss new ideas for future plans.

### ***State Planning Subcommittees***

The work of the subcommittees may extend over a period of two or three years as the implementation unfolds. Just as the HAVA State Plan is an evolving report, the implementation of HAVA will grow and evolve. As they are implemented, procedures and processes will be reviewed and revised for maximum efficiency.

There are nine subcommittees that have been divided into three major categories: Education and Outreach, Community Outreach, and Technology Needs Analysis. Each subcommittee has a suggested list of goals from the Secretary of State to guide them. Some of the subcommittees have found that once into the subject, additional goals suggest themselves. The following is a list of the subcommittees with a description and goals for each.

### **Poll Workers/Junior Judges/Colleges Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, high school education, College/University level education, adult education, the Colorado General Assembly, public interest groups, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Outreach to students;
- Recruitment of election judges in high schools and colleges;
- Development of training manuals and materials
  - For students
  - For election judges;
- Format of training materials; and
- Advertising Council/Literacy Council Advisory.

### **Voters/Public/Media Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, County Commissioners, public interest groups, the League of Women Voters, the local news media, the Hispanic/Latino community, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Outreach to Public;
- Outreach to Voters;
- Outreach to Media; and
- Use of Media-Multiple formats
  - Print
  - Broadcast
  - Internet.

### **County Clerk/Elections Staff Training Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections staff, County Commissioners, political parties, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- How Often to Train;
- Accredited for Hours;
- Format of Training;
- Training Materials;
- Consistency of Training; and
- Teaching old dogs new tricks.



### **Administrative Complaint Procedures Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections staff, the Colorado Civil Rights Commission, the Colorado General Assembly, the political parties, the State Attorney General's Office and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Setting Up the Submission Process;
- Setting Up the Review Process;
- Alternative Dispute Resolution;
- Forms;
- Manuals;
- Resolution Process; and
- HAVA Timelines.

### **Military and Overseas Citizens Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections and I.T. staff, the United States Armed Forces, the Office of the Governor, the Colorado General Assembly, the State Department of Military Affairs, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Effective Communication Lines Between the Armed Forces and Election Officials
  - State
  - Local;
- Address Changes;
- Education Materials;
- Use of Media in Process;
- Registration and Absentee Application;
- Different Methods of Voting
  - Blank Ballot
  - Fax
  - Absentee; and
- Working With Federal Voter Assistance Program When Possible.

### **Voting Accessibility and Outreach Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections staff, County Commissioners, the Colorado General Assembly, the Hispanic/Latino community, public interest groups, the minor political parties, the National Federation for the Blind, the Colorado Cross-Disability Coalition and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Accessibility in the Polling Place
  - Permanent
  - Temporary;
- Polling Place Accessibility Survey;
- One Direct Recording Electronic (DRE) for Each Polling Location;
- Multi-State Compact
  - How to Handle Training and Support for Small Counties; and
- Bilingual Issues
  - Training Materials
  - Communications.

### **Computer/Systems Training Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections and I.T. staff, the State Department of Revenue, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Training of Staff
  - Clerical
  - Technical
  - Driver's License
  - Social Service;
- Training Materials/Format; and
- Training on Computer
  - Needs Analysis Survey.

### **Equipment Needs Assessment Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections and I.T. staff, the Colorado General Assembly, and the Office of the Secretary of State.

The overall goals and topics for discussion for this subcommittee are as follows:

- Survey and Forms;
- Space;
- Type of Equipment; and
- Branches.

### **Equipment Service Subcommittee**

This subcommittee is comprised of various stakeholders representing county clerk and recorders, county elections and I.T. staff, County Commissioners, the Colorado General Assembly, and the Office of the Secretary of State.

The overall goals and topics of discussion for this subcommittee are as follows:

- Needs of State;
- Survey of Resources – In the Field
  - Local Entities
  - State Vendors; and
- Maintenance.

## **Current Elections Environment in Colorado**

Prior to the adoption of P.L. No. 107-252, also known as the Help America Vote Act of 2002, Colorado had in place many of the provisions required by the Act. Provisional voting was adopted by the State of Colorado in 2001, prior to the 2002 General Election. Since the adoption of the federal act, Colorado passed several bills bringing the state into compliance with the requirements of the federal act.

In 2002, Colorado adopted H.B. 02-1307, also known as the Blue Ribbon Election Bill. This act provided for provisional ballots for any voter who claimed to be properly registered but whose qualification to vote could not be immediately established. This act also allowed individuals who applied for an absentee ballot to vote a provisional ballot at the polling place if they chose not to vote the absentee ballot. In 2003, Colorado adopted H.B. 03-1006 that removed the option to vote a provisional ballot for those electors who had applied for an absentee ballot. It also required each county clerk and recorder and designated election official to create a system to allow voters of provisional ballots to determine whether their ballots were counted.

In 2002, Colorado expanded the voting rights of active military personnel serving overseas by allowing a ballot to be faxed to the active military voter and the voted ballot faxed back to the designated election official. In 2003, Colorado expanded the law further to extend this voting option to all absent uniformed services electors, their spouses and children, and all overseas citizens, their spouses and children with the adoption of H.B. 03-1271. This bill also does the following:

- Designates the Office of the Secretary of State as the designated office responsible for providing information on voter registration and absentee ballot procedures to be used by absent uniformed services electors, nonresident overseas electors, and resident overseas electors who wish to register to vote or vote in any jurisdiction in Colorado;
- Directs the Secretary of State to cooperate with the voting assistance officer of any unit of the armed forces to assist with voter registration and absentee ballot applications; and
- Prohibits a designated or coordinated election official from refusing to accept or process any otherwise valid absentee ballot submitted by an absent uniformed services elector during a year on the grounds that the elector submitted the application before the first date on which the designated or coordinated election official otherwise accepts or processes such applications for that year.

In 2003, Colorado adopted H.B. 03-1356, also known as the Colorado Help America Vote Act. This bill designated the Secretary of State as the chief state election officer within the meaning of HAVA 2002 and granted to the secretary the power of coordinating the responsibilities of the State of Colorado under HAVA 2002. The act authorizes the secretary to establish a uniform administrative complaint procedure to remedy grievances arising under Title III of HAVA 2002. It created a federal elections assistance fund in the state treasury and specifies that the Secretary of State administer the fund. The act creates a permanent funding mechanism that specifies the sources and types of moneys to be deposited into the fund, and requires that any moneys received by the state from the federal government pursuant to HAVA 2002 to be used by the state only for the purposes specified by the provisions of HAVA 2002. In addition, the act provides for a continuous appropriation of all moneys in the fund.

The Colorado Help America Vote Act also provides for the following:

- Authorizes the secretary to direct that moneys in the secretary of state cash fund be appropriated for carrying out the activities for which federal payments are being made in an amount equal to 5% of the total amount to be spent for such activities;
- Requires each eligible elector to be asked for his or her driver's license number in addition to the last 4 digits of the elector's social security number. If an individual has not been issued a current and valid driver's license or a social security number, the state will assign the applicant a unique identification number to serve as identification of the applicant for voter registration purposes; and
- Requires the secretary to implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive, computerized statewide voter registration system, defined, maintained and administered at the state level. Like most states, Colorado has a centralized voter registration master list; however, it is currently maintained and administered at the county level. The act also authorizes the secretary to electronically cancel the registration of deceased persons and persons convicted of a felony. Colorado does not require the formal restoration of voting rights of felons who have served their sentence as a prerequisite to register to vote; those rights are automatically restored at that time, thus allowing such an individual to register to vote.

In 2002, Colorado adopted H.B. 02-1307, as stated previously, which provided for the sharing of information between the State and Department of Revenue in the collection of information on residence addresses and signatures, including the driver's license database, motor vehicle registration database, motorists insurance database and the state income tax information systems. The adoption of H.B. 03-1356 in 2003 also addresses the following:

- Requires the secretary and the executive director of the Department of Revenue to match information in the database of the centralized statewide registration system with information in the database of the motor vehicle business group to the extent required to enable each department to verify the accuracy of the information provided on applications for voter registration in conformity with the requirements of HAVA 2002;
- Requires the executive director of the department of revenue to enter into an agreement with the federal commissioner of social security for the purpose of verifying applicable information in accordance with the requirements of HAVA 2002. It further requires the secretary to implement adequate technological security measures to prevent the unauthorized access to the computerized statewide voter registration list;
- Requires the questions: "Are you a citizen of the United States?" and "Will you be 18 years or older on Election Day?" with boxes for the applicant to indicate his or her responses to these questions on the voter registration form. It also requires the form to include a statement informing the applicant that, if the form is submitted by mail and the applicant is registering to vote for the first time, the appropriate information required is to be submitted with the mail-in registration form to avoid the additional identification requirements for applicants voting for the first time. If the applicant fails to answer on the mail registration form the question relating to American citizenship, the election official is to notify the applicant of the failure. In addition, the election official is to provide the applicant with an opportunity to complete the form in a timely manner to

allow for completion of the registration form prior to the next election for federal office; and

- Allows any new voter who desires to cast his or her ballot in person, by absentee ballot, or mail ballot, but does not satisfy these identification requirements to cast a provisional ballot. In addition, it also requires the designated election official to include with a mail or an absentee ballot written instructions to enable a first-time voter to comply with the requirements for new voters intending to cast a mail or absentee ballot. Finally, the bill directs state and local election officials to implement the requirements applicable to new voters in a uniform and nondiscriminatory manner.

Colorado has created a Colorado Help America Vote Act Committee. The make-up of this committee will be outlined elsewhere in this State Plan. The state has also created subcommittees that are responsible for assessment and inventory matters relating to the statewide voter registration system and accessibility of our polling places:

- The Computer/Systems Training subcommittee will conduct an assessment of our county clerk offices to determine basic computer training issues with county election personnel.
- The Equipment Needs Assessment subcommittee will conduct an assessment survey to see what computer and related equipment is currently in the county clerk election divisions.
- The Equipment and Service Subcommittee will conduct a survey of Colorado counties to see what relationship the county clerks' offices will have with the Secretary of State in terms of ownership, maintenance and service of hardware related to the statewide voter registration system.
- The Accessibility/Outreach subcommittee has devised an accessibility survey for each of the polling places in Colorado for accessibility for voters with special needs including physical and language needs.

Prior to the adoption of P.L. 107-252, Colorado was on the forefront of states allowing provisional ballots, extending of voting opportunities for military personnel and overseas citizens, and providing for the exchange of information between the Office of the Secretary of State and the Department of revenue on driver's license address and signature information. With the adoption of H.B. 03-1006, H.B. 03-1356 and H.B. 03-1271, Colorado's election laws remain some of the most progressive in the United States. Furthermore, these acts bring the state into compliance with the requirements of the federal act.

## **Section 1 - Use of Requirements Payments for Title III**

*How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(b)(2), to carry out other activities to improve the administration of elections. --HAVA §254 (a)(1)*

Colorado plans to use the requirements payments to address the following requirements identified under Title III:

- §301 Voting Systems Standards
- §302 Provisional Voting and Voting Information Requirements
- §303 Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail
- §304 Minimum Requirements
- §305 Methods of Implementation Left to Discretion of State
- §311 Adoption of Voluntary Guidance by Commission
- §312 Process for Adoption
- §251(b) (2) – Other Activities

### ***§301 Voting Systems Standards***

*Deadline for compliance: 01/01/06*

#### **Audit Capacity**

All integrated voting systems in the State of Colorado will be required to go through a re-certification process by the State. All such integrated systems shall meet the manual audit requirements set out in Section 301(2), including a permanent paper record with a manual audit capacity, an opportunity for the voter to change the ballot or correct any error before the permanent paper record is produced and the availability of the paper record as an official record for any recount conducted with respect to any election in which the integrated system is used.

#### **Accessibility**

In an effort to improve voter accessibility in the State of Colorado, the Secretary of State has established the Voting Accessibility and Outreach Subcommittee. This subcommittee meets frequently to assess Colorado's current accessibility issues and recommend improvements to the Secretary of State's Planning Committee. This subcommittee is working hard with the Secretary of State to ensure that every requirement of the Help America Vote Act of 2002 is met and every polling place in the State of Colorado is fully accessible to voters with disabilities, the elderly, and voters with language or literacy barriers.

The Voting Accessibility and Outreach Subcommittee has developed the following mission statement that outlines both principles and goals of voting accessibility in the State of Colorado:

***All voters are entitled to the right of full participation in elections and the political process and to the privilege of casting their votes privately and independently.***

***Polling places and the voting process will be accessible to all voters, including voters with physical or mental disabilities and voters with language and literacy barriers. People with such disabilities or barriers who are knowledgeable about accessibility issues should be included in determining the accessibility of polling places, access to the voting process, and training and procedures for accessibility. No eligible voter will be denied the right to vote because he or she has a physical or mental disability or because he or she has a language or literacy barrier. A combination of technology and creative problem solving should work together to ensure private and independent access to the electoral process for all voters.***

***Election judges will receive training in voting accessibility including common courtesies and procedures for accommodating the needs for all voters.***

***State and local election officials should implement outreach programs to inform voters about the availability of accessible polling places and voting equipment, and should provide individuals with information in an accessible format to inform voters about the use of accessible equipment.***

***Information provided about candidates or other election matters that is made available to the general public in print, electronically, or by other means should be provided in alternative formats accessible to people with disabilities and to people with language or literacy barriers. Voter registration shall be conducted in a uniform and non-discriminatory manner.***

The first step in this process has been the development of Colorado's new polling place accessibility survey. The Accessibility and Outreach Subcommittee has developed a survey to be used by local election officials to assess each and every polling place within their respective jurisdiction.

The Secretary of State and the Colorado Association of County Clerk and Recorders will coordinate with the Colorado Cross-Disability Coalition and other disability advocacy groups to have disabled voters assist with the accessibility surveys in each polling place. This will ensure that an accessible polling place is defined by the people it affects and not just by able-bodied county employees. Once the surveys have been conducted, county clerks can evaluate their current polling places for possible improvements and search out new polling places that are also accessible.

To satisfy the requirements payments under Title 3 of the Help America Vote Act, the Voting Accessibility and Outreach Subcommittee is also focusing on four distinct categories:

- The placement of at least one DRE voting machine per polling place.
- The development and posting of signs in each polling place to assist voters with special needs.



- The development and distribution of forms to assist all voters and election judges in the voting process.

### **DRE Voting Equipment**

The State of Colorado will ensure that there is at least one DRE in every polling place by the required deadline. The voting system standards outlined in Section 4 of this State Plan will be used in the assessment and selection of the DREs. Members of the disability community, senior citizens, and voters with language or literacy barriers will be asked to assist in the testing and state certification of these machines.

### **Signs for Visually Impaired Voters**

As recommended by the Voting Accessibility and Outreach subcommittee, all polling place signs required by Section 302 (b) of HAVA 2002 will be also presented in large font for those voters with special visual needs.

### **Forms to Assist All Voters and Election Judges**

The Accessibility and Outreach Subcommittee is also working with the Secretary of State to develop forms that will assist voters in the polling place, and assist the election judges as well. All forms used in the polling place will be designed and approved by the Office of the Secretary of State to ensure that the voting experience is uniform and consistent throughout the state. The Voting Accessibility and Outreach subcommittee is also working with the Pollworker Education and Junior Judge and Student Recruitment Subcommittee to develop forms and signs to be posted in the polling place, as well as new training techniques for the election judges to educate them on accessibility issues.

### **Alternative Language Accessibility**

All of the forms produced by the Office of the Secretary of State will be printed in English and Spanish and distributed to every county. In addition, the State of Colorado has several counties containing large populations of Native American citizens. These citizens speak the native languages, which are not written languages. The Office of the Secretary of State will work with Native American citizens to record audiotapes that will contain the same information as any posted signs, forms, and ballot styles. Audiotapes may also be used to assist voters with literacy barriers. The Accessibility and Outreach Subcommittee is currently developing plans for the implementation of these audio materials.

### **Error Rates**

Colorado will require each integrated voting system to be re-certified by the state. The re-certification will ensure that all integrated systems meet the error rates standards established under Section 3.2.1 of the Voting Systems Standards issued by the Federal Election Commission.

## Uniform Definition of What Constitutes a Vote

In August 2002, the State of Colorado formally adopted Rule 27, Rules Concerning Uniform Ballot Counting Standards. These rules outline those criteria that constitute a vote for each type of voting system in use in the State of Colorado. For a detailed description, please refer to Section 4 - Voting System Guidelines and Processes.

### ***§302 Provisional Voting and Voting Information Requirements***

*Deadline for compliance: 01/01/04*

HAVA 2002 requires provisional voting procedures in all states to ensure that no voter, who desires to vote, is disenfranchised. Provisional ballots were put into use by the State of Colorado prior to the passage of HAVA 2002. In 2002, the State of Colorado addressed this important issue—the Colorado General Assembly enacted provisional voting legislation (codified at §1-9-301, et seq., Colorado Revised Statutes). In response to the passage of HAVA 2002, the General Assembly of Colorado passed conforming legislation in 2003. The State will meet the requirements by January 1, 2004. The following table (Table-1.1) provides information on provisional voting in Colorado.

**Table-1.1**

<b>PROVISIONAL VOTING REQUIREMENTS</b>	<b>CURRENTLY MET</b>	<b>CHANGE REQUIRED</b>	<b>COMMENTS</b>
(1) Notify individuals they may cast a provisional ballot.	X		§1-9-301, C.R.S.
(2) Permitted to cast a provisional ballot upon the execution of a written affirmation stating the individual is—	X		§1-9-304.5, C.R.S.
(A) A registered voter in the jurisdiction			
(B) Eligible to vote in that election.			
(3) An election official shall transmit a ballot to an appropriate official for verification.	X		§1-9-303, C.R.S.
(4) If the election official determines the individual is eligible the provisional ballot shall be counted.	X		§1-9-303, C.R.S.
(5) Individual who cast a provisional ballot will be able to ascertain	X		§1-9-306, C.R.S., State will implement by January 1, 2004.
(A) Whether the vote was counted, or			
(B) The reason the vote was not counted.			
(6) Establish a free access system that allows			§1-9-306, C.R.S.
(A) Individuals who cast a provisional ballot to discover whether the ballot was counted.	X		State will implement by January 1, 2004.
(B) If the vote was not counted, the reason the vote was not counted.			
(C) Access to the information shall be restricted to the individual.			
(7) Voters who vote after the polls close (after the scheduled voting time)			§1-1.5-104, C.R.S.
(A) As a result of a Federal or State court order or any other order extending the time for established			No statutory provision; however, the Secretary of State is statutorily authorized to exercise

PROVISIONAL VOTING REQUIREMENTS	CURRENTLY MET	CHANGE REQUIRED	COMMENTS
for closing the polls in effect 10 days before the date of that election (B) Vote only by casting a provisional vote.	X		such powers and perform such duties as reasonably necessary to ensure that the State is compliant with all requirements of HAVA 2002. State will implement by January 1, 2004.

***§303 Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail***

*Deadline for compliance: 01/01/04, waiver to 01/01/06 available*

Currently, Colorado does not have a uniform statewide voter registration system. Prior to the adoption of H.B. 03-1356, each county was allowed by statute to purchase and maintain its own voter registration system. Each county, on a monthly basis, provides the Secretary of State with a master list of voters for the county. The master lists of all sixty-four (64) counties are then combined to create a statewide master voter registration list. With the passage of H.B. 03-1356, a uniform, official, centralized, interactive, computerized statewide voter registration system that is defined, maintained and administered at the state level will be implemented by the mandated deadline.

In compliance with HAVA 2002, Colorado will use the Requirements Payments from Title III to launch a focused initiative to implement a statewide voter registration system. This project will reside in the Office of the Secretary of State. The Project Manager will report directly to the Secretary of State. A Project Management Office (PMO) will be created to ensure disciplined oversight of all aspects of the project. Experienced resources with technical skills, leadership skills and subject matter experts will staff the PMO.

A detailed master project work plan will be developed to manage and track tasks, milestones, timeframes and resources throughout the entire life cycle of the project.

Through an extensive analysis, needs assessment, and requirements definition, Colorado will determine the best strategy to implement this system. The baseline HAVA requirements, from Section 303, are listed below in Table-1.2, along with the status of each as it applies to Colorado. Requirements Payments will be used to address all of these requirements, in addition to requirements that are identified throughout the process.

**Table-1.2**

<b>P.L. 107-252 SECTION</b>	<b>REQUIREMENT</b>
<b>IMPLEMENTATION</b>	
§ 303 (a)(1)(B)(i)	The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State
§ 303 (a)(1)(B)(ii)	The computerized list contains the name and registration information of every legally registered voter in the State
§ 303 (a)(1)(B)(iii)	Under the computerized list, a unique identifier is assigned to each legally registered voter in the State.
§ 303 (a)(1)(B)(iv)	The computerized list shall be coordinated with other agency databases within the State.
§ 303 (a)(1)(B)(v)	Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.
§ 303 (a)(1)(B)(vi)	<p><i>For Colorado, "Local election official" means county election official.</i></p> All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.
§ 303 (a)(1)(B)(vii)	The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi).
§ 303 (a)(1)(B)(viii)	The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State.
<b>COMPUTERIZED LIST MAINTENANCE</b>	
§ 303 (a)(2)(A)(i)	If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6).
§ 303 (a)(2)(A)(ii)	For purposes of removing names of ineligible voters from the official list of eligible voters— (I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and (II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death.
§ 303 (a)(2)(A)(iii)	Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law.
§ 303 (a)(2)(B)(i)	the name of each registered voter appears in the computerized list
§ 303 (a)(2)(B)(ii)	only voters who are not registered or who are not eligible to vote are removed from the computerized list
§ 303 (a)(2)(B)(iii)	duplicate names are eliminated from the computerized list
<b>TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST</b>	
§ 303 (a)(3)	The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section.
<b>MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS</b>	

<b>P.L. 107-252 SECTION</b>	<b>REQUIREMENT</b>
§ 303 (a)(4)(A)	A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.
§ 303 (a)(4)(B)	Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters.
<b>VERIFICATION OF VOTER REGISTRATION INFORMATION</b>	
§ 303 (a)(5)(A)(i)	Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes— (I) in the case of an applicant who has been issued a current and valid driver’s license, the applicant’s driver’s license number; or (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant’s social security number.
§ 303 (a)(5)(A)(ii)	If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver’s license or a social security number, the State shall assign the applicant a number, which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list.
§ 303 (a)(5)(A)(iii)	The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law.
§ 303 (a)(5)(B)(i)	The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration.
§ 303 (a)(5)(B)(ii)	The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)).

<b>P.L. 107-252 SECTION</b>	<b>REQUIREMENT</b>
§ 303 (a)(5)(C)(i)	<p>The Commissioner of Social Security shall, upon the request of the official responsible for a State driver’s license agency pursuant to the Help America Vote Act of 2002—</p> <p>“(i) enter into an agreement with such official for the purpose of verifying applicable information, so long as the requirements of subparagraphs (A) and (B) of paragraph (3) are met; and “(ii) include in such agreement safeguards to assure the maintenance of the confidentiality of any applicable information disclosed and procedures to permit such agency to use the applicable information for the purpose of maintaining its records.</p> <p>“(B) Information provided pursuant to an agreement under this paragraph shall be provided at such time, in such place, and in such manner as the Commissioner determines appropriate.</p> <p>“(C) The Commissioner shall develop methods to verify the accuracy of information provided by the agency with respect to applications for voter registration, for whom the last 4 digits of a social security number are provided instead of a driver’s license number.</p>
<b>OTHER REQUIREMENTS BEYOND HAVA 2002</b>	
N/A	Establish a county user group to help derive the registration management requirements for the new system
N/A	Conversion strategy / design from current county systems to new statewide system

The overall estimated timeframe to implement this system is presented in Table-1.3.

**Table-1.3**

<b>MILESTONE</b>	<b>ESTIMATED TIME FRAME</b>
Assessment and Inventory	07/01/03 – 09/30/03
Analysis	07/01/03 – 10/31/03
Request for Information (RFI)	07/01/03 – 09/01/03
Requirements Definition	07/01/03 – 10/31/03
Request for Proposal (RFP) / Request for Bid (RFB) (as applicable)	10/15/03 – 11/30/03
Award	12/01/03 – 12/31/03
Design	01/01/04 – 03/31/04
Develop / Customize	03/01/04 – 12/31/04
Test	07/01/04 – 02/28/05
Implement	03/01/05 – 04/30/05
Statewide Rollout	04/15/05 – 08/01/05
Post Implement Review	05/01/05 – 12/31/05
Operations and Maintenance	03/01/05 - ongoing

### **Mail Registration System**

With the adoption of H.B. 03-1356, Colorado statutes now mirror the requirements for voters who register by mail found in P.L. 107-252. Counties began tracking registrants on January 1, 2003 who registered by mail. Information will be forwarded to these registrants informing them of the need to provide a driver’s license number, or the identification number issued by the Department of Revenue, and the last 4 digits of the social security number. Because Colorado did not have a computerized statewide voter registration system at the time of passage of HAVA

2002, first time voters who register by mail will be required to present (where voting in person) or submitting with the ballot (where voting by mail) a current and valid photo identification as defined by §1-1-104 (19.5), Colorado Revised Statutes, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

Voter registration forms have been revised to reflect the new requirements regarding the citizenship of the applicant and the age of the applicant. An extensive voter education campaign will be conducted through a cooperative effort between the state and the counties to inform voters that if they did not provide this information when registering, the information will be required when they go to vote or when they return their absentee or mail ballot. Colorado has met the January 1, 2003 deadline for tracking and will meet the January 1, 2004 deadline for notifying individuals who registered to vote on or after January 1, 2003 of the new identification requirements.

### ***§304 Minimum Requirements***

Section 304 of HAVA 2002 mandates that the requirements of Title III are minimum standards and that the state may establish election technology and administration requirements that are more strict than HAVA 2002 as long as the state requirements are not inconsistent with federal law. The laws and rules of the state of Colorado will fully comply with all HAVA requirements and with the relevant laws listed in HAVA 2002 §906.

### ***§305 Methods of Implementation Left to Discretion of State***

The State understands that the choice of methods used to comply with HAVA 2002 is left to the discretion of the State. Colorado recognizes this responsibility and will impose disciplined practices to ensure a successful program

### ***§311 Adoption of Voluntary Guidance by Commission***

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

### ***§312 Process for Adoption***

The State will be vigilant of the progress of the EAC on developing the Title III recommendations. If appropriate, the State will provide feedback during the public comment period after the recommendations are published in the Federal Register and participate in public hearings regarding the recommendations.

### ***§251(b) (2) – Other Activities***

Pending fund availability and all Title III requirements having been met, the State intends to use requirements payments to fund other activities to improve the administration of elections, including, but not limited to:

- establishing a polling place accessibility program to ensure that all polling places in the state are and continue to be Americans with Disabilities Act (ADA) compliant;
- providing necessary assistance to persons with limited proficiency in the English language;
- engaging in a variety of voter education and outreach activities including public service announcements, voting machine demonstrations, mass mailings and other related media avenues;
- providing election official and election judge training initiatives; and
- establishing election judge recruitment programs.

The State currently does not have the personnel, resources and technical capacity required to fully achieve HAVA 2002 compliance. Ongoing operations and maintenance of the new requirements cannot be supported within current State and local technical infrastructure and resources. The State anticipates the need for additional technology and elections personnel in the Office of the Secretary of State to ensure continued compliance with HAVA 2002. The State may use requirements payments to fund these positions.

Once Colorado has addressed all of the Title III requirements, an analysis will be performed to identify the best use of remaining funds to improve the administration of elections for Federal office.



## Section 2 – Distribution and Monitoring of Requirements Payments

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

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

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

*-- HAVA §254 (a)(2)*

The Secretary of State will centrally manage activities funded by requirements payments. The Secretary of State will be accountable for all expenditures, funding levels, program controls and outcomes. The Colorado Help America Vote Act <sup>2</sup> grants broad authority to the Secretary of State. The Secretary may exercise such powers and perform such duties as reasonably necessary to ensure that the state is compliant with all requirements pursuant to HAVA 2002 to be eligible on a timely basis for all federal funds made available to the state under HAVA 2002, including, without limitation, the power and duty to:

- develop and require education and training programs and related services for state, county, and local election officials involved in the conduct of elections<sup>3</sup>; and
- promulgate rules in accordance with the state administrative procedures act as the Secretary finds necessary for the proper administration, implementation, and enforcement of HAVA 2002 and of the state HAVA laws.<sup>4</sup>

Implementation of a comprehensive overhaul of the election process requires consensus building from the residence of the voter to the polling place to the statehouse. Seamless implementation of federal HAVA requirements at the local polling place and integration into the statutory election guidelines and timelines requires teamwork with stakeholders—state and local partners in government and in the voter outreach programs. In order to ensure a uniform and non-discriminatory approach, all affected stakeholders must have input into the process. It vests ownership and buy-in to the process. That is why the Secretary of State of Colorado has created the State HAVA Committee, made up of elected official, local election administrators, representatives from the counties and municipalities, and voter outreach programs. The State HAVA Committee has assigned subcommittees different tasks that promote not only education of the requirements of HAVA 2002, but also an environment of openness that allows the affected parties to arrive at their own solutions. The tapping of these resources assists with the collection of data and the assessment of needs of the local election officials and their private partners in the voting process. In addition, this data is critical in the buyout of election equipment and the needs for DREs.

The Secretary of State will work with local election officials to create a needs assessment instrument and determine the appropriate level of support for local activities. Monitoring and systems audits are the performance measurements of both the monetary requirements and functionality of the HAVA implementation. To that end the Office of the Secretary of State plans to include members of the election community, local governing bodies and state and local auditors in both the financial and data systems analysis in a review panel to ensure not only

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<sup>2</sup> H.B. 03-1356, enacted at the First Regular Session of the Sixty-fourth General Assembly, State of Colorado.

<sup>3</sup> Section 1-1.5-104 (1) (a), Colorado Revised Statutes.

<sup>4</sup> Section 1-1.5-104 (1) (e), Colorado Revised Statutes.

financial compliance but also system compatibility. The criteria for evaluation and determination of eligibility will include, but will not be limited to the following:

- a detailed written narrative that includes problem statement and data, goal statement, provision of HAVA 2002 for which funding for compliance is sought, project activities and objectives, timelines for implementation, and an itemized request for funding;
- the expenditure of funds falls within the parameters of HAVA 2002 (purpose/goals and methodology);
- the priority of the project as it relates to the requirements and timelines established by HAVA 2002;
- whether the recipient of the funds is in compliance (or the extent of compliance) with Title III of HAVA 2002 and other state and federal statutes or the extent to which the recipient is in compliance;
- the recipient's efforts in maintenance of current funding levels for its ongoing election efforts;
- the availability of local funds, or other funding sources, for purposes of local funding matches (e.g., criteria for local matching funds may include but are not limited to education, certification and training expenses for local election officials and staff and/or traveling and lodging expenses for state conducted HAVA training. Also included in this match criterion will be any equipment contributions made by local election officials. The equipment will be subject to HAVA certification requirements as part of ensuring the integrity of the election or registration system as a whole.);
- the level of cooperation in the implementation and maintenance of the statewide voter registration list and the implementation of timely voter registration list purging activities and other requirements imposed by rule or regulation by the Secretary of State;
- the actual need for the payment of funds for compliance with HAVA 2002;
- the acknowledgement and contractual obligation by the recipient that, should the recipient fail to meet the deadlines or duties imposed by HAVA 2002 or the Secretary of State, that the recipient will fully reimburse the Secretary of State;
- the acknowledgement and contractual obligation by the recipient that, should the funds be diverted to uses other than approved by the Secretary of State, that the recipient will reimburse the Secretary of State;
- the execution and attachment of certifications required by state and federal law;
- the development of a comprehensive evaluation tool to measure the attainment of goals and timelines;
- the development of comprehensive accounting and audit plans in accordance with state and federal guidelines so that the federal funds can be separately identified and tracked; and
- the requirement that the recipient prepare and submit comprehensive monthly reports to the Secretary of State detailing the expenditures and their relationship to complying with Title III of HAVA 2002.

These criteria will be agreed to in writing in advance by the local government entity receiving the payment and the Secretary of State.

In addition to these safeguards, the Secretary of State will independently monitor the compliance and performance of activities on a case-by-case basis. The Secretary of State will implement financial controls that establish financial reporting methods and will develop performance indicators on a case-by-case basis for all activities funded. Monitoring and systems audits will assess the performance measurements of both the monetary and functionality of the HAVA implementation. To that end the Secretary of State plans to include members of the election community, local governing bodies, state information and technology systems experts, and state and local auditors in both the financial and data systems analysis in a review panel to ensure not only financial compliance but also system compatibility.

## **Section 3 – Education and Training**

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

*-- HAVA §254(a) (3)*

The human component of voting, filling out that ballot and casting that vote is the sum total of a centuries old Constitutional right of self-determination. Election Day is the result of months of training and preparation. While technology has enhanced this process with safeguards to protect the secrecy and integrity of the process, whether by polling place, absentee ballot or mail ballot, an election still requires state and local teamwork to accomplish that one important goal, a seemingly effortless election. As a result of HAVA direction and funding, the Secretary of State will reach out to its electorate, election staff and local election officials with an effective program of election education and outreach.

Through a curriculum of election law, process and Election Day administration the Office of the Secretary of State will provide local election officials and their staff members with a certification program that can be completed within a two-year period. In a broad partnership, the Secretary of State will integrate staff, guest speakers, peers in the election process and consultants into the curriculum. Technology has provided many forms of media that can be employed not only in the presentation of this training but the mobility of it as well. Electronic formats will allow for the internal use of these programs within the local entity offices as resources for training staff as well as review. Programs will be divided into regional training seminars utilizing local accommodations or educational facilities when possible. Certification of local election officials and their staff members will require completion of course work and testing. Funds spent by local election officials will be considered as criteria for local matching funds for HAVA purposes.

The greatest challenge in Election Day administration can be the hiring and training of Election Day judges. Colorado is fortunate to have had in place for the last two general elections the Junior Judges Program, which allows high school students to work as election judges alongside their senior counterparts on Election Day. The partnership has been a great success in providing the seasoned judge with the technical aptitude of a younger generation who has literally grown up with computers. The student judges are equally pleased for the chance to participate in the election process, be paid for their time and hear the war stories of past elections. Local election officials have utilized this program to bring students into the electoral process by serving as election judges.

The State recognizes the need for additional recruitment tools for encouraging participation in the election process. Marketing techniques currently under review include not only more effective ways of recruiting judges from the political parties but also investigating ways to engage the private sector, higher education, community groups, Ad Councils and service organizations.

Once recruited, the Secretary of State regards the training of these Election Day workers as a critical issue. HAVA subcommittees are currently reviewing election judge training programs nationwide. The Secretary of State and the subcommittees intend to incorporate a combination of training methods and performance measures to determine the most effective method of training.

Voter outreach is a critical part of the implementation of this particular phase of HAVA 2002. HAVA 2002 is much more than a new variation of an old theme. Centralized election administration, voter registration, complaint processes, provisional ballots and accessibility give Colorado voters' greater autonomy and responsibility. It also provides the Secretary of State the challenge of relating these changes in formats that reach potential voters with divergent educational, language and accessibility issues. While Colorado utilized provisional ballots in the 2002 election, HAVA 2002 and state legislation<sup>5</sup> in the 2003 legislative session have affected changes to the process. In order to inform the voters effectively, community stakeholders in the Help America Vote Committee have agreed to work with the Secretary of State to utilize their networking resources to educate electors.

Part of the outreach program includes our stakeholders working with media and personally with "talking" groups that travel to within the community groups, political organizations, the press, schools etc. to communicate these changes. The Secretary of State will utilize a multitude of media options in the method of voter education.

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<sup>5</sup> H.B. 03-1006, enacted in the First Regular Session of the Sixty-fourth General Assembly, State of Colorado

## **Section 4 – Voting System Guidelines and Processes**

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

*-- HAVA §254 (a) (4)*

Since June 1, 1991, the State of Colorado has required all voting systems, voting machines, electronic voting devices, punch cards and non-punch card electronic voting systems to meet the standards promulgated by the Federal Election Commission. Recognized independent testing authorities have the statutory authority to test, approve and qualify electronic voting systems for sale and use in the State of Colorado if certain criteria are met.

Those criteria include the following:

- Any independent testing authority will be recognized and granted the authority to qualify electronic voting systems for use in Colorado only when it has met all of the obligations and ongoing requirements necessary to gain certification as an independent testing authority from the National Association of State Election Directors (NASED) or other national authority recognized by the Federal Election Commission (FEC) for the purpose of certifying independent testing authorities.
- The independent testing authority conducts any and all tests required by NASED or other national authority recognized by the FEC for granting certification to independent testing authorities to verify the integrity of the electronic voting systems to be used in Colorado.
- Prior to the use of any electronic voting devices or electronic voting systems in any public election in Colorado, such devices must be certified by the Secretary of State following a successful qualification testing conducted by a recognized independent testing authority.

With the passage of the HAVA 2002, NASED and the Federal Election Commission will no longer offer certification of independent testing authorities, as this function will be taken over by the National Institute of Standards and Technology (NIST). However, Colorado will still require successful testing of all new voting systems by both a certified independent testing authority as well as the State of Colorado, through the Office of the Secretary of State.

Section 231(a)(2) of the HAVA 2002 allows the states the option to provide for the testing, certification, de-certification or re-certification of its voting system hardware and software by the laboratories accredited by the Election Assistance Commission. Colorado will require certification of all integrated voting systems in use in the State of Colorado. Historically, Colorado has certified individual voting systems. However, with the definition of “system” found in HAVA 2002, the integration of all systems in each county in the State of Colorado will also have to be tested. Therefore, Colorado will require each county to have its integrated voting system tested and certified as meeting the requirements of HAVA 2002 and state election code.

Existing voting systems in the State of Colorado will be required to meet the standards set out in Section 301 of the Help America Vote Act of 2002. The voting system standards include the following:

- Permits the voter to verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast and counted;
- Provides the voter with the opportunity, in a private and independent manner, to change the ballot or correct any error before the ballot is cast and counted; and
- Notification to the voter of any over votes, the effect of the over vote and the opportunity to correct. In central count optical scan counties, this will be achieved through extensive voter education of the standards, including instructions to the voter at the polling place.

All voting systems in Colorado either already meet or will meet the error rate standards established under Section 3.2.1 of the Voting Systems Standards issued by the FEC, a manual audit capacity, a permanent paper record for recount purposes, and the opportunity for the voter to change the ballot or correct any error before the permanent paper record is produced. Colorado will also ensure that at least 1 DRE voting system that meets the standards for accessibility for voters with special needs is in each polling place in the State by the January 1, 2006 deadline.

In August 2002, the State of Colorado formally adopted Rule 27, Rules Concerning Uniform Ballot Counting Standards. These rules outline those criteria that constitute a vote for each type of voting system in use in the State of Colorado. These rules were formulated with the assistance of voting system vendors, county clerks and recorders acting as the chief local election officials, their staffs, the Secretary of State, and the Elections Division staff of the Office of the Secretary of State. A copy is attached as *Appendix A - Rule 27: Rules Concerning Uniform Ballot Counting Standards*. These rules define terms and outline what constitutes a vote for paper ballots, central count optical scan, precinct count optical scan, and punch card voting systems. It should be noted that only one county continues to utilize a punch card system in Colorado, and it is anticipated that the county will opt for another voting system. Criteria for what constitutes a vote for DREs would not be applicable.

## **Section 5 – Fund Management**

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

*-- HAVA §254 (a) (5)*

Prior to the enactment of state enabling legislation, a separate fund was first established administratively by the Secretary of State and the State Controller. The State's initial payment of Title I monies was then deposited into this fund.

Subsequently, a fund was established statutorily by the State HAVA enabling legislation (House Bill 03-1356), which establishes the fund as the "Federal Elections Assistance Fund".<sup>6</sup>

Pursuant to the new legislation, all federal funds received by the State pursuant to HAVA 2002 are deposited into the Fund, along with state and county monies appropriated for the purpose of meeting the State's 5% match requirement. In addition, net interest earned by the State Treasurer from the investment of Fund monies will be credited to the Fund.

All monies in the Fund are statutorily appropriated to the Secretary of State "for the proper administration, implementation, and enforcement of HAVA".<sup>7</sup> The statute also expressly requires that, "Any moneys received by the state from the federal government pursuant to HAVA shall be used by the state only for the purposes specified by the provisions of HAVA under which the moneys were provided."<sup>8</sup>

The Fund will be administered by the Secretary of State in accordance with the financial controls and accounting standards required by Colorado and federal law. Such controls and standards involve legal responsibilities carried out by the State Controller, the State Treasurer, and the State Auditor. (See, for example, sections 2-3-103, 24-22-107, and 24-30-201, Colorado Revised Statutes.)

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<sup>6</sup> Section 1-1.5-106, Colorado Revised Statutes.

<sup>7</sup> Section 1-1.5-106 (2) (b), Colorado Revised Statutes.

<sup>8</sup> Section 1-1.5-106 (2) (a), Colorado Revised Statutes.



## Section 6 - Budget

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

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

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

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

-- HAVA §254 (a)(6)

The Office of the Secretary of State originally estimated that Colorado may receive as much as \$52.3 million dollars of federal funding over the next three years. The budget in Table-6.3 is based on one broad estimate of costs and activities necessary to meet the mandates of HAVA 2002. If HAVA activities are less than fully funded by the U.S. Congress, Colorado's State Plan and the planned budget will likely be modified to more fully reflect the funds – federal, state and local – that are available. Based on the risk and variability of the federal funding, the budget will be modified as the federal funds are appropriated.

Table-6.1 shows anticipated HAVA funding based on current federal funds appropriated for FY 2002-03. Federal funding for future years is included in this table in the amounts authorized by the Act. Actual figures may differ from the estimates, depending on the level of appropriation actually provided by the federal government.

**Table-6.1**

<b>Anticipated Federal, State &amp; Local HAVA Funding for Colorado - Current FY 2002-03 Appropriation</b>						
	HAVA 101	HAVA 102	HAVA 252 & 257	Total Federal Funding	State & Local Matching Funds	<b>TOTAL FUNDING by Fiscal Year</b>
FY 2002-03 - based on Appropriated Federal Funds	4,860,301	2,177,094	12,527,135	19,564,530	626,357	<b>20,190,887</b>
FY 2003-04 Estimate - assuming Full Federal Appropriation	-	-	15,092,933	15,092,933	754,647	<b>15,847,580</b>
FY 2004-05 Estimate - assuming Full Federal Appropriation	-	-	9,055,760	9,055,760	452,788	<b>9,508,548</b>
<b>TOTAL Funding by Category</b>	<b>4,860,301</b>	<b>2,177,094</b>	<b>36,675,828</b>	<b>43,713,223</b>	<b>1,833,791</b>	<b>45,547,014</b>

Table-6.2 provides funding estimates based on the full federal funding authorized by the Act for comparison with the actual appropriation for FY 2002-03. As indicated above, federal funding for future years is in the amounts authorized by the Act, and may change based on the actual appropriation.

**Table-6.2**

<b>Anticipated Federal, State &amp; Local HAVA Funding for Colorado - Full Appropriation</b>						
	HAVA 101	HAVA 102	HAVA 252 & 257	Total Federal Funding	State & Local Matching Funds	<b>TOTAL FUNDING by Fiscal Year</b>
FY 2002-03 - based on Full Appropriation of Authorized Federal Funding	4,860,301	2,177,094	21,130,107	28,167,502	1,056,505	<b>29,224,007</b>
FY 2003-04 Estimate - assuming Full Federal Appropriation	-	-	15,092,933	15,092,933	754,647	<b>15,847,580</b>
FY 2004-05 Estimate - assuming Full Federal Appropriation	-	-	9,055,760	9,055,760	452,788	<b>9,508,548</b>
<b>TOTAL Funding by Category</b>	<b>4,860,301</b>	<b>2,177,094</b>	<b>45,278,800</b>	<b>52,316,195</b>	<b>2,263,940</b>	<b>54,580,135</b>

Table-6.3 shows Colorado’s estimated budget for HAVA activities. Over the next three fiscal years, the Secretary of State estimates that Colorado is eligible for up to \$45.3 million in requirements payments authorized by Title II. At the time of submission of this Plan, full funding for FY 2003 was not appropriated and it is impossible to know how much will be appropriated in future years.

HAVA 2002 will change the landscape of elections across the nation. It requires that election officials take steps to increase voter awareness, provide a voice for those who may have been aggrieved, provide access to polling places for persons with special needs, and maintain centralized, more accurate information on voters and voter participation. Maintaining compliance with HAVA 2002 in future years will require continuing operational funding for those activities. Any funds remaining in the state’s Election Fund when federal funding ceases will be used to defray the operational costs of the state’s HAVA activities.

Table-6.3

<b>HAVA Budget Funding (\$ in thousands)</b>				
	Estimated Initial Cost	Estimated Ongoing Cost (Annual Cost)	Cost (Initial + One Year Annual Costs)	Duration
<b>Title III Requirements</b>				
<b>Section 301</b>				
<i>Voting Systems - Punchcard Replacement</i>	\$ 2,287	-	\$ 2,287	Jan 2003 - Jan 2004
<i>Voting Systems - Accessible Equipment (DRE's)</i>	\$ 7,852	-	\$ 7,852	Jan 2004 - Jan 2006
<b>Subtotal</b>	<b>\$ 10,139</b>	<b>-</b>	<b>\$ 10,139</b>	
<b>Section 302 - Provisional Voting and Voter Information Requirements</b>	<b>\$ 4,000</b>	<b>\$ 800</b>	<b>\$ 4,800</b>	Jan 2003 - Jan 2006
<b>Section 303 - Centralized Voter Registration System, including support for special district and precinct locator functions</b>	<b>\$ 12,000 to \$ 24,000</b>	<b>\$ 2,400 to \$ 4,800</b>	<b>\$ 14,400 to \$ 28,800</b>	Jul 2003 - Jan 2006
<b>Other Election Reform Activities</b>				
<i>Network Infrastructure Costs for Centralized Voter Registration System</i>	\$ 2,025	\$ 1,800	\$ 3,825	Jan 2005 - Jan 2006
<i>Requirements for first time voters who register by mail</i>	\$ 1,000	\$ 200	\$ 1,200	Jan 2003 - Jan 2005
<i>Voter Education, Election Official Training</i>	\$ 6,000 to \$ 10,000	\$ 1,200 to \$ 2,000	\$ 7,200 to \$ 12,000	Jul 2003 - Jul 2005
<i>Establishment of and Training on Complaint Procedures</i>	\$ 1,000	\$ 200	\$ 1,200	Jul 2003 - Jul 2005
<i>State Budget and Fiscal Controls</i>	\$ 1,000	\$ 200	\$ 1,200	Jan 2003 - Jan 2006
<i>Election Reform Program Management</i>	\$ 3,000	\$ 1,000	\$ 4,000	Jan 2003 - Jan 2006
<b>Subtotal</b>	<b>\$ 14,025 to \$ 18,025</b>	<b>\$ 4,600 to \$ 5,400</b>	<b>\$ 18,625 to \$ 23,425</b>	
<b>TOTALS</b>	<b>\$ 40,164 to \$ 56,164</b>	<b>\$ 7,800 to \$ 11,000</b>	<b>\$ 47,964 to \$ 67,164</b>	
<b>** Any unspent Federal Funds will be set aside in the state's Election Fund for payment of long-term costs of complying with HAVA</b>				

## Section 7 – Maintenance of Effort

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

-- HAVA §254 (a)(7)

The State will maintain state expenditures for activities funded by the requirements payment at a level at or above the expenditure level that existed prior to the receipt of federal funds. No federal funds for requirements payments will be used to supplement the state budget for operation and administration of the Office of the Secretary of State, or to supplant funding historically received from state sources for election-related purposes.

Colorado's HAVA enabling legislation (H.B. 03-1356) contains a number of provisions that, taken together, require maintenance of effort that meets and exceeds the requirements of HAVA 2002. These provisions include the following:

- Federal monies may only be used for the purposes specified by HAVA 2002<sup>9</sup>.
- Monies in the State Fund are statutorily appropriated only for “the proper administration, implementation, and enforcement of HAVA”, and such monies may not be transferred to any other fund.<sup>10</sup>
- Every year that the State receives federal funds, the General Assembly is required to make annual appropriations for “election-related purposes that is not less than the level of expenditures for such purposes maintained by the state for the 2001-02 fiscal year”.<sup>11</sup>
- Every year that the State receives federal funds, the Secretary of State is required to maintain expenditures to support the statewide voter registration system from nonfederal monies at a level at or above the level for the 2001-02 fiscal year.<sup>12</sup>
- Every county fiscal year that the State receives federal funds, each county is required to maintain the same level of expenditures on activities arising under Title III of HAVA 2002 that it expended in fiscal year ending prior to November 2002.<sup>13</sup>

As can be seen, these state requirements exceed the maintenance of effort required by HAVA 2002. First, the State legislation requires maintenance of all election-related funding at previous levels, but HAVA 2002 only requires maintenance of those election expenditures that are related to Title III activities.

Second, HAVA 2002 only requires maintaining state expenditures at the level of State Fiscal Year 99-00 level (the first fiscal year ending prior to November 2000). The State legislation uses a later and higher base year, FY 2001-02.

Third, the State's legislation imposes an additional maintenance-of-effort requirement on counties that is not required by HAVA 2002. Under section 1-1.5-106 (6), above, “each county shall maintain not less than the same amount of expenditures on activities arising under Title III

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<sup>9</sup> Section 1-1.5-106 (2) (a), Colorado Revised Statutes.

<sup>10</sup> Section 1-1.5-106 (2) (b), Colorado Revised Statutes

<sup>11</sup> Section 1-1.5-106 (4), Colorado Revised Statutes

<sup>12</sup> Section 1-1.5-106 (5), Colorado Revised Statutes

<sup>13</sup> Section 1-1.5-106 (6), Colorado Revised Statutes.

of HAVA 2002 that it expended on such activities for its fiscal year ending prior to November 2002”.

## Section 8 – Performance Goals and Measures

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

-- HAVA §254 (a)(8)

Colorado understands that accurate measurement and tracking of performance goals is paramount in achieving a successful implementation of P.L. 107-252. Performance goals provide a high-level view of a project's direction. The State's goal is to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in the State Plan. Below, in Table-8.1, details are provided of each performance goal, desired outcome, timeline and responsible parties for ensuring that each goal is met.

Subsequent plans will include the detailed metrics and criteria for which these measures will be baselined and measured.

**Table-8.1**

<b>PROGRAM PERFORMANCE GOAL</b>	<b>DESIRED OUTCOME</b>	<b>TIMELINE FOR MEETING OUTCOME</b>	<b>RESPONSIBLE PARTIES</b>
Eliminate punch card machines in polling places	Elimination of punchcard machines in any polling place in Colorado	April 2004	Secretary of State and Local Election Officials
Implement a centralized statewide voter registration system	Assimilation of accurate voter registration information from various county election systems into a centralized system; assimilation and continuation of voter registration and election management functionality from local election systems	Commence deployment no later than April of 2005	Secretary of State and Local Election Officials
Decrease the time lag between a registered elector updating or changing their voter registration information	A consistent reduction in the number of provisional ballots cast for lack of updated voter registration information	Continual; baseline derived from November 2002 election	Secretary of State and Local Election Officials
Increase the accessibility of polling places to persons with special access needs	A dwindling number of polling place accessibility complaints found to have a basis in fact	Continual	Local Election Officials
Increase the timeliness of resolution of grievances	Quick resolution of grievances filed under the state's complaint process	Baseline will be derived after the first election in which the state's grievance process is in place	Secretary of State

<b>PROGRAM PERFORMANCE GOAL</b>	<b>DESIRED OUTCOME</b>	<b>TIMELINE FOR MEETING OUTCOME</b>	<b>RESPONSIBLE PARTIES</b>
Increase the timeliness of removing a deceased voter from the voter registration rolls	Maintain an accurate voter registration system with respect to deceased persons	Continual – will commence with the deployment of the centralized voter registration system	Secretary of State and the Colorado Department of Health, Vital Records Division
Increase the timeliness of removing convicted felons from the voter registration rolls	Maintain an accurate voter registration system with respect to persons losing the right to vote based on a criminal conviction	Continual – will commence with the deployment of the centralized voter registration system	Secretary of State, the Colorado Department of Corrections, and the U.S. Department of Justice
Eliminate duplicate voter registrations across counties within Colorado	Quick update of the centralized voter registration system based on apparent duplicate registration within Colorado	Continual – baseline derived after the November 2003 election	Secretary of State and Local Election Officials

## **Section 9 – Complaint Procedures**

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

*-- HAVA §254 (a)(9)*

*Deadline for Compliance: Prior to certification of State Plan, but no later than January 1, 2004; no waiver permitted.*

The Secretary of State will develop a unified statewide complaint system process for tracking and managing suspected violations of Title III of P.L. 107-252. This process must meet the following requirements:

- The procedures are uniform and nondiscriminatory.
- Any person who believes there is a violation of Title III may file a complaint.
- Complaints shall be in writing and notarized, signed and sworn by the person filing the complaint.
- The state may consolidate complaints.
- At complainant's request, there shall be a hearing on the record.
- The state shall provide an appropriate remedy if it finds a violation has occurred.
- If no violation is found, the complaint shall be dismissed and the results published.
- Complaints shall have a final resolution within 90 days of the complaint being filed, unless the complainant consents to a longer period.
- If the complaint cannot be resolved within that period, an alternative dispute resolution procedure must be provided.

The Secretary of State has formed a subcommittee to address this HAVA requirement effectively. This subcommittee is comprised of various stakeholders representing:

- County Clerk and Recorders
- County elections staff
- Colorado Civil Rights Commission
- Colorado General Assembly
- Political parties
- State Attorney General's Office
- Office of the Secretary of State.

This subcommittee has developed guiding principles for the complaint process to the requirements listed above. The complaint process:

- must follow federal and state law;
- should not be complicated for the aggrieved party;
- should be easily accessible for the disabled;
- should be public within the parameters of state and federal law;
- should be easily tracked by all interested parties;
- should allow for local filing and resolution;
- should allow for timely resolution within HAVA timelines; and
- should address alternate language needs as required by law.



The subcommittee has agreed to address the complaint procedures by breaking down the tasks into the following sections:

- Submission Process
- Review Process
- Alternative Dispute Resolution
- Forms
- Manuals
- Resolution Process
- HAVA Timelines

### ***Submission Process***

The Submission Process<sup>14</sup> will allow for the local receipt of complaints or filing directly with the Secretary of State. Upon receipt of a HAVA 2002 Title III complaint, the local election official will forward the complaint within one business day to the Secretary of State who will receive and track all HAVA complaints.

In accordance with state and federal law, the complaint must be in writing and notarized, signed and sworn by the person filing the complaint, involve a HAVA 2002 Title III alleged violation, and filed within one year from the date of the alleged violation or the election, whichever is later. A form will be developed to aid the complainant in providing the required information. The complainant has the option of utilizing the form or filing a letter with required information.

Complaints filed with the local election official will be faxed to the Secretary of State within one business day of receipt. The original will be mailed and a copy retained for the local file. Conversely, complaints filed with the Secretary of State will be faxed to the local election official within one business day of receipt. A copy will be mailed and the Secretary of State will retain the original.

Upon receipt at the Office of the Secretary of State, the complaint will be date stamped, logged in, and assigned a state ID number for tracking. A receipted copy will be faxed to the local election official.

The complaint form or letter will be checked for required information, and an acknowledgement of receipt will be sent to the complainant. The acknowledgement shall indicate the tracking number and general instructions for tracking the complaint.

### ***Review Process***

The Colorado Help America Vote Act, exempts the HAVA Administrative Complaint Procedures from the Administrative Procedure Act in C.R.S. 1-1.5-105(3)(b).

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<sup>14</sup> §1-1.5-105, Colorado Revised Statutes.

Under the Review Process, the Secretary of State will have several options available:

- Local Resolution
- Resolution/Remedy without a hearing
- Dismissal
- Consolidation
- Extension
- Hearing
- Determination

The Code of Colorado Regulations, 8CCR 1505-3, Rule 1, Declaratory Orders, shall be modified and drafted into rules for the HAVA Administrative Complaint Procedure.

### ***Alternative Dispute Resolution***

The Alternative Dispute Resolution (ADR) procedure is required if the Secretary of State does not issue a final determination concerning the complaint within 90 days of filing.

An agreement will be drafted between the Colorado Judicial Office of Dispute Resolution and the Secretary of State to address the ADR requirements for the HAVA Administrative Complaint Procedure. Modifications in the process may be required to adapt the current procedure to the Help America Vote Act.

### ***Forms***

A form for the filing of a complaint has been drafted to aid the complainant in providing the required information. The complainant will not be required to utilize the form, but will be required by rules to provide certain information in a written, notarized complaint.

### ***Manuals***

Instructions to aid the complainant in filing and tracking a complaint will be drafted and updated as modifications are made to the process. The instructions will be posted on the Secretary of State website and available in alternative languages in counties as required by law.

An instruction sheet for local election officials will provide uniformity in handling the complaints statewide.

### ***Resolution Process***

A brief outline of the resolution process includes the following basic elements:

- Filing
- Tracking
- Review (with or without hearing)
- Consolidation and Extension
- Determination, which may include dismissal
- Alternative Dispute Resolution (if no determination within 90 day timeframe)

- Court Appeal (if complainant is not satisfied with final determination or ADR is unsuccessful)

### ***HAVA Timelines***

The timelines for filing a complaint under the HAVA Colorado Administrative Complaint Procedure and disposition/resolution of the complaint are clearly outlined in federal and state law:

WITHIN ONE BUSINESS DAY the local election official shall transmit a Title III HAVA complaint filed with the local official to the Secretary of State.

WITHIN ONE YEAR of the occurrence of the alleged violation or of the election giving rise to the complaint, whichever, is later; the complaint must be filed with the Secretary of State. [C.R.S. 1-1.5-105(2)(d)]

WITHIN 90 DAYS of the date the complaint is filed, the Secretary of State must issue a decision on the complaint [C.R.S. 1-1.5-105(2)(i)], unless the complainant consents to a longer period for making such determination. [HAVA Section 402(a)(2)(H)]

WITHIN 60 DAYS following the 90-day time frame, if the Secretary of State fails to issue a final decision on the complaint, the complaint shall be resolved under the Alternative Dispute Resolution Procedure established by the Secretary of State. [C.R.S. 1-1.5-105(2)(j) and HAVA Section 402(a)(2)(I)]

WITHIN 30 DAYS following the final determination by the Secretary of State, an aggrieved party may appeal the Secretary's determination to the District Court in and for the City and County of Denver. [C.R.S. 1-1.5-105(4)]

## Section 10 – Effect of Title I Payments

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

*-- HAVA §254 (a)(10)*

It is estimated that Colorado will receive approximately \$7.1 million under Title I of P.L 107-252. These funds will be split between activities listed in §101 and §102.

### ***§101 – Payments to states for activities to improve administration of elections***

It is estimated that Colorado will receive approximately \$4.9 million to improve the administration of elections. This is the amount of funds remaining after the calculation of §102 funding.

It is predicted that Colorado will use these funds to address the following activities:

- Comply with Title III requirements
- Improve administration of elections for Federal office
- Educate Voters
- Training Elections Officials, election judges and volunteers
- Developing the State Plan for requirements payments
- Replacing voting systems and technology for casting and counting votes
- Improving accessibility and quantity of polling places

### ***§102 – Replacement of punch card or lever voting machines***

It is estimated that Colorado will receive approximately \$2.2 million for replacement of voting machines. This is calculated by multiplying the number of qualifying precincts (682) by \$3,192 as currently estimated.

Table-10.1 lists the Colorado precincts for equipment buy-out:

**Table-10.1**

COUNTY	PRECINCTS	DESCRIPTION
Boulder*	249	Includes 4 early voting sites with 6-12 machines per site
Jefferson**	322	Includes 8 early voting sites (total of 10 punch card machines for early voting)
Mesa**	71	Includes 1 absentee precinct and 4 early voting precincts
Montrose	22	Includes 1 absentee precinct
Pitkin***	18	Includes 1 absentee precinct and 1 early voting precinct
<b>Total</b>	<b>682</b>	

\* Boulder is in the process of replacing punchcard systems with DREs.

\*\* Jefferson and Mesa County have already replaced their punch-card systems and qualify for reimbursement under HAVA 2002.

\*\*\* Pitkin County leases its optical scan system that replaced a punch card system used in the November 2000 election.

## **Section 11 – State Plan Management**

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

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

*-- HAVA §254 (a)(11)*

Colorado will use the State Plan as the basis for managing the activities necessary for the implementation of HAVA requirements. The Secretary of State, with guidance from the HAVA Steering Committee, will be responsible for the management and implementation of the State Plan.

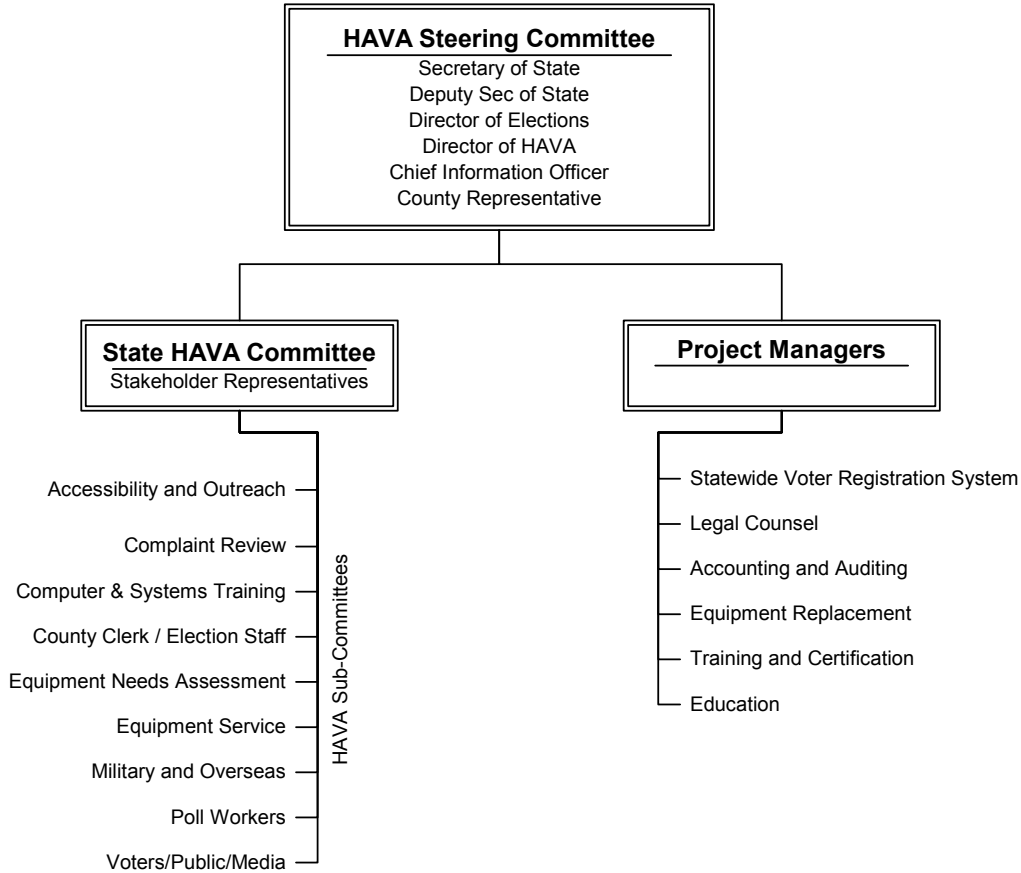
Title II of the Help America Vote Act requires each state to describe how it will manage the implementation of its proposed HAVA plan. This description must include who is responsible for implementation and monitoring, the process for changing the state plan, implementation timelines, and reporting requirements for counties and projects. Colorado will conduct plan management at four levels:

**Secretary of State** – In Colorado, the Chief State Election Official is the Secretary of State. Accordingly, the Secretary of State has the ultimate responsibility for the implementation of HAVA requirements. As a result, the Secretary of State will possess the final authority in decision-making and management of the HAVA program.

**State HAVA Steering Committee** – The primary responsibility of the Steering Committee is to provide overall guidance, leadership and direction to all HAVA activities. This committee will meet on a regular basis to address the needs of the HAVA activities in a timely manner.

**State HAVA Committee / HAVA Subcommittees** – These committees are comprised of various volunteers at the state and county levels that represent a cross section of interests. They are responsible for research, analysis, and development of select HAVA needs. All HAVA projects will rely on this resource pool to accomplish their respective objectives.

**Project Managers** – Individual leaders will have responsibility for the day-to-day coordination and implementation of distinct projects within the HAVA plan. These project managers may be State HAVA Steering Committee members, Elections Division staff, Contractors, or county representatives. These individuals are responsible for reporting project activities, progress, and resource needs/expenditures to the State HAVA Steering Committee. Project managers and project/task leaders will determine appropriate reporting based upon the needs, requirements, complexity, and risk factors of each project.



The State of Colorado will comply with HAVA requirements related to ongoing management of the State Plan. Material changes in the administration of the State Plan will not be made unless the change is developed and published in the Federal Register in accordance with HAVA §255, is subject to public notice and comment in accordance with HAVA §256, and takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

### Preliminary Implementation Schedule

Task	Start Date	Finish Date
<b>TITLE III Requirements - Preliminary Schedule</b>	<b>01/01/03</b>	<b>01/01/06</b>
Section 301 - Voting System Standards	07/03/03	01/01/06
Section 302 - Provisional Voting	01/01/03	12/31/03
Section 302 - Voting Requirements	03/01/03	12/31/03
Section 303 - Statewide Voter Registration System	07/02/03	12/31/05
Section 303 - Register by Mail Requirements	01/01/03	01/01/04

## **Section 12 – Changes to State Plan from Prior Year**

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

*-- HAVA §254 (a) (12)*

This State Plan is the initial submission of the plan as required under P.L. 197-252. This section will be updated in subsequent fiscal years, reflecting changes to the plan, as well as a summary of the successes from the prior fiscal year.

## **Section 13 – Colorado HAVA Team**

This vision of elections to come in Colorado is a direct result of the dedicated teamwork of community stakeholders who have donated their time and talent to this long-term project. Ensuring integrity, independence and self-determination is an exciting challenge that the Help America Vote Act Committee and Subcommittees have embraced enthusiastically.

For further information on the committee members and meeting minutes and the implementation of the Help America Vote Act of 2002 please visit our website at:

**[www.sos.state.co.us](http://www.sos.state.co.us)**

**In the “Election Center”**

**Under**

**“Help America Vote”**

### **Colorado HAVA Steering Committee**

Colorado Secretary of State.....	Donetta Davidson
Deputy Secretary of State.....	William A. Hobbs
Director of Elections.....	William C. Compton
Director of HAVA.....	Drew T. Durham
Chief Information Officer.....	Brian Balay
County Representative.....	Russ Ragsdale

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## Glossary

<b>TERM</b>	<b>DEFINITION</b>
ADA	Americans with Disabilities Act
ADR	Alternative Dispute Resolution
C.R.S.	Colorado Revised Statutes
DRE	Direct Recording Electronic
FEC	Federal Elections Commission
H.B.	House Bill
HAVA	Help America Vote Act
IT	Information Technology
NASED	National Association of State Election Directors
NIST	National Institute of Standards and Technology
P.L.	Public Law
PMO	Project Management Office
RFB	Request for Bid
RFI	Request for Information
RFP	Request for Proposal

## **APPENDIX A – Rule 27: Rules Concerning Uniform Ballot Counting Standards**

### 27.1 Definitions

- 27.1.1 Blank Ballot. A blank ballot is one on which the voter has made no marks in any voting position, or has been marked with an unreadable marker, or is one which has been consistently marked outside of the “read” area of the scanner.
- 27.1.1 Chad. Chad is the small piece of paper or cardboard produced from a punch card ballot when a voter pierces a hole in a perforated, designated position on the ballot with a marking device to record the voter’s candidate, question, or issue choice.
- 27.1.2 Damaged Ballot. A damaged ballot is one that has been torn, bent, or otherwise mutilated or rendered unreadable, so that it cannot be processed by the optical scanner ballot reader.
- 27.1.3 Duplicated Ballot. A duplicated ballot is one for which a true copy is made in order to be properly processed and counted due to damage, improper marking or some other reason which would prevent a ballot tabulating machine from accurately counting the ballot.
- 27.1.4 Punch Card Ballot. A punch card ballot is a ballot card that contains small perforated design positions that a marking device must pierce to form a hole that records a voter’s candidate, question, or issue choice.
- 27.1.5 Over vote. An over vote is a race, question or issue which contains votes for more than the maximum number of candidates or responses for a ballot question or issue allowed.
- 27.1.6 Under vote. An under vote occurs when the voter does not vote for a candidate, question, or issue, or when more than one person in a race is available, the voter does not vote for the maximum number of votes allowed.
- 27.1.7 Vote in Optical Scan Ballots. A correctly voted optical scan ballot occurs when a voter, using a readable marker, fills in or connects the minimum number of ovals/arrows per race, question, or issue, not to exceed the maximum allowable votes per race, question or issue, without extending the vote mark beyond the parameters of the instructions.
- 27.1.8 Write-In Vote. A vote on a ballot on which the voter physically writes in the name of a legally qualified write-in candidate in the space reserved on the ballot for write-in votes and properly marks the oval or connects the arrow on optical scan ballots according to the directions provided to the voter. C.R.S. 1-7-304

## 27.2 Uniform Counting Standards for Paper Ballots

27.2.1 Judges counting ballots on Election Day shall take into consideration the intent of the voter.

27.2.1 If a ballot contains markings for more than the maximum votes allowed in a candidate race or for a ballot issue or question, no vote shall count for that race, question, or issue. Judges shall take into consideration any notation by the voter that would clearly indicate the choice of the voter.

27.2.2 If an issue, question or candidate race contains no markings by the voter, no tally will be made for that race, question, or issue, but all other candidate races, issues, or questions properly marked by the voter on the ballot shall be counted.

27.2.3 A ballot which has no markings for any candidate races, issues or questions shall be tallied as a blank ballot, but the voter shall be given credit for voting.

27.2.4 If the intent of the voter is clear on a write-in vote, the write-in vote shall be counted for a legally qualified candidate.

## 27.3 27.3.1 Testing of Optical Scan Equipment

- (a) Optical scan equipment must be set to consistent and uniform sensitivity standards for each system type.
- (b) Pre-election testing should be performed by the designated election official in accordance with C.R.S. 1-7-506(1) and Rule 11.4.
- (c) Election Day count machine settings should sort blank ballots, over votes, and write-in votes for the resolution board.

## 27.3.2 Precinct Optical Scan Procedures

- (a) Voters whose ballots are rejected or sorted by the precinct counter as a blank or over voted ballot shall be given the opportunity to correct their ballot.
- (b) Ballots sorted to a write-in bin shall be tallied at the conclusion of the voting and delivered to the central county center in a secure container.

## 27.3.3 Central Count Optical Scan Procedures

- (a) A resolution board, consisting of a team(s) of one (1) Republican and one (1) Democrat for partisan elections or two (2) qualified election judges for nonpartisan elections, shall resolve all ballots sorted by the central count optical scan equipment.

(1) The board shall be observed by two (2) witnesses, who in any partisan election shall be representatives of each major political party, who may not handle or process ballots.

(2) All persons engaged in the counting and processing of ballots shall be deputized or take an oath to faithfully perform their duties.

(3) The resolution board shall maintain a log for each step of verification, duplication, and counting according to Rule 11.5.58.

(b) Sequence of Resolution Procedures

(1) Testing of the optical scanner shall begin immediately prior to counting official ballots.

(2) A zero tape shall be run indicating no votes cast or counted before the counting begins.

(3) Official ballots shall be processed through the optical scanner, with sorted over votes, blank ballots, and write-in ballots viewed and resolved by the resolution board. If there are no legally qualified write-in candidates, the write-in sort option shall not be utilized. The number of each duplicated or clarified ballot shall be entered on the resolution board log sheet.

(4) All ballots which are sorted by the optical scanner and resolved by the resolution board either by duplication or clarification are to be indicated as such and kept separate from the standard run ballots for the precinct.

(5) The precinct judge's ballot return form is compared to the number of scanned ballots for the precinct.

(6) After the final precinct has been tallied, the total write-in votes shall be indicated on the final summary along with the seal numbers for each sealed box of scanned ballots.

(7) The optical scanner shall be tested again by tabulating the test deck at the conclusion of the count.

(c) Resolution of optical scan ballots

(1) Damaged or defective ballots shall be repaired, if possible, to be accepted by the optical scan equipment. If the ballot is damaged beyond repair, the ballot shall be duplicated utilizing the ballot duplication procedures.

(2) Blank ballots shall be examined by the resolution board to determine if the ballot is a true blank ballot or one that has been marked with a non-detectable device. The resolution board may clarify a non-detectable mark in such a manner that the original voter mark is preserved, such as making a detectable line through the non-detectable mark, placing a removable label over the non-detectable mark and marking with the proper device, or placing cellophane tape over the mark and a marked removable label to properly reflect the voter's intent. Resolution board members must initial the clarification in a non-readable area on the ballot next to the clarification. The election official may also choose to make a duplicate copy of the ballot utilizing the ballot duplication procedures. If a ballot is truly blank it shall be sent back for the resolution pass through the scanner, and the ballot tabulated with no races, issues or questions voted.

(3) Over voted ballots shall be inspected by the resolution board. Any marks that are clearly identified as unintentional but register an over vote on the scanner may be clarified by the resolution board by the placement of a removable adhesive sticker over the unintentional mark. The two members of the resolution board must initial next to the clarification in a non-readable portion of the ballot. The election official may also choose to make a true duplicate copy of the ballot utilizing the procedures for duplication of ballots.

(4) Write-in votes sorted by the optical scan equipment on Election Day shall be delivered to the assigned write-in board for hand counting. In order to be counted, the oval must be darkened or the arrow connected according to the appropriate voting instructions. Only votes for legally qualified write-in candidates shall be counted.

(5) The resolution board shall duplicate ballots by clearly labeling the new duplicate ballot as a "DUPLICATE" and assign a serial number which shall be recorded on both the original and duplicate ballot. For example, the first ballot in Precinct # 1 to be duplicated could be labeled as #1/001 with the duplicate labeled D#1/001. Original ballots shall be separated from the duplicate ballots and placed in an envelope clearly marked "ORIGINAL BALLOTS." The duplicate ballots shall be counted in lieu of the original ballots.

(d) Recount Procedures for Optical Scan

(1) Optical scan equipment must be set to consistent sensitivity standards for each system type, must be tested prior to the recount, and shall be programmed to sort under votes for the individual race(s), issue(s) or question(s) being recounted.

(2) Recounts will include a visual inspection of all ballots cast for write-in candidates in the contested race(s) to determine voter intent.

27.4 Uniform Counting Standards – Punch Card Voting Systems<sup>15</sup> C.R.S. 1-7-503

27.4.1 Inspection of Ballots. Prior to the counting of the ballots by automatic tabulating equipment, at least one team of election personnel, which except in non-partisan elections shall consist of one member from each political party, shall inspect the ballots for loose chad, ballot damage, including holes that are too large, a ballot that is torn in the mail, etc., written instructions and corrections, and write-in votes. The purpose of the inspection shall be to insure that all ballots are machine-readable and that the voter's intent will be recorded correctly and accurately. In some instances, duplication of the ballot may be necessary in order to count the ballot.

(a) All loose chad shall be removed to ensure that all of the voter's choices on the ballot are correctly and accurately reflected in the count.

(1) A chad that is unattached on two or more corners represents a vote and shall be removed.

(2) If a chad is attached to a punch card ballot by three or four corners, no vote shall be recorded for that candidate, issue or question choice at that particular ballot position, and the chad shall not be removed.

(b) Dimpled mark or puncture on the attached chad.

(1) If a ballot has been punched according to instructions, but there exists a random dimpled mark or puncture located wholly on the non-removed chad, that mark or puncture shall be considered a random mark or puncture.

(2) If the ballot has nowhere been punched according to instructions, but consists of a series of dimpled marks or punctures located wholly on the attached chad, those marks or punctures shall represent the voter's intent to vote for that designated position, and the ballot shall be duplicated accordingly.

(3) If a dimpled mark or puncture appears on the ballot anywhere other than completely on the chad, voter intent cannot be determined, and the ballot shall be duplicated without that dimple mark or puncture.

(c) Damaged ballots. If the ballot has damage or defects that would cause problems in tallying, such as a ballot being torn in the mail, the ballot shall be duplicated to the extent possible, evidencing the voter's intent. If the voter's intent cannot be determined for a specific office, issue or question on the damaged ballot, that position shall be left blank on the duplicate ballot.

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<sup>15</sup> Rule 27.4 providing for uniform counting standards for punch card voting systems will remain in effect pending the replacement of these voting systems pursuant to HAVA.

- (d) Voter instructions. If other material is included with the ballot or is attached to the secrecy envelope, the material shall be inspected to determine if it has a bearing on the voter's intent. If the material has a bearing on the voter's intent, the original ballot shall be duplicated as necessary and the original ballot, along with the material, shall be placed in an envelope marked "Duplicate Ballot." If the material has no bearing on the voter's intent, it shall be discarded.
- (e) Write-In Votes.
  - (1) Write-in votes shall be recorded on the secrecy envelope.
  - (2) Only votes cast for legally qualified write-in candidates shall be considered valid and counted. Any write-in votes for candidates who are not legally qualified shall be disregarded and not counted.
  - (3) On the punch card secrecy envelope, the voter must indicate both the name of the candidate being written in the office for which the candidate is running. If either candidate's name or the office for which the candidate is running is left off the secrecy envelope, then the intent of the voter cannot be determined and the vote shall not be counted. If the write-in vote is disregarded, any vote for that office on the punch card ballot itself shall be tabulated and counted.
  - (4) If both the office name and the candidate's name are included in the write-in option on the secrecy envelope, the punch card ballot must be checked for any other votes for that office. If the write-in vote does not result in an over vote for that office, then all votes shall be tabulated and counted. If the write-in vote creates an over vote for that office, then neither vote shall be counted, and the punch card ballot shall be duplicated to reflect an over vote.
  - (5) If the write-in line contains a name that is the same as the one that is printed on the ballot for that office, regardless of whether the ballot position for that candidate is punched out or not, then the write-in vote shall be disregarded, and the ballot shall be duplicated, if necessary, so that the tabulating machine will count the vote as a vote for the selected candidate.

#### 27.4.2 Duplication of Ballots.

- (a) Using the damaged ballot as the guide, a blank ballot shall be marked by a duplicating team, so that the votes recorded are identical to those indicated on the damaged ballot, and shall be proofed to insure that is marked properly and accurately.
- (b) A unique number shall be assigned to both the original and duplicated ballot. This will reference the two ballots together and provide an audit trail. (Example: the ballots may be marked XX-NNN, where XX is the precinct number and NNN are consecutive numbers starting with the number one.)

(c) The duplicate ballot shall be placed with all other ballots to be counted.

(d) The damaged or unreadable original ballot shall be marked "DUPLICATED" to indicate that the ballot has been duplicated and the duplication is completed. All duplicated original ballots for a precinct along with any applicable printed material shall be placed in an envelope and clearly marked "BALLOTS THAT HAVE BEEN DUPLICATED."