

# *Commonwealth of Pennsylvania*

## *State Plan*

AS AMENDED



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*As Required by Public Law 107-252,  
The Help America Vote Act of 2002*

*September 15, 2005*

*Edward G. Rendell, Governor*

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## INTRODUCTION

### THE HELP AMERICA VOTE ACT OF 2002

In an effort to correct the problems encountered in Florida during the November 2000 presidential election, the United States Congress in October 2002 enacted the Help America Vote Act of 2002 (HAVA), P.L. 107-252.<sup>1</sup> Applicable to all Federal elections held in the United States, HAVA requires or authorizes the following:

1. Creates standards for all voting systems used by the States.
2. Requires voting systems to be accessible to individuals with disabilities and those using alternative languages.
3. Requires the use of provisional ballots.
4. Implements identification requirements for those who vote for the first time after registering by mail.
5. Requires States to implement a statewide voter registration database.
6. Provides for a board to establish standards for what constitutes a vote.
7. Requires States to conduct educational programs for voters and election officials.

In addition, HAVA authorized the creation of the Election Assistance Commission (EAC) to administer the Act.

HAVA authorizes four Federal funding programs to accomplish the various requirements in the Act. The General Services Administration (GSA) principally administers the funds provided under Title I of HAVA. The Title I programs provide for payments to States for election administration improvements<sup>2</sup> and replacement of punch cards and lever voting machines. The EAC oversees the third, and largest, HAVA funding program under Title II. The principal purpose of the funds provided through the EAC under Title II is to assist the States in meeting the new uniform and nondiscriminatory voting system, election technology and election administration requirements imposed by Title III of HAVA. The fourth – and smallest – funding program is administered by the U. S. Department of Health and Human Services for the purpose of assuring access for individuals with disabilities.<sup>3</sup>

1. Section 101 of HAVA provides \$325 million in funding to the States for the following:
  - Complying with the requirements of Title III.
  - Improving election administration concerning voting rights, procedures and technology.
  - Educating voters concerning their rights, election procedures and voting technology.
  - Training election officials, poll workers and election volunteers.
  - Developing the State Plan for implementing HAVA.
  - Improving, acquiring, leasing, modifying, or replacing voting systems.
  - Improving polling place accessibility.
  - Establishing toll-free hotlines for voters to use to report possible voting fraud and other violations of election law or to obtain information.



In 2003, Pennsylvania received \$11,323,168.00 under section 101 of HAVA.

2. Section 102 of HAVA provides \$325 million in funding to the States for the replacement of lever voting machines and punch card systems. In 2003, Pennsylvania received \$22,916,952.00 as its share of funding provided under section 102. HAVA authorizes an appropriation of \$4,000.00 per precinct to replace lever machines. However, the amount actually received from GSA was based on an allocation of \$3,192.22 per precinct.

3. Section 251 of HAVA (Title II) authorizes \$3 billion dollars to be appropriated to the States over three Federal fiscal years for “requirements payments” to be used to meet the requirements of HAVA’s Title III. Requirements payments may be used to carry out other activities to improve election administration if the State has implemented the requirements of Title III or the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under section 252(c) of HAVA. The Commonwealth received \$35,992,863.00 in Title II requirements payments for Federal Fiscal Year (FFY) 2003, and \$64,585,966.00 for FFY 2004.

4. Section 261 of HAVA authorizes funding for the purpose of assuring access for individuals with disabilities. Section 261 funding may be used for polling place accessibility improvements to provide the same opportunity for access and participation, including privacy and independence as other voters.

The General Services Administration distributed the funds authorized and appropriated under Title I in 2003. Pennsylvania submitted its State Plan on August 1, 2003. However, the EAC was not formed and organized until December 9, 2003. Therefore, the EAC could not make the requirements payments under Title II of HAVA until the 45 days had passed after the State Plan, which addresses each of 13 subjects, called “elements,” as mandated by section 254 of HAVA, was published in the *Federal Register*. The EAC published Pennsylvania’s 2003 State Plan in the *Federal Register* on March 24, 2004.

The elements mandated by section 254 of HAVA are:

- (1) How the State will use the requirements payment to meet the requirements of Title III and, if applicable, under section 251(b)(2) to carry out other activities to improve the administration of elections.
- (2) How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State, including: the criteria to be used to determine the eligibility of such units or entities for receiving payment; and the methods to be used by the State to monitor the performance of units or entities to whom the payment is distributed.
- (3) How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.



- (4) How the State will adopt voting system guidelines and processes that are consistent with the requirements of section 301.
- (5) How the State will establish a fund for the purpose of administering the State's activities, including information on fund management.
- (6) The State's proposed budget for activities based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on the costs of the activities required to be carried out to meet the requirements of the act; the portion of the federal payment which will be used to carry out the activities to meet such requirements; and the portion of the federal payment that will be used to carry out other activities.
- (7) How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.
- (8) How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.
- (9) A description of the uniform, nondiscriminatory State-based administrative complaint procedure required by section 402.
- (10) If the State received any payment under other federal funding programs, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.
- (11) How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change is developed and published in the *Federal Register* in accordance with section 255 in the same manner as the State plan; is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and takes effect only after the expiration of the 30-day period that begins on the dates the change is published in the *Federal Register* in accordance with section 255.
- (12) In the case of a State with a State plan in effect during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for the previous fiscal year
- (13) A description of the committee which participated in the development of the State Plan in accordance with section 255, and the procedures followed by the committee.



In developing its State Plan, a State must work with a committee of appropriate individuals and follow a process that provides for public notice and comment.<sup>4</sup>

## **OVERVIEW OF THE ADMINISTRATION OF ELECTIONS IN PENNSYLVANIA**

HAVA clearly has already significantly affected the administration of elections at all levels of government. In Pennsylvania, election administration occurs at three levels – at the State level by the Secretary of the Commonwealth; at the county level by the elected county commissioners or other body established by a home rule charter to serve as the county board of elections and the county’s voter registration commission; and at the precinct level by the elected and appointed district election officials.

*The State Level:* The Secretary of the Commonwealth is the chief election officer of the Commonwealth and serves as the head of the Department of State. The Secretary, appointed by the Governor, with approval of the Senate, is the agency head of the Department of State. He is the custodian of the election returns for Federal, Statewide, legislative, and most judicial offices, compiles and publishes the returns of the primary, municipal, general and special elections; and prescribes the forms of nomination petitions and nomination papers, campaign expense reporting forms, voter registration applications and all other forms and records required by the Pennsylvania Election Code. The Secretary is also responsible for examining voting machines and electronic voting systems before they may be used for voting in the Commonwealth. He receives and determines the sufficiency of nomination petitions, nomination certificates, and nomination papers of candidates for Federal, State and certain political party offices; certifies the names of such candidates to the county boards of elections for primaries and elections; and issues certificates of nomination and election to successful candidates unless otherwise prescribed by law. The Secretary administers the campaign expense reporting laws and receives reports from county boards of elections on various issues; may demand such additional reports on special matters as he might deem necessary; and prescribes the form and wording of constitutional amendments to be submitted to the electors of the State at large. He is responsible for designing, implementing and administering the Statewide Uniform Registry of Electors (SURE) and for prescribing regulations related thereto.

Until the passage of the National Voter Registration Act of 1993 (NVRA) and the corresponding Pennsylvania Voter Registration Act (PVRA) in 1995, the Department’s role in elections was largely ministerial, and it had little authority – except through policy direction and assistance – over the county boards of elections and registration commissions. With the passage of various election reform legislation over the last decade, including the NVRA; the PVRA; Act No. 2002-3 (codifying the PVRA and establishing the Statewide Uniform Registry of Electors); and the Help America Vote Act of 2002 and the corresponding Pennsylvania law, Act No. 2002-150, the clear trend in Pennsylvania has been toward granting the Secretary more authority over election administration in the Commonwealth.

In addition, the decision of the U.S. Supreme Court in *Bush v. Gore*, 531 U.S. 98 (2000), where the Court held that elections must be administered by the States in a uniform manner consistent with the rights of voters under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, has compelled the Secretary of the Commonwealth to



assert more direct policy direction and control in an effort to assure that the Commonwealth's elections for offices and ballot questions that cross county lines are conducted consistent with the requirements of equal protection.

*The County Level:* Under the Pennsylvania Election Code, the county commissioners or other officers who perform the duties of the county commissioners serve as the county board of elections and the voter registration commission. In most counties, there are three county commissioners elected to four-year terms. Because a voter may vote for only two candidates, elected minority party representation is virtually assured. In home rule counties, the county board and voter registration commission are established under the home rule charter. Home rule counties also provide for minority party representation. The bulk of the responsibilities for election administration fall primarily on the county officials. They are responsible for accepting the nomination documents of candidates for county and municipal offices, and insuring that ballots are accurately printed and voting systems are programmed correctly. They select and equip polling places; purchase all required voting equipment; issue certificates to watchers; train district election officers; receive results when the polls close; canvass results; and issue official election results to the public.

*The Precinct Level:* In each polling place on Election Day in every precinct in Pennsylvania, an elected judge of election and elected majority and minority inspectors are responsible for insuring that the correct legal procedures are followed at the polling place. These officials are responsible for opening the polls; processing voters; after the polls close, counting ballots both on the voting system used in the precincts and absentee ballots that have been sent to the precinct for tabulation; and certifying and delivering the election results to the county board of elections.

### **THE PENNSYLVANIA GENERAL ASSEMBLY'S RESPONSE TO HAVA**

In December 2002, the Pennsylvania General Assembly enacted Act 2002-150, amending the Pennsylvania Election Code to include several provisions designed to comply with HAVA. These amendments have the effect of making those rules under HAVA applicable to both Federal and State elections in the Commonwealth.

In its parts relative to HAVA, Act 150:

- (1) Delineates requirements for the county boards of election to process provisional ballots.
- (2) Provides for voter identification requirements for those that vote in a precinct for the first time (regardless of the method used to register).
- (3) Specifies procedures to be followed when complaints are received under Title III of HAVA.
- (4) Creates the Voting Systems Development Board to establish guidelines for determining what constitutes a vote on voting systems used in the Commonwealth.
- (5) Establishes a State Plan Advisory Board to advise the Secretary of the Commonwealth regarding development of the State Plan.



### **THE STATE PLAN ADVISORY BOARD**

As required by HAVA and Act 150, the Secretary of the Commonwealth on February 27, 2003 convened the State Plan Advisory Board (Board) to advise the Secretary in the development of the State Plan. The Board made its recommendations to the Secretary on May 12, 2003. The Secretary incorporated many of the Board's recommendations into the 2003 State Plan. In addition, the Board reconvened on June 18, 2004, to advise the Secretary regarding amendments to the Commonwealth's State Plan.

### **DEVELOPMENT OF THE PENNSYLVANIA STATE PLAN**

As required by section 255 of HAVA and Act 150, the Secretary of the Commonwealth developed the State Plan of the Commonwealth of Pennsylvania through the State Plan Advisory Board. It is the objective of the State Plan to modernize Pennsylvania's voting systems, guarantee that all registered electors have the opportunity to vote, and ensure that voting systems provide equal opportunities and are easy to use. The State Plan has been written with the goal of ensuring that the citizens of the Commonwealth are provided the most fair and equitable election system possible.

A Preliminary State Plan was completed on June 28, 2003, and made available for public inspection and comment for a period of 30 days,<sup>5</sup> as required by section 256 of HAVA.<sup>6</sup> During the 30-day period, the Secretary of the Commonwealth held public hearings on July 7, 2003, in Reading, Berks County, for the central region of Pennsylvania; in Pittsburgh, Allegheny County, on July 9, 2003, for the western region of Pennsylvania; and in Philadelphia on July 14, 2003, for the eastern part of the Commonwealth. Witnesses included representatives of various disability and alternative language advocacy groups; county election directors; and representatives of citizen action groups, including Common Cause/Pennsylvania and the Pennsylvania League of Women Voters. A complete list of witnesses is included in the State Plan as Appendix A. In addition, Secretary Cortés met with various advocacy groups on July 17, 2003 to discuss their participation in implementation of the Pennsylvania State Plan. This meeting included representatives from Common Cause of Pennsylvania, the Leadership Council on Civil Rights, the Disabilities Law Project, the United Cerebral Palsy Association, the League of Women Voters, the American Civil Liberties Union, and others.

Witnesses who presented testimony at the hearings were concerned about various issues, including increased accessibility for polling places; the lack of information relative to accessibility standards for polling places; time frames specified in the plan for conducting voter education; criticism of using direct recording electronic voting systems without a "voter verifiable ballot"; increased access for alternative language voters; the availability of voter education materials in alternative languages; and increased participation by advocacy groups in the development of programs and information to be distributed under HAVA.

As required by HAVA, the Commonwealth considered and took into consideration all public comments before submitting the State Plan to the EAC. The Commonwealth incorporated into the State Plan many of the concerns expressed in the hearings and received in writing. Copies of testimony and written submissions are available by contacting the Department of State



through the Secretary of the Commonwealth, Room 302, North Office Building, Harrisburg, PA 17120.

### **AMENDMENTS TO THE STATE PLAN**

As required by HAVA and Act 150, the Secretary of the Commonwealth developed the 2004 amendments to the State Plan in consultation with the Board. The Board was convened June 18, 2004, in Harrisburg to discuss the necessary updates of the State Plan. It is the objective of the State Plan, as amended, to provide an update of Pennsylvania's progress regarding the plans and goals described in the State Plan adopted in 2003; to inform the EAC and the public of the Commonwealth's accomplishments during the 2003-04 fiscal year; and to describe the Commonwealth's plans to continue its efforts to modernize Pennsylvania's voting systems, guarantee all registered electors the opportunity to vote, and ensure that voting systems provide equal opportunities and are easy to use. The State Plan, as revised, has been written with the goal of ensuring that the citizens of the Commonwealth are provided the most fair and equitable election system possible, and summarizes material changes. Although the 2004 amendments to the State Plan are contained in the body of the text, including Elements 6, 8, 10, and 12, the 2005 amendments and subsequent amendments will be made only in Elements 6, 8, 10, and 12.

State Plan Element 12 contains a description of the Commonwealth's progress regarding the implementation of the State Plan as adopted in 2003.

### **IMPLEMENTATION OF HAVA REQUIREMENTS**

As it continues to work to implement the State Plan and the requirements of HAVA, the Department is committed to working closely with county administrators and stakeholders, including the various advocacy groups for individuals with disabilities, college and high school students, alternative language voters, senior citizens, and non-partisan organizations. Specifically, the Department plans to involve county officials and interested individuals, groups and organizations in activities such as the determination of polling place accessibility; the assessment of voting system accessibility; the development of voter education programs and materials; the development of poll worker training; the design of provisional ballots; and the development of websites and polling place information.

The goals and principles of the entire effort of the Commonwealth reflected in the State Plan, as amended, are based on the concept that all voters are entitled to the right of full participation in the election process and to cast their votes independently and privately. To this end, the Commonwealth remains committed to involving in the planning process both stakeholders and election administrators. Education programs will be targeted at all citizens in all of the communities of the Commonwealth. Election officials will receive training in all aspects of election administration, including voting accessibility and procedures for accommodating the needs of all voters.

Those groups and citizens who expressed concerns about the involvement of the public in implementing HAVA in the Commonwealth of Pennsylvania can be confident in the promise that the public will continue to have a prominent role in both the planning and execution of the State Plan, as well as in the ongoing evaluation and assessment of Pennsylvania's compliance



with HAVA and the achievement of the Commonwealth's goal to guarantee that all voters of Pennsylvania have the opportunity to participate fully in the election process and to cast their votes independently and privately.



## ELEMENTS OF THE STATE PLAN

### **STATE PLAN ELEMENT 1**

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

*HAVA Section 254(a)(1) (42 U.S.C. § 15404(a)(1))*

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The requirements imposed upon the States by Title III of HAVA are “minimum requirements.”<sup>7</sup> HAVA permits States to establish election technology and administration requirements that are stricter than the requirements established by Title III, so long as they are not inconsistent with Federal requirements.<sup>8</sup> In addition, the specific choices on the methods of complying with the requirements of Title III are “left to the discretion of the State.”<sup>9</sup>

The requirements mandated by Title III of HAVA are divided into three sections – section 301 (relating to voting system standards); section 302 (relating to provisional voting and voting information requirements); and section 303 (relating to computerized statewide voter registration list requirements and requirements for voters who register by mail). Within each of those sections of Title III are various subsections. For purposes of organizational clarity, this State Plan addressing Element 1 follows the organization of Title III.

### **VOTING SYSTEMS STANDARDS (HAVA § 301)**

Section 301(d) of HAVA requires, no later than January 1, 2006, that all voting systems used in elections for Federal office meet certain requirements delineated below.

- Each voting system used in a Federal election on or after January 1, 2006, must (1) permit the voter to verify privately and independently the votes selected before casting a ballot and to privately and independently be able to change or correct a ballot before it is cast (including receiving a replacement ballot); (2) notify the voter of an over-vote (casting votes for more candidates than allowed); (3) notify the voter of the effect of over-voting, *i.e.*, the vote for that office will not be counted; and (4) provide the voter with the opportunity to correct the ballot, if he or she has overvoted. These requirements mandate that a county using a paper based electronic voting system must use precinct tabulators instead of central count tabulators, thus precluding the use of paper-based central count electronic voting systems (except as noted below).
- Counties may continue to use central count paper-based voting systems, including the paper-based absentee balloting systems (that all counties currently use), if the system is designed to preserve voter confidentiality and the Commonwealth or its counties develop and deploy voting-system specific voter education programs that inform voters of the effect of over voting and instruct voters on how to correct a ballot before it is cast (including instructions on obtaining a replacement ballot).



- All voting systems must meet all requirements of alternative language access of section 203 of the Voting Rights Act of 1965 (42 U.S.C. § 1973aa-1a) and other provisions of the Voting Rights Act to the extent applicable.
- Voting systems must be accessible to voters with disabilities, including voters with visual impairment, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. According to HAVA, this requirement is met by providing at least one direct recording electronic (DRE) voting unit, or other voting system equipped for individuals with disabilities at each polling place.
- All voting systems must (1) produce a permanent paper record with a manual audit capacity (the paper record produced must be available as an official record for purposes of a recount); (2) allow the voter to correct any error before the permanent paper record is produced; and (3) meet FEC guidelines (§ 3.2.1) for voting system error rates (errors attributable *only* to system errors, and not an act of the voter) that are in effect at the time of HAVA’s enactment (October 29, 2002).

Finally, HAVA requires that each State adopt “uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.”<sup>10</sup>

### **PENNSYLVANIA’S VOTING SYSTEMS AND ACTIONS PLANNED BY THE COMMONWEALTH TO COMPLY WITH SECTION 301 OF HAVA**

*Summary:* Pennsylvania utilized three types of voting methods in the November 2000 election (the base year that HAVA establishes). Of the 9,418 precincts existing in Pennsylvania in November 2000, 0.7% used paper ballots; 65.2% used lever voting machines; and 34% used electronic voting systems. The electronic voting systems used in Pennsylvania include punch cards, optical scan systems and direct recording electronic (DRE) devices. *See* Appendix B for a breakdown of voting methods used in Pennsylvania at the November 2000 Election.

#### *Commonwealth’s Planned Actions:*

- Unless the General Assembly of Pennsylvania should enact laws otherwise providing, the Commonwealth plans to leave decisions regarding the replacement or upgrading of voting systems to the prerogative of the governing authorities of the Commonwealth’s 67 counties – provided, of course, that those decisions are consistent with the requirements of Federal and Pennsylvania law.
- The Commonwealth plans to recommend to the governing authorities of counties that they procure a single HAVA compliant precinct count electronic voting system that can be used by all voters, including individuals with disabilities, that provides full compliance with the voting system requirements of Federal and State laws. Pennsylvania plans to enter into one or more State contracts with various precinct count electronic voting



system vendors by which counties might purchase HAVA compliant devices at a lower cost than individual counties would likely incur in purchasing from vendors directly.

- The Commonwealth plans to structure its funding programs and decisions in a manner that encourages county authorities to purchase the same type of single HAVA compliant precinct count electronic voting system that can be used by all voters, including individuals with disabilities. See Element 6 for more information on voting system funding.
- The Commonwealth plans to encourage counties that decide to use an optical scan or punch card electronic voting system to procure precinct scanners, rather than opting for central count systems with a voter education program as HAVA permits.

The Department heard testimony at public hearings before the publication of the 2003 State Plan supporting the use of DRE machines only if they include “voter verifiable ballots,” which allegedly provide a paper record of how the voter has voted. The paper ballot produced by the DRE would be deposited into a ballot box upon registering a vote on the DRE and before leaving the voting booth. It is the opinion of the Department of State that current Pennsylvania law does not address the use of such a ballot. Therefore, unless the EAC or other competent authority should interpret HAVA to require a “voter verifiable ballot,” or the Legislature should amend the Pennsylvania Election Code to require one, the Department does not believe it to be within the statutory scheme to permit the use of such a DRE system in Pennsylvania. However, the Department continues to monitor the National debate on the use of electronic voting systems and voter verifiable ballots.

## **Voting Methods Used in Pennsylvania**

### **1. Paper Ballots**

*Summary:* Sixty-six precincts in seven Pennsylvania counties used traditional paper ballots in the November 2000 election. HAVA does not mandate the discontinuation of paper ballots, provided that any county choosing to keep paper ballots must implement a voter education program that notifies voters of the effect of over-votes and instructs them how to correct errors. In addition, a county choosing to keep paper ballots is still required to install a disabled-accessible voting system in each polling place for those voters who are unable to vote with a pencil and paper.

*Commonwealth’s Planned Actions:* The Commonwealth plans to provide Federal funds to reimburse those counties using paper ballots that purchase a single HAVA compliant precinct count electronic voting system. Counties that decide to procure an electronic voting system would have to meet the Pennsylvania constitutional requirement that the voters of those counties approve the use of an electronic voting system through referendum.<sup>11</sup>

### **2. Lever Voting Machines**

*Summary:* Sixty-five per cent of the precincts in 26 counties in Pennsylvania used lever voting machines at the November 2000 election. (See Appendix B.) Two of these counties, Mercer and



Philadelphia, have since purchased DRE systems (see section 3(c) below). Because HAVA requires that all voting systems have a manual audit capacity, the 24 counties now using lever machines must replace them. There were 4,362 qualifying precincts in the 24 counties that used lever machines in November of 2000 and 1,781 qualifying precincts in Mercer and Philadelphia Counties.

*Commonwealth's Planned Action:* The Commonwealth plans to encourage the 24 counties that currently use a lever machine voting system to replace that system with a single HAVA compliant precinct count electronic voting system that can be used by all voters including individuals with disabilities instead of choosing other options. However, the Commonwealth plans to offer partial Federal funding to counties choosing other options, as stated elsewhere in this section. Regardless of the system that a county might choose to replace its lever voting system, the Commonwealth plans to distribute the appropriate amount of funds received under section 102 of HAVA from the General Services Administration to these counties when they replace their lever machines.

### **3. Electronic Voting Systems**

#### ***a. Punch Card Electronic Voting Systems***

*Summary:* Eleven counties in Pennsylvania used punch cards in 1,030 precincts in the November 2000 election. Although HAVA makes funding available to counties to replace punch card electronic systems, it does not mandate the discontinuation of punch card electronic systems, provided that any county choosing to keep such a system either install a precinct tabulator at each polling place or implement a voter education program specific to punch card voting that notifies voters of the effect of over-votes and instructs them how to correct errors. In addition, a county choosing to keep a punch card electronic system has to install a disabled-accessible voting system in each polling place for those voters who are unable to vote with punch card ballots.

*Commonwealth's Planned Action:* The Commonwealth plans to encourage those counties using central count punch card electronic voting systems to purchase a single HAVA compliant precinct count electronic voting system, instead of moving to tabulation of punch cards in the precincts without using the same system for all voters or an educational program (see above) or by purchasing another paper based system (optical scan). However, the Commonwealth plans to offer partial Federal funding to counties choosing other options, as stated elsewhere in this section. Regardless of the system a county should choose, the Commonwealth plans to distribute to those counties that replace their punch card voting systems the appropriate amount of funds as prescribed by section 102 of HAVA.

#### ***b. Optical Scan Electronic Voting Systems***

*Summary:* Of the 24 Pennsylvania counties using optical scan voting systems in 1,257 precincts in November 2000, 23 used the central-count method of tabulating ballots. Only Columbia County uses a precinct-count optical scan voting system. As with paper ballots and punch card electronic voting systems, HAVA does not mandate the discontinuation of optical scan voting systems, provided a disabled-accessible voting system as described in section 301(a)(3) is



available in the polling place for those voters who are unable to vote with optical scan ballots. Jurisdictions that do not wish to replace their optical scan voting systems have two options: (1) they may retain those systems by establishing a voter education program that notifies voters of the effect of over-votes and instructs voters on how to correct errors; or (2) they may place a precinct tabulator in each precinct to alert voters to over-votes and immediately allow them the opportunity to correct the error.

*Commonwealth's Planned Action:* The Commonwealth intends to encourage the 24 Pennsylvania counties that use optical scan electronic systems to procure a single HAVA compliant precinct count electronic voting system, instead of using precinct tabulators without using the same system for all voters or an education program (as described above). However, the Commonwealth plans to offer partial Federal funding to counties choosing other options, as stated elsewhere in this section.

***c. Direct Recording Electronic (DRE)***

*Summary:* Six counties in Pennsylvania used DREs in November 2000. Most (if not all) of these systems will need upgrades for HAVA compliance. In addition, the systems purchased since the November 2000 election by Mercer and Philadelphia Counties will also require upgrades. None of the systems utilized in these counties complies with the disabled accessibility requirements of HAVA. Consequently, the Department of State must review all approved systems to determine whether they have a manual audit capacity and to ensure that they are accessible to individuals with disabilities.

NOTE: The system purchased by Mercer County and also used in Beaver and Greene Counties, was decertified for use in Pennsylvania elections on April 7, 2005. For a further update, please refer to State Plan Element 12.

*Commonwealth's Planned Action:* To assist those six counties that were using DREs in the November 2000 General Election (Dauphin, Berks, Greene, Beaver, Montgomery, and Potter) in upgrading their DREs to comply with the requirements of HAVA, the Commonwealth plans to make up to \$3,000.00 per precinct available to such counties. See Element 6 for more information on the funding for DRE upgrades.

**4. Absentee Balloting Systems**

*Summary:* In Pennsylvania, all absentee ballots are cast on paper, punch card, or optical scan ballots – depending on the type of voting system used in the county. Because these absentee voting methods fall within the scope of section 301(a)(1)(B) of HAVA,<sup>12</sup> all counties of the Commonwealth will be required to implement an educational program for absentee voters to inform them of the effect of over-voting and instruct them of the method of correcting errors on their ballots.

*Commonwealth's Planned Action:* The Commonwealth plans to encourage all counties using optical scan electronic voting systems to continue using them for absentee ballots. The Commonwealth plans to assure that an education program consistent with section 301(a)(1)(B) of HAVA is conducted for mail-in absentee ballots.



## **5. Uniform Definition of What Constitutes a Vote**

In December 2002, the General Assembly established within the Department of State the Voting Standards Development Board. Consistent with the mandate of section 301(a)(6) of HAVA,<sup>13</sup> this seven-member board was required to develop uniform and nondiscriminatory standards that define what constitutes a valid vote cast through a paper ballot and what constitutes a valid vote through each type of electronic voting system used in the Commonwealth. The Voting Standards Development Board was required to adopt standards by July 1, 2003.<sup>14</sup> The Voting Standards Development Board met its statutory deadline by adopting standards, and the Department of State published the standards in the *Pennsylvania Bulletin* on August 2, 2003.

With the publication of these standards, Pennsylvania has complied with section 301(a)(6) of HAVA well ahead of the deadline of January 1, 2006. These standards will serve as guidance for all Pennsylvania counties in determining what constitutes a valid vote cast on their voting systems. Under section 204(d) of the Election Code,<sup>15</sup> the Voting Standards Development Board may meet to update the standards as necessary.

## **6. Accessibility of Voting Systems for Electors with Disabilities**

*Summary:* In accordance with section 301(a)(3) of HAVA, all voting systems used in the Commonwealth must be accessible for individuals with disabilities. Since the mid 1980s, all counties under the federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee *et seq.*) have had to ensure that polling places are accessible to those electors who are over the age of 65 or have disabilities or to provide an alternative means of voting. However, that act applies to the parking facilities and the paths to the polling places and does not apply to voting systems. Under section 301(a)(3)(B) of HAVA, all counties will need to insure that each precinct in the county will have at least one DRE or other system that meets this requirement.<sup>16</sup>

*Commonwealth's Planned Action:*

- The Commonwealth plans to use part of its requirements payment to reimburse counties that purchase a single HAVA compliant precinct count electronic voting system for use by individuals with disabilities. Counties purchasing systems other than a single HAVA compliant precinct count electronic voting system would receive partial reimbursement.
- The Commonwealth plans to allow counties to choose to comply with section 301(a)(3) of HAVA through any of the following options: (i) procurement by the county government of a disabled-accessible voting device selected by an agency of the Commonwealth; (ii) procurement by the county government of a county-selected disabled-accessible device; or (iii) upgrading of the existing county voting devices, provided that the electronic voting system is certified by the Department of State.
- Pennsylvania plans to enter into one or more State contracts with various precinct count electronic voting system vendors by which counties might procure HAVA compliant



devices at a lower cost than individual counties would likely incur in purchasing from vendors directly. In doing so, the Commonwealth plans to include county election personnel and disability groups in the review and selection process. The Commonwealth plans to use this collective procurement process to procure (i) the voting device; (ii) programming/tabulation hardware and software; and (iii) county personnel, poll worker, and voter training materials.

## 7. Alternative Language Accessibility

*Summary:* HAVA requires that all voting systems provide alternative language accessibility as provided by section 203 of the Voting Rights Act of 1965 (42 U.S.C § 1973aa-1a). Section 203 applies to those jurisdictions that have a single language minority that is 5% or more of the voting age population residing within the jurisdiction (*i.e.*, county); and the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate, as determined by the Census Bureau. Currently, Philadelphia County is the only jurisdiction in Pennsylvania that is mandated to comply with the requirements of section 203. However, applying other provisions of the Voting Rights Act, including sections 2<sup>17</sup>, 4(e)<sup>18</sup> and 208<sup>19</sup>, the U.S. District Court for the Eastern District of Pennsylvania held that Berks County must provide all election-related materials in English and Spanish in *every precinct* in which the registered number of Hispanic voters constitutes more than five percent of the registered voters, and must have translators available for at least part of the day in many of those precincts. *See United States v. Berks County*, 250 F.Supp.2d 525 (E.D. Pa. 2003).

### *Commonwealth's Planned Action:*

- As a voter education effort, the Commonwealth posted its new PA Votes! Website in Spanish and continues to assist counties in pursuing ways to make ballots, polling place information and notices, and other voter information available in alternative languages, as well as acting as a clearinghouse for information. The Commonwealth plans to assist counties in obtaining the assistance of interpreters, translation services, and voter information printed in alternative languages to assist counties that have precincts in which significant numbers of alternative language minorities are assigned to vote. The Commonwealth continues to work with representatives of alternative language advocacy groups and county representatives to develop these resources. The Commonwealth also plans to make Federal funds available to counties that pursue alternative language accessibility.

## **PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS (HAVA § 302)**

Section 302(a) of HAVA required States to implement provisional voting by January 1, 2004. Under this Congressional mandate, if an individual declares that he or she is a registered voter in the jurisdiction in which the individual desires to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, the individual must be permitted to cast a “provisional ballot.”



To implement the provisional voting requirement, States must:

- (1) Require an election official at the polling place to notify the individual that he/she may cast a provisional ballot.
- (2) Require that the individual be permitted to cast a provisional ballot at the polling place upon the execution of a written affirmation by the individual before an election official at the polling place affirming that the individual is a registered voter in the jurisdiction in which the individual desires to vote and eligible to vote in that election.
- (3) Require an election official at the polling place to transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual to an appropriate State or local election official for prompt verification.
- (4) Provide that if the appropriate election official determines that the individual is eligible under State law to vote, the provisional ballot shall be counted as a vote.
- (5) Require that, at the time that the individual casts a provisional ballot, an election official must give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain whether his/her ballot was counted and, if the ballot was not counted, the reason that it was not counted.
- (6) Require appropriate election officials to establish a free access system that any individual who casts a provisional ballot might access to discover whether the vote was counted and, if the vote was not counted, the reason the vote was not counted.<sup>20</sup>

In addition, section 302(b)(1) of HAVA requires States to assure that election officials cause voting information to be publicly posted at each polling place on the day of each election for Federal office. Mandatory voting information includes:

- (A) A sample version of the ballot that will be used for that election.
- (B) Information regarding the date of the election and the hours during which polling places will be open.
- (C) Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot.
- (D) Instructions for mail-in registrants and first-time voters under § 303(b) of HAVA.
- (E) General information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.



- (F) General information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.<sup>21</sup>

## **1. Provisional Voting in Pennsylvania**

*Summary:* The General Assembly in December 2002 amended the Pennsylvania Election Code to conform Pennsylvania law to section 302 of HAVA. The Legislature amended section 1210 of the Election Code (relating to manner of applying to vote; persons entitled to vote; voter's certificates; entries to be made in district register; numbered lists of voters; challenges) to provide for provisional voting beginning December 9, 2003. Under new section 1210(a.4), "an individual who claims to be properly registered and eligible to vote at the election district but whose name does not appear on the general register and whose registration cannot be determined by the poll workers or county election officials [must be] permitted to cast a provisional ballot."<sup>22</sup> In addition, individuals who cannot produce identification as required by section 1210(a), or who seek to vote pursuant to a judicial order, are permitted to vote only by provisional ballot.<sup>23</sup>

Section 1210(a.4)(2) of the Election Code requires a voter, before casting a provisional ballot, to sign an affidavit that is consistent with the requirement of section 302(a)(2) of HAVA. The affidavit must specify the individual's name, date of birth, address of registration, and a sworn statement that, at the time the individual registered, he resided in the municipality and county in which he registered.<sup>24</sup> A provisional voter also must declare that the provisional ballot he is casting is the only ballot that he is casting in the election, and the judge of elections and the minority inspector in the polling place must sign the affidavit.<sup>25</sup>

Provisional voters must place their ballots in a secrecy envelope and a provisional ballot envelope, the outside of which they must sign.<sup>26</sup> As section 302(a)(5) of HAVA requires, the individual casting the provisional ballot must be informed at the polling place of the free access system established by the Department under section 1210(a.4)(8) of the Election Code that he/she might use after the election to determine whether his/her ballot was counted.

Consistent with section 302(a)(3) of HAVA, provisional ballots must remain sealed in the provisional ballot envelope for return to the county board of elections.<sup>27</sup> The Election Code directs county boards of elections to examine the provisional ballots within seven calendar days<sup>28</sup> after the election for the purpose of determining the provisional voter's eligibility to vote in the election.<sup>29</sup> One authorized representative of each candidate who is an elector in the county must be permitted to remain in the room where the determination is made as to whether to count the provisional ballot.<sup>30</sup>

If the individual casting the provisional ballot is determined to be registered and eligible to vote in the election district where the ballot was cast, the county board of elections must compare the signature on the provisional ballot envelope with the signature on the voter's registration record. If the signatures are determined to be genuine, the ballot will be counted.<sup>31</sup> If the board determines that the individual casting the provisional ballot is not registered, the provisional ballot will not be counted; and the ballot will remain in the provisional ballot envelope and marked rejected as ineligible.<sup>32</sup> If the individual casting the provisional ballot is



determined to be eligible to vote, but not in the election district where the ballot was cast, the county board of elections will open the envelope and count only that portion of the ballot that the individual would have been eligible to vote in his proper election district.<sup>33</sup>

As required by section 302(a)(5)(B) of HAVA,<sup>34</sup> Act 150 requires the Department of State to establish an Internet website and toll-free telephone number to permit provisional voters to determine whether their ballot was counted.<sup>35</sup> If the provisional ballot was not counted, the free access system will provide the voter the reason that the ballot was not counted.<sup>36</sup> Security and confidentiality of the information contained in the free access system must be assured as required by section 302(a) of HAVA, and information about individual provisional ballots will be restricted to the person who cast the ballot.<sup>37</sup>

Finally, Act 150 provides that voters who vote as a result of a Federal or State court order or any order extending the time established for closing of the polls by State law in effect 10 days before the election, may vote only by casting a provisional ballot. These ballots will be separated and held apart from other provisional ballots.<sup>38</sup>

Act 2004-97 enacted in October 2004 amended the provisions of the Election Code that govern provisional voting. For more information regarding Act 2004-97, please refer to State Plan Element 12.

*Commonwealth's Planned Action:*

- The Commonwealth plans to use funds received from GSA under section 101 of HAVA for website development and establishment and operation of the toll-free line required by section 1210(a.4) of the Election Code (added by Act 150).<sup>39</sup>
- The Commonwealth plans to include as part of its Statewide Uniform Registry of Electors (SURE) system an automated and efficient process that would work in conjunction with the website to enable electors who vote by provisional ballot to track the status of their ballot and for the counties to comply with the provisional ballot processing requirements of HAVA.

## **2. Voting Information Requirements**

*Summary:* Section 302(b) of HAVA<sup>40</sup> requires the appropriate State or local official to post in a public place, certain voting information at each polling place on Election Day. This information must include: a sample version of the ballot; information regarding the date of the election and the hours during which polling places will be open; instructions on how to vote, including how to cast a vote and how to cast a provisional ballot; instructions for mail-in registrants and first-time voters under section 303(b) of HAVA<sup>41</sup>; general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.



The Pennsylvania Election Code provides specifically for the public posting of some of the voting information mandated by section 302(b) of HAVA. However, section 1202 of the Election Code explicitly requires county boards of elections to prepare “full instructions for the guidance of electors ... to be printed in large clear type on separate cards to be called cards of instruction.”<sup>42</sup> These cards of instruction and notices of penalties are required by the Election Code to be “posted in each voting compartment, and not less than three such cards and notices of penalties, and not less than five specimen ballots..., [must] be ... posted in or about the voting room outside the enclosed space.”<sup>43</sup> In addition, the law requires local elections officials to give available cards of instruction, notices of penalties and specimen ballots to any elector who might request one.<sup>44</sup>

The cards of instruction that Pennsylvania law requires to be posted in the polling places may include within them, or separately in similar large clear type, such other information that might be “deem[ed] advisable.”<sup>45</sup> In the judgment of the Secretary of the Commonwealth, sections 1202 and 1209(a) of the Election Code effectively command the county boards of elections to require public posting in their polling places of *all* of the voting information mandated by section 302(b) of HAVA. In other words, where Federal law requires the public posting of particular information in the polling places on Election Day, it is “deemed advisable” as a matter of Pennsylvania law that the mandated postings be made by the county boards of elections and the local boards of elections.

*Commonwealth’s Planned Action:*

- The Commonwealth, with its 67 counties, will continue to follow the dictates of section 1210 of the Election Code as amended by Act 2002–150, which fully implement HAVA requirements.
- The Commonwealth replenished the posting described above to counties as necessary for the November 2, 2004 General Election. The Commonwealth plans on reproducing a smaller version of the poster for future elections.
- The Commonwealth, through the Department of State and in consultation with county representatives, plans to prescribe the content of a Voting Rights and Penalty Card, including uniform language designated for posting general information on voting rights under applicable Federal and State laws; information on the right of an individual to cast a provisional ballot; instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and general information on Federal and State laws regarding prohibitions on fraud and misrepresentations.

**COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST**  
**REQUIREMENTS (HAVA § 303(a))**

Section 303(a) of HAVA requires States, by January 1, 2004 (or, if a waiver is requested by the State, no later than January 1, 2006), to implement a computerized statewide voter registration list with computerized list maintenance and mandatory verification of voter registration information.<sup>46</sup>



Section 303(a)(1) of HAVA requires each State to implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State.<sup>47</sup> The computerized list must:

- (i) Serve as the single system for storing and managing the official list of registered voters throughout the State.
- (ii) Contain the name and registration information of every legally registered voter in the State.
- (iii) Assign a unique identifier to each legally registered voter in the State.
- (iv) Connect with other agency databases within the State.
- (v) Provide access to any election official in the State, including any local election official, in order to obtain immediate electronic access to the information contained in the computerized list.
- (vi) Allow voter registration information obtained by any local election official in the State to be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.
- (vii) Provide such support as may be required so that local election officials are able to enter information as described in clause (vi).
- (viii) Serve as the official voter registration list for the conduct of all elections for Federal office in the State.<sup>48</sup>

Section 303(a)(2)(A) of HAVA requires that elections officials perform maintenance on the computerized list on a regular basis.<sup>49</sup> The list maintenance must be conducted in a manner that ensures that “(i) the name of each registered voter appears in the computerized list; (ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and (iii) duplicate names are removed from the computerized list.”<sup>50</sup>

Removal of voters from the computerized list must be accomplished in accordance with the National Voter Registration Act of 1993 (NVRA), 42 U.S.C. § 1973gg *et seq.*<sup>51</sup> In removing names from the computerized list by reason of death, HAVA requires Pennsylvania to coordinate the computerized list with the Department of Health.<sup>52</sup> In addition, HAVA requires that election officials provide adequate technological security measures to prevent the unauthorized access to the computerized list.<sup>53</sup>

HAVA mandates that State election systems include provisions to ensure that voter registration records in the State are accurate and are updated regularly.<sup>54</sup> States must have a system of file maintenance that makes a reasonable effort to remove registrants who are



ineligible to vote from the official list of eligible voters that is consistent with the NVRA,<sup>55</sup> and includes safeguards to ensure that eligible voters are not removed in error from the official list by reason of a failure to vote.<sup>56</sup>

In addition, to assure that voter registration information is accurate before a name is added to the computerized registration list, section 303(a)(5)(A)(i) of HAVA requires that an application for voter registration for an election for Federal office not be accepted or processed by a State unless the application includes the applicant's driver's license number or, if the applicant is not a licensed driver, the last four digits of the applicant's Social Security number.<sup>57</sup> It is the responsibility of the State to determine whether the information provided by an individual is sufficient to meet the requirements of the law.<sup>58</sup>

To further assure that voter registration information is accurate, HAVA requires the State's chief State election official and the official responsible for the State motor vehicle authority to enter into an agreement to match information in the database to the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable the State officials to verify the accuracy of the information provided on applications for voter registration.<sup>59</sup>

## **Pennsylvania Law**

### *Computerized Statewide Voter Registration List*

*Summary:* On January 31, 2002, the Governor signed Act 3 into law. Act 3, which added chapters to Title 25 of the Pennsylvania Consolidated Statutes, establishes in Pennsylvania the Statewide Uniform Registry of Electors (SURE) -- a statewide voter registration system.<sup>60</sup> Act 3 provides for the design, development and implementation of the SURE system by the Department of State and the administration of the system by the Secretary of Commonwealth, the chief election official of Pennsylvania.<sup>61</sup> However, under Act 3, the county registration commissions continue to maintain their voter registration records and have sole authority for adding, modifying or deleting records.<sup>62</sup> Pursuant to HAVA, the Department must implement the SURE system no later than January 1, 2006.

Prior to Act 3, voter registration administration was largely within the purview of county registration commissions elected by the voters of individual counties or appointed by other county officials or the courts. Each of Pennsylvania's 67 counties administered its own voter registration records, and county officials had virtually no means to crosscheck these records with the records of other counties.

With the passage of the NVRA and the PVRA, there were vastly expanded opportunities for citizens to apply for voter registration. The NVRA also mandated detailed requirements for voter registration administration and provided the counties with substantially more accurate and timely information, confirmed by other government agencies, regarding the relocation of voters. This substantial increase in information, and the mandate to use the information to maintain the accuracy and currency of the voter files, placed a burden on managing the increased file maintenance workloads on the county registration commissions.



Despite county advances made in response to the NVRA and the PVRA, requirements for transfers of paper documents between the counties and between State agencies and the counties, combined with the legislative interest in providing a method to discover duplicate registration records, created an interest in a statewide voter registry. Based on the findings of studies conducted by the Department from 1995-2001, the Legislature enacted the Statewide Uniform Registry of Electors (SURE) system in January 2002.

*i. Computerized List Maintenance*

*Summary:* Like HAVA, Act 3 requires elections officials to perform maintenance on the computerized list on a regular basis. Section 1203(l) requires that a voter registration commission promptly update information contained in its registration records.<sup>63</sup> The same requirement for prompt updates of information in the SURE system by county commissions is contained in numerous provisions of Title 25.<sup>64</sup> All updates must be performed in accordance with the NVRA.<sup>65</sup>

Section 303(a)(2)(A)(ii)(I) of HAVA requires that, for the purpose of removing names of ineligible voters from the official list, the statewide registry must coordinate with the computerized list with State agency records on felony status.<sup>66</sup> However, under a final decree of the Commonwealth Court of Pennsylvania entered May 14, 2002 (as revised) in *Lorenzo M. Mixon, et al. v. Commonwealth of Pa., et al.*, No. 384 M.D. 1999, citizens of the Commonwealth who have been convicted of a felony may be registered to vote in the Commonwealth and may vote after they have been released from prison. Moreover, there is no provision of Pennsylvania law that requires a registration commission to cancel the voter registration of a registered voter convicted of a felony. Because Pennsylvania neither provides for the removal of voters from the voter registration rolls based on a felony conviction nor prohibits a convicted felon who has been released from prison to register to vote, section 303(a)(2)(A)(ii)(I) of HAVA currently has no application to Pennsylvania.

Both Act 3 and HAVA require that the statewide registration list be administered in coordination with the computerized list maintained by the Department of Health.<sup>67</sup> This requirement will be accomplished by connecting the Department of Health with the SURE system.

*ii. Technological Security of Computerized Lists*

*Summary:* Section 303(a)(3) of HAVA provides that the appropriate State or local official must assure adequate technological security measures for the statewide registration system. Section 1222(c)(2) of Title 25 requires the SURE system to ensure the integrity and accuracy of all registration records in the system by prohibiting unauthorized entry, modification or deletion of registration records.<sup>68</sup>

*iii. Verification of Voter Registration Information*

*Summary:* Pennsylvania's Voter Registration Mail Application Form, which appears on the Department's website at [www.pavotes.state.pa.us](http://www.pavotes.state.pa.us), meets the requirements of section 303(a)(5) of HAVA requiring a driver's license number or the last four digits of the applicant's Social



Security number. If the applicant does not have either number, the instructions on the Pennsylvania VRMA form require the applicant to mark “None” in the space for the last four digits of a Social Security number. If an applicant notes on the form that he does not have either of these numbers, the SURE system must assign a unique identification number to the voter, as HAVA requires.<sup>69</sup>

Because HAVA also requires the sharing of information among State databases for the purposes of verifying the identifying numbers submitted by an applicant, the Department of State plans to enter into an agreement with the Department of Transportation to permit the verification of driver’s license numbers and the last four digits of applicants’ Social Security numbers. To permit the verification of partial Social Security numbers for those applicants that provide this number instead of a driver’s license number, the Department of Transportation is required by sections 303(a)(5)(B)(ii) and (C) of HAVA to enter into an agreement with the Social Security Administration. Once this capability is in place, county voter registration officials should be permitted to submit identifying numbers through the SURE system to the Department of Transportation for verification of their validity.

### **REQUIREMENTS FOR VOTERS** **WHO REGISTER BY MAIL (HAVA §303(b))**

Section 303(b) of HAVA requires states to implement certain procedures for voters who register by mail no later than January 1, 2004. Section 303(b)(1) of HAVA requires States, in a uniform and nondiscriminatory manner, to require an individual to meet several requirements if he (i) registered by mail; and (ii) has not previously voted in an election for Federal office in the State, or has not previously voted in a Federal election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with section 303(a) of HAVA. Subject to the exceptions described in the next paragraph, for those individuals who vote in person, the voter must present to the appropriate election official a current and valid photo identification, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.<sup>70</sup> For those who vote by mail – again, with the exceptions described below – the voter must submit the same information with his ballot.<sup>71</sup> Those individuals who are not able to produce required identification are entitled to cast a provisional ballot.<sup>72</sup> These provisions are effective January 1, 2004.

First-time mail registration voters will *not* be required to present identification on Election Day or with their absentee ballots *if* – beginning with registrations submitted on or after January 1, 2003 – (a) the registrant submits the required identification with his registration; or (b) the registrant submits with his registration either a driver’s license number or at least the last four digits of his or her Social Security number, and an election official is able to match the information submitted with an existing State identification record bearing the same number, name and date of birth as provided in the registration.<sup>73</sup> In addition, voters who are (i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff-1 *et seq.*); (ii) provided the right to vote by alternative ballot under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee-1(b)(2)(B)(ii)); or (iii) entitled to vote otherwise than in person under any other Federal law, are not required to satisfy the identification requirements of section 303(b) of HAVA.<sup>74</sup>



Section 303(b) of HAVA also prescribed mandatory contents for mail-in registration forms, beginning January 1, 2004. The mail-in registration forms include specific questions asking whether the applicant meets citizenship and age requirements to register to vote and advise the applicant not to complete the form if they answer in the negative.

HAVA requires individuals to be informed that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time.<sup>75</sup> If an applicant for voter registration should fail to answer the questions on the mail voter registration form, the registrar must notify the applicant of the failure and provide him with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office, subject to State law.<sup>76</sup>

### **Pennsylvania Law**

As permitted by section 304 of HAVA,<sup>77</sup> Pennsylvania law imposes voter identification requirements that *exceed* the mandate of Federal law. While HAVA requires identification only for certain first-time voters in a jurisdiction who register by mail, the Pennsylvania General Assembly in Act 150 opted to require *all* voters who appear to vote for the first time *in an election district*, to present to an election officer either a form of photo identification specified by section 1210(a) of the Election Code or, if none is available, a form of non-photo identification specified by section 1210(a.1) of the Election Code. Those first-time voters who are unable to produce proper identification may vote only by provisional ballot.<sup>78</sup>

Under Act 150, a voter can present either a photo identification or non-photo identification. Below is a list of forms of identification expressly permitted by section 1210 of the Election Code, as amended by Act 150:

#### Photo Identification<sup>79</sup>

- A valid driver's license or identification card issued by the Department of Transportation.
- A valid identification card issued by any other agency of the Commonwealth.
- A valid identification card issued by the United States Government.
- A valid United States passport.
- A valid student identification card.
- A valid employee identification card.
- A valid armed forces of the United States identification card.

#### Nonphoto Identification<sup>80</sup>

- Nonphoto identification or other document issued by the Commonwealth or any of its agencies showing the name and address of the voter (including a voter's identification card issued by the voter registration commission at the time of registration).
- Nonphoto identification or other document issued by the United States Government or any of its agencies showing the name and address of the voter.



- A firearm permit showing the name and address of the voter.
- A current utility bill showing the name and address of the voter.
- A current bank statement showing the name and address of the voter.
- A paycheck showing the name and address of the voter.
- A government check showing the name and address of the voter.

Section 303(b)(2)(A) of HAVA<sup>81</sup> lists forms of identification similar to those listed in Act 150. Although HAVA does not delineate examples of the “current and valid photo identification,” it is the opinion of the Department that all of the types of photo identification included in Act 150 qualify. Likewise, the following items of nonphoto identification are included in both Act 150 and HAVA: “current utility bill, bank statement, government check, and paycheck.” Furthermore, sections 303(b)(2)(A)(i)(II) & (ii)(II) of HAVA generally allow as a proper form of identification any “government document that shows the name and address of the voter.”<sup>82</sup> This provision of HAVA is almost identical to section 1210(a.1) of the Election Code, which requires election officials to accept a “nonphoto identification issued by the Commonwealth or any agency thereof,” or a “nonphoto identification issued by the United States Government or agency thereof.” For these reasons, the Department has interpreted HAVA and Act 150 to include a voter registration card issued by the voter registration commission.

The deadline for implementation of section 303(b) with respect to individuals who register to vote was January 1, 2003. By that date, mail-in applicants for voter registration were to be offered the opportunity to avoid HAVA’s Election Day voter identification requirement for first-time mail-registration voters by providing proper identification to voter registration officials with their voter registration applications. However, Pennsylvania law – beginning December 9, 2003 – has required *all* Pennsylvania electors who registered to vote on or after January 1, 2003 and who are voting in person for the first time in an election district to produce identification when they vote, irrespective of how they registered to vote. Consequently, the option prescribed by HAVA for mail-in registrants to avoid HAVA’s Election Day identification requirement (which were not in force until January 1, 2004) has no application for Pennsylvania voters who vote in person.

In addition to the exemptions noted previously at section 303(b)(3)(C) of HAVA,<sup>83</sup> there are additional exceptions related to the identification requirements in Act 150. Because Act 150 requires identification only of a voter who “appears to vote” in an election district for the first time, Pennsylvania’s strict identification requirements do not apply to first-time voters who vote through the alternative ballot or other Federal law alternatives that are exempted from the first-time voter identification requirements of HAVA. Consequently, consistent with HAVA, those voters are *not* required by Pennsylvania law to produce identification when they vote for the first time in an election district.

Finally, sections 303(b)(3)(A) and (B) of HAVA<sup>84</sup> do apply to first-time Pennsylvania voters who vote by absentee ballot. This is so because Act 150 does *not* require voters who vote for the first time in an election district by absentee ballot under *Pennsylvania* law to provide identification with their absentee ballots. By contrast, HAVA *does* require that a voter who registered by mail and who seeks to vote *in a county*<sup>85</sup> for the first time by means of an absentee ballot, to provide proper identification with his ballot, unless the voter has submitted proper identification or identifying information with his mail-in voter registration. Because



Pennsylvania law is silent regarding first-time voters who do not appear in person, Pennsylvania election officials must follow section 303(b)(2)(A)(ii) of HAVA<sup>86</sup> for those voters. Under HAVA, an absentee voter who has registered by mail, is voting for a Federal office, and is voting for the first time in the county, must be required to submit a proper form of identification with his or her ballot. If an absentee voter does not include such identification with his or her ballot, the ballot must be treated as a provisional ballot and handled according to Pennsylvania law. However, absentee voters who have submitted acceptable identification or a valid driver's license or partial Social Security number with their voter registration application would be exempt from this requirement.<sup>87</sup>

Section 303(b)(4)(A)(iv) of HAVA requires that a mail registration form include a statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, identification information must be submitted with the mail-in registration form in order to *avoid* the additional identification requirements upon voting for the first time.<sup>88</sup> However, voters in Pennsylvania who are voting in person for the first time at an election district cannot avoid the requirement imposed by Act 150 to produce identification at the polling place by providing identification with their voter registration application. Consequently, section 303(b)(4)(A)(iv) of HAVA is largely irrelevant to Pennsylvania voters.

*Commonwealth's Planned Action:*

The Commonwealth and its 67 counties plan to follow the dictates of section 1210 of the Election Code, which comports fully with the requirements of HAVA.

The Department of State is currently developing a system to identify first time voters on the district registers produced through the SURE system to assist counties and district election officials by the November 2004 General Election. Through this system, the Commonwealth will strive to assure that only first-time voters are required to produce identification on Election Day or with their absentee ballots.

*Contents of Mail-In Registration Form*

Section 303(b)(4) of HAVA specifies new requirements for the contents of mail-in registration forms.<sup>89</sup> Section 1327(a)(1) of Title 25 requires the Secretary of the Commonwealth to prescribe the form of an official voter registration application for use in the Commonwealth and lists mandatory information that must be included on the official application. In addition, under section 1327(a)(2) of Title 25, the data required on the voter registration application may be neither more nor less than the minimum data elements permissible for Federal voter registration. Because HAVA changed the contents of the form for Federal voter registration, Pennsylvania adjusted the contents of its forms in its regulations to be consistent with HAVA. The new forms were posted on the Department of State's website in January 2003, and revised forms have been printed for distribution across the Commonwealth.

Section 183.1 of the Department of State's regulations governing the SURE system<sup>90</sup> specifies the contents of Pennsylvania's voter registration mail application (VRMA) form. These requirements mandate that specific questions related to the applicants citizenship and



age be included on the VRMA, in compliance with section 303(b)(4) of HAVA.<sup>91</sup> Section 183.1 also mandates the inclusion of the registration declarations required by section 303(b)(4)(A) of HAVA.<sup>92</sup>



**STATE PLAN ELEMENT 2**

*How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in State Plan Element 1, including a description of:*

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

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

*HAVA Section 254(a)(2) (42 U.S.C. § 15404(a)(2)).*

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Section 254(a)(2) of HAVA requires the Commonwealth to describe in its State Plan how it plans to distribute the requirements payments that it receives under Title II of HAVA to units of local government and other entities in the State for the purpose of meeting the requirements of Title III and, if permissible, other activities to improve the administration of elections. The provision also requires the Commonwealth to describe the criteria that it plans to use to determine the eligibility of the units of local government and other entities in the Commonwealth; and the methods it plans to use to monitor the funds that it distributes consistent with the performance goals and measures it intends to use to determine success in carrying out its plan.<sup>93</sup>

The Commonwealth's goal is not only to bring each of its counties into compliance with HAVA, but also to allow them the opportunity to utilize their creativity to expand election administration improvements beyond HAVA. With limited funding available and anticipating many worthwhile projects, the Commonwealth is committed to distributing money from the requirements payment using the most equitable and cost-effective methods.

To the extent authorized by Federal law, the Commonwealth plans to agree that Federal funding allocated to a county by the Commonwealth would remain reserved for use by that county until (a) the county had completed its programs in accordance with its county plans and agreements; and (b) both the Secretary of the Commonwealth and the county board of elections have agreed that the county is in full compliance with HAVA's requirements.

When counties request funding to purchase new voting systems or upgrade existing voting systems, the Commonwealth plans to require them to substantiate the number of individual voting units purchased and to provide detailed information to the Secretary of the Commonwealth regarding planned county and/or vendor-conducted "how to vote" education programs for electors. The Commonwealth plans to require counties to determine the illustrative



methods they will use, such as press releases; public service announcements; “how to vote” pamphlets; placement on county websites; newspaper advertisements; public demonstrations; and voting demonstrations at meetings of political, civic, community, senior citizen, and disability groups.

The Commonwealth plans to require counties to provide information to the Secretary of the Commonwealth regarding vendor-conducted election staff training on operation and maintenance of the selected voting system and planned on-site vendor support for the first two elections the system is used.

### **COUNTY PLANS**

The Commonwealth believes that it is important for the counties to play a major role in determining what measures they believe will bring the county into full compliance with HAVA and provide the best resources for its voters. To do this in a meaningful manner, the Commonwealth believes that each county will need to set forth its ideas and plans in a written format, or “County Plan,” that would provide details regarding the projects the county would implement using funds from the requirements payment and what non-monetary resources the county would commit to the projects. One element of the county plans is a description of how the county intends to maintain its current level of county funding of election administration activities. HAVA requires that States maintain the level of election administration funding used in November 2000. Section 254(a)(7) of HAVA makes it clear that the requirements payments are not intended to supplant current State funding of election administration activities. By the same token, the Commonwealth does not intend to use HAVA funding to supplant county funding of election administration.

### **COUNTY AGREEMENTS**

Before any disbursement of funds, the Commonwealth plans to require the counties to request funding to enter into an agreement with the Department of State, establishing a contractual relationship. The county agreement would set forth:

- The amount of funding the Commonwealth is providing from the requirements payment.
- The project for which that funding is provided.
- The amount of the county contribution, if any.
- The project schedule and timeline.
- The schedule of disbursement for the funding.
- County reporting requirements regarding the expenditure of the funds;
- An audit provision to ensure that the Commonwealth is able to completely account for all funding provided to the county.
- The penalties incurred by the county for non-compliance with the agreement.

Through the county agreements with the Department, the Commonwealth requires counties to procure services, supplies, or technology in accordance with laws and policies governing county procurement, including competitive bidding requirements. It is the goal of the Commonwealth that any procurement contracts that expend Federal money be awarded through a



process that is fair and open to all qualified vendors. The Commonwealth anticipates that a County Plan would be a part of a County Agreement.

By requiring county agreements, the Commonwealth hopes to minimize miscommunication with the counties as to what will be required of both parties in utilizing the Federal funding. Understanding the basic nature of this type of initiative, the Commonwealth expects that the county agreements would contain a mechanism to modify the agreement to address various issues that may arise. Additionally, the Commonwealth wishes to ensure that the counties are working toward full compliance with the mandates of HAVA. Through the county agreements, the Commonwealth intends to set forth the consequences to the counties should they fail to use and account for the funds in accordance with HAVA and the County Agreement.

The Commonwealth plans to use the county plans as a means to determine a county's compliance with HAVA including a verification process for such things as polling place accessibility and voting systems procurement. The Commonwealth anticipates that the Department would prescribe the format of the county's report detailing the specific items for which funding might be available and the potential actions a county might take to qualify for funding, as well as required HAVA and Act 150 mandates. In addition, the Department plans to provide training to counties to assist them in completion of the county plan.

#### **OTHER PLANS RELATING TO DISTRIBUTION AND MONITORING OF FUNDING**

Should Federal funds be available, the Commonwealth also intends to consider funding to other entities (*e.g.*, "Kid Vote," mock elections, League of Women Voters, *etc.*) that request funding. These entities would be required to enter into an agreement with the Department of State similar to those with the counties. The Secretary of the Commonwealth would determine the amount available to such entities.

All funding to be distributed to counties and other entities would be deposited in accounts and maintained by the Treasury Department and distributed to the recipient consistent with the policies and procedures established by the Commonwealth's Office of the Budget and Treasury Department.



**STATE PLAN ELEMENT 3**

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

*HAVA Section 254(a)(3) (42 U.S.C. §15404(a)(3)).*

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Section 254(a)(3) of HAVA requires the Commonwealth to describe in its State Plan how it will provide for voter education, election official education and training, and poll worker training that will assist the Commonwealth in meeting the requirements of Title III.

Because many counties will be purchasing new voting systems over the next several years, the Commonwealth and its county boards of elections must ensure that voters fully understand how to vote on these new systems well in advance of Election Day.

In addition, the General Assembly explicitly recognized the need for well-trained and educated county election officials when it passed Act 150 of 2002 in December. Act 150 gives the Secretary of the Commonwealth the authority to develop a voluntary professional certification and poll worker-training program for county election officials.<sup>94</sup>

**VOTER EDUCATION**

The Commonwealth believes that voter education is the solution to eliminating much of the confusion that led to the debacle in Florida during the November 2000 election. Therefore, Pennsylvania, through the Department of State, plans to embark on an extensive education effort using all the tools at its disposal to educate its voters regarding their voting rights and the correct procedures to be used at their polling place.

*Commonwealth's Planned Actions:*

Through the Department of State, the Commonwealth plans to do the following:

- Continue to develop an extensive voter education and outreach program. The planned education program, to be developed in consultation with representatives of county governments and advocacy groups for alternative language minorities, individuals with disabilities and other advocacy groups, would be aimed at encouraging voter registration and participation and educating voters of the correct voting procedures (including what constitutes a vote) in all communities and encourage their participation in every election.
- Continue to inform newly registered voters of identification requirements and provisional ballot requirements.
- Continue to distribute training materials to county elections offices to allow them to augment the Department of State's voter education program. This planned education



effort would not supplant any county voter education programs required by section 301(a)(1)(B) of HAVA.<sup>95</sup> As part of its planned training of county election personnel, the Department of State would conduct or facilitate training seminars on the uniform definition of what constitutes a vote.

- Offer to act as a resource to assist counties requesting alternative language interpreters at polling places.
- Work closely with the county boards of elections, academic institutions, community organizations, and other partners to meet the alternative language requirements of HAVA and the Voting Rights Act.
- Work with various agencies of the Commonwealth government, colleges, high schools and community groups to publish and distribute information to client groups. The Department plans to schedule public service announcement elements of a voter education program no later than six weeks before the first primary or election in which HAVA requirements are in effect.
- Continue the development of the partnership already established with the Pennsylvania Department of Education to conduct Mock Elections in all 501 of Pennsylvania's public school districts.
- Encourage all agency voter registration sites to take a more pro-active role in distributing voter education information and to ask that they include informational pamphlets in their agency mailings, including driver's licenses and public assistance checks. The Secretary of the Commonwealth plans to make various public appearances to encourage voter participation. In addition, the Department of State plans to work with the Pennsylvania Cable Network (PCN) and Pennsylvania institutions of higher learning to place voter education broadcasts on television throughout the Commonwealth and to further develop and market the website of the Department of State.

### **EDUCATION FOR STATE/COUNTY OFFICERS**

Department staff attended the Eastern and Western County Election Personnel Associations in February and March of 2004 respectively to discuss provisional voting, voter identification, HAVA Title III complaints, and poll worker training in preparation for the April 27, 2004 General Primary.

In addition, the Department conducted county training sessions July 13, 2004 through July 23, 2004 in five regional meetings across Pennsylvania to address the needs of the November 2, 2004 General Election. Representatives from sixty-two of Pennsylvania's sixty-seven counties attended the training sessions.

The Department's long-range plans include further development of this program in further consultation with a voluntary training workgroup that would consist of the members of the State Plan Advisory Board, members of the executive boards of the Eastern and Western



County Election Personnel Associations, representative institutions of higher education, and representatives of alternative language and disability groups. The course would include training on the administration of elections; the specifics of Federal and State election laws; court decisions that affect Pennsylvania elections; Department of State directives; and programs, policies and methods designed to provide access to the election process.

The Department of State also plans to continue to offer seminars on election procedures to all county election personnel at the annual State election official's conference and to offer training through video conferencing.

### **EDUCATION OF DISTRICT ELECTION OFFICIALS**

The Commonwealth, through the Department of State, developed, implemented and conducted an extensive program to educate district election officials (*i.e.*, poll workers) regarding the changes to Federal and State election laws. All counties were given the opportunity to have Department of State personnel conduct these trainings. Of the 67 counties, 13 requested Department assistance with their district election official training. The Department participated in the training of the 13 counties that requested assistance by providing staff to conduct the training programs. The training involved an extensive Power Point presentation and a printout of the presentation for poll workers to use on Election Day.

The Commonwealth plans to develop the training program further to include current law and procedures relative to processing voters on Election Day, the operation of the voting systems, and the procedures to follow when canvassing votes and counting ballots (including absentee and provisional ballots) after the close of the polls.

The Department has hired staff to assist in conducting district election official training to ensure that counties are using consistent standardized procedures in every polling place on Election Day and developed the Department's website. Long-range plans include the development and production of a training video. This video may be produced in conjunction with colleges and universities. The Department plans to work with counties and key stakeholders in the community to develop the training program. In partnership with representatives from the disability community, alternative language minority and other minority communities, the Department intends to assist district election officials in whatever ways possible to understand the needs of individuals with disabilities and those who communicate using alternative languages.



**STATE PLAN ELEMENT 4**

*How the State will adopt voting system guidelines and processes that are consistent with the requirements of section 301 of HAVA (relating to voting systems standards).*

*HAVA Section 254(a)(4) (42 U.S.C. § 15404(a)(4)).*

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Section 254(a)(4) of HAVA requires the Commonwealth to describe in its State Plan how it plans to adopt voting system guidelines and processes that are consistent with the requirements of section 301 of HAVA, including the requirement for a computerized statewide voter registration list and new Federal requirements for voters who register by mail.

Among the changes made by the Pennsylvania Legislature in Act No. 2002-150 are provisions dealing with the approval of voting systems. All voting systems used in Pennsylvania must be examined and approved by the Secretary of the Commonwealth. However, until the passage of Act 150, there was no requirement that the Federal authority that administers the Voting System Performance and Test Standards also to have approved that electronic voting system.

Under Act 150, section 1105-A of the Election Code<sup>96</sup> requires all electronic voting system vendors to provide proof of Federal certification before presenting their electronic voting systems to the Secretary of the Commonwealth for approval. In accordance with section 222(e) of HAVA, the EAC requires that the current Federal guidelines in effect are those adopted by the Federal Election Commission in 2002. Therefore, any voting system deemed to be HAVA compliant must meet the 2002 voting system standards. Consequently, no new electronic voting system may be approved in Pennsylvania without meeting the high standards of the Federal government, including “second chance voting,” accessibility standards for individuals with disabilities, error rate, and audit capacity requirements. Electronic voting systems approved by the Secretary of the Commonwealth before the establishment of these standards will have to be reexamined to ensure compliance with HAVA prior to use in any election after January 1, 2006.



**STATE PLAN ELEMENT 5**

*How the State will establish the fund required by section 254(b) of HAVA (relating to requirements for election fund) for purposes of administering the State’s activities under Part I of HAVA (relating to requirements payments) of Title II, Subtitle D (relating to election assistance), including information on fund management.*

*HAVA Section 254(a)(5) (42 U.S.C. §15404(a)(5)).*

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Section 254(a)(5) of HAVA requires the Commonwealth to describe in its State Plan how it plans to establish the election fund required by section 254(b) of HAVA, including information on fund management. The purpose of the required election fund is to administer the State’s activities relating to its requirements payments. Section 254(b) requires an election fund to be “established in the treasury of the State government,” “exclusively to carry out the activities for which the requirement payments” have been made to the State.<sup>97</sup> The election fund is to include:

- (A) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment [has been] made to the State....
- (B) The requirements payments made to the State under [HAVA Part II].
- (C) Such other amounts as may be appropriated under law.
- (D) Interest earned on deposits of the fund.<sup>98</sup>

The Commonwealth recognizes the need to keep the funds from the requirements payment, together with State funds appropriated or designated by the State for carrying out the activities for which the requirements payment has been made, completely separate and independent from other funds to ensure that the requirements payments and earmarked State funds are used exclusively for activities mandated by HAVA. The Commonwealth has established a fund and a separate appropriation for funding for the requirements payments in accordance with Commonwealth procedures. The Commonwealth plans to manage the election fund as a restricted account in accordance with Federal and Commonwealth standards and policies. The Secretary of the Commonwealth, the Commissioner of the Department of State’s Bureau of Commissions, Elections, and Legislation, the Director of the Department’s Bureau of Finance and Operations, each by personal signature or the signature of their duly appointed designee, must approve all expenditures out of this account – and only if accompanied by documentation describing the expenditure, such as an approved county agreement or an invoice under such an agreement.



**STATE PLAN ELEMENT 6**

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

- (A) the costs of the activities required to be carried out to meet the requirements of title III;*
- (B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and*
- (C) the portion of the requirements payment which will be used to carry out other activities.*

*HAVA Section 254(a)(6) (42 U.S.C. § 15404(a)(6))*

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*2005 -- All previous information contained in this Chapter is deleted and superseded by the following:*

Section 254(a)(6) of HAVA requires the Commonwealth to describe in its State Plan a budget for its proposed activities and anticipated expenditures for those activities.

The reform effort that HAVA represents is extensive and far-reaching. But its success is dependent on Federal funding. Pennsylvania's State Plan presumes full funding according to the timetable contained in section 257(a) of HAVA. While Congress has funded the program for Federal Fiscal Year (FFY) 2003 and 2004 at a level authorized by HAVA, it did not do so for FFY 2005. It is essential that Congress and the President fund the amounts authorized by HAVA. If full funding is not forthcoming according to the funding amounts authorized by HAVA, the success of this plan will be jeopardized.

The General Services Administration has released funds authorized by Title I of HAVA that, combined under sections 101 and 102, amount to \$34,240,120.00. In addition, Pennsylvania received funds from the EAC known as Title II requirements payments in the amount of \$100,578,829.00. (\$35,992,863.00 for FFY 2003 and \$64,585,966.00 for FFY 2004.) If fully funded for FFY 2005, Pennsylvania would have received an additional \$25,000,000.00 (estimated).

Consistent with section 253(b)(5) of HAVA, the funds appropriated by the General Assembly and expended by the Commonwealth for the SURE system enacted in January 2002 satisfy the 5% State match required by HAVA. The 5% match requirement is calculated as 5% of the combined State and Federal expenditure for HAVA activities. This calculation requires a multiplier of 0.0526 of the actual and projected Federal funds and is estimated to be \$8,445,606.00 – well under the amount already appropriated by the Commonwealth.



## Distribution of Federal Funds

The Commonwealth plans to distribute Federal dollars using a 72/28 split of Federal monies and earned interest. Counties would receive 72% of the funding; the Commonwealth government would receive 28%.

*Section 101 Funds:* Section 101 funds and corresponding earned interest will be split between the counties and the Commonwealth. Twenty-six percent (26%) will be distributed to the counties and 74% for the State government. See Element 10 for more information.

*Section 102 Funds:* Qualifying counties would receive 100% of the Federal funds provided and corresponding earned interest under section 102 of HAVA. These funds would be distributed to the 26 counties using lever voting machines in 6,143 precincts at the November 2000 election and to the 11 counties using punch card systems (1,030 precincts) to purchase HAVA compliant DREs or other HAVA compliant systems. Funds received: \$22,916,952.00.

*Title II Funds:* Of the Federal funds received as requirements payments under Title II of HAVA and corresponding earned interest, 70.8% would be set aside for the counties; and 29.2% would be reserved for the Commonwealth government.

*County Grant Funds:* Title II monies will be distributed via county grants and will be targeted for three major functions: (1) polling place accessibility; (2) voting system procurement; and (3) other Title III requirements.

Funds for polling place accessibility will be distributed on an as needed basis upon application by a county.

Regarding voting system procurement, the Commonwealth has structured its funding programs to encourage county authorities to purchase the same type of a single HAVA compliant precinct count electronic voting system that can be used by all voters, including individuals with disabilities. The Commonwealth will make Title II Federal funds available to counties that purchase a single HAVA compliant precinct count electronic voting system, and will provide up to 100% of the cost of purchasing such systems, but it will fund no more than \$8,000.00 per precinct.

This reimbursement also applies to counties that have incurred costs on or after January 1, 2001, to replace punch card or lever voting systems in qualifying precincts. If a county purchasing the HAVA compliant system has received or will receive Title I funds provided by section 102 of HAVA, the amount of the Title II reimbursement for voting system purchases would be reduced by the dollar amount received under section 102. Counties that purchase a single HAVA compliant precinct count electronic voting system may use up to 10% of the total dollars received for voting system procurement for other Title III requirements provided that all such expenditures must be substantiated.

Counties that choose not to purchase a single HAVA compliant precinct count electronic voting system would receive up to 50% of the cost of purchasing a new voting system, but not more than \$4,000.00 per precinct. If a county does not purchase the system for individuals with



disabilities as it does for all voters, and has received Title I funds under section 102 of HAVA, the amount of the Title II reimbursement for the voting system purchase would be reduced by the dollar amount received under section 102. The Commonwealth encourages the procurement of a single HAVA complaint precinct count electronic voting system for all voters because it would be the most efficient use of Federal, State and local funds.

Counties that used DRE's in the November 2000 General Election and those that purchased a DRE voting system after the November 2000 General Election must upgrade their DRE's to comply with the requirements of HAVA. To assist those counties, the Commonwealth will provide 100% reimbursement for such upgrades necessary to make the DRE HAVA compliant but no more than \$3,000.00 per precinct. In order to receive the federal funds, the DRE used must be deemed to be HAVA compliant by the Secretary of the Commonwealth in accordance with the Election Code. Counties that used lever voting machines in 2000 but have since implemented a DRE voting system will, if such DRE is deemed HAVA compliant, qualify for the reimbursement under Section 102. All money not used by the counties for the procurement of voting systems will be combined with the funds to be used for other Title III requirements and distributed accordingly. See Element I for additional information on voting systems.

The remaining portion of the county Title II monies appropriated for FFY 2003 and FFY 2004 will be apportioned to each county based on the counties proportion of the Commonwealth's voting age population provided that no county will receive less than \$20,000. Counties whose proportionate share would fall under the minimum would not qualify for additional funds under Title II for funds already appropriated to the Commonwealth but will qualify for additional Title II dollars further appropriated by Congress using the voting age population formula. This portion of the funds can be used to fulfill Title III requirements, including the purchase of voting systems, voter education, poll worker training, and polling place accessibility.

The available funds for voting system procurement and other Title III requirements will be distributed to counties based on the filing of a County Plan and Agreement.

*Funds to be Used by the Commonwealth Government:* The Commonwealth will receive 29.2% of the Title II monies (requirements payments) and corresponding interest. These monies would be put into a separate account and used to implement HAVA requirements, including the statewide voter registration database, voter education programs, poll-worker training and administrative expenses.

The chart on page 39 lists activities and costs of HAVA to be implemented in Pennsylvania using Title II monies for each activity outlined in this plan. The data provided in the chart reflects Federal dollars actually received as of the date of this State Plan update.



A. ACTIVITY	B. ALLOTMENTS OF DOLLARS APPROPRIATED 2003/2004*	C. PER CENT OF TITLE II DOLLARS	D. PURPOSE
<b>COUNTY</b>			
County Grant Fund: Voting Systems	\$53,179,205.94	N/A  52.87%	For the purchase of new voting equipment.
Polling Place Accessibility	\$2,344,140.00	2.33%	To bring polling places standards up to meet the Federal law.
County Grant Fund for Other Title II Requirements	\$15,720,414.06	15.63%	To be used for Title III requirements of HAVA in compliance thereof.
<b>COMMONWEALTH</b>			
Voter Registration Database	\$13,127,185.00	13.05%	Development of statewide voter registration list
Voter Education/Voter Outreach	\$5,339,207.00	5.31%	To educate voters re: election procedure, increase voter participation, and make available additional voter registration applications
Poll Worker Training	\$1,953,450.00	1.94%	To train all poll workers in the uniform procedures to be used at the polling places on Election Day.
Election Officer Training	\$ 312,552.00	.31%	Train State and county officials in all Federal and State procedures related to elections
Alternative Language Accessibility	\$2,734,830.00	2.72%	To make election materials and information available to jurisdictions having alternative language minorities
Administrative Expenses/Implementation Costs	\$3,125,520.00	3.11%	For Commonwealth personnel to administer HAVA and other costs for implementation
Provisional Voter Hotline/Website	\$ 195,345.00	.19%	To establish the HAVA required Website and toll free line
Miscellaneous/State Plan Expenses	\$ 2,546,979.00	2.53%	For grants to independent groups (\$500,000); unforeseen costs in implementing HAVA; and development of the State Plan

\*Dollar amounts do not include interest.

The efficient allocation and expenditure of Title I and Title II funds is vitally important to the overall success of providing both the counties and the Commonwealth with the maximum resources available both to implement the requirements of HAVA and to continue to improve the administration of elections for Commonwealth voters.



**STATE PLAN ELEMENT 7**

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

*HAVA Section 254(a)(7) (42 U.S.C. § 15404(a)(7)).*

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Section 254(a)(7) of HAVA requires the Commonwealth to describe in its State Plan how it will use the requirements payment consistent with the Commonwealth's obligation under HAVA to maintain its pre-November 2000 expenditure effort for the activities that it will use the requirements payments to support.

Though the Commonwealth appreciates the commitment that the Federal government has made to election assistance both by enacting HAVA and providing funding to the States to allow them to fully realize the ultimate goals of HAVA – a free and open election process for all citizens – the Commonwealth realizes that it still has the primary responsibility to maintain the programs that it was funding prior to November 2000 and to develop new and innovative programs to make the Commonwealth a leader in election administration.

To this end, in using its requirements payment, the Commonwealth plans to maintain expenditures of the State for activities funded by the payment at a level no less than the level of such expenditures in FY 1999-2000. In addition, the Commonwealth plans to ask each county to file a semi-annual report to assure the Commonwealth that each county has complied with the requirement of HAVA that the State maintain its pre-November 2000 effort as a condition of receiving funds under Title II of HAVA.



**STATE PLAN ELEMENT 8**

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

*HAVA Section 254(a)(8) (42 U.S.C. § 15404(a)(8)).*

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Section 254(a)(8) of HAVA requires the Commonwealth to state in its State Plan how it plans to adopt performance goals and measures to be used by the Commonwealth to determine Pennsylvania's success in carrying out the Commonwealth's State Plan.

One of the biggest threats to the success of an initiative is the failure to follow through on progress and to be able to adjust plans as projects move forward and challenges are faced. The Commonwealth has taken a two-pronged approach to ensure that all involved are committed to improving the administration of elections for Pennsylvania citizens. The first prong involves monitoring the county agreements, and the second prong focuses upon the Commonwealth's continued self-assessment of its progress at the State level.

**THE HAVA ADMINISTRATOR**

The Commonwealth has assigned an employee of the Department of State the responsibility to oversee the HAVA project. This employee, the HAVA Administrator, is responsible for monitoring the progress of the counties, overseeing the county agreements, and keeping account of the status of the requirements payment fund. The HAVA Administrator has met regularly with the Secretary of the Commonwealth and the Commissioner of the Bureau of Commissions, Elections & Legislation as to the status of the Commonwealth's compliance with HAVA and the various projects established by the counties. In addition, the State Plan as amended, serves as an annual report from the HAVA Administrator to the public.

**MONITORING THE COUNTY AGREEMENTS**

Through the reporting requirements included in the proposed county agreements, the Department of State should be able to monitor the progress of the county projects and the usage of the funding. The Commonwealth plans to hold the counties responsible for their expenditures of the funding. The Department of State will assist the counties to the extent possible to ensure project success.



## **MONITORING OF DEPARTMENT ACTIVITIES**

While monitoring the county use of the funds is important, the Department of State also plans constantly to review its progress from two perspectives: the disbursement of funding and its own efforts in meeting the requirements of HAVA.

Throughout the implementation stage of HAVA, the Department has informed all interested parties of the Commonwealth's progress and attempted to address any concerns expressed by members of the advisory committees. Beginning at the end of calendar year 2004, the Department will issue an annual report of the Commonwealth's progress with respect to HAVA and address any concerns that might require action by the Governor or the General Assembly. Through this report, the Secretary of the Commonwealth will be able to detail potential changes to the Commonwealth's State Plan in advance of beginning the formal process for modifying the State plan under HAVA.

## **PERFORMANCE GOALS AND MEASURES**

The Department of State has established performance goals and measurement processes to monitor the progress under the State Plan. This will better enable the HAVA Administrator to measure progress in achieving the goals. The Department of State will continuously monitor and review the performance of each initiative that is funded by requirements payment to determine progress.

The planned performance goals listed below are intended to apply to elections that occur during the year identified. The planned performance goals include:

### **a. Elimination of lever voting machines and punch card electronic voting systems**

*Timetable:* January 1, 2006

*Criteria:* Replacement of lever voting machines and punch card electronic voting equipment in compliance with Title III requirements for the 24 counties that utilized lever voting machines in the November 2000 Election that still use them and the 11 counties that used punch card electronic systems in the 2000 election.

*Responsible Official:* The county boards of elections, with the cooperation and assistance of the Secretary of the Commonwealth.

*Update:* For an update of the Commonwealth's progress, see page 55.

### **b. Implementation of the Statewide Uniform Registry of Electors**

*Timetable:* January 1, 2006

*Criteria:* Implementation of a single, uniform, official, centralized, interactive, computerized statewide voter registration list and database.



*Responsible Official:* The Secretary of Commonwealth, with the cooperation of each county voter registration office.

*Update:* For an update of the Commonwealth's progress, see page 59.

**c. Polling place accessibility**

*Timetable:* January 1, 2004

*Criteria:* Survey all polling places in the Commonwealth to determine accessibility under the Federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973gg *et seq.*) and work to increase the number of accessible polling places in Pennsylvania.

*Responsible Official:* The county boards of elections, with the cooperation and assistance of the Secretary of the Commonwealth.

*Update:* For an update of the Commonwealth's progress, see page 56.

**d. Voter education program**

*Timetable:* January 1, 2004

*Criteria:* Establishment and implementation of a voter education program providing voters with information relative to voting procedures, voting identification, complaint procedures, provisional ballots and voting information specific to each type of voting system that clearly explains to the voter how to correctly cast a ballot; how to correct an error; how to obtain a replacement ballot; and the effect of casting multiple votes for an office.

*Responsible Official:* The Secretary of Commonwealth, with the cooperation of each county board of elections.

*Update:* For an update of the Commonwealth's progress, see page 60.

**e. Poll Worker/Election Officer Training**

*Timetable:* January 1, 2006

*Criteria:* Establishment and implementation of a training program for district election and county election officials to insure that procedures used in polling places are standardized across the Commonwealth to the greatest extent possible.

*Responsible Official:* The Secretary of Commonwealth, with the cooperation of each county board of elections.

*Update:* For an update of the Commonwealth's progress, see page 62.



**f. Accessibility for individuals with disabilities**

*Timetable:* January 1, 2006

*Criteria:* Purchase at least one voting system that is usable by individuals with a disability in each polling place in the State and adequate placement of this equipment throughout the 67 counties.

*Responsible Official:* The Secretary of Commonwealth, with the cooperation of each county board of elections.

**g. Alternative Language Accessibility**

*Timetable:* January 1, 2004

*Criteria:* Initiate an outreach program to alternative language communities to apprise them of their voting rights and the correct voting procedures and offer alternative language services to the counties requesting them.

*Responsible Official:* The Secretary of the Commonwealth, with the cooperation of each county board of elections.

*Update:* For an update of the Commonwealth's progress, see page 56.

**h. Provisional Voting**

*Timetable:* January 1, 2004

*Criteria:* Implementation of a free access system in the Department so that the voters can determine if their provisional ballot was counted.

*Responsible Official:* Secretary of the Commonwealth, with the cooperation of each county board of elections.

*Update:* For an update of the Commonwealth's progress, see page 57.

The Department plans to issue periodic progress reports on the status of implementing the performance goals. After January 1, 2006, when all of the deadlines have passed, the Department plans to produce a report on how the performance goals have been met.



**STATE PLAN ELEMENT 9**

*A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402 of HAVA (42 U.S.C. § 15512).*

*HAVA Section 254(a)(9) (42 U.S.C. § 15404(a)(9)).*

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Section 254(a)(9) of HAVA requires the Commonwealth to describe in its State Plan the administrative complaint procedures that it has established as required by section 402 of HAVA.

**SUMMARY OF REQUIREMENTS UNDER STATE PLAN ELEMENT 9**

As a condition of receiving any Federal funds, section 402(a)(1) of HAVA<sup>99</sup> requires the Commonwealth to establish and maintain State-based administrative complaint procedures that meet requirements prescribed by section 402(a)(2). Section 402(a)(2)<sup>100</sup> mandates the following:

- (A) The procedures shall be uniform and nondiscriminatory.
- (B) Under the procedures, any person who believes that there is a violation of any provision of Title III (including a violation that has occurred, is occurring, or is about to occur) may file a complaint.
- (C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint.
- (D) The State may consolidate complaints filed under subparagraph (B).
- (E) At the request of the complainant, there shall be a hearing on the record.
- (F) If, under the procedures, the State determines that there is a violation of any provision of Title III, the State shall provide the appropriate remedy.
- (G) If, under the procedures, the State determines that there is no violation, the State shall dismiss the complaint and publish the results of the procedures.
- (H) The State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period that begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination.
- (I) If the State fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures.



## PENNSYLVANIA LAW

Section 11 of Act 2002-150 established – effective December 9, 2003 – the uniform, nondiscriminatory State-based administrative complaint procedure required by section 402 of HAVA.<sup>101</sup> The Department of State established within its Bureau of Commissions, Elections and Legislation or successor bureau a procedure for the review of complaints regarding the administration of Title III of HAVA. The Department also provided a complaint form that requires the signature of the complainant; an affidavit and notarization (as required by § 402(a)(2)(C) of HAVA<sup>102</sup> and § 1206.2(a) of the Election Code<sup>103</sup>); and the attachment of any supporting documentation (as required by section 1206.2(a)).

When a complaint pertains to the Department of State, the Department is required to forward it to the Pennsylvania Office of General Counsel within three business days of its receipt.<sup>104</sup> The Department would then have 20 days either to reach an agreement with the complainant or to file a written response to the complaint.<sup>105</sup> The Office of General Counsel must provide the complainant with a copy of the response and an opportunity for an informal hearing, as required by section 402(a)(2)(E) of HAVA.<sup>106, 107</sup> If a hearing is requested, the Department will be given notice and the opportunity to participate.<sup>108</sup> The Office of General Counsel must issue a final determination and remedial plan, if necessary, no later than 90 days after the filing of the complaint.<sup>109</sup> If the Office of General Counsel should fail to issue its determination within 90 days, it must provide alternative dispute resolution for the disposition of the complaint.<sup>110</sup> HAVA requires the alternative process must be completed within 60 days.<sup>111</sup>

When a complaint pertains to a local or county employee or official, the Department is required by section 1206.2(b)(1)<sup>112</sup> to provide the county board of elections with a copy of the complaint within three days of receiving it. The county board of elections would have 20 days under section 1206.2(b)(2)<sup>113</sup> either to reach an agreement with the complainant or to file a written response. The Department would provide the complainant a copy of this response and an opportunity to request an informal hearing, as required by section 402(a)(2)(E) of HAVA and section 1206.2(b)(3) of the Election Code.<sup>114</sup> If a hearing is requested, the county board of elections would be given notice and the opportunity to participate. As both HAVA and the Election Code require, the Department will issue a final determination and remedial plan, if necessary, no later than 90 days after the filing of the complaint. Should the Department fail to issue its determination within 90 days, it would be required to provide alternative dispute resolution for the disposition of the complaint. The law requires the alternative process to be completed within 60 days,<sup>115</sup> as required by HAVA.

Proceedings before the Department and decisions made under section 1206.2 are not considered to be administrative adjudications under the Administrative Agency Law,<sup>116</sup> and a determination made with regard to county complaints is not to be regarded as an agency determination subject to appellate review.<sup>117</sup> Either party in this case may initiate a *de novo* appeal from the Department's final order in the court of common pleas of the county where the election board is located.<sup>118</sup> Determinations made by the Office of General Counsel with regard to complaints made against the Department of State are agency determinations subject to appellate review.<sup>119</sup>



**STATE PLAN ELEMENT 10**

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

*HAVA Section 254(a)(10) (42 U.S.C. § 15404(a)(10)).*

*2005 -- All previous information contained in this Chapter is deleted and superceded by the following:*

Section 254(a)(10) of HAVA requires the Commonwealth to describe in its State Plan how funds that it has received under sections 101 or 102 of HAVA (relating to payments to States for activities to improve administration of elections and replacement of punch card and lever voting machines) will affect the activities that the Commonwealth plans to carry out under the State Plan. Section 254(a)(10) also requires the Commonwealth to state in its State Plan the amount of funds available for its proposed activities.

Pennsylvania received \$34,240,120.00 in Title I funding -- \$11,323,168.00 under to Section 101 and \$22,916,952.00 under section 102. Because counties have not yet been able to purchase a HAVA compliant voting system no dollars have been distributed to the counties under section 102. However, using section 101 dollars, Pennsylvania continues to make progress in implementing other HAVA requirements, including voter education, polling place accessibility, alternative language accessibility, provisional balloting, voter identification, and the statewide voter registration database. In particular, Pennsylvania has made progress in implementing a statewide voter registration database known as the Statewide Uniform Registry of Electors, or SURE. To date, 56 of 67 counties have been connected to the SURE system.

The chart below represents the expenditures made from Section 101 funds as of the close of State Fiscal Year 2004-2005.

<b>Section 101 Funding</b>	<b>Actual Expenditures (as of June 30, 2005)</b>
Polling Place Accessibility	\$ 0.00
County Grant Fund	\$ 0.00
Statewide Voter Registration Database	\$ 4,011,964.53
Voter Education	\$ 1,235,906.77
Poll worker Training	\$ 21,370.92
County Election Official Training	\$ 27,819.46
Alternative Language Assistance	\$ 8,250.95
Provisional Voter Hotline/Website	\$ 224,424.82
Administrative Expenses/Complaint Line	\$ 814,966.25
Miscellaneous/State Plan Expenses	\$ 250,052.08
<b>TOTAL:</b>	<b>\$ 6,509,460.04</b>



There is \$4,813,707.96 remaining in section 101 funds, \$3,000,000.00 of which is earmarked for counties. Of this, \$1,000,000.00 is earmarked for Polling Place Accessibility and \$2,000,000.00 is to be made available to the County Grant Fund. The balance of the section 101 money will be used to fund the requirements of Title II as indicated in the State Plan filed August 1, 2003 and advertised in the *Federal Register* on March 24, 2004.

The chart of expenditures appearing above differs somewhat from expenditures contained on page 51 of the amended State Plan filed in August 2004. The dollar amounts more closely align with those originally allotted. The original allotments were established using Section 101 funds in order to provide State and county governments the means to begin implementing HAVA. It was planned that Title II funding would be used to increase the amount of dollars available to meet Title III requirements. However, when Title II dollars were not forthcoming in a timely manner, commitments came due and had to be paid from existing Federal dollars (Section 101 funds).

Please see the corresponding chart in the amended State Plan (2004). However, since last year the Department has made adjustments between Section 101 expenditures and the Title II expenditures to reflect those authorized by the State Plan. This chart reflects these adjustments. The total dollars that the State Plan originally allocated for each requirement are not affected by this adjustment.



**STATE PLAN ELEMENT 11**

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

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

*HAVA Section 254(a)(11) (42 U.S.C. § 15404(a)(11))*

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Section 254(a)(11) of HAVA requires the Commonwealth to describe in its State Plan how it will manage the State Plan on an ongoing basis.

Pennsylvania plans to use its State Plan as the basis for managing the activities necessary for the implementation of the requirements of HAVA. The HAVA Administrator, under the guidance of the Commissioner of the Bureau of Commissions, Elections, and Legislation (CEL) and the Secretary of the Commonwealth, is responsible for the continuous management and implementation of the State Plan.

The HAVA Administrator is responsible for implementation of that part of the State Plan that is to be carried out at the State level, with county involvement via the State Plan Advisory Board on various projects. The Commonwealth, through the CEL, is be responsible for tracking resource requirements; approving and tracking expenditures of HAVA funds; coordinating decision-making; and ensuring that implementation activities are on track. Additional staff have been hired to administer the various program requirements. The CEL staff would manage the day-to-day coordination and implementation of projects within the State Plan. Responsibilities include reporting project activities, progress, and resource needs/expenditures, as well as conducting the voter education and poll worker training efforts.

The Commonwealth understands and agrees to comply with HAVA requirements related to ongoing management of the State Plan. Material changes in the administration of the State Plan must be developed in consultation with the State Plan Advisory Board and cannot be made unless the change is published in the *Federal Register*, in accordance with section 255 of HAVA.<sup>120</sup>



The Commonwealth also acknowledges that any change in the State Plan is subject to public notice and comment under section 256 of HAVA<sup>121</sup> and may take effect only after the expiration of the 30-day period beginning on the date the change is published in the *Federal Register*.



**STATE PLAN ELEMENT 12**

*In the case of a State with a State plan in effect under Subtitle D (relating to election assistance) of Title II of HAVA during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for the previous fiscal year.*

*HAVA Section 254(a)(12) (42 U.S.C. § 15404(a)(12)).*

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*All previous information contained in this Element is superseded by the following, which constitutes a cumulative update of the Commonwealth's progress as it pertains to the "Commonwealth's Planned Actions" found throughout this State Plan. In addition, this Amendment contains three material changes to the State Plan as follows:*

- 1. Provides an update on the usage of voter verified paper ballots and voter verified paper audit trails (VVPAT)*
- 2. Clarifies the distribution of interest earned on federal funds.*
- 3. Clarifies funding available to counties who must replace their voting systems.*

*The Pennsylvania Department of State's HAVA staff drafted this Element. The amended language of this chapter will be sent to the U.S. Election Assistance Commission (EAC) as an update required by section 254(a)(12) of HAVA.*

**STATE PLAN ADVISORY BOARD**

After consultation with the State Plan Advisory Board, (Board) the Department amended the Pennsylvania State Plan and submitted the amendments to the EAC on August 13, 2004. The amendments were published in the *Federal Register* on September 30, 2004.

The Department convened the Board again on June 27, 2005, in Harrisburg, to discuss the goals, objectives, and accomplishments of the last calendar year and to approve the 2005 amendments to the State Plan. Leonard C. Piazza III of Luzerne County (representing 3<sup>rd</sup> Class Counties), Joyce E. McKinley of Centre County (representing 5<sup>th</sup> Class Counties), and Darlis Dyer of Montour County (representing 8<sup>th</sup> Class Counties) were also welcomed as newly appointed members of the Board filling vacancies that had occurred within the previous year. The first order of business for the Board was the nomination and election of the new chairperson, Robert Lee of Philadelphia County. John Neeves, Adjutant of the Disabled American Veterans of Pennsylvania was also appointed to the Board due to a vacancy although this appointment was made after the June 27, 2005 meeting.

The current list of Board members is as follows:

- Gladys M. Brown, Public At Large Member
- V. Rev. Neal Carrigan, Blind & Visually Impaired Pennsylvanians



- Vice-Chair Deena K. Dean, Director of Elections, Bucks County (county of the second class A)
- Darlis Dyer, Assistant Director of Elections, Montour County (county of the eighth class)
- Denise W. Jones, Chief Clerk/Director of Elections, Venango County (county of the sixth class)
- Lee E. Knepp, Chief Clerk, Snyder County (county of the seventh class)
- Chair Robert Lee, Jr., Voter Registration Administrator, Philadelphia County (county of the first class)
- Joyce E. McKinley, Director of Elections, Centre County (county of the fifth class)
- John Neeves, Adjutant, Disabled American Veterans of PA
- Eileen Melvin, Chairwoman, Republican State Committee of PA
- Leonard C. Piazza, III, Director of Elections, Luzerne County (county of the third class)
- Representative T.J. Rooney, Chair, Democratic State Committee of PA
- Larry Spahr, Director of Elections, Washington County (county of the fourth class)
- Josh Wilson, Public At Large Member
- Mark Wolosik, Division Manager for Elections, Allegheny County (county of the second class)

In addition to the Board meeting, the Department posted the proposed amendments to the State Plan on the Department's HAVA website ([www.hava.state.pa.us](http://www.hava.state.pa.us)) for a 30-day public comment period, and held a public hearing on August 1, 2005. The following five individuals submitted public comments and/or testified at the public hearing on behalf of their organization:

1. Lora Lavin – League of Women Voters of Pennsylvania
2. Robert Lee – Philadelphia County Board of Elections
3. Paul O'Hanlon – Disabilities Law Project
4. Marybeth Kuznik – VotePA
5. Barry Kauffman – Common Cause - Pennsylvania

### **LEGISLATION ENACTED**

The General Assembly passed two pieces of legislation affecting election procedures in the Commonwealth. Act 2004-97 amended several aspects of the Pennsylvania Election Code including requirements for poll watchers, extends the time for examination of provisional ballots, specifies the reasons for not counting provisional ballots, and includes new requirements for the return of election materials to county boards of elections after the polls close. In addition, Act 2004-97 included automatic recount procedures for statewide elections when the margin of victory is less than one half of 1%.

Act 2004-98 provided that the standards adopted by the Voting Standards Development Board, known as "What Constitutes a Vote" would have the full force and effect of law for the November 2, 2004 General Election. The passage of Act 2004-98 became necessary after the



Commonwealth Court of Pennsylvania ruled that the standards are advisory and not binding on the courts. *See In Re Pennsylvania General Election for Snyder County Commissioner*, 841 A.2d 593 (Pa. Commw. Ct. 2003), *aff'd sub nom., Shambach v. Bickhart*, 577Pa.384, 845 A.2d 793 (2004).

It is important to note that Act 2004-98 only applied to the November 2, 2004 General Election as a special rule. Although Act 2004-98 corrected the matter, permanent statutory language has not yet been enacted.

### **VOTER VERIFIABLE PAPER AUDIT TRAIL**

As indicated in the State Plan, the Department continues to monitor the national debate on the use of electronic voting systems and voter verifiable ballots. Over the last two years two concepts have evolved that affect the meaning of the paragraph at the bottom of page 12. Often during the debate the terms “voter verifiable paper ballot” and “voter verifiable paper audit trail (VVPAT)” have been used interchangeably although they are defined differently. Voter verifiable paper ballot is not used in the State Plan in the context the term is now used. While the analysis presented in the State Plan was accurate at the time the Plan was issued, (i.e., a DRE could not produce a voter verified paper ballot that would have the effect of superseding the votes contained on the DRE), it must now be revised. Therefore, the following will serve to update the Commonwealth’s position on this issue.

A voter verifiable ballot is understood to be a paper ballot that can be used separately from an electronic voting system. It is not necessarily produced by a computer or DRE but could be used as part of an electronic voting system, i.e., be tabulated by automatic tabulating equipment. An optical scan electronic voting system is a voter verified paper ballot system. The voter verified paper ballot contains the official record of votes cast. Used in this context, Pennsylvania already uses the voter verified paper ballot, i.e., on optical scan, punch card, and other paper based voting systems.

On the other hand, a voter verified paper audit trail (VVPAT) is produced by a DRE or electronic voting system to enable the voter to verify that his/her selections on the VVPAT match the selections he/she has made on the electronic voting system. In some systems, the VVPAT containing an image of the ballot produced by the DRE would be deposited by the voter into a ballot box upon registering a vote on the DRE. In other systems the VVPAT is not touched by the voter but viewed through a window and retained within the DRE or a compartment attached to the DRE.

The Election Code provides that an electronic voting system must produce a permanent physical record of each vote cast. DREs currently in use in Pennsylvania meet this requirement through electronic ballot image retention (BIR) of each vote cast and the ability to print the contents of the BIR on paper for use in conducting audits. The voter verified paper audit trail would also meet this test. However, the audit trail is a record, but not the official record of the votes cast. While it is not specified in the statute what the function of the paper audit trail would be in the case of a recount or discrepancy, an electronic voting system producing a VVPAT is not required or prohibited by statute and can be used in Pennsylvania subject to regulation by the Department of State and/or the General Assembly.



Although the EAC has not yet made a final decision regarding the definitions of “accessible” and “manual audit capacity,” the EAC has received initial recommendations for improving the existing 2002 Voting System Standards (VSS) from the Technical Guidelines Development Committee (TGDC) as required by HAVA. These initial revisions to the VSS state that a VVPAT is not mandatory, yet include Standards for systems with VVPATs for those States that choose to require or allow usage of a system that includes VVPAT.

The initial VVSG recommendations also include information on Independent Dual Verification (IDV) voting systems, which would allow the industry to design, develop and market voting systems with various means of independent verification of system accuracy and audit capabilities to meet future requirements of the VVSG.

VVPAT is a national topic of discussion among election officials at all levels of government, advocates for voters and advocates for people with disabilities. Proponents of the VVPAT argue that it allows a voter to read a printed record of their voted ballot prior to casting such ballot on an electronic voting system. Opponents of the VVPAT argue that mandatory use of the VVPAT requires Election Day use of a mechanical printer in an electronic voting device which could malfunction and adds a paper-based process that is unproven.

If the EAC were to interpret HAVA to require VVPAT, or issue Standards for States that require or allow use of a system with VVPAT, after systems have been purchased to comply with the unavoidable January 1, 2006 HAVA deadline for complying with the existing 2002 Voting System Standards, significant time and funding would be necessary to meet the requirement.

The Department of State will work with the General Assembly to identify options available to the counties to use electronic voting systems with a VVPAT and define the role of the VVPAT during a recount.

## **COMMONWEALTH’S PROGRESS ON THE IMPLEMENTATION OF HAVA**

### **Pennsylvania’s Voting Systems and Actions Planned by the Commonwealth to Comply with Section 301 of HAVA:**

#### 2004:

- The Commonwealth requested a waiver authorized by section 102(a)(3)(B) of HAVA<sup>122</sup> to postpone replacement of lever machines and punch card systems. The waiver request was sent to the U.S. General Services Administration in December of 2003, and the General Services Administration approved the Department’s request by letter dated February 25, 2004. The effect of the waiver is to postpone the required replacement of the voting systems no later than the Federal elections held after January 1, 2006, instead of by January 1, 2004. The waiver was necessary because the Commonwealth has been waiting for a determination by the EAC or other authority regarding the requirements for a HAVA compliant voting system. In addition, each HAVA compliant voting system will have to be reviewed and examined to determine compliance with Pennsylvania law.



The Commonwealth plans to work aggressively to expedite the purchase of the new voting systems by the counties before January 1, 2006, but did not believe that it would be physically possible or prudent for counties to procure new voting systems for over 9,000 precincts, train elections officials to operate them and expect voters to use them properly at the November 2, 2004 General Election.

2005:

- On February 15, 2005 a reexamination of the electronic voting system used in Beaver, Greene, and Mercer Counties was conducted. The reexamination was scheduled as a result of a petition filed by 19 registered electors of Beaver County in accordance with section 1105-A(a) of the Election Code, 25 P.S. § 3031.5(a). The result of the reexamination was the decertification of the voting system on April 7, 2005 and a subsequent prohibition of its use in Pennsylvania. The three affected counties contracted with an optical scan vendor to conduct the May 17, 2005 Municipal Primary.
- The Commonwealth began the process of examining HAVA compliant electronic voting systems for compliance with the Election Code in February 2005, and additional examinations will be conducted throughout the summer. As referenced in State Plan Element 4, Act 2002-150 added a requirement to the Election Code that all electronic voting systems be examined by a federally qualified independent testing authority and meet Federal Voting Systems Performance and Test Standards. The Department's interpretation of the statute requires that electronic voting systems meet the Federal Voting Systems Performance and Test Standards released in 2002 and be found in compliance with the Election Code in order to be considered HAVA compliant.
- On May 31, 2005 the Pennsylvania Department of General Services, on behalf of the Department of State, released an Invitation for Bid (IFB) to allow vendors to submit quotes for the purchase of systems. To ensure compliance, the report issued by the Secretary of the Commonwealth granting or denying certification for use in Pennsylvania will not be released until the Department of State is confident that the vendor has met all requirements.

**Elimination of Lever Voting Machines and Punch Card Electronic Voting Systems**

2005:

- The delayed organization of the U.S Election Assistance Commission (EAC), and subsequent lack of Federal guidance severely impeded the Department's ability to make progress towards voting system replacements or upgrades. Specifically, the Department has waited for the EAC to define the terms "accessible" and "manual audit capacity" as used in HAVA before the Department determines which systems should be considered for examination and certification in Pennsylvania. The EAC has not yet made those decisions.



### **Accessibility of Voting Systems for Electors with Disabilities:**

#### 2004:

- In an effort to improve polling place accessibility, the Secretary of the Commonwealth formed the Polling Place Accessibility Advisory Group composed of advocacy groups for individuals with disabilities and various county representatives to review and revise the Commonwealth's accessibility guidelines and develop procedures to assist counties in increasing the number of accessible polling places in each county. Please see [www.hava.state.pa.us](http://www.hava.state.pa.us) for Pennsylvania's guidelines for polling place accessibility.
- The Commonwealth asked counties to conduct a survey of all polling places in the Commonwealth to determine their accessibility under the guidelines issued by the Department of State under the Voter Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee, *et seq.*). When it became available, the Department provided the ADA Checklist for Polling Places issued by the U.S. Department of Justice's Civil Rights Division to the counties. The Department is currently reviewing the surveys. Upon the completion of the survey review, the Commonwealth plans to make Federal funds (specifically funds provided by the Department of Health and Human Services under Title II of HAVA) available to counties to increase the accessibility of polling places.

#### 2005:

- The survey results are providing the Department with a basic understanding of accessibility issues related to polling places. The Department plans to disburse funding in a manner that will allow for the largest number of inaccessible polling places to become accessible. In furtherance of this effort, the Department has held meetings with accessibility advocates, including a Polling Place Accessibility Advisory Group.
- To date, the Department has collected survey results from 66 counties. Of the 9,437 polling places across the Commonwealth, 7,054 have been found to be accessible, 2,244 are inaccessible, and 139 are undefined. Northumberland County has a total of 94 polling places, however they have not yet certified their results to the Department.

### **Alternative Language Accessibility:**

#### 2004:

- In an effort to improve alternative language accessibility, the Secretary of the Commonwealth formed the Alternative Language Accessibility Advisory Group composed of advocacy groups for individuals who speak alternative languages as a primary language and various county representatives to review the status of alternative language accessibility across the Commonwealth and provide information and advice on increasing the number of polling places accessible to individuals who speak alternative languages as a primary language. To date, the Advisory Group has met four times and has approved various voter education initiatives including development of the PA Votes! website.



- All materials designed for use by voters regarding HAVA Title III Complaints, provisional voting and voter identification have been translated into Spanish and provided to the 67 county boards of elections.
- The Alternative Language Accessibility Advisory Group held combined meetings with the Voter Education Advisory Group to discuss methods to educate alternative language communities about the new election-related requirements and the electoral process in general.
- The Department procured maps of each county detailing U.S. Census Bureau data in order to assist the Department's identification of counties with significant Spanish-speaking populations for the purpose of coordinating State and county efforts to produce and properly distribute bilingual election-related materials including ballots.

#### 2005:

- Throughout the Special Election held in Montgomery and Philadelphia Counties on March 9, 2004, the April 27, 2004 General Primary, and the November 2, 2004 General Election the Department provided the voter education materials and tools in Spanish. See section on voter education below for more information.
- To ensure that the Department is able to quickly and correctly translate necessary materials, and to reach out to Spanish-speaking communities, a bilingual coordinator was hired in August 2004. The bilingual coordinator was successful in conducting election official training, providing translations for election materials, and reaching out to the Spanish-speaking community for voter education efforts. This effort includes our website, toll-free telephone line and all voter education materials that are referenced in the provisional voting and voter education sections of this report.

#### **Provisional Voting in Pennsylvania:**

#### 2004:

- In an effort to create standardized statewide procedures for provisional balloting, the Secretary of the Commonwealth, in consultation with representatives of the county boards of elections and advocacy groups, prescribed the format of the provisional ballot for all voting systems and prescribed the procedures to be followed in processing and tabulating such ballots. The procedures adopted by the Secretary of the Commonwealth include a required notice containing instructions on how to cast a provisional ballot. Instructions must be posted in accordance with the applicable provisions of HAVA.
- During the April 27, 2004 General Primary, 2,480 provisional ballots were cast in Pennsylvania. Of those, 37% of the provisional ballots were counted, 33% were partially counted, and 30% were not counted for various reasons.



- All materials provided to individuals who vote by provisional ballot have been provided to the county boards of elections in English and Spanish in a format that allows both languages to appear on the same form.
- The Commonwealth continues to explore methods to provide voter registration mail applications to individuals who vote by provisional ballot in order to allow those individuals to update their voter registration status, if necessary. Due to the amount of information required to be placed on provisional voting materials by legislative mandate, the Commonwealth was unable to print a voter registration mail application on provisional ballot materials, but it will be providing county boards of elections with the capability to generate a form letter and label automatically for the purpose of mailing a voter registration mail application to provisional voters to invite those individuals to register to vote or to update their voter registrations.

#### 2005:

- The Department, in cooperation with its Bureau of Commissions, Elections and Legislation and Bureau of Management Information Systems, developed and implemented a reporting system that allows counties on the Statewide Uniform Registry of Electors (SURE) to efficiently research the registration status of provisional voters and to report the status of provisional ballots to the Department in a uniform manner. Effective use of this system allows the Department to quickly upload provisional ballot status information for public consumption as required by the *Election Code*. Counties that were not on the SURE system at the time of the General Election were provided with the program, and were offered alternative methods to provide provisional ballot information to the Department. The Department was required to provide for provisional ballots during a special election held in Columbia County in January 2004. The special election was helpful to the Department as a trial for the provisional ballot process prior to the April 27, 2004 General Primary.
- During the November 2, 2004 General Election, 54,363 provisional ballots were cast. Of those, 27.6% were counted, 21.7% were partially counted, 50.4% were not counted for various reasons, and 0.03% were not processed by county boards of elections. Voters were able to call a toll-free telephone number or access the Department's website to determine the status of their provisional ballot.
- The Commonwealth encouraged counties that did not plan to mail voter registration forms to provisional voters in order to allow them to update their registration status to provide the forms at polling places.

#### **Voting Information Requirements:**

#### 2004:

- The Commonwealth, through the Department of State and in consultation with county representatives and community stakeholders, prescribed the contents of a bilingual notice for posting at each polling place that details the acceptable forms of identification



required of voters who appear to vote in an election district for the first time, provisional voting information, and information regarding HAVA Title III complaints. The Department worked cooperatively with counties and stakeholders to develop the format of the notice, and to facilitate re-production and posting at each polling place for elections occurring after January 1, 2004. The information contained on the posting was provided to counties in two formats: (1) A format similar to the current cards of instructions and penalties to be printed by the county boards of elections; and (2) a large voter-friendly poster which the Commonwealth plans to provide through the November 2, 2004 General Election. Both formats must be posted in every polling place for any election held after January 1, 2004.

- The Commonwealth printed 15,000 voter-friendly posters, and provided at least one poster for every election district, and at least one additional poster to be posted in elections districts where county boards of elections provide election-related materials printed in Spanish.
- The Commonwealth reproduced 250,000 copies of the posting described above in flier form and provided them to state legislators, county boards of elections, municipalities, libraries and state agencies that provide voter registration services.

#### 2005:

- Polling place postings are continually updated by the Department for compliance with HAVA and the Election Code as needed. Changes to all forms are made in both English and Spanish.

#### **Computerized Statewide Voter Registration List:**

#### 2004:

- Act No. 2002-3 authorizes the establishment of a central uniform registry that is HAVA compliant. (*See Appendix C.*) However, because SURE could not be fully operational by the date specified by section 303(d)(1)(B) of HAVA – January 1, 2004 – the Commonwealth invoked the waiver authorized by HAVA to extend the deadline for full implementation until January 1, 2006. The Commonwealth plans to use part of its requirements payments to pay for the costs of the SURE system. By the April 27, 2004 General Primary, 56 counties were using the SURE System as their official record of voter registration. Pennsylvania’s 11 remaining counties will be fully connected to the SURE System as soon as possible, but no later than the January 1, 2006 deadline imposed by HAVA.

#### 2005:

- Act No. 2002-3 authorizes the establishment of a central uniform registry that is HAVA-compliant. (*See Appendix C.*) However, because SURE could not be fully operational by the date specified by section 303(d)(1)(B) of HAVA – January 1, 2004 – the Commonwealth invoked the waiver authorized by HAVA to extend the deadline for full



implementation until January 1, 2006. The Commonwealth has used and plans to continue using part of its requirements payments to pay for the costs of the SURE system. As of June 2005, 56 counties are using the SURE system as their official record of voter registration. Pennsylvania's 11 remaining counties will be fully connected to the SURE system during the summer and fall of 2005. The SURE system will be fully deployed as the Commonwealth's official voter registration system prior to 2006.

- When SURE is fully deployed, it will be the primary mechanism counties will use to verify voters' driver's license and social security numbers through an interface to the state's Department of Motor Vehicles and the Social Security Administration as required by HAVA. SURE will also serve as the basis to implement other improvements to election administration in Pennsylvania, including: public access to one's own voter registration information on the Internet, reporting of statewide statistics, electronic registration at other state agencies, and other election and voter registration-related features.

### **Requirements for Voters Who Register by Mail:**

#### 2004:

- The Department of State has prescribed the content of two notices that will be posted at each polling place detailing the acceptable forms of identification required of voters who appear to vote in an election district for the first time. The Department worked cooperatively with counties and other stakeholders to develop the format of the notice and facilitate production.
- The Department is also continuing to work with the counties and stakeholders to educate voters regarding the voter identification requirements imposed upon first-time voters by Act 150 and the rights of such voters to cast a provisional ballot in the event that they are unable to produce identification required by sections 1210(a) or 1210(a.1) of the Election Code.

#### 2005:

- The Department is working with the Pennsylvania Department of Transportation (PennDOT) to meet requirements of HAVA that mandate a process for verifying voter registration information through the Commonwealth's driver's license records or U.S. Social Security Administration records.

### **Voter Education:**

#### 2004:

- The Commonwealth, through the Department of State and in consultation with county representatives and community stakeholders, prescribed the contents of a bilingual notice for posting at each polling place that details the acceptable forms of identification required of voters who appear to vote in an election district for the first time, provisional



voting information, and information regarding HAVA Title III Complaints. The Department worked cooperatively with counties and other stakeholders to develop the format of the notice, and to facilitate re-production and posting at each polling place for elections occurring after January 1, 2004. The information contained on the posting was provided to counties in two formats: (1) A format similar to the current cards of instructions and penalties to be printed by the county boards of elections; and (2) a large voter-friendly poster that the Commonwealth plans to provide through the November 2, 2004 General Election. Both formats were to be posted in every polling place for any election held after January 1, 2004.

- The Commonwealth printed 15,000 voter-friendly posters and provided at least one poster for every election district, with at least one additional poster to be posted in elections districts where county boards of elections provide election-related materials printed in Spanish for the April 27, 2004 General Primary.
- The Commonwealth reproduced 250,000 copies of the posting described above in the form of a flier and provided them to State legislators, county boards of elections, municipalities, libraries and State agencies who provide voter registration services.
- The Commonwealth launched the *PA Votes!* website on April 12, 2004, at [www.pavotes.state.pa.us](http://www.pavotes.state.pa.us). *PA Votes!* is geared toward the voting public in general. The website includes information regarding voter registration, county specific voting instructions, Election Day information, alternative language interpretive services, and information regarding HAVA and SURE.
- Department staff recorded radio sound bites in English and Spanish for use as public service announcements to educate listeners about voter identification requirements, overvotes, provisional voting, and HAVA Title III complaints for the Special Elections held in January and March of 2004 for State legislative offices, as well as for the April 27, 2004 General Primary.
- As part of a combined voter education and voter outreach effort, the Department developed additional public service announcements for print and television media outlets to educate voters and encourage voter participation. PSAs were produced in alternative English and Spanish to further encourage voter participation by citizens whose primary language is not English.
- The Department also developed and produced a new *Pennsylvania Voter Guide*, which provides comprehensive information about registering and voting in Pennsylvania. The *Pennsylvania Voter Guide* was printed in English and Spanish and distributed to the Department, county boards of elections, and state agencies that participate in voter registration.
- As part of the Department's voter outreach program, the Secretary produced additional HAVA compliant voter registration applications and distributed them to all registration agencies, the 67 county registration offices and civic organizations interested in voter registration.



- The Commonwealth provided voter education materials in alternative languages in those jurisdictions falling under section 203 of the Voting Rights Act, as well as those jurisdictions with responsibilities to adhere to the requirements of other provisions of the Act, including sections 2, 4(e) and 208; and it made available alternative language voter education materials to all other jurisdictions irrespective of their coverage under section 203 and to groups that request them.
- The Commonwealth provided voter registration mail applications to all senior high school students graduating from high school during the spring of 2004.

2005:

- Prior to the April 27, 2004 General Primary, the Department relied on public service announcements, required advertisements in newspapers, and polling place postings to inform voters of their rights and other important information necessary for participation on Election Day. After the 2004 General Primary, the Department contracted with an advertising agency to conduct a statewide voter education effort for the November 2, 2004 General Election. The agency integrated TV, radio and print advertisements, billboards, comprehensive voter guides, pamphlets, an instructional video, a new website, and various public events into the voter education program. According to the agency, our voter education message of “Ready.Set.Vote” reached over nine million Pennsylvanians prior to Election Day. This initiative was conducted both in English and Spanish. “Ready.Set.Vote” and other voter education initiatives received positive reviews from most county personnel, advocacy groups, and the public.

**Education for State/County Officers:**

2004:

- Department staff attended the Eastern and Western County Election Personnel Associations in February and March of 2004, respectively, to discuss provisional voting, voter identification, HAVA Title III complaints, and poll worker training in preparation for the April 27, 2004 General Primary.
- In addition, the Department conducted county training sessions July 13, 2004 through July 23, 2004 in five regional meetings across Pennsylvania to address the needs of the November 2, 2004 General Election. Representatives from sixty-two of Pennsylvania’s sixty-seven counties attended the training sessions.

2005:

- The Department conducted county training sessions from June 20, 2005 through June 24, 2005 in the form of five regional meetings across Pennsylvania. The goal of the seminars was to discuss election issues in small groups in an effort to promote uniformity in procedures and practices. Although the sessions were similar to the seminars held in July



of 2004, additional topics were added to the agenda such as voting system procurement, county plans, and county grants.

### **Education of District Election Officials:**

#### 2004:

- The Commonwealth, through the Department of State, developed, implemented and conducted an extensive program to educate district election officials (*i.e.*, poll workers) regarding the changes to Federal and State election laws. All counties were given the opportunity to have Department of State personnel conduct these trainings. Of the 67 counties, 13 requested Department assistance with their district election official training. The Department participated in the training of the 13 counties that requested assistance by providing staff to conduct the training programs. The training involved an extensive Power Point presentation and a printout of the presentation for poll workers to use on Election Day.

#### 2005:

- The Department, in consultation with county election representatives developed and is in the process of implementing a voluntary professional certification and poll worker training program that can be conducted by the county boards of elections.
- In addition, the Department of State and Deloitte Consulting, LLP conducted a comprehensive, statewide quality assurance assessment program focusing on the infrastructure and preparedness of the 67 counties for the 2004 General Election. Deloitte consultants visited all of the counties and assessed them on quality assurance and preparedness in regard to eight categories: 1) voting systems; 2) provisional ballots and voter identification; 3) absentee and alternative ballots; 4) reporting of results; 5) ballot review; 6) accessibility; 7) resources; and 8) training and education. As a result of the quality assurance assessment, each county received a specific post-assessment letter detailing its strengths and weaknesses as well as recommendations for improvement. The Department and Deloitte also wrote and distributed two global communiqués highlighting statewide trends and recommendations and an “Election Officials’ Information Card.” Several counties were provided with additional training resources, ranging from presentation materials and handouts to Department/Deloitte-conducted training sessions for district election officials. Counties with unique challenges received additional consultation and guidance from the Department. The quality assurance assessment significantly raised the awareness and ensured the preparedness of both the Department and the counties for the 2004 General Election.
- The Commonwealth, through the Department of State, developed, implemented and conducted an extensive program to educate district election officials (*i.e.*, poll workers) regarding the changes to Federal and State election laws. All counties were given the opportunity to have Department of State personnel conduct these trainings. Of the 67 counties, 10 requested Department assistance with their district election official training for the November 2, 2004 General Election. The Department participated in the training



of the 10 counties that requested assistance by providing staff to conduct the training programs. The training involved an extensive Power Point presentation and a printout of the presentation for poll workers to use on Election Day. Only two counties requested poll worker training assistance for the May 17, 2005 Municipal Primary.



**STATE PLAN ELEMENT 13**

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

*HAVA Section 254(a)(13) (42 U.S.C. § 15404(a)(13)).*

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Section 254(a)(13) of HAVA requires the Commonwealth to describe the committee that participated in the development of the State Plan as required by section 255 of HAVA and the procedures followed by the committee under sections 255 and 256 of HAVA.<sup>123</sup> Section 255(a) requires the chief State election official to “develop the State plan ... through a committee of appropriate individuals, including the chief election officials of the two most populous jurisdictions within the State, other local election officials, stake holders (including representatives of groups of individuals with disabilities), and other citizens, appointed for such purpose by the chief State election official.”<sup>124</sup> Section 256 of HAVA requires the Commonwealth to satisfy certain “public notice and comment requirements.”<sup>125</sup>

To facilitate the Secretary of the Commonwealth’s compliance with section 255(a) of HAVA, the General Assembly established within the Department of State the State Plan Advisory Board.<sup>126</sup> Intended by the Legislature to be the committee required by section 255 of HAVA, the Board was charged with the responsibility to advise the Secretary of the Commonwealth on development of the State Plan.<sup>127</sup> The Board was required to make recommendations on all aspects of the State Plan.<sup>128</sup>

Under § 205(b) of the Election Code, the Board is comprised of the following members:

- (1) One director of elections from a county of the first class [Philadelphia County].
- (2) One director of elections from a county of the second class [Allegheny County].
- (3) The chairperson of the political party with the highest number of registered voters in the Commonwealth [the Democratic Party].
- (4) The chairperson of the political party with the second highest number of registered voters in the Commonwealth [the Republican Party].
- (5) Eleven members appointed by the Secretary of the Commonwealth as follows:
  - (i) Seven directors of elections, one from a county of the second class A and one each from a county of the third, fourth, fifth, sixth, seventh and eighth class.
  - (ii) One representative of an organization of disabled Pennsylvania veterans.
  - (iii) One representative of an organization of blind and visually impaired Pennsylvanians.
  - (iv) Two representatives of the public at large, who shall be registered electors of the Commonwealth.<sup>129</sup>



The members serve for terms of five years and must meet as needed to fulfill the requirements of the law.<sup>130</sup> Section 205 also imposes several requirements upon the Advisory Board regarding voting, rules and compensation.<sup>131</sup>

Following is a list of the original members of the Board:

- Chair V. Kurt Bellman, Director of Elections, Berks County (county of the third class)
- Gladys M. Brown, Public At Large Member
- V. Rev. Neal Carrigan, Blind & Visually Impaired Pennsylvanians
- Vice-Chair Deena K. Dean, Director of Elections, Bucks County (county of the second class A)
- Nancy T. James, Administrator, Potter County (county of the eighth class)
- Denise W. Jones, Chief Clerk/Director of Elections, Venango County (county of the sixth class)
- Lee E. Knepp, Chief Clerk, Snyder County (county of the seventh class)
- Robert Lee, Jr., Voter Registration Administrator, Philadelphia County (county of the first class)
- Tom McDole, Legislative Committee Chairman, Disabled Veterans of PA
- Alan Novak, Chairman, Republican State Committee of PA
- Fred Pfeiffer, Director of Elections, Lycoming County (county of the fifth class)
- Representative T.J. Rooney, Chair, Democratic State Committee of PA
- Larry Spahr, Director of Elections, Washington County (county of the fourth class)
- Josh Wilson, Public At Large Member
- Mark Wolosik, Division Manager for Elections, Allegheny County (county of the second class)

The Board encouraged input from the citizens of the Commonwealth and representatives of interested parties. In an effort to obtain input from a broad range of individuals and organizations, the Board held a public hearing on March 26, 2003, before developing its recommendations. Notice of the hearing was placed in advance on the Department of State's website and published in the *Pennsylvania Bulletin*<sup>132</sup>; *The Patriot-News* of Harrisburg; the *Philadelphia Inquirer*; the *Pittsburgh, Post-Gazette*; and the Spanish-language *El Hispano*. At the public hearing, the Board heard testimony from the American Civil Liberties Union of Pennsylvania, the Pennsylvania Council of the Blind, and Common Cause/PA.

All meetings of the Board were open to public attendees, who were afforded the opportunity to comment during the Board's meetings. The Board was fortunate to receive input from various advocacy groups, including Common Cause/PA; the Pennsylvania League of Women Voters; the Pennsylvania Council of the Blind; the United States Postal Service; and Carlos A. Zayas, a voting rights advocate for the Hispanic community in Pennsylvania. The Board provided public attendees with copies of the documents relating to the development of the State Plan. In addition, the Department of State advertised in advance of the meetings of the Board in the *Pennsylvania Bulletin*<sup>133</sup>, *The Patriot-News* and on the Department of State website.



Meetings of the Board were held on a regular basis, beginning on February 27, 2003. The Board held further meetings on March 26 (public hearing); April 3; April 11; April 17; April 23; May 1; and May 12. On May 12, 2003, the Board presented its recommendations to the Secretary of the Commonwealth.



## APPENDIX A

### TESTIMONY AT PUBLIC HEARINGS ON THE PENNSYLVANIA PRELIMINARY STATE PLAN TO IMPLEMENT HAVA

#### *Reading, July 7, 2003*

Mr. Kurt Bellman, Director of Elections, Berks County  
Mr. Bill Chico Ross, Civil Rights Advocate, Abilities in Motion  
Mr. Ralph Trainor, Executive Director, Abilities in Motion  
Ms. Jo-Ann Zaklielarz, Vice President, Government Relations, AccuPoll, Inc  
Mr. Carlos Zayas, Voting Rights Advocate

#### *Pittsburgh, July 9, 2003*

Mr. Paul O'Hanlon, Pa. Protectiona & Advocacy, Disabilities Law Project, United Cerebral Palsy  
Association of Pittsburgh District  
Mr. Jonathan B. Robinson, Attorney  
Mr. Vince Shulte, Unisys  
Mr. Fred Smith, Director of Elections, Cambria County  
Mr. Regis Young, Director of Elections, Butler County

#### *Philadelphia, July 14, 2003*

Mr. Barry Kauffman, Common Cause  
Ms. Elizabeth Milner, Pa. League of Voters  
Ms. Marlene Perkins, Easter Paralyzed Veterans Association  
Mr. Wilfredo Rojas, President Delaware Valley Voter Registration Education Project

#### *Harrisburg SPAB Meeting, July 15, 2003*

William A. Gannon, Pa. Developmental Disability Council  
John Kesich, Citizen

#### *Other Filings*

Brenda Dare, Disability Advocate  
Mr. Larry Frankel, Legislative Director, ACLU  
Mr. Daryl Wold, Attorney, Orange County, California



**APPENDIX B**

*Voting Systems Used in the November 7, 2000 Election in Pennsylvania*

						Affected	Total
Electronic Voting Systems						# of	# of
	Paper	Lever Machine	D.R.E.	Optical Scan	Punch Card	Precincts	Precincts
Adams				51			51
Allegheny		1309				1,309	1,309
Armstrong					74	74	74
Beaver			129				129
Bedford				42			42
Berks			180				180
Blair					97	97	97
Bradford				61			61
Bucks		298				298	298
Butler					82	82	82
Cambria					165	165	165
Cameron				10			10
Carbon		47				47	47
Centre					85	85	85
Chester					220	220	220
Clarion				43			43
Clearfield				71			71
Clinton	16	21				21	37
Columbia				57			57
Crawford	2	65				65	67
Cumberland				96			96
Dauphin			159				159
Delaware		406				406	406
Elk				33			33
Erie		153				153	153
Fayette		105				105	105
Forest				9			9
Franklin				75			75
Fulton				13			13
Greene			44				44
Huntingdon				58			58
Indiana				68			68
Jefferson				52			52
Juniata				20			20



**APPENDIX B (continued)**

Voting Systems Used in the November 7, 2000 Election in Pennsylvania						Affected	Total
	Paper	Lever Machine	Electronic Voting Systems			# of	# of
			D.R.E.	Optical Scan	Punch Card	Precincts	Precincts
Lackawanna		239				239	239
Lancaster		225				225	225
Lawrence				106			106
Lebanon		55				55	55
Lehigh		145				145	145
Luzerne		316				316	316
Lycoming	12	74				74	86
McKean	2	40				40	42
Mercer		100				100	100
Mifflin	1	29				29	30
Monroe		54				54	54
Montgomery			406				406
Montour					15	15	15
Northampton		139				139	139
Northumberland		94				94	94
Perry					33	33	33
Philadelphia		1681				1,681	1,681
Pike		16				16	16
Potter	30		4				34
Schuylkill				167			167
Snyder				25			25
Somerset				68			68
Sullivan				15			15
Susquehanna				43			43
Tioga				44			44
Union					26	26	26
Venango					49	49	49
Warren	3	30				30	33
Washington					184	184	184
Wayne		37				37	37
Westmoreland		306				306	306
Wyoming				30			30
York		159				159	159
<b>Totals:</b>	<b>66</b>	<b>6,143</b>	<b>922</b>	<b>1,257</b>	<b>1,030</b>	<b>7,173</b>	<b>9,418</b>
<b>% of Total:</b>	<b>0.7%</b>	<b>65.2%</b>	<b>9.8%</b>	<b>13.3%</b>	<b>10.9%</b>	<b>76.2%</b>	



**APPENDIX C**

***Computerized Statewide Voter Registration List Requirements***

	<b>HAVA Requirements (Section 303(a))</b>	<b>SURE Compliance (25 Pa. C.S. § 1222)</b>	<b>Notes</b>
1	Single (§ 303(a)(1)(A))	Yes	Section 1222(c) establishes SURE as a “single, uniform integrated computer system.”
2	Uniform (§ 303(a)(1)(A))	Yes	Section 1222(c) establishes SURE as a “single, uniform integrated computer system.”
3	Official (§ 303(a)(1)(A))	Yes	Section 1222(c)(6) provides that SURE shall “be the general register for a commission once the commission is connect to the SURE system.” Further, 25 Pa. C.S. § 1401(c) specifies that “[a]fter a commission is connected to the SURE system, the general register of the commission shall consist of the registration information contained on the SURE system as maintained by the commission.”
4	Centralized (§ 303(a)(1)(A))	Yes	Under section 1222, SURE must be maintained and administered by the Department of State. “Upon being connected, each commission shall be required to use the SURE system as its general register.” 25 Pa. C.S. § 1222(e). Consequently, after connection, no county registration commission will be permitted to use any other system as its official registration record. The centralized SURE system will be the official registration record of all counties in Pennsylvania. 25 Pa. C.S. § 1222(c)(6).
5	Interactive (§ 303(a)(1)(A))	Yes	Section 1222(c) specifies that the SURE system must do all of the following: <ul style="list-style-type: none"> <li>• Permit the commissions to add, modify and delete information in the system as necessary and appropriate. § 1222(c)(4).</li> <li>• Permit each commission and the department to have instant access to a commission’s registration records maintained on the system. § 1222(c)(5).</li> <li>• Provide for the electronic transfer of completed voter registration applications and changes of address. § 1222(c)(8).</li> <li>• Permit auditing of each registered elector’s registration record from the day of its creation until the day it is canceled. § 1222(c)(11).</li> </ul>



6	Computerized (§ 303(a)(1)(A))	Yes	Section 1222(c) establishes SURE as a “single, uniform integrated computer system.”
7	Statewide (§303 (a)(1)(A))	Yes	Section 1222(c) provides that “[a]ll [county] commissions shall be connected electronically to the SURE system and maintain their registration records in the system.”
8	Defined at the state level (§ 303(a)(1)(A))	Yes	Section 1222(a) requires the “[D]epartment [of State] to develop and establish a Statewide Uniform Registry of Electors to be known as the SURE system.”
9	Maintained at the state level (§ 303(a)(1)(A))	Yes	Section 1223 provides that “[t]he cost of establishment, implementation and maintenance of the SURE system technology and its emergency recovery system shall be borne by the Commonwealth.”
10	Administered at the state level (§ 303(a)(1)(A))	Yes	In addition to the above, section 1222(f) establishes that “[t]he [S]ecretary [of the Commonwealth] shall promulgate regulations necessary to establish, implement, and administer the SURE system.”
11	Contains the name and registration information of every legally registered voter in the State (§ 303(a)(1)(A))	Yes	Section 1222(c)(1) specifies that the SURE system must “contain a database of all registered electors in this Commonwealth.”
12	A unique identifier is assigned to each legally registered voter in the State (§303 (a)(1)(A))	Yes	According to section 1222(c)(3), SURE must “assign a unique SURE registration number to each individual currently registered in this Commonwealth.” Additionally, paragraph (10) provides that the system must “assign a unique registration number to each qualified elector who becomes registered and record the registered elector in the general register of the appropriate commission.” Also, 25 Pa. C.S. § 1328.1 states that: “Each registered elector shall be assigned a single and unique SURE registration number....Once assigned, a SURE registration number shall not be changed, modified or altered.”
13	Coordinated with other agency databases in the State (§ 303(a)(1)(A)(iv))	Yes	Section 1222 specifies that SURE must interact with other state agency databases. Specifically, section 1222(c)(7) mandates that SURE must “permit the sending of notices [from the Department of Health] to the appropriate officials regarding death, change of address or other information that could affect the qualifications of an applicant or registration of a registered elector.” Further, SURE is required to “provide for the electronic transfer of completed voter registration applications and changes of address.” § 1222(c)(8). The sending of notices and other information specified above mandate that SURE



			must interface with the Pennsylvania Departments of Transportation and Health. Section 1323(c)(3.1) of Title states that, after the Department of Transportation is connected to the SURE system, it “shall transmit electronically [to the county voter registration commissions] the contents of a completed voter registration application within five days of receipt of the application.” With regard to changes of address between counties, 25 Pa. C.S. § 1323(c)(4) requires that the Department of Transportation “notify the commission of the county of the registrant’s former residence.”
14	Any election official, including any local election official, may obtain immediate electronic access to the information contained in the computerized list (§ 303(a)(1)(A)(v))	Yes	The SURE system assures that election officials have instant access to the SURE database. Section 1222(c)(5) specifically provides that SURE must “permit each commission and the department to have instant access to a commission’s registration records maintained on the system.” Under paragraph (7), each commission and the Department must have the ability to “review and search the system.”
15	All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official (§ 303(a)(1)(A)(vi))	Yes	Section 1222(c)(4) provides that SURE must “permit the commissions to add, modify and delete information in the system as is necessary and appropriate.” Section §1203(l) of Title 25 requires that a commission “promptly update information contained in its registration records.” The same requirement for prompt updates of information in the SURE system by county commissions is contained in the other sections of Title: <i>See</i> 25 Pa. C.S. §§ 1323(c)(4)(i) & (5); 1328(d)(2); 1329(d); 1501(b)(2) & (3); 1502(a)(6); 1505(a) & (b); 1901(b)(4) & (c); 1903; 1904(a); and 1905(c)(2).
16	The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described (§ 303(a)(1)(A)(vii))	Yes	Section 1222(a) of Title 25 mandates that the Department of State “develop and establish” the SURE system. Additionally, “the cost of establishment, implementation and maintenance of the SURE system technology and its emergency recovery system shall be borne by the Commonwealth.” 25 Pa. C.S. § 1223. Each commission must “have instant access to a commission’s registration records maintained on the system.” 25 Pa. C.S. § 1222(c)(5). Section 1222(c)(14) further establishes the Commonwealth’s responsibility for the availability of the SURE system by specifying that SURE “be designed with an emergency recovery system to insure that registration records are not lost in the case of an emergency,



			natural disaster or other such event that could cause the system to malfunction.”
17	The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State (§ 303(a)(1)(A)(viii))	Yes	Section 1222(c)(6) specifies that the SURE system must be “the general register for a commission once the commission is connected to the SURE system.” As the general register, the SURE system’s data will be used as the official data in the conduct of every election held in the county.



## ENDNOTES

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- <sup>1</sup> 42 U.S.C. § 15301 *et seq.*  
<sup>2</sup> 42 U.S.C. § 15301-02  
<sup>3</sup> 42 U.S.C. § 15421-25  
<sup>4</sup> HAVA §§ 255-56, 42 U.S.C. §§ 15405-06.  
<sup>5</sup> See 33 Pa. Bull. 3573 (July 19, 2003).  
<sup>6</sup> 42 U.S.C. § 15406.  
<sup>7</sup> HAVA § 304, 42 U.S.C. § 15484.  
<sup>8</sup> *Id.*  
<sup>9</sup> *Id.* § 305, 42 U.S.C. § 15485.  
<sup>10</sup> *Id.* § 301(a)(6), 42 U.S.C. § 15481(a)(6).  
<sup>11</sup> See Pa. Const. Art. VII, § 6.  
<sup>12</sup> 42 U.S.C. § 15481(a)(1)(B).  
<sup>13</sup> *Id.* § 15481(a)(6).  
<sup>14</sup> Pennsylvania Election Code § 204(h), 25 P.S. § 2624(h).  
<sup>15</sup> 25 P.S. § 2624(d).  
<sup>16</sup> 42 U.S.C. § 15481(a)(3)(B).  
<sup>17</sup> 42 U.S.C. § 1973.  
<sup>18</sup> *Id.* § 1973b(e).  
<sup>19</sup> *Id.* § 1973aa-6.  
<sup>20</sup> HAVA § 302(a), 42 U.S.C. § 15482(a).  
<sup>21</sup> *Id.* § 302(b)(2), 42 U.S.C. § 15482(b)(2).  
<sup>22</sup> 25 P.S. § 3050(a.4).  
<sup>23</sup> 25 P.S. §§ 3046 and 3050(a.2) & (a.4)(1).  
<sup>24</sup> *Id.* § 3050(a.4)(2).  
<sup>25</sup> *Id.*  
<sup>26</sup> *Id.* § 3050(a.4)(3).  
<sup>27</sup> *Id.*  
<sup>28</sup> Act 2004-97 increased the number of days from three business days to seven calendar days.  
<sup>29</sup> *Id.* § 3050(a.4)(4).  
<sup>30</sup> *Id.*  
<sup>31</sup> *Id.* § 3050(a.4)(5).  
<sup>32</sup> *Id.* § 3050(a.4)(6).  
<sup>33</sup> *Id.* § 3050(a.4)(7).  
<sup>34</sup> 42 U.S.C. § 15482(a)(5)(B).  
<sup>35</sup> 25 P.S. § 3050(a.4)(8).  
<sup>36</sup> *Id.*  
<sup>37</sup> *Id.*  
<sup>38</sup> *Id.*  
<sup>39</sup> *Id.* § 3050(a.4).  
<sup>40</sup> 42 U.S.C. § 15482(b).  
<sup>41</sup> *Id.* § 15483(b).  
<sup>42</sup> 25 P.S. § 3042.  
<sup>43</sup> *Id.* § 3049(a).  
<sup>44</sup> *Id.*  
<sup>45</sup> *Id.* § 3042.  
<sup>46</sup> HAVA § 303(d)(1), 42 U.S.C. § 15483(d)(1).  
<sup>47</sup> *Id.* § 303(a)(1)(A), 42 U.S.C. § 15483(a)(1)(A).  
<sup>48</sup> *Id.*  
<sup>49</sup> *Id.* § 15483(a)(2)(A).  
<sup>50</sup> *Id.* § 15483(a)(2)(B).  
<sup>51</sup> *Id.* § 15483(a)(2)(A)(i).  
<sup>52</sup> *Id.* § 15483(a)(2)(A)(ii)(II).  
<sup>53</sup> *Id.* § 15483(a)(3).



- <sup>54</sup> *Id.* § 15483(a)(4).  
<sup>55</sup> *Id.* § 15483(a)(4)(A).  
<sup>56</sup> *Id.* § 15483(a)(4)(B).  
<sup>57</sup> *Id.* § 15483(a)(5)(A)(i).  
<sup>58</sup> *Id.* § 15483(a)(5)(A)(iii).  
<sup>59</sup> *Id.* § 15483(a)(5)(B)(i).  
<sup>60</sup> *See* 25 Pa. C.S. § 1222 (relating to SURE system).  
<sup>61</sup> *Id.*  
<sup>62</sup> *Id.*  
<sup>63</sup> *Id.* § 1203(l).  
<sup>64</sup> *Id.* §§ 1323(c)(4)(i) & (5); 1328(d)(2); 1329(d); 1501(b)(2), (3) & (6); 1505(a) & (b); 1901(b)(4) & (c); 1903; 1904(a); and 1905(c)(2).  
<sup>65</sup> HAVA § 303(a)(4)(A), 42 U.S.C. § 15483(a)(4)(A).  
<sup>66</sup> 42 U.S.C. § 15483(a)(2)(A)(ii)(I).  
<sup>67</sup> *Id.* § 15483(a)(2)(A)(ii)(II).  
<sup>68</sup> 25 Pa. C.S. § 1222(c)(2).  
<sup>69</sup> *Id.* § 303(a)(5)(A)(ii), 42 U.S.C. § 15483(a)(5)(A)(ii).  
<sup>70</sup> *Id.* § 15483(b)(2)(A)(i).  
<sup>71</sup> *Id.* § 15483(b)(2)(A)(ii).  
<sup>72</sup> *Id.* § 15483(b)(2)(B).  
<sup>73</sup> *Id.* § 15483(b)(3).  
<sup>74</sup> *Id.*  
<sup>75</sup> *Id.* § 15483(b)(4)(A).  
<sup>76</sup> *Id.* § 15483(b)(4)(B).  
<sup>77</sup> 42 U.S.C. § 15484.  
<sup>78</sup> 25 P.S. § 3050(a.2).  
<sup>79</sup> *Id.* § 3050(a).  
<sup>80</sup> *Id.* § 3050(a.1).  
<sup>81</sup> 42 U.S.C. § 15483(b)(2)(A).  
<sup>82</sup> *Id.* §§ 15483(b)(2)(A)(i)(II) & (ii)(II).  
<sup>83</sup> *Id.* § 15483(b)(3)(C).  
<sup>84</sup> *Id.* §§ 15483(b)(3)(A) & (B).  
<sup>85</sup> Beginning January 1, 2006, HAVA will require such a voter to present or submit identification only if he or she is voting for the first time in a Federal election held *in the State*. *See* 42 U.S.C. § 15483(b)(B)(i). Also beginning January 1, 2006, HAVA will *not* require identification of a voter if the individual's registration application was verified through a match to an existing State identification record using the voter's driver's license number or the last four digits of the individual's social security number. *See id.* § 15483(b)(3)(B).  
<sup>86</sup> *Id.* § 15483(b)(2)(A)(ii).  
<sup>87</sup> *See* HAVA § 303(b)(3), 42 U.S.C. § 15483(b)(3).  
<sup>88</sup> *Id.* § 15483(b)(4)(A)(iv).  
<sup>89</sup> 42 U.S.C. § 15483(b)(4).  
<sup>90</sup> 4 Pa. Code § 183.1.  
<sup>91</sup> 42 U.S.C. § 15483(b)(4).  
<sup>92</sup> *Id.* § 15483(b)(4)(A).  
<sup>93</sup> 42 U.S.C. §§ 15404(a)(2)(A) & (B).  
<sup>94</sup> Pa. Election Code § 201(f), 25 P.S. § 2621(f).  
<sup>95</sup> 42 U.S.C. § 15483(a)(1)(B).  
<sup>96</sup> 25 P.S. § 3031.5.  
<sup>97</sup> 42 U.S.C. §§ 15404(b)(1) & (2).  
<sup>98</sup> *Id.*  
<sup>99</sup> 42 U.S.C. § 15512(a)(1).  
<sup>100</sup> *Id.* § 15512(a)(2).  
<sup>101</sup> *See* Pa. Election Code § 1206.2, 25 P.S. § 3046.2.  
<sup>102</sup> 42 U.S.C. § 15512(a)(2)(C).  
<sup>103</sup> 25 P.S. § 3046.2(a).  
<sup>104</sup> Pa. Election Code § 1206.2(c)(1), 25 P.S. § 3046.2(c)(1).



- <sup>105</sup> *Id.* § 1206.2(c)(2), 25 P.S. § 3046.2(c)(2).  
<sup>106</sup> 42 U.S.C. § 15512(a)(2)(E).  
<sup>107</sup> *See* Pa. Election Code § 1206.2(c)(3), 25 P.S. § 3046.2(c)(3).  
<sup>108</sup> *Id.* § 1206.2(c)(4), 25 P.S. § 3046.2(c)(4).  
<sup>109</sup> *Id.* § 1206.2(c)(5), 25 P.S. § 3046.2(c)(5).  
<sup>110</sup> *Id.*  
<sup>111</sup> *Id.*  
<sup>112</sup> *Id.* § 3046.2(b)(1).  
<sup>113</sup> *Id.* § 3046.2(b)(2).  
<sup>114</sup> *Id.* § 3046.2(b)(3).  
<sup>115</sup> *Id.* § 3046.2(b)(5).  
<sup>116</sup> Pa. Election Code § 1206.2(d), 25 P.S. § 3046.2(d).  
<sup>117</sup> *Id.* § 1206.2(e), 25 P.S. § 3046.2(e).  
<sup>118</sup> *Id.*  
<sup>119</sup> *Id.* § 1206.2(f), 25 P.S. § 3046.2(f).  
<sup>120</sup> 42 U.S.C. § 15405.  
<sup>121</sup> *Id.* § 15406.  
<sup>122</sup> *Id.* § 15302(a)(3)(B).  
<sup>123</sup> *Id.* §§ 15405-06.  
<sup>124</sup> *Id.* § 15405(a).  
<sup>125</sup> *Id.* § 15406.  
<sup>126</sup> Pa. Election Code § 205, 25 P.S. § 2625.  
<sup>127</sup> *Id.* §§ 205(a) & (h), 25 P.S. §§ 2625(a) & (h).  
<sup>128</sup> *Id.* § 205(h), 25 P.S. § 2625(h).  
<sup>129</sup> *Id.* § 205(b), 25 P.S. § 2625(b).  
<sup>130</sup> *Id.* §§ 205(c) & (d), 25 P.S. §§ 2625(c) & (d).  
<sup>131</sup> *Id.* §§ 205(c) & (e)-(g), 25 P.S. §§ 2625(c) & (e)-(g).  
<sup>132</sup> *See* 33 Pa. Bull. 1422 (March 15, 2003).  
<sup>133</sup> *See* 33 Pa. Bull. 1684 (March 29, 2003); 33 Pa. Bull. 1786 (April 5, 2003); 33 Pa. Bull. 1901 (April 12, 2003); 33 Pa. Bull. 2022 (April 19, 2003); 33 Pa. Bull. 2134 (April 26, 2003); 33 Pa. Bull. 2324 (May 10, 2003); 33 Pa. Bull. 2636 (May 31, 2003); and 33 Pa. Bull. 2946 (June 21, 2003).