



Commonwealth of Kentucky

State Plan

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

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Introduction

On October 29, 2002, President George W. Bush signed the Help America Vote Act (HAVA) into law. HAVA is a federal response to the irregularities in voting systems and processes seen in certain states during the 2000 Presidential election. HAVA requires each state to develop a comprehensive state plan for implementing mandatory changes in the administration of elections. The impact of HAVA on the Commonwealth includes these areas: replacing lever voting machines in 147 precincts, improving voter education and poll worker training, requiring provisional ballots, and mandating that at least one voting machine be available per polling place which is accessible to voters with disabilities.

The state plan for the Commonwealth of Kentucky, developed in accordance with Section 254 of the Act, through Kentucky's HAVA Advisory Committee, establishes a framework for meeting requirements, yet remaining a national leader in the conduct of elections.

We anticipate revising this document several times as the Commonwealth works toward improving elections and complying with HAVA. Most of the items included in this plan are based on the assumption that HAVA is fully funded by Congress over the next three federal fiscal years.

Overview of Conduct of Elections in Kentucky

The Secretary of State, an elected constitutional officer, serves as the Chief Election Official and Chairman of the State Board of Elections. Certain candidates for public office must file candidacy declaration papers with the Secretary of State. Candidates' names, party affiliation, and ballot order are certified by the Secretary to county clerks for ballot placement and printing. Election returns must be certified to the Secretary, as custodian of the official election results.

The State Board of Elections, an independent agency, administers the Commonwealth's election laws, promulgates administrative regulations necessary to properly carry out its duties, supervises the registration and purgation of voters, appoints the political party representatives to the 120 county boards of elections, and certifies the official election results. The State Board of Elections is comprised of seven members: Secretary of State (Chairman), three Democratic members and three Republican members. The State Board of Elections appoints an Executive Director and an Assistant to the Director, which shall be of opposite political party affiliations, to conduct the day-to-day operations.

The bulk of election administration is conducted at the county level by the county clerks and the county boards of elections. The county clerk is the candidate-filing officer for

county level offices. The county board of elections, which works at the direction of and under the supervision of the State Board of Elections, administers the election laws and the registration and purgation of voters within the county. The county board of elections is comprised of four members: county clerk (chairman), county sheriff, and one Democratic member and one Republican member appointed by the State Board of Elections.

State Plan Required Elements

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

Voting System Standards

Voting System Standards	Sec. 301 (pages 96- 102<line 9>)	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
All voting systems shall permit a voter to verify/review selections before casting the vote.	Meets the requirement.	No action needed.
Allow voter to change or correct any error on the ballot before casting the vote.	<p>Partially meets the requirement.</p> <p>Some paper ballots, which are used with an optical scan system or placed in a ballot box, are not scanned or counted while voter is still present in the polling site.</p> <p>Current process on mail-in paper absentee ballots would not meet the requirement.</p>	<p>A voter education campaign will need to be implemented in these precincts.</p> <p>A voter education campaign will need to be implemented.</p>

Voting System Standards	Sec. 301 (pages 96- 102<line 9>)	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
<p>Prevent or alert voter if he/she over votes on the ballot.</p>	<p>Partially meets the requirement.</p> <p>Some paper ballots, which are used with an optical scan system or placed in a ballot box, are not scanned or counted while voter is still present in the polling site.</p> <p>Current process on mail-in paper absentee ballots would not meet the requirement.</p>	<p>A voter education campaign will need to be implemented in these precincts.</p> <p>A voter education campaign will need to be implemented.</p>
<p>All voting systems must be able to produce a paper audit trail of all votes cast.</p>	<p>Partially meets the requirement.</p> <p>Optical scan tabulation systems and the MicroVote MV-464 DRE electronic voting system meet this requirement.</p> <p>Electronic 1242 DRE voting system, as currently programmed, does not meet this requirement.</p>	<p>Update existing voting systems or purchase new systems.</p>
<p>Voting systems must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for privacy and independence as other voters.</p> <p>This requirement may be met by having at least one DRE or other system equipped for individuals with disabilities at each polling site.</p>	<p>Do not meet the requirement; all voting systems require human assistance.</p> <p>Jefferson County was a test county in the 2002 general election for a new DRE voting system, which contained audio plug-in for visually impaired voters.</p>	<p>Update existing voting systems or purchase new systems.</p> <p>Kentucky Disabilities Coalition will make a recommendation on an accessible voting system.</p>

Voting System Standards	Sec. 301 (pages 96- 102<line 9>)	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
Voting systems shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965.	Kentucky is not currently covered under the alternative language section of the Voting Rights Act.	No action needed.
All voting systems shall have error rates (machine errors only) that do not exceed the Federal Election Commission standards.	Meets the requirement.	
A uniform definition of what constitutes a vote for each voting system in use in the state.	Does not meet the requirement. We have no uniform definition in place.	Implement a uniform definition for all voting systems in use in the state.

Provisional Voting and Voting Information Requirements

Provisional Voting and Voting Information Requirements	Sec. 302(pages 102<line 10> - 106<line15>)	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
A provisional voter is to be allowed to vote a paper ballot or an electronic ballot upon the completion of an affidavit. The ballot will be sealed in an envelope or electronically stored separately from the regular votes. The provisional ballot is to be transported to the county board of elections for determination of eligibility and possible counting if voter deemed eligible.	Does not meet the requirement. KRS 117.245 allows a provisional voter to fill out an Oath of Voter affidavit and then vote on the voting machine. The vote is counted. The Oath of Voter form is turned over to the commonwealth's attorney after the election. The commonwealth's attorney and county attorney shall investigate these forms and report to the grand jury.	The State Board of Elections will promulgate an administrative regulation to implement this provision.

Provisional Voting and Voting Information Requirements	Sec. 302(pages 102<line 10> - 106<line15>)	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
Each voter who casts a provisional vote shall be given written information on how they can ascertain whether their vote was counted, and if not why.	Does not meet the requirement.	Develop written instructions.
Establish a free access system, such as toll-free phone number or internet website, allowing provisional voters to ascertain whether their vote was counted, and if not why.	Does not meet the requirement.	Develop a free access system.
Post in each polling place a sample version of the ballot that will be used on election day.	Meets the requirement. KRS 424.290 requires each county clerk to publish in the newspaper of largest circulation, at least three days before each primary and regular election, a copy of face of the ballot. KRS 117.175 requires each precinct to post a copy of the ballot in the precinct. Most county boards of elections print an adequate supply of sample ballots to give to voters as they wait in line.	No action need.
Post information regarding the day of the election and polling hours.	Does not meet the requirement.	Post information.
Post instructions on how to vote on the voting system including how to cast a provisional vote.	Partially meets the requirement. KRS 117.175 requires the posting of instructions on how to operate the voting machine. Kentucky does not have provisional voting instructions.	No action needed. Post information on how to cast a provisional vote.

Provisional Voting and Voting Information Requirements	Sec. 302(pages 102<line 10> - 106<line15>)	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
Post general information on state and federal voting rights and the right to a provisional vote if they meet the requirements to vote.	Does not meet the requirement.	Post information.
Post general information on federal and state laws prohibiting acts of fraud and misrepresentation.	Partially meets the requirement. KRS 117.030(2) requires conspicuous placement of signs in each precinct stating that vote buying and selling are illegal and the penalties for such acts. KRS 117.030(3) requires conspicuous placement of signs in each precinct informing voters of their right to report any administrative or clerical error they witness to the county board of elections (includes county board contact information). No information on federal laws.	No action needed. No action needed. Post information on federal laws.
Any voter who casts a vote as the result of a federal or state court order extending polling hours, shall do so on a provisional ballot, and it shall be kept separate from other provisional ballots.	Does not meet the requirement.	Provide for this occurrence.

Computerized Statewide Voter Registration List

One of the most important aspects of HAVA is the requirement that states create and maintain a statewide voter registration system. The Commonwealth of Kentucky established such a system in 1973, and it was used as a model by Congress for HAVA. The Kentucky system provides a consistent and standardized means of establishing and maintaining voter registration records, preparing voter lists and providing registration and election statistics. It is one of the key reasons the State Board of Elections and the individual county clerks maintain accurate, current, and relatively trouble free voter registration records. We currently have 2,682,997 persons registered to vote and a voting age population (2000 census data) of 3,046,951.

Because of the features and simplicity of our mainframe-based voter registration system, all of Kentucky's 120 counties benefit equally regardless of size. The voter registration records for each county reflect the actual number of registrants because the system does not allow more than one voter registration record to exist per social security number. Kentucky has utilized the full social security number since the early 1970's. In order to ensure privacy, we do not release or print the social security number on any public documents. In addition, registrants who move to a new county within the state and reregister to vote in that new county are automatically purged from the voter registration rolls of the county they left. We provide each county clerk with daily reports detailing changes to registrants' records, voter registration statistics by precinct prior to each election, and, finally, voter turnout statistics by precinct following each election. The State Board of Elections utilizes the information contained on the database to produce election day precinct rosters for our 3,464 precincts. Finally, our statewide voter registration database allows us to manage efficiently our list maintenance activities on the state level versus a county level.

In 1973, Kentucky became the fourth state (South Carolina in 1967, Delaware in 1968, and Alaska in 1970) to implement a centralized statewide voter registration system. The enabling legislation passed in 1972 with an implementation deadline of September 1973. The legislation required everyone to re-register to vote in order to assure we started with a clean voter registration database. The county clerks (local election officials) would register voters, mail copies of the cards to the State Board of Elections for data entry, and then receive an activity report back from the State Board of Elections on these entries. The system cost \$1,102,498 to implement.¹

In 1985, the State Board of Elections realized Kentucky needed a quicker more efficient process for registering voters. Utilizing existing hardware and communications infrastructure provided by another state agency, We developed a "real time" "on-line" mainframe-based system that enabled each county clerk to take over all data entry for his or her own county. This system enhancement required no any enabling legislation.

¹ The 1973 cost adjusted for inflation to 2001 dollars using the Consumer Price Urban Consumer Factor Index.

In the summer of 1985, the statewide database enhancement process began and was implemented in August, 1986. The system cost \$796,899 to implement.²

Passage of the National Voter Registration Act of 1993 (“Motor-Voter”) and our desire to add other features to greatly enhance the system, led to the complete overhaul of the database in 1995 . The enabling state legislation passed in April, 1994 with full implementation on January 1, 1995. The current mainframe database includes the following information for each registrant: social security number, name, residential address, mailing address, telephone number, voting precinct, voting precinct location, voting district information, party affiliation, date of birth, date of registration, last update date, inactive date (if needed), and a five year voting history that shows if the person voted in the primary and general elections of those years, and other information.

A direct “real-time” link with the Kentucky Transportation Cabinet’s Division of Driver’s License database and a “nightly batch” link with the social services agencies’ database now interface with the statewide voter registration database. The State Board of Elections prints an acknowledgement card for the counties to mail to each voter who registers to vote or changes their residential address that affects their voting precinct location. An on-line declination screen allows any county clerk to access a listing of all those who decline the right to register to vote at the driver’s license or agency offices. A voter registration purge inquiry screen provides a listing of the date, reason and “userid” of the person who purged the registrant. A master street screen function lists all registered voters on a given street in house number order, to aid in assigning the correct voting precinct. A precinct notification function, which allows a county to request the State Board of Elections produce a post card that the county mails, alerts voters in a given precinct of their new voting location. The system cost \$1,160,926 to implement.³

The Election Night Tally (ENT) System for counties to enter their election results was implemented in 1986, placed on our website for public access in 1995 and overhauled in 2002. The ENT system provides an efficient compilation of statewide election results, which aids both our office and the public.

² The 1985 cost adjusted for inflation to 2001 dollars using the Consumer Price Urban Consumer Factor Index.

³ The 1995 cost adjusted for inflation to 2001 dollars using the Consumer Price Urban Consumer Factor Index.

Computerized Statewide Voter Registration List Requirements and Requirements for Voters who Register by Mail.	Sec. 303(pages 106<line15>-124<line9>)	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
Establish a uniform, statewide voter registration database including a unique identifier for each registrant.	Meets the requirement. KY has had a voter registration database since 1973, which was used as a model for this law. Our unique identifier on the voter registration database is the full Social Security number.	No action needed. The current database is a mainframe system. We would like to upgrade to personal computers and election management systems in each county clerk office.
All list maintenance activities shall conform to the National Voter Registration Act of 1993 (NVRA).	Meets the requirement. Refer to KRS 116.112.	No action needed.
State shall coordinate the voter registration database with appropriate state agencies concerning felony convictions and deaths.	Meets the requirement. KRS 116.113 sets forth requirements to work with Cabinet for Health Services on deaths; circuit clerks for persons declared mentally incompetent; and the Administrative Office of the Courts for convicted felons. NVRA also stipulates that the U.S. Attorneys notify states on federal felony convictions.	No action needed.
Implement special identification requirements for first time registrants who register by mail. (This does not apply to military, dependents of military or overseas voters.)	Not applicable. KRS 117.227 and 31 KAR 4:010, require all voters to present identification before being allowed to vote on election day.	

Computerized Statewide Voter Registration List Requirements and Requirements for Voters who Register by Mail.	Sec. 303(pages 106<line15>-124<line9>)	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
Mail-in voter registration form shall contain two questions concerning U.S. citizenship and will the voter be 18 by election day.	Meets the requirement. The Kentucky mail-in voter registration card now conforms to this new requirement.	No action needed. No action needed.

We include the following chart on voting rights for military and overseas citizens for informational purposes, as it is addressed in Title VII of HAVA and not Title III.

Voting Rights of Military and Overseas Citizens

Voting Rights of Military and Overseas Citizens	Sec. 702-707(pages 145<line4>-151<line13>)	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
Each state must designate a single office to provide information on registration and absentee ballot procedures for all military, dependents of military, and overseas voters.	Does not meet. County clerk is the contact person for this information.	Designate the State Board of Elections as the information site per HAVA requirement.

Voting Rights of Military and Overseas Citizens	Sec. 702-707(pages 145<line4>-151<line13>)	
HAVA Requirement	State of Kentucky's Current Status	Action Planned
All states must report to the Election Assistance Commission, not later than 90 days after each federal general election, the number of military and overseas absentee ballots mailed and received back.	Partially meets the requirement. KRS 117.355(2) requires each county board of elections to submit a post-election report listing the type and number of absentee voters after each primary and general election. The form was modified in 2002 to provide information on military and overseas voters.	Send the information to Election Assistance Commission after each federal general election.
Absentee ballot applications for military, dependents of military, and overseas U.S. citizens are valid for all elections held within two-federal general election cycle.	Does not meet the requirement. A 2002 federal Department of Defense Authorization bill set forth a requirement that all applications were valid for a one-year federal general election cycle. KY currently follows this guideline.	Comply with the HAVA requirement.
All states must notify military, dependents of military, and overseas voters if their voter registration application and/or absentee ballot application has been rejected and the reason why.	Does not meet the requirement. If a voter registration application and/or absentee ballot application is missing some information, county clerks do try to notify the voter in order to receive the necessary information.	Comply with the HAVA requirement.
A state can not refuse to accept or process any otherwise valid voter registration application or absentee ballot application submitted by military, dependent of military, and overseas citizen on the grounds of early submission.	Meets the requirement. County clerk's process the voter registration when it is received and then hold the absentee application until the absentee ballots are printed 50 days prior to the primary and general elections per state law.	No action needed.

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

(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and (B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).

The State Board of Elections will manage all Title II funds and account for all expenditures, funding levels, program controls, and outcomes. Kentucky will follow all applicable laws and regulations regarding the distribution of Title II funds.

A memorandum of understanding will be signed between the Chief Election Official and all counties detailing work required and the amounts of money. The counties will be required to submit semi-annual reports on their performance.

The Chief Election Official and the state Auditor will develop an agreement to provide the monitoring of all activities of HAVA funding.

Accessible voting systems will be placed in all voting locations. Equipment that will aid in the administration of elections will be placed in each of the county clerk's offices. Monies that are distributed for education and training will be based on voting age population with the Chief Election Official reserving the right to set minimum amounts for small counties.

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

Voter education: As in the past, the State Board of Elections plans to develop television and radio public service announcements informing citizens how to register to vote and encouraging them to vote, as well as providing information regarding provisional voting and other election laws. The current *Voter Information Guide* (a pamphlet containing information on registering to vote, and voting) will continue to be produced and updated as warranted. The State Board continues providing voter education information on our website in addition to providing a list of candidate filings and will work with other for-profit and non-profit, governmental, and non-governmental groups to educate the public. The Board will encourage local county clerks/boards of election to demonstrate the operation of new voting equipment in malls and other public places.

Election official education and training: Pursuant to KRS 117.187, the State Board of Elections must provide special training regarding election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the KY State Police on a regular basis. The Board participates in training sessions at the Kentucky County Clerks Association summer and fall conferences, monthly legislative meetings, and at any other time as issues arise or as requested. The State Board will continue to provide the *Precinct Election Officers Quick Reference Guide*. We will pursue the possibility of producing training videos, training modules and/or printed materials to aid in the training process. We will require each county board of elections to designate a county training/education coordinator who will work directly with the training officer at the State Board of Elections. The county training/ education coordinator will meet at least semi-annually with the State Board of Election's training officer.

Poll worker training: The county boards of elections provide special training before each primary and regular election to all poll workers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Any person failing to attend a training session without being excused for illness or other emergency is prohibited from serving as an election officer or challenger for five (5) years.

Per KRS 117.187, the training provided by the county boards of elections shall include:

- a. Operation of the voting machine or ballot cards
- b. Posting of necessary signs and notices at the polling place
- c. Voter assistance
- d. Maintaining precinct rosters
- e. Confirmation of a voter's identity
- f. Challenge of a voter
- g. Completing changes of address or name at the polling place
- h. Qualifications for voting in a primary election
- i. Electioneering and exit polling
- j. Write-in voting procedures
- k. Persons who may be in voting room
- l. Election violations and penalties
- m. Assistance which may be provided by law enforcement officers
- n. Election reports required to be completed

We will seek legislation to add sections to KRS 117.187 requiring sensitivity training for poll workers regarding persons with disabilities and training on the provisional voting process.

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

Summary of Kentucky Voting Systems In Use
(2003 figures)

Election day voting systems	<p>96 counties use Electronic 1242 DRE equipment</p> <p>17 counties use MicroVote MV-464 DRE equipment</p> <p>1 county uses ACCU-VOTE ES Optical Scan Tabulation</p> <p>1 county uses mechanical lever machines</p> <p>5 counties use mechanical lever machines and MicroVote MV-464</p>
Mail-in absentee voting systems	<p>114 counties hand count paper ballots.</p> <p>6 counties utilize an optical scan system.</p>
Walk-in absentee voting systems	<p>113 counties utilize an electronic voting machine.</p> <p>1 county utilizes a mechanical lever machine.</p> <p>6 counties utilize an optical scan system.</p>

Any person or corporation owning, manufacturing or selling any electronic voting system may request the State Board of Elections to examine the system for a \$500 fee and the submission of a test report from an independent testing authority approved by the State Board of Elections. The report must demonstrate that the system meets all Federal Election Commission voting system standards.

The entity selling the electronic voting system must demonstrate the system to three examiners appointed by the State Board of Elections: one examiner who is an expert in computer science or electronic voting systems; one examiner who is knowledgeable in election procedures and law in Kentucky; and one examiner who is a present or former

county clerk. The three examiners shall submit one written report on each system examined. The members of the State Board of Elections shall also examine the system and approve the system if the examiners' report states that the system meets all the requirements of KRS 117.381, and if the State Board of Elections also finds that it meets the requirements. Although the State Board of Elections approves a system for use in Kentucky, the county's fiscal court in consultation with the county clerk purchases a voting system from the State Board of Elections' approved list of voting systems.

Per KRS 117.381, the following requirements shall be met before the electronic voting system is approved:

- a. Provides for voting in secrecy
- b. Permits each voter to vote at any election for all candidates and questions for which he is lawfully entitled to vote, and no others
- c. Permits each voter, at the general election, to vote a straight political party ticket by one or more marks or acts
- d. Provides a method for write-in voting
- e. Provides for a nonpartisan ballot
- f. Precludes each voter from voting for more persons for any office than he is entitled to vote for or upon any question more than once
- g. Permits each voter at a primary election to vote only for the candidates seeking nomination by a political party in which such voter is registered, and for any candidate for nonpartisan nomination, and for any question upon which he is entitled to vote
- h. Permits a voter to change his vote for any candidate or upon any question appearing on the official ballot up to the time that he takes the final step to register his vote and to have his vote computed. If the system uses paper ballots or ballot cards to register the vote and automatic tabulating equipment to compute such votes, the system shall provide that a voter who spoils his ballot may obtain another.
- i. Provides for tabulating votes at the precinct by candidate and precinct
- j. Meets or exceeds the standards for electronic voting equipment established by the Federal Election Commission.

The newly created Federal Election Assistance Commission will develop new voting system standards as stipulated in HAVA. Once these new standards are in place, we will amend our statutes to reflect the change.

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

The State Comptroller of the Commonwealth of Kentucky established an "Election Fund" within the Commonwealth's Federal Fund to meet the reporting requirements of title I

of P.L. 107-252, the Help America Vote Act (the "Act"). The Election Fund will be maintained as part of the Commonwealth's Board of Elections.

The Election Fund consists of three programs, which will be interest-bearing accounts as described in Section 254(b)(1):

- A program titled "Election Fund – State Match" has been established to deposit funding received under title I as described in Section 254(b)(1). This account will ensure proper tracking of funds provided to the Commonwealth.
- A program titled "Election Fund – Section 101 and 102" has been established to track spending and verification of actual purchases in order to report to the Election Assistance Commission.
- A program titled "Election Fund – Title 3 Requirements" has been established to meet the requirements for uniform and nondiscriminatory technology and improve the administration of elections.

6. **The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on (A) the costs of the activities required to be carried out to meet the requirements of title III; (B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and (C) the portion of the requirements payment which will be used to carry out other activities.**

Activity	Cost Allocation
Voting equipment for all polling locations accessible to individuals with disabilities	\$17,000,000
Other Title III requirements	\$1,750,000
Voting system audit trail	\$1,200,000
Provisional voting	\$350,000
Voter education	\$3,000,000
Poll worker training	\$3,000,000
New absentee voting systems	\$1,200,000
Enhancement of statewide voter registration system	\$1,000,000
Election administration technology for counties	\$14,500,000
Miscellaneous	\$1,000,000
TOTAL if fully funded	\$44,000,000

The Kentucky General Assembly appropriated up to \$2.1 million in matching funds as required by the Act, to match Title II funds for implementation of the State Plan in Kentucky totaling approximately \$44 million.

Submission of this plan presumes full and timely federal funding. In order for Kentucky to meet the schedule outlined in the State Plan, it is imperative that federal monies be made available to the state on a schedule that is consistent with implementation of the base components of the plan.

Kentucky reserves the right to seek waivers stipulated in the Help America Vote Act that allow us to delay implementation of this plan if federal funding is not forthcoming in a timely manner.

Proceeding without a guarantee of federal funds would create a financial burden for the state of Kentucky and its 120 counties. While Kentucky is anxious to meet and exceed the standards of the Help America Vote Act, implementation is not possible without the federal guarantees that accompany the Act.

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

The Governor's office of Policy and Management evaluated the budget of the Kentucky State Board of Elections to ensure that the Maintenance of Effort requirement has been met. In addition, there will be a Maintenance of Effort requirement for each county receiving direct HAVA funds.

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

The Secretary of State, as Chief Election Official and Chairman of the State Board of Elections, is ultimately responsible for compliance with HAVA. The State Board of Elections administers elections in the commonwealth. Each county clerk and county boards of elections have substantial responsibilities in conducting elections. Therefore, the Chief Election Official/Chairman of the State Board of Elections, in collaboration with local election officials, will establish performance goals and will institute a process to measure performance toward the achievement of these goals.

Performance Goals

The State's primary goal is to achieve compliance with HAVA through the successful implementation of the programs outlined in the State Plan. Following is a description of the timetable for meeting each element of the Plan and the title of the official responsible for ensuring such element is met:

<i>Element</i>	<i>Official Responsible</i>	<i>Timetable</i>
Voting Systems	State Board of Elections County Clerk	By January 1, 2006
Voter Registration	State Board of Elections	meets Requirement; no HAVA changes necessary
Provisional Voting	State Board of Elections County Board of Elections	By January 1, 2004
Polling Place Accessibility	County Board of Elections	Ongoing
Voter Education/Outreach	State Board of Elections County Board of Elections	Ongoing
Poll Worker Training	County Board of Elections	Ongoing
Administrative Complaint Procedure	State Board of Elections	By January 1, 2004

Performance Measures

Please refer to our answer to question 2 for additional information.

9. A description of the uniform, non-discriminatory State-based administrative complaint procedures in effect under section 402.

The State Board of Elections will promulgate an emergency regulation to place these procedures into the State Administrative Code. In summary, the procedure provides a uniform, nondiscriminatory process for the resolution of any complaint alleging a violation of any provision of Title III of HAVA, including a violation that has occurred, is occurring, or is about to occur during a federal election. Any person who believes a violation of any provision of Title III has occurred may file a complaint with the State Board of Elections. The complaint must be on a form prescribed by the Board, signed, sworn to and notarized. At the request of the complainant the State Board of Elections will conduct a hearing on the record that will be conducted in accordance with HAVA requirements. The State Board of Elections will provide the appropriate remedy, and a final determination within the timeframes specified in HAVA. The procedure provides for alternative dispute resolution if the State Board of Elections does not make a timely final determination.

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

The Title I money will be used to replace lever machines for 147 precincts. The remaining money, excluding expenses in preparing and implementing the state plan, will remain in the interest-bearing election fund until a final appropriation has been made by Congress to determine if the legislation has been fully funded to the authorization level.

11. How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change (A) is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan; (B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and (C) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

The State HAVA Committee will continue to meet at least twice each year to review the budget and progress of the plan, making changes where necessary. The Chairman of the State Board of Elections will include individuals with disabilities in the implementation of HAVA. The Chairman of the State Board of Elections shall report annually to the Kentucky General Assembly's Task Force on Elections, Constitutional Amendments and Intergovernmental Affairs Committee, which is a sub-committee of the Interim Joint Committee on State Government, concerning the implementation of HAVA and expending of HAVA funds.

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

This State Plan represents Kentucky's initial submission to the Election Assistance Commission.

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

Kentucky's HAVA Advisory Committee consists of twenty-four (24) members including the Secretary of State, local election officials from the two largest counties in the state, representatives from the Kentucky House and Senate, representatives of the disabled community, chairman of the political parties, and a variety of other election stakeholders.⁴ The Secretary of State selected the committee membership and appointed a facilitator to chair each meeting.

To develop the state plan, the HAVA Advisory Committee met four times: March 20, April 17, May 8 and June 12.⁵ Initially, the Advisory Committee discussed the requirements of HAVA and its effect on Kentucky election law. The next two meetings addressed accessible voting, provisional voting, training and education and the voting process and information technology. Committee meetings were publicly held and noticed in accordance with the state's Open Meetings Law.

The State Plan will be made available for public inspection and comment for a 30-day period prior to submission of the plan. A public hearing on the plan is scheduled for June 12, 2003. The State Board of Elections will publish notice in the state's two newspapers with the largest circulation.⁶ The Secretary of State will have copies of the plan available for inspection in his office, and the plan will be published on both the Secretary of State's and the State Board of Elections' web pages. Copies of the plan will also be provided to all 120 county clerks. All comments are to be made in writing and filed with the Secretary of State.

⁴ See Appendix A for list of Advisory Committee Members.

⁵ See Appendix B for Advisory Committee Meeting Agendas.

⁶ See Appendix C for Notice of Public Hearing for Comment on State Plan.

Appendix A

Advisory Committee Members

Kentucky' HAVA Advisory Committee Members

Committee Member	Title and Group Representing
The Honorable Adrian Arnold	Chairman, Kentucky House Elections, Constitutional Amendments, Intergovernmental Affairs Committee
The Honorable Donald W. Blevins	Fayette County Clerk
Moretta Bosley	Chairman, Kentucky Democratic Party
The Honorable John Y Brown, III	Secretary of State
Gary Brunker	Director, Division of Driver's Licensing, Department of Transportation
Raoul Cunningham	National Association for the Advancement of Colored People (NAACP)
David Disponett	Board Member, State Board of Elections
Richard Eisert	Paralyzed Veterans of America
Sharon Fields	Executive Director, Kentucky Disabilities Coalition, Inc.
The Honorable Barbara Holsclaw	Jefferson County Clerk
The Honorable Dean Johnson	Laurel County Clerk
Jerry Johnson	Liaison, Governor's Office
Priscilla Johnson	Chairman, Migrant Workers Coalition
The Honorable Lynn W. Lane	Ballard County Clerk
The Honorable James Lewis	Leslie County Clerk
Chris Lilly	General Counsel, Kentucky Senate Majority Office
Terry L. Naydan	Past President, League of Women Voters
Joan Peoples	President, League of Women Voters
Norb Ryan	Kentucky ADA Coordinator
Jim Steinfeld	Board Member, Jefferson County Board of Elections
Aldona Valicenti	Chief Information Officer, Governor's Office of Technology
Ellen Williams	Chairman, Republican Party of Kentucky
Ken Zeller	Protection and Advocacy
The Honorable Guy Zeigler	Franklin County Clerk

Appendix B

Advisory Committee Meeting Agendas

Kentucky's Help America Vote Act (HAVA)
Advisory Committee Meeting Agenda
March 20, 2003, 1:30 pm
Capitol Annex, Room 131

- I. John Y. Brown III Call Meeting To Order and Opening Remarks
- II. Tommy Greenwell Advisory Committee Facilitator
- III. Mary Sue Helm Kentucky Update
- IV. George Russell State Plan, Time Frame, Money
- V. Sarah Ball Johnson
 - What We Have To Do
 - What We Do Not Have To Do
 - What We Want To Do
- VI. Future Meeting Topics
 - A. Accessible Voting
 - 1. Voting Equipment
 - 2. Polling Locations
 - B. Provisional Voting
 - 1. Jurisdiction
 - 2. Notifying the Voter
 - 3. Statewide Precinct Locator
 - C. Training & Education
 - 1. Disability Community
 - 2. Election Officials
 - 3. Precinct Workers
 - 4. Voters
 - D. Equipment Upgrades
 - 1. Statewide Voter Registration System
 - 2. County Election Equipment & PC's
 - 3. Absentee Voting
- VII. Call to the Public

This is the time for the public to comment. Therefore, any action as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration.

Kentucky's Help America Vote Act (HAVA)
Advisory Committee Meeting Agenda
April 17, 2003, 1:30 pm
Capitol Annex, Room 131

- I. John Y. Brown III Call Meeting To Order and Opening Remarks
- II. Tommy Greenwell Advisory Committee Facilitator
- III. Sarah Ball Johnson Kentucky Update/ 2001 Polling Place
Accessibility Survey Form and Results
From 120 Counties
- IV. George Russell Video
- V. Sharon Fields How to Accurately Access Polling Places
- VI. Bobbie Holsclaw 2002 Jefferson County Pilot Project for the
Blind/Vision Impaired
- VII. Sarah Ball Johnson Certified Voting Equipment in Kentucky
- VIII. Don Blevins Provisional Voting
- IX. George Russell Notification Procedures for Provisional Voting
- X. Call to the Public

This is the time for the public to comment. Therefore, any action as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration.

Appendix C

Notice of Public Hearing for Comment on State Plan

**NOTICE OF PUBLIC HEARING
KY CHIEF ELECTION OFFICIAL, JOHN Y BROWN III
FOR COMMENT ON STATE PLAN
AS REQUIRED BY SECTION 254
OF THE HELP AMERICA VOTE ACT OF 2002**

The Secretary of State as Chief Election Official for Kentucky, John Y. Brown III, will conduct a hearing on June 12, 2003 at 2:30 PM (ET) in Room 131, Capital Annex, Frankfort Kentucky, to receive comments on a state plan developed in accordance with Section 254 of the Help America Vote Act of 2002.

The hearing is open to the public and all interested persons will be given the opportunity to present testimony. Testimony will be limited to ten (10) minutes per person. To assure that all comments are accurately recorded, oral comments presented at the hearing must be provided in written form. Written comments on the state plan must be received within 30 days of this published notice to be considered part of the hearing record and can be mailed to the contact person listed below.

The hearing facility is accessible to people with disabilities. An interpreter or other auxiliary aid or service will be provided upon request. Please direct these requests as soon as possible to the contact person listed below.

The full text of the proposed State Plan is available on the Secretary of State's website (www.kysos.com) or is available for public inspection and copying during regular business hours (8:00 AM to 4:30 PM, ET) at the location listed below. Any individual requiring copies may submit a request to the contact person listed below in writing, by telephone, by FAX, or by e-mail.

CONTACT PERSON: Lisa Cleveland, Secretary of State Office, Suite 152 State Capitol, 700 Capital Ave., Frankfort KY 40601. The phone number is (502) 564-3490. The FAX number is (502) 564-5687. E-mail at lcleveland@mail.sos.state.ky.us.