



2009 Kansas State Plan

H E L P A M E R I C A V O T E A C T O F 2 0 0 2

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A M E S S A G E F R O M T H E S E C R E T A R Y

The Help America Vote Act of 2002 (HAVA) is the United States Congress' response to the problems which occurred during the 2000 presidential election. HAVA is a broad federal law that requires change in almost every area of the voting process. As Kansas' chief election official, I am responsible for ensuring the new requirements are carried out and correctly implemented in our state.

Numerous changes have occurred since passage of HAVA. Significant changes include new training and education programs for election officials and a statewide computerized voter registration system. In addition, accessible voting equipment has been implemented in every polling place, allowing individuals with disabilities to cast an independent vote. We are working to ensure that our state has the most technologically advanced systems and highly trained workers at every polling place. The new mandates have made Kansas' electoral system more uniform and secure.

This document is our roadmap for implementation of the HAVA requirements in Kansas. The plan was developed with assistance from the Kansas Election Reform Advisory Council, a group of Kansans from across the state who are committed to making our electoral process a model of excellence. It is a living document that is reviewed, updated and published periodically with assistance from the advisory council.

Comments regarding implementation of HAVA mandates are valued and welcome at any time. As the least complicated, most accessible agency in state government, we are always interested in questions and concerns.

Sincerely,
RON THORNBURGH
Secretary of State

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▪ **Overview of Kansas Elections**

Statutory and Administrative Framework

Kansas election laws are shaped by the Kansas Legislature and new laws are enacted July 1 each year. State election laws are contained in Chapter 25 of the Kansas Statutes Annotated (hereinafter "KSA"). Administrative rules are promulgated by the secretary of state when authority to do so is granted by the legislature. The secretary of state does not have general administrative rule making authority.

State and Local Roles and Responsibilities

Day-to-day administration of elections is handled by 105 county election officers – 101 county clerks and four election commissioners. State and federal elections in Kansas are overseen by the state's chief election officer, the secretary of state. Local elections fall within each county election officer's jurisdiction.

Voting Statistics

- According to April 1, 2008, United States Census Bureau data, Kansas' voting age population is 2,101,649.
- In the 2008 general election, 1,264,208 votes were cast while 1,749,756 Kansans were registered to vote in that election.
- In the 2008 general election, 36.8 percent (464,822) of votes cast were cast before Election Day through the state's early voting program called advance voting.

Voting Systems

In Kansas, voting equipment is subject to a statutory certification process and must be certified before it may be purchased or used in any county.

1. Manufacturers and vendors submit a written request for certification to the secretary of state, accompanied by a \$500 examination fee.
2. The equipment must be tested by an independent testing authority and a report from such must be filed with the secretary of state.
3. The secretary of state reviews the equipment to ensure that it meets the standards established by the Election Assistance Commission and the requirements of Kansas law.
4. An open meeting is conducted by the secretary of state at which the manufacturer or vendor displays the equipment and the equipment is tested.
5. The secretary of state contacts other jurisdictions in the United States that have certified and used the equipment to inquire about their experiences.
6. The secretary of state may grant temporary, conditional approval for the equipment to be used in a Kansas jurisdiction before granting final certification.
7. If the above conditions are met, the secretary of state makes the final decision whether to grant certification and informs the manufacturer and vendor of the decision in writing.

Each county selects and purchases its own system from the systems certified by the secretary of state. There are currently three types of voting systems used in Kansas: (1) direct recording electronic (DRE); (2) optical scan; and (3) hand counted ballots. The majority of counties, 75, use an optical scan system. Twenty-two counties use direct recording electronic (DRE) and eight counties use hand-counted ballot systems. Punch-card and lever voting systems are not used in Kansas.

Voter Registration Systems

Before HAVA Kansas law required the secretary of state to maintain a statewide, centralized voter registration database. The database was only a repository file; each county election officer was required to submit the county's complete database on a quarterly basis (January, April, July and October). An administrative regulation, KAR 7-23-13, prescribed the formats, data fields and frequency of submission. The secretary of state never altered a record in a voter file. The county election officer has sole authority and responsibility for adding, deleting and altering voters' registration records.

The secretary of state concluded a contract with Election Systems and Software in March, 2005, for a HAVA compliant statewide voter registration and election management system called ELVIS (Election Voter Information System). ELVIS installation was completed statewide on December 29th, 2005.

- **Section 1: How will Kansas use the requirements payments to meet the requirements of title III, and if applicable, to carry out other activities to improve the administration of elections?**

1.1: Voting System Standards Requirements – Section 301
Deadline for compliance: January 1, 2006

Second Chance Voting (Section 301(a)(1))

The voting systems currently used in Kansas counties include paper ballots, optical scan (central and precinct count) and DRE. The following matrix illustrates each voting system's current level of compliance with HAVA's "second chance" voting requirements.

SECTION 301(a)(1) REQUIREMENTS	Paper Ballot	Optical Scan Central Count	Optical Scan Precinct Count	DRE
Does the system permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted?	Yes	Yes	Yes	Yes
Does the system provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error)?	Yes Fulfilled through a voter education program.	Yes Fulfilled through a voter education program.	Yes	Yes
If the voter selects votes for more than one candidate for a single office, does the system notify the voter?	No Notice to the voter of errors in the ballot is fulfilled through a voter education program.	No Notice to the voter of errors in the ballot is fulfilled through a voter education program.	Yes	Yes
If the voter selects votes for more than one candidate for a single office, does the system notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office?	No Notice to the voter of errors in the ballot is fulfilled through a voter education program.	No Notice to the voter of errors in the ballot is fulfilled through a voter education program.	Yes	Yes
If the voter selects votes for more than one candidate for a single office, does the system provide the voter with the opportunity to correct the ballot before the ballot is cast and counted?	Yes A Kansas voter may receive a new ballot upon request. Notification of this opportunity is fulfilled through a voter education program.	Yes A Kansas voter may receive a new ballot upon request. Notification of this opportunity is fulfilled through a voter education program.	Yes	Yes

Audit Capacity (Section 301(a)(2))

The following matrix illustrates each voting system's current level of compliance with the 2006 audit capacity requirements. The Secretary of State, in conjunction with county election officials, developed an education plan for those systems that did not meet the 2006 audit capacity. For paper ballots and central count optical scan users, election board workers are required to provide information to each voter instructing the voter of their rights pertaining to correcting a mis-marked ballot.

SECTION 301(a)(2) REQUIREMENTS	Paper Ballot	Optical Scan Central Count	Optical Scan Precinct Count	DRE
Does the system produce a permanent paper record with a manual audit capacity?	Yes	Yes	Yes	Yes
Does the system provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced?	Yes	Yes	Yes	Yes
Will the paper record be available as an official record for any recount conducted?	Yes	Yes	Yes	Yes

Accessibility for Individuals with Disabilities (Section 301(a)(3))

HAVA required every voting place in Kansas to have at least one direct recording electronic (DRE) voting system or other voting system equipped for individuals with disabilities by January 1, 2006. The secretary of state purchased one DRE for every polling place using requirements payments. Vendor(s) were selected through a bid process. Counties may purchase additional DRE machines under the state contract.

Alternative Language Accessibility (Section 301(a)(4))

HAVA requires each voting system to provide alternative language accessibility pursuant to the Voting Rights Act of 1965. The current voting systems used in Kansas are capable of accommodating ballots in alternative languages. Currently there are only six counties in Kansas required to provide alternative language accessibility.

Error Rates (Section 301(a)(5))

Error rates on voting systems approved for use in Kansas have been verified by an independent testing authority and meet FEC/EAC requirements.

Uniform Definition of What Constitutes a Vote (Section 301(a)(6))

We adopted standards as part of the Kansas Election Standards, developed by the Secretary of State and county election officials. Counties formally adopted the standards at the 2004 Kansas County Clerks' and Election Officials' convention.

1.2: Provisional Voting Requirements – Section 302

Deadline for compliance: January 1, 2004

Provisional voting has been part of Kansas election law since 1996.

Notification of the right to cast a provisional ballot (Section 302(a)(1))

Under current Kansas law (KSA 25-409), a poll worker is required to notify a potential voter of the right to vote a provisional ballot, if applicable. Voters are also notified of such right on the "Voter's Rights and Responsibilities" poster posted in each polling place pursuant to KSA 25-2706.

Affidavit for all provisional voters attesting to registration, eligibility (Section 302(a)(2))

Approved by the Kansas Legislature as sections 1 and 2 of 2004 SB 479 (see KSA 25-216 and 25-409). Requirements payments are not used; counties are responsible for costs associated with producing the affidavit.

Written information regarding how to determine the outcome of a provisional ballot (Section 302(a)(5)(A))

Required by legislation in KSA 25-409. The county election official is responsible for replication costs and training poll workers to distribute the information. In addition, instructional information about provisional ballots is on the secretary of state's website (<http://www.voteks.org/expect/provisional.html>). Requirements payments are not used.

Free access system for publication of provisional vote results (Section 302(a)(5)(B))

Kansas counties provide information to let provisional voters know whether their vote counted and if not, why. Various methods are used including toll-free phone information, websites, mail, and e-mail.

1.3: Voting Information Requirements – Section 302

Deadline for compliance: January 1, 2004

Public posting at polling places (Section 302(b)(2))

- **Sample Ballot:** While it has been common practice to post sample ballots at polling places in Kansas, it is required by KSA 25-2706. No expenditure of requirements payments have been made to produce sample ballots. County election officials are responsible for the cost of producing and posting sample ballots in polling places.
- **Date of the election and hours the polling place is open:** Required by KSA 25-2706. No expenditures of requirements payments are anticipated. County election officials are responsible for posting this information at each county's expense.
- **Instructions on how to vote, including a provisional ballot:** This information is included in the Voter's Rights and Responsibilities poster prescribed and designed by the secretary of state and posted at the polling place by county election officials. Requirements payments are used to produce these posters.
- **Instructions for mail-in registrants who are first time voters in the jurisdiction:** Kansas law requires identification for all first-time voters in the county, whether mail registrants or not. The state adapted the voter registration application card, the voter's rights and responsibilities poster and county election officials' and pollworkers' training programs. No expenditures of requirements payments are anticipated.
- **General information on voting rights:** This information is included on a poster entitled "Voter's Rights and Responsibilities". All polling places must display this poster in accordance with K.S.A. 25-2706. Requirements payments are used to produce these posters.
- **General information on federal and state fraud laws:** This information is included on a poster entitled "Voter's Rights and Responsibilities". All polling places must display this poster in accordance with K.S.A. 25-2706. Title I funding is used to update the poster as needed.

Provisional ballots for individuals who vote pursuant to a court or other order extending polling place hours; ballots must be separated from other provisional ballots (Section 302(c))

Provisional voting has been part of Kansas election law since 1996. No expenditures of requirements payments are used. Any administrative costs associated with provisional ballots are borne by the counties.

1.4: Computerized Statewide Voter Registration List Requirements – Section 303(a)

Deadline for compliance: January 1, 2004 / January 1, 2006 (with waiver)

Before HAVA Kansas law (KSA 25-2304(b)) required the secretary of state to maintain a statewide centralized voter registration database. Due to the time needed to implement the new system, the secretary of state applied for and received a waiver of the January 1, 2004, deadline as permitted by HAVA and extended the deadline to January 1, 2006.

The central voter registration subcommittee of the Kansas Election Reform Advisory Council provided recommendations for database design. The secretary of state contracted with a consultant, Jim Minihan of Imerge Consulting, and convened a central voter registration work group to assist with RFP development. The work group included state and local election officials as well as individuals with information technology expertise. A vendor was selected in the summer of 2004 and again in March 2005.

Implementation of the new database system began in summer or early fall 2004. Each county maintained its current database in 2005 while the new system was tested. Beginning January 1, 2006, the new database was the sole system used statewide. Requirements payments were used to partially fund this project.

A timeline for this project is included below:

May – December 2003	RFP development
January 2004	Publish RFP
June 2004	Select initial vendor
June - July 2004	Contract negotiations
July 2004	Contract execution
Fall 2004	Implementation of system begins
February 2005	Initial contract is terminated
March 2005	Second contract is negotiated and executed
September 2005	System is installed statewide on a rolling basis
December 29, 2005	New system becomes the sole system used in Kansas

1.5: Requirements for Voters Who Register by Mail – Section 303(b)
Deadline for compliance: January 1, 2004

Identification Requirements: Kansas law was changed by 2004 SB 479 (see KSA 25-1122, KSA 25-2908 and KSA 25-3002) to require identification of all first-time voters in the county.

Fail-Safe Voting: Under HAVA, voters who register by mail and cannot meet the identification requirement must be afforded the opportunity to vote a provisional ballot. Current Kansas law allows such individuals to cast provisional ballots; therefore, Kansas is in compliance with the fail-safe voting requirement.

Contents of Mail-In Registration Form: Design of the Kansas voter registration application form was changed by 2004 SB 479 (see KSA 25-2309) to comply with HAVA. The application form was revised and disseminated after final approval of legislation.

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- **Section 2: How will Kansas distribute and monitor the distribution of the requirements payments to units of local government or other entities in Kansas for carrying out activities to improve the administration of elections?**

2.1: Criteria to be used to determine the eligibility of units or entities for receiving the payment (Section 254(a)(2)(A))

The secretary of state manages all requirements payments and makes expenditures to implement title III requirements. Expenditures are made for counties (eligible units) by the state to fulfill the requirements specified by the secretary of state. Counties are responsible for financial needs that exceed the specified requirements.

Expenditures of requirements payments include the following projects: (1) a new centralized voter registration system; (2) accessible voting equipment; and (3) education and outreach programs.

2.2 : Methods to be used to monitor the performance of the units or entities to whom the payment is distributed (Section 254(a)(2)(B))

No units or entities received title I or title II funds. All purchases were made by the secretary of state.

Section 3: How will Kansas provide programs for voter education, election official education and training, and poll worker training which will assist the state in meeting the requirements of title III?

3.1: Voter Education

Education is an essential element of HAVA implementation in Kansas. The secretary of state's programs educate the voting age population to help ensure that all Kansans comprehend new requirements and procedures through a two-fold voter education program consisting of (1) voter outreach and (2) instruction on how to vote so the vote will count. These programs were developed by the secretary of state's staff.

(1) Voter Outreach

A statewide media campaign was developed to encourage registration and voting before primary and general elections. The campaign used the following media: radio, internet, television, newspaper, and direct mail. County election officials, youth voting programs, and other interested groups also played a role in this program.

Outreach material describing the voter registration process in Kansas has been developed by the secretary of state and provided to local election officials. Groups interested in voter outreach may contact the secretary of state's office and materials may be provided upon request.

Emphasis is placed on development of an outreach initiative for citizens with disabilities. The secretary of state's office worked with advocacy groups to develop accessible resources.

(2) Voting Instruction

A statewide media campaign is developed and conducted by the secretary of state. Assistance may be provided to local interest groups. The campaign encompasses the following topics: (1) voting procedure in Kansas; (2) instructions regarding how to use each voting system; (3) reasons for provisional voting and how to cast a provisional ballot; (4) reasons for ballot invalidation; (5) accessibility of polling places and voting equipment.

The campaign was developed with assistance from county election officials and other relevant groups. Campaign content was designed to meet HAVA requirements and may be modeled after previous media campaigns conducted by the secretary of state's office. Media used to conduct the campaign include the following: radio, internet, television, newspaper, and direct mail. County election officials, youth voting programs, and other interested groups play a role in this program.

The following ideas were incorporated in this campaign:

- Brochures and electronic advertising explaining new voting procedures and rights
- Information (printed, audio, etc.) on the DRE voting system for all Kansans, including individuals with disabilities
- A website providing one-stop information on voting procedures and rights – www.voteks.org
- A revised version of the Voter's Rights and Responsibilities poster required by KSA 25-2706
- Partnerships with public and private organizations

3.2: Election Official Education and Training

In order to ensure that county election officials receive the necessary education and training on election issues, the secretary of state's office developed a uniform, statewide training program. A description of the program is included below.

Curriculum: The annual program is developed by the secretary of state's office with assistance from Kansas County Clerks and Election Officials Association members and adult education specialists. The secretary of state's office has established a partnership with the Wichita State University Hugo Wall School. Eight hours of required instruction was provided in 2004 and consisted of the following courses with updates provided in subsequent years:

COURSE
HAVA overview / impact on CEO
Voter registration/ CVR
Preparing for an election
Advance voting / federal services absentee voting
Voting procedure / provisional ballots
Canvassing / write-ins / voter intent
Voting equipment
Accessibility
Special situations including, but not limited to, alternative languages, accessibility, awareness and sensitivity
Election board workers

Location: The aforementioned courses were provided in coordination with established meetings of the Kansas County Clerks and Election Officials Association (KCCEOA) and the Kansas County Officials Association (KCOA) and will be for future training sessions as well. The schedule is as follows:

MONTH	EVENT
March	KCCEOA Regional Meetings
May	KCCEOA Convention
September	KCCEOA Regional Meetings
September	KCOA Convention

Make-up sessions may be held at the following times and events:

MONTH	EVENT
May	KCCEOA Convention
September	KCOA
As scheduled	Sanborn Institute for County Clerk Certification (annual)
As necessary	Videoconference
Once every four years	Midwest Election Officials Conference

Resources: Participants received a printed training manual, an updated version of the Kansas Election Standards, and tools for training poll workers.

Instructors: The training programs were conducted by the secretary of state and staff and subject matter experts.

Attendance: At least one individual from each county election office attended the program. Attendance was a condition of receiving the benefits of federal funding, and the secretary of state shall have the option of withholding county benefits related to HAVA due to nonparticipation in the training program. The curriculum and number of hours required may change from year to year.

3.3: Poll Worker Training

The secretary of state designed a poll worker training program for county election officials in order to facilitate the crucial link between election administrators and voters. County election officials received instruction on this program during the election official training program and were responsible for conducting training sessions at the local level. Participation in this program is a condition for receipt of county benefits related to HAVA.

Curriculum: The following topics were incorporated into training resources developed by the secretary of state's office in conjunction with adult education specialists.

- Accessibility issues
- Advance voting / Federal Services Voting
- ELVIS (Election Voter Information System)
- Emergency situations
- HAVA Overview/impact on election board workers
- Polling place organization and management
- Polling place visitors
- Preparing for an election
- Security
- Special situations
- Voting equipment
- Voting procedure / provisional ballots

Resources: The secretary of state provided each county election official with a curriculum to be used in local poll worker training sessions.

Instructors: Training sessions were conducted by county election officials and deputy election officials. Voting equipment vendors or technicians may also have been involved in the training sessions. County election officials may also have included supplemental instructors in the training sessions at their discretion.

- *Attendance:* County election officials must conduct training prior to each primary and general election for supervising judges and election clerks as required by KSA 25-2806.

▫ **Section 4: How will the state adopt voting system guidelines consistent with the requirements of section 301?**

The secretary of state adopted voting system guidelines consistent with the requirements of section 301 by the January 1, 2006, deadline.

All voting machines that are used in the state of Kansas meet the audit capacity requirements that are outlined in federal certification procedures. All voting machines have been federally certified and have been tested by an Independent Testing Authority (ITA).

As illustrated on pages seven and eight of this document, some voting systems currently used in Kansas do not meet the requirements of section 301. Specifically, paper ballot and central count optical scan systems are noncompliant. These issues are resolved through use of a voter education program as permitted by Section 301(a)(1)(B). Use of a voter education program permits counties to maintain paper ballot and central count optical scan systems.

- **Section 5: How will Kansas establish a fund for purposes of administering the state's activities, including information on fund management?**

5.1: Fund establishment

During the 2002 legislative session, the secretary of state established a Democracy Fund in anticipation of receiving federal funding for HAVA implementation. Title I funds were received in April 2003 and deposited in the Democracy Fund. State accounting and reporting guidelines subsequently changed and as a result, the Democracy Fund had been improperly coded for receipt of federal funds. A new fund, HAVA Federal Fund, was established for title I and title II funds and the money previously received was transferred to the new fund.

5.2: Fund management

The secretary of state is responsible for fund management. State and federal fund management guidelines are followed. Records of expenditures are maintained by the secretary of state's office and reported to the Election Assistance Commission.

▫ **Section 6: Kansas' proposed budget for HAVA activities based on the state's best estimates of the costs of such activities and the amount of funds to be made available.**

The following chart is Kansas' proposed budget for state fiscal years 2010 and 2011. All amounts listed are estimates and subject to change. As mentioned earlier, records of expenditures are maintained by the secretary of state's office and reported to the Election Assistance Commission. Please visit the U.S. Election Assistance Commission website at <http://www.eac.gov> to view past expenditures.

HAVA Requirements	Year	Funding Source			
		Title I	Title II	State Match (3% State, 2% County)	VOTE Grants
Central Voter Registration System	2010		\$1,476,814		
	2011		\$750,000		
Accessible Voting Equipment	2010		\$914,000		\$200,000
	2011		\$750,000		\$200,000
Administrative Costs	2010	\$26,750			
	2011	\$30,000			
Voter Education	2010	\$500			
	2011	\$500			
CEO Training & Poll Worker Training (combined)	2010	\$4,400			\$1,000
	2011	\$4,000			
Free Access System	2010				
	2011				
Polling Place postings	2010				
	2011				
KS Voter Registration Forms	2010				
	2011	\$2,000			
Federal Voter Registration Forms	2010				
	2011				
Polling Place Accessibility	2010				\$1,400
	2011				\$1,000

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

In compliance with HAVA Section 254(a)(7), in using requirements payments, Kansas maintains expenditures of the State for activities funded by the payment at a level equal to or greater than the level of Title III expenditures in State FY 2000. No reductions in state spending have been made since passage of HAVA, and none are anticipated or sought.

▫ **Section 8: How will Kansas adopt performance goals and measures to determine its success and the success of units of local government in carrying out the plan?**

Performance goals and measures are used by the secretary of state's office for each applicable element of the state plan. Each element has a timeline for completion which serves as a tool for assessing performance. The following charts outline performance goals for implementation of HAVA requirements.

Performance Goal	Develop and implement a statewide central voter registration system
Process to develop criteria	The secretary of state's staff appointed a Central Voter Registration Work Group and consultant to help develop a Request for Proposal (RFP) and establish goals for project management
Criteria to measure performance	A set of time-oriented goals for the following events: (1) development and issuance of an RFP (2) selection of a vendor (3) contract negotiations / execution of contract (4) implementation of CVR system
Tentative Timeline	May – December 2003: RFP development January 2004: Publish RFP June - July 2004: Select vendor July 2004: Contract negotiations July 2004: Contract execution
Deadline for compliance	January 1, 2006 (with waiver) Four statewide elections have been conducted with this system as well as many local elections.

Performance Goal	Implement one voting machine, accessible to individuals with disabilities, in every Kansas polling place
Process to develop criteria	The secretary of state's staff will plan with a work group and consultant to develop a Request for Proposal (RFP) and establish goals for project management
Criteria to measure performance	A set of time-oriented goals for the following events: (1) development and issuance of an RFP (2) selection of a vendor(s) (3) contract negotiations / execution of contract (4) implementation of voting equipment
Tentative Timeline	2004 – 2005: RFP development/issuance and selection of vendor(s) Summer – Fall 2005: Delivery and implementation of accessible voting equipment
Deadline for compliance	January 1, 2006 Four statewide elections have been conducted using this equipment.

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Performance Goal	Implement second chance voting requirements
Process to develop criteria	The secretary of state's office has worked with the Kansas Election Reform Advisory council and county election officials to develop a plan for implementation
Criteria to measure performance	Successful implementation of a training program used by poll workers statewide for the August 2006 Primary Election.
Tentative timeline	Fall 2005
Deadline for compliance	January 1, 2006

Performance Goal	Meet audit capacity requirements
Process to develop criteria	The secretary of state's office has worked with county election officials to determine how counties with optical scan voting systems will meet the requirements All voting machines in Kansas have met the audit capacity requirements that are required to achieve federal certification. In addition, these voting machines have been certified by an Independent Testing Authority (ITA).
Criteria to measure performance	Successful implementation of voting machines at all polling places used in the August 2006 State Primary.
Tentative timeline	Fall 2005
Deadline for compliance	January 1, 2006

Performance Goal	Implement uniform definitions of what constitutes a vote for each type of voting system used in Kansas
Process to develop criteria	The secretary of state's office worked with the Election Standards Task Force to develop a proposal
Criteria to measure performance	Implementation of uniform definitions in the Kansas Election Standards
Tentative timeline	Adopted by the Kansas County Clerks' and Election Officials' Association (KCCEOA) May, 2004
Deadline for compliance	January 1, 2006

Performance Goal	Implement affidavit requirement for provisional voters
Process to develop criteria	Drafted legislation
Criteria to measure performance	To codify the requirement in state election law and implement the requirement on the local level
Tentative timeline	2004 SB 479 passed
Deadline for compliance	January 1, 2004

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Performance Goal	Develop and provide written information regarding how to determine the outcome of a provisional ballot
Process to develop criteria	Development of a plan for implementation by the secretary of state's office in 2003
Criteria to measure performance	A time-oriented set of goals for the following events: (1) prescribing a document with the appropriate information (2) sending the document to county election officials and providing instructions for use (3) verifying that county election officials have reproduced and distributed the documents
Tentative timeline	Document prescribed and distributed prior to August 2004. Information distributed to provisional voters beginning with the August 2004 primary election.
Deadline for compliance	January 1, 2004

Performance Goal	Develop a free access system for publication of provisional vote results
Process to develop criteria	The secretary of state's office worked with county election officials to develop a plan for implementation
Criteria to measure performance	Disseminated options and recommendations to CEOs in May, 2004
Tentative timeline	Implemented the system during the August 2004 primary election
Deadline for compliance	January 1, 2004

Performance Goal	Implement required public posting at polling places
Process to develop criteria	The secretary of state's office developed a plan for implementation in 2003
Criteria to measure performance	To codify the requirement in state election law and implement the requirement on the local level
Tentative timeline	Passed as part of 2004 SB 479 (see KSA 25-2706). CEO training was held in May, 2004. Posters were printed and distributed to CEOs in July, 2004. County election officials implemented the requirements in 2004.
Deadline for compliance	January 1, 2004

*KANSAS SECRETARY OF STATE
2009 HAVA STATE PLAN*

Performance Goal	Require provisional ballots for individuals who vote pursuant to a court or other order extending polling place hours
Process to develop criteria	The secretary of state's office developed a plan for implementation in 2003
Criteria to measure performance	To codify the requirement in state election law and implement the requirement on the local level
Tentative timeline	Required by KSA 25-414. CEOs trained in May, 2004. County election officials implemented the requirements in 2004.
Deadline for compliance	January 1, 2004

Performance Goal	Meet the requirements for voters who register by mail
Process to develop criteria	The secretary of state's office developed a plan for implementation in 2003
Criteria to measure performance	To codify the requirement in state election law and implement the requirement on the local level
Tentative timeline	State law requires identification of all first-time voters in the county. CEOs trained in May, 2004. County election officials implemented the requirements in 2004.
Deadline for compliance	January 1, 2004

Performance Goal	Implement voter education, election official education/training, and poll worker training programs
Process to develop criteria	The secretary of state's office developed a plan for implementation with assistance from the Kansas Election Reform Advisory Council in 2003 and partnership with Kids Voting in Kansas.
Criteria to measure performance	A time-oriented set of goals for the following events: (1) convene a work group (2) develop the program (3) carry out the program
Tentative timeline	Implementation of the program in 2004.

▫ **Section 9: A description of the uniform, nondiscriminatory state-based administrative complaint procedure in effect under section 402.**

The following guidelines have been developed for use by the secretary of state in conjunction with the administrative complaint procedure:

1. All complaints should be addressed at county level first as the county election official is best suited to solve the problem, and will likely solve the problem faster than a state-based complaint process.
2. A brochure was created outlining the administrative grievance process for the public.
3. Notices, hearings, and any other procedures of the grievance process shall include any required accommodation(s).

**KANSAS SECRETARY OF STATE
Administrative Complaint Procedure**

Section 1. Scope.

This act provides a uniform, nondiscriminatory administrative procedure for the resolution of any complaint alleging a violation of any provision of Title III of the "Help America Vote Act of 2002," including a violation that has occurred, is occurring, or is about to occur.

Section 2. Definitions.

(a) In this act, the following terms have the meanings indicated.

- (1) "Complainant" means the person who files a complaint with the Kansas secretary of state under this act.
- (2) "Respondent" means any state or local election official whose actions are asserted to be in violation of Title III in a complaint filed under this act.
- (3) "Title III" means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code §§15481-15485.
- (4) "Arbitrator" means a neutral third party selected by the secretary of state who resolves the dispute between the complainant and respondent, and whose decision is final.

Section 3. Who May File.

Any person who believes that a violation of any provision of Title III is occurring, has occurred, or is about to occur, may file a complaint.

Section 4. Form of Complaint.

- (a) A complaint shall be in writing and signed by the complainant under oath before a notary public.
- (b) The complaint shall be submitted on a form prescribed by the secretary of state, which shall be available from the secretary of state or from any county election office.

Section 5. Place and Time for Filing; Copy for Respondent.

- (a) A complaint shall be filed with the secretary of state within 30 days after the occurrence of the actions or events that form the basis for the complaint. For violations that are occurring or about to occur that may need immediate remedy, the complaint shall be timely filed to allow for resolution.
- (b) The secretary of state shall deliver a copy of the complaint to each respondent.
- (c) If the secretary of state is the respondent in the complaint, the complaint shall be filed and reviewed by the Kansas Department of Administration and all references to the secretary of state as the determinative body contained in this act shall be construed to refer to the Kansas Department of Administration.

Section 6. Consolidation of Complaints.

- (a) The secretary of state may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.

Section 7. Official Record of Proceedings.

- (a) The secretary of state shall compile and maintain an official record in connection with each complaint filed under this act.

(b) The official record shall contain:

- (1) A copy of the complaint, including any amendments made with the permission of the secretary of state;
- (2) A copy of any written submission by the complainant;
- (3) A copy of any written response by any respondent or other interested person;
- (4) Any written report or review conducted by the secretary of state or county election officials;
- (5) Copies of all notices and correspondence to or from secretary of state in connection with the complaint;
- (6) Originals or copies of any tangible evidence received or considered;
- (7) The original recording produced at any hearing conducted on the complaint, and a copy of any transcript produced on the complaint; and
- (8) A copy of any final determination made on the complaint.

Section 8. Hearing, Notice of Hearing.

(a) If requested by the complainant, the secretary of state shall conduct a hearing on the record to review the complaint. The secretary of state or other person designated by the secretary of state shall serve as the hearing officer.

(b) The hearing shall be conducted no later than 30 days after the secretary of state receives the complaint. The secretary of state shall give at least 5 days advance notice of the date, time, and place of the hearing to the complainant and each named respondent.

Section 9. Conduct of Hearing.

(a) To the extent necessary for full disclosure of all relevant facts and issues, the hearing officer shall afford all parties the opportunity to respond, present evidence and argument, and shall not be bound by the technical rules of evidence; provided, the hearing officer may place reasonable limits on the length of the hearing.

(b) The hearing officer may at his discretion give nonparties an opportunity to present oral or written statements.

(c) All testimony of parties and witnesses shall be made under oath or affirmation and the hearing officer shall have the power to administer an oath or affirmation for that purpose.

(d) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party.

(e) Official notice may be taken of (1) any matter that could be judicially noticed in the courts of this state, (2) the record of other proceedings before the secretary of state, (3) technical matters within the secretary of state's specialized knowledge, and (4) codes of standards that have been adopted by an agency of the United States, of this state or of another state or by a nationally recognized organization or association.

(f) The hearing officer may conduct all or part of the hearing by telephone or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding.

(g) The hearing shall be recorded at the secretary of state's expense. The secretary of state is not required to prepare a transcript at its expense. Any party, at the party's expense, may request that the secretary of state prepare a transcript from the record, or cause additional recordings to be made during the hearing. If a transcript is produced, the secretary of state shall include a copy in the official record.

(h) The hearing shall be open to the public, except for parts that the hearing officer rules to be closed pursuant to a provision of law expressly authorizing closure.

Section 10. Informal Conference, Pre-hearing Conference.

(a) The secretary of state may conduct an informal conference to resolve the filed complaint, if both the complainant and respondent have an opportunity to participate in the proceeding.

(b) The secretary of state may conduct a pre-hearing conference to organize issues and procedures to promote an orderly and prompt hearing.

(c) The secretary of state shall give advance notice of the date, time, and place of any conference to the complainant and respondent.

Section 11. Subpoenas.

The Secretary of State may issue subpoenas for a witness or any material that is relevant to the administration of this act.

Section 12. Final Determination.

(a) If there has been no hearing, the secretary of state shall review the record and determine whether a violation of Title III has been established by a preponderance of evidence. The determination of the secretary of state shall be final and shall not be subject to appeal pursuant to the Kansas Act for Judicial Review.

(b) At the conclusion of any hearing, the secretary of state shall determine whether a violation of Title III has been established by a preponderance of evidence. The determination of the secretary of state shall be final and shall not be subject to the Kansas Act for Judicial Review.

(c) If the complaint is not timely filed or if the secretary of state determines that a violation has not occurred or that there is insufficient evidence to establish a violation, the secretary of state shall dismiss the complaint.

(d) The secretary of state shall explain in a written decision the reasons for the determination and for any remedy selected.

(e) Except as specified in section 14, the final determination of the secretary of state shall be issued within 90 days after the complaint is filed, unless the complainant consents in writing to an extension. The final determination shall be mailed to the complainant and each respondent, and published on the secretary of state website.

(f) If the secretary of state cannot make a final determination within 90 days after the complaint was filed, or within any extension to which the complainant consents, the complaint shall be referred for final resolution under section 14. The record compiled pursuant to section 7 shall be made available for use under section 14.

Section 13. Remedies.

(a) Upon the finding of a violation, the secretary of state shall provide an appropriate remedy to resolve the grievance, which remedies may include the following:

(1) An order to any respondent commanding the respondent to take specified action, or prohibiting the respondent from taking specified action;

(2) An order directing the respondent or any employees or agents of the respondent to obtain additional training or education to prevent future violations;

(3) Any other remedy as deemed appropriate by the secretary of state to prevent or remedy the violation or future violations.

(b) The secretary of state may order either party to pay the costs of the hearing, based upon a finding by the secretary of state that the party's actions were egregious, frivolous, harassing, or were for an improper purpose.

Section 14. Alternate Dispute Resolution.

(a) If the secretary of state does not render a final determination within 90 days after the complaint is filed, or within any extension to which the complainant consents, the complaint shall be resolved under this section.

(b) Within five (5) days after a final determination was due, the secretary of state shall designate in writing to the complainant and the respondent the name of an arbitrator to resolve the complaint.

(c) The arbitrator may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence.

(d) The arbitrator shall issue a written resolution within ten (10) days after the secretary of state's determination was due. The final resolution of the arbitrator shall be mailed to the secretary of state, the complainant, and each respondent, and published on the secretary of state website.

Section 15. The Secretary of State may adopt rules and regulations to administer this act.

▫ **Section 10: A description of how Kansas will use the title I payment to carry out proposed activities in this plan.**

Kansas received \$5 million in title I payments for improvement of election administration. This funding is used for the following approved purposes:

- (1) Complying with requirements of title III
- (2) Improving the administration of elections for federal office
- (3) Educating voters concerning voting procedures, voting rights, and voting technology
- (4) Training election officials, poll workers, and election volunteers
- (5) Developing the state plan
- (6) Improving, acquiring, leasing, modifying, or replacing voting systems and technology
- (7) Improving the accessibility of polling places
- (8) Establishing a free access system for use by voters to obtain voting information
- (9) Other items as it relates to accessible voting equipment (no actual hardware/software is purchased with title I funds)

Kansas' title I funds are used for the following, prioritized purposes:

- (1) Implementation of a new statewide central voter registration system
- (2) Administrative expenses for development of the state plan and the central voter registration system RFP
- (3) Education programs
- (4) Section 301 requirements (i.e. free access system, polling place postings, voter registration forms)

HAVA Requirements	Funding Source			
	Title I	Title II	State Match (3% State, 2% County)	VOTE Grants
Central Voter Registration System	X	X	X	
Accessible voting equipment (items related to voting equipment (no actual hardware/software)	X	X	X	X
Administrative expenses	X	X	X	
Voter education	X			X
CEO training & Poll Worker Training	X			X
Free access system				
Polling place postings	X			
Voter registration forms	X			
Polling Place Accessibility				X

Section 11: How will Kansas conduct ongoing management of the plan?

The 2003 Kansas state plan was submitted to the Federal Election Commission in September, 2003. The FEC then submitted the plan to the Election Assistance Commission. Work groups provided assistance with development of proposals. The Kansas Election Reform Advisory Council met to reevaluate the state plan in July, 2004. The plan was revised again in 2009. The Kansas Secretary of State's office has maintained a HAVA Steering Committee within the office. This committee meets biweekly to assess and review HAVA implementation policies and procedures.

▫ **Section 12: A description of the committee which participated in development of the state plan.**

In January 2003, the secretary of state appointed the Kansas Election Advisory Council to comply with Section 255. The advisory council is a committee of appropriate individuals who met on a monthly basis (February through May, 2003) to assist with development of the state plan. Secretary Thornburgh is chairman of the group and each member of the advisory council serves on one of four subcommittees.

Accessibility Subcommittee	<p>Melissa Wangemann, Chair</p> <p>Mark Braun</p> <p>Robert Bugg</p> <p>Michael Byington</p> <p>Elias Garcia (replaced Tina DeLaRosa)</p> <p>Anthony Fadale</p> <p>Martha Gabehart</p> <p>Brad Hamilton</p> <p>Scott Letts</p> <p>Betty Musick</p> <p>Pat Rahija</p> <p>Patrick Terick</p> <p>Mary Tritsch</p>	<p>Legal Counsel, Kansas Secretary of State's Office</p> <p>Director, Kansas Office of Administrative Hearings</p> <p>Commissioner, Kansas Advisory Council on African-American Affairs</p> <p>President, Kansas Association for the Blind and Visually Impaired</p> <p>Executive Director, Kansas Hispanic and Latino and American Affairs Commission</p> <p>Coordinator, Kansas ADA Compliance</p> <p>Executive Director, Kansas Commission on Disability Concerns</p> <p>Former Director, Kansas Office of Native American Affairs</p> <p>Kansas Advocacy & Protective Services</p> <p>Cloud County Clerk</p> <p>Wyandotte County Election Commissioner</p> <p>Director of Governmental Affairs, Cerebral Palsy Research Foundation</p> <p>Associate State Director, AARP Kansas</p>
Finance Subcommittee	<p>Brian Henson, Chair (replaced Mindy Miller)</p> <p>Randall Allen</p> <p>Bill Gale (replaced Marilyn Chapman)</p> <p>Rebecca Floyd</p> <p>Randy Mettner</p> <p>Don Proffitt</p> <p>Neil Woerman</p> <p>Ryan Wright</p>	<p>HAVA Coordinator, Kansas Secretary of State's Office, Elections & Legislative Matters Division</p> <p>Executive Director, Kansas Association of Counties</p> <p>Sedgwick County Election Commissioner</p> <p>Executive Vice President & General Counsel, Kansas Development Finance Authority</p> <p>Special Assistant to the Governor</p> <p>Linn County Clerk</p> <p>Director of Information Technology, Office of the Insurance Commissioner</p> <p>Director of Public Affairs, Kansas Treasurer's Office</p>

Central Voter Registration Subcommittee	<p>Bryan Caskey, Chair</p> <p>Cheryl Adelhardt Tim Blevins</p> <p>Rebecca Bossemeyer Elizabeth Ensley Don Merriman Denise Moore Kathy Peckman Mike Stewart</p> <p>Carmen Alldritt (replaced Sheila Walker)</p>	<p>Administrative Assistant, Kansas Secretary of State's Office, Elections & Legislative Matters Division</p> <p>Harper County Clerk</p> <p>Chief Information Officer, Kansas Department of Revenue</p> <p>Geary County Clerk</p> <p>Shawnee County Election Commissioner</p> <p>Saline County Clerk</p> <p>Director, DISC</p> <p>Miami County Clerk</p> <p>Chief Information Officer, Kansas Secretary of State's Office</p> <p>Director of Vehicles, Kansas Department of Revenue</p>
Voting Standards & Education Subcommittee	<p>Brad Bryant, Chair</p> <p>Emily Bradbury Doug Anstaett (replaced Jeff Burkhead) Gail DuPuis Keith Lawing Mark Simpson (replaced Partick Murray in 2004) Ann Havenhill Scott Poor Connie Schmidt Dr. Harvey Foyle Rich Smith Rich Vargo</p>	<p>Deputy Assistant Secretary of State, Elections and Legislative Matters Division</p> <p>Executive Director, Kids Voting Kansas</p> <p>Executive Director, Kansas Press Association</p> <p>Director, Kansas Office of Native American Affairs Wichita State University</p> <p>Executive Director, Kansas Democratic Party</p> <p>President, Kansas League of Women Voters</p> <p>Executive Director, Kansas Republican Party</p> <p>Johnson County Election Commissioner</p> <p>Emporia State University</p> <p>Assistant Attorney General</p> <p>Riley County Clerk</p>

In July 2009, the secretary of state appointed a revised Kansas Election Advisory Council to assist in making updates to the state plan. Secretary Thornburgh is chairman of the group.

2009 Advisory Council	<p>Ron Thornburgh, Chair</p> <p>Cheryl Adelhardt Carmen Alldritt Linda Bogart Rebecca Bossemeyer Craig Bourne</p> <p>Brad Bryant</p> <p>Michael Byington</p> <p>Bryan Caskey</p> <p>Stevan Cisneros</p> <p>Danielle Dempsey-Swopes</p> <p>Tracy Diel</p>	<p>Kansas Secretary of State</p> <p>Harper County Clerk</p> <p>Director of Vehicles, Kansas Department of Revenue</p> <p>Cloud County Clerk</p> <p>Geary County Clerk</p> <p>HAVA Coordinator, Kansas Secretary of State's Office, Elections & Legislative Matters Division</p> <p>Deputy Assistant Secretary of State, Elections and Legislative Matters Division</p> <p>Chief Executive Officer, Kansas Association for the Blind and Visually Impaired</p> <p>Assistant State Election Director, Kansas Secretary of State's Office, Elections & Legislative Matters Division</p> <p>Executive Director, Kansas Hispanic and Latino and American Affairs Commission</p> <p>Executive Director, Kansas African-American Affairs Commission</p> <p>Director, Kansas Office of Administrative Hearings</p>
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Elizabeth Ensley	Shawnee County Election Commissioner
Anthony Fadale	Coordinator, Kansas ADA Compliance
Rebecca Floyd	Executive Vice President & General Counsel, Kansas Development Finance Authority
Martha Gabehart	Executive Director, Kansas Commission on Disability Concerns
Bill Gale	Sedgwick County Election Commissioner
Rich Gannon	Director of Governmental Affairs, Kansas Press Association
Tara Gillum	Director of Communications/Scheduling, Kansas Treasurer's Office
Joe Hennes	Director, DISC
Sally Howard	Office of the Governor Chief Legal Counsel , Kansas Office of Native American Affairs
Kenny Johnston	Executive Director, Kansas Democratic Party
Ernestine Krehbiel	President, Kansas League of Women Voters
David Lamb	Linn County Clerk
Raf Lorie	Chief Information Officer, Kansas Department of Revenue
Don Merriman	Saline County Clerk
Diane Minear	Legal Counsel, Kansas Secretary of State's Office
Brian Newby	Johnson County Election Commissioner
Bruce Newby	Wyandotte County Election Commissioner
Rocky Nichols	Executive Director, Disability Rights Center of Kansas
Cici Rojas	Executive Director, Kansas Republican Party
Mike Stewart	Chief Information Officer, Kansas Secretary of State's Office
Patrick Terick	Director of Governmental Affairs, Cerebral Palsy Research Foundation
Mary Tritsch	Associate State Director, AARP Kansas
Rich Vargo	Riley County Clerk
Melissa Wangemann	General Counsel, Kansas Association of Counties
Janet White	Miami County Clerk
Rachel Willis	Executive Director, Kids Voting Kansas
Neil Woerman	Director of Information Technology, Office of the Insurance Commissioner