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Nebraska  
Secretary of State

**Help America Vote Act**  
State Plan Commission

Recommendations Report

May 27, 2003  
Lincoln, Nebraska



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# State Plan Commission

## Final Report and Recommendations

### May 2003

#### **Executive Summary**

The Help America Vote Act of 2002, Public Law 107-252, 42 U.S.C. 15301-15545 (“HAVA”) was signed into law by the President of the United States on October 29, 2002. This legislation marks a significant initiation of changes in election systems nationwide. Each state is required to appoint a citizen advisory committee to advise the Secretary of State in the development of a State Plan of implementation, to be available for public comment and input before adoption.

Secretary John A. Gale, Chief Election Officer for the State of Nebraska, appointed a sixteen-member citizen advisory commission on February 28, 2003, to help in the development of the State Plan. The Commission is called the Nebraska State Plan Commission. Members include the election officials from Nebraska’s two largest counties, a mid-size county election official, President of the Nebraska County Clerks Association, a representative from the Secretary of State’s office and representatives from various advocacy organizations. Secretary Gale took recommendations for these appointments so that the Commission is representative of a wide cross-section of Nebraskans, including those with disabilities and minority designation.

In the opening session of the Nebraska State Plan Commission, Nebraska Secretary of State John Gale made these comments.

*The Act is uniquely American: it contains federal mandates to the states, but it doesn't federalize the system; it provides funding to the states, but the funding is not entirely just federal money due to the match requirement; the Act requires reporting and accounting but generally relies on the State Election Officers to carry out the goals of the Act in cooperation with local authorities.*

*In February 2003, the U.S. Congress in its Omnibus Appropriations bill included some \$1.5 billion to begin funding the reforms mandated under HAVA. In order to access its share, each State needs to create a State Plan Commission, which is broad-based, inclusive, and provides a voice for the various groups of citizens who have expressed concerns that their communities have not been well served. Those from the visually impaired and physically handicapped communities particularly come to mind.*

*This is truly an historic task. For the past century, the battle that has been fought has been over the issue of WHO shall vote. When our nation was founded, only white male adult landowners could vote. We have come a long way. The struggles to outlaw slavery, enfranchise blacks as citizens, allow women to vote, and reduce the voting age to 18 to give our youth a voice in their democracy, were tremendous struggles, finally leading to the Voting Rights Act of 1965, and the Civil Rights Act of 1974.*

*They were battles over inclusiveness in our democracy.*

*Now the struggle has shifted to issues of the fairness of the election system and the machinery of elections...the process of registering voters, casting ballots, and counting votes. What each State Commission does will be historic, and you are part of the dynamic of changing the face of elections in America.*

*For the first time in 100 years, we have an opportunity to review and make significant improvements in our election systems. It's time to invest some money where our ballot boxes are. These federal dollars will help strengthen our elections process by improving access at the polls, increasing our technology levels, and helping us educate and train voters and poll workers alike.*

## **State Plan Commission**

<b>Appointed Member</b>	<b>Office/Group Represented</b>
Mike Scarpello	Acting Douglas County Election Commissioner
David Shively	Lancaster County Election Commissioner
DiAnna Schimek	State Senator/Chair of Government Committee
Pauletta Gerver	Nebraska Association of County Clerks, Register of Deeds & Election Commissioners
Carlos Serván	Nebraska Commission of the Blind and Visually Impaired
Kathy Hoell	Statewide Independent Living Council, Inc.
Lois Poppe	League of Women Voters
Wayne Houston	NAACP
Steve Virgil	Nebraska Appleseed Center
Amy Bracht	Assistant Secretary of State
Dr. D'Andra Orey	Professor/University of Nebraska—Lincoln
Dale Baker	Hall County Election Commissioner
Holly Burns	Hispanic Community Center
Dr. Sara Crook	Professor/Peru State College
Tim Shaw	Nebraska Advocacy Services, Inc.
June Remington	Aging Services

The State Plan Commission held meetings on March 18 and 26, April 7 and 21, and May 12, 2003. Their involvement in the management of the plan will continue throughout its existence.

The Secretary of State secured the services of Martha Gadberry, Gadberry & Associates, Lincoln, Nebraska, to provide neutral facilitation and planning expertise to the State Plan Commission.

## **Public Involvement**

The Secretary of State will develop a preliminary State Plan and actively solicit public comments. The State Plan Commission recommends and agrees with the Secretary of State that the preliminary State Plan be made available in as many venues as possible, including paper copies, and postings on the Secretary of State website with an opportunity for people to send comments online. In addition, a public meeting will be conducted to provide citizens an opportunity to discuss the plan with the Secretary of State. The Commission recommends that media outlets give frequent exposure to information regarding the plan and solicitation of public comment.

## **Plan Management and Oversight**

The State Plan Commission recommends that oversight of the implementation of the plan be provided by periodic and regularly scheduled meetings of the State Plan Commission and the Secretary of State's office staff. The State Plan Commission proposes to provide the Secretary of State with advice and oversight throughout the three-year plan period and to continue to update the plan as needed. The State Plan Commission recommends meeting at least every six months through 2006. The State Plan Commission proposes to review and comment on other organizations' recommendations for voter education and outreach, and how they affect the plan and implementation. In addition, they would review progress reports by the Secretary of State, reports about how the grants were used, and review the complaint process.

## **The Recommendations Report**

This Report contains two sections:

- Principles which should guide the development of the plan
- Recommendations concerning the content of the plan

Recommendations address the following topics covered in the Help America Vote Act, 2002.

- Voting systems and education of the voter concerning the right to know if they have over voted in any race, the impact of over voting, and an opportunity to correct the ballot or secure a new ballot, independently and privately
- Standards for provisional voting for voters who assert they are registered and eligible voters in the jurisdiction where they are attempting to vote
- Creation of a single, centralized, and interactive computerized statewide voter registration system, providing a unique identifier for every registered voter. The system should be interactive with other state agency databases.
- Procedures for registration by mail, and identification requirements for first time voters who have registered by mail
- Minimum standards for DRE equipment and their accessibility should be set by the state. Counties may exceed the minimum requirement for number of digital recording electronic

- (DRE) machines each polling place. This includes placing at least one digital recording electronic device (DRE) device at each polling place.
- Administrative grievance procedures
  - Voting systems and education of voters, election officials, and poll workers regarding minority language issues
  - A voting system in each polling place that allows for access and participation by all voters throughout the entire voting process, including private and unassisted voting by those who are disabled. This includes placing at least one digital recording electronic device (DRE) device at each polling place, provisional voting, education concerning over voting and second chance voting, and accessibility of the polling place.
  - Education of the public, election officials, poll workers and the media concerning the changes and purposes of Title III to increase voting by populations who have typically not been involved in the election process
  - Administrative and management oversight of plan
  - Manage and fund the Grant Program
  - Continue long term planning

## **Principles**

The State Plan Commission recommends that the Secretary of State follow these principles in writing the State Plan.

### **Principle I.**

Nebraska's Plan should comply with all federal requirements in the Help America Vote Act of 2002 (HAVA).

### **Principle II.**

The plan should be guided by a principle of accessibility that assures all voters the same opportunities for access and participation including privacy and independence throughout the entire voting process.

### **Principle III.**

The plan should not pass initial costs of the implementation of HAVA on to the counties.

### **Principle IV.**

Allocation of adequate funds to purchase equipment to implement the central voter registration system, DRE requirements, and training should be the primary objectives for the budget.

### **Principle V.**

Ensure that implementation of HAVA requirements do not make it harder for people to vote.

### **Principle VI.**

The state should explore innovative ways to implement the HAVA.

### **Principle VII.**

The State should continue to do long-range thinking and planning. Current investments should be designed as building blocks for future technology changes that increase accessibility and participation in the voting process.

### **Principle VIII.**

Election officials and poll workers should be well trained to implement HAVA.

## Recommendations

State Plan Commission recommendations are organized by plan requirements in the Act.

### *Requirement #1*

*How the State will use the requirements payments 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.*

This document contains plan recommendations to consider for the State Plan.

- Voting systems and education of the voter concerning the right to know if they have over voted in any race, the impact of over voting, and an opportunity to correct the ballot or secure a new ballot, independently and privately
- Standards for provisional voting for voters who assert they are registered and eligible voters in the jurisdiction where they are attempting to vote
- Creation of a single, centralized, and interactive computerized statewide voter registration system, providing a unique identifier for every registered voter. The system should be interactive with other state agency databases. Proceed with securing the equipment, printed materials, and training that would implement the statewide-centralized voter registration. Apply for waiver of the deadline to ensure selection of quality equipment and election officials training.
- Procedures for registration by mail, and identification requirements for first time voters who have registered by mail. Retain a wide variety of options of identification that could be used. Educate and train first time voter populations, such as on high school and college campuses.
- Minimum standards for DRE equipment and their accessibility should be set by the state. Counties may exceed the minimum requirement for number of digital recording electronic (DRE) machines each polling place.
- Administrative grievance procedures
- Voting systems and education of voters, election officials, and poll workers regarding minority language issues
- The entire voting system should focus particularly on population groups that historically have not been participants in the voting process. These include, but are not limited to, youth, elderly, those who are disabled, ethnic minorities, and those who have limited English proficiency. A statewide voting system and systems at each polling place that allows for access and participation by all voters throughout the entire voting process, including private and unassisted voting by those who are disabled. This includes placing at least one digital recording electronic device (DRE) at each polling place, provisional voting, education and systems concerning over voting and second chance voting, and accessibility of the polling place.
- Education and training of the public, election officials, poll workers and the media concerning the changes and purposes of Title III to increase voting particularly focused on population groups that historically have not been participants in the voting process. These include, but are

not limited to, youth, elderly, those who are disabled, ethnic minorities, and those who have limited English proficiency.

## ***Requirement #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***

The State Plan Commission recommends that the State should be responsible for purchasing equipment and any associated support and maintenance. Additional information is contained in Requirement #4. If funds are distributed to counties or other organizations, they should go through the grant program, described as follows.

The State Plan Commission recommends that a grant program be established only if it is clear that sufficient funds are available to provide the equipment (the centralized voter registration system and DREs) necessary to fulfill the requirements of HAVA, and if the Secretary of State has sufficient resources to provide the basic training support and materials that are being recommended.

Should there be sufficient funds to provide grants to assist the Secretary of State in the implementation of the plan, the Commission recommends the following guidelines for a Grant Program.

1. Grants should focus on voter awareness, outreach, education and accessibility, particularly focused on population groups that historically have not been participants in the voting process. These include, but are not limited to, youth, elderly, those who are disabled, ethnic minorities, and those who have limited English proficiency. The Commission proposes grants which
  - Use innovative approaches for making the voting process easier
  - Make the voting process more universally accessible
  - Supplement state and local funds, rather than substitute for them.
2. A grant program should be a manageable size for the resources of state staff to develop, review, and manage. Grant amounts should be large enough to justify the costs of applicants preparing applications, and state costs for processing and reviewing applications and periodic reports.

3. Grant application forms should be simple. Small groups without grant writing expertise should be equally able to apply for them. The application should not be so specific as to stifle creativity in responding to voter needs. It should encourage and reward innovation.
4. Those eligible to apply for grants should include non-profit advocacy groups and counties. Advocacy groups include but are not limited to the young, elderly, ethnic minorities, people with disabilities, prior felons and those with limited English proficiency or who need assistance.
5. The State Plan Commission should be requested to establish objective criteria to judge grants. If there is no conflict of interest, individual members of the Commission would be willing to help the Secretary review the grants.

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

1. Grant application forms should require the unit to describe performance goals and measures consistent with HAVA, related to their proposal. Periodic reports of progress on goals and measures will be required.
2. The State Plan Commission, as well as the Secretary of State staff, could periodically review grant reports to monitor the performance of the recipients.

***Requirement #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

Set up an office of voter outreach at the Secretary of State office to engage the public and serve as a centralized information point. Ideas to consider for implementation follow each recommendation. The listing does not indicate a consensus or prioritized list.

- A. Awareness, Outreach and Education. Voters with disabilities should be made aware of the new accessibility requirements, instructed on how to use the new DRE equipment, and new voters recruited.
  1. Materials – Materials explaining the changes should be made available in a variety of formats for those with disabilities and with limited English proficiency.

- The Secretary of State should produce and distribute videos or PowerPoint packages for presentation to local groups.
  - Local election officials and the Secretary of State should improve signage at the polling places to indicate accessibility.
  - A Braille brochure could be distributed statewide.
  - Secretary of State and the media should develop public service announcements and videos that can be used at local media outlets and should use public access channels. Review what currently exists and use it or learn from it.
2. Demonstration Venues – Select a variety of sites to demonstrate and raise awareness of the changes in the laws to reach the general public and targeted audiences which includes but is not limited to youth, elderly, those who are disabled, ethnic minorities and those who have limited English proficiency.
- Make the DRE voting machines available for hands-on experience in places where people with disabilities, or the elderly can visit them
  - Take awareness programs, training materials, and speakers to high schools, higher education campuses, particularly student unions
  - Take DRE machines to nursing homes and assisted living facilities
3. Advocacy and Non-partisan Community Groups – Engage organizations to provide information and programs for the public and civic groups.
- B. Organizations and advocacy groups could assist with the awareness and education. They might need incentives for registering people. These groups and the Secretary of State should work collaboratively to develop a statewide education program.
1. Young voters - First time, high school and college students should be the focus of several initiatives in addition to those mentioned above.
- a. Provide public and targeted information on the identification requirements for first time voters who register by mail
  - b. Internships for voter education
  - c. Pay high school and college students to work in the Election Official's Office
  - d. Provide students on college campuses with information on voting place options. Identify a faculty/staff position or student organization on campuses to meet with local election officials to organize an informational session on voting on higher education campuses.
  - e. College students should be recruited to be poll workers to encourage their interest in the election process.

- f. LB 357, 2003 provides for 16 and 17 year-olds to work for pay at the polls. Investigate how community service credits can be given for this type of paid work.
- C. General Population. The general population should be informed about the changes that will occur at their polling places.
1. Create places to get information on the election process and new requirements.
    - Advocacy and community groups should assist the Secretary by providing information and events. Use their regular meetings and newsletters productively.
    - Educate people about DRE's and how to use one. Make DREs available in public places - malls, county offices, schools, etc.
    - The Secretary of State should coordinate public relations, awareness, outreach, and education efforts for uniformity purposes. Educate the media. Secure public service announcements and free print media support.
    - Provide culturally responsive outreach
    - Increase voter education efforts - "before-voting" day
    - Make voting desirable, interesting and fun
  2. Establish links to websites where a person can get information.
    - Use online education for reaching 18-45 age groups
    - Develop an online registration form linked to their county
    - Develop and copy CD-ROMs for classroom uses
  3. Provide support and encourage counties to conduct local voter awareness, outreach and education activities.
    - Provide training manual materials that suggest what to do and ideas on how to do it
    - Provide grants to counties to help conduct outreach concerning HAVA. Reward them for increases in voter registration among target groups, and increases in percentage of voter turnout. Share models others have used. Encourage Get Out the Vote drives. Give counties a state designation of "Model of Democracy" when they reach certain milestones and performance goals.
    - Use tax forms as reminders to update registrations and that it's a right and responsibility to vote
    - Put PSA Forms in utility bill envelopes (electric, gas, cable) before each election deadline
  4. The State Plan Commission recommends that the state and counties make changes so that registration is easier for people.

- Revise registration forms. Review and consider using the voter declaration model from the Arizona Plan.
- Make the Election Day provisional voting paperwork application usable as the voter registration for the next election. Institute record keeping that allows the county election officials to tell a provisional voter whether their vote counted and if not, why not.
- Continue to distribute registration forms in many places, such as the phone book
- Improve the process of reporting registrations from collaborating agencies
- Take voter registration drives to civic groups, including ethnic groups
- Continue to conduct voter registration in shopping malls and publicize
- Continue to address issues related to the prohibition of individuals deemed “mentally incompetent” from voting
- Revisit the oath on the Registration form which reads in part:

To the best of my knowledge and belief, I declare under penalty of election falsification that: I am at least eighteen years of age or will be eighteen years of age on or before the first Tuesday after the first Monday of November; I am a citizen of the United States; I live in the State of Nebraska at the address provided above; I have not been convicted of a felony or, if convicted, my civil rights have been restored; and I have not been officially found to be non compos mentis (mentally incompetent).

5. The Secretary of State should provide information to counties on how to seek diversity in the poll worker pool to increase the number of individuals who are disabled, elderly, male, female, ethnic minorities, racially diverse, blind and visually impaired, and those with limited English proficiency. Encourage innovation in recruiting election officials and poll workers to increase interest in the election process. Provide more information to local officials about the lottery system of selecting poll workers.

#### Election Officials and Poll Worker Education and Training

- A. The Secretary of State should initiate and plan for centralized, uniform training statewide. The office should provide the following:
  1. A video with basic information on the Act.
  2. A training manual for county election officials and clerks that will include the following:
    - a. Standards for local training, including maintenance of current training efforts.
    - b. Explanation of the HAVA requirements and how to implement them, as well as all other voting requirements related to elections.

3. A training manual in electronic form so that county election officials may supplement the material with county specific information. A CD-Rom has been suggested.
  4. Provide training material on a web site for on-demand self-training. High turnover in poll workers in some areas necessitates flexible training packages.
  5. Increase use of existing opportunities to provide information, presentations, and demonstrations of the new HAVA requirements and the new equipment.
    - Continue to provide statutorily required training.
    - Continue to use the NACO annual meetings. Should there be a county pilot project initiated, use this resource.
    - Use regional networks for training election officials. The state may want to supplement funding to add new training.
    - Seek new opportunities to involve the vendor to provide training to election officials.
    - Seek opportunities to collaborate with advocacy and community groups to provide training to election officials.
- B. County officials continue to bear responsibilities to disseminate training materials and conduct training events.
- It was suggested, but not everyone agreed, that matching grants to local offices to provide over and above current effort training might be provided. The group did not want small counties to be penalized for lack of a grant writer or record keeper. If funds are given, a base amount should be given to each county, and increments added to subsidize new training initiatives.
- C. The content of the training should include, but not be limited to:
1. Accessibility issues:
    - a. How to work with people with disabilities
    - b. What is needed to recruit workers with disabilities
    - c. Polling places - what is required and how to achieve it
    - d. Systematic recruitment of bilingual poll workers
    - e. Provide education to encourage those who are no longer adjudicated “mentally incompetent” to vote.
  2. How to use the DRE and demonstrate to others.

3. Describe the options for the identification requirement for first time voters who registered by mail.
  4. The Secretary of State should collaborate with advocacy agencies and community groups on what to include in the statewide training about removing disability and language barriers. Advocacy agencies may wish to assist the Secretary of State and NACO with content for training and brochures as needed.
  5. Issues related to clarifying confusion concerning the prohibition from voting by individuals deemed “mentally incompetent.” This includes provisions of the oath signed at registration that one has “not been officially found to be non compos mentis (mentally incompetent).”
- D. The Secretary of State should train election officials so they may comply with HAVA concerning second chance voting.
1. Thorough training of poll workers and election officials to provide instruction on site at the polling places.
  2. Thorough instructions printed on the ballot.
  3. Thorough instructions posted at the polling place.
  4. Thorough instruction of the voter at the polling places.

#### ***Requirement #4***

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

The Commission recommends the plan comply with the Act, with particular focus on populations who typically have not been involved with the election process. Specific recommendations follow.

Ensure that implementation of HAVA requirements does not make it harder for people to vote.

- A. Do not over-consolidate polling places.
- B. Retain expansive list of possible identification sources for first time voters, as in LB359, 2003.

Accessibility of polling places is a federal requirement and counties should be responsible for compliance. Although a majority of polling places are already ADA compliant, some may not be as friendly as they could be. These Title III HAVA funds should not be used to make polling places

accessible. It is already a requirement and should be existent. Other resources and funding should be pursued.

- The Technology Assistance Partnership at Vocational Rehabilitation will assist to identify areas of noncompliance and recommend modifications that would be friendly to people with disabilities. Although well meaning, some officials may make modifications which do not improve the situation.
- Parking and transportation issues should be addressed.

The state should meet federal requirements and disseminate at least one DRE at each polling place in Nebraska with all deliberate speed as soon as certified options exist. If possible, by 2004, but no later than 2006. The Commission recommends taking bids when equipment is developed enough to meet the needs of voters with disabilities and when the technology has been fully tested. Meeting the deadline is important. Don't rush DRE and precinct scanning equipment purchases.

- A. Consider a pilot project if unable to meet the 2004 deadline desired by the Commission. Place one DRE in each county election office by 2004 to provide exposure, public awareness, and election official experience before statewide dissemination.
- B. Provide a system that allows counties to buy additional state standard DRE's with their own funds.
- C. The Secretary of State requires the size of font used on ballots. Examine the need and possibility of allowing larger fonts. Magnifiers may be desirable for each polling place. Large print concerns may be addressed by adding a DRE to each polling place, since they have different fonts and also audio.

Second chance voting using current equipment can be implemented with additional training of election officials and poll workers. They should be instructed to inform the voter at the polls how to exercise that option. Consider adding instructions to the ballot face.

If the goals for second chance voting cannot be achieved by adding an education component to the current system, a precinct level optical scanner should be placed in each polling place. This device will identify when a voter has voted more times for one office than requested and allows the voter to secure a new ballot. Scanners should allow for private, unassisted second chance voting for those who do not use a DRE. It will also count the total of votes in that precinct, but will not make the count available except through the county election results. Precincts may take the precinct scanner to the county office or use a modem to send in the totals.

- A. Should funds allow, make plans to secure precinct level optical scanners and make them available at each polling place by the 2006 deadline.

- B. Consider a pilot project. Place one precinct level optical scanner that will implement the second chance voting requirements in each county election office by 2004. Disseminate the scanners to all the polling places by the 2006 deadline.

Purchases with HAVA funds should be uniform, follow statewide standards and meet HAVA guidelines.

- A. The state should be responsible to select, purchase, and maintain the equipment for all polling places. State responsibilities include:
1. Payment and arrangement for the initial purchase
  2. Maintenance and service
  3. Training package on use of the equipment
  4. Software
  5. Hardware for modem capability for precinct scanners, if precinct scanners are purchased.
  6. Polling places and equipment need to be accessible
- B. Select a reputable experienced vendor - one that is proven, has been around a long time, and is the best fit for the need, as well as fiscally sensible.

The plan should not pass initial costs of the implementation of HAVA on to the counties. However, counties should maintain their current efforts to support all aspects of the election process. In addition, counties should prepare to participate in funding future purchases and activities.

- A. Counties should plan for the future to replace their current voting equipment. The current equipment may include
- Central count scanners to count ballots
  - Ballot box
  - Sleeves
  - Paper ballots
  - Voting booths
- B. As existing equipment ages, it should be replaced with equipment compatible with HAVA requirements, as specified by the State. Counties should work with the Secretary of State in a cooperative effort to determine when equipment needs to be replaced. It may not be necessary to replace all equipment at the same time.

- C. Counties should be responsible for equipment purchases, such as the DRE and precinct level optical scanner beyond the minimum compliance.
- D. Other ongoing responsibilities of counties include but are not limited to the following:
- Storage of voting equipment
  - Notification of the state concerning malfunction of equipment
  - Ongoing training of election officials and poll workers
  - Delivery of DREs to polling places
  - Programming at election time
- E. The State should be responsible for keeping counties compliant forever.
- The State is responsible for equipment replacement costs. If possible, the State should put aside money annually for replacements.
  - Replacement equipment should be reflective of existing accessibility technology.

The State Plan Commission recommends that the Secretary of State and the Commission continue to do long-range thinking and planning together. Commission members identified the following issues to continue to discuss. These may not be possible to implement until appropriate technology becomes available.

- Identify regions where an official of a larger county could take scanning or other equipment to polling places, visiting one county on a single day. Election Day, therefore, might be Election Week; however, votes would not be counted until polls close on Election Day.
- Plan toward providing online voting.
- Make it possible to vote anywhere in the state.
- Collaborate with county election officials to develop a uniform, statewide Voters Bill of Rights.
- Keep Election Day registration on the public discussion agenda. Current issues may be resolved with future technology.
  - How can we make registration effective immediately?
  - How can we identify which ballot face a voter might need?
  - How can we know if a voter voted in only one polling place?
  - How can we eliminate voter fraud?
- Consider conducting all elections by mail. In coming years, technology may solve some problems.
  - Advantages - convenience, higher participation, possibly lower cost
  - Disadvantages - may not be able to eliminate voter fraud. There is no second chance voting capability.
- Address and update “mentally incompetent” language in the constitution, the statute and the registration forms. Details for continued discussion include the following:
  - “Mentally incompetent” needs a clear definition.

- A court document declaring the person “mentally incompetent” triggers the restrictions. There is no clear legal mechanism to reverse that designation after treatment.
- Provide education to encourage those who are no longer adjudicated “mentally incompetent” to vote.

**Requirement #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.*

State Plan Commission has no recommendation.

**Requirement #6**

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

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

1. The State Plan Commission recommends the following budget categories and priorities:

- Priority 1
  - Purchase and install a new statewide, centralized voter registration system. Provide for services.
  - Purchase and install a minimum of one DRE per polling place no later than 2006. Provide for services.
  - If funds are available, and it is desirable, purchase and install a minimum of one precinct level optical scanner in all counties by 2006. Provide for services.
  - Provide education and training of County Election Officials.
  - Provide for training and recruitment of diverse poll workers.
  - Provide for public awareness, education and outreach concerning changes in the system because of HAVA. Fifty to sixty percent of the budget is recommended for the general public. Forty to fifty percent of the outreach budget should be used for the targeted population, which includes but is not limited to youth, elderly,

those who are disabled, ethnic minorities and those who have limited English proficiency.

- Several mentioned that the general public awareness activities would also reach the population targeted by the HAVA improvements which includes but is not limited to the young, elderly, those who are disabled, ethnic minorities and those who have limited English proficiency.
- Development, production and dissemination of public information materials by the Secretary of State
  - \* Implementation of the plan
  - \* Provide for public awareness, education and outreach concerning changes in the system because of HAVA.
  - \* Provide for administrative and management oversight of plan
  - \* Manage and fund the Grant Program
  - \* Continue long-term planning

- Priority 2

If there are funds available after funding Priority 1, these pilot programs are suggested.

- Pilot DRE placement in each county
- Pilot precinct level optical scanner system in each county

- Priority 3

Although a Grant Program is not a priority of the State Plan Commission, if funds are still available after funding Priorities 1 and 2, then Grants may be provided.

### ***Requirement #7***

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

The State Plan Commission has no recommendations.

### ***Requirement #8***

***How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria,***

***and a description of which official is to be held responsible for ensuring that each performance goal is met.***

The State Plan Commission recommends that the county performance goals and measures be provided in the training manual to be distributed to the county election officials. Performance goals also should be included in the Grant Program. Timetables should be established by the Secretary of State to provide timely implementation by the HAVA deadlines.

### ***Requirement #9***

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

The State Plan Commission reviewed an early draft of the administrative complaint procedures in effect under section 402, and makes these recommendations.

#### **A. Additions**

- Continue the practice of including a complaint procedure in the precinct supply kit.
- Add that the appointment of a hearing officer is defined in the legislative statute.
- Clarify that this Act does not limit current rights, but only relates to Title III provisions.
- Provide interpreters for the complainant at the Secretary of State's expense for those with:
  - Limited English proficiency
  - Hearing impairments, or those who are deaf

#### **B. Considerations**

- Consider posting at the polling place that there are complaint procedures regarding HAVA. Do not post the procedures themselves. Have the complaint procedures available if a situation arises. Poll workers need to be aware so they can provide the complaint procedures in the appropriate format. Make the complaint procedure form and instructions available in alternative formats, considering the issues for persons who are blind and/or who have limited English proficiency. Consider what to do about handling complaints filed on Election Day.
- The final decision on complaints should be made available for the public.
- An annual report on complaints should be made available
  - Number of complaints
  - Number of types of complaints
  - Number of types of remedies
  - For review by the State Plan Commission

- After the initial complaint, consider excluding name, address and phone number in the public documents. Consider the balance needed to avoid onslaught of anonymous complaints with need for personal information and follow-up.

***Requirement #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 State Plan Commission has no recommendations.

***Requirement #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 Plan Commission recommends the following management practices.

- The State Plan Commission should meet at least every six months through 2006, or until Title III funds are spent. They would review progress reports by the Secretary of State. In addition, they would review reports about how the grants were used and would review the complaint process.
- The Commission recommends that the Secretary of State call on them to reconvene more often than six months as needed.
- The Commission recommends that the Secretary of State request their help to review the grant design. Commission members should be considered to assist in the grant review process. The Commission represents a wide cross-section of citizens interested in the voting process and could provide volunteers and expertise in ranking competitive grants. However, the Commission recognizes that there is a potential for conflict of interest to arise if their groups are applying for grants. They will be willing to serve if the Secretary of State deems that there is no conflict of interest with Commission members and grant applicants.

***Requirement #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.***

There is no state plan in effect. The State Plan Commission has no recommendations.

***Requirement #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.***

As required by federal law, Secretary John A. Gale, Chief Election Officer for the State of Nebraska, appointed a sixteen-member citizen advisory commission on February 28, 2003, to help in the development of the State Plan. The Commission is called the Nebraska State Plan Commission. Members included the election officials from Nebraska's two largest counties, a mid-size county election official, president of the Nebraska County Clerks Association, a representative from the Secretary of State's office and representatives from various advocacy organizations. Secretary Gale took recommendations for these appointments so that the Commission was representative of a wide cross-section of Nebraskans, including those with disabilities and minority designation.

The State Plan Commission held meetings on March 18 and 26, April 7 and 21, and May 12. The Secretary of State secured the services of Martha Gadberry, Gadberry & Associates, Lincoln, Nebraska, to provide neutral facilitation, planning expertise and clerical support to the State Plan Commission.

This final report contains the recommendations of the State Plan Commission to the Secretary of State for his consideration in developing the State Plan.