

State of Wyoming
Secretary of State

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1 Help America Vote Act
2 Wyoming's State Plan

3 As required by Public Law 107-252,
4 Help America Vote Act 2002
5 Section 253(b)
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INTRODUCTION & BACKGROUND

3 Wyoming is a frontier state, which by federal definition means that it has fewer than 6
4 residents per square mile. In fact, Wyoming is the least populated state in the United
5 States with fewer than half a million people living in 97,000 square miles. There is much
6 open space between ranch houses and between the very small towns and cities. (See
7 Appendix A) Even the two largest cities are small by national standards with approximately
8 50,000 people in each. Wyoming's least populated county, which is an area larger than
9 the State of Delaware, has only 2,500 people. Wyoming's largest county geographically, is
10 larger than the State of Maryland. Sweetwater County hosts approximately 40,000 people
11 whereas Maryland has over 4.7 million people. While most states struggle to provide
12 adequate services to people concentrated in metropolitan areas, we struggle to provide
13 full services to a few people in remote places.

14 Wyoming elections have been locally funded and locally administered. For generations
15 the Wyoming County Clerks have conducted elections untainted by the problems that
16 have arisen in larger U. S. jurisdictions. The Secretary of State serves as the state's chief
17 election official. The working relationship with the local election officials has been
18 extremely close and collegial. When election problems or questions arise it's not unusual
19 for a citizen to speak directly with the Secretary of State, who in turn, calls the County
20 Clerk and they jointly resolve any issues. The voter turnout in Wyoming has always been
21 exemplary. In the last six presidential elections, voter turnout averaged 60% of the voting
22 age population and averaged 88% of all those registered to vote. In comparison to
23 national statistics, Wyomingites are near the top in exercising their right to vote.

24 Because of the closeness of the election in the 2000 presidential race, the national focus
25 was turned on the election process. Because of that, the Help America Vote Act of 2002
26 (HAVA) requires significant reforms of the election process. Among other things, there are
27 national mandates for election equipment, voter registration, education of voters and
28 election workers. Each state must develop a long-range plan to implement the Act and our
29 successful planning will result in Wyoming receiving federal funding to assist with this
30 implementation.

31 This preliminary plan was developed over the past eight months under the leadership of
32 the Wyoming Secretary of State and his staff with the participation of the Wyoming County
33 Clerks and other stakeholders. Those who participated in developing this plan are hopeful
34 the proposed revisions to the administration of elections in Wyoming will bring uniformity to
35 essential duties, improve the education of both voters and election workers, encourage
36 greater accessibility for individuals with disabilities or language barriers, and provide the
37 best available voting and registration systems for all counties.

38 Although HAVA increases the state-level responsibility for election administration in order
39 to improve uniformity, elections will still be administered by the locally elected County
40 Clerks. Therefore, the key element of Wyoming's election administration will continue to be
41 cooperation among the Secretary of State and his staff, County Clerks and other
42 stakeholders throughout the state.

43 Wyoming will update and refine the State Plan as necessary over time to reflect election
44 reform progress and future plans. If there are material changes to the State Plan, there will
45 be opportunity for public comment and the changes will be published in the Federal
46 Register.

1 State Plan Non-Required Elements

2 Universal Access

3 Wyoming has a wonderful heritage of being progressive in allowing its citizens to vote. On
4 December 10, 1869, John A. Campbell, Wyoming's first Territorial Governor, signed the
5 landmark bill which made Wyoming the first state to expressly grant women the right to
6 vote. To this day, Wyoming continues to encourage the participation of all citizens who are
7 eligible to vote, even providing the convenience of allowing voter registration on election
8 day.

9
10 "Since equality in the enjoyment of natural and civil rights is only made
11 sure through political equality, the laws of this state affecting the political
12 rights and privileges of its citizens shall be without distinction of race,
13 color, sex or any circumstance or condition whatsoever other than
14 individual incompetency or unworthiness duly ascertained by a court of
15 competent jurisdiction"

16 *Wyoming State Constitution, Article 1, Section 3.*

17
18 These words in our Wyoming Constitution, written more than a century ago, continue to
19 inspire and challenge us to assure that all citizens in Wyoming can fully exercise their
20 political rights. Our nation and our state have made great strides in extending political
21 equality but there are still challenges ahead. The State of Wyoming values the
22 participation of its citizens in the election process. Therefore, Wyoming commits to
23 assuring that all citizens, including those with disabilities, can fully participate in the
24 election process by casting their ballots confidentially and independently. With the
25 enactment of the Help America Vote Act, there are additional resources available to help
26 assure that voters with disabilities will enjoy equality in exercising their right to vote.

28 Voting Rights of Military Members and Overseas Citizens

29 The State of Wyoming acknowledges the value of our members of the armed forces and
30 overseas workers and continues to encourage them to exercise their right of citizenship by
31 voting. Therefore, although not required by HAVA to be addressed in the state plan, we
32 wish to inform the public that the State of Wyoming plans to make the necessary changes,
33 or in some cases continue with current procedures, in order to comply with the
34 amendments to Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) that
35 were enacted in the Help America Vote Act of 2002 (HAVA), Title VII, pertaining to the
36 voting rights of military members and overseas citizens. The Office of the Wyoming
37 Secretary of State will be designated as the single office responsible for providing
38 information regarding voter registration procedures and absentee ballot procedures to be
39 used by absent military and overseas voters. The Secretary's Office, in conjunction with
40 County Clerks, will ensure that all requirements of Title VII of HAVA are met.

1 Title III Requirements and Other Activities

2 *How Wyoming will use the requirements payment to meet the requirements of Title III, and, if*
3 *applicable under Section 251(b)(2), to carry out other activities to improve the administration of*
4 *elections.*

5 Section 301(a), Voting Systems Standards Requirements

6
7 The State, with the assistance of the County Clerks' Association of Wyoming, conducted
8 an evaluation of the voting systems currently used in the State's 23 jurisdictions. The
9 evaluation measures included both the system requirements under HAVA and the Voting
10 System Performance and Test Standards as revised by the Federal Election Commission
11 in 1999.

12 The voting systems currently used throughout the State include the following: lever in
13 three counties; punch card in five counties; central count optical scan in six counties
14 precinct optical scan in eight counties; and direct recording electronic equipment in one
15 county.

16 Punch card and central count optical scan systems will be replaced as they do not meet
17 the requirements and it is believed the voting population will be better served by
18 conforming equipment rather than by development of educational programs for varying
19 voting systems.

20 Lever machines and the Guardian Electronic 1242 direct recording system will be
21 replaced as they do not meet the accessibility requirements and there are no current
22 provisions for adaptations to make these systems compliant.

23 As funding becomes available, replacement equipment and DREs (Direct Recording
24 Equipment commonly referred to as touch screens) for each polling place will be
25 purchased to meet the accessibility requirements. Provided full funding is received, this
26 will occur by no later than January 2006.

27 Placement of new voting systems will be coordinated with substantial training of county
28 election personnel and public outreach to voters. The Wyoming County Clerks'
29 Association and the Secretary of State's election office will work together to provide voter
30 outreach and education programs. Requirement funds will be used for these efforts.

31 Because of the substantial cost of voting equipment, it would be unwise to purchase so
32 much equipment for the state at one point in time and not plan for maintenance and
33 eventual replacement. Therefore, purchase and placement of the equipment may take
34 place in phases as federal funds become available. Funds will be set aside in a reserve
35 account which can be used for ongoing replacement, maintenance and repair purposes.

Section 302, Provisional Voting and Voting Information

Provisional Voting & Ballot Disposition Information

Voters whose qualifications to vote are challenged, and the challenge is not resolved at the polling place, will be offered the right to cast a provisional ballot. The need for provisional voting in Wyoming is rather limited, however, because Wyoming allows election-day voter registration. This means voters whose names do not appear on a poll list have an immediate remedy by registering to vote and then casting a ballot.

Provisional voting procedures have been added to Wyoming statutes however to further increase voter access. In the 2002 session of the Wyoming legislature, the Election Code was amended to allow for provisional voting.

The State of Wyoming already provides for the use of provisional ballots in primary and general elections. To implement the changes required by HAVA, the State will promulgate rules and recommend legislative changes so that the law is consistent with HAVA. A Provisional Voting Work Group has been formed composed of County Clerks, personnel from the Secretary of State's Office, county election deputies and others, and the proposed rules will be based largely on their recommendations. They have created the forms necessary to implement the rules as well as educational materials to apprise the public of their rights.

Provisional voters will be able to access a state website or make contact with the local County Clerk to learn the ballot disposition. Because use of provisional voting will be very limited, providing such free access should be at no or very little cost. It is anticipated that provisional voting will require spending the least amount of Requirements Payments Funds.

Voting Information

Wyoming law currently requires full public notice of an election. Notice is achieved through newspaper advertisements and posting notices in communities that do not have general newspaper circulation. Information is also provided using radio, local and state websites, direct mailings and various postings. Publication of the following is required by law: sample ballots, election dates, polling place locations and hours, ballot marking instructions, voter registration qualifications and deadlines and absentee voting information.

Much voting information is currently required by law to be posted at polling places. To insure consistency and to insure all voters are given the information they need, the Secretary of State will prepare an informational poster of voter rights to be posted at all polling places. Requirements payments will be used to design, print and distribute the poster or other materials.

Section 303, Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register By Mail

The Wyoming Secretary of State provides a centralized voter registration database with a limited number of reports and lists which can be generated for use by County Clerks at cost. In an effort to improve the voter registration information they can provide, many Wyoming counties have purchased and designed their own voter registration systems. All counties do update to the state database even if they make no other use of the state system.

A new voter registration system must be implemented to effectively serve Wyoming voters and to comply with Section 303 of HAVA. Requirements payments will be used for a new single, uniform, official, centralized, interactive, computerized, statewide voter registration system in Wyoming.

The State of Wyoming will implement a voter registration system which meets the requirements of HAVA by January 2006 and the State will use a portion of the available funding to meet the voter registration requirements of Title III as described below.

1. Initially, funding is to be used for planning and assembling the people who will help shape the voter registration system.

A Voter Registration (VR) Work Group has been formed composed of County Clerks, personnel from the Secretary of State's Office, county election deputies, and county and state technology staff. All County Clerks have been contacted regarding their voter registration systems. Those that like all or part of their systems have been requested to demonstrate them to a sub-group of state and county officials from the VR Work Group. The VR Work Group will further evaluate all the VR systems.

The County Clerks will be surveyed regarding the technological aspects of their current VR systems. Vendors of VR software will be invited to educate the VR Work Group about their products. The VR Work Group will also give careful consideration to the VR systems of those states which have already met the requirements of HAVA and are willing to provide information to Wyoming.

The VR Work Group will then develop in detail the required specifications for a statewide system based on all of the above information concerning the characteristics and components necessary for a properly functioning VR system. All County Clerks will be invited to review and comment upon the draft specifications. These shall include the full specifications of the recommended VR system, the hardware and software recommended, the pros and cons of likely alternate systems, the plan for the conversion of the existing statewide data, the schedule for implementation, and the estimated costs for purchase or building the system, and the costs and plans for maintenance, modifications, and enhancements of the system.

2. State law largely controls selection of a vendor or contractor for the computerized statewide voter registration system. This purchase will constitute the major use for the available funding allocated to acquisition and implementation of a single, uniform, official, centralized, interactive, computerized statewide voter registration list.

3. Funding will also be necessary for the implementation of the selected VR system after the hardware and software are delivered. Expenses will include the education and training of election officials and their staff who will be responsible for using the system, electronic testing of the VR system, and finally the first use and final implementation of the system.

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4. Simultaneously the State will develop interagency agreements for access to felony records and death records. The State will also develop an interagency agreement for access to driver's license numbers. Finally the State will enter into an agreement for the purpose of verifying applicable Social Security information.

5. Once the voter registration program is implemented, there will be an ongoing need for maintenance, upgrades and likely future modifications. As with voting systems, it would be unwise to make large expenditures and implement a voter registration system at one point in time and not plan for maintenance and/or revisions. Therefore, substantial funds will be reserved for such activities through and beyond 2006.

Section
2

2 Wyoming’s Distribution of Requirements

3 Payment

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

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

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

12

13 Eligibility of Local Units to Receive Payments

14 In order to streamline audit functions, the Secretary of State will retain responsibility for all
15 requirements payments. The state will receive, expend and account for all HAVA monies.
16 Wyoming County Clerks, our “local units”, will work directly with the state to research Title
17 III needs, research compliance costs and recommend spending priorities. The HAVA
18 budget will be developed working closely with the County Clerks.

19 The Wyoming Secretary of State will manage requirements payments and will be
20 responsible to account for all receipts and expenditures. Based on recommendations of
21 the State HAVA Advisory Committee and the various work groups, the Secretary of State
22 will provide for equipment purchases for the benefit of the voting public, taking into
23 consideration special needs of certain voters. Preliminary cost estimates indicate all punch
24 card and lever voting machines can be replaced and a touch screen can be placed in
25 each established polling place with anticipated requirements payments if full funding is
26 received.

27 The Wyoming Secretary of State will purchase or pay for the development of the statewide
28 voter registration system including costs associated with implementation in each county.

29 Any additional Requirements Payment Funds will be used to implement the state’s HAVA
30 plan or will be retained in the state’s HAVA account.

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Performance Measures for Local Units

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The Wyoming Secretary of State will insure all requirements payments are accounted for in accordance with the performance measures adopted under Section 254(a)(8) of HAVA.

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The initial and subsequent budgets will be developed in concert with the local units and will include timelines and priorities to assist in fund expenditures.

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Section
3

2 Voter Education, Election Official Education
3 and Training, and Poll Worker Training

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

6

7 Education and Training Needs

8 As is stated elsewhere in this document, Wyoming's implementation of Help America Vote
9 Act of 2002 will require substantial changes in voting systems. Five counties presently
10 use punch card machines, three counties use lever machines and at least six counties use
11 an optical scan central count system. Therefore, at least 14 of Wyoming's 23 counties will
12 see major changes in how ballots are cast or counted. This alone will necessitate a large
13 education and training effort. Not only will election officials and poll workers need training
14 on the new equipment, every voter at the affected polls will be faced with a new scenario.

15 Wyoming's implementation of a statewide voter registration system where one has not
16 existed before is another major change precipitated by HAVA. A comprehensive voter
17 registration system will require extensive training for those who operate it.

18 In addition to these obvious changes, there are many other aspects of HAVA which
19 require more subtle changes in the conduct of elections. Most Wyoming voters encounter
20 the election system only once every two years. The cumulated effect of so many changes
21 translates into a large learning curve which could be intimidating to voters.

22 Therefore, Wyoming acknowledges that extensive efforts must be made in educating the
23 general public and subsets thereof. Efforts to assist senior citizens, individuals with
24 disabilities, military and overseas voters, young voters, minority groups and many other
25 groups of Wyoming citizens will be essential to successful implementation of HAVA.

26 In addition to educating the general public, special interest groups, the press and others,
27 there must also be the development of education and training programs for election
28 officials and poll workers to enhance uniformity and consistency of elections throughout
29 the state.

Education and Training Development

Because of the vastness of some of these issues, this work must take place over a period of time which allows for thoughtful analysis of the issues and development of effective approaches to the education and training. Therefore, following the work of developing and publishing this state plan, the Secretary of State will form Education & Training Work Group(s). The purpose of the group(s) will be to make specific recommendations pertaining to all the education and training issues. Those invited to assist with these efforts will include, but are not limited to, county clerks and other election workers, representatives of special populations and special interest groups, the press and Secretary of State staff.

Although the details of how to educate and train so many people in a way that will enhance the election process in Wyoming will not be worked out until after the Education & Training Work Group(s) have ample time to thoughtfully consider many issues, it is clear that such an extensive education and training effort will be costly. Therefore, substantial funds must be allocated not only for initial education and training efforts, but also for ongoing efforts for years to come.

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Section
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Voting System Guidelines and Processes

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How Wyoming will adopt voting system guidelines and processes, which are consistent with the requirements of Section 301.

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Voting Machines

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In the November 2000 election, Wyoming had 101 precincts using punch card or lever machines and at least six counties where optical scan ballots were centrally counted. These voting systems would violate Section 301 of HAVA. A few Wyoming precincts had a voting system accessible for individuals with disabilities consistent with Section 301(a) (3). Additionally, current Wyoming laws regulating voting machine criteria do not address all Section 301 requirements.

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Therefore, legislation is being drafted by the Secretary of State to mandate that all voting systems used in Wyoming must comply with HAVA Title III Section 301 requirements by 2006. The draft legislation will be presented to a Wyoming legislative interim committee to prepare for introduction to the entire legislative body at the 2004 legislation session.

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Voting systems and/or equipment which do not comply with HAVA (punch card, lever and central-count optical scan) will be replaced. The Secretary of State working with the County Clerks' Association will establish equipment replacement priorities.

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After it is determined which system(s) will be used, rules will be promulgated through the usual state rule making process to address uniform use of the equipment and will designate what constitutes a vote for each specific type of voting equipment.

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Section
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Wyoming's HAVA Fund Management

3

How Wyoming will establish a fund described in subsection (b) for purposes of administering the state's activities under this part, including information on fund management. HAVA 254(a) (5)

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The Wyoming Legislature passed House Bill 172, Help America Vote Act, during the 2003 legislative session. The bill became Chapter 131, Section 339 of Wyoming's Supplemental Appropriations bill and Chapter 183 of the 2003 Session Laws. This legislation provided that

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"The secretary of state is authorized to adopt rules and regulations necessary to comply with the requirements of the Help America Vote Act of 2002, Public Law 107-252, including a state-based administrative complaint procedure."

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The legislation also appropriated \$500,000 for the purpose of meeting the 5% state match requirement under the Help America Vote Act of 2002.

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Specific accounts have been established within the Secretary of State's budget for the purposes of HAVA. The accounts are organized in such a way that state matching funds will be held separately until they are needed to match federal funds. The accounts also provide that interest earned from the funds will remain in the fund as required by HAVA. Additionally, monies expended from Title I and Title II can be accounted for separately.

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A system of financial management allows Wyoming to provide clear evidence of proper use of the funds and allows for a clear audit trail. Wyoming's audit procedures are contained in *Wyoming State Auditor's Office Accounting Policies and Procedures* which can be accessed at <http://sao.state.wy.us>

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Section
6

2 Wyoming’s Proposed Budget

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

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

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

9 *(C) The portion of the requirements payment, which will be used to carry out other activities – HAVA*
10 *254(a) (6)*

11

12 **Assumptions**

13 Wyoming has developed its state plan based on the following budgetary assumptions:

14 That Wyoming will receive the full \$20 Million funding based on formulas contained in
15 the federal law.

16 That all cost figures are estimates only and expenditures may vary significantly. This
17 is particularly true since:

- 18 ■ the details of implementing the plan are not yet known,
- 19 ■ there is still need for input from those integrally involved with elections in
20 Wyoming, from special interest groups and from the public in general,
- 21 ■ cost estimates could be increased or decreased by the bidding process, by
22 forming coalitions which may result in economies of scale, and by the nature of a
23 market where a limited number of experienced vendors will be serving many
24 states simultaneously.

25

Budget

It is anticipated that the greatest costs of implementing HAVA in Wyoming will be:

- developing and implementing a statewide voter registration system;
- replacement of punch card and lever voting machines and changing central count systems to precinct count systems;
- providing one touch screen for each polling place to comply with HAVA requirements to increase accessibility; and
- education and training of election workers and the public.

Collectively, it is anticipated these activities will cost 70% of total HAVA funds, or \$14 Million.

There will be other, lesser costs needed for HAVA compliance and the cost of those activities is expected not to exceed 5% of the state's HAVA funds, or \$1 Million.

As discussed elsewhere in the plan, Wyoming anticipates substantial ongoing costs for maintenance of systems, replacement of equipment and ongoing education. 25% of the state's HAVA funds, or \$5 Million, will be reserved for those activities.

It would be unwise to build systems or purchase equipment that could not be maintained or would not function properly because of obsolescence. Therefore, as each portion of the plan is implemented, the appropriate 25% of the designated funds will be retained for maintenance and replacement costs. This will tie Wyoming's financial commitment directly to the portion of HAVA funds received from federal appropriations. Full federal funding will be needed for total implementation of Wyoming's HAVA plan and for total compliance with the HAVA requirements.

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Section
7

2 Maintenance of Effort

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

6

7 HAVA 254(a) (7)

8 Wyoming will comply with all HAVA maintenance of effort requirements. Consistent with
9 HAVA 254(a)(7), in using any requirements payment, Wyoming will maintain expenditures
10 of the state for activities funded by the payment at a level equal to or greater than the level
11 of such expenditures in Wyoming FY 2000.

12 In the Fiscal Year ending June 2000, the Secretary of State’s Office employed 22 full time
13 employees. In addition to the Secretary of State and his Deputy, there were eight
14 individuals in the Corporations Division, four in the Securities Division, two in the
15 Technology Division, five in the Services Division and one in the Elections Division.
16 Because of the small size of the agency, funds are neither appropriated nor expended by
17 division. Rather, all funds are appropriated and expended through one administration
18 budget.

19 In calculating the maintenance of effort, all expenditures for the election staff’s salary,
20 benefits and overtime were included as were travel and overhead costs. Also included
21 were all funds expended for state voter registration mainframe services, voter information
22 printing costs and other election publications. Thus, total maintenance of effort for the year
23 ending June 2000 was \$135,000.

Section
8

2 HAVA Performance Goals and Measures

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

8 HAVA 254(a) (8)

9 Performance goals provide an overview of a project's direction and performance
10 measures are indicators of the success of implementation and movement toward those
11 goals.

12 The Secretary of State, as Wyoming's chief election official, and each County Clerk, as the
13 county's chief election official, have substantial responsibility in implementing HAVA. The
14 Wyoming Secretary of State, in collaboration with the Wyoming County Clerks and other
15 appropriate stakeholders, will establish performance goals and will institute a process to
16 measure progress toward the achievement of these goals.

17 The Wyoming Secretary of State believes establishing performance goals and measures
18 must be done thoughtfully, taking time for a full discussion. The Secretary of State also
19 believes that many of the stakeholders should have opportunity to provide input and make
20 recommendations about appropriate goals and measures as they relate to the various
21 aspects of HAVA implementation. This input will be valuable after decisions are made
22 pertaining to voting systems, voting equipment and other major aspects of HAVA. Specific
23 performance goals and measures will be established following a period for input and
24 discussion. A list of key goals and dates is provided on the following page.

25 Once established, the performance goals and measures must be continuously reviewed,
26 modified and updated to be useful. To that end, Wyoming's goals and measures will be
27 reviewed annually with input from the County Clerks and review by the Wyoming HAVA
28 Advisory Committee.

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Performance Goals and Measures

2

Goal	Due Date
Replace all punch card/lever machines	Not later than January 1, 2006
Replace all central count voting equipment	Not later than January 1, 2006
Provide 1 DRE (touch screen) voting machine for every polling place	Not later than January 1, 2006
Establish a computerized statewide voter registration system that meets the requirements of HAVA	Not later than January 1, 2006
Implement provisional voting which meets the requirements of HAVA	Not later than January 1, 2004
Implement state based complaint procedure which meets the requirements of HAVA	Not later than date for submission of state plan
Implementation of voting information at polling places	Not later than January 1, 2004

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Section
9

2 State Based Administrative Complaint
3 Procedure

4 *A description of the uniform, nondiscriminatory state based administrative complaint procedures in*
5 *effect under Section 402.*

6

7 Summary of Complaint Procedures for the State Plan

8 As required by Section 402 of the Help America Vote Act of 2002, the State of Wyoming
9 has created a state-based complaint procedure for the fair, prompt, and efficient resolution
10 of complaints concerning the conduct of federal elections as reformed by Title III of HAVA.

11 The procedure is initiated by the filing of a simple complaint form with the Wyoming
12 Secretary of State. Complaints must be in writing, notarized, signed, and sworn, and they
13 must contain a minimum of information about the person complaining and the nature of
14 the complaint. The form and the questions are designed to be as simple as possible and
15 will be accepted in letter form when that is substantially the same. Complaints are then
16 dealt with in a three-step process.

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18 Initial Screening of Complaints

19 Immediately upon receipt of a complaint, it will be screened to determine whether it
20 satisfies the legal requirements of Section 402 of HAVA and the Rules for Election
21 Complaint Procedures promulgated by the Wyoming Secretary of State. Complaints
22 which do not allege violations of Title III of HAVA or do not meet the other legal
23 requirements will be dismissed, but if they appear to be of substance, they may also be
24 referred to other appropriate authorities. Notice of the dismissal will include a statement
25 that the complainant is not precluded from refiling a complaint which conforms to the legal
26 requirements.
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Administrative Resolution of Complaints

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A complaint which meets the legal requirements is then the subject of an informal administrative process which includes an investigation into the factual basis of the complaint and communication with the complainant, possible witnesses, and the election officials, if any, who are alleged to have, directly or indirectly, contributed to the violation. The designee of the Secretary of State has great flexibility in handling this informal process and is expected to make every attempt to work with the parties to resolve it. If no violation is found, a decision and order will be entered dismissing the matter, and the complainant will be notified that he or she has ten (10) calendar days to request a hearing on the record. If there is no timely request for a hearing, the matter is concluded.

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If a violation is found, the parties will be encouraged to work out a mutually agreeable resolution with the assistance of the designee of the Secretary of State. When the decision and order are entered, the adverse party, if any, will be notified of the decision. Also, the complainant will be notified that if dissatisfied with the outcome, he or she has ten (10) calendar days to request a hearing on the record. If there is no timely request for a hearing, the matter is concluded.

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Administrative Hearing on the Record

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The final phase anticipated occurs after a timely written request for a hearing on the record. This phase consists of an informal administrative hearing before the Secretary of State or an appointed hearing officer for which the major objective is to provide a speedy, fair, and efficient resolution of the complaint. The complaint may be conducted by telephone or in person at a location convenient to the parties, and again the procedure to be followed is very flexible. The hearing may result in a finding of no violation, or a finding of a violation for which the State shall order an appropriate remedy. Remedies may direct procedures to be followed by election officials and may include corrective action plans. Appropriate remedies are those designed to assure compliance with the letter and spirit of Title III of HAVA and may not include monetary damages or any punitive order.

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During the hearing, accommodations will be made for persons with disabilities as necessary, and others to assist with their presentations may accompany all parties. The agency record of each complaint shall be confidential until the matter is finally determined, at which time notice of dismissals shall be published on the website of the Secretary of State. Use of a hearing officer does not alter the final decision making authority of the Secretary of State.

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Extension of Time for Alternative Dispute Resolution

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All complaints are expected to be resolved within ninety (90) days. When resolution is not complete after ninety (90) days and the complainant has not consented to an extension of time, the Secretary of State will refer the case to the Wyoming Attorney General or other appropriate person for alternate dispute resolution proceedings. Again, informality is encouraged although there is the possibility of a hearing governed by the contested case procedures of the Wyoming Administrative Procedure Act. The matter must be concluded in sixty (60) days.

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Section
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2 **Effect of Title I Payments**

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

6

7 **Payments for Activities to Improve Administration of Elections,**
8 **Replacement of Punch Card or Lever Voting Machines.**

9 Because of low population, Wyoming is a state which received the guaranteed minimum
10 payment of \$5 million in Title I funds. The Title I funds will be:

- 11 ■ used to supplement Title II funds in accomplishing the objectives of Title III; or
- 12 ■ used to accomplish Title I activities; or
- 13 ■ used to meet other goals addressed in Wyoming's HAVA plan; or
- 14 ■ held in a reserve account until needed for maintenance, upgrades, replacement of
15 hardware, software or other election materials or used in accordance with Wyoming's
16 HAVA plan.

2 Wyoming's HAVA State Plan Management

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

5 *(A) is developed and published in the Federal Register in accordance with Section 255 in the same*
 6 *manner as the state plan*

7 *(B) is subject to public notice and comment in accordance with Section 256 in the same manner as*
 8 *the state plan; and*

9 *(C) takes effect only after the expiration of the 30-day period which begins on the date the change is*
 10 *published in the Federal Register in accordance with subparagraph (A).*

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12 The Secretary of State will be responsible for the ongoing management of Wyoming's
 13 HAVA plan. The plan will be an evolutionary document. The Secretary anticipates
 14 continued input from County Clerks and many other groups and interested parties. It is
 15 also anticipated that more information and data will be gathered and more creative
 16 thinking will emerge through the implementation process.

17 Implementation of such an enormous project will evolve over time; we must address the
 18 far-reaching ramifications detail-by-detail and decision-by-decision. Full implementation of
 19 the vision of this plan will take shape day by day.

20 Flexibility will be the key to reaching the best end result. Modifications to the plan are
 21 anticipated. However, in accordance with Section 254(a)(11) of HAVA, no material
 22 change in the administration of the plan will be made unless there is prior public notice.
 23 Such notice of a proposed change will be published in the Federal Register and the
 24 change will take effect only after expiration of the required waiting period.

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Section

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2 Changes to State Plan from Previous Fiscal
3 Year

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

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8 This is Wyoming's initial plan under HAVA, so there are no changes to report. Such
9 changes will be addressed in future plans.

Section
13

2 **State Plan Development and Committee**

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

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7 **Wyoming HAVA Advisory Committee**

8 The Wyoming Secretary of State requested the assistance and participation of individuals
9 representing a cross-section of election stakeholders to serve as the HAVA Advisory
10 Committee. The Committee met numerous times from January 2003 through June 2003
11 to consider elections issues and make recommendations regarding the state plan to the
12 Secretary of State. Meeting dates of the Advisory Committee began in January 2003 and
13 concluded in June 2003. Specific meeting dates can be found on the Secretary of State's
14 website at: <http://soswy.state.wy.us/election/hava/Committees.htm>. The Committee
15 composition complies with the provisions of Section 255. Members of Wyoming's HAVA
16 Advisory Committee are as follows:

- 17 Bobbi Bailiff, Sweetwater County Clerk
- 18 Mary Ann Collins, Natrona County Clerk
- 19 Jackie Gonzales, Albany County Clerk
- 20 Debbye Lathrop, Laramie County Clerk
- 21 Margaret Brown, League of Women Voters
- 22 Peggy Corbin, AARP
- 23 Joe Evans, Wyoming County Commissioners Association
- 24 David Kendall, Wyoming Association of Municipal Clerks and Treasurers
- 25 Blaine Nelson, Student Representative
- 26 Peggy Nighswonger, State Elections Director
- 27 Phil Noble, Governor's Chief of Staff
- 28 Daniel Zwonitzer, Governor's Policy Analyst
- 29 Ed Osborne, Colonel, Ret.ired, Military Representative
- 30 Scott Roybal, Minority Population Representative
- 31 Mary Shea, Republican Party
- 32 Linda Stoval, Democratic Party
- 33 Jeanne Thobro, Protection & Advocacy Services, Inc.
- 34 Facilitator - Pat Arp, Deputy Secretary of State
- 35

Plan Development Procedures

The Wyoming Secretary of State requested the assistance and participation of groups and individuals to analyze, research and make recommendations to the Wyoming HAVA Advisory Committee on the various aspects of HAVA. Because of their extensive experience with and understanding of administering elections, the Wyoming County Clerks were heavily represented on these work groups. Composition of the work groups, which were organized to address specific issues, are provided below:

- State-based complaint procedures

Mary Lankford, Sublette County Clerk
Linda Smith, Carbon County Clerk
Julie Freese, Fremont County Clerk
Jeanne Thobro, Protection & Advocacy Services, Inc.
Rowena Heckert, Elections Consultant
Jim Mitchell, Attorney General's Office
Mark Husmann, Secretary of State's Office
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

- Military and overseas voters

Irene Hansen, Uinta County Clerk's Office
Brenda Miech, Sheridan County Clerk's Office
Bonnie Geissler, Sheridan County Clerk's Office
Debbie Valdez-Ortiz, Laramie County Clerk's Office
Ed Osborne, Colonel, Retired, Military Representative
Lori Klassen, Secretary of State's Office
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

- Provisional voting

Mary Lankford, Sublette County Clerk
Lynne Fox, Uinta County Clerk
Sharon Sample, Sweetwater County Clerk's Office
Deb Bush, Park County Clerk's Office
Sharon Nethercott, Teton County Clerk's Office
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

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■ Voter registration system

Paulette Thompson, Weston County Clerk
Julie Freese, Fremont County Clerk
Sherry Daigle, Teton County Clerk
Margie Irvine, Fremont County Clerk's Office
Darryl Eads, Albany County Clerk's Office
Sharon Sample, Sweetwater County Clerk's Office
Andrea Byrne, Secretary of State's Office
Dawn Hill, Secretary of State's Office
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

■ Voting systems

Bobbi Bailiff, Sweetwater County Clerk
Mary Ann Collins, Natrona County Clerk
Jackie Gonzales, Albany County Clerk
Debbye Lathrop, Laramie County Clerk

■ Disability issues

Becky Freeman, Niobrara County Clerk
Mary Lankford, Sublette County Clerk
Connie Tschetter, Crook County Clerk
Jeanne Thobro, Protection & Advocacy Services, Inc.
Rowena Heckert, Elections Consultant
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

■ Plan writing

Lynne Fox, Uinta County Clerk
Rowena Heckert, Elections Consultant
Lori Klassen, Secretary of State's Office
Peggy Nighswonger, Secretary of State's Office
Pat Arp, Secretary of State's Office

Work groups have reported to the HAVA Advisory Committee making recommendations for the state plan and for plan implementation. The election stakeholders sitting on the Advisory Committee considered these recommendations and subsequently made their plan recommendations to the Wyoming Secretary of State. Because much of the implementation work lies ahead, many of these groups will continue working for years to come.

Attachment A

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2 For dot map graphic, please see the Wyoming Secretary of State's website at:

3 <http://soswy.state.wy.us/election/hava/Stateplan.htm>

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