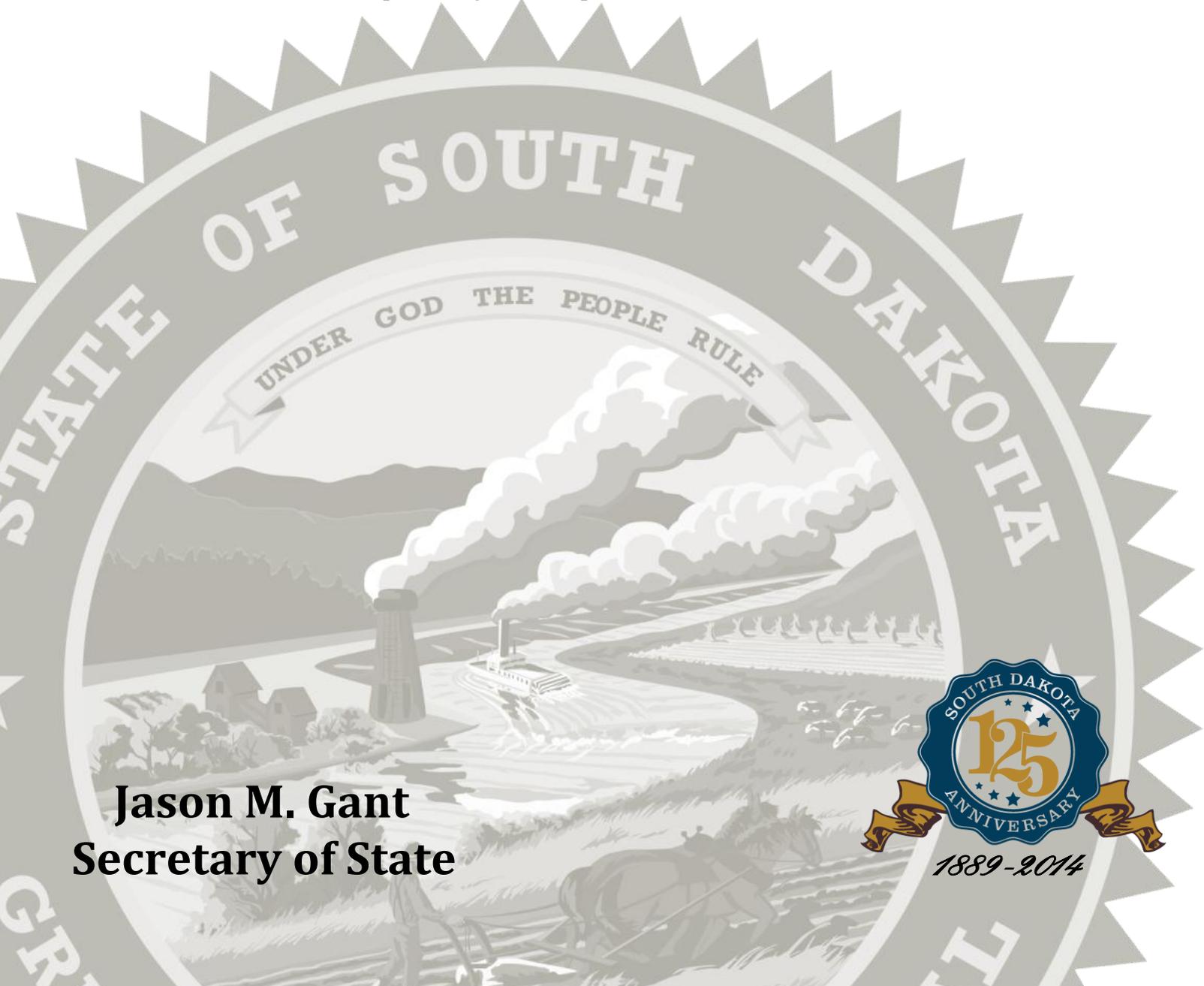


State of South Dakota

Help America Vote Act Revised State Plan 2014

As required by the Help America Vote Act of 2002



Jason M. Gant
Secretary of State



Mission Statement

The mission of the South Dakota Help America Vote Act State Plan is designed to use HAVA funds to facilitate the enfranchisement of as many eligible voters as reasonably possible through the promotion, access and availability of voting.

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

Since South Dakota is HAVA compliant, all remaining HAVA funds, future interest earned and any additional requirements payments given to South Dakota will be spent on training election officials, educating voters, improving the accessibility of elections for individuals with disabilities and economically disadvantaged people, and making improvements to the administration of federal elections.

Voters with disabilities include, but are not limited to, voters with vision impairments, speech, hearing and language impairments, mobility concerns, physical or intellectual disabilities, behavior health disabilities and other disabling conditions.

Examples of such activities include but are not limited to:

- The cost implementing and maintaining TotalVote (Statewide Election Management System);
- Election night reporting;
- Applications for mobile devices;
- Secretary of State staff salaries and benefits;
- Office computers, supplies and rent;
- The use of electronic pollbooks; and
- Programs that help improve the accuracy and efficiency of the State's voter registration list.

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

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

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

The Secretary of State will manage activities and projects funded by HAVA requirements payments, and the state will account for all expenditures, funding levels, program controls and outcomes in accordance with state and federal laws.

The Secretary of State, with the approval of the State Board of Elections, will establish a local government grant program to assist County Auditors in complying with HAVA requirements. Only counties are eligible for local grant funding. Since South Dakota is HAVA compliant, a portion of the requirements payments authorized in Title III will be allocated for local government grants.

HAVA Grant Board

The Secretary of State, with the approval of the State Board of Elections, will establish a HAVA Grant Board, consisting of four County Auditors (two Democrats and two Republicans), the Senior Elections Coordinator in the office of the Secretary of State, one member from the disability community, and one member from the Department of Tribal Relations. All members, except for the Senior Elections Coordinator, will serve a four year term. The Senior Elections Coordinator will serve as the Chair of the HAVA Grant Board and the Secretary of State's office will assist the HAVA Grant Board with anything necessary to meet the requirements set forth in this plan. This board is responsible for developing, reviewing, and making recommendations to the Secretary of State in matters pertaining to the local government grant program and will comply with the State's open meeting laws.

The Secretary of State will administer the grant program and will be responsible for meeting federal auditing requirements.

Examples of activities eligible for local government grant funding are listed below:

- Developing and requiring education and training programs and related services for state, county, and local election officials involved in the conduct of elections;
- Replacing or upgrading voting equipment;
- Purchasing additional voting equipment;
- Approving an appropriate level of financial support of local activities related to HAVA requirements; and
- Developing additional in-person absentee voting locations.

The HAVA Grant Board will prescribe a general application form that counties shall use to apply for a HAVA Grant. Applications must be received by the Secretary of State by July 1st of every odd-numbered year for the following election year's anticipated expenses. Applications will be approved or denied by November 1st of that year. The county shall submit receipts, not to exceed the grant award, to the Secretary of State in a timely manner for reimbursement.

Before a county may apply for a HAVA grant, all funds in their State-Held account and County-Held Match Money account must be spent. The HAVA Grant Board will review applications and award funds consistent with this plan. Should a county be denied a HAVA Grant, the county may submit an appeal to the Board of Elections to review the decision. The decision of the Board of Elections shall be final. The appeal application will be prescribed by the HAVA Grant Board. The county that is submitting the appeal must do so within 30 days of receiving their denial notice. Grant funds may only be used for an allowable HAVA expense. If a county

spends HAVA funds on an expense that is determined not to be an allowable HAVA expense, the expense shall be repaid to the State using the county's general fund.

The following are HAVA reimbursable expenses that are approved prior to the implementation of the HAVA Grant Program:

- Total cost of voting machines;
- Acceptance of testing of voting equipment;
- Maintenance of voting equipment;
- Storage and transport of voting equipment;
- Election-specific programming and installation;
- Training election workers in the proper orientation and maintenance of voting machines and scanners;
- Voter education programs;
- Provisional voting;
- Posting sample ballots in a polling place on Election Day;
- Posting the following information in a polling place on Election Day:
 - Polling place hours,
 - Instructions on how to vote,
 - How to cast a provisional ballot,
 - Voting rights,
 - Laws prohibiting acts of fraud and misrepresentation;
- Publishing voter education instructions and sample ballot in the newspaper;
- Implementing and maintaining TotalVote (Statewide Election Management System) and maintaining accurate and up-to-date information in the voter registration list. This does not include costs associated with routine NVRA list maintenance;
- Supplies necessary for voting equipment (e.g. ballot boxes for optical scan ballots, privacy sleeves, accessible voting device print cartridges, media cards or drives);
- Insurance on voting equipment; and
- The following Secretary of State approved projects to improve the county administration of federal elections:
 - Cost for the portion of election school having to do with training poll workers on how to more effectively assist voters with disabilities,
 - Cost for software to better organize precinct/district relationships,
 - Cost for ballot printer training to improve ballot printing,
 - Cost for Election Reporting Manager (ERM) for quicker election night results,
 - Cost of "Vote Here" signs to more clearly identify your polling places,
 - Cost of ballot trays to better organize ballots,
 - Cost of the appropriate portion of polling place help-station laptop computers,
 - Cost for providing absentee voting locations in Shannon or Todd Counties,
 - Cost of chairs for use with an accessible voting device,
 - Cost of accessible voting booths,
 - Cost associated with the Potential Duplicate Deletion Process,
 - Cost associated with providing Lakota language assistance,
 - Cost associated with implementing the Military and Overseas Voter Empowerment (MOVE) Act,

- Cost for label printers for absentee ballot systems,
- Cost of installing network connections in an auditor's office.

This list is not comprehensive and the state may fund grant applications for activities not listed as long as the activities are eligible under HAVA.

(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.

County Auditors are trained by the State on HAVA procedures at election workshops, conventions, publications, and e-mails. County Auditors in turn train precinct officials at county election schools. The State organizes an election workshop in every odd-numbered year to prepare the County Auditors for the following year's election. This workshop is critical in the training and compliance of HAVA procedures.

Two posters in 48 point font posted in each polling place and instructions posted in each voting booth inform voters of voting procedures, how not to overvote, how to obtain a replacement ballot, how to obtain assistance, the right to a provisional ballot, how to contact an election official if rights are violated, and how to avoid election crimes. Facsimile ballots are available in county auditor offices prior to elections, posted at each polling place, and published in newspapers. Voters can also access their individual sample ballot and polling place information through the Secretary of State's Voter Information Portal (VIP) located on the Secretary of State's website at sdsos.gov. Instructions are printed on all official ballots. The State also educates voters through its website at sdsos.gov. The Secretary of State also prepares a ballot question pamphlet, made available in alternate formats.

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

The original HAVA task force guided the State on the voting system that would be selected. South Dakota laws and administrative rules have been passed to provide for all Section 301 requirements. The Secretary of State and County Auditors manage the processes needed to comply with Section 301.

Existing voting systems in South Dakota are required to meet the standards set out in Section 3-1 of the Help America Vote Act of 2002. The voting system standards include the following:

- Permits the voter to verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast and counted;
- Provides the voter with the opportunity, in a private and independent manner, to change the ballot or correct any error before the ballot is cast and counted; and
- Notification of the voter of any over votes, the effect of the over vote and the opportunity to correct. Since South Dakota uses central count optical scan ballot; this will be achieved through voter education of the standards, including instructions to the voter at the polling place and on the ballot.

(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.

An election fund has been established in the South Dakota State Treasury containing Title II Section 251 funds. Expenditures are made as needed by the Secretary of State, with oversight by the State Auditor, through spending authority granted by the State Legislature. Interest is earned and credited to the fund annually. All expenditures from the fund are subject to state government accounting and audit procedures.

(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.**

Since the State has fulfilled HAVA's requirements and will continue to do so, the State wishes not to restrict itself unnecessarily through this state plan. New programs to improve the administration of federal elections may develop that have not yet been contemplated. The State will continue to submit annual financial status and narrative reports to the EAC concerning HAVA grants as required.

In previous HAVA state plans the State described a budget for projected amounts to fund Title III required programs. All programs were fulfilled within that budget and significant funds remain available to the State. Since South Dakota is HAVA compliant, all remaining HAVA funds, future interest earned and any additional requirements payments given to South Dakota will be spent on training election officials, educating voters, improving the accessibility of elections for individuals with disabilities and economically disadvantaged people, and making improvements to the administration of federal elections.

South Dakota received a Title II Section 251 payment in April of 2005 in the amount of \$11,596,803.00. As of September 30, 2013, the State has a total of \$6,267,333.12 of Title II funds remaining available. Of this amount, \$3,323,913.24 is reserved in the counties' state-held Title II accounts. As of September 30, 2013, the counties have \$1,385.41 (including interest) remaining in reserved county-held match money accounts.

The State expects that costs to counties will continue and increase at least at the rate of inflation to prepare and implement federal elections within the framework of the current voting system. When new voting systems are required, counties will face significant additional costs in acquiring the new equipment. The State and counties will work to maintain the current voting system for as long as practicable.

With continued conservative management of the HAVA grant funds and the benefit of accumulating interest, the State may be able to indefinitely continue to meet HAVA obligations and continue to improve the administration of federal elections in South Dakota. However, the State is concerned that with the lack of future appropriations, the State may be faced with unfunded mandates.

(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.

In previous HAVA state plans, the State described the expense to the State for the State Election Supervisor as maintenance of effort. However, in 2007 the EAC advised that maintenance of effort (MOE) applies specifically to prior expenses that became Title III requirements. HAVA's maintenance of effort requirement is designed to ensure that federal funds do not replace already occurring state or county expenses. With that new understanding, the State clarified that it had no such spending prior to HAVA and, therefore, had no level of spending to maintain.

With the new advisory issued by the EAC on February 19, 2010, regarding MOE pending, the State has once again reviewed the HAVA maintenance of effort issue and has again concluded that the State of South Dakota in State Fiscal Year 2000, had no prior expenses that became Title III requirements. Therefore, the State has no level of spending to maintain.

The pending EAC advisory on MOE states, "MOE tracks State expenditures on a prescribed set of Federal election activities, which includes any funds appropriated by the State to lower tier entities to support those activities. Under this MOE policy, States may exclude lower tier spending from MOE when the funds used by the lower tier entities are not derived from a State appropriation or expenditure."

The State also hereby clarifies that in the State Fiscal Year 2000 no State appropriations were given to the counties for election related expenditures. Therefore, South Dakota's 66 counties also, have no level of spending to maintain.

(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.

South Dakota believes that accurate measurable objectives and the tracking of performance goals help achieve what our mission statement lays out. Performance goals give a high-level overview of the desired mission. The State's main goal has always been to achieve election reform and compliance with HAVA requirements through the successful implementation of the programs outlined in the State Plan. The 2004 State Plan laid out specific goals and

measurables. In March 2007, the Secretary of State certified to the Election Assistance Commission that South Dakota had fulfilled all Title III requirements. This State Plan specifically details how and when each objective was met.

301 (a)(1)(B)(i) - Establish a voter education program on the effect of casting multiple votes for an office.

Performance Goal	Eliminate overvotes
Performance Measurement	Counties have a capability to produce overvote reports from their tabulating systems.
Timetable	Continuous
How to Measure Performance	Determine the proper instructions are posted in the polling place. Compare percentage of overvotes to votes cast in each election.
Who will Measure	County auditors will report to the Secretary of State.

301 (a)(1)(B)(ii) - Establish instructions on how to correct ballot errors.

Performance Goal	Provide easily accessible instructions in each polling place.
Performance Measurement	Are the instructions posted?
Timetable	Continuous
How to Measure Performance	Determine the proper instructions are posted in the polling place. Precinct workers report to county auditor on compliance.
Who will Measure	County auditors

301 (a)(3)(B) - Provide one accessible voting device per polling place.

Performance Goal	Provide an accessible voting device per polling place.
Performance Measurement	Is there a functioning machine in each polling place?
Timetable	Continuous
How to Measure Performance	Precinct workers report to county auditor on compliance.
Who will Measure	County auditors

302 - Provisional voting.

Performance Goal	<ol style="list-style-type: none"> 1. Provide notice to voters on availability of provisional ballot. 2. Provide provisional ballot materials at each polling place. 3. Train poll workers on provisional ballot requirements. 4. Offer provisional ballots to voters who qualify. 5. Allow all voters who claim to be registered to vote in
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	the precinct, but who can't be confirmed to vote a provisional ballot.
Performance Measurement	Monitor the number of calls to county auditors or Secretary of State reporting a person was not able to vote a provisional ballot.
Timetable	Continuous
How to Measure Performance	Determine the auditors were trained by the Secretary of State, the poll workers were trained by the auditors, training materials were provided to the auditors, and provisional ballots were printed and available at the polling place.
Who will Measure	County auditors will report to Secretary of State.

302 (b) - Posting of information at the polling place.

Performance Goal	Provide easily accessible instructions in each polling place including at least three 48-point or larger font poster-sized versions.
Performance Measurement	Are the instructions posted?
Timetable	Continuous
How to Measure Performance	Determine the Secretary of State provided the auditors 3 poster-sized directions in 48-point font or larger addressing provisional voting and hours of operation of the polling place. Determine the auditor displayed a sample ballot, directions on overvoting, how to mark a ballot, and how to correct a ballot in each voting booth. Precinct workers report to county auditor on compliance.
Who will Measure	County auditors

303 (a)(2)(A)(ii)(I) - Felony record check.

Performance Goal	Every person convicted of a felony is removed from the voter registration list and is not able to reregister until their entire sentence is completed. Establish a computer system to conduct checks and notify auditors about felony convictions.
Performance Measurement	<ol style="list-style-type: none"> 1. Ensure each new or updated voter registration is checked against the felony conviction file. 2. Ensure all new felony convictions are checked against the statewide voter file. 3. Remove all those who are ineligible from voter file. 4. Secretary of State will double check felony convictions identified by this system to prevent erroneous removal of eligible voters.
Timetable	Continuous

How to Measure Performance	Verify accuracy of the telephone complaint against actual voter and felon records.
Who will Measure	County auditor and Secretary of State

303 (a)(2)(A)(ii)(II) - Death records check.

Performance Goal	Every deceased person is removed from the voter registration list and that no deceased person's name is added to the voter registration list. Establish a computer system to conduct checks and notify auditors about deaths.
Performance Measurement	<ol style="list-style-type: none"> 1. Ensure each new or updated voter registration is checked against the vital statistics file. 2. Ensure all new deaths are checked against the statewide voter file. 3. Remove all those who are deceased from voter file. 4. Secretary of State will double check death notices identified by this system to prevent erroneous removal of eligible voters.
Timetable	Continuous
How to Measure Performance	Verify accuracy of the report against actual voter and death records.
Who will Measure	County auditor and Secretary of State

303 (a)(5)(A)(iii) - Verify driver license or verify last four digits of SSN.

Performance Goal	Ensure no person is allowed to register to vote without providing an accurate driver license number or last four digits of their social security number.
Performance Measurement	Establish computerized access system for information verification to validate all new registrations.
Timetable	Continuous
How to Measure Performance	Verify accuracy of the system by comparing actual voter and driver license records.
Who will Measure	Secretary of State

303 (b)(4) - New voter registration forms.

Performance Goal	Provide voter registration forms which comply with HAVA.
Performance Measurement	Check to make sure all official voter registration sites have new forms.
Timetable	Complete
How to Measure Performance	Telephone and mail verification with sites.
Who will Measure	County auditor and Secretary of State

251(b)(2) - Other activities to improve administration of elections.

Performance Goal	Provide daily electronic transmission of new voter registration data from all driver license offices to the appropriate county auditor office. Eliminate missed voter registration deadlines because of registration card transit time.
Performance Measurement	Affirm all voter registrations completed at a driver license office by a registration deadline are added to the official registration list for that election.
Timetable	Continuous
How to Measure Performance	Affirm all voter registrations completed at a driver license office by a registration deadline are added to the official registration list for that election.
Who will Measure	County auditor and Secretary of State

(9) A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.

South Dakota law was written, effective July 1, 2003, to comply with HAVA Section 402. South Dakota Codified Law 12-1-21 thru 12-1-30 provides the procedure for the administrative complaint process. Initial complaints are resolved by the State Board of Elections using an existing administrative complaint process. The alternative dispute process involves judicial appointment of an arbitrator to resolve the complaint.

(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.

South Dakota received a Title I Section 101 payment in the amount of \$5,000,000 in April of 2003. Title I funds have been used for payments to counties for punch card voting system buyouts; voter education; statewide voter registration system programming; computer hardware, internet and intranet connection costs for the counties; development of additional systems such as a new voter registration system (TotalVote); training and materials for election personnel; travel for election personnel; salary and expenses for select Secretary of State staff working on HAVA required projects and state plan development. The State may continue to use Title I funds on these programs and for other programs permitted by HAVA §101(b).

As of September 30, 2013, the State’s Title I Section 101 fund remaining total is \$4,770,732.56.

**(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).**

South Dakota has used the State Plan as the basis for managing activities necessary for the implementation of HAVA requirements. The Secretary of State is ultimately responsible for the management and implementation of the State Plan. Local election officials have responsibility for the day-to-day coordination and implementation of distinct projects with the HAVA plan. These election officials may be State Elections Division staff, County Auditors, or contractors.

The State understands and agrees to comply with HAVA requirements related to the ongoing management of the State Plan. Specifically, the State agrees not to make any material change in the administration of the state plan unless the change:

- Is developed and published in the Federal Register in accordance with HAVA Section 255 in the same manner as the State Plan;
- Is subject to public notice and comment in accordance with HAVA Section 256 in the same manner as the State Plan; and
- Takes effect after the expiration of the 30-day comment period that begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

(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.

The methods by which the State fulfilled its previous state plans have already been described in this plan. The State anticipates no major changes to its implementation of HAVA, except the implementation of the HAVA Grant Board and that Title II Section 251 funds may now be used for additional in-person satellite absentee voting locations provided they meet the criteria set out in this plan.

Additional In-Person Satellite Absentee Voting Location

The following criteria must be met before a county may be allowed to use HAVA funds to set-up an additional in-person satellite absentee voting location in a particular jurisdiction. The voters living in the jurisdiction are*:

- Have 50% more individuals below the poverty line than the rest of the county; and
- Live, on average, 50% farther from the existing county seat or other satellite location than the rest of the county.

*According to the most recent United States Census Bureau, American Community Survey results as analyzed by the Government Research Bureau at the University of South Dakota.

A jurisdiction is defined as a voting precinct, township, municipality, town, school district, or special district. The following counties are approved to have met the criteria in this plan: Buffalo, Dewey and Jackson Counties.

If a county spends HAVA funds on an expense that is determined not to be an allowable HAVA expense, the expense shall be repaid to the State using the county's general fund.

(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.

The HAVA Task Force held public meetings on the following dates:
November 21, 2013 at the State Capitol in Pierre, SD;
December 18, 2013 at the State Capitol in Pierre, SD;
January 29, 2014 at RedRossa in Pierre, SD; and
February 26, 2014 at RedRossa in Pierre, SD.

The Secretary of State appointed the following persons or their designee to assist in the development of this State Plan:

Office of the Secretary of State Jason M. Gant, Secretary of State	State Representative Karen Soli
Office of the Secretary of State Patricia Miller, Deputy Secretary of State	SD Advocacy Services Robert Kean
Office of the Secretary of State Brandon Johnson, Senior Elections Coordinator	SD Coalition of Citizens With Disabilities Shelly Pfaff
State Board of Elections Patty McGee, Sully County Auditor	South Dakota Municipal League Yvonne Taylor, Executive Director
State Board of Elections Pam Lynde, Deuel County Auditor	City of Harrisburg Andrew Pietrus, City Administrator
State Board of Elections Linda Lea Viken	South Dakota Democratic Party Zach Crago, Executive Director
State Board of Elections Richard D. Casey	ACLU of South Dakota Heather Smith, Executive Director
State Board of Elections Christopher Madsen	Four Directions, Inc. O.J. Semans, Executive Director

State Board of Elections
Drew Duncan

Chiesman Center for Democracy
Rob Timm, President/CEO

Minnehaha County Auditor's Office
Bob Litz, County Auditor

South Dakota Driver Licensing
Cindy Gerber, Director

Pennington County Auditor's Office
Julie Pearson, County Auditor

South Dakota American Legion
Rick MacDonald

Grant County Auditor's Office
Karen Layher, County Auditor

South Dakota Advisory Committee
Richard Braunstein

The Secretary of State also invited the following:

State Senator
Billie Sutton

US Senator
John Thune

State Senator
Mark Kirkeby

US Senator
Tim Johnson

South Dakota Republican Party
Craig Lawrence, Chairman

US Representative
Kristi Noem

US Department of Justice
Sara Beth Donovan

Department of the Military
Timothy Reisch

Department of Tribal Relations
J.R. LaPlante, Secretary

Department of Veteran Affairs
Larry Zimmerman, Secretary

Cheyenne River Sioux Tribe
Kevin Keckler, Chairman

Crow Creek Sioux Tribe
Brandon Sazue Sr., Chairman

Flandreau Santee Sioux Tribe
Anthony Reider, President

Lower Brule Sioux Tribe
Michael Jandreau, Chairman

Oglala Sioux Tribe
Bryan Brewer, President

Rosebud Sioux Tribe
Cyril Scott, Chairman

Sisseton Wahpeton Oyate
Robert Shepherd, Chairman

Standing Rock Sioux Tribe
Charles Murphy, Chairman

Yankton Sioux Tribe
Robert Flying Hawk, Chairman

Office of the Governor
Dennis Daugaard, Governor