

J. Kenneth Blackwell

*Ohio Secretary of State*



# Changing the Election Landscape in the State of Ohio



A State Plan to implement the Help America Vote Act of  
2002 in accordance with Public Law 107-252, §253(b)

*“The Act appropriately respects the primacy of state and local governments in the administration of elections, while helping to ensure the integrity and efficiency of voting processes in federal elections by providing federal governmental support for that vital endeavor.”*

**PRESIDENT GEORGE W. BUSH**  
THE WHITE HOUSE,  
October 29, 2002



June 16, 2003

Dear Election Assistance Commission and Ohio Voters:

I can think of no greater gift we can give future generations than an electoral process that ensures the integrity of their vote and provides them with an election system that is efficient and fair.

At the very least, we need an election system that assures every vote counts and every voice is heard in electing those who will serve in government and decide the many critical issues we face as citizens. No voter should be excluded from the process because of a disability, as no voter should be excluded because of inadequate, outdated and imprecise voting mechanisms.

That's what this report is all about. That's what the Help America Vote Act of 2002 is all about – fair elections and empowering every voter to exercise their obligation, responsibility and privilege to fully engage in the election process.

Democracy, after all, is a fragile system that relies on the voices and participation of all its citizens, not just a chosen few. Every voter and every vote cast strengthens our democracy and enhances the opportunity to choose the best people for the job of leading our government, at all levels, and deciding those issues that affect our local community, state and nation.

My thanks to the State Plan Committee who worked so diligently to help me create this document that will open a new era for the way we vote in Ohio. Truly, we are dramatically changing the election landscape in our state and in our nation. That is a good thing and probably one of the most important contributions we can make to future generations of Ohioans.

In the final analysis, the Help America Vote Act of 2002 is about inclusion more than it is about all the technical change and new administrative processes and procedures called for in this plan. Inclusion is, after all, the thread that binds the fabric of democracy.

Very truly yours,

A handwritten signature in black ink that reads "J. Kenneth Blackwell". The signature is written in a cursive, flowing style.

J. KENNETH BLACKWELL  
Ohio Secretary of State

*The Ohio Secretary of State gratefully acknowledges the State Plan Committee for their participation and assistance in the preparation and development of this plan for the strategic implementation of election reforms in the State of Ohio, pursuant to the Help America Vote Act of 2002.*



### **The State Plan Committee**

**Chairman Dana Walch**, *Director of Election Reform, Office of the Secretary of State*

**Ms. Donna Alvarado**, *Commissioner, Ohio Commission on Hispanic/Latino Affairs*

**Ms. Linda Carr**, *Director of Institutional Initiatives, University of Toledo*

**Mr. Tom Coyne**, *Chairman, Cuyahoga County Board of Elections*

**Mr. Eric Duffy**, *Director of Field Services, National Federation of the Blind*

**Ms. Daisy Duncan Foster**, *Coordinator of Academic Services, University of Dayton*

**State Rep. Nancy Hollister**, *R-Marietta*

**Mr. Larry Long**, *Executive Director, County Commissioners Association of Ohio*

**State Sen. Mark Mallory**, *D-Cincinnati*

**Mr. Jeff Matthews**, *Director, Stark County Board of Elections and President, Ohio Association of Election Officials*

**Mr. Guy Reece**, *Director, Franklin County Board of Elections*

**Ms. Catherine Turcer**, *Legislative Director, Ohio Citizen Action*

**Pastor Aaron Wheeler**, *Chairman, Ohio Civil Rights Commission*

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*Attachments and Addendum*

## *Help America Vote Act of 2002*

### **I. Introduction and Overview**

On Oct. 29, 2002, President George Bush signed into law the Help America Vote Act of 2002. The legislation was passed in the U.S. House in late 2001 and was approved by the U.S. Senate the following year.

Much of the law embraces recommendations advanced by the National Commission on Federal Election Reform, a group that included both former Presidents Jimmy Carter and Gerald Ford as its honorary co-chairs. The commission observed that democracy is a precious birthright. But they also noted that each generation must nourish and improve the processes of democracy for its successors.

The Help America Vote Act logically embraces the goals of election reform by expecting all levels of government to provide a democratic process that:

- maintains an accurate list of citizens who are qualified to vote;
- encourages every eligible voter to participate effectively;
- uses equipment that reliably clarifies and registers the voter's choice;
- handles close elections in a foreseeable and fair way;
- operates with equal effectiveness for every citizen and every community;
- and
- reflects limited but responsible federal participation.

In Ohio, the Secretary of State and the State Plan Committee used those broad parameters, principles and guidelines as the foundation objective for developing this plan. From that platform, the Secretary and State Plan Committee formulated the Ohio Plan to address the following specific issues to meet and exceed the minimum standards of the Help America Vote Act. In greater detail, this report addresses:

1. How Ohio will use requirement payments, distribute and monitor the allocation of these funds to county governments, and what criteria will be used to determine eligibility for these funds.
2. How Ohio will measure the performance of county governments to ensure they are in compliance with the Act.
3. How Ohio will develop programs to provide voter education, election official and poll worker education and training to meet the standards of the Act.
4. How Ohio will establish voting system guidelines and processes.
5. How Ohio will administer these activities and budget for administrative costs, as well as establishing a budget for overall implementation of the plan based on our best estimate of costs.
6. How Ohio will use the requirement payments without reducing state support for voter and election activities below what the state was spending in November, 2000.
7. How Ohio will establish performance goals and measures for county government.

8. How Ohio will create and develop a uniform administrative complaint procedure.
9. How payments under Title I will be used for punch-card replacement in Ohio and how that will affect and enhance the overall implementation of the plan.
10. How Ohio intends to conduct ongoing oversight and management of election reforms and improvements.

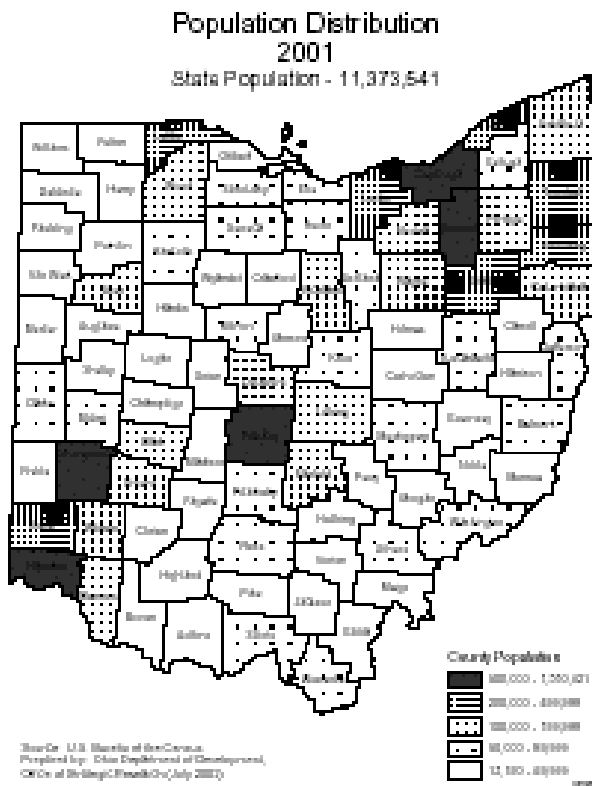
*The size and composition of Ohio's population is a challenge to implementation of wholesale election reform in the state, but Ohio also is challenged because of the prevalence of punch-card voting. Nationally, it is estimated that 34.4 percent of the nation's voters cast their ballot on punch-card voting devices. In Ohio, 72 percent of the state's voters use this ballot method.*

As the following section of the report suggests, election reform as envisioned by the Help America Vote Act is not a casual undertaking in Ohio. The demographics of the state reveal a broad mix of urban, rural and mid-size communities. Ohio, for example, has eight urban markets that include three large metropolitan cities – Cleveland, Columbus and Cincinnati. Smaller urban centers include Toledo, Youngstown, Dayton, Akron and Steubenville. Each enjoys its own community culture and election traditions.

In addition to these larger urban centers are mid-size communities like Mansfield and Lima, which represent the balance of Ohio's Metropolitan Statistical Areas (MSA's) according to the U.S. Census Bureau. But beyond those 10 communities and the counties they represent are 78 other Ohio counties that reflect a more rural population, including a large portion of Southeast Ohio that is designated as part of the Appalachian region.

The size and composition of Ohio's population is a challenge to implementation of wholesale election reform in the state, but Ohio also is challenged because of the prevalence of punch-card voting. Nationally, it is estimated that 34.4 percent of the nation's voters cast their ballot on punch-card voting devices. In Ohio, 72 percent of the state's voters use this ballot method.

Given that context, we offer the following demographic overview of the



State of Ohio to provide the Election Assistance Commission with what we regard to be a valuable foundation perspective for the implementation of election reforms in Ohio.

## II. Ohio Demographics

While Ohio remains one of the nation's leading manufacturing centers, the state, during the past two decades, has made the transition to a more service-industry economy.

Nearly 28 percent of Ohio's 5.4 million employee workforce is now classified as service employees. From 1990 to 2000, the state's population grew from 10.8 million to 11.3 million.

The state is comprised of 88 counties that occupy nearly 41,000 square miles of land. Ohio is bounded on the south and east by the Ohio River and on the north by Lake Erie.

About 11.5 percent of that population is African-American and 1.9 percent is Hispanic/Latino, according to the most recent Census data. In total, Ohio's minority population is about 16 percent of the total population.

The median age in the state is 36.2 years of age and, like many other states, is trending older. About two-thirds of Ohio residents live in owner-occupied households and about 29 percent live in renter-occupied dwellings.

The state has a wealth of educational institutions with 15 public four-year universities and 62 private colleges and universities. There are 25 two-year colleges in the state. The largest counties, in rank order and based on 2000 Census data, are:

| <u>Rank</u> | <u>County</u> | <u>Population</u> |
|-------------|---------------|-------------------|
| 1           | Cuyahoga      | 1,393,978         |
| 2           | Franklin      | 1,068,978         |
| 3           | Hamilton      | 845,303           |
| 4           | Montgomery    | 559,062           |
| 5           | Summit        | 542,899           |
| 6           | Lucas         | 455,054           |
| 7           | Stark         | 378,098           |
| 8           | Butler        | 332,807           |
| 9           | Lorain        | 284,664           |
| 10          | Mahoning      | 257,555           |

The state's major employers include such corporate notables as AK Steel, Daimler Chrysler, Delphi Automotive Systems, Ford Motor Co., General Electric Co., General Motors Corp., Goodyear Tire & Rubber Co., Honda Motor Co. Ltd., Kroger, Nationwide Insurance, Procter & Gamble, TRW Inc. and Wendy's International.

In total, there are about 240,000 active businesses in Ohio, including about 80,000 farms that represent 14.9 million acres.

The state boasts 115 state parks that provide nearly 115,000 acres of recreational space for Ohio residents. There are six airports in the state with scheduled airline service and another 164 commercial airports and 10 commercial heliports. Transportation arteries in the state include 1,572 miles of interstate highways, 3,918 miles of U.S. highways, and

more than 14,000 miles of state highways. The Ohio Turnpike that ribbons through northern Ohio covers 241 miles from the Indiana state line to the Pennsylvania state line.

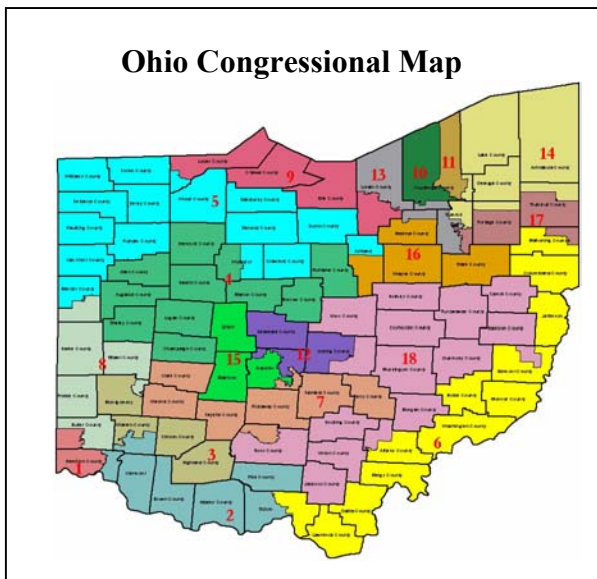
### III. State Political/Governmental Structure

Ohio is governed by five major statewide officeholders including Gov. Bob Taft, Attorney General Jim Petro, State Auditor Betty Montgomery, Secretary of State J. Kenneth Blackwell and Treasurer Joseph Deters. The Ohio General Assembly includes 99 members of the Ohio House of Representatives and 33 members of the Ohio Senate.

Since 1992, both statewide officeholders and elected legislators are subject to term limits. Statewide officeholders are limited to two four-year terms. In the Ohio General Assembly, House members are limited to four two-year terms and State Senators are limited by two four-year terms.

Some local government officials also are subject to term limits as a result of local ballot initiatives in some Ohio communities.

The Ohio Supreme Court includes seven justices who are elected statewide. The Supreme Court is not subject to term limits. The Chief Justice of the Ohio Supreme Court is Thomas Moyer.



The local government structure in Ohio includes a mix of city and county elected officials, with most cities and villages in Ohio administered by a mayor/council form of government. Some municipalities have an appointed city manager form of government in which an executive is appointed to administer local municipal affairs.

In Ohio local government, there are “statutory” cities that operate largely on the basis of state statutory law and “charter” cities that may adopt so-called “home rule” guidelines to conduct the affairs of local government.

On the county level, 87 of 88 Ohio counties are governed by a Board of

County Commissioners, which oversee county administration. Summit County is the only county in Ohio with a county executive/council form of government. The Summit County Council is comprised of eight district council members and three who are elected at large. Ohio counties also elect county auditors, prosecutors, treasurers, clerks of court, judges and county sheriffs.

The state is represented by 18 elected members of the U.S. House of Representatives and, of course, two U.S. Senators.

## IV. State of Ohio Elections Systems

Ohio is, pervasively, a punch-card voting state. In total, 69 of Ohio's 88 counties use punch-card voting. Those 69 counties represent 72.5 percent of all the registered voters in Ohio and 74 percent of the 11,756 voting precincts in the state.

Among the 19 counties that use voting devices other than punch-card ballots, two use automatic voting machines, six have electronic voting devices, and 11 use optical scanning equipment.

The table below (that continues on the following pages) shows a county-by-county listing of the types of voting devices in each of Ohio's 88 counties. The table also reflects the number of precincts and registered voters in each of those counties as reflected in the November, 2002 General Election, which we use as base data throughout this report (unless otherwise indicated.)

| COUNTY     | PRECINCTS | REGISTERED VOTERS | TYPE DEVICE |
|------------|-----------|-------------------|-------------|
| ADAMS      | 35        | 15,446            | PUNCHCARD   |
| ALLEN      | 139       | 65,382            | SCAN        |
| ASHLAND    | 65        | 31,735            | SCAN        |
| ASHTABULA  | 127       | 58,022            | PUNCHCARD   |
| ATHENS     | 69        | 39,813            | PUNCHCARD   |
| AUGLAIZE   | 43        | 29,656            | PUNCHCARD   |
| BELMONT    | 84        | 42,800            | PUNCHCARD   |
| BROWN      | 55        | 25,415            | PUNCHCARD   |
| BUTLER     | 289       | 210,920           | PUNCHCARD   |
| CARROLL    | 26        | 18,799            | PUNCHCARD   |
| CHAMPAIGN  | 53        | 26,900            | PUNCHCARD   |
| CLARK      | 112       | 82,889            | PUNCHCARD   |
| CLERMONT   | 191       | 117,207           | SCAN        |
| CLINTON    | 32        | 23,529            | PUNCHCARD   |
| COLUMBIANA | 103       | 73,355            | PUNCHCARD   |
| COSHOCTON  | 43        | 20,623            | SCAN        |
| CRAWFORD   | 67        | 28,992            | PUNCHCARD   |
| CUYAHOGA   | 1464      | 861,113           | PUNCHCARD   |
| DARKE      | 53        | 36,176            | PUNCHCARD   |
| DEFIANCE   | 46        | 24,536            | PUNCHCARD   |

|           |      |         |            |
|-----------|------|---------|------------|
| DELAWARE  | 122  | 82,215  | PUNCHCARD  |
| ERIE      | 101  | 51,523  | SCAN       |
| FAIRFIELD | 118  | 76,212  | PUNCHCARD  |
| FAYETTE   | 38   | 13,676  | PUNCHCARD  |
| FRANKLIN  | 780  | 706,668 | ELECTRONIC |
| FULTON    | 36   | 26,740  | PUNCHCARD  |
| GALLIA    | 36   | 21,646  | PUNCHCARD  |
| GEAUGA    | 96   | 57,087  | SCAN       |
| GREENE    | 142  | 93,742  | PUNCHCARD  |
| GUERNSEY  | 71   | 22,149  | PUNCHCARD  |
| HAMILTON  | 1025 | 522,307 | PUNCHCARD  |
| HANCOCK   | 62   | 44,603  | SCAN       |
| HARDIN    | 38   | 17,764  | AVM        |
| HARRISON  | 24   | 10,861  | PUNCHCARD  |
| HENRY     | 33   | 18,529  | PUNCHCARD  |
| HIGHLAND  | 46   | 25,360  | PUNCHCARD  |
| HOCKING   | 32   | 16,889  | PUNCHCARD  |
| HOLMES    | 27   | 16,638  | PUNCHCARD  |
| HURON     | 69   | 35,103  | PUNCHCARD  |
| JACKSON   | 40   | 23,431  | PUNCHCARD  |
| JEFFERSON | 93   | 52,971  | PUNCHCARD  |
| KNOX      | 53   | 31,630  | ELECTRONIC |
| LAKE      | 217  | 150,137 | ELECTRONIC |
| LAWRENCE  | 84   | 38,636  | PUNCHCARD  |
| LICKING   | 125  | 99,182  | PUNCHCARD  |
| LOGAN     | 52   | 28,698  | PUNCHCARD  |
| LORAIN    | 246  | 166,092 | PUNCHCARD  |
| LUCAS     | 518  | 281,500 | AVM        |
| MADISON   | 44   | 23,288  | PUNCHCARD  |
| MAHONING  | 312  | 177,445 | ELECTRONIC |
| MARION    | 84   | 39,580  | PUNCHCARD  |

|            |     |         |            |
|------------|-----|---------|------------|
| MEDINA     | 145 | 101,054 | PUNCHCARD  |
| MEIGS      | 27  | 14,685  | PUNCHCARD  |
| MERCER     | 40  | 26,724  | PUNCHCARD  |
| MIAMI      | 82  | 66,743  | SCAN       |
| MONROE     | 29  | 9,866   | PUNCHCARD  |
| MONTGOMERY | 593 | 334,787 | PUNCHCARD  |
| MORGAN     | 22  | 8,600   | PUNCHCARD  |
| MORROW     | 36  | 21,354  | PUNCHCARD  |
| MUSKINGUM  | 85  | 48,175  | PUNCHCARD  |
| NOBLE      | 27  | 8,173   | PUNCHCARD  |
| OTTAWA     | 78  | 26,905  | SCAN       |
| PAULDING   | 30  | 13,374  | PUNCHCARD  |
| PERRY      | 46  | 20,815  | PUNCHCARD  |
| PICKAWAY   | 53  | 27,505  | ELECTRONIC |
| PIKE       | 24  | 17,849  | PUNCHCARD  |
| PORTAGE    | 129 | 94,711  | PUNCHCARD  |
| PREBLE     | 46  | 28,108  | PUNCHCARD  |
| PUTNAM     | 51  | 24,360  | PUNCHCARD  |
| RICHLAND   | 133 | 83,151  | PUNCHCARD  |
| ROSS       | 76  | 37,478  | ELECTRONIC |
| SANDUSKY   | 73  | 39,768  | SCAN       |
| SCIOTO     | 107 | 43,062  | PUNCHCARD  |
| SENECA     | 73  | 35,707  | PUNCHCARD  |
| SHELBY     | 45  | 29,776  | PUNCHCARD  |
| STARK      | 364 | 246,562 | PUNCHCARD  |
| SUMMIT     | 507 | 334,515 | PUNCHCARD  |
| TRUMBULL   | 274 | 132,957 | PUNCHCARD  |
| TUSCARAWAS | 81  | 53,930  | PUNCHCARD  |
| UNION      | 47  | 25,880  | PUNCHCARD  |

|              |               |                  |           |
|--------------|---------------|------------------|-----------|
| VAN WERT     | 39            | 19,525           | PUNCHCARD |
| VINTON       | 20            | 7,770            | PUNCHCARD |
| WARREN       | 148           | 101,207          | PUNCHCARD |
| WASHINGTON   | 81            | 37,705           | SCAN      |
| WAYNE        | 97            | 60,048           | PUNCHCARD |
| WILLIAMS     | 44            | 24,670           | PUNCHCARD |
| WOOD         | 104           | 75,660           | PUNCHCARD |
| WYANDOT      | 40            | 14,780           | PUNCHCARD |
| <b>TOTAL</b> | <b>11,756</b> | <b>7,104,549</b> |           |

Of note, two of Ohio's largest counties – Cuyahoga and Hamilton counties – currently use punch-card ballot devices, as do two other large urban centers in Ohio, Montgomery and Summit counties. Those four counties, alone, account for nearly 3,600 of Ohio's 11,756 precincts, and more than 2 million of the state's 7.1 million registered voters. Another large urban center in Ohio, Lucas County, is a lever-machine county.

In February 2001, the Secretary of State conducted an "Elections Summit."<sup>1</sup> Participants included academics, members of the media, local election officials, legislators, and community groups. The group reported the following:

1. Public confidence in the accuracy of punch card voting systems has been seriously undermined.
2. Boards of elections should upgrade their voting systems to new, more trustworthy technology.
3. Comprehensive voter education is critical to successful election operations.
4. A combination of federal, state, and local dollars may be appropriate to fund these technological improvements.
5. Ohio's current elections standards, based on a combination of secretary of state directives, advisory opinions and rulings, should be codified by the General Assembly.
6. These goals demand immediate attention, or our state runs the risk of repeating the problems of our nation's most recent presidential election – and suffering irreparable damage to the most important and basic concepts of democracy.

Subsequent to the Summit, a separate committee met to study Ohio's election systems. They concluded (by a 6-5 committee vote) that because of the safeguards and procedures in Ohio election law, the punch-card voting method was adequate and there was no overwhelming need for a statewide overhaul, particularly without available funding.

<sup>1</sup> *Ohio Elections Summit Report*, Office of the Secretary of State, published May 2001.

While the Secretary of State notes that punch-card voting is not explicitly prohibited under the Help America Vote Act, other requirements of the Act make it impractical to use punch-card voting as a primary voting device in the state.

In a study of “over” and “under” voting in Ohio, it was clearly demonstrated that punch-card voting was unreliable to the extent votes cast by thousands of Ohioans were not being counted in the final election tabulation.

Over-voting occurs when a voter casts a vote for more than one candidate in an election and thus disqualifies their vote in that election. Under-voting occurs when a voter fails to mark a ballot in a particular race or votes for fewer than the number of candidates to be elected.

The following table tracks the combined under/over vote phenomenon in the 2000 presidential election in Ohio’s 88 counties:

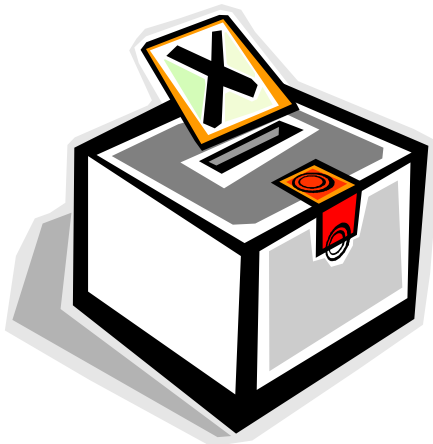
| County     | 2000 Voting System | Total Votes Cast | Total Votes Counted | Difference | Percent Difference |
|------------|--------------------|------------------|---------------------|------------|--------------------|
| Holmes     | PUNCHCARD          | 9,937            | 9,145               | 792        | 7.97%              |
| Pike       | PUNCHCARD          | 11,084           | 10,560              | 524        | 4.73%              |
| Vinton     | PUNCHCARD          | 5,184            | 4,946               | 238        | 4.59%              |
| Adams      | PUNCHCARD          | 10,727           | 10,235              | 492        | 4.59%              |
| Meigs      | PUNCHCARD          | 10,228           | 9,795               | 433        | 4.23%              |
| Noble      | PUNCHCARD          | 6,210            | 5,988               | 222        | 3.57%              |
| Monroe     | PUNCHCARD          | 7,377            | 7,115               | 262        | 3.55%              |
| Jackson    | PUNCHCARD          | 12,918           | 12,490              | 428        | 3.31%              |
| Gallia     | PUNCHCARD          | 13,203           | 12,776              | 427        | 3.23%              |
| Summit     | PUNCHCARD          | 232,252          | 224,839             | 7,413      | 3.19%              |
| Harrison   | PUNCHCARD          | 7,380            | 7,161               | 219        | 2.97%              |
| Tuscarawas | PUNCHCARD          | 38,246           | 37,118              | 1,128      | 2.95%              |
| Mercer     | PUNCHCARD          | 18,848           | 18,294              | 554        | 2.94%              |
| Paulding   | PUNCHCARD          | 9,214            | 8,946               | 268        | 2.91%              |
| Belmont    | PUNCHCARD          | 31,039           | 30,141              | 898        | 2.89%              |
| Lawrence   | PUNCHCARD          | 25,180           | 24,452              | 728        | 2.89%              |
| Montgomery | PUNCHCARD          | 237,580          | 230,987             | 6,593      | 2.78%              |
| Scioto     | PUNCHCARD          | 30,786           | 29,945              | 841        | 2.73%              |
| Guernsey   | PUNCHCARD          | 15,855           | 15,430              | 425        | 2.68%              |
| Morgan     | PUNCHCARD          | 6,158            | 5,993               | 165        | 2.68%              |
| Muskingum  | PUNCHCARD          | 33,520           | 32,624              | 896        | 2.67%              |
| Cuyahoga   | PUNCHCARD          | 590,473          | 574,782             | 15,691     | 2.66%              |
| Sandusky   | PUNCHCARD          | 26,441           | 25,744              | 697        | 2.64%              |
| Brown      | PUNCHCARD          | 16,862           | 16,429              | 433        | 2.57%              |
| Highland   | PUNCHCARD          | 15,854           | 15,447              | 407        | 2.57%              |
| Hocking    | PUNCHCARD          | 11,034           | 10,756              | 278        | 2.52%              |
| Carroll    | PUNCHCARD          | 12,576           | 12,261              | 315        | 2.50%              |
| Perry      | PUNCHCARD          | 13,147           | 12,828              | 319        | 2.43%              |
| Richland   | PUNCHCARD          | 54,088           | 52,779              | 1,309      | 2.42%              |

|            |                      |         |         |       |       |
|------------|----------------------|---------|---------|-------|-------|
| Mahoning   | SCAN                 | 116,889 | 114,119 | 2,770 | 2.37% |
| Morrow     | PUNCHCARD            | 13,145  | 12,839  | 306   | 2.33% |
| Seneca     | PUNCHCARD            | 24,931  | 24,351  | 580   | 2.33% |
| Wyandot    | PUNCHCARD            | 10,059  | 9,827   | 232   | 2.31% |
| Jefferson  | PUNCHCARD            | 35,449  | 34,636  | 813   | 2.29% |
| Erie       | SCAN                 | 35,836  | 35,015  | 821   | 2.29% |
| Crawford   | PUNCHCARD            | 19,622  | 19,176  | 446   | 2.27% |
| Putnam     | PUNCHCARD            | 17,743  | 17,344  | 399   | 2.25% |
| Ashtabula  | PUNCHCARD            | 40,378  | 39,472  | 906   | 2.24% |
| Clark      | PUNCHCARD            | 58,876  | 57,559  | 1,317 | 2.24% |
| Trumbull   | PUNCHCARD            | 98,440  | 96,239  | 2,201 | 2.24% |
| Defiance   | PUNCHCARD            | 16,610  | 16,242  | 368   | 2.22% |
| Champaign  | PUNCHCARD            | 16,035  | 15,680  | 355   | 2.21% |
| Marion     | PUNCHCARD            | 25,371  | 24,815  | 556   | 2.19% |
| Darke      | PUNCHCARD            | 23,784  | 23,267  | 517   | 2.17% |
| Fayette    | PUNCHCARD            | 9,484   | 9,278   | 206   | 2.17% |
| Washington | SCAN                 | 27,080  | 26,515  | 565   | 2.09% |
| Lorain     | PUNCHCARD            | 114,480 | 112,180 | 2,300 | 2.01% |
| Greene     | PUNCHCARD            | 66,524  | 65,204  | 1,320 | 1.98% |
| Stark      | PUNCHCARD            | 163,061 | 159,844 | 3,217 | 1.97% |
| Huron      | PUNCHCARD            | 21,788  | 21,360  | 428   | 1.96% |
| Madison    | PUNCHCARD            | 14,960  | 14,667  | 293   | 1.96% |
| Logan      | PUNCHCARD            | 18,823  | 18,455  | 368   | 1.96% |
| Clinton    | PUNCHCARD            | 15,366  | 15,070  | 296   | 1.93% |
| Clermont   | SCAN                 | 71,242  | 69,877  | 1,365 | 1.92% |
| Columbiana | PUNCHCARD            | 45,294  | 44,427  | 867   | 1.91% |
| Van Wert   | PUNCHCARD            | 13,471  | 13,219  | 252   | 1.87% |
| Preble     | PUNCHCARD            | 18,506  | 18,166  | 340   | 1.84% |
| Portage    | PUNCHCARD            | 64,026  | 62,899  | 1,127 | 1.76% |
| Henry      | PUNCHCARD            | 13,484  | 13,252  | 232   | 1.72% |
| Athens     | PUNCHCARD            | 25,888  | 25,447  | 441   | 1.70% |
| Hamilton   | PUNCHCARD            | 384,336 | 377,899 | 6,437 | 1.67% |
| Wayne      | PUNCHCARD            | 43,151  | 42,436  | 715   | 1.66% |
| Miami      | SCAN                 | 43,555  | 42,841  | 714   | 1.64% |
| Butler     | PUNCHCARD            | 138,992 | 136,737 | 2,255 | 1.62% |
| Licking    | PUNCHCARD            | 63,490  | 62,466  | 1,024 | 1.61% |
| Auglaize   | PUNCHCARD            | 20,212  | 19,892  | 320   | 1.58% |
| Coshocton  | SCAN                 | 14,493  | 14,268  | 225   | 1.55% |
| Williams   | PUNCHCARD            | 16,170  | 15,919  | 251   | 1.55% |
| Union      | PUNCHCARD            | 17,288  | 17,024  | 264   | 1.53% |
| Fairfield  | PUNCHCARD            | 54,913  | 54,094  | 819   | 1.49% |
| Warren     | PUNCHCARD            | 70,109  | 69,078  | 1,031 | 1.47% |
| Medina     | PUNCHCARD            | 67,850  | 66,883  | 967   | 1.43% |
| Fulton     | PUNCHCARD            | 19,161  | 18,896  | 265   | 1.38% |
| Ashland    | SCAN                 | 21,535  | 21,258  | 277   | 1.29% |
| Ross       | ELECTRONIC AVB: scan | 26,348  | 26,016  | 332   | 1.26% |

|                     |                              |                  |                  |               |              |
|---------------------|------------------------------|------------------|------------------|---------------|--------------|
| Wood                | PUNCHCARD                    | 52,832           | 52,194           | 638           | 1.21%        |
| Hancock             | SCAN                         | 30,958           | 30,617           | 341           | 1.10%        |
| Ottawa              | SCAN                         | 20,185           | 19,968           | 217           | 1.08%        |
| Knox                | ELECTRONIC AVB: scan         | 21,488           | 21,260           | 228           | 1.06%        |
| Delaware            | PUNCHCARD                    | 55,959           | 55,403           | 556           | 0.99%        |
| Pickaway            | ELECTRONIC AVB: scan         | 17,912           | 17,740           | 172           | 0.96%        |
| Allen               | SCAN                         | 44,207           | 43,795           | 412           | 0.93%        |
| Franklin            | ELECTRONIC AVB: Punchcard    | 417,800          | 414,074          | 3,726         | 0.89%        |
| Geauga              | SCAN                         | 42,963           | 42,600           | 363           | 0.84%        |
| Lake                | ELECTRONIC AVB: Punchcard    | 103,347          | 102,564          | 783           | 0.76%        |
| Hardin              | Precinct: AVM AVB: Punchcard | 12,159           | 12,068           | 91            | 0.75%        |
| Lucas               | Precinct: AVM AVB: Punchcard | 188,419          | 187,350          | 1,069         | 0.57%        |
| Shelby <sup>2</sup> | PUNCHCARD                    | 19,670           | 19,670           | 0             | 0.00%        |
| <b>TOTALS</b>       |                              | <b>4,795,989</b> | <b>4,705,457</b> | <b>90,532</b> | <b>1.89%</b> |

The data shows 29 counties with the highest over/under vote percentage in the 2000 election were all counties that use the punch-card method of voting. The seven counties with the lowest over/under vote percentage in the 2000 election were all counties that did not use punch cards as their primary voting system.

The Ohio challenge in meeting the voter and election reforms envisioned by the Help America Vote Act is obvious. In simplest terms, Ohio is a large and populous state with a diverse mix of urban and rural voters that predominantly relies on punch-card voting as its prevailing voting mode. Modernizing the state's election systems will require widespread change throughout the state and in its most populous counties.



The transition will require a solution that must consider large and small counties, rural and urban areas, and adjustments that will affect an overwhelming majority of Ohio voters. The obvious corollary challenge is selecting a system configuration that meets the needs of all those counties, training election officials and poll workers to use new voting systems, and familiarizing Ohio voters with new voting devices.

While on its face, this appears to be a daunting challenge, we are confident Ohio's State Plan logically anticipates those factors and will meet the guidelines, demands, timetables and expectations of the Help America Vote Act.

<sup>2</sup> Shelby County, a punch-card county, reported no over/under vote in the county's vote tabulation in the 2000 presidential election cycle. This would appear to be a reporting error.

## V. Voter Trends: the Context for Change and Reform

We pause only for a moment in this report to reflect on voter turnout in Ohio. We do so for several reasons, not the least of which Ohio contemplates election reform and system modernization to take place in a presidential election year when voter turnout is higher and demand on the election system is greatest.

We also explore voter turnout and trends as context for meeting the most desirable benefit and objective of the Act: to restore public confidence in the election system and, subsequently, increase voter participation. While new, more technologically proficient systems, increased voter registration, accessibility and accuracy are hallmarks of Help America Vote, the more encompassing aim of the Act is to invite more voters into the process to exercise their rights and responsibilities as qualified electors.

In developing the State Plan, we must anticipate that voter participation will increase, voter turnout percentages will climb, and demand on the election system will be greater. We can only gauge those factors based on Ohio's experience in past elections and the historical trends that will serve as a predictor of future trends.

The following table tracks Ohio voter turnout in both gubernatorial elections and presidential elections during the past 24 years.

| Gubernatorial Election Years |                        |                    | Presidential Election Years |                        |                    |
|------------------------------|------------------------|--------------------|-----------------------------|------------------------|--------------------|
| Year                         | No. of Electors Voting | Turnout Percentage | Year                        | No. of Electors Voting | Turnout Percentage |
| 1978                         | 3,017,326              | 58.23%             | 1980                        | 4,378,937              | 73.87%             |
| 1982                         | 3,551,995              | 62.36%             | 1984                        | 4,664,223              | 73.65%             |
| 1986                         | 3,261,870              | 54.38%             | 1988                        | 4,505,264              | 71.79%             |
| 1990                         | 3,620,469              | 61.23%             | 1992                        | 5,043,094              | 77.15%             |
| 1994                         | 3,570,391              | 57.29%             | 1996                        | 4,638,108              | 67.83%             |
| 1998                         | 3,534,782              | 49.81%             | 2000                        | 4,800,009              | 63.73%             |
| 2002                         | 3,356,285              | 47.24%             |                             |                        |                    |

The chart shows that during the course of the past six gubernatorial elections, voter turnout has averaged about 55.79 percent. During the past six presidential elections, voter turnout in Ohio has averaged 71.33 percent. Based on this historical data, Ohio can generally anticipate about 1.25 million more voters in a presidential election year than in a gubernatorial election cycle.

Even a modest 5 percent gain in that average means 62,500 more voters. Subsequently, based on projected population growth and increased voter participation as a result of election reforms and modernization, our State Plan assumes 150,000 new voters during peak presidential elections growing at an annual rate, after initial implementation of new systems and election reforms, of 3 percent per annum.

As a result, our Plan assumes that growth rate and the recommended voting systems design model proposed in this report anticipates that growth and demand on the state's election system in future peak presidential voting years. We use the presidential voting cycle as a base for our plan because that assumes the heaviest potential voter turnout and the busiest times for local boards of elections.

Since 1978, voter participation in the state's gubernatorial elections has grown from 3 million voters to about 3.3 million voters. Since 1980, voter participation in presidential elections has grown from about 4.3 million voters to about 4.8 million voters. Factoring population growth during those decades, those statistics would imply that voter participation has remained relatively flat and, in all likelihood, is trending lower.

We have a high confidence level that the election reforms of the Help America Vote Act will produce more voter activity and a greater number of voters. Ohio doesn't view the Act as a final effort to produce greater voter participation, but the beginning of an expanded effort to entice more voters to exercise their rights and responsibilities to participate in the election process.

We believe modernization and reform require us to actively engage in voter education and to continue to evaluate programs that will produce greater participation in the democratic process. We pledge our effort to continue to explore new and innovative programs that will achieve those objectives.

## **VI. How Ohio Developed its State Plan**

In development of the State Plan, we insisted on inclusion in both creation of the State Plan Committee and in public input into the process. This report represents a broad outreach to minorities, senior citizens, people with disabilities, elected officials, election officials, public interest groups and the public at large.

Our foundation principle in developing this plan was based on the view that such far-reaching reforms to a system so vital to the most fundamental democratic process in our state and nation required a fair, open and dynamic process where there is an opportunity for every voice to be heard. We were proactive in developing a structure to embrace that principle.

As a first step in our process, we widely publicized hearing dates and created a web site that invited public comment and input. We invited written testimony from groups and organizations who wanted to lend their perspective to election reform in Ohio. Additionally, we actively solicited input from critical stakeholders for our public hearings, including key representative voices from among groups such as the Urban League, the League of Women Voters, the Disability Policy Coalition, and the American Association of Retired Persons (AARP).

Our lead-off witness was Chet Kalis of the House Administration Committee, who worked closely with U.S. Rep. Bob Ney, R-Ohio, primary sponsor of the Help America Vote Act of 2002. We asked Mr. Kalis to lay the groundwork for our committee by providing them with a foundation perspective of the Act, its mission, aims and objectives.

The State Plan Committee also heard from Doug Lewis, executive director of The Election Center, a national nonprofit organization serving the elections and voter registration profession. Mr. Lewis developed and authored the Professional Education Program for elections/registration officials – named the best continuing education program in the nation by the National University Continuing Education Association.

Mr. Lewis was able to provide the committee with a national view of election reform and voter registration from the valuable perspective of someone with intricate knowledge of election systems across the nation.

To provide the perspective on Ohio, Dr. Herb Asher, professor emeritus of political science at The Ohio State University, brought election reform home for our State Plan Committee. Few voices are more respected than the voice of Dr. Asher as a knowledgeable expert and commentator about the political and election process in Ohio.

While the State Plan Committee itself included representation from boards of elections, we reached out to three other boards to provide the committee with a strong representative sample of the diverse local election operations in the state. Among those invited to testify were Janet F. Clair, director of the Lake County Board of Elections, Rita Yarman, deputy director of the Knox County Board of Elections, and Terry Burton, deputy director of the Wood County Board of Elections.

The testimony of the three elections officials was particularly valuable to the Committee because Lake and Knox counties are two jurisdictions that recently modernized their election systems. In addition, four other counties – Ross, Pickaway, Mahoning and Franklin counties – currently have electronic-based voting systems. Wood County represents one of the Ohio counties facing an extensive overhaul of its system under the Help America Vote Act.

Dolores Blankenship, advocacy volunteer from AARP, offered the State Plan Committee an incisive look at the election process through the eyes of a senior citizen, and eight witnesses representing the Disability Policy Coalition offered riveting testimony about the Election Day challenges facing voters with disabilities.

The strong presence of people with disabilities in these hearings underscores the importance Ohio attaches to this issue and our resolve to provide physically challenged voters with every opportunity to cast their ballot in a setting that assures their access to the polls and their right to cast a ballot unrestrained by barriers and obstacles that preclude their full participation in the voting process.

Peg Rosenfield, a former state elections official and now a representative of the League of Women Voters of Ohio, provided testimony on behalf of that voter advocacy group, and Ernest Perry of the Columbus Urban League was the voice for that group.

The final witness was Eric Seabrook, chief counsel to the Ohio Secretary of State, who described the administrative complaint procedure envisioned by Secretary of State Blackwell and the potential contracting procedures under review to establish an election system that meets the uniform voting standards of the Help America Vote Act.

The State Plan Committee met in public session on April 3-4 to hear testimony from these witnesses and then reconvened on April 17 for a focused facilitated work session to refine and finalize the State Plan.

We believe the process used to develop the State Plan in Ohio is one of the most aggressive public outreach efforts in the nation. While the aim of the process was to be as inclusive as possible, we think it had the added benefit of educating and informing the committee and citizens of our state about the Help America Vote Act and its far-reaching implications for an improved voting and election system in Ohio.

The open and proactive design of our process signaled to every Ohioan the importance of enacting voter and election reforms in the state, and how that reform was likely to affect their participation in the electoral process.

In addition to the public hearings, the Secretary of State solicited all Ohioans to provide input to the plan by providing written communications with his office or to communicate ideas via the Secretary of State's website. This communication was provided to members of the State Plan Committee and is attached as part of the State Plan.

## **VII. Federal Funding Assumptions of the Act**

The Help America Vote Act of 2002 makes available certain federal funding to help achieve requirements and mandates of the Act. The funding components of the Act are reflected in Title I, Title II, Title IV and Title V. In summary, the federal government has agreed to the following federal funding thresholds for each of the Title sections of the Act:

### **Title I – Antiquated Machine Buy-Out**

- \$325 million for buying out punch-card and lever voting machines.
- \$325 million in payments to states to improve election administration.

### **Title II – Election Assistance**

#### Requirement Payments

- \$3 billion for meeting requirements, poll-worker training, voter education, and improving administration of elections.

#### Access Grants

- \$100 million for increasing polling place access for voters with disabilities

#### Research Grants

- \$20 million for research and development to improve voting technology

#### Pilot Program Grants

- \$10 million for pilot programs to test new voting systems and equipment.

#### Protecting and Advocacy Systems Payments

- \$40 million for state protection and advocacy systems.

### **Title V – Help America Vote College Program**

- \$5 million to encourage college students to participate in the political process by volunteering as poll workers.

### **Title VI – Help America Vote Foundation**

- \$5 million to encourage high school students to participate in the political process by volunteering as poll workers.

Of obvious, primary and immediate importance to the State of Ohio is the Title I funding and the state's share of Title II monies for Requirement Payments for poll-worker training, voter education, and improving administration of elections, as well as federal funds available for Access Grants to make election sites more accessible to people with disabilities. These three specific funding sources enable Ohio to address what we regard to be the core modernization and reform of its election system.

The buy-out program under Title I has special implications for Ohio because of the prevalent use of punch-card voting in the state. Likewise the \$325 million being allocated to states to improve election administration is important because these funds represent resources that will be allocated for development of a centralized voter registration system in the state.

***The state will apply for research and pilot program grants. But for now, our focus is to first establish a reliable, accurate and fair election system, conduct the training and education necessary to make that system work, and to ensure accessibility of the disabled and physically challenged citizens of our state. The Secretary of State believes Ohio should be particularly aggressive in seeking available federal funds under Title II for access grants to make Ohio's polling places more accessible to the disabled.***

Title I largely represents base funding for Ohio to address the mechanical implementation of the Help America Vote Act. Title II payments represent a source of funding to train, educate and administer the state's election program once the transition is made from punch-card voting to a more modern mode of voting, and to make poll sites more accessible to people with disabilities. Later in the plan, we discuss allocating a portion of Title II funds to voting system upgrades.

The state will apply for research and pilot program grants. But for now, our focus is to first establish a reliable, accurate and fair election system, conduct the training and education necessary to make that system work, and to ensure accessibility of Ohio's citizens with disabilities. The Secretary of State believes Ohio should be particularly aggressive in seeking available federal funds

under Title II for access grants to make Ohio's polling places more accessible.

Of note and as it relates to Title V and Title VI of the Act, the Ohio Secretary of State's office is currently conducting research related to poll worker issues. A component of that research anticipates a greater role for high school and college students in the electoral process, as well as other initiatives that will enhance the identification, selection, education and training of poll workers.

As this State Plan is being submitted, we anticipate that research will be completed and recommendations forthcoming in the next few months about how Ohio will maximize poll-worker recruitment and training, and ensure the presence of quality, qualified poll workers in every precinct.

Such initiatives underscore our determination to not only meet the minimum requirements of the Help America Vote Act of 2002, but to make Ohio a model state for implementation of these reforms and to lead the nation in development and

implementation of a modern, fair, reliable and accurate election system. As U.S. Rep. Bob Ney led the federal initiative to enact the Help America Vote Act, it was the mandate of our State Plan Committee to formulate a plan that makes Ohio a showcase for election reform.

## VIII. Distribution of Resources to Local Governments

We first explore our proposed distribution of aid to local government under Title I. Under guidelines of the Act, these funds must be used assuming the following criteria:

- These funds may be used as a reimbursement for costs associated with punch-card or lever machine replacement incurred after Jan. 1, 2001.
- There is a presumption states must ensure compliance in time for the November, 2004 Federal Election.
- Within six months after the date of enactment, Ohio must certify that the state will use the money for punch-card/lever machine replacement, the state will comply with federal laws, and the voting system will meet new voting system standards.

We anticipate that no change in state law or new legislation will be required to carry out the activities required for certification.

At this writing, the Congressional Research Service (CRS) estimates that full-funding under the Act, for both Title I and Title II receipts, will total \$155,251,155. CRS estimates \$116,423,155 of that amount represents Title II funding under the Requirements Payments component of the Act.

In addition, the state has appropriated \$5.8 million in matching funds for Title II payments, as required by the Act, which means total available funds for implementation of the State Plan in Ohio will be approximately \$161 million.

All money in Title II is based on the state's portion of the nation's voting age population. The most recent estimate is that Ohio's 8.5 million voting-age population represents 3.97 percent of the nation's voting age population of 215.1 million.

Because of the prevalence of punch-card voters in Ohio, we are keenly focused on the distribution of funds under Title I and, more precisely, the buy-out program. The Act stipulates the funds will be distributed to states by multiplying the number of qualifying precincts by \$4,000. However, based on available federal funds for this purpose and the number of punch-card and lever-machine jurisdictions in the U.S., it now appears that number likely will be about \$3,354 per precinct. As previously mentioned, Ohio has 69 counties designated as punch-card counties.

In addition, two Ohio jurisdictions – Hardin and Lucas counties – feature lever voting machines and would be eligible for funding under the guidelines.

In total, under the formula, the 69 punch-card counties and two lever-machine counties in Ohio means the state would be eligible for about \$31 million in federal funds under the buyout program.

However, we know \$31 million is insufficient for the counties to purchase modern, reliable voting systems capable of meeting requirements of the Act. Subsequently, our budget for voter and election reforms in Ohio presumes the state will require about \$24.2 million to establish a centralized voter registration database and related support for voter education and poll worker training. Our plan calls for the remainder of the Title funds to be allocated to Ohio's 88 counties to help subsidize installation of new systems and implement other required activities under the Act.

Following is the budget we envision for distribution of the \$161 million in funds in Ohio to meet requirements of the Help America Vote Act:

| <b>Activity</b>                       | <b>Fund Distribution</b>    | <b>Jurisdiction</b>         | <b>Purpose</b>  |
|---------------------------------------|-----------------------------|-----------------------------|---|
| Voter Registration Database           | \$5 million to \$10 million | State                       | Develop statewide voter registration database                     |
| Voter Education                       | \$5 million to \$10 million | State                       | Administered by the State in coordination with the counties       |
| Poll Worker Training                  | \$5 million                 | State                       | To be distributed as grants to counties                           |
| Administrative Expenses               | \$2 million                 | State                       | For state personnel to administer and monitor HAVA implementation |
| Provisional Voter Hotline             | \$250,000                   | State                       | To establish a state hotline for provisional voters               |
| Miscellaneous                         | \$2 million                 | State                       | For associated costs of implementing HAVA                         |
| Voting Equipment and other Activities | \$136 million               | State on behalf of Counties | For new voting equipment and to meet other HAVA requirements      |

In simplest terms, this allocates Help America Vote funds where the money is needed most: in Ohio counties. While it is the responsibility of the Ohio Secretary of State to monitor performance and ensure implementation of the Act, the execution of the Ohio plan, ultimately, will take place at the county level. On that basis, we believe it prudent to maximize resources for election reform in the counties where election reform will occur.

While much of the focus is on the counties with punch card and lever-machine voting systems, in reality, all 88 Ohio counties will be expected to conduct some form of system modification and upgrade to make the system in Ohio uniform and compliant with the Act. Subsequently, the premise of the Ohio Plan is to look at the voter and election system statewide, based on the distribution of registered voters in each of the 88 counties.

Viewed in that context, the \$136 million to be allocated to the counties will be distributed in the following priority order, as federal funds become available:

- Replacement of punch-card and lever-machine voting equipment to the extent that new voting systems would be installed immediately in the 71 affected counties;
- Installation of voting devices compliant with the disability requirements of the Act in all 88 counties;
- Bringing remaining counties into compliance with Section 301 of the Act by funding necessary upgrades and refinements of all other existing systems and equipment.

The Secretary of State reserves the right to distribute the funds to counties based on need and special circumstances.

The Secretary of State defines “need and special circumstances” to mean that it is possible some counties will need less funding and others more funding to meet the compliance standards of the Help America Vote Act. On that basis, the Secretary of State will shift funds as he deems necessary to bring all counties into compliance.

The Secretary of State acknowledges that one county, Mahoning County, took the initiative to convert their voting system to electronic voting after Jan. 1, 2001. Funding consideration will be given to all six Ohio counties using electronic voting equipment to bring those counties into compliance with HAVA.

We think this model provides us with great flexibility to allocate Title I and Title II funds in a way that assures full compliance with the requirements of the Act. Invariably some funds would be shifted away from counties that demonstrate a lesser need and reallocated to counties that demonstrate a greater need. But the allocation method is a fair method that will further assure all counties that adequate funds will be available to fully fund the requirements of the Act at the local level.

The Ohio Secretary of State will establish guidelines as part of the performance measurement for county compliance. When compliant systems are purchased for the counties, the Secretary of State will require transition to new voting systems by all punch-card and lever-machine counties by Feb. 1, 2004. The Secretary of State will provide counties with a list of acceptable vendors to supply the new voting equipment and counties must choose from that approved list by no later than Sept. 1, 2003.

Since the Secretary of State will centralize and oversee this process, the Secretary will ensure compliance with all requirements of the Help America Vote Act. The performance timeline requires the Secretary to establish the list of approved vendors by Aug. 1, 2003, providing county boards of elections with ample time to review the list, choose the vendor and establish transition to the new voting systems between Sept. 1, 2003 and Feb. 1, 2004.

To ensure uniformity and compliance, the Secretary of State will stipulate design specifications for voting equipment. If a county fails to select a vendor by Sept. 1, 2003, the Secretary of State will designate a vendor for that county and order installation of new voting equipment in that jurisdiction by the Feb. 1, 2004 deadline.

Although the Act requires the replacement of punch-cards and lever machines by the General Election in 2004, the Secretary of State wants these new systems in place in Ohio for the Primary Election to ensure a smooth, seamless transition and full operational capability in time for the presidential election.

The Secretary of State has already established a fund account for all federal monies designated for Ohio under the Act and those funds, as applicable, will be disbursed from that account as our plan is implemented. This account is segregated to reflect federal funds designated for county buy-outs, election administration and Requirements payments.

Reports will be generated to show the allocation and distribution of these funds and that report will be forwarded to the Election Assistance Commission along with a performance report to show the state's progress and performance in implementing provisions of the Act.

## **IX. §301. Meeting the Voting System Standards of the Act**

The Help America Vote Act requires "uniform and nondiscriminatory election technology" that meets specific voting system standards. Ohio has opted for a program that specifically addresses the requirements of the Act, but provides counties with some degree of flexibility in choice of vendor and how they implement and develop voting systems to meet the particular needs of their region.

Assurance that the state will meet voting system standards specified in the Act is the responsibility of the Secretary of State, so system specifications will be drafted by the

*Providing counties with the ability to choose among a list of qualified vendors preserves the involvement of the counties in the vendor process while maximizing the buying power of the state under a state term contract procedure. The Secretary of State will serve as the primary contractor for voting devices in the State of Ohio, embracing the concept that the ultimate beneficiaries of the contract are the counties.*

Secretary and the list of available vendors will reflect only those companies that submit bids demonstrating their ability to meet the rigorous and unambiguous system specifications and timelines established by the Secretary.

To ensure compliance with the Act, the Secretary of State will appoint a committee comprised of knowledgeable persons in the Secretary's office who have the technical capability to review vendor proposals for electronic voting equipment and tabulating devices and the committee will recommend final adoption of a list of approved vendors that meet system specifications. The committee will review standards set by the Standards Board and

make recommendations to the Secretary based on tabulating systems meeting the standards set by the Federal Election Commission.

Additionally, the Secretary of State will ask the state's Board of Voting Machine Examiners to review the recommendations of the committee to ensure the vendors and systems meet not only the requirements of the Act, but are reasonable based on their knowledge of Ohio counties and their voting needs. The Board of Voting Machine Examiners currently provide a valuable service to the Secretary of State in the certification of voting equipment to ensure the equipment meets established certification criteria set by the National Association of State Election Directors.

It is logical this group assist the Secretary in this important endeavor to modernize and reform Ohio's voting systems.

Providing counties with the ability to choose among a list of qualified vendors preserves the involvement of the counties in the vendor process while maximizing the buying power of the state under a state term contract procedure. The Secretary of State will serve as the primary contractor for voting devices in the State of Ohio, embracing the concept that the ultimate beneficiaries of the contract are the counties.

Ultimately, the responsibility for ensuring compliance with the Help America Vote Act of 2002 falls to the chief elections official in the state. But the Secretary of State recognizes the execution of the Act will take place at the county level.

Each vendor chosen to participate in the selection process must demonstrate a capability to serve the whole of the state and, potentially, all 88 counties. Successful vendors must also certify their ability to provide the volume of equipment required to service the state, and demonstrate the organizational capacity to provide statewide support, training and service to county clients.

Eligible vendors must assure their equipment meets a high threshold of security, accuracy and ease of use. They must also ensure timely delivery of equipment to meet the deadlines established by the Secretary of State for full implementation and operation by Feb. 1, 2004. Finally, the financial viability of the vendor will be a consideration for the awarding of contracts.

The Secretary of State believes training and education are essential to the successful deployment of new voting machine equipment. The best technology available is rendered useless unless vendors can provide adequate training and education to ensure both election officials and voters know how to use the equipment efficiently and effortlessly.

To achieve the education and training objective, some states have earmarked a portion of available money specifically for that purpose. We will request vendors designate how much of their proposal specifically applies to training and education.

Absent a recitation of detailed technical requirements listed in the request for proposal that will be issued by the Secretary of State, the Secretary insists successful bidders must provide a system that, at minimum, accomplishes the following:

### **General Requirements**

- Guarantees voters will be able to verify their ballot before it is cast and counted. This means the system must include features that allow voters to

vote, review their ballot choices and decisions, and correct errors or omissions before submitting their vote for final tabulation.

- As part of the review and correction process, if a voter selects more than the permissible number of candidates for a single office, the system will alert the voter of the selection and its impact, or prevent over-voting. Additionally, the system must give the voter an opportunity to correct the ballot before it is processed and counted.
- In addition to providing equipment, hardware and applicable software to accomplish these features, vendors will be required to include, as a supplement to the system, information materials clearly explaining the operations and functions of the voting equipment, the effect of casting multiple votes for one office, and corrective procedures and processes available to voters. The system also must alert voters when they have failed to vote for a candidate or issue. We envision a simple pamphlet or brochure that will be available to every voter written in clear language with amplifying graphics.
- The system must ensure the privacy of the voter and confidentiality of the ballot.

### **Audit Capacity**

- While the system allows the vote to be counted and tabulated electronically, the system also must be capable of producing a permanent paper record that can be audited manually. The paper record must be produced in such a way as to function as an official record for any potential recount or any question that might arise subsequent to the election.

This issue was addressed by several witnesses and State Plan Committee members during our public hearings. Almost everyone agrees that to ensure public confidence in any voting system, there must be a paper trail that will provide election officials, the public and media with a permanent, retrievable and readily accessible record and history of the election and provide a traceable mechanism to accommodate questions, election-related issues and recounts.

Ms. Rosenfield of the League of Women Voters told the State Plan Committee that an audit capacity in the form of a paper record was critical to reassure the public and the media that an open and fair election was conducted. We agree and this component is essential to any system configuration advanced by all prospective vendors.

### **Disability Access**

- The system must be accessible for individuals with disabilities, including non-visual accessibility for people who are blind or who have visual impairments,

ensuring the same standards for privacy and confidentiality afforded to people without disabilities. This means the voting system for people with disabilities must allow them to vote unassisted. At least one voting device must be available at each polling location that includes, at minimum, audio features. Additional features could include keypad functions and enlarged font size. The system must also include features that accommodate people who have limited mobility. That means the device must be of a sufficient weight and size to be transported within the environs of the voting location in those facilities that may not be readily accessible and sufficiently adjustable to match voters' eye levels.

During the hearings, we heard from several witnesses with first-hand knowledge of disabilities who underscored for us the importance of not only focusing on voting devices, but the accessibility of polling places. Technology, we were told, does not remedy polling locations that are difficult for people with disabilities to navigate or facilities that lack adequate amenities, such as accessible restrooms.

Karla M. Lortz of Delaware, Ohio, reminded us that voting is a basic American right that should not be restricted or diminished because of a disability. She also emphasized the need to train and educate poll workers about persons with disabilities.

But all of those with disabilities who testified stressed the need to be vigilant about the selection of poll and voter sites to ensure they are barrier free and accessible.

Ohio law requires that a polling place is considered accessible if it is free of barriers that would impede ingress and egress of people with disabilities. The law requires the entrance to be level or feature a nonskid ramp of not more than 8 percent gradient. Doors must be a minimum of 32-inches wide (R.C. 3501.29.)

The Secretary of State will require that all election sites and facilities be reviewed for access to ensure these voting locations meet and, if possible, exceed these minimum standards. At the recommendation of committee member Eric Duffy, the Secretary also will convene a committee to study this issue and to make recommendations about how the state can best address the needs of voters with disabilities.

### **Alternative Language Accessibility**

- Where applicable and in those precincts where substantial non-English speaking populations exist, voting systems must provide alternative language accessibility pursuant to the requirements of the Voting Rights Act of 1965. This alternative-language accommodation shall be available in any precinct where it is determined that 5 percent or more of the registered voters in any precinct might be non-English speaking voters. Each county board of elections is required, 30 days prior to any election, to assure that alternative language mechanisms are available, as mandated by law.

Based on the current composition of the state's population, there is no concentration of non-English speaking populations that warrant specific activities in this

regard. However, as the composition of the state's population changes, counties will be required to address this issue as the need arises.

### **Error Rates**

- All voting systems in the state must achieve an error rate threshold that complies with error-rate standards established by the Federal Elections Commission (FEC) which are in effect 30 days prior to any election. The Secretary of State will take steps and facilitate measures to require performance of logic and accuracy tests by counties before elections and will require counties to have all system tabulating equipment and programs tested to ensure the correctness of the vote count cast within the error parameters established by the FEC.

### **Additional Considerations**

Although we explore this later in our discussion of voter education, we offer two additional vendor considerations for our system specifications. The Secretary of State invites vendors to consider, as part of their proposal, a model or "practice" voting device that simulates the actual voting machine at the polling place. We believe this feature would provide voters with an opportunity to become more familiar with the voting equipment before actually casting their vote.

***In addition, the Secretary of State will ask vendors to make available software that would enable voters to access such simulators on the Secretary's website via the internet. This feature would enable voters, at their leisure, prior to Election Day, to learn more about the equipment they will use at the voting place and practice using the equipment and devices on the internet.***

These so-called simulators, we believe, would provide some voters with a greater comfort level at the polling place if they are provided an opportunity to "practice" on a simulated voting device.

In addition, the Secretary of State will ask vendors to make available software that will enable voters to access such simulators on the Secretary's website via the internet. This feature would enable voters, at their leisure, prior to Election Day, to learn more about the equipment they will use at the voting place and practice using the equipment and devices on the internet.

While we regard this to be part of our proposed voter education program, we think these innovations would help voters better understand the new technology, ease their apprehension about the use of new voting technology, and speed the voting process at the polling place.

We think these elements would minimize much of the confusion that invariably will accompany the conversion of voting systems in the majority of Ohio counties. As more and more Ohioans enjoy expanded access to the internet and world wide web,

cyberspace would seem to be a logical environment to offer these features as an enhancement to Ohio's voter education program.

### **Uniform Definition of Vote**

Ohio law grants broad authority to the Ohio Secretary of State with regard to election rules and regulations. H.B. 5 passed by the Ohio Legislature in the 124<sup>th</sup> General Assembly gives the Secretary authority to issue directives and these directives have the same weight as law when applied to election-related matters and issues.

We note this authority in the Secretary's ability to establish a uniform definition of a vote. Currently, Ohio law addresses the definition of a vote for punch-card ballots. Similar legislation was considered for "optical scan" voting devices, but with passage of H.B. 5, the Secretary of State embraced a definition of vote for optical scanning equipment as part of his directives authority.

As is evident, the Secretary of State has the power and authority, via directive, to adjust, modify, revise and refine a uniform definition to meet the state's needs based on the voting systems adopted in the state. However, the Secretary will consult guidelines established by the Federal Election Commission, the Voting Rights Act and all other federal authority in establishing a uniform definition of a vote in Ohio.

We include with the plan, as an attachment, the language that gives the Secretary of State this authority.

## **X. Voter Education, Election Official and Poll Worker Training**

Achieving the mechanical and technological change of the Help America Vote Act of 2002 is only part of the challenge of enacting true modernization and reform of Ohio's voting system. While devices will enhance the efficiency of Ohio's voting and election process, voter education and training of election officials and poll workers is critical to full implementation of the reforms to the benefit of Ohio voters.

*We are mindful of an exciting objective of the Help America Vote Act: to engage high school and college students in the process. Several State Plan Committee members noted the desire to better engage young Ohioans in the election process as both a means to recruit bright, knowledgeable students as poll workers and as an opportunity to make more young people stakeholders in the process.*

Earlier in this report, we alluded to research currently being conducted by the Secretary of State's office to improve poll worker recruitment, training, education and retention. That effort addresses the reality that many of our current poll workers are from a generation that places a premium on voting, elections and the democratic process. Many of our poll workers are senior citizens who very much value freedom and free election processes as a result of their experiences in growing up in the World War II and Korea era.

To these marvelous citizens, voting isn't just a right it's an obligation and a

precious American birthright that has been paid for with the blood, sweat and tears of those who sacrificed their lives on foreign soil. As these citizen patriots retire from the poll worker ranks in Ohio's election system, we are looking to the future to determine how best we can recruit the next generation of poll workers who will embrace this important Election Day service with the same degree of commitment, enthusiasm and competence of our older poll workers.

We are mindful of an exciting objective of the Help America Vote Act: to engage high school and college students in the process. Several State Plan Committee members noted the desire to better engage young Ohioans in the election process as both a means to recruit bright, knowledgeable students as poll workers and as an opportunity to make more young people stakeholders in the process. Our research is exploring that challenge and opportunity to pass the torch to the next generation. But the research is also looking at other creative options to ensure Ohio has a ready, able and competent corps of poll workers.

Obviously, these poll workers must be adequately trained to render assistance to voters in a competent and knowledgeable way, not only in terms of helping them understand and use the new technology that accompanies election reform, but also by applying the laws and addressing the myriad of Election Day issues that invariably arise.

Provisional voting, for example, was a challenge for many of our poll workers during past election cycles as Ohio aggressively implemented new procedures to accommodate provisional voters. Our poll workers have successfully navigated provisional voting and have successfully met the needs of provisional voters.

But to adequately train poll workers, we must first train election officials. The Secretary of State will meet that challenge with a number of programs and initiatives. New training seminars will precede each election in Ohio where election directors and their staff will be given an opportunity to learn about new procedures and changes.

The Secretary of State also will enhance its electronic communication with election officials by providing updates and advisories about changes in state and federal election law. Our goal is to provide this information as soon as we have the information in hand.

Additionally, the Secretary of State will conduct an inventory of current training materials and produce new information and guidelines in both written and video formats. The Secretary also has asked his staff to provide election directors with new materials that can supplement the training of poll workers.

To ensure seamless transition to new voting systems, we are asking system vendors to partner with us in the production of clear, graphically-driven pamphlets and brochures that tell voters how the voting devices work. Earlier we mentioned the use of simulators and internet-based simulation of new voting devices to provide voters with an opportunity to try out the new technology even before they enter the voting booth to cast their official ballot.

We think these enhancements and initiatives will advance our implementation of the Help America Vote Act in Ohio and pave the way for a smooth transition to new voting devices and election processes. Some of our preparation for new election processes in Ohio includes some structural changes. We are asking each county board of

elections, for example, to designate a training coordinator who will communicate directly with an election training coordinator in the Secretary of State's office.

It is our aim for these coordinators to meet frequently throughout the year, exchange information and help us think about ways to improve the election system in Ohio.

After the election, we will gather from all 88 counties a report from these coordinators detailing issues, questions and problems they encountered and how they addressed the situation. From these reports, the Secretary of State will use that data and information to respond to election issues and disseminate that information to election directors so they can make refinements at the local level in subsequent elections.

But to glean a voters-eye view of the process and how we can improve the election system, we will distribute to a selected sample of voters in every county a short survey device that will track their voting experience and give them an opportunity to provide us with feedback on how we can improve the process. The survey will be distributed to a pre-determined number sample of voters throughout the state as they exit the voting booth.

We think this innovation is important to better understand voter needs and to view our election process through the eyes of the "consumer." Information we collect from both coordinators and the sample voters will guide us in developing relevant and meaningful training materials for both election officials and poll workers in future elections.

The Secretary of State also will develop a new "get-out-the-vote" program in Ohio that will encourage more voters to participate in the election process. While such programs currently exist in the Secretary of State's office, personnel will be dedicated to conducting research and learning more about voter behavior in Ohio.

In many states, the appeal is often directed at those who are registered to vote, were registered to vote or who have voted in the past. The Secretary of State would like to target potential new first-time voters by coordinating voter recruitment with civics and government teachers in high schools throughout Ohio where there is a captive audience of potential new voters. Additionally, the Secretary would like to initiate research that targets Ohioans who have never voted to learn more about their decision not to

*Understanding more about voter behavior and non-voter behavior, we believe, is a proactive step we must take to fully embrace the spirit, intent, principles and objectives of the Help America Vote Act.*

participate in the election process and to determine if there are programs and initiatives that can be implemented to address their concerns and entice them to the polls.

Understanding more about voter behavior and non-voter behavior, we believe, is a proactive step we must take to fully embrace the spirit, intent, principles and objectives of the Help America Vote Act.

The proposed budget for these activities is \$10 million to \$15 million, with \$5 million to \$10 million earmarked for voter education, and \$5 million set aside for election official and poll-worker training. We propose making election official and poll-worker training funds available as state

grants to the counties to supplement local activities and initiatives of the county boards of elections.

As counties deliberate equipment and voting systems, we will encourage them to consider appropriation of available residual funds to voter education and poll worker training. In crafting local budgets to achieve the objectives of the Help America Vote Act, we believe counties must give consideration to these initiatives to supplement state efforts for education and training.

In order to qualify for these funds, counties must submit to the Secretary of State a detailed plan that identifies proposed programs and initiatives and how the funds would be used. After each General Election, counties would be required to report on the deployment of these programs and their assessment of the value of the education and training.

## **XI. §302. Provisional Voting and Voting Information**

The critical role of provisional voting in election reform was underscored by a college newspaper in Ohio several years ago that reported only 5.4 percent of registered students at Ohio University actually voted during one election cycle in the late 1990s.<sup>3</sup>

Provisional voting makes it possible for many more of those students to engage and participate in the elections process. Provisional voting is a way to ensure every eligible voter who shows up at the polls on Election Day can cast a ballot.

*For purposes of our State Plan, suffice that Ohio and the Secretary of State, as a matter of public policy, embraces the concept that every effort should be made at every board of elections in the state to accommodate every voter who, for whatever reason, does not appear on the certified list of registered voters in any jurisdiction of the state.*

The National Voter Registration Act, or so-called “motor voter” law, protects those who changed their residence, but what about those who, for example, were incorrectly purged from the voter registration list?

Ohio is sensitive to this issue and the Secretary of State is committed to making sure every voter and every vote counts. The Secretary understands that no matter what reforms are enacted, human error will always be a factor in voter registration. No voter should be disenfranchised just because someone made a mistake, or the paperwork on a change of address was overlooked, misplaced,

incorrectly recorded or just didn’t get entered into the database in time to be reflected on the voter rolls.

Ohio’s system of provisional voting has been successful and voters who otherwise might have been denied a ballot were given an opportunity in recent elections to cast a provisional ballot, and for local boards of elections to determine if those ballots were valid. We have guidelines and procedures in place to address provisional voting in Ohio

<sup>3</sup> The (Ohio University) Post, *Voters still have time*, Oct. 11, 2001.

and we will continue to refine and expand the scope of provisional voting in the state to comply with the spirit, intent and letter of the law in the Help America Vote Act.

The Act requires provisional voting as a condition for receiving federal funding for election reform and Ohio is poised to meet all such requirements. We anticipate the Federal Election Commission will continue to explore this issue and we will make adjustments to provisional voting regulations in the state as those guidelines and adjustments are released.

The Secretary of State also will review, prior to each election, procedures for the handling and processing of provisional votes to ensure full compliance with state and federal guidelines. To provide fullest utilization of the provisional voting mechanism, every local board of elections will be required to adopt provisional voting policies that are weighted more toward inclusion in the voting process than challenges and exclusion in the ballot process.

For purposes of our State Plan, suffice that Ohio and the Secretary of State, as a matter of public policy, embraces the concept that every effort should be made at every board of elections in the state to accommodate every voter who, for whatever reason, does not appear on the certified list of registered voters in any jurisdiction of the state. Provisional voting is a valuable fail-safe mechanism that is an essential component of election reform in Ohio.

Further, we believe those who cast a provisional ballot should have access to mechanisms and procedures that tell them whether their ballot was counted. Toward that end, our budget presumes establishment of a toll-free hotline that will enable provisional voters, after the election, to learn whether their ballot was counted and to receive an explanation about why it wasn't counted if, indeed, a determination was made that it was not a valid vote. We have allocated \$250,000 in our State Plan budget to create and maintain such a hotline and encourage local boards to prominently display information by whatever means to advise provisional voters of this follow-up option.

Additionally, information will be available at every precinct and voting location to explain provisional voting procedures and who may cast a provisional vote. Such information should also be readily available on the Secretary of State's website and all county election board websites, where such sites exist.

As part of the National Voter Registration Act, Ohio has endeavored to forge a partnership with other state public agencies in voter registration and it is logical to extend an invitation to these agencies to also educate, advise and alert prospective voters about their provisional voting options in these venues.

Ohio also would expect to partner with the state's media in making voters aware of the provisional option. We contemplate deployment of a series of public service commercials on local television stations in the days preceding elections advising voters of their options for casting a provisional vote. We think a compelling argument can be made to broadcast outlets around the state that full citizen participation in the election process is public service of the highest order.

## **XII. §303. Statewide Voter Registration and Registration by Mail**

Maintaining a viable voter registration list is an essential ingredient in conducting fair and participatory voting processes. Centralizing registration in a single statewide database is a sensible change that ensures uniformity, consistency and reliability. To accomplish this task, the Secretary of State will seek one vendor to develop a registration system that must meet the needs of voters and elections officials alike.

The system must be sufficiently functional that all eligible voters can register to vote with ease and simplicity. The system must accommodate both written (mail-in registration and in-person registration) and electronic means for voters to initiate the registration process. Registration sites, locations and opportunities must be varied and plentiful.

It is not sufficient that voters would be required to register only at boards of elections or obtain registration materials only at governmental venues. The successful vendor must anticipate a variety of locations and opportunities for citizens to register in both public and private settings. The system must contemplate a solution for converting current voter registration data now housed in local boards of elections and transferring that data to the centralized database in the Secretary of State's office.

The statewide voter registration system must meet technical demands that will readily allow local boards of elections to seamlessly and effortlessly interface with the state database in a way that assures instant access to all qualified registered voters in their jurisdiction and the state. The system must include sufficient data that provides local election officials with the means to segregate voters by political and geographic

***The statewide voter registration system must meet technical demands that will readily allow local boards of elections to seamlessly and effortlessly interface with the state database in a way that assures instant access to all qualified registered voters in their jurisdiction and the state.***

boundaries to the extent these officials can create and develop voter lists by precinct and voting location.

The system must include features that permit local elections officials to track the voting history of registered voters, identify those no longer legally registered, and readily accommodate change of address or voting status.

And, finally, the system must anticipate that these records are public records and must be maintained in a way that conforms to state public records law and all

other applicable state and federal laws that pertain to voter registration currently in effect.

Our budget presumes a \$5 million to \$10 million allocation for creation and development of a statewide voter registration system.

Closely akin to the registration issue are voter identification requirements. It was the consensus of both witnesses who testified before the State Plan Committee and the committee itself that the Secretary of State should establish policies that expand rather than restrict the types of instruments used by voters as a means of identification. We believe this is in keeping with the spirit and intent of the Help America Vote Act.

As no voter should be denied an opportunity to cast a provisional ballot in those circumstances where their name might not appear on the voter rolls, neither should a voter be denied an opportunity to vote because of arbitrary and restrictive identification requirements. While it is logical the Secretary of State should work in coordination with agencies such as the Ohio Bureau of Motor Vehicles to validate the identity of new voters, such identification requirements must, by definition, extend beyond identification devices such as a valid state drivers' license.

As several Ohioans with disabilities testified, many people with disabilities do not have a drivers' license. It is the intention of the Secretary of State to extend identification requirements to include any reasonable means of identification such as utility bills, rent receipts or any legal or quasi-legal instrument that bears the name and address of the prospective voter.

The policy of the Secretary of State is that voter challenges on the basis of identification should be judged on a liberal construction of voter ID rather than a restrictive construction that would deny the voter an opportunity to cast a ballot.

Based on testimony provided by Mr. Perry of the Columbus Urban League, the Secretary of State also would like to more closely examine the issue of restoring voter rights to persons released from incarceration in the state's Department of Rehabilitation and Corrections. There is a widespread perception that these persons, as a result of felony convictions, have forever forfeited their right to participate in the election process. Such is not the case.

Persons who have had their voting rights taken away because of a felony conviction are subject to re-enfranchisement as legal voters to restore their right to vote. As these persons have presumably paid their debt to society as a result of their incarceration, full integration back into society as fully functioning citizens should also presume their eventual re-engagement and participation in the election process.

For these persons, identification also is an issue because drivers' licenses might have expired during their period of incarceration. At minimum, the Secretary of State pledges to educate election officials and poll workers about the rights and processes available to these individuals.

*The complaint and grievance procedures developed by the Secretary of State are constructed toward development of a non-adversarial complaint process where the desired outcome is a solution or remedy of the problem, rather than a highly evidentiary process.*

### **XIII. §402. Administrative Complaint Procedures and Grievances**

To fully facilitate implementation of the Help America Vote Act of 2002, Ohio will establish an administrative complaint procedure to address allegations by any citizen who believes their voting rights have been violated under Title III of the Act.

The complaint and grievance procedures developed by the Secretary of State are constructed toward development of a non-adversarial complaint process where the desired outcome is a

solution or remedy of the problem, rather than a highly evidentiary process.

The process adopted by the Secretary of State includes an alternative dispute resolution component that invites parties to seek equitable resolution in that venue as well as through a formal hearing process. When a valid complaint or grievance is filed as part of this process, it is ultimately the state, and more specifically the Secretary of State, that must provide the appropriate remedy.

We attach, as an addendum to this report, the full text of the proposed procedure. Following, in summary, are the relevant elements of the complaint procedure:

- Any Ohio citizen who believes there is a violation of any provision of Title III of the Help America Vote Act may file a complaint.
- All complaints must be in writing, signed, notarized and be sworn under oath.
- The complainant must be identified by name and mailing address, and the complaint must include a description of the violation alleged to have occurred.
- The complaint must be filed with the Secretary of State along with proof of delivery of a copy of the complaint to each respondent.
- In addition to failure to include any of the foregoing, the Secretary of State may reject the complaint if more than 90 days have lapsed since the final certification of the federal election at issue.
- The Secretary of State must establish procedures and schedules addressing when the complaint will be heard and considered.
- The Secretary of State or designated hearing officer must compile and maintain an official record of any proceeding and include submissions and evidence provided.
- Complaints must be heard and determined by the Secretary of State or designated hearing officer, who is required to prepare a report expressing an opinion about whether a violation did occur within 20 days of the filing of such a complaint.
- Any hearings conducted pursuant to the filing of a complaint must be tape recorded.
- Dates, times and locations of hearings must be established and all parties must be given at least five days notice of such hearings.
- All relevant parties, including the complainant and all respondents may appear at the hearing, testify and present evidence. There is no requirement that any

complainant, respondent or any other party to the proceeding be represented by an attorney.

- The Secretary of State or a designated hearing officer is required to prepare a transcript of the tape recorded hearing and that transcript is a public record under Ohio's public records law.
- A final decision must be rendered within 60 days after the complaint is filed.
- If a violation is determined to have occurred, a determination must be issued specifying the appropriate remedy. If a violation is deemed not to have occurred, the complaint must be dismissed.
- The remedy may not include any award of monetary damages, costs or attorney fees, and may not include the invalidation of any election or a determination of the validity of any ballot or vote.
- The decision under this process is final and is not subject to judicial review.
- The complaint and grievance procedure does not preclude any other legal action provided by law.

#### **XIV. Ongoing Performance Measurement**

*Each year, boards of election throughout Ohio prepare annual budgets anticipating costs and expenses for conducting elections. We recommend that while each board is preparing their budgets that they also take time to review the improvements they have made in their elections operations during the past year and report their progress in meeting election reform objectives under the Help America Vote Act.*

As Ohio anticipates successful implementation of reforms and modernization of its election systems and processes to accomplish its objectives under the Help America Vote Act of 2002, we believe performance measurement is an essential and ongoing requirement to ensure a fair and inclusive election system.

Each year, boards of elections throughout Ohio prepare annual budgets anticipating costs and expenses for conducting elections. We recommend that while each board is preparing their budgets that they also take time to review the improvements they have made in their election operations during the past year and report their progress in meeting election reform objectives under the Help America Vote Act.

The Secretary of State will compile these annual reports and submit a summary of initiatives, improvements and progress to the Election Assistance Commission. We think this is a way for

all election officials in Ohio to remain vigilant of our obligation to continue measuring our performance in making the election process fair and accessible to all Ohioans.

As stated earlier in this report, we view this opportunity to reform Ohio's election system not as an end process, but as the beginning of a renewed effort to fully engage our citizens in their most vital civic responsibility in a democratic process. Election reform, after all, is a futile exercise unless citizens view themselves as stakeholders in their local community, their state and the nation.

Our guiding principle in developing this state plan is that voters should willingly and enthusiastically participate in the electoral process, free of obstacles that might inhibit them from participating. To accomplish that, we, as election officials, are obligated to provide them with the best and most modern tools available so they can exercise their right to vote with assurance that every vote and every voter counts and will be counted on Election Day.

No legal voter should be taken for granted and no legal vote should be discounted or, worse, not counted. Every vote cast, every ballot submitted must be treated as if our very system of government and our way of life depends on it, simply because it does. No greater is the obligation of every eligible voter to be an active, knowledgeable and willing participant in the election process, and no greater responsibility as election officials do we have than to ensure those voices are heard and those votes are counted.

## **XV. Requirements Payments: Maintenance of Effort**

As a condition for receiving Requirements payments under the Help America Vote Act, states must maintain expenditures for funded activities "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."

Attached to the State Plan are budget materials that document state spending on election and election administration through the Secretary of State's office for Fiscal Year 2000 (July 1, 1999 – June 30, 2000.)

The total amount of \$2,739,159.04 million does not include reimbursements to county boards of elections for advertising costs related to state issue ballot advertising. The total budget request of the Secretary of State's office for FY 2004 and FY 2005 are sufficient to fund continued investment in elections at this annual level.

Additionally, the Secretary of State shall include a HAVA-compliance and funding report as part of future biennial budget requests of the Ohio Legislature to certify HAVA-compliant funding and continue Ohio's maintenance of effort.

## **XVI. Estimated Timelines for Implementation of the State Plan**

Following are key dates and the proposed timetable for implementation of our State Plan:

- **March 18, 2003:** State Plan Advisory Committee named, public input process defined.
- **April 3-4, 2003:** State Plan Advisory Committee conducts public hearings.
- **April 9, 2003:** RFP released for statewide voter registration system.
- **April 17, 2003:** State Plan Advisory Committee reconvenes to review draft State Plan.
- **May 7, 2003:** Competitive bids due for voter registration system.
- **May 13, 2003:** State Plan finalized and published for 30-day review.
- **May 16, 2003:** RFP released for voting system vendors.
- **June 2, 2003:** Secretary of State awards bids for voter registration system.
- **June 16, 2003:** State Plan submitted to federal Elections Assistance Commission for publication in the Federal Register. Competitive bids due for election system.
- **Aug. 1, 2003:** Secretary of State awards bids for election systems. County boards of elections notified of eligible system vendors.
- **Sept. 2, 2003:** County boards of elections must notify Secretary of State which vendor they have chosen for election system improvements.
- **Dec. 1, 2003:** Statewide voter registration system installed and fully operational.
- **Feb. 1, 2004:** Replacement of punch-card and lever-machine complete.
- **March 2, 2004:** Primary Election. (Ohio General Assembly considering change of Primary to May, 2004.)
- **Nov. 2, 2004:** General Election

## **XVII. Plan Submission Presumes Full Federal Funding**

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

Ohio reserves the right to seek waivers stipulated in the Help America Vote Act that allow us to delay implementation of this plan if federal funding is not forthcoming in a timely manner that will enable us to accomplish the objectives outlined in this report to the Election Assistance Commission.

Proceeding without a guarantee of federal funds would create a financial burden for the State of Ohio and its 88 county jurisdictions. While Ohio is anxious to meet and exceed the standards of the Help America Vote Act, implementation is not possible without the federal guarantees that accompany the Act.

The preponderance of unacceptable voting devices in the state underscore the necessity for reform, but it shows the very real and special challenges Ohio faces in fully

complying with the Act and the funding that will be required to reconstruct and reconfigure the voting and election systems in the state.

Our pledge is to implement reforms, as outlined in this State Plan, as federal funds become available.

## **XVIII. The State Plan Committee: HAVA and Beyond**

We reserve this section of the report to capture the comments and thoughts of our State Plan Committee. While many of the committee's recommendations and much of their input is reflected in preceding sections of the report, it was clear this panel of distinguished Ohioans went beyond merely thinking about minimum requirements of the Help America Vote Act and insisted on expanding their mission to address issues that will produce broad and meaningful election reform in our state.

That kind of visionary thinking is precisely what the Secretary of State had in mind when he impaneled the State Plan Committee.

If there was a universal theme that resonated from the committee's deliberations, it was consensus that Ohio must aggressively engage the next generation of voters and make young people in our state understand their role as stakeholders in the democratic process. It is insufficient, the panel said, to merely invite high school and college students into the election process. Ohio, the State Plan Committee said, must be proactive in educating young people about the election process and instill a deeper commitment to

engendering student participation in the election process.

Linda Carr, Daisy Duncan Foster and Pastor Aaron Wheeler were particularly passionate in their remarks about this issue and said Ohio should be creative in developing new programs and initiatives to bring young voters into the process. The Committee urged the Secretary of State to aggressively seek available funds under Title V and Title VI funding of the Help America Vote Act to accomplish this critical task.

Additionally, some committee members recommended working with the Ohio Department of Education and the Ohio Board of Regents to explore ways to better educate and encourage political participation by high school and college students. Pastor Wheeler suggested

*State Rep. Nancy Hollister noted that this report should underscore for Ohioans that implementation of the Help America Vote Act in Ohio signals a "change in the governance of the election system" in the state. HAVA, she said, places more responsibility on the Secretary of State to assure a fair, equitable and inclusive election process in Ohio.*

Ohio public schools should ponder curriculum requirements that focus exclusively on voting and election processes.

State Rep. Nancy Hollister noted that this report should underscore for Ohioans that implementation of the Help America Vote Act in Ohio signals a "change in the governance of the election system" in the state. HAVA, she said, places more

responsibility on the Secretary of State to assure a fair, equitable and inclusive election process in Ohio. “We need to acknowledge that,” she said.

But Rep. Hollister and other committee members said that shift in governance does not minimize the necessary independence, ongoing role or responsibility of counties to execute election policies within the new governing framework created by the Help America Vote Act.

Committee member Jeff Matthews said county boards of elections must be independent to effectively achieve the objectives of the Help America Vote Act, and Ms. Duncan Foster said boards of elections must feel “some ownership of the process.” In that context, it was the consensus of the State Plan Committee that full compliance with the Help America Vote Act requires critical coordination and a strong working relationship between the Secretary of State’s office and local boards of elections.

Election officials Guy Reece and Tom Coyne, along with Mr. Matthews, agreed that innovation doesn’t end with the Help America Vote Act. They said Ohio must constantly be looking for new methods, new procedures and new ideas to keep the election process viable and invite more Ohioans to exercise their right to vote.

*Ms. Alvarado noted the projected growth of Hispanic populations both nationally and in the State of Ohio. Several committee members agreed that rather than addressing this issue later and incurring cost for conforming equipment, the RFP should anticipate the language requirement and it should be purchased now while federal funds are available to help Ohio make the transition to new voting equipment.*

Mr. Reece invited future exploration of election innovations being tested in other states such as open voting, early voting, ballot on demand and expanded availability and use of absentee ballots. Catherine Turcer asked that the Secretary of State consider the flexibility of voting devices that would allow for concepts such as instant runoff voting and proportional representation.

Ms. Turcer also recommended the Secretary of State ensure that the RFP for new voting equipment carefully consider the necessity for strong auditing capability that would provide a spot-check feature for pre-testing. Ms. Turcer and Donna Alvarado said alternative language capability also should be included in the RFP in anticipation of changing future demographics in the state.

Ms. Alvarado noted the projected growth of Hispanic populations both nationally and in the State of Ohio. Several committee members agreed that rather than addressing this issue later and incurring cost for conforming equipment, the RFP should anticipate the language requirement and it should be purchased now while federal funds are available to help Ohio make the transition to new voting equipment.

She said language requirements also need to be considered in education products produced by vendors and election officials in how to use the new voting equipment, as well as in training of poll workers and election officials. She said alternative language issues need to be considered in creation and execution of the grievance process and procedures.

She suggested the Secretary of State consider alternative language policies that exceed the 5 percent threshold.

While preceding sections of the report address monitoring procedures for implementation of the Help America Vote Act in Ohio, Ms. Alvarado said compliance monitoring should be “futuristic” and focus on outcomes. While measuring accomplishments, she said the state and local jurisdictions also should be forward looking and report, for example, where the state expects to be in the next five years and beyond.

She said monitoring and compliance should address issues such as where Ohio wants to be as a state, how we achieve those objectives, who is responsible for implementing these plans, what the funding sources will be for implementation and what will be different when changes, modifications or new procedures are implemented in the election process.

Rep. Hollister agreed there needs to be periodic evaluation of Ohio’s progress in meeting voting and election reforms. She suggested a need to pause from time to time to reflect on what has been accomplished, what future reforms need to be considered, and what revenues are available to achieve those objectives.

***Mr. Long acknowledged that there might be offsetting costs and efficiencies that could be realized from conversion to electronic voting systems, but he stressed the necessity for full funding of the plan and timely allocation of federal payments to the state to avoid financial burdens on counties already adversely affected by the economy and cuts imposed by the State Legislature.***

A primary focus in the deliberation of the State Plan Committee was how Ohio could best address disability issues related to implementation of the Help America Vote Act. Eric Duffy said the issue of physical barriers is a real and pressing issue that calls for creative solutions in Ohio. He emphasized that Ohio must consider not only what takes place inside the voting place, but what physical barriers exist that hinder access outside the building.

Pastor Wheeler, chairman of the Ohio Civil Rights Commission, offered the assistance of that agency in working with the Secretary of State in exploring solutions to that issue.

As expected, much of the panel’s deliberation was focused on funding and whether the federal allocation to Ohio was adequate to effect the wholesale change in voting systems in the state. A key voice in that discussion was Larry Long, executive director of the County Commissioners Association of Ohio.

Mr. Long noted that there is concern among county commissioners about whether the federal funding anticipated for implementation of the Help America Vote Act is sufficient to purchase the voting equipment needed to make Ohio HAVA compliant. But

a comparable concern, he said, is consideration of future maintenance and replacement costs, as well as related cost issues such as storage requirements for the new equipment.

He acknowledged that there might be offsetting costs and efficiencies that could be realized from conversion to electronic voting systems, but he stressed the necessity for full funding of the plan and timely allocation of federal payments to the state to avoid financial burdens on counties already adversely affected by the economy and cuts imposed by the State Legislature.

Rep. Hollister also discussed the funding issue, suggesting the state, at some future date, might consider bonding options to assist in paying for ongoing costs associated with implementation of the Act, as well as making funds available for voter education, system upgrades and youth participation in the election process.

Further, she said that although there appears to be no immediate need for sweeping changes in state election laws, the state should constantly evaluate that need and enact legislative change as required.

Mr. Coyne emphasized the need for the Secretary of State and local boards of elections to fashion voter system reforms in a way that keeps the process from becoming “vendor-driven.” He said county boards need time to assess and evaluate the unique demands in each jurisdiction and recommended the Secretary of State consider meeting the disability requirements of HAVA in time for the 2004 election, but proceed more deliberately on installment of new voting equipment.

## **XIX. Summary of the State Plan**

Section 254 of the Help America Vote Act of 2002 lists the required components of the State Plan and this document fulfills those requirements.

This report demonstrates that Ohio, because of its widespread use of punch-card voting, is perhaps challenged more than other states to reform its election methods and modernize its voting systems. The size of the state, ranking seventh among the 50 states in total population, and the mix of rural and urban population makes the transition even more challenging.

*Ohio, the Secretary of State believes, must be a full participant in the election process and every eligible voter must be afforded the opportunity to be counted as we ponder the critical decisions affecting our local communities, state and nation.*

Recognizing the enormity of the task confronting Ohio, some members of the State Plan Committee and witnesses who testified before the committee counseled the Secretary of State to invoke waivers that would allow the state to delay its full implementation of the plan until the 2006 election cycle.

The Secretary of State, however, believes Ohio cannot afford to delay its implementation of the plan because every election cycle that passes is another election where voters are potentially disenfranchised

and Ohio votes are lost or miscounted. Ohio, the Secretary of State believes, must be a full participant in the election process and every eligible voter must be afforded the

opportunity to be counted as we ponder the critical decisions affecting our local communities, state and nation.

As election officials, if we know voters are disenfranchised and that legitimately cast ballots are being discounted, we have not only a moral obligation to immediately embrace a solution, but a legal obligation to find a remedy and enact measures to prevent that from happening. If even one voter is denied the right to vote, we are obligated, by law, to determine the cause and forge a solution. The evidence is overwhelming that thousands of Ohio voters have been disenfranchised by antiquated voting equipment and that many thousands more have lost confidence in the reliability and accuracy of voting devices currently in use in most of Ohio's 88 counties.

The Secretary of State has confidence in the election professionals who conduct and administer elections in the State of Ohio, and believes Ohio has the capability to enact reforms that have already taken place in other states.

We are emboldened in our decision to press forward with implementation of this plan based on the experience of Knox and Lake counties in executing successful elections after implementing new systems only weeks before the General Election. The Knox County Board of Elections, which has only four employees, received delivery of new electronic voting devices in October, 1996, a presidential election year, and deployed them in the November General Election.

Lake County issued a request for proposal in April 1999, awarded bids in July of that year, took delivery of a new voting system the following September, and conducted a successful election weeks later in the November General Election.

Under the timetable established in this plan, new voting systems would be installed and operational in time for the Primary Election in 2004, providing local boards of elections with an opportunity to test the new systems before fully engaging them in the 2004 presidential election cycle.

However, we refer to the preceding section of this plan. Full implementation of this plan presumes full funding by the federal government. If the Secretary of State determines that federal funding for implementation of this plan is not forthcoming from the federal government in a timely manner, we will notify the Elections Assistance Commission of our intent to revise this plan and adjust the timetable for implementation.

Boards of Elections should be assured that the Secretary of State will focus all of its available personnel and resources to assist counties in enacting these reforms and meeting the requirements of the Help America Vote Act.

Boards should also be assured the Secretary of State will work with county officials and elections administrators to ensure available resources are distributed as quickly as possible and that cost containment efforts will be undertaken to minimize implementation costs to counties. Based on our analysis, which was reinforced in the testimony of Doug Lewis of The Election Center, we believe conversion of the state's punch-card voting system to direct recording electronic (DRE) voting devices will generate certain cost efficiencies we believe will minimize cost and expenses to counties, or at least offset some of the implementation costs.

We include in this definition of electronic voting devices the option for some counties to choose optical scanning devices that are HAVA compliant. In counties which have invested in this equipment and prefer these optional voting devices, the Secretary of State will consider deployment of this equipment as acceptable if certain modifications are made to ensure compliance with statewide voting standards. These counties, however, would be required to feature at voting locations electronic voting equipment that accommodates the needs of people with disabilities.

*Based on our analysis, which was reinforced in the testimony of Doug Lewis of The Election Center, we believe conversion of the state's punch-card voting system to direct recording electronic (DRE) voting devices will generate certain cost efficiencies we believe will minimize cost and expenses to counties, or at least offset some of the implementation costs.*

We presume the transition to electronic voting equipment will, at minimum, reduce printing costs in most counties. We believe there are further savings and efficiencies that will be derived from electronic voting that will reduce personnel and labor costs.

The DRE option also will introduce added efficiencies in the election process that will eliminate issues related to “over-votes,” recounts and ensuring full voter participation by persons with disabilities. We also believe an electronic-based voting system will enhance training and education

across the spectrum for election officials, voters and poll workers if the system is sufficiently user-friendly.

Based on the foregoing, following is a summary of the State Plan for Ohio based on the requirements delineated in Section 254 of Public Law 107-252:

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

Ohio will implement new voting systems and procedures that meet the general requirements of Title III ensuring the systems have audit capacity, disability access, and alternative language accessibility, where applicable, and that the systems meet error rate thresholds established by the Federal Elections Commission.

**(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).**

Ohio anticipates federal funding and state matching funds will be about \$161 million. The Secretary of State will allocate about \$136 million of that amount for installation of new voting equipment and upgrades of existing voting equipment in Ohio counties, and use the remaining portion to implement statewide voter registration and establish a provisional voting hotline. Disbursements in the amount of \$5 million will be

available to Ohio's 88 counties for election official and poll worker training. Additionally, the Secretary of State will make \$5 million to \$10 million available for administration of a statewide voter education program. The Secretary of State will draft guidelines and reporting requirements to monitor distribution of these funds and to ensure county compliance with the Help America Vote Act of 2002.

**(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.**

See response to No. 2. Additionally, the Secretary of State, in establishing an authorized vendor list for deployment of new voting equipment, will require vendors to include, as part of their bid proposal, fund allocation that includes voter education, election official education and training, and poll worker training. The Secretary of State also will implement new programs and procedures to supplement these vendor requirements and efforts at the county level to address these issues.

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

See preceding responses. Ohio will replace punch-card voting in the State and require deployment and installation of electronic-based voting devices that meet the requirements of the Act. The request for proposal for new voting equipment will be crafted to presume required features and safeguards that ensure a uniform voting standard and compliance in all Ohio counties with specific requirements of the Act.

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

Such a fund has already been established by the Secretary of State and will be monitored by both the Secretary of State and the Auditor of State, as Ohio law applies to state auditing requirements and reporting procedures. Fund management procedures include quarterly reports to the Election Assistance Commission to detail receipt and expenditure of funds, and how those funds were used to meet the objectives of the Act.

**(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.**

See response to No. 2 and the fund distribution table on page 23 of the State Plan. The Secretary of State believes full implementation of the plan will require all available federal funding and state matching funds to meet the requirements of the Act.

**(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.**

*(See Section XV. Requirements Payments: Maintenance of Effort.)* Attached to this State Plan are budget materials that show the level of spending for election services by the Secretary of State in FY 2000 and projected levels of spending for FY 2004-05. The Secretary certifies that no federal funds for Requirements payments earmarked for voter reforms and system modernization will be used to supplement the state budget for operation and administration of the office.

**(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 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 Secretary of State assumes full responsibility for ensuring compliance with the Act. Specific timetables are included in this plan which requires all punch-card and lever machine counties to install and deploy new voting equipment that meets the uniform standards of the Act by Feb. 1, 2004. All other counties will be compliant with the Act by Jan. 1, 2006. The plan calls for a statewide voter registration system to be in place and fully operational by Dec. 1, 2003. See Section XIV for ongoing performance measurement. Additionally, the Secretary of State will ensure compliance of all county boards by Sept. 1, 2003 by assigning a vendor to any county which has failed to select a vendor for election system improvements.

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

See attached procedure and refer to Section XIII of the State Plan, Administrative Complaint Procedures and Grievances.

**(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.**

See response to No. 2. Ohio will use funds from Title I for antiquated systems buyout and to improve election administration activities and procedures. See the fund distribution table on page 23 of the State Plan and allocation and distribution formula described on page 24.

**(11) How the State will conduct ongoing management of the plan.**

See Section XIV, Ongoing Performance Measurement. Throughout this State Plan is a description of the management practices and procedures outlined by the Secretary of State to ensure compliance with the Act. Any material change in this plan will result in a resubmission of the Plan in accordance with Sections 255 and 256 of the Act.

**(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 how the State succeeded in carrying out the State Plan for such previous fiscal year.**

This State Plan represents Ohio's initial submission of a State Plan to the Elections Assistance Commission.

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

See page 3, The State Plan Committee, and Section VI, How Ohio Developed its State Plan.

**This State Plan respectfully submitted to the Elections Assistance Commission, in accordance with U.S. Public Law 107-252, this 16<sup>th</sup> day of June, 2003.**



**J. KENNETH BLACKWELL**  
Secretary of State  
The State of Ohio