



September 11, 2023

HELP AMERICA VOTE ACT STATE EXPENDITURES

Overview

The federal Help America Vote Act (HAVA) was enacted in 2002 (Public Law 107-252) to make changes to the nation’s voting process. HAVA addresses improvements to voting systems and voter access identified as needed following the 2000 election.

HAVA requires the Election Assistance Commission (EAC) to test and certify voting equipment, maintain the National Mail Voter Registration form, and administer a national information clearinghouse on elections that includes shared practices, information for voters, and other resources to improve elections. Several different types of HAVA grants are awarded to states, including grants to improve the administration of elections and grants to enhance the cybersecurity of elections. Kansas has received different types of HAVA grant funds for different purposes.

Kansas HAVA Grant Funding and Expenditures

As described below, the State of Kansas has been awarded HAVA moneys through four main provisions of federal law:

Kansas HAVA Grant Funds and Expenditures through Federal Fiscal Year (FFY) 2022*					
	<u>Award</u>	<u>Total State Match Requirement</u>	<u>Interest Earned**</u>	<u>Expenditures</u>	<u>Balance***</u>
Section 101	\$ 5,000,000	\$ --	\$ 1,439,950	\$ (4,040,484)	\$ 2,399,466
Section 251	24,033,425	4,525,182	2,244,585	(30,126,168)	677,024
Election Security	10,308,516	1,422,921	133,892	(4,098,666)	7,766,663
HAVA CARES Act	4,622,500	924,500	3,948	(5,401,503)	149,445
Totals	\$ 43,964,441	\$ 6,872,603	\$ 3,822,375	\$ (43,666,821)	\$ 10,992,598

*Data included in this table is sourced from EAC FFY 2022 annual reports submitted by the Office of the Secretary of State. This data is cumulative through FFY 2022 (October 1, 2021 - September 30, 2022). It does not reflect state fiscal year (FY) 2023 funding or expenditure levels, nor does it reflect subsequent federal or state fiscal year funding or expenditure levels. The State of Kansas FY 2022 encompasses July 1, 2021, through June 30, 2022.

** Interest earned is calculated by adding the cumulative federal interest earned (the total amount of interest earned on the federal grant fund award) and the annual state interest earned (the amount of interest earned during the federal fiscal year on the State’s matching fund).

*** The balance earned is calculated by subtracting the amount of expenditures from the sum of the amount of the federal grant award, the total amount of the State’s matching fund requirement, the cumulative amount of federal interest earned, and the annual amount of state interest earned.

Pursuant to HAVA, interest must be earned on all matching funds and federal funds associated with HAVA. In 2008, the Kansas Office of the Secretary of State (Secretary of State) was notified by the EAC that it was in violation because State General Fund (SGF) matching funds were not receiving interest. The agency corrected this in collaboration with the Kansas Legislative Research Department, Division of the Budget, and Division of Accounts and Reports by creating the Democracy Fund. The existing SGF appropriation was transferred to the Democracy Fund and new matching funds are also deposited into this account.

HAVA Section 101, Payments to States for Activities to Improve Administration of Elections

In 2003, the EAC distributed \$349.2 million to states under Section 101 of HAVA to improve the administration of federal elections. Section 101 funds are the most flexible funds available to states through HAVA. There are eight specific authorized use categories for Section 101 grant funds:

- Complying with requirements of Title III of HAVA, Uniform and Nondiscriminatory Election Technology and Administration Requirements;
- Improving the administration of elections for federal office;
- Educating voters concerning voting procedures, voting rights, and voting technology;
- Training election officials, poll workers, and election volunteers;
- Developing a statewide plan for improving the administration of federal elections in Kansas;
- Improving, acquiring, leasing, modifying, or replacing voting systems and technology;
- Improving the accessibility and quantity of polling places; and
- Establishing toll-free hotlines for voters to use to obtain voting information.

The Secretary of State received \$5.0 million in Section 101 HAVA grant funds in federal fiscal year (FFY) 2003. These funds did not have a required state match and were allowed to be used broadly for improvements in election administration. Since FFY 2003, HAVA Section 101 funds have earned \$1.4 million in interest. As of the end of FFY 2022, the State of Kansas, through the Secretary of State, had expended \$4.0 million of Section 101 grant funds in four areas:

- Implementation of a new statewide central voter registration system;
- Administrative expenses for development of the state plan and the central voter registration system request for proposal;

- Education programs; and
- Meeting certain requirements of Title III, including providing a way for a voter of a provisional ballot to determine whether the ballot was counted, without charge to the voter; polling place postings; and voter registration forms.

The Secretary of State intends to continue to utilize funds for these purposes as well as maintain all options provided within the law for expenditures.

HAVA Section 251, Requirements Payments

Section 251 funds, known as Requirements Payments, were distributed to states using a formula required under HAVA based on a proportion: the voting age population of each state compared to the total voting age population of all states. States are required to deposit Section 251 funds in an interest-bearing state election account and the funds are available until expended. In order to expend federal Section 251 funds, HAVA requires states to use state funds to meet a previously established annual maintenance of expenditure (MOE) (formerly known as maintenance of effort) baseline spending level. Each state is required to meet its MOE baseline spending level in every year that a state utilizes federal Section 251 funds. These funds may be used to:

- Procure voting systems that comply with the requirements of HAVA Title III, Section 301, Voting System Standards;
- Implement provisional voting (*i.e.*, allowing a voter whose registration status cannot be confirmed at the polling place to cast a provisional ballot);
- Provide information to voters at the polling place such as general information on voting rights;
- Develop and implement a computerized statewide voter registration list; and
- Implement identification requirements for first-time voters who register to vote by mail.

Section 251 HAVA grant funds were last appropriated in 2011 and those funds were primarily utilized to pay for the statewide central voter registration system and voting equipment that complied with HAVA requirements. The State of Kansas, through the Secretary of State, has expended a cumulative amount of \$30.1 million in Section 251 funds. [*Note:* Included in this amount is the State's share of expenditures, which totals \$4.3 million.] In FFY 2022, the State of Kansas expended \$627,418 on voter registration systems, cyber and physical security, and voter registration database training. Since FFY 2004, Section 251 funds have earned \$2.3 million in interest. Remaining funds are for ongoing efforts to maintain the statewide central voter system and voting equipment.

HAVA Election Security Funds

In March 2018, the U.S. Congress provided an additional \$380.0 million through the Consolidated Appropriations Act of 2018 (Public Law 115-141) to improve the administration of

elections for federal office by means including technology enhancements and election security improvements. Congress appropriated additional election security funds to states in FFY 2020, FFY 2022, and FFY 2023. The Consolidated Appropriations Act of 2018 required states to provide a 5.0 percent match for election security funds received from the federal government. The three most recent acts of appropriations related to election security have required states to provide a 20.0 percent match for election security funds received. To access the election security federal funds, states have been required to provide a program narrative and a budget that details how they would use the funds. The EAC requested funding be used in five main categories:

- Voting equipment;
- Post-election auditing;
- Voter registration systems;
- Cybersecurity; and
- Communication.

All 50 states received Election Security funds. The State of Kansas, through the Secretary of State, has been awarded a cumulative amount of \$10.3 million in Election Security funds, and those funds have earned \$133,892 in interest. From FFY 2020 through 2021, the State of Kansas expended just under \$3.7 million on cybersecurity projects related to elections. In FFY 2022, the State of Kansas expended \$391,481 to continue to enhance the monitoring of cyber threats against local election offices and to improve incident response plans in the event a cyber incident were to occur. The Secretary of State will continue to utilize funds from the Election Security Grant Program to improve the administration of elections.

HAVA Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Funds

In March 2020, the President signed the CARES Act into law. The CARES Act included \$400.0 million in HAVA emergency funds, made available to states to prevent, prepare for, and respond to the COVID-19 pandemic in respect to the 2020 federal election cycle. This supplemental appropriation, distributed by the EAC, provided states with additional resources to protect the 2020 federal elections from the effects of the COVID-19 pandemic. Recipient states were required to make a 20.0 percent match available within two years of receiving the federal funds.

The State of Kansas, through the Secretary of State, was awarded \$4.6 million in CARES Act grant funds. The majority of expenditures were utilized in FFY 2020 to communicate with voters regarding changes in the voting process due to the COVID-19 pandemic, and to purchase personal protective equipment (PPE) kits for distribution to counties. PPE kits included sneeze guards, gloves, masks, cleaner, disposable styluses, and hand sanitizer. In addition, each of the 105 county election offices was reimbursed for eligible pandemic-related expenses. These expenses included, but were not limited to, costs related to printing and mailing ballots; purchasing ballot tracking software, high-speed scanners, and letter-opening equipment; and hiring additional staff, including poll workers on Election Day. Although the CARES Act Grant Program required a state match of 20.0 percent, or \$924,500, the Secretary of State received approval from the EAC to utilize in-kind-match contributions to meet this requirement. HAVA

CARES Act funds earned \$3,948 in interest prior to the expiration of the CARES Act Grant Program on March 26, 2022.