

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

STATE OF TEXAS

Plaintiff,

vs.

ERIC H. HOLDER, JR.,

Defendant.

Case No. 1:12-cv-00128
RMC-DST-RLW

TEXAS’S MOTION TO AMEND ITS COMPLAINT

The State of Texas, pursuant to Federal Rule of Civil Procedure 15(a), respectfully seeks leave to amend its complaint seeking preclearance of its newly enacted Voter-ID law.

STATEMENT OF POINTS AND AUTHORITIES

The State of Texas served its complaint on the United States on February 9, 2012. Because this service occurred more than 21 days ago, Texas may amend its complaint only with leave of the court, FED. R. CIV. P. 15(a), which “[t]he court should freely give . . . when justice so requires.” *Id.* at 15(a)(2).

The amended complaint accounts for the Department of Justice’s recent decision to deny administrative preclearance to Texas’s Voter-ID law and includes a facial challenge to the constitutionality of section five of the Voting Rights Act. Allowing this amendment is in the interest of justice

because it will promote the efficient disposition of this lawsuit. In about one month, Texas will be permitted to amend its complaint, as a matter of course, when the United States files its answer on April 9, 2012. *Id.* at 15(a)(1). Texas is prepared to amend now, so requiring the State to wait another 28 days will only result in unnecessary delay. Nor will the United States be prejudiced by the amendment. Indeed, the United States has recently answered a nearly identical challenge to section five in this Court. *See Answer, Shelby County v. Holder*, 1:10-cv-00651-JDB (D.D.C. June 28, 2010) (Doc. # 13).

Respectfully submitted.

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CERTIFICATE OF SERVICE

I certify that on March 12, 2012, I served the following motion and attachments via CM/ECF on the following counsel of record:.

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Plaintiff,

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ERIC H. HOLDER, JR.,
ATTORNEY GENERAL OF THE
UNITED STATES

Defendant.

Case No. 1:12-cv-00128
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**FIRST AMENDED EXPEDITED COMPLAINT
FOR DECLARATORY JUDGMENT**

1. The State of Texas brings this suit under section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c (“section 5”), and under 28 U.S.C. § 1331, and seeks a declaratory judgment that its recently enacted Voter-ID Law, also known as Senate Bill 14, neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color, nor will it deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.

2. In the alternative, the State of Texas seeks a declaration that section 5, as most recently amended and reauthorized by the Voting Rights Act Reauthorization and Amendments Act of 2006, exceeds the enumerated

powers of Congress and conflicts with Article IV of the Constitution and the Tenth Amendment.

I. THE PARTIES

3. The plaintiff is the State of Texas.

4. The defendant, United States Attorney General Eric Holder acting in his official capacity, has his office in the District of Columbia.

II. JURISDICTION AND VENUE

5. The Court has jurisdiction under 28 U.S.C. § 1331 and venue under 42 U.S.C. § 1973c.

III. THREE-JUDGE COURT

6. The State of Texas requests the appointment of a three-judge court under 42 U.S.C. § 1973b and 28 U.S.C. § 2284.

IV. FACTS AND BACKGROUND

7. On May 27, 2011, the Governor of Texas signed into law Senate Bill 14, which requires most voters to present a government-issued photo identification when appearing to vote at the polls. Voters who suffer from a documented disability as determined by the United States Social Security Administration or the Department of Veteran Affairs are exempt from this requirement. *See* SB 14 § 1. (Ex. 1). The Texas Election Code also permits voters over the age of 65, as well as disabled voters, to vote by mail, and those who vote by mail are not required to obtain or present photo identification when voting. *See* TEX. ELEC. CODE §§ 82.002–82.003.

8. Voters who lack a government-issued photo identification may obtain from the Texas Department of Public Safety (DPS) an “election identification certificate,” which is issued free of charge and satisfies the photo-identification requirements of Senate Bill 14. *See* SB 14 § 20.

9. Under Senate Bill 14, voters who fail to bring a government-issued photo identification may still cast a provisional ballot at the polls. Those ballots will be accepted if the voter presents a government-issued photo identification to the voter registrar within six days after the election, or if the voter executes an affidavit stating that the voter has a religious objection to being photographed or that he has lost his photo identification in a natural disaster that occurred within 45 days of the election. *See* SB 14 §§ 17-18.

10. Senate Bill 14 resembles the Indiana Voter-ID Law that the Supreme Court of the United States upheld as constitutional in *Crawford v. Marion County Election Bd.*, 553 U.S. 181 (2008). Indiana’s law was allowed to go into effect upon enactment, because Indiana is not a “covered jurisdiction” under the Voting Rights Act. Other States, such as Wisconsin and Kansas, have enacted photo-identification requirements in 2011 and are permitted to enforce their laws regardless of whether DOJ may object to those laws.

11. Senate Bill 14 also resembles the Voter-ID Law in Georgia that the Department of Justice precleared in 2005.

12. Section 5 prohibits a State subject to section 4(b) of the Voting Rights Act, 42 U.S.C. § 1973b(b), from enforcing “any voting qualification or prerequisite to voting . . . different from that in force and effect on November 1, 1964” unless the State either obtains a declaratory judgment from the United States District Court for the District of Columbia that its election law “neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color,” or because of membership in a language minority group, or else obtains approval for its law from the Attorney General of the United States. *Id.* § 1973c(a).

13. Because Texas is a “covered jurisdiction” under section 5 of the Voting Rights Act, it is not permitted to implement Senate Bill 14 unless the State obtains preclearance from either the Department of Justice or a three-judge panel of this Court. On July 25, 2011, the State of Texas submitted Senate Bill 14 to the Department of Justice for preclearance. Submission Letter, A. McGeehan to T. Herren (July 25, 2011) (Ex. 2).

14. On September 23, 2011, exactly 60 days after Texas had submitted Senate Bill 14 for administrative preclearance, and on the last possible day for DOJ to respond, the Department of Justice sent a letter to the Texas Director of Elections, stating that the information provided in the State’s preclearance submission was “insufficient to enable us to determine that the proposed changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or

membership in a language minority group.” Letter, T. Herren to A. McGeehan (Sept. 23, 2011) (Ex. 3). DOJ’s response to the State requested, among other things, that Texas provide:

“a. The number of registered voters in Texas, by race and Spanish surname within county of residence, who currently possess a Texas driver’s license or other form of photo identification issued by DPS that is current or has expired within sixty days. Please include a description of the manner in which you calculated these numbers;

“b. For the 605,576 registered voters who the State has advised do not have a Texas driver’s license or personal identification card, please provide the number of such persons by Spanish surname, as well as an estimated number by race, within county of residence; and

“c. Describe any and all efforts, other than the requirements outlined in Section 5 of Chapter 123, to provide notice to these individuals of the requirements of S.B. 14 and the availability of a free DPS-issued identification.”

Id. at 2-3.

15. On October 4, 2011, Texas responded to DOJ in a letter that answered DOJ’s questions and attached the data that Texas was capable of providing. Because Texas does not record the race of voters when they register to vote, the State explained that it was unable to determine the racial makeup of registered voters who lack DPS-issued identification. Indeed, the very reason Texas refuses to maintain racial and ethnic data on its list of registered voters is to facilitate a colorblind electoral process, and Texas adopted this race-blind voter-registration policy shortly after the enactment of the 1965 Voting Rights Act. In addition, until 2009, the DPS

did not maintain a separate Hispanic category for driver's license holders to check when providing their racial or ethnic background—which further crimped the State's ability to calculate racial or ethnic breakdown of those who have (or do not have) DPS-issued photo-identification cards.

16. On November 16, 2011, DOJ responded to Texas's submission of additional information in a letter yet again claiming that the supplemental information provided by the State was “incomplete” and “does not enable us to determine that the proposed changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group.” Letter, T. Herren to A. McGeehan (Nov. 16, 2011) (Ex. 4). This time, DOJ demanded that the State provide a racial breakdown of each *county* of voters that possess DPS-issued identification, which would then be used to extrapolate the racial makeup of that group as compared to the general population.

17. On January 12, 2012, Texas provided the data that DOJ requested along with a letter explaining the State's concerns about the relevance of that data to the law's impact on minority voters. Letter, K. Ingram to T. Herren (Jan. 12, 2012) (Ex. 5).

18. On December 23, 2011, the Department of Justice announced that it denied preclearance to South Carolina's recently enacted Voter-ID Law—notwithstanding the Department of Justice's earlier decision to preclear a similar Voter-ID law in Georgia. In a letter explaining its decision,

the Department of Justice cited data showing that 8.4% of white registered voters in South Carolina did not possess a photo identification issued by the State's Department of Motor Vehicles, while 10.0% of "non-white" registered voters in South Carolina did not possess this type of DMV-issued photo identification. *See* Letter, T. Perez to C. Jones (Dec. 23, 2011), at 2 (Ex. 6).

19. The Department of Justice concluded this 1.6% "racial disparit[y]" compelled it to deny preclearance on the ground that South Carolina had "failed to meet its burden of demonstrating that [its Voter-ID law] will not have a retrogressive effect." *See* DOJ Letter to S.C. at 4-5. The Department of Justice rejected South Carolina's Voter-ID law notwithstanding the fact that South Carolina's law, like Texas's, provides free photo-identification to voters who lack the identification needed to vote, and permits voters who do not possess government-issued photo identification to cast provisional ballots on Election Day, which will be counted if the voter brings a valid and current photo identification to the county board of registration and elections before certification of the election.

18. On March 12, 2012, exactly 60 days after Texas had answered DOJ's latest request for additional data, and on the last possible day for DOJ to respond, the Department of Justice announced its decision denying preclearance to Senate Bill 14. In a letter explaining its decision, the Assistant Attorney General for Civil Rights stated that he "cannot conclude

that the state has sustained its burden under Section 5 of the Voting Rights Act.” See Letter, T. Perez to K. Ingram (March 12, 2012), at 2 (Ex. 7).

18. The Department of Justice’s letter to Texas expressly recognized the State’s interests in preventing voter fraud and safeguarding voter confidence. Further, it did not deny the existence of in-person voter impersonation that Senate Bill 14 was enacted to detect and deter. The Department of Justice asserted, however, that the State’s submission “did not include evidence of *significant* in-person voter impersonation not already addressed by the state’s existing laws.” See Letter, T. Perez to K. Ingram (March 12, 2012), at 2 (Ex. 7) (emphasis added). The Department of Justice apparently believes that section 5 prevents a State from deterring and detecting election fraud—which undermines all citizens’ voting rights—if the State’s generally applicable voter-fraud-prevention laws happen to impact various types of voters in different ways. The Department also seems to believe that it has the authority to unilaterally determine what constitutes “significant” fraud, despite the fact that local elections, in particular, can turn on a handful of votes. And despite the Department’s repeated requests for information from the State, it never asked the State to submit evidence of election fraud. Nonetheless, the Department now attempts to support its decision by noting that the State did not include evidence of “significant” voter impersonation.

19. The Department of Justice's letter to Texas claims that the State must prove that the percentage of Hispanic registered voters who currently possess a photo identification equals or exceeds the percentage of non-Hispanic registered voters who currently possess photo identification. But Texas does not record the race of voters when they register to vote, and until 2009 DPS did not maintain a separate Hispanic category on driver's licenses. The Department of Justice purports to derive the number of "Hispanic" and "non-Hispanic" registered voters and holders of driver's licenses from the State's data by using Spanish surname as a proxy for Hispanic ethnicity. This approach fails to account for the large number of Hispanics who lack Spanish surnames, and discriminates between Hispanic men and women who choose to marry someone of a different race or ethnicity. *See Rodriguez v. Bexar County*, 385 F.3d 853, 866 n.18 (5th Cir. 2004) (criticizing Spanish-surname data as a "highly problematic" and "disfavored" method of measuring Hispanic ethnicity).

20. The Department of Justice's letter to Texas cites data showing that registered voters with Spanish surnames are more likely to currently lack a driver's license than voters without Spanish surnames. *See Letter, T. Perez to K. Ingram* (March 12, 2012), at 2-3 (Ex. 7). The Department of Justice concluded this "disparit[y]" compelled it to deny preclearance on the ground of retrogressive effect. *See Letter, T. Perez to K. Ingram* (March 12, 2012), at 3 (Ex. 7). The Department of Justice rejected Texas's Voter-ID law

notwithstanding the fact that Texas's law offers photo-identification *free of charge* to voters who lack the identification needed to vote, and permits voters who do not possess government-issued photo identification to cast provisional ballots on Election Day, which will be counted if the voter brings a valid and current photo identification to the county board of registration and elections within six days of the election.

19. The Department of Justice's letter rejecting Texas's preclearance submission does not make a serious effort to reconcile its administrative-preclearance decision with the Supreme Court's ruling in *Crawford*—which not only upheld Indiana's Voter-ID law as constitutional, but also made clear that photo-identification requirements are “nondiscriminatory” election regulations. *See Crawford*, 553 U.S. at 203 (opinion of Stevens, J.) (upholding Indiana's photo-identification requirement as “a neutral, *nondiscriminatory* regulation of voting procedure.”) (emphasis added); *id.* at 205 (Scalia, J., concurring in the judgment) (The Indiana photo-identification law is a “generally applicable, *nondiscriminatory* voting regulation.”) (emphasis added).

20. Similarly, the Department of Justice's letter to Texas does not acknowledge the serious constitutional questions that arise from DOJ's decision to interpret section 5 in a manner that would preclude covered jurisdictions from enforcing the same type of election-fraud prevention measures that the Supreme Court has upheld as constitutional—and that fall

within the States' reserved powers under the Tenth Amendment to the Constitution. *See generally Northwest Austin Mun. Utility Dist. No. One v. Holder*, 557 U.S. 193 (2009).

21. The Department of Justice's letter to Texas also fails to acknowledge its own previous decision to preclear the Voter-ID law in Georgia, and does not attempt to reconcile the Department's refusal to preclear Texas's Voter-ID law with its earlier preclearance rulings.

V. CLAIMS FOR RELIEF

CLAIM ONE:

The State of Texas is entitled to a declaratory judgment granting preclearance to Senate Bill 14 under section 5 of the Voting Rights Act because Senate Bill 14 has neither the purpose nor the effect of denying or abridging the right to vote on account of race or color, or because of membership in a language minority, and otherwise fully complies with section 5 of the Voting Rights Act.

24. The allegations in paragraphs 7 – 23 are reincorporated herein.

A. Senate Bill 14 does not “deny or abridge” the right to vote.

25. The State of Texas respectfully requests a declaration from this Court that Senate Bill 14 does not “deny or abridge” the right to vote within the meaning of section 5, nor was it enacted with this purpose. Section 5 does not preclude covered jurisdictions from enacting generally applicable fraud-prevention laws, such as Senate Bill 14, that entail minor inconveniences on exercising the right to vote—especially when the covered jurisdiction mitigates those inconveniences through the mechanisms of free photo-ID cards and provisional ballots. For example, laws requiring that

citizens register to vote prior to election day impose inconveniences that are similar to the one required by Senate Bill 14. But neither of these laws “denies” or “abridges” the right to vote.

26. Laws requiring voters to present proper identification at polling places are common. At the time of this complaint, no fewer than 31 States require voters to present some type of identification when voting at the polls. *See* <http://www.ncsl.org/legislatures-elections/elections-campaigns/voter-id-state-requirements.aspx>. Further, 15 States have enacted laws that require voters to present a photo identification. *Id.*

27. These laws do not “deny” or “abridge” anyone’s right to vote—a voter needs only to bring identification to the polls, and, in Texas, if a voter fails to bring the required government-issued photo identification to the polls then he can cast a provisional ballot that will be counted if the voter presents the required identification to the voter registrar within six days of the election. In addition, voters can obtain photo identification *free of charge* at any time, at their convenience, before the election—or after casting a provisional ballot—if they lack an acceptable form of government-issued identification.

28. DOJ’s letter to Texas reflects a belief that *any* law that imposes even the *slightest* inconvenience on one’s ability to vote represents a “denial” or “abridgement” of the right to vote—even when the State accommodates those who do not possess a photo identification by offering photo

identification free of charge and by allowing voters without photo identification to cast provisional ballots. That is not a tenable construction of the Voting Rights Act, and it cannot be reconciled with the Supreme Court's ruling in *Crawford*. See 553 U.S. at 198 (opinion of Stevens, J.) (“[T]he inconvenience of making a trip to the DMV, gathering the required documents, and posing for a photograph *surely does not qualify as a substantial burden on the right to vote, or even represent a significant increase over the usual burdens of voting.*”) (emphasis added); *id.* at 209 (Scalia, J. concurring in the judgment) (“The universally applicable requirements of Indiana’s voter-identification law are eminently reasonable. The burden of acquiring, possessing, and showing a free photo identification is simply not severe, because it does not ‘even represent a significant increase over the usual burdens of voting.’” And the State’s interests are sufficient to sustain that minimal burden.”) (internal citations omitted).

29. The Supreme Court’s ruling in *Crawford* also recognizes that allowing voters to cast provisional ballots mitigates any “burdens” that photo-identification requirements might otherwise impose on the right to vote. See *Crawford*, 553 U.S. at 199 (“The severity of that burden is, of course, mitigated by the fact that, if eligible, voters without photo identification may cast provisional ballots that will ultimately be counted.”). Sections 17 and 18 of Senate Bill 14 allow voters who appear at the polls without the required identification to cast provisional ballots, an allowance that defeats any claim

that the photo-identification requirement “denies” or “abridges” anyone’s right to vote. Unlike many other voting changes that may actually prevent someone from participating in an election, Senate Bill 14’s requirements will affect only the ballots of those who *choose* not to obtain the required identification that the State offers free of charge—either before the election or (for those who cast provisional ballots) in the six-day window following the election.

B. Senate Bill 14 does not deny or abridge the right to vote “on account of race or color,” or “because” of one’s membership in a “language minority group.”

30. The State of Texas respectfully requests a declaration from this Court that Senate Bill 14 does not deny or abridge the right to vote “on account of race or color,” or “because” of one’s membership in a “language minority group,” and that it was not enacted with those purposes. As the Supreme Court recognized in *Crawford*, photo-identification laws are “nondiscriminatory”; they apply to all voters regardless of race and language abilities, and they affect only those voters who choose not to obtain a photo identification (which the State offers free of charge) and present it either at the polls or to the voting registrar after casting a provisional ballot.

31. Even if racial or language minorities may be statistically less likely than others to currently possess a government-issued photo identification (as DOJ asserts in its letter), that does not establish a section 5

violation. Section 5 precludes covered jurisdictions from enforcing those laws that have the “purpose” or “effect” of “denying or abridging the right to vote *on account of race or color*,” or “deny[ing] or abridg[ing] the right of any citizen of the United States to vote *because he is a member of a language minority group*.” See § 1973c(a) (emphasis added); § 1973b(f)(2) (emphasis added). Even if DOJ contends that Senate Bill 14 has the unintended effect of “denying” or “abridging” the voting rights of those who do not possess a government-issued photo identification, it does not do so *on account of* their race or color, or *because of* their membership in a language minority group. It would do so on account of their decision not to obtain the identification that the State offers free of charge.

32. The Department of Justice’s letter to Texas asserts that section 5 jurisdictions are forbidden to enforce any Voter-ID law that will “lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.” See DOJ Letter at 2 (quoting *Beer v. United States*, 425 U.S. 130, 141 (1976)). This approach is irreconcilable with the language of section 5, which protects persons of *all* races from new voting laws that have the effect of denying or abridging the right to vote *on account of race or color*. Nothing in section 5 authorizes the Department of Justice or this Court to withhold preclearance from a neutral, nondiscriminatory voter-identification law simply because DOJ believes the law may have a disparate impact on minority voters—or white voters. The existing patterns of photo-

ID possession will always vary somewhat by race, so these laws will *always* have a temporary differential effect on *some* racial group.

33. Section 5 *does* allow DOJ or this Court to withhold preclearance from voting qualifications that were enacted with the purpose of denying or abridging the voting rights of a particular race, or facially neutral voting qualifications that may have been enacted with benign motivations but that are *administered* by racially biased election officials who selectively enforce these laws to deny minorities the right to vote *on account of their race*. See, e.g., *South Carolina v. Katzenbach*, 383 U.S. 301, 312-13 (1966). But Texas's Voter-ID law was not enacted with the purpose of disenfranchising minority voters, and there is not even a suggestion that the State would administer those laws in a racially biased manner. Nor is there any evidence that Texas would administer this law in a manner that would abridge the voting rights of language minorities *because of* their membership in a language minority group.

34. *Beer's* "nonretrogression" construction of section 5 arose from a case involving legislative reapportionment and must be limited to that context. See *Beer*, 425 U.S. at 141 ("It is thus apparent that *a legislative reapportionment that* enhances the position of racial minorities with respect to their effective exercise of the electoral franchise can hardly have the 'effect' of diluting or abridging the right to vote on account of race within the meaning of § 5."); see also *Reno v. Bossier Parish School Bd.*, 528 U.S. 320,

329 (2000) (“In *Beer v. United States*, 425 U.S. 130 (1976), this Court addressed the meaning of the no-effect requirement *in the context of an allegation of vote dilution.*”) (emphasis added). The inherently unique nature of the reapportionment process is such that redistricting is fundamentally distinct from laws that govern the administration of elections or ballot-box integrity.

35. Extending “retrogressive effects” analysis to Voter-ID laws, by denying preclearance to any voter requirement that has an unintended disparate impact on racial or language minorities, would present serious constitutional questions. The Fifteenth Amendment prohibits only voting restrictions that are *motivated by* racial discrimination. *See City of Mobile v. Bolden*, 446 U.S. 55, 62 (1980) (“[R]acially discriminatory motivation is a necessary ingredient of a Fifteenth Amendment violation.”). If the Department of Justice’s apparent construction of section 5 operated to block Texas’s Voter-ID law solely because it *may* have a *disparate impact* on racial minorities (or “language minorities”), then this Court will have to confront whether this interpretation of section 5 represents a permissible exercise of Congress’s enforcement power under the Fifteenth Amendment. *See generally City of Boerne v. Flores*, 521 U.S. 507 (1997); *Nw. Austin Mun. Util. Dist. No. One v. Holder*, 129 S. Ct. 2504 (2009). Courts must adopt any reasonably permissible construction of section 5 that will avoid these constitutional concerns. *See Nw. Austin*, 129 S. Ct. at 2511-14. To do that,

this Court must cabin the “nonretrogressive effects” test to the context of legislative redistricting.

36. Even if non-retrogression extends beyond redistricting, it still should not extend to a law that imposes a temporary inconvenience no greater than the inherent inconvenience of voting. Whatever the initial disproportionate impact based on a snapshot of current patterns of photo-ID possession, those patterns are easily changed and cannot be the basis for a finding of disproportionate or retrogressive impact.

C. The Court must interpret section 5 of the Voting Rights Act to permit preclearance of Senate Bill 14 in order to avoid the grave constitutional question whether section 5 exceeds Congress’s enforcement power under section 2 of the Fifteenth Amendment.

37. Any construction of section 5 that precludes Texas from implementing its Voter-ID Law will exceed Congress’s enforcement power under section 2 of the Fifteenth Amendment, or will at the very least present grave constitutional questions that this Court must avoid. A finding that covered jurisdictions cannot adopt a commonsense voting change already found to be non-discriminatory by the Supreme Court would highlight the constitutional difficulties with section 5. Accordingly, this Court must interpret section 5 in a manner that authorizes preclearance in this case. *See Nw. Austin*, 129 S. Ct. at 2511-14.

38. Section 2 of the Fifteenth Amendment empowers Congress to “enforce” the Fifteenth Amendment with “appropriate” legislation. This enforcement prerogative might permit Congress to enact laws that empower DOJ or this Court to deny preclearance to state laws *that actually violate* the Fifteenth Amendment. *See South Carolina v. Katzenbach*, 383 U.S. 301, 334 (1966) (“The Act suspends new voting regulations pending scrutiny by federal authorities *to determine whether their use would violate the Fifteenth Amendment.*”) (emphasis added). But, as the Supreme Court recognized in *South Carolina*, placing the States under this form of administrative receivership pushes the constitutional boundaries of Congress’s enforcement power under the Fifteenth Amendment. *Id.*

39. The Texas Voter-ID law does not violate the Fifteenth Amendment because it was not enacted with a racially discriminatory purpose. *See City of Mobile v. Bolden*, 446 U.S. 55, 62 (1980). In addition, the Supreme Court has explicitly upheld photo-identification laws against constitutional challenges, declaring that these laws represent “nondiscriminatory” regulations of elections. *See Crawford*, 553 U.S. at 203 (opinion of Stevens, J.); *id.* at 205 (Scalia, J., concurring in the judgment). It is tenuous enough for a federal court or the Department of Justice to deny preclearance to a voting qualification that does not violate the Fifteenth Amendment; these constitutional concerns are further aggravated when

preclearance is withheld from a law that the Supreme Court of the United States has explicitly upheld as constitutional.

40. Even if the Constitution is properly construed to empower Congress to enact prophylactic legislation that extends beyond the self-executing right established in section 1 of the Fifteenth Amendment, any attempt by Congress to invoke its powers in this prophylactic manner will raise serious constitutional questions. That is nowhere more obvious than in the case of section 5 of the Voting Rights Act, which represents an enormous intrusion into state sovereignty by reversing the bedrock assumption that duly enacted (and constitutional) state laws may take immediate effect. Accordingly, Congress is required to state its extra-constitutional prohibitions in clear and explicit language and justify this prophylaxis with legislative findings. *See, e.g., Katzenbach v. Morgan*, 384 U.S. 641 (1966) (upholding a congressional prohibition on literacy tests only after noting “evidence suggesting that prejudice played a prominent role in the enactment of the [literacy-test] requirement”); *Oregon v. Mitchell*, 400 U.S. 112 (1970) (opinion of Black, J) (upholding a federal ban on literacy tests that was based on a congressional finding that “literacy tests have been used to discriminate against voters on account of their color.”). *See also Bd. of Trustees of the Univ. of Alabama v. Garrett*, 531 U.S. 356 (2001); *Kimel v. Florida Board of Regents*, 528 U.S. 62 (2000); *City of Boerne v. Flores*, 521 U.S. 507 (1997). The language of section 5 falls far short of the clear statement needed for this

Court to even consider denying preclearance to the perfectly constitutional Voter-ID law that Texas has enacted.

41. The interpretation of section 5 that the Department of Justice adopted in its letter to Texas will establish a preclearance obstacle that sweeps far beyond what is necessary to enforce the Fifteenth Amendment. Both the Fourteenth and Fifteenth Amendments prohibit only those voting restrictions that are *motivated by* racial discrimination. See *City of Mobile v. Bolden*, 446 U.S. 55 (1980). To the extent that section 5 blocks laws that are free from racially discriminatory motives, it can survive only if its prophylactic scope satisfies the “congruent” and “proportional” test of *City of Boerne v. Flores*, 521 U.S. 507 (1997). Congress enacted the VRA “to make the guarantees of the Fifteenth Amendment finally a reality for all citizens,” *Allen v. State Bd. of Elections*, 393 U.S. 544, 556 (1969), not to empower the Department of Justice to block States from enacting laws that do not violate the Fifteenth Amendment and that the Supreme Court has expressly upheld as constitutional.

42. There is no conceivable justification for construing section 5 in a manner that would enable DOJ or the federal courts to deny administrative preclearance to a law that the Supreme Court has already determined is non-discriminatory. Nor is there any justification for requiring Texas to wait for permission from DOJ (or a federal district court) before implementing its photo-identification laws. *Crawford* shows that litigants can bring

immediate challenges to new voting requirements that are believed to disproportionately affect minorities by invoking the Fourteenth and Fifteenth Amendments and section 2 of the VRA. And a district court can promptly issue a temporary restraining order or a preliminary injunction if the plaintiffs demonstrate a likelihood of success on the merits.

D. The Court must interpret section 5 of the Voting Rights Act to permit preclearance of Senate Bill 14 in order to avoid the grave constitutional question whether section 5 violates the Tenth Amendment.

43. Any construction of section 5 that precludes Texas from implementing its Voter-ID Law will violate the Tenth Amendment by denying covered jurisdictions the powers reserved to them under that amendment, or will at the very least present grave constitutional questions that this Court must avoid by interpreting section 5 to allow for preclearance in this case.

44. Although the Supreme Court in *Crawford* did not directly address the Tenth Amendment, by upholding Indiana's Voter-ID law the Court effectively recognized that the States enjoy a reserved power under the Tenth Amendment to require voters to present photo identification at the polls—at least when appearing to vote for state and local officials. Congress therefore has no power to enact legislation to nullify Indiana's Voter-ID law for state and local elections. *See, e.g., Oregon v. Mitchell*, 400 U.S. 112, 125 (1970) (opinion of Black, J.) (“No function is more essential to the separate

and independent existence of the States and their governments than the power to determine within the limits of the Constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices.”). It follows that Congress cannot empower the Department of Justice or the federal courts to block Texas from requiring photo identification when conducting elections for state and local officials.

E. The Court must interpret section 5 of the Voting Rights Act to permit preclearance of Senate Bill 14 in order to avoid the grave constitutional question that section 5 violates the Republican Form of Government Clause.

45. Any construction of section 5 that precludes Texas from implementing its Voter-ID Law will violate the Constitution’s Republican Form of Government Clause by giving federal officials an arbitrary veto power over a democratically enacted, constitutional state law, or will at the very least present grave constitutional questions that this Court must avoid by interpreting section 5 to allow for preclearance in this case.

46. Senate Bill 14 was modeled on the Voter-ID legislation that the Supreme Court approved in *Crawford* and that the Department of Justice precleared in 2005. It passed with overwhelming majorities in both Houses of the Texas Legislature. To deny preclearance will allow the Attorney General or a panel of federal judges to thwart the will of Texas’s elected

representatives and block state officials from implementing a democratically enacted, constitutional state law. Federal courts may of course enjoin state officials from implementing unconstitutional statutes, and Congress may pass legislation to preempt state law consistent with its enumerated constitutional powers. But Congress cannot establish a regime that permits unelected officials at the Department of Justice to arbitrarily deny preclearance to a constitutional Voter-ID law enacted by a State's democratically enacted legislature—especially when preclearance has already been granted to a materially similar Voter-ID law in Georgia.

47. Section 5, if interpreted to preclude preclearance of Senate Bill 14, further violates the Republican Form of Government Clause by disabling the State of Texas from implementing a constitutionally legitimate election fraud-prevention device. *See Crawford v. Marion County Election Board*, 553 U.S. 181, 196-197 (2008) (opinion of Stevens, J.).

F. The Court should interpret section 5 of the Voting Rights Act in a manner that permits preclearance of Senate Bill 14 in order to avoid the grave constitutional question whether section 5 violates Texas's right to "equal sovereignty."

48. Section 5, if interpreted to forbid Texas to enforce its Voter-ID law, violates constitutional principles of federalism and state sovereignty by depriving Texas of equal sovereignty with other States.

49. Other States, such as Indiana, Kansas, and Wisconsin, have been able to enact and enforce similar laws without interference from DOJ. Yet Texas is denied that ability to implement election-fraud prevention laws. This creates a two-tracked system of sovereignty, in which States such as Indiana, Kansas, and Wisconsin can enforce their photo-identification requirements, but Texas and South Carolina cannot, even though all of these state laws comply with the Constitution. As Justice Kennedy has aptly noted, “Texas is at a tremendous disadvantage” as result of the fact that “section 5 applies only to some States and not others.” Oral Argument Transcript, *Perry v. Perez*, No. 11-713, at 38 Tr. 5-11 (Jan. 9, 2012). Worse, under DOJ’s interpretation of section 5, Georgia can enforce its photo-identification requirements simply because it was fortuitous enough to seek administrative preclearance during a previous Administration.

50. Section 5, if interpreted to preclude preclearance of Senate Bill 14, relegates Texas to a diminished tier of sovereignty by disabling Texas from implementing a legitimate election fraud-prevention device. See *Crawford v. Marion County Election Board*, 553 U.S. 181, 196 (2008) (opinion of Stevens, J.) (“There is no question about the legitimacy or importance of the State’s interest in counting only the votes of eligible voters. Moreover, the interest in orderly administration and accurate recordkeeping provides a sufficient justification for carefully identifying all voters participating in the election process.”); *id.* at 196-197 (“[T]he fact of inflated voter rolls does provide a

neutral and nondiscriminatory reason supporting the State's decision to require photo identification.”). “Non-retrogression” cannot be invoked to prohibit covered jurisdictions (such as Texas and South Carolina) from enacting *constitutional* fraud-prevention devices that non-covered jurisdictions (such as Indiana, Kansas, and Wisconsin) may implement.

CLAIM TWO:

The State of Texas is entitled to a declaratory judgment authorizing the immediate implementation of Senate Bill 14 because section 5 of the Voting Rights Act violates the Constitution.

51. The allegations in paragraphs 7 – 50 are reincorporated herein.

52. The 2006 reauthorization of section 5 is unconstitutional on its face for the reasons provided in *Northwest Austin*, 129 S. Ct. at 2511-14.

VI. DEMAND FOR JUDGMENT

The State of Texas respectfully requests the following relief from the Court:

- A. A declaratory judgment that Senate Bill 14 may take effect immediately because it neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color, nor will it deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.
- B. A declaratory judgment that section 5, as most recently amended and reauthorized by the Voting Rights Act

Reauthorization and Amendments Act of 2006, exceeds the enumerated powers of Congress and conflicts with Article IV of the Constitution as well as the Tenth Amendment.

- C. All other relief to which the State of Texas may show itself to be entitled.

Respectfully submitted.

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Dated: March 12, 2012

Exhibit 1

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1 AN ACT
2 relating to requirements to vote, including presenting proof of
3 identification; providing criminal penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 13.002, Election Code, is amended by
6 adding Subsection (i) to read as follows:

7 (i) An applicant who wishes to receive an exemption from the
8 requirements of Section 63.001(b) on the basis of disability must
9 include with the person's application:

10 (1) written documentation:

11 (A) from the United States Social Security
12 Administration evidencing the applicant has been determined to have
13 a disability; or

14 (B) from the United States Department of Veterans
15 Affairs evidencing the applicant has a disability rating of at
16 least 50 percent; and

17 (2) a statement in a form prescribed by the secretary
18 of state that the applicant does not have a form of identification
19 acceptable under Section 63.0101.

20 SECTION 2. Section 15.001, Election Code, is amended by
21 adding Subsection (c) to read as follows:

22 (c) A certificate issued to a voter who meets the
23 certification requirements of Section 13.002(i) must contain an
24 indication that the voter is exempt from the requirement to present

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1 identification other than the registration certificate before
2 being accepted for voting.

3 SECTION 3. Effective September 1, 2011, Subchapter A,
4 Chapter 15, Election Code, is amended by adding Section 15.005 to
5 read as follows:

6 Sec. 15.005. NOTICE OF IDENTIFICATION REQUIREMENTS.

7 (a) The voter registrar of each county shall provide notice of the
8 identification requirements for voting prescribed by Chapter 63 and
9 a detailed description of those requirements with each voter
10 registration certificate issued under Section 13.142 or renewal
11 registration certificate issued under Section 14.001.

12 (b) The secretary of state shall prescribe the wording of
13 the notice to be included on the certificate under this section.

14 SECTION 4. Subsection (a), Section 15.022, Election Code,
15 is amended to read as follows:

16 (a) The registrar shall make the appropriate corrections in
17 the registration records, including, if necessary, deleting a
18 voter's name from the suspense list:

19 (1) after receipt of a notice of a change in
20 registration information under Section 15.021;

21 (2) after receipt of a voter's reply to a notice of
22 investigation given under Section 16.033;

23 (3) after receipt of a registration omissions list and
24 any affidavits executed under Section 63.006 [~~63.007~~], following an
25 election;

26 (4) after receipt of a voter's statement of residence
27 executed under Section 63.0011;

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1 (5) before the effective date of the abolishment of a
2 county election precinct or a change in its boundary;

3 (6) after receipt of United States Postal Service
4 information indicating an address reclassification;

5 (7) after receipt of a voter's response under Section
6 15.053; or

7 (8) after receipt of a registration application or
8 change of address under Chapter 20.

9 SECTION 5. Effective September 1, 2011, Subchapter A,
10 Chapter 31, Election Code, is amended by adding Section 31.012 to
11 read as follows:

12 Sec. 31.012. VOTER IDENTIFICATION EDUCATION. (a) The
13 secretary of state and the voter registrar of each county that
14 maintains a website shall provide notice of the identification
15 requirements for voting prescribed by Chapter 63 on each entity's
16 respective website in each language in which voter registration
17 materials are available. The secretary of state shall prescribe
18 the wording of the notice to be included on the websites.

19 (b) The secretary of state shall conduct a statewide effort
20 to educate voters regarding the identification requirements for
21 voting prescribed by Chapter 63.

22 (c) The county clerk of each county shall post in a
23 prominent location at the clerk's office a physical copy of the
24 notice prescribed under Subsection (a) in each language in which
25 voter registration materials are available.

26 SECTION 6. Effective September 1, 2011, Section 32.111,
27 Election Code, is amended by adding Subsection (c) to read as

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1 follows:

2 (c) The training standards adopted under Subsection (a)
3 must include provisions on the acceptance and handling of the
4 identification presented by a voter to an election officer under
5 Section 63.001.

6 SECTION 7. Effective September 1, 2011, Subsection (a),
7 Section 32.114, Election Code, is amended to read as follows:

8 (a) The county clerk shall provide one or more sessions of
9 training using the standardized training program and materials
10 developed and provided by the secretary of state under Section
11 32.111 for the election judges and clerks appointed to serve in
12 elections ordered by the governor or a county authority. Each
13 election judge shall complete the training program. Each election
14 clerk shall complete the part of the training program relating to
15 the acceptance and handling of the identification presented by a
16 voter to an election officer under Section 63.001.

17 SECTION 8. Chapter 62, Election Code, is amended by adding
18 Section 62.016 to read as follows:

19 Sec. 62.016. NOTICE OF ACCEPTABLE IDENTIFICATION OUTSIDE
20 POLLING PLACES. The presiding judge shall post in a prominent place
21 on the outside of each polling location a list of the acceptable
22 forms of identification. The list must be printed using a font that
23 is at least 24-point. The notice required under this section must
24 be posted separately from any other notice required by state or
25 federal law.

26 SECTION 9. Section 63.001, Election Code, is amended by
27 amending Subsections (b), (c), (d), and (f) and adding Subsections

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1 (g) and (h) to read as follows:

2 (b) Except as provided by Subsection (h), on [On] offering
3 to vote, a voter must present to an election officer at the polling
4 place one form of identification described by Section 63.0101 [the
5 voter's voter registration certificate to an election officer at
6 the polling place].

7 (c) On presentation of the documentation required under
8 Subsection (b) [a registration certificate], an election officer
9 shall determine whether the voter's name on the documentation
10 [registration certificate] is on the list of registered voters for
11 the precinct. If in making a determination under this subsection
12 the election officer determines under standards adopted by the
13 secretary of state that the voter's name on the documentation is
14 substantially similar to but does not match exactly with the name on
15 the list, the voter shall be accepted for voting under Subsection
16 (d) if the voter submits an affidavit stating that the voter is the
17 person on the list of registered voters.

18 (d) If, as determined under Subsection (c), the voter's name
19 is on the precinct list of registered voters and the voter's
20 identity can be verified from the documentation presented under
21 Subsection (b), the voter shall be accepted for voting.

22 (f) After determining whether to accept a voter, an election
23 officer shall return the voter's documentation [registration
24 certificate] to the voter.

25 (g) If the requirements for identification prescribed by
26 Subsection (b) are not met, the voter may be accepted for
27 provisional voting only under Section 63.011. For a voter who is

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1 not accepted for voting under this section, an election officer
2 shall:

3 (1) inform the voter of the voter's right to cast a
4 provisional ballot under Section 63.011; and

5 (2) provide the voter with written information, in a
6 form prescribed by the secretary of state, that:

7 (A) lists the requirements for identification;

8 (B) states the procedure for presenting
9 identification under Section 65.0541;

10 (C) includes a map showing the location where
11 identification must be presented; and

12 (D) includes notice that if all procedures are
13 followed and the voter is found to be eligible to vote and is voting
14 in the correct precinct, the voter's provisional ballot will be
15 accepted.

16 (h) The requirements for identification prescribed by
17 Subsection (b) do not apply to a voter who is disabled and presents
18 the voter's voter registration certificate containing the
19 indication described by Section 15.001(c) on offering to vote.

20 SECTION 10. Subsection (a), Section 63.0011, Election Code,
21 is amended to read as follows:

22 (a) Before a voter may be accepted for voting, an election
23 officer shall ask the voter if the voter's residence address on the
24 precinct list of registered voters is current and whether the voter
25 has changed residence within the county. If the voter's address is
26 omitted from the precinct list under Section 18.005(c), the officer
27 shall ask the voter if the voter's residence, if [as] listed, on

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1 identification presented by the voter under Section 63.001(b) [~~the~~
2 ~~voter's voter registration certificate~~] is current and whether the
3 voter has changed residence within the county.

4 SECTION 11. Effective September 1, 2011, Chapter 63,
5 Election Code, is amended by adding Section 63.0012 to read as
6 follows:

7 Sec. 63.0012. NOTICE OF IDENTIFICATION REQUIREMENTS TO
8 CERTAIN VOTERS. (a) An election officer shall distribute written
9 notice of the identification that will be required for voting
10 beginning with elections held after January 1, 2012, and
11 information on obtaining identification without a fee under Chapter
12 521A, Transportation Code, to each voter who, when offering to
13 vote, presents a form of identification that will not be sufficient
14 for acceptance as a voter under this chapter beginning with those
15 elections.

16 (b) The secretary of state shall prescribe the wording of
17 the notice and establish guidelines for distributing the notice.

18 (c) This section expires September 1, 2017.

19 SECTION 12. Section 63.006, Election Code, is amended to
20 read as follows:

21 Sec. 63.006. VOTER WITH REQUIRED DOCUMENTATION [~~CORRECT~~
22 ~~CERTIFICATE~~] WHO IS NOT ON LIST. (a) A voter who, when offering to
23 vote, presents the documentation required under Section 63.001(b)
24 [~~a voter registration certificate indicating that the voter is~~
25 ~~currently registered in the precinct in which the voter is offering~~
26 ~~to vote,~~] but whose name is not on the precinct list of registered
27 voters[~~r~~] shall be accepted for voting if the voter also presents a

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1 voter registration certificate indicating that the voter is
2 currently registered:

3 (1) in the precinct in which the voter is offering to
4 vote; or

5 (2) in a different precinct in the same county as the
6 precinct in which the voter is offering to vote and the voter
7 executes an affidavit stating that the voter:

8 (A) is a resident of the precinct in which the
9 voter is offering to vote or is otherwise entitled by law to vote in
10 that precinct;

11 (B) was a resident of the precinct in which the
12 voter is offering to vote at the time the information on the voter's
13 residence address was last provided to the voter registrar;

14 (C) did not deliberately provide false
15 information to secure registration in a precinct in which the voter
16 does not reside; and

17 (D) is voting only once in the election.

18 (b) After the voter is accepted, an election officer shall:

19 (1) indicate beside the voter's name on the poll list
20 that the voter was accepted under this section; and

21 (2) enter the voter's name on the registration
22 omissions list.

23 SECTION 13. Section 63.009, Election Code, is amended to
24 read as follows:

25 Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST.
26 A [~~(a) Except as provided by Subsection (b), a~~] voter who does not
27 present a voter registration certificate when offering to vote, and

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1 whose name is not on the list of registered voters for the precinct
2 in which the voter is offering to vote, shall be accepted for
3 provisional voting if the voter executes an affidavit in accordance
4 with Section 63.011.

5 ~~[(b) If an election officer can determine from the voter~~
6 ~~registrar that the person is a registered voter of the county and~~
7 ~~the person presents proof of identification, the affidavits~~
8 ~~required by Sections 63.007 and 63.008 are substituted for the~~
9 ~~affidavit required by Section 63.011 in complying with that~~
10 ~~section. After the voter is accepted under this subsection, an~~
11 ~~election officer shall also indicate beside the voter's name on the~~
12 ~~poll list that the voter was accepted under this section.]~~

13 SECTION 14. Section 63.0101, Election Code, is amended to
14 read as follows:

15 Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION.
16 The following documentation is an acceptable form ~~[as proof]~~ of
17 photo identification under this chapter:

18 (1) a driver's license, election identification
19 certificate, or personal identification card issued to the person
20 by the Department of Public Safety that has not ~~[or a similar~~
21 ~~document issued to the person by an agency of another state,~~
22 ~~regardless of whether the license or card has]~~ expired or that
23 expired no earlier than 60 days before the date of presentation;

24 (2) a United States military identification card that
25 contains the person's photograph that has not expired or that
26 expired no earlier than 60 days before the date of presentation
27 ~~[form of identification containing the person's photograph that~~

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1 ~~establishes the person's identity];~~

2 (3) a ~~[birth certificate or other document confirming~~
3 ~~birth that is admissible in a court of law and establishes the~~
4 ~~person's identity,~~

5 ~~[(4)]~~ United States citizenship certificate ~~[papers]~~
6 issued to the person that contains the person's photograph;

7 (4) ~~[(5)]~~ a United States passport issued to the
8 person that has not expired or that expired no earlier than 60 days
9 before the date of presentation; or

10 (5) a license to carry a concealed handgun issued to
11 the person by the Department of Public Safety that has not expired
12 or that expired no earlier than 60 days before the date of
13 presentation

14 ~~[(6)] official mail addressed to the person by name~~
15 ~~from a governmental entity,~~

16 ~~[(7)] a copy of a current utility bill, bank statement,~~
17 ~~government check, paycheck, or other government document that shows~~
18 ~~the name and address of the voter, or~~

19 ~~[(8)] any other form of identification prescribed by~~
20 ~~the secretary of state].~~

21 SECTION 15. Section 63.011, Election Code, is amended by
22 amending Subsections (a) and (b) and adding Subsection (b-1) to
23 read as follows:

24 (a) A person to whom Section 63.001(g) ~~[63.008(b)]~~ or 63.009
25 ~~[63.009(a)]~~ applies may cast a provisional ballot if the person
26 executes an affidavit stating that the person:

27 (1) is a registered voter in the precinct in which the

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1 person seeks to vote; and

2 (2) is eligible to vote in the election.

3 (b) A form for an affidavit required by this section must
4 ~~[shall]~~ be printed on an envelope in which the provisional ballot
5 voted by the person may be placed and must include:

6 (1) a space for entering the identification number of
7 the provisional ballot voted by the person; and

8 (2) a space for an election officer to indicate
9 whether the person presented a form of identification described by
10 Section 63.0101.

11 (b-1) The affidavit form may include space for disclosure of
12 any necessary information to enable the person to register to vote
13 under Chapter 13. The secretary of state shall prescribe the form
14 of the affidavit under this section.

15 SECTION 16. Subsection (b), Section 64.012, Election Code,
16 is amended to read as follows:

17 (b) An offense under this section is a felony of the second
18 ~~[third]~~ degree unless the person is convicted of an attempt. In
19 that case, the offense is a state jail felony ~~[Class A misdemeanor]~~.

20 SECTION 17. Subsection (b), Section 65.054, Election Code,
21 is amended to read as follows:

22 (b) A provisional ballot shall ~~[may]~~ be accepted ~~[only]~~ if
23 the board determines that:

24 (1) [7] from the information in the affidavit or
25 contained in public records, the person is eligible to vote in the
26 election and has not previously voted in that election;

27 (2) the person:

S.B. No. 14

1 (A) meets the identification requirements of
2 Section 63.001(b) at the time the ballot was cast or in the period
3 prescribed under Section 65.0541;

4 (B) notwithstanding Chapter 110, Civil Practice
5 and Remedies Code, executes an affidavit under penalty of perjury
6 that states the voter has a religious objection to being
7 photographed and the voter has consistently refused to be
8 photographed for any governmental purpose from the time the voter
9 has held this belief; or

10 (C) executes an affidavit under penalty of
11 perjury that states the voter does not have any identification
12 meeting the requirements of Section 63.001(b) as a result of a
13 natural disaster that was declared by the president of the United
14 States or the governor, occurred not earlier than 45 days before the
15 date the ballot was cast, and caused the destruction of or inability
16 to access the voter's identification; and

17 (3) the voter has not been challenged and voted a
18 provisional ballot solely because the voter did not meet the
19 requirements for identification prescribed by Section 63.001(b).

20 SECTION 18. Subchapter B, Chapter 65, Election Code, is
21 amended by adding Section 65.0541 to read as follows:

22 Sec. 65.0541. PRESENTATION OF IDENTIFICATION FOR CERTAIN
23 PROVISIONAL BALLOTS. (a) A voter who is accepted for provisional
24 voting under Section 63.011 because the voter does not meet the
25 identification requirements of Section 63.001(b) may, not later
26 than the sixth day after the date of the election:

27 (1) present a form of identification described by

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1 Section 63.0101 to the voter registrar for examination; or
2 (2) execute an affidavit described by Section
3 65.054(b)(2)(B) or (C) in the presence of the voter registrar.

4 (b) The secretary of state shall prescribe procedures as
5 necessary to implement this section.

6 SECTION 19. Section 66.0241, Election Code, is amended to
7 read as follows:

8 Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4
9 must contain:

- 10 (1) the precinct list of registered voters;
- 11 (2) the registration correction list;
- 12 (3) the registration omissions list;
- 13 (4) any statements of residence executed under Section
- 14 63.0011; and
- 15 (5) any affidavits executed under Section 63.006
- 16 [~~63.007~~] or 63.011.

17 SECTION 20. Subtitle B, Title 7, Transportation Code, is
18 amended by adding Chapter 521A to read as follows:

19 CHAPTER 521A. ELECTION IDENTIFICATION CERTIFICATE

20 Sec. 521A.001. ELECTION IDENTIFICATION CERTIFICATE.

21 (a) The department shall issue an election identification
22 certificate to a person who states that the person is obtaining the
23 certificate for the purpose of satisfying Section 63.001(b),
24 Election Code, and does not have another form of identification
25 described by Section 63.0101, Election Code, and:

- 26 (1) who is a registered voter in this state and
- 27 presents a valid voter registration certificate; or

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1 (2) who is eligible for registration under Section
2 13.001, Election Code, and submits a registration application to
3 the department.

4 (b) The department may not collect a fee for an election
5 identification certificate or a duplicate election identification
6 certificate issued under this section.

7 (c) An election identification certificate may not be used
8 or accepted as a personal identification certificate.

9 (d) An election officer may not deny the holder of an
10 election identification certificate the ability to vote because the
11 holder has an election identification certificate rather than a
12 driver's license or personal identification certificate issued
13 under this subtitle.

14 (e) An election identification certificate must be similar
15 in form to, but distinguishable in color from, a driver's license
16 and a personal identification certificate. The department may
17 cooperate with the secretary of state in developing the form and
18 appearance of an election identification certificate.

19 (f) The department may require each applicant for an
20 original or renewal election identification certificate to furnish
21 to the department the information required by Section 521.142.

22 (g) The department may cancel and require surrender of an
23 election identification certificate after determining that the
24 holder was not entitled to the certificate or gave incorrect or
25 incomplete information in the application for the certificate.

26 (h) A certificate expires on a date specified by the
27 department, except that a certificate issued to a person 70 years of

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1 age or older does not expire.

2 SECTION 21. Sections 63.007 and 63.008, Election Code, are
3 repealed.

4 SECTION 22. Effective September 1, 2011:

5 (1) as soon as practicable, the secretary of state
6 shall adopt the training standards and develop the training
7 materials required to implement the change in law made by this Act
8 to Section 32.111, Election Code; and

9 (2) as soon as practicable, the county clerk of each
10 county shall provide a session of training under Section 32.114,
11 Election Code, using the standards adopted and materials developed
12 to implement the change in law made by this Act to Section 32.111,
13 Election Code.

14 SECTION 23. The change in law made by this Act in amending
15 Subsection (b), Section 64.012, Election Code, applies only to an
16 offense committed on or after January 1, 2012. An offense committed
17 before January 1, 2012, is covered by the law in effect when the
18 offense was committed, and the former law is continued in effect for
19 that purpose. For purposes of this section, an offense is committed
20 before January 1, 2012, if any element of the offense occurs before
21 that date.

22 SECTION 24. Effective September 1, 2011, state funds
23 disbursed under Chapter 19, Election Code, for the purpose of
24 defraying expenses of the voter registrar's office in connection
25 with voter registration may also be used for additional expenses
26 related to coordinating voter registration drives or other
27 activities designed to expand voter registration. This section

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1 expires January 1, 2013.

2 SECTION 25. Every provision in this Act and every
3 application of the provisions in this Act are severable from each
4 other. If any application of any provision in this Act to any
5 person or group of persons or circumstances is found by a court to
6 be invalid, the remainder of this Act and the application of the
7 Act's provisions to all other persons and circumstances may not be
8 affected. All constitutionally valid applications of this Act
9 shall be severed from any applications that a court finds to be
10 invalid, leaving the valid applications in force, because it is the
11 legislature's intent and priority that the valid applications be
12 allowed to stand alone. Even if a reviewing court finds a provision
13 of this Act invalid in a large or substantial fraction of relevant
14 cases, the remaining valid applications shall be severed and
15 allowed to remain in force.

16 SECTION 26. Except as otherwise provided by this Act, this
17 Act takes effect January 1, 2012.

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President of the Senate

Speaker of the House

I hereby certify that S.B. No. 14 passed the Senate on January 26, 2011, by the following vote: Yeas 19, Nays 11; April 5, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; April 11, 2011, House granted request of the Senate; May 9, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 19, Nays 12.

Secretary of the Senate

I hereby certify that S.B. No. 14 passed the House, with amendments, on March 24, 2011, by the following vote: Yeas 101, Nays 48, one present not voting; April 11, 2011, House granted request of the Senate for appointment of Conference Committee; May 16, 2011, House adopted Conference Committee Report by the following vote: Yeas 98, Nays 46, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

Exhibit 2

The State of Texas



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Hope Andrade
Secretary of State

July 25, 2011

Mr. T. Christian Herren, Jr.
Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

RE: Submission under Section 5, Voting Rights Act, of Senate
Bill 14, Chapter 123, 82nd Legislature, 2011.

Dear Mr. Herren:

The Legislature of the State of Texas has enacted Senate Bill 14, Chapter 123, 82nd Legislature, 2011 (the "Act"), relating to requirements to vote, including presenting proof of identification. As described in more detail below and with some exceptions, the Act requires a voter to present a current or recently-expired form of photo identification in order to vote in person at a polling place. The Act also requires the Office of the Secretary of State and local election officials to develop voter education programs, create training programs for polling place officials, and revise election forms and postings beginning September 1, 2011.

Because of the upcoming statutory deadlines contained in the Act, we are hereby requesting expedited consideration of this submission under 28 C.F.R. § 51.34. An expedited response from your office will allow the state to promptly implement comprehensive education of voters and local election officials; therefore, we would appreciate a decision from your office by August 20, 2011.

Pursuant to the requirements of 28 C.F.R. § 51.27, the following information is submitted with respect to the Act:

- (a) & (b) A copy of the Act is enclosed. An electronic copy of the Act is also available at <http://www.sos.state.tx.us/statdoc/bills/index.shtml>.
- (c) The Act amends the Texas Election Code (the "Code") and the Texas Transportation Code to require voters to present a current form of photo identification to qualify to vote in person at the polling place in elections held in the State of Texas. The Act creates exemptions for certain voters with disabilities, voters whose religious beliefs prevent

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them from being photographed for identification, and voters who have lost their identification in natural disasters. A voter, who does not present a current form of photo identification when appearing to vote at the polling place and who does not fall within the scope of the Act's exemptions, may elect to vote provisionally. A voter who casts a provisional ballot under these circumstances may then take advantage of the Act's post-election cure procedures. The Act provides that a voter who presents his or her photo identification or executes one of the affidavits set out in Section 65.054(b)(2)(B) (religious objection) or (C) (natural disaster objection) in the presence of the registrar (discussed below) within 6 days after the election shall have his or her provisional ballot counted. Moreover, the Act creates a new election identification certificate and provides that the Texas Department of Public Safety ("TDPS") will make these certificates available, free of charge, to voters who do not have access to any other acceptable form of photo identification.

The Act requires state and local authorities to engage in a thorough voter education and outreach program that includes the following components: including the new photo-identification requirements on voter registration cards; including these requirements on the Secretary of State's web site in multiple languages; including this same information on local county voter registrars' websites; including a physical posting of these requirements in all county clerks' offices; including a physical posting of the requirements at prominent places within polling locations, and including a statewide voter education program conducted by the Secretary of State.

The Act requires the Secretary of State to adopt training standards and develop training materials to implement the changes to polling place procedures contained in the Act as soon as practicable after September 1, 2011. In addition, as soon as practicable, the county clerk is required to provide a training session under Section 32.114 of the Code that incorporates the new Secretary of State training standards to be adopted under Section 32.111 of the Code.

Finally, the penalty for illegal voting is raised from a state jail felony to a second degree felony. The criminal penalty for attempted illegal voting is increased from a Class A misdemeanor to a state jail felony.

The provisions of the Act regarding the need to present a current form of photo identification when voting by personal appearance – including the new cure provisions – go into effect for elections held on or after January 1, 2012. The increased criminal penalties contained in the Act apply only to offenses committed on or after January 1, 2012.

SECTION-BY-SECTION REVIEW

SECTION 1 of the Act amends Section 13.002 of the Code by adding new subsection (i). New subsection (i) provides that a voter registration applicant who wishes to be exempted on the basis of disability from the identification requirements of Section 63.001(b) of the Code (which are discussed in more detail below) must present, along with his or her application, (1) written documentation either from the Social Security

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Administration stating that the applicant has been determined to have a disability or from the Department of Veterans Affairs demonstrating that the applicant has a disability rating of at least 50 percent and (2) a statement that the applicant does not possess one of the acceptable forms of identification described under Section 63.0101 of the Code (as amended by the Act).

Section 13.002 was added to the Code by Senate Bill 616, Chapter 211, 69th Legislature, 1985 (precleared on August 16, 1985), and amended by Senate Bill 1441, Chapter 436, 70th Legislature, 1987 (precleared on August 31, 1987), House Bill 612, Chapter 472, 70th Legislature, 1987 (precleared on August 31, 1987), House Bill 613, Chapter 920, 70th Legislature, 1987 (precleared on August 31, 1987), Senate Bill 221, Chapter 2, 71st Legislature, 1989 (a non-substantive change not subject to preclearance), House Bill 74, Chapter 916, 73rd Legislature, 1993 (precleared on September 13, 1993), House Bill 1914, Chapter 390, 74th Legislature, 1995 (precleared on October 13, 1995), House Bill 127, Chapter 797, 74th Legislature, 1995 (precleared on January 16, 1997), Senate Bill 500, Chapter 454, 75th Legislature, 1997 (precleared on August 11, 1997), House Bill 1549, Chapter 1315, 78th Legislature, 2003 (precleared on November 20, 2003), House Bill 1268, Chapter 1049, 79th Legislature, 2005 (precleared on October 21, 2005), House Bill 417, Chapter 614, 80th Legislature, 2007 (precleared on November 16, 2007), Senate Bill 74, Chapter 1295, 80th Legislature, 2007 (precleared on September 27, 2007), Senate Bill 1969, Chapter 87, 81st Legislature, 2009 (a non-substantive change not subject to preclearance), House Bill 536, Chapter 91, 81st Legislature, 2009 (precleared on July 15, 2009), and most recently House Bill 1448, Chapter 632, 81st Legislature, 2009 (precleared on August 5, 2009).

SECTION 2 of the Act amends Section 15.001 of the Code by adding new subsection (c) to provide that the registration certificate issued to a voter who meets the disability exemption requirements of new Section 13.002(i) of the Code (discussed above) must indicate that the voter is exempt from the requirement to present identification other than the registration certificate before being accepted for voting.

Section 15.001 was added to the Code by Senate Bill 616, Chapter 211, 69th Legislature, 1985 (precleared on August 16, 1985), and amended in Senate Bill 1441, Chapter 436, 70th Legislature, 1987 (precleared on August 31, 1987), House Bill 1914, Chapter 390, 74th Legislature, 1995 (precleared on October 13, 1995), House Bill 127, Chapter 797, 74th Legislature, 1995 (precleared on January 16, 1997), and Senate Bill 932, Chapter 532, 80th Legislature 2007 (precleared on November 19, 2007).

SECTION 3 of the Act adds new Section 15.005 to the Code to require the voter registrar of each county to provide notice of the identification requirements for voting (as amended by the Act) and a detailed description of those requirements with each voter registration certificate and registration certificate renewal mailed from the county voter registrar. The Secretary of State is required to provide the wording of the notice.

SECTION 4 of the Act makes a conforming amendment to Section 15.022 of the Code to require the voter registrar to correct a registration on receipt of the registration omissions

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list or an affidavit submitted under Section 63.006 from a voter swearing that he or she has been placed in the incorrect precinct by the voter registrar's office.

Section 15.022 was added to the Code by Senate Bill 616, Chapter 211, 69th Legislature, 1985 (precleared on August 16, 1985), and amended by Senate Bill 280, Chapter 54, Chapter 54, 1987 (precleared on August 24, 1987), House Bill 74, Chapter 916, 73rd Legislature, 1993 (precleared on September 11, 1993), and most recently House Bill 127, Chapter 797, 74th Legislature 1995 (precleared on January 16, 1997).

SECTION 5 of the Act adds new Section 31.012 to the Code. According to this new section, as of September 1, 2011, the Secretary of State and each county voter registrar that maintains an Internet website must provide notice of the identification requirements for voting (as amended by the Act) on their respective websites. The information must be provided in each language in which voter registration materials are available in the state and county. The Secretary of State must provide the wording of the notice. New section 31.012(b) requires the Secretary of State to conduct a statewide education effort regarding the identification requirements for voting (as amended by the Act). New section 31.012(c) requires each county clerk to post in a prominent location a physical copy of the notice that is required to be posted on the county's or Secretary of State's Internet website (discussed above). This notice must be provided in each language in which voter registration materials are available in the county.

SECTION 6 of the Act is effective September 1, 2011 and adds Section 32.111(c) to the Code. This new subsection requires the Secretary of State to include requirements for the acceptance and handling of identification presented by a voter to an election officer in its poll worker training materials.

Section 32.111 was added to the Code by Senate Bill 616, Chapter 211, 69th Legislature, 1985 (precleared on August 16, 1985) and amended in House Bill 1695, Chapter 1316, 78th Legislature, 2003 (precleared on November 20, 2003).

SECTION 7 of the Act is effective September 1, 2011 and amends Section 32.114(a) of the Code to require that each election clerk must complete the part of the training program described in SECTION 6 (described above).

Section 32.114 was added to the Code by Senate Bill 616, Chapter 211, 69th Legislature, 1985 (precleared on August 16, 1985). It was amended by House Bill 74, Chapter 916, 73rd Legislature, 1993 (precleared on September 11, 1993), House Bill 1603, Chapter 864, 75th Legislature, 1997 (a non-substantive change not subject to preclearance) and House Bill 1695, Chapter 1316, 78th Legislature, 2003 (precleared on November 20, 2003).

SECTION 8 of the Act adds new Section 62.016 to the Code. The new section requires the presiding judge of each polling place to post in a prominent place on the outside of each polling location a list of the acceptable forms of identification for voting by personal appearance. The list must be in 24-point font and posted separately from other required notices.

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SECTION 9 of the Act amends several subsections of Section 63.001 of the Code.

Amended Section 63.001(b) of the Code to require a voter to present one form of identification as set out in Section 63.0101 of the Code to an election official at the polling place in order to qualify to vote. Prior law allowed a voter to present a current voter registration certificate.

Amended Section 63.001(c) of the Code to provide that, after the election officer receives from the voter the identification described by Section 63.0101 of the Code (see above), the election officer shall review the identification to determine whether the voter's name is on the precinct list of registered voters. If the election officer determines (using standards adopted by the Secretary of State) that the voter's name on the identification is substantially similar to but does not match exactly the name on the list, then the voter will be accepted for voting if the voter submits an affidavit stating that the voter is the person on the list of registered voters.

Amended Section 63.001(d) of the Code to provide that if, as determined by the procedures set forth in Section 63.001(c) (see above), the voter's name is on the precinct list and the voter's identity is verified from the documentation provided, the voter shall be accepted for voting.

Subsection 63.001(f) is amended to make a conforming change.

Section 63.001(g) of the Code is added to provide that a voter who does not meet the identification requirements of this section may vote provisionally. For such a voter, this new subsection requires that an election officer must inform the voter of his or her eligibility to cast a provisional ballot. The election officer must also provide the voter with written information (in a form prescribed by the Secretary of State) that lists the requirements for identification, states the procedures for presenting identification, includes a map showing the location where the identification may be presented, and includes a notice that if the post-election procedure is followed, and the voter is found to have been eligible to vote at the precinct, the provisional ballot will be accepted.

Section 63.001(h) of the Code is added to provide that a voter with disabilities who presents his or her voter registration certificate, containing the indication described by Section 15.001(c) (see above), on offering to vote is exempt from the identification procedures described by this section.

Section 63.001 was added to the Code by House Bill 616, Chapter 211, 69th Legislature, 1985 (precleared on August 16, 1985) and amended by House Bill 127, Chapter 797, 74th Legislature, 1995 (precleared on January 16, 1997) and most recently House Bill 1603, Chapter 864, 75th Legislature, 1997 (a non-substantive change not subject to preclearance).

SECTION 10 of the Act amends Section 63.0011(a) of the Code to provide that a federal or state judge or the spouse of a federal or state judge whose residence address has been

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omitted from the precinct list of registered voters under Section 18.005(c) of the Code shall be asked by the polling place election official whether the residence address on their identification is current and whether the voter has changed residence in the county.

Section 63.0011 was added to the Code by House Bill 127, Chapter 797, 74th Legislature, 1995 (precleared on January 16, 1997). It was later amended by House Bill 41, Chapter 594, 80th Legislature, 2007 (precleared on October 2, 2007) and by House Bill 3069, Chapter 927, 81st Legislature, 2009 (precleared on September 9, 2009).

SECTION 11 of the Act adds new Section 63.0012 to the Code. The new section is effective September 1, 2011 and requires an election officer to distribute written notice of the identification that will be required for voting beginning with elections held on or after January 1, 2012, and information on obtaining an election identification certificate free of charge from the TDPS to each voter that presents a form of identification that will not be sufficient for acceptance as a voter on or after that date. The wording of this notice must be designed by the Secretary of State. Section 63.0012 of the Code expires on September 1, 2017.

SECTION 12 of the Act amends Section 63.006 of the Code. Section 63.006(a) is amended to provide that, with respect to a voter who presents the proper identification, but whose name is not on the precinct list of registered voters, the voter shall be accepted for voting if the voter also presents a registration certificate indicating the voter is registered in the precinct or is registered in a different precinct in the same county and executes an affidavit stating the voter is a resident of the precinct where offering to vote, was a resident of the precinct at the time the information on the residence address was last provided to the registrar, did not deliberately provide false information to the registrar, and will vote only once in the election.

Under amended Section 63.006(b) of the Code, after the voter is accepted, the voter's name must be entered on the registration omissions list.

Section 63.006 was added to the Code by House Bill 616, Chapter 211, 69th Legislature, 1985 (precleared on August 16, 1985) and amended by House Bill 1603, Chapter 864, 75th Legislature, 1997 (a non-substantive change not subject to preclearance).

SECTION 13 of the Act amends Section 63.009 of the Code to delete the procedure under which a voter without a certificate and whose name is not on the precinct list of registered voters could vote after the voter registrar confirmed the voter's eligibility and the voter completed two separate affidavits. Under the change, the voter without a certificate whose name does not appear on the precinct list would have to vote provisionally and complete the provisional voter affidavit.

Section 63.009 was added to the Code by House Bill 616, Chapter 211, 69th Legislature, 1985 (precleared on August 16, 1985). It was amended by House Bill 75, Chapter 728, 73rd Legislature, 1993 (precleared on September 13, 1993), House Bill 330, Chapter 1078, 75th Legislature, 1997 (precleared on October 8, 1997), House Bill 331, Chapter 1349, 75th Legislature, 1997 (precleared on September 2, 1997), and most recently by

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House Bill 1549, Chapter 1315, 78th Legislature, 2003 (precleared on November 20, 2003).

SECTION 14 of the Act amends Section 63.0101 of the Code to remove any form of identification that does not include a photograph from the forms of identification that are acceptable for voting by personal appearance at the polling place. The deleted forms of identification include a birth certificate or other documents confirming birth and admissible in a court of law, citizenship papers that do not contain the person's photograph, official mail addressed to the voter from a governmental entity, copies of a current utility bill, bank statements, paychecks, or other government documents that show the name and address of the voter. Additionally, the Act deletes the authorization for the Secretary of State to prescribe additional forms of identification.

Also deleted as acceptable identification at the polling place are driver's licenses and personal identification cards issued by other states.

Added to the list of acceptable forms of identification are a United States military identification card that contains the person's photograph and has not expired or that expired no earlier than 60 days before the date of presentation, a TDPS-issued concealed handgun license that has not expired earlier than 60 days before the date of presentation, and the TDPS-issued election identification certificate, as set out in Chapter 521A, Texas Transportation Code.

Finally, a TDPS-issued driver's license, a personal identification card or a United States passport that expired more than 60 days before the date of presentation are no longer valid forms of identification.

Section 63.0101 was added to the Code by House Bill 330, Chapter 1078, 75th Legislature, 1997 (precleared on October 8, 1997). It was amended by House Bill 331, Chapter 1349, 75th Legislature, 1997 (precleared on September 2, 1997), by House Bill 1603, Chapter 864, 75th Legislature, 1997 (a non-substantive change not subject to preclearance), and most recently by House Bill 1549, Chapter 1315, 78th Legislature, 2003 (precleared on November 20, 2003).

SECTION 15 of the Act amends Section 63.011 of the Code to add a requirement that the provisional ballot affidavit include a space for the election officer to indicate whether the voter presented a valid form of identification.

Section 63.011 was added to the Code by House Bill 1549, Chapter 1315, 78th Legislature, 2003, (precleared on November 20, 2003), and later amended by House Bill 2823, Chapter 1073, 80th Legislature, 2007 (precleared on September 24, 2007).

SECTION 16 of the Act amends Section 64.012 of the Code to increase the penalty for illegal voting in an election to a second degree felony from a third degree felony and to increase the penalty for attempted illegal voting to a state jail felony from a Class A misdemeanor.

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Section 64.012 was added to the Code by Senate Bill 616, Chapter 211, 69th Legislature, 1985 (precleared on August 16, 1985), amended by House Bill 1603, Chapter 864, 75th Legislature, 1997 (a non-substantive change not subject to preclearance), and by House Bill 54, Chapter 393, 78th Legislature, 2003 (precleared on November 21, 2003).

SECTION 17 of the Act amends Section 65.054(b) of the Code to first clarify that a provisional ballot *shall* be accepted (rather than *may* be accepted) if the early voting ballot board makes certain determinations. Among these determinations are two that are newly-added by the Act. The first applies to situations where the voter: (1) meets the identification requirements either at the time the ballot was cast or when submitted to the county voter registrar after the election per Section 65.0541 of the Code; (2) has a religious objection to being photographed and completes an affidavit stating the objection and that the voter has consistently refused to be photographed for any governmental purpose during the period the voter has held the religious belief; or (3) completes an affidavit asserting that he or she does not have valid identification due to a natural disaster declared by the President of the United States no earlier than 45 days prior to the date the ballot was cast which caused the destruction of the voter's identification or the inability to access the voter's identification. The second permitted determination applies to a situation where the voter has not been challenged and the voter voted a provisional ballot solely because the voter did not meet the identification requirements set forth in the Act.

Section 65.054(b) was added to the Code by House Bill 1549, Chapter 1315, 78th Legislature, 2003, (precleared on November 20, 2003), and later amended by House Bill 2823, Chapter 1073, 80th Legislature, 2007 (precleared on September 24, 2007).

SECTION 18 of the Act adds new Section 65.0541 to the Code. Under this new section, a voter who casts a provisional ballot because he or she did not present an acceptable form of identification at the polling place may, not later than six days after the date of the election, present a valid form of identification to the voter registrar for examination, or execute one of the affidavits set out in Section 65.054(b)(2)(B) (religious objection) or (C) (natural disaster objection) in the presence of the registrar. The Secretary of State is charged with prescribing the procedures to implement this section.

SECTION 19 of the Act amends Section 66.0241 of the Code to make conforming changes related to SECTION 12 of the Act. These changes relate to which documents are placed in Envelope Number 4, which is given to the county voter registrar after election day to make updates to the voter registration list.

SECTION 20 of the Act adds a new Chapter 521A to the Texas Transportation Code. Section 521A.001(a) requires TDPS to issue election identification certificates to persons who state that they are obtaining the certificate to comply with the identification requirements set out in Section 63.001 of the Code because they do not have one of the acceptable forms of identification listed under Section 63.0101 of the Code. At the time the person applies for the election identification certificate, the person must be a registered voter and either present a valid registration certificate or apply for voter registration at that time.

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Section 521A.001(b) provides that TDPS may not charge a fee for issuance of the election identification certificate or a duplicate certificate.

Under Section 521A.001(c), the election identification certificate may not be used or accepted as a personal identification certificate.

Under Section 521A.001(d), an election official may not deny a person who presents an election identification certificate the ability to vote on the basis that the person failed to submit a TDPS driver's license or personal identification card.

Section 521A.001(e) requires TDPS to design the election identification certificate to be similar in form, but distinguishable by color, from the State's driver's license and personal identification certificate. TDPS may cooperate with the Secretary of State in designing the form.

Under Section 521A.001(f), TDPS may require applicants for the election identification certificate to furnish the same information required for a driver's license under Section 521.142 of the Texas Transportation Code.

Section 521A.001(g) authorizes TDPS to cancel and require surrender of an election identification certificate if TDPS determines the holder was not entitled to the certificate or provided incorrect/misleading information on the certificate application.

Finally, under Section 521A.001(h), an election identification certificate expires on a date set by TDPS, except that certificates issued to voters 70 or older do not expire.

SECTION 21 of the Act repeals Section 63.007 of the Code and Section 63.008 of the Code to conform with changes in SECTIONS 12 and 13 of the Act.

SECTION 22 of the Act requires the Secretary of State to adopt training standards and develop training materials to implement the changes to polling place procedures under the Act as soon as practicable after September 1, 2011. In addition, as soon as practicable, the county clerk is required to provide a session of training under Section 32.114 of the Code that incorporates the new Secretary of State training standards developed under Section 32.111.

SECTION 23 of the Act provides that the change in law set out in SECTION 16, increasing the penalty for illegal voting to a second degree felony and the penalty for attempted illegal voting to a state jail felony, applies only to offenses committed on or after January 1, 2012. Offenses committed before that date are covered by the law in effect at the time of the offense, and an offense is considered to have been committed before January 1, 2012 if any element of the offense was committed prior to that date.

SECTION 24 of the Act provides that, effective September 1, 2011, county voter registrars may use state funds disbursed under Chapter 19 of the Code for expenses

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connected with voter registration drives and other activities designed to increase voter registration. This section expires on January 1, 2013.

- (d) The submitting authority is the Honorable Hope Andrade, Secretary of State of Texas, in her capacity as chief elections officer of Texas. The Secretary of State's office may be reached at P.O. Box 12060, Austin, Texas 78711-2060, (512) 463-5650.
- (e) Not applicable.
- (f) Not applicable.
- (g) The authority responsible for the passage of the Act was the Texas Legislature.
- (h) The Act was adopted pursuant to the provisions of Tex. Const. art. III, § 30.
- (i) The Act was passed by the Texas Senate on January 26, 2011, and by the Texas House with amendments on March 24, 2011. The Senate adopted the conference committee report on May 9, 2011, and the House adopted the conference committee report on May 16, 2011. The Act was signed by Governor Rick Perry on May 27, 2011.
- (j) The training provisions, the notice of identification requirements in SECTION 11, and the state funds disbursement requirement in SECTION 24 take effect on September 1, 2011. The remaining provisions take effect on January 1, 2012.
- (k) The provisions of the Act have not been implemented.
- (l) These procedures will affect the residents of the State of Texas.
- (m) The reason for the change provided for in the Act is to ensure the integrity of the voting process by allowing registered voters to vote, enhancing detection of ineligible voters, and deterring ineligible voters from voting, all while providing safeguards to allow eligible voters the opportunity to have their ballots counted.
- (n) The Act will not affect members of any racial or linguistic minority differently from the way the general public is affected. The Act does not have the intent and will not have the effect of diluting the voting strength of any racial or linguistic minority.

The United States Department of Justice ("DOJ") previously precleared Georgia's 2005 law, which—like the Act—requires voters to present photo identification before voting by personal appearance. That preclearance decision is consistent with the United States Supreme Court's decision in *Crawford v. Marion County Election Board*, in which the Court rejected constitutional challenges to Indiana's photo-ID law. As former Justice John Paul Stevens acknowledged in the Supreme Court's decision upholding Indiana's law, modern life requires photo identification to transact even the most mundane business. Indeed, Justice Stevens cited with approval the following statement of the Commission on Federal Election Reform, that former President Jimmy Carter and former Secretary of State James A. Baker III jointly chaired: "Photo identification cards are

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currently needed to board a plane, enter federal buildings, and cash a check. Voting is equally important.” *Crawford v. Marion County Election Bd.*, 553 U.S. 181, 193 (2008).

Commensurate with this observation, Texas’ law requiring voters to present photo identification at the polls provides for the acceptance of commonly held documents: a state-issued driver’s license or personal identification card, a United States military identification card, a United States passport, a United States citizenship certificate, or a concealed handgun license. *See* Section 13 of the Act. In fact, while there are only 12,604,131 registered voters in Texas, there are currently about 17,008,051 active Texas driver’s licenses and identification cards.

However, to address concerns some raised about the Act’s photo identification requirements, the Texas Legislature included several voter education provisions, as well as other safeguards for Texas voters. For example, the Act requires state and local authorities to engage in a thorough voter education and outreach program that includes the following components: inclusion of the new photo-identification requirements on new voter registration cards and renewal cards that are issued to all registered voters beginning late this year; including these requirements on the Secretary of State’s web site in all languages required for election materials in Texas; including this same information on local registrars’ websites in the locally requisite languages; including a physical posting of these requirements in all county clerks’ offices in such languages; including a physical posting of the requirements at prominent places within polling locations, and a statewide voter education program conducted by the Secretary of State. *See* Sections 3, 4, 5 and 8 of the Act. In sum, the Act is carefully designed to ensure that every voter, regardless of race, disability, education level or economic station, is fully informed about the Act’s requirements.

In addition to these voter education and outreach efforts, the Act contains other safeguards to protect the rights of eligible voters to vote and have their ballots counted. For example, the Act provides for a “cure” period whereby a voter may return after casting a provisional ballot to present the required ID if the voter failed to do so at the polls. Indeed, the Act specifically requires election workers to inform voters who do not present an adequate form of photo identification at the polling place of the procedures they may follow to have their ballots counted. *See* Sections 9 and 11 of the Act.¹ It also requires election clerks to take specific training regarding the Act’s requirements so that all voters will receive like treatment when they present themselves for voting in person. *See* Sections 6 and 7 of the Act. Moreover, the Act addresses the situation in which a voter’s photo identification documents include a spelling that is not identical—but is substantially similar to—the spellings on poll lists in polling locations. *See* Section 9 of the Act. Lastly, the Act creates an entirely new identification document that the State must provide free of charge to voters who attest to their inability to pay for other acceptable forms of identification. *See* Section 20 of the Act.

¹Beginning in September 1, 2011, election workers must provide notice of the acceptable forms of photo identification for elections conducted after January 1, 2012 to all voters presenting identification that does not meet the requirements of the Act, as well as information on how such voters can obtain acceptable identification for free. *See* Section 11 of the Act.

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The framework Texas has created in its photo-identification law is consistent with photo-identification regimes in other states, such as Georgia's precleared 2005 law. Georgia's administratively precleared law is remarkably similar to the Act in that Georgia requires the following forms of photo-identification for in-person voting: a Georgia driver's license, an identification card issued by any Georgia state entity or the United States, a valid United States passport, an employee identification card issued by any Georgia state entity, the United States or local political entities, a United States military identification or a tribal identification card. *See* GA. Code Ann. § 21-2-417(a) (2010). Like the Act, Georgia's law includes a "cure" period (of more limited duration than the Texas cure period), free photo identification for economically-distressed voters lacking other approved forms of identification, and an extensive voter education and outreach program. *See* GA Code Ann. §§ 21-2-417(b), 418, and 419 (2010). In fact, DOJ precleared Georgia's original photo-identification law even before Georgia enacted its free ID provision and its most recent extensive voter education mandate, which Georgia added in a subsequent legislative session.

The history of Indiana's photo-identification law is also relevant to DOJ's Section 5 evaluation of the Act. Indiana enacted an in-person voting photo-identification law similar to the Act that requires voters to present photo identification that the United States or the State of Indiana issued. Such identification must include the name of the voter in a form that conforms to the voter's registration record and an expiration date. The identification must be current or have expired after the date of the most recent general election. *See* Ind. Code Ann. §§ 3-11-8-25.1 and 3-5-2-40.5 (2008). Indiana excepted those voting in person at a precinct polling place located at a state-licensed care facility where they reside and those attesting to indigent status or a religious exception to being photographed. *See* Ind. Code Ann. §§ 3-10-1-7.2(e), 3-11-8.25.1, 3-11-10-1.2, 3-11.7-5-1, and 3-11.7-5-2.5 (2008). Indiana voters not qualifying for an exception and failing to meet the photo-identification standard are allowed to vote provisionally and later provide the required identification. *See* Ind. Code Ann §§ 3-11-8-25.1, 3-11-7.5-2.5, 3-11.7-5-1, and 3-11.7-5-2.5.²

Various plaintiffs challenged Indiana's statutory regime on federal and state constitutional grounds and federal and state statutory grounds, claiming the law would negatively impact minority communities. *See Indiana Democratic Party v. Rokita*, 458 F.Supp.2d 775, 820-43 (S.D.Ind. 2006), *aff'd*, 472 F.3d 949 (7th Cir. 2007), *aff'd*, 553 U.S. 181 (2008). Although the claims did not include federal Voting Rights Act dilution claims, they did include allegations that the State of Indiana violated voting rights provisions of the federal Civil Rights Act of 1964. *See Rokita*, 458 F.Supp.2d at 839-42 (discussing claims under 42 U.S.C. 1971). Moreover, in considering the gamut of plaintiffs' claims, the courts at the trial and appellate levels clearly considered concerns that Indiana's law would negatively impact members of minority communities. *See, e.g., Crawford*, 553 U.S. at 187; *Crawford v. Marion County Election Bd.*, 472 F.3d 949, 952 (7th Cir. 2007); *Rokita*, 458 F.Supp.2d at 795-96.

² For a more complete explanation of Indiana's statutory scheme as well as evidence of the actual practice in Indiana elections, *see Indiana Democratic Party v. Rokita*, 458 F.Supp.2d 775, 786-87 (S.D. Ind. 2006), *aff'd*, 472 F.3d 949 (7th Cir. 2007), *aff'd*, 553 U.S. 181 (2008).

Mr. T. Christian Herren, Jr.

Page 13

At every level, the federal courts upheld Indiana's law. In doing so, the trial court wrote:

Despite apocalyptic assertions of wholesale voter disenfranchisement, Plaintiffs have produced not a single piece of evidence of any identifiable registered voter who would be prevented from voting pursuant to [the Indiana photo ID law] because of his or her inability to obtain the necessary photo identification. Similarly, Plaintiffs have failed to produce any evidence of any individual, registered or unregistered, who would have to obtain photo identification in order to vote, let alone anyone who would undergo any appreciable hardship to obtain photo identification in order to be qualified to vote . . .

Plaintiffs' inability to provide the names or otherwise identify any particular affected individuals persists despite various polls and surveys that were conducted for the specific purpose of discovering such individuals . . .

[I]t is a testament to the law's minimal burden and narrow crafting that Plaintiffs have been unable to uncover anyone who can attest to the fact that he/she will be prevented from voting despite the concerted efforts of the political party and numerous interested groups who arguably represent the most severely affected candidates and communities.

Rokita, 458 F.Supp.2d at 822-23. The Seventh Circuit added that there was "something remarkable about the plaintiffs considered as a whole" as there was not a single one "who intend[ed] not to vote" because of the Indiana law. *Crawford*, 472 F.3d at 951-52.

As for the United States Supreme Court, Justice Stevens explained in the lead opinion for the Court, that given Indiana's provision of free photo identification, in most instances, "the inconvenience of making a trip to the [Bureau of Motor Vehicles], gathering the required documents, and posing for a photograph surely does not qualify as a substantial burden on the right to vote, or even represent a significant increase over the usual burdens of voting." *Crawford*, 553 U.S. at 198. Three other justices who joined in the judgment of the Court refused to even entertain, at least for constitutional purposes, a person-by-person analysis of the burdens of a voting regulation when the regulation has non-discriminatory purpose and is generally applicable. *See id.* at 205-209. Justice Scalia wrote for those justices as follows: "The universally applicable requirements of Indiana's voter-identification law are eminently reasonable. The burden of acquiring, possessing, and showing a free photo identification is simply not severe, because it does not 'even represent a significant increase over the usual burdens of voting.' And the state's interests . . . are sufficient to maintain that minimal burden. That should end the matter." *Id.* at 209.

Analysis of voting patterns in Indiana since the implementation of that state's photo-identification law demonstrates that any fear these laws will decrease minority voter turnout is misguided. Professor Jeffrey Milyo, a professor of public affairs and economics who has been affiliated with the University of Missouri, the University of

Mr. T. Christian Herren, Jr.

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Kansas, and the Cato Institute specifically looked at voting patterns in Indiana before and after the implementation of photo ID requirements in a publication for the Institute of Public Policy at the University of Missouri's Harry S. Truman School of Public Affairs. He compared turnout between the 2002 and 2006 midterm elections and implemented various control factors or "sensitivity checks" to isolate the effects of Indiana's photo ID law. See Jeffrey Milyo, *The Effects of Photographic Identification on Voter Turnout in Indiana: A County Level Analysis*, Institute of Public Policy, University of Missouri Harry S. Truman School of Public Affairs at 1, 7 (December 2007). Professor Milyo specifically sought to identify the effects of photographic identification on "turnout in counties with a greater percentage of minority, poor, elderly, or less educated populations." See *id.* He concluded that while overall voter turnout in Indiana increased about two percentage points from 2002 to 2006, turnout in counties with greater percentages of minority or poor voters increased by even more, and the most consistent effect of photo identification in Indiana was to increase turnout in counties with a greater percentage of Democratic-leaning voters. See *id.* at 1, 7.³

In light of Indiana's experience, it should not be surprising that data from Georgia—the state with the other implemented photo identification requirement most similar to the Act—reflect no dampening of minority voter turnout. As the attached material from the Georgia Secretary of State's Office states, minority turnout increased after Georgia adopted its photo identification law. And it did so for both Hispanics and African Americans in both presidential and midterm election cycles (2004 to 2008 and 2006 to 2010). In sum, the evidence not only reflects no negative turnout impact on minority voters, but actually suggests that photo identification laws may have bolstered turnout.

To the extent the Department seeks more information regarding the Act, please contact:

The Honorable Aaron Peña (joint sponsor)
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910
(512) 463-0426

The Honorable Larry Gonzales (co-sponsor)
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

³ Findings such as Professor Milyo's may explain why states all over the United States continue to adopt photo identification requirements for in person voting. For example, just weeks before the date of this submission, Rhode Island adopted a voter ID requirement. The law accepts photo and non-photo ID until 2014, at which point Rhode Island will accept only photo ID. See *Rhode Island Governor Signs Voter ID Bill*, Yahoo News, July 7, 2011, <http://sg.news.yahoo.com/rhode-island-governor-signs-voter-id-bill-211606786.html> Professor Milyo's findings may also explain why majorities of Americans across racial and other lines consistently express support for requiring photo identification to vote in person. Indeed, non-partisan independent polling conducted in Texas contemporaneously with the legislative debate regarding the Act reflected that virtually every subgroup in the survey supported photo identification for in person voting including: "whites, blacks and Hispanics; men and women; and urban, suburban and rural. Hispanics — one of the populations many fear would be disadvantaged by such a law — favor showing photo IDs by a 68 percent to 22 percent margin." Ross Ramsey, *UT/TT Poll: Texans Are Ready to Roll the Dice*, TEXAS TRIBUNE, Feb. 23, 2011, <http://www.texastribune.org/texas-issues/gaminggambling/uttt-poll-texans-are-ready-to-roll-the-dice/>.

Mr. T. Christian Herren, Jr.
Page 15

(512) 463-0670
The Honorable Jose Aliseda (co-sponsor)
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910
(512) 463-0645

(o) There is no past or pending litigation concerning the subject matter of the Act.

(p) The procedure for the adoption of the change is not subject to preclearance.

If you have any questions or need additional information, please contact Paul Miles, Staff Attorney, Elections Division, at (512) 463-5650.

Sincerely,



Ann McGeehan
Director of Elections

Enclosure

AM:PM:id

Exhibit 3



U.S. Department of Justice
Civil Rights Division

TCH:RSB:BFH:JLM:ZB:AAO:maf
DJ 166-012-3
2011-2775

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

September 23, 2011

Ann McGeehan, Esq.
Director of Elections
P.O. Box 12060
Austin, Texas 78711-2060

Dear Ms. McGeehan:

This refers to Chapter 123 (S.B. 14) (2011), which amends the Texas Transportation Code relating to the issuance of election identification certificates, and which amends the Texas Election Code relating to the increase in penalty for illegal voting and attempted illegal voting, the implementation schedule for the enforcement of the penalties, and procedures for the implementation of the photographic identification requirements, including registration procedures, provisional ballot procedures, notice requirements, and education and training requirements, for the State of Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on July 25, 2011; additional information was received through September 15, 2011.

The Attorney General does not interpose any objections to Sections 16 and 23 of Chapter 123, which relate to the increase in penalties for illegal voting and attempted illegal voting. However, we note that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

With regard to amendments in Sections 1 through 15 and 17 through 22 of Chapter 123, our analysis indicates that the information sent is insufficient to enable us to determine that the proposed changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, as required under Section 5 of the Voting Rights Act. Thus, additional information is necessary so that we may complete our review of your submission.

1. A detailed description of the voter education program that the State will implement pursuant to Section 5 of Chapter 123.
2. A detailed description of the efforts that the State will undertake, including the issuance of any rules, regulations, or written guidance, to inform and train state and county election officials regarding voter identification requirements, including, but not

limited to, the implementation of the election identification card system; the acceptance and handling of a voter's identification pursuant to Section 6 of Chapter 123; the verification of identity pursuant to Section 9 of the Act; and the manner in which the State will resolve discrepancies between information on presented identification and information contained on the list of registered voters. Please include a description of all materials that will be used to implement the program.

3. On September 15, 2011, the State provided a draft of proposed administrative rules developed by the Texas Department of Public Safety (DPS) regarding the election identification certificate program:

a. Please advise of the State's plans and timing for publication of such rules, receipt of public comment and final rules enactment;

b. Please provide a detailed description of the locations and dates when an individual may obtain a free election identification certificate, including, but not limited to: a description of all means of informing the public of the distribution process; if any transportation or other assistance will be provided to individuals trying to obtain such a certificate, and whether such efforts at providing information and/or assistance will be focused on any groups of persons or particular areas of the state; and a description of all equipment and materials necessary to implement the program, as well as any renewal procedures, if applicable.

4. Any additional rules, regulations, or written guidance that the Secretary of State or DPS plans to promulgate pursuant to the Act.

5. With regard to the information provided on September 7, 2011, which indicated that 605,576 registered voters do not appear to have a Texas driver's license or other current form of photo identification issued by the Department of Public Safety (DPS):

a. The number of registered voters in Texas, by race and Spanish surname within county of residence, who currently possess a Texas driver's license or other form of photo identification issued by DPS that is current or has expired within sixty days. Please include a description of the manner in which you calculated these numbers;

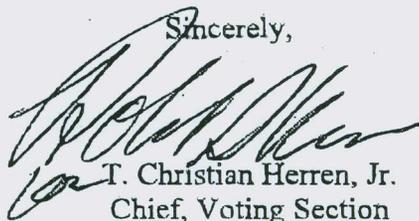
b. For the 605,576 registered voters who the State has advised do not have a Texas driver's license or personal identification card, please provide the number of such persons by Spanish surname, as well as an estimated number by race, within county of residence; and

c. Describe any and all efforts, other than the requirements outlined in Section 5 of Chapter 123, to provide notice to these individuals of the requirements of S.B. 14 and the availability of a free DPS-issued identification.

The Attorney General has sixty days to consider a completed submission pursuant to Section 5. This sixty-day review period will begin when we receive the information specified above. 28 C.F.R. 51.37. However, if no response is received within sixty days of this request, the Attorney General may object to the proposed changes consistent with the burden of proof placed upon the submitting authority. 28 C.F.R. 51.40 and 51.52(a) and (c). Changes that affect voting are legally unenforceable unless and until the appropriate Section 5 determination has been obtained. *Clark v. Roemer*, 500 U.S. 646 (1991); 28 C.F.R. 51.10. Therefore, please inform us of the action the State plans to take to comply with this request.

If you have any questions concerning this letter or if we can assist you in obtaining the requested information, please call Zach Bromer (202-305-7798) of our staff. Refer to File No. 2011-2775 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,



T. Christian Herren, Jr.
Chief, Voting Section

Exhibit 4



U.S. Department of Justice
Civil Rights Division

FAX Transmittal Sheet

Date: 11/16/2011

To:

Name: Ann McGreehan

Organization: _____

FAX No: 512-475-2811

Off. Phone: _____

From:

Name: Zach Brumer

FAX No: _____

Off. Phone: 202-305-7798

Subject:

Chapter 123 (S.B. 14) (2011)

Number of pages transmitted (including this sheet): 5



U.S. Department of Justice
Civil Rights Division

*Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530*

TCH:RSB:RPL:JLM:ZB:AAO:par
DJ 166-012-3
2011-2775

NOV 16 2011

Ann McGeehan, Esq.
Director of Elections
P.O. Box 12060
Austin, Texas 78711-2060

Dear Ms. McGeehan:

This refers to Chapter 123 (S.B. 14) (2011), which amends the Texas Transportation Code relating to the issuance of election identification certificates, and which amends the Texas Election Code relating to the procedures for the implementation of the photographic identification requirements, including registration procedures, provisional ballot procedures, notice requirements, and education and training requirements, for the State of Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your partial response to our September 23, 2011, request for additional information on October 5, 2011; additional information was received through November 9, 2011.

The information provided thus far is incomplete and does not enable us to determine that the proposed changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, as required under Section 5. The requested information that has not been provided and which continues to be necessary is set forth in Item 5.a. of our September 23, 2011, letter, a copy of which is enclosed for your convenience. That item sought:

The number of registered voters in Texas, by race and Spanish surname within county of residence, who currently possess a Texas driver's license or other form of photo identification issued by [the Department of Public Safety (DPS)] that is current or has expired within sixty days.

As we have discussed, the state has provided a partial response to this item, which included (a) the number of registered voters in each county who did not provide a Texas driver's license or personal identification card when they registered to vote; (b) the number of voters who did not provide a Texas driver's license or personal identification card when they registered to vote, but whose voter record matches a driver/personal identification card record in the DPS database; and (c) the number of voters in each county who did not provide a driver's license or personal identification card number when they registered to vote, that could not be matched with

-2-

a driver's license or personal identification card in the DPS databases of licensed drivers and personal identification card holders. For each of these three categories, the state provided by county the total number of voters and the number of voters with a Spanish surname. On October 13, 2011, the state provided the total number of registered voters with a Spanish surname by precinct and county.

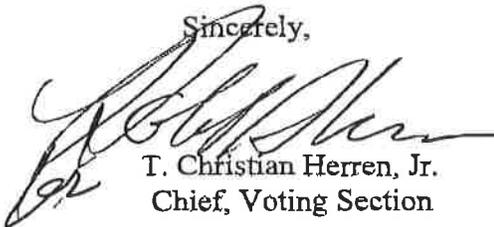
The state, however, has not provided any of the required data by race. In that regard, your October 5, 2011, response, noted that the voter registration process in Texas does not require an applicant to state his or her race. As a result, the state does not collect voter registration data by race. In subsequent conversations, we discussed utilizing the demographic information collected by DPS to compile the requested information. According to your October 27, 2011, letter, the state will use DPS's data to compile a breakdown, by race, in each county of voters the state previously identified as possessing a driver's license or identification. Although you did not indicate a date when this information would be available, you noted that the state will provide the results of its analysis as expeditiously as possible.

You also indicated that because DPS did not allow applicants for driver's licenses or personal identification cards to identify themselves as Hispanic until April 2009, its database may be incomplete in that regard. For that reason, we understand that the state will use its Spanish-surname list to analyze its data and to tabulate registered voters with Spanish surnames separate from the other racial categories.

The Attorney General has sixty days to consider a completed submission pursuant to Section 5. The sixty-day review period will begin when we receive the information specified above. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.37. Also, we remind you that if no response is received within sixty days of this request, the Attorney General may object to the proposed changes consistent with the burden of proof placed upon the submitting authority. 28 C.F.R. 51.40 and 51.52 (a) and (c). Changes that affect voting are legally unenforceable unless and until the appropriate Section 5 determination has been obtained. *Clark v. Roemer*, 500 U.S. 646 (1991); 28 C.F.R. 51.10.

If you have any questions concerning this letter or if we can assist you in obtaining the requested information, please call Zach Bromer (202-305-7798) of our staff. Refer to File No. 2011-2775 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,



T. Christian Herren, Jr.
Chief, Voting Section

Enclosure



U.S. Department of Justice
Civil Rights Division

TCH:RSB:BFH;JLM:ZB:AAO:maj
DJ 166-012-3
2011-2775

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

September 23, 2011

Ann McGeehan, Esq.
Director of Elections
P.O. Box 12060
Austin, Texas 78711-2060

Dear Ms. McGeehan:

This refers to Chapter 123 (S.B. 14) (2011), which amends the Texas Transportation Code relating to the issuance of election identification certificates, and which amends the Texas Election Code relating to the increase in penalty for illegal voting and attempted illegal voting, the implementation schedule for the enforcement of the penalties, and procedures for the implementation of the photographic identification requirements, including registration procedures, provisional ballot procedures, notice requirements, and education and training requirements, for the State of Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on July 25, 2011; additional information was received through September 15, 2011.

The Attorney General does not interpose any objections to Sections 16 and 23 of Chapter 123, which relate to the increase in penalties for illegal voting and attempted illegal voting. However, we note that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

With regard to amendments in Sections 1 through 15 and 17 through 22 of Chapter 123, our analysis indicates that the information sent is insufficient to enable us to determine that the proposed changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, as required under Section 5 of the Voting Rights Act. Thus, additional information is necessary so that we may complete our review of your submission.

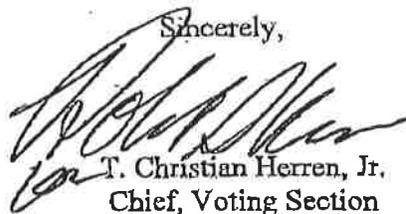
1. A detailed description of the voter education program that the State will implement pursuant to Section 5 of Chapter 123.
2. A detailed description of the efforts that the State will undertake, including the issuance of any rules, regulations, or written guidance, to inform and train state and county election officials regarding voter identification requirements, including, but not

c. Describe any and all efforts, other than the requirements outlined in Section 5 of Chapter 123, to provide notice to these individuals of the requirements of S.B. 14 and the availability of a free DPS-issued identification.

The Attorney General has sixty days to consider a completed submission pursuant to Section 5. This sixty-day review period will begin when we receive the information specified above. 28 C.F.R. 51.37. However, if no response is received within sixty days of this request, the Attorney General may object to the proposed changes consistent with the burden of proof placed upon the submitting authority. 28 C.F.R. 51.40 and 51.52(a) and (c). Changes that affect voting are legally unenforceable unless and until the appropriate Section 5 determination has been obtained. *Clark v. Roemer*, 500 U.S. 646 (1991); 28 C.F.R. 51.10. Therefore, please inform us of the action the State plans to take to comply with this request.

If you have any questions concerning this letter or if we can assist you in obtaining the requested information, please call Zach Bromer (202-305-7798) of our staff. Refer to File No. 2011-2775 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,



T. Christian Herren, Jr.
Chief, Voting Section

Exhibit 5

The State of Texas



Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Hope Andrade
Secretary of State

January 12, 2012

Mr. T. Christian Herren, Jr.
Voting Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington D.C. 20530

VIA FACSIMILE 202-616-9514

Re: Submission under Section 5, Voting Rights Act, of
Senate Bill 14, Chapter 123, 82nd Legislature,
2011; File No. 2011-2775.

Dear Mr. Herren:

In connection with the submission by the State of Texas for pre-clearance of Senate Bill 14, Chapter 123, 82nd Legislature 2011, which concerns photo identification for in person voting, you have asked us to provide the Department of Justice (DOJ) with additional information beyond that already provided by the State. Specifically, you have required Texas to identify:

The number of registered voters in Texas by race and Spanish surname within county of residence, who currently possess a Texas driver's license or other form of photo identification issued by [the Department of Public Safety (DPS)] that is current or has expired within sixty days.

By requesting Spanish surname data, the DOJ's request acknowledges that the DPS database does not accurately reflect the number of Hispanic voters in Texas who possess a driver's license or photo identification card. Nonetheless, in a good faith attempt to satisfy DOJ's request, the State has compiled the requested data--despite the State's reservations about the reliability of that data.

Shortly after passage of the federal Voting Rights Act in 1965, the State of Texas adopted a policy to not require Texans provide their race or ethnicity when registering to vote. As a result, Texas does not maintain any race or ethnicity data for its list of registered voters. As explained in a previous communication with your office, Texas' decision to eliminate race as a factor in its voter registration process makes it impossible to generate fully reliable data in response to your request. Nonetheless, the State of Texas and the agencies working to respond to this request—including the Secretary of State's Office, The Department of Public Safety, and the Attorney General's Office—have assembled data as directed by you.

Mr. T. Christian Herren, Jr.

Page 2

DOJ's directive that the State of Texas identify Hispanic voters by matching voter registration lists with lists of licensed drivers and personal ID holders also produces inaccurate and unreliable data because prior to May 2010 the Department of Public Safety did not list Hispanic as a race that driver's license and personal identification applicants could select. Prior to May 2010, the DPS followed federal Office of Management and Budget guidelines, which does not categorize Hispanic as a "race." Thus, in following DOJ's directive to match voter registration lists with lists of driver's license and ID holders produces anomalous and highly misleading results. Due to the recent addition of a "Hispanic" field to the driver's license and personal ID application, the number of Hispanic ID-holders in Texas is exponentially higher than the DPS's raw data indicates.

The following summarizes factors that raise questions about the reliability of the data compiled in response to the DOJ's request and reveals why that data very likely undercounts the number of voters--minority and otherwise--who possess a DPS-issued photo identification:

- Voters are not asked to provide their race or ethnicity when registering to vote in Texas.
- DPS previously used the following racial classifications on all ID applications: American Indian/Alaskan Native, Asian/Pacific Islander, Black, Other, and White. Not until May 2010 did ID applications at DPS offices across the State contain a field for "Hispanic."
- It is impossible to identify which racial classifications Texans of Hispanic descent selected on ID applications completed prior to May 2010. For this reason, DPS's data for racial classifications other than Hispanic are no doubt significantly distorted.
- In attempting to match names between Texas's race-neutral list of registered voters and the DPS's list of driver's license and ID holders, a number of very common irregularities causes numerous incorrect "no-match" results. These include name changes, inconsistent use of nicknames or initials, inconsistent placement of suffixes such as "Jr." or "III," misspellings, transposed or illegible digits in the ID number provided by the voter, clerical data-entry errors. Simply put, these databases were not designed to be merged. Due to the many difficulties associated with attempting to merge the two databases, the number of "no-match" entries reflected in our response is significantly higher than the actual number of registered voters in Texas who lack an ID.
- The Hispanic-surname analysis you request is an imprecise substitute for accurate racial data. It is impossible to know whether a surname is representative of a voter's race, or the result of any number of legal name changes resulting from actions such as marriage, adoption, or a legal change of identity.. Indeed, in merging the State's list of Spanish-surnamed registered voter with DPS records containing racial classification data, many individual Texans have mismatched ethnicities between the two databases.
- While we have attempted to respond to your directive, given the data available to us, we note that your directive does not take into account the number of registered voters in Texas who possess another form of photo identification that can be used for in-person voting under Senate Bill 14, including a Concealed Carry Permit issued by DPS, a United States Passport, a U.S. Certificate of citizenship, or a United States Military Identification card.
- Further, your request does not account for Texans who will obtain a free Election Identification Card from DPS.

Mr. T. Christian Herren, Jr.

Page 3

Despite these difficulties, all of the agencies involved in this endeavor have made a good faith effort to respond to your request and to cooperate throughout the administrative preclearance process so that preclearance and implementation of Senate Bill 14 can occur as soon as possible. Furthermore, in spite of these difficulties and the resulting unreliability of the numbers, you have indicated that you will deny preclearance of Senate Bill 14 if our office fails to respond to your most recent request for additional information. Therefore, in response to your request, the State of Texas provides the attached Exhibits described below. For reasons stated above and in previous communications, this data does not provide an accurate picture of the racial makeup of registered voters or ID holders in Texas, in large part because of the State of Texas' decision to eliminate race as a factor in its voter registration process. However, these Exhibits represent the State's good-faith attempt to respond to your directive.

Column A of Exhibit A is an updated count of registered voters by county in the State of Texas.

Column B of Exhibit A provides the total number of registered voters by county who provided a DPS ID number to us when they registered to vote, plus those of the remaining registered voters whom we were able to match to a high degree of confidence with an entry in the DPS database, which includes racial identification information. As explained above, Column B significantly undercounts the actual number of registered voters with an ID because of the many difficulties in accurately matching the race-neutral registered voter list to the DPS database that includes racial identification information. The numbers in Column B, however, are the closest that we can get to an accurate number given the data limitations.

Column C of Exhibit B contains the number of registered voters by county that we were able to match to a high degree of confidence with an entry in the DPS database. As explained above, Column C significantly undercounts the actual number of registered voters with an ID because of the many difficulties in accurately matching the race-neutral registered voter list to the DPS database that includes racial classification information. It also significantly undercounts the number of registered voters with an ID because it does not include voters who provided an ID when they registered to vote but who, for whatever reason, could not be matched with a high degree of confidence to an entry in the DPS database containing racial identification information. As a result, the number in Column C is lower than, and less accurate than, the number in Column B for the same county. Given the data limitations explained above, however, this is the only count of registered voters for which we can provide information on race or ethnicity.

Column D of Exhibit B contains the racial information provided to DPS for all registered voters counted in Column C of Exhibit B. For the reasons explained above, this data is not fully reliable and is misleading — due to DPS's evolving methods of collecting information on race and ethnicity. (In addition, Column C of Exhibit B significantly undercounts the number of registered voters who have an ID.) Because of limitations in the data, however, we were forced to use the racial breakdown of this group as the basis for estimating the racial breakdown of the more accurate (though still incomplete) count of registered voters with ID listed in Column B of Exhibit A.

Column E of Exhibit A is an estimation of the racial breakdown of all voters counted in Column B of Exhibit A. To reach this estimate, we applied the racial percentages by county found in Column D of Exhibit B to the more accurate (though still incomplete) count of registered voters with ID found in Column B of Exhibit A.

Mr. T. Christian Herren, Jr.

Page 4

Column F of Exhibit A contains Spanish-surname data for the registered voters by county contained in Column B of Exhibit A. We previously provided you with Spanish-surname data for all registered voters. We note that the Spanish-surname data has flaws as a proxy for racial information and that in merging the State's list of Spanish-surnamed registered voters with DPS records containing racial identification data, many individual Texans have mismatched ethnicities between the two databases.

The attached Exhibits represent the good-faith effort of the State of Texas to respond to your most recent request for information despite the many limitations in the data available to us. Please do not hesitate to contact me with any questions or concerns about this response.

Sincerely,



Keith Ingram
Director of Elections

c: Office of the Attorney General
Department of Public Safety

KI:EHW:id

EXHIBIT A

County Code	County Name	VR	B		E												F			
			Total Matches plus ID	Total	Hispanic (tracked since 2009)		American Indian/Alaskan Native		Asian/Pacific Islander		Black		White		Other		No Ethnicity		Total SOS Spanish	
					DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	DPS ETHNICITY	Total
001	ANDERSON	25,810	24,239	103	0.42%	27	0.09%	67	0.28%	3,107	12.82%	20,705	85.42%	233	0.96%	3	0.01%	1,266	5.22%	
002	ANDREWS	7,958	7,460	498	6.68%	15	0.20%	18	0.25%	120	1.61%	6,786	90.97%	21	0.28%	1	0.02%	2,528	33.89%	
003	ANGELINA	47,132	44,226	145	0.33%	43	0.10%	118	0.27%	6,038	13.65%	37,523	84.84%	354	0.80%	6	0.01%	3,640	8.23%	
004	ARANSAS	14,943	14,522	178	1.23%	25	0.18%	146	1.01%	120	0.82%	13,989	96.33%	63	0.43%	1	0.01%	2,138	14.72%	
005	ARCHER	6,186	5,869	6	0.11%	8	0.14%	13	0.22%	16	0.27%	5,816	99.10%	8	0.14%	1	0.02%	140	2.39%	
006	ARMSTRONG	1,404	1,257	1	0.09%	3	0.26%	0	0.00%	3	0.26%	1,246	99.15%	3	0.26%	0	0.00%	39	3.10%	
007	ATASCOSA	23,266	21,528	1,163	5.40%	24	0.11%	28	0.13%	108	0.50%	19,528	90.71%	675	3.14%	1	0.01%	10,901	50.64%	
008	AUSTIN	17,522	16,812	129	0.77%	11	0.06%	45	0.27%	1,429	8.50%	14,690	87.38%	506	3.01%	2	0.01%	1,673	9.95%	
009	BAILEY	3,381	3,175	117	3.69%	6	0.20%	6	0.20%	39	1.23%	2,991	94.20%	13	0.40%	3	0.08%	1,192	37.54%	
010	BANDERA	14,214	13,958	97	0.69%	18	0.13%	33	0.24%	39	0.28%	13,714	98.25%	54	0.39%	3	0.02%	1,489	10.67%	
011	BASTROP	39,058	37,516	314	0.84%	38	0.10%	95	0.25%	2,822	7.52%	33,784	90.05%	459	1.27%	6	0.01%	5,212	13.89%	
012	BAYLOR	2,526	2,393	5	0.19%	1	0.05%	2	0.10%	38	1.58%	2,343	97.89%	5	0.19%	0	0.00%	177	7.40%	
013	BEE	14,365	13,324	208	1.56%	12	0.09%	31	0.23%	225	1.69%	12,233	91.81%	616	4.63%	0	0.00%	7,183	53.91%	
014	BELL	149,320	140,855	1,600	1.14%	288	0.20%	2,674	1.90%	29,867	21.20%	100,991	71.70%	5,406	3.84%	29	0.02%	16,732	11.88%	
015	BEXAR	863,645	792,567	33,386	4.21%	723	0.09%	10,653	1.34%	64,728	8.17%	660,746	83.37%	22,227	2.80%	104	0.01%	334,289	42.18%	
016	BLANCO	6,911	6,678	29	0.44%	3	0.05%	14	0.21%	49	0.73%	6,559	98.22%	22	0.32%	2	0.03%	588	8.81%	
017	BORDEN	435	402	0	0.00%	0	0.00%	1	0.26%	0	0.00%	400	99.47%	1	0.26%	0	0.00%	24	5.97%	
018	BOSQUE	11,608	11,059	54	0.49%	4	0.04%	8	0.07%	161	1.45%	10,795	97.61%	37	0.33%	1	0.01%	744	6.73%	
019	BOWIE	54,818	51,568	27	0.05%	53	0.10%	122	0.24%	9,779	18.96%	41,314	80.11%	261	0.51%	12	0.02%	869	1.69%	
020	BRAZORIA	168,520	163,171	1,993	1.22%	133	0.08%	4,321	2.65%	19,107	11.71%	131,743	80.74%	5,856	3.59%	18	0.01%	25,806	15.82%	
021	BRAZOS	85,356	82,437	752	0.91%	61	0.07%	985	1.19%	8,440	10.24%	71,551	86.79%	638	0.77%	10	0.01%	9,371	11.37%	
022	BREWSTER	6,390	5,732	163	2.84%	6	0.10%	16	0.28%	66	1.15%	5,437	94.85%	40	0.70%	5	0.08%	1,611	28.11%	
023	BRISCOE	1,140	1,044	19	1.79%	1	0.11%	0	0.00%	18	1.68%	990	94.84%	15	1.46%	1	0.11%	150	14.37%	
024	BROOKS	6,607	4,498	302	6.72%	1	0.03%	4	0.09%	12	0.27%	4,136	91.94%	40	0.89%	3	0.06%	4,006	89.06%	
025	BROWN	21,735	20,760	43	0.21%	20	0.10%	39	0.19%	583	2.81%	19,998	96.33%	75	0.36%	2	0.01%	2,116	10.19%	
026	BURLESON	10,548	9,734	74	0.76%	3	0.03%	14	0.15%	1,036	10.64%	8,475	87.07%	129	1.33%	2	0.02%	895	9.29%	
027	BURNET	25,484	24,887	60	0.24%	17	0.07%	58	0.23%	241	0.97%	24,432	98.17%	75	0.30%	4	0.02%	1,947	7.82%	
028	CALDWELL	19,637	18,102	635	3.51%	18	0.10%	36	0.20%	1,282	7.08%	15,783	87.19%	341	1.88%	7	0.04%	5,994	30.90%	
029	CALHOUN	12,121	11,238	82	0.73%	5	0.04%	194	1.73%	328	2.92%	10,257	91.27%	373	3.32%	0	0.00%	3,780	33.64%	
030	CALLAHAN	8,585	8,049	25	0.31%	55	0.68%	13	0.16%	50	0.63%	7,884	97.95%	21	0.27%	1	0.01%	360	4.47%	
031	CAMERON	170,543	144,297	14,104	9.77%	53	0.04%	552	0.38%	623	0.43%	126,860	87.92%	2,049	1.42%	55	0.04%	106,556	74.12%	
032	CAMP	6,938	6,427	13	0.20%	13	0.20%	20	0.31%	1,179	18.34%	5,132	79.84%	69	1.07%	2	0.03%	366	5.69%	
033	CARSON	4,217	3,919	6	0.16%	3	0.08%	2	0.05%	9	0.22%	3,888	99.21%	11	0.27%	0	0.00%	190	4.85%	
034	CASS	17,924	16,605	3	0.02%	11	0.07%	9	0.05%	2,404	14.48%	14,105	84.95%	70	0.42%	2	0.01%	201	1.21%	
035	CASTRO	4,077	3,588	277	7.71%	7	0.21%	6	0.17%	57	1.58%	3,023	84.24%	218	6.06%	1	0.03%	1,392	38.80%	
036	CHAMBERS	23,277	22,034	91	0.41%	19	0.09%	117	0.53%	1,892	8.59%	19,620	89.04%	293	1.33%	3	0.02%	1,819	8.26%	
037	CHEROKEE	26,342	25,454	33	0.13%	24	0.10%	52	0.20%	3,318	13.03%	21,894	86.01%	132	0.52%	1	0.00%	1,393	5.47%	
038	CHILDRESS	3,526	3,241	16	0.48%	7	0.21%	6	0.17%	124	3.82%	3,071	94.76%	17	0.52%	1	0.03%	398	12.28%	
039	CLAY	7,592	7,206	7	0.10%	12	0.16%	7	0.10%	16	0.22%	7,149	99.21%	13	0.18%	2	0.03%	169	2.35%	
040	COCHRAN	1,757	1,555	104	6.72%	1	0.08%	0	0.00%	69	4.45%	1,374	88.38%	6	0.38%	0	0.00%	586	37.68%	
041	COKE	2,346	2,169	9	0.41%	1	0.05%	0	0.00%	2	0.10%	2,150	99.12%	7	0.31%	0	0.00%	250	11.53%	
042	COLEMAN	6,006	5,715	38	0.67%	9	0.15%	7	0.11%	92	1.61%	5,558	97.25%	11	0.19%	1	0.02%	587	10.27%	
043	COLLIN	427,811	418,214	1,367	0.33%	641	0.15%	16,209	3.88%	34,075	8.15%	362,485	86.67%	3,388	0.81%	50	0.01%	25,216	6.03%	
044	COLLINGSWORTH	1,847	1,620	12	0.73%	5	0.33%	0	0.00%	58	3.60%	1,535	94.73%	10	0.60%	0	0.00%	196	12.10%	
045	COLORADO	13,003	12,242	46	0.37%	6	0.05%	13	0.11%	1,489	12.16%	10,448	85.34%	239	1.95%	2	0.02%	1,588	12.97%	
046	COMAL	73,754	71,512	703	0.98%	72	0.10%	316	0.44%	972	1.36%	68,336	95.56%	1,107	1.55%	7	0.01%	10,643	14.88%	
047	COMANCHE	8,862	8,104	47	0.58%	7	0.08%	11	0.14%	11	0.14%	7,844	96.80%	183	2.26%	1	0.01%	902	11.13%	
048	CONCHO	1,664	1,558	19	1.23%	0	0.00%	2	0.14%	9	0.58%	1,523	97.76%	5	0.29%	0	0.00%	362	23.23%	
049	COOKE	22,736	21,792	113	0.52%	32	0.15%	70	0.32%	519	2.38%	21,008	96.40%	46	0.21%	4	0.02%	1,026	4.71%	
050	CORYELL	33,662	31,788	119	0.38%	84	0.27%	457	1.44%	4,241	13.34%	25,938	81.60%	944	2.97%	4	0.01%	2,861	9.00%	
051	COTTE	1,124	1,035	6	0.57%	4	0.34%	0	0.00%	84	8.11%	937	90.51%	5	0.46%	0	0.00%	144	13.91%	
052	CRANE	2,366	2,166	167	7.72%	1	0.05%	6	0.26%	63	2.89%	1,928	89.03%	1	0.05%	0	0.00%	829	38.27%	
053	CROCKETT	2,524	2,239	50	2.25%	1	0.05%	5	0.21%	6	0.27%	2,170	96.90%	6	0.27%	1	0.05%	1,083	48.37%	
054	CROSBY	3,618	3,074	79	2.56%	4	0.12%	2	0.08%	96	3.11%	2,865	93.19%	28	0.90%	1	0.04%	1,262	41.05%	
055	CULBERSON	1,721	1,444	99	6.85%	4	0.26%	5	0.35%	9	0.61%	1,321	91.51%	6	0.43%	0	0.00%	978	67.73%	
056	DALLAM	2,923	2,678	34	1.28%	4	0.17%	7	0.25%	39	1.45%	2,586	96.56%	8	0.29%	0	0.00%	581	21.70%	
057	DALLAS	1,103,074	1,024,889	18,062	1.76%	1,298	0.13%	24,510	2.39%	288,338	28.13%	685,245	66.86%	7,243	0.71%	193	0.02%	146,635	14.11%	
058	DAWSON	7,485	6,359	223	3.50%	7	0.12%	6	0.10%	208	3.19%	5,865	92.23%	53	0.84%	1	0.02%	2,805	44.31%	
059	DEAF SMITH	8,275	7,395	128	1.74%	6	0.08%	17	0.23%	65	0.88%	6,916	93.52%	260	3.52%	2	0.03%	3,408	46.09%	
060	DELTA	3,447																		

EXHIBIT A

County Code	County Name	VR	Total Matches plus ID		E												Total SOS Spanish			
					Hispanic (tracked since 2009)		American Indian/Alaskan Native		Asian/Pacific Islander		Black		White		Other				No Ethnicity	
					DPS ETHNICITY	%	DPS ETHNICITY	%	DPS ETHNICITY	%	DPS ETHNICITY	%	DPS ETHNICITY	%	DPS ETHNICITY	%			DPS ETHNICITY	%
088	GOLIAD	5,378	4,831	29	0.61%	5	0.09%	2	0.05%	181	3.75%	4,581	94.82%	31	0.63%	2	0.05%	1,291	26.72%	
089	GONZALES	12,370	11,183	179	1.60%	1	0.01%	14	0.12%	868	7.76%	9,753	87.21%	366	3.28%	2	0.02%	3,319	29.68%	
090	GRAY	12,697	11,887	26	0.22%	25	0.21%	12	0.10%	279	2.35%	11,307	95.12%	237	1.99%	1	0.01%	1,131	9.51%	
091	GRAYSON	71,150	68,528	93	0.14%	206	0.30%	244	0.36%	3,497	5.10%	63,962	93.34%	518	0.76%	9	0.01%	2,445	3.57%	
092	GREGG	64,783	61,139	113	0.19%	78	0.13%	260	0.43%	11,497	18.11%	49,032	80.20%	150	0.25%	9	0.01%	2,677	4.38%	
093	GRIMES	14,218	13,587	74	0.55%	8	0.06%	23	0.17%	1,930	14.21%	11,353	83.56%	196	1.44%	2	0.02%	1,181	8.69%	
094	GUADALUPE	74,153	71,216	1,176	1.65%	80	0.11%	727	1.02%	4,876	6.85%	62,777	88.15%	1,572	2.21%	8	0.01%	15,863	22.27%	
095	HALE	19,437	16,970	1,301	7.67%	29	0.17%	36	0.21%	735	4.33%	14,019	82.61%	841	4.95%	8	0.05%	6,975	41.10%	
096	HALL	2,051	1,868	6	0.32%	7	0.38%	4	0.19%	109	5.83%	1,730	92.64%	11	0.58%	1	0.06%	310	16.60%	
097	HAMILTON	5,364	5,079	26	0.51%	5	0.11%	5	0.11%	3	0.06%	5,003	98.50%	34	0.67%	2	0.04%	184	3.62%	
098	HANSFORD	3,013	2,745	38	1.37%	0	0.00%	2	0.08%	3	0.17%	2,664	97.06%	36	1.33%	1	0.04%	520	18.94%	
099	HARDEMAN	2,559	2,466	7	0.28%	3	0.14%	2	0.09%	97	3.94%	2,354	95.45%	2	0.09%	0	0.00%	245	9.94%	
100	HARDIN	34,426	32,903	12	0.04%	16	0.05%	47	0.14%	1,871	5.69%	30,841	93.73%	115	0.35%	1	0.00%	831	2.53%	
101	HARRIS	1,881,312	1,769,780	42,087	2.38%	1,474	0.08%	70,683	3.99%	414,082	23.40%	1,132,276	63.98%	108,918	6.15%	260	0.01%	336,697	19.02%	
102	HARRISON	42,207	39,076	46	0.12%	34	0.09%	65	0.17%	8,441	21.60%	30,391	77.77%	95	0.24%	4	0.01%	1,001	2.56%	
103	HARTLEY	2,734	2,557	10	0.38%	4	0.17%	2	0.08%	3	0.13%	2,533	99.08%	4	0.17%	0	0.00%	152	5.94%	
104	HASKELL	3,649	3,189	20	0.64%	15	0.47%	4	0.13%	66	2.08%	3,080	96.58%	3	0.10%	0	0.00%	449	14.08%	
105	HAYS	95,299	91,442	2,252	2.46%	75	0.08%	498	0.54%	3,167	3.46%	83,962	91.82%	1,470	1.61%	17	0.02%	18,833	20.60%	
106	HEMPHILL	2,149	2,041	5	0.27%	1	0.05%	1	0.05%	1	0.05%	2,015	98.72%	16	0.80%	1	0.05%	186	9.11%	
107	HENDERSON	47,917	45,589	116	0.25%	41	0.09%	73	0.16%	2,716	5.96%	42,257	92.69%	378	0.83%	8	0.02%	1,776	3.90%	
108	HIDALGO	287,061	242,459	39,203	16.17%	87	0.04%	1,666	0.69%	1,208	0.50%	196,165	80.91%	4,054	1.67%	77	0.03%	191,249	78.88%	
109	HILL	21,582	20,705	95	0.46%	28	0.14%	30	0.15%	1,155	5.58%	19,314	93.28%	82	0.39%	1	0.01%	1,605	7.75%	
110	HOCKLEY	13,018	11,980	556	4.64%	14	0.12%	17	0.14%	339	2.83%	11,009	91.89%	42	0.35%	3	0.03%	3,625	30.26%	
111	HOOD	33,387	32,487	61	0.19%	44	0.13%	62	0.19%	118	0.36%	31,940	98.31%	259	0.80%	4	0.01%	1,390	4.28%	
112	HOPKINS	20,419	19,409	46	0.24%	19	0.10%	36	0.19%	1,396	7.19%	17,850	91.97%	59	0.31%	2	0.01%	780	4.02%	
113	HOUSTON	13,066	12,117	17	0.14%	4	0.04%	14	0.12%	2,500	20.63%	9,490	78.32%	88	0.73%	3	0.03%	358	2.95%	
114	HOWARD	16,383	15,041	287	1.91%	27	0.18%	51	0.34%	490	3.26%	14,139	94.01%	46	0.31%	1	0.01%	3,535	23.50%	
115	HUDSPETH	1,575	1,355	61	4.54%	1	0.10%	1	0.10%	13	0.99%	1,269	93.69%	4	0.30%	4	0.30%	739	54.54%	
116	HUNT	46,487	44,761	101	0.23%	71	0.16%	141	0.32%	3,418	7.64%	40,858	91.28%	167	0.37%	4	0.01%	2,201	4.92%	
117	HUTCHINSON	13,680	12,899	33	0.25%	34	0.26%	19	0.14%	212	1.64%	12,552	97.31%	48	0.37%	1	0.01%	1,304	10.11%	
118	IRION	1,247	1,161	11	0.96%	0	0.00%	0	0.00%	7	0.57%	1,141	98.28%	1	0.10%	0	0.00%	180	15.50%	
119	JACK	4,736	4,480	9	0.19%	4	0.10%	4	0.10%	24	0.53%	4,434	98.97%	5	0.12%	0	0.00%	179	4.00%	
120	JACKSON	8,521	7,970	49	0.61%	5	0.06%	6	0.07%	526	6.60%	7,309	91.71%	76	0.95%	0	0.00%	1,516	19.02%	
121	JASPER	20,668	18,738	7	0.03%	20	0.10%	16	0.09%	2,794	14.91%	15,840	84.53%	58	0.31%	4	0.02%	398	2.12%	
122	JEFF DAVIS	1,544	1,418	20	1.41%	2	0.16%	1	0.08%	2	0.16%	1,387	97.81%	6	0.39%	0	0.00%	271	19.11%	
123	JEFFERSON	140,832	133,945	222	0.17%	86	0.06%	2,095	1.56%	46,113	34.43%	83,902	62.64%	1,511	1.13%	17	0.01%	8,472	6.32%	
124	JIM HOGG	3,696	2,948	191	6.49%	4	0.13%	0	0.00%	9	0.30%	2,628	89.16%	116	3.92%	0	0.00%	2,656	90.09%	
125	JIM WELLS	24,966	21,326	586	2.75%	13	0.06%	44	0.20%	113	0.53%	20,474	96.00%	93	0.44%	4	0.02%	15,300	71.74%	
126	JOHNSON	77,879	75,846	267	0.35%	89	0.12%	182	0.24%	1,641	2.16%	72,771	95.95%	887	1.17%	9	0.01%	6,147	8.10%	
127	JONES	9,777	9,253	152	1.64%	202	2.18%	5	0.06%	280	3.03%	8,577	92.69%	34	0.37%	3	0.04%	1,344	14.53%	
128	KARNES	7,563	6,670	95	1.42%	2	0.04%	7	0.11%	121	1.82%	6,353	95.25%	90	1.35%	1	0.02%	2,741	41.09%	
129	KAUFMAN	56,477	53,896	574	1.07%	51	0.10%	187	0.35%	5,827	10.81%	46,705	86.66%	546	1.01%	4	0.01%	3,647	6.77%	
130	KENDALL	24,502	23,719	222	0.94%	14	0.06%	77	0.33%	91	0.38%	23,192	97.78%	120	0.51%	2	0.01%	2,431	10.25%	
131	KENEDY	351	307	16	5.26%	0	0.00%	0	0.00%	0	0.00%	290	94.33%	1	0.40%	0	0.00%	203	66.12%	
132	KENT	615	565	3	0.57%	1	0.19%	0	0.00%	3	0.57%	557	98.66%	0	0.00%	0	0.00%	50	8.85%	
133	KERR	31,685	30,596	98	0.32%	38	0.12%	68	0.22%	354	1.16%	29,849	97.56%	182	0.60%	7	0.02%	3,523	11.51%	
134	KIMBLE	2,888	2,788	14	0.48%	3	0.12%	9	0.32%	6	0.20%	2,746	98.51%	10	0.36%	0	0.00%	346	12.41%	
135	KING	187	171	0	0.00%	1	0.64%	0	0.00%	0	0.00%	169	98.72%	1	0.64%	0	0.00%	11	6.43%	
136	KINNEY	2,308	2,028	97	4.76%	4	0.17%	2	0.12%	35	1.74%	1,874	92.39%	14	0.70%	2	0.12%	741	36.54%	
137	KLEBERG	17,106	15,567	914	5.87%	12	0.08%	101	0.65%	550	3.53%	13,900	89.29%	88	0.56%	2	0.02%	9,489	60.96%	
138	KNOX	2,253	2,102	6	0.28%	6	0.28%	4	0.17%	92	4.37%	1,991	94.73%	4	0.17%	0	0.00%	433	20.60%	
139	LAMAR	28,064	26,151	11	0.04%	99	0.38%	95	0.36%	2,994	11.45%	22,797	87.17%	148	0.57%	7	0.03%	448	1.71%	
140	LAMB	8,305	7,269	204	2.81%	4	0.05%	4	0.05%	312	4.30%	6,622	91.10%	115	1.58%	0	0.00%	2,628	36.15%	
141	LAMPASAS	12,449	11,963	77	0.65%	18	0.15%	80	0.67%	396	3.31%	11,217	93.77%	173	1.45%	1	0.01%	1,128	9.43%	
142	LA SALLE	3,868	2,935	377	12.84%	0	0.00%	1	0.04%	7	0.22%	2,501	85.21%	48	1.64%	1	0.04%	2,195	74.79%	
143	LAVACA	12,926	12,248	16	0.13%	9	0.07%	12	0.10%	565	4.61%	11,565	94.42%	80	0.65%	1	0.01%	1,012	8.26%	
144	LEE	9,232	8,671	44	0.51%	4	0.05%	11	0.12%	847	9.76%	7,662	88.37%	100	1.16%	2	0.02%	732	8.44%	
145	LEON	10,505	9,889	8	0.08%	11	0.11%	21	0.22%	668	6.75%	9,131	92.34%	48	0.49%	2	0.02%	418	4.23%	
146	LIBERTY	41,923	38,922	197	0.51%	51	0.13%	99	0.24%	4,155	10.67%	34,272	88.05%	152	0.39%	3	0.01%	2,470	6.35%	
147	LIMESTONE	13,132	12,212	30	0.24%	6	0.05%	21	0.17%	1,967	16.11%	10,154								

EXHIBIT A

County Code	County Name	A		B		E												F			
		VR	Total Matches plus ID	Hispanic (tracked since 2009)		American Indian/Alaskan Native		Asian/Pacific Islander		Black		White		Other		No Ethnicity		Total SOS Spanish			
				Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
175	NAVARRO	26,494	25,070	219	0.87%	22	0.09%	53	0.21%	3,574	14.25%	21,051	83.97%	145	0.58%	7	0.03%	2,057	8.21%		
176	NEWTON	8,688	7,656	2	0.03%	4	0.06%	4	0.06%	1,257	16.42%	6,368	83.18%	13	0.17%	7	0.09%	118	1.54%		
177	NOLAN	8,411	8,188	333	4.07%	42	0.51%	9	0.11%	292	3.57%	7,402	90.40%	108	1.31%	1	0.01%	1,930	23.57%		
178	NUECES	183,144	166,282	9,410	5.66%	148	0.09%	1,456	0.88%	6,811	4.10%	147,052	88.44%	1,385	0.83%	19	0.01%	79,239	47.55%		
179	OCHILTREE	4,936	4,523	99	2.19%	7	0.15%	8	0.17%	8	0.17%	4,348	96.12%	53	1.17%	1	0.02%	859	18.99%		
180	OLDHAM	1,356	1,276	6	0.50%	3	0.25%	3	0.25%	4	0.33%	1,254	98.26%	5	0.41%	0	0.00%	100	7.84%		
181	ORANGE	47,690	45,645	17	0.04%	45	0.10%	152	0.33%	3,245	7.11%	41,991	92.00%	190	0.42%	3	0.01%	1,452	3.18%		
182	PALO PINTO	16,720	15,947	46	0.29%	5	0.03%	24	0.15%	358	2.24%	15,372	96.40%	141	0.89%	0	0.00%	1,243	7.79%		
183	PANOLA	15,258	14,570	11	0.08%	11	0.08%	21	0.15%	2,205	15.14%	12,296	84.39%	23	0.15%	2	0.02%	328	2.25%		
184	PARKER	72,457	70,576	148	0.21%	94	0.13%	157	0.22%	552	0.78%	69,276	98.16%	340	0.48%	11	0.02%	3,052	4.32%		
185	PARMER	4,424	3,724	66	1.77%	1	0.03%	4	0.12%	29	0.77%	3,550	95.34%	73	1.95%	1	0.03%	1,192	32.01%		
186	PECOS	7,883	7,131	178	2.50%	8	0.11%	10	0.15%	64	0.89%	6,851	96.08%	19	0.26%	1	0.02%	4,058	56.91%		
187	POLK	35,799	33,084	66	0.20%	254	0.77%	52	0.16%	2,058	6.22%	30,420	91.95%	231	0.70%	3	0.01%	1,238	3.74%		
188	POTTER	49,943	47,860	395	0.83%	71	0.15%	467	0.98%	3,619	7.56%	43,134	90.12%	171	0.36%	3	0.01%	9,136	19.13%		
189	PRESIDIO	5,079	3,421	248	7.25%	1	0.03%	4	0.10%	8	0.24%	2,864	83.71%	292	8.53%	5	0.14%	2,304	67.35%		
190	RAINS	6,524	6,241	5	0.09%	12	0.19%	13	0.21%	146	2.34%	6,055	97.02%	10	0.16%	0	0.00%	179	2.87%		
191	RANDALL	75,599	73,409	220	0.30%	87	0.12%	313	0.43%	1,120	1.53%	71,482	97.37%	182	0.25%	4	0.01%	6,901	9.40%		
192	REAGAN	1,744	1,596	87	5.45%	4	0.23%	1	0.08%	31	1.97%	1,465	91.82%	7	0.45%	0	0.00%	637	39.91%		
193	REAL	2,410	2,232	76	3.39%	1	0.05%	1	0.05%	5	0.25%	2,141	95.92%	8	0.34%	0	0.00%	350	15.68%		
194	RED RIVER	7,455	6,848	2	0.03%	14	0.21%	9	0.05%	1,025	14.96%	5,772	84.29%	31	0.45%	1	0.02%	150	2.19%		
195	REEVES	6,056	5,226	184	3.52%	7	0.14%	12	0.23%	104	1.99%	4,899	93.75%	18	0.34%	2	0.05%	3,791	72.54%		
196	REFUGIO	5,065	4,595	105	2.30%	3	0.08%	3	0.08%	276	6.00%	4,150	90.32%	57	1.24%	0	0.00%	1,781	38.76%		
197	ROBERTS	680	629	1	0.18%	1	0.18%	0	0.00%	0	0.00%	623	99.12%	3	0.53%	0	0.00%	19	3.02%		
198	ROBERTSON	10,932	9,846	61	0.62%	7	0.07%	30	0.30%	2,179	22.13%	7,516	76.34%	49	0.50%	4	0.05%	1,005	10.21%		
199	ROCKWALL	45,205	44,003	165	0.37%	40	0.09%	463	1.05%	2,286	5.20%	40,868	92.88%	176	0.40%	4	0.01%	2,859	6.50%		
200	RUNNELS	6,622	6,486	123	1.90%	21	0.32%	12	0.18%	78	1.20%	6,233	96.10%	19	0.29%	1	0.02%	1,450	22.36%		
201	RUSSK	29,831	27,246	37	0.14%	23	0.08%	51	0.19%	4,047	14.85%	22,991	84.38%	90	0.33%	7	0.02%	1,066	3.91%		
202	SABINE	7,271	6,647	1	0.02%	5	0.08%	5	0.08%	389	5.86%	6,230	93.73%	13	0.20%	2	0.03%	97	1.46%		
203	SAN AUGUSTINE	5,899	4,999	0	0.00%	2	0.04%	4	0.09%	1,057	21.14%	3,928	78.58%	8	0.15%	0	0.00%	97	1.94%		
204	SAN JACINTO	15,436	14,656	39	0.27%	15	0.10%	24	0.16%	1,512	10.32%	13,000	88.70%	65	0.44%	0	0.00%	582	3.97%		
205	SAN PATRICIO	41,507	36,870	1,829	4.96%	43	0.12%	187	0.51%	689	1.87%	33,870	91.86%	243	0.66%	8	0.02%	16,042	43.51%		
206	SAN SABA	3,677	3,366	20	0.59%	1	0.03%	6	0.16%	9	0.26%	3,263	96.93%	66	1.96%	2	0.07%	452	13.43%		
207	SCHLEICHER	1,765	1,606	20	1.23%	0	0.00%	1	0.07%	17	1.08%	1,563	97.33%	5	0.29%	0	0.00%	501	31.20%		
208	SCURRY	9,110	8,483	402	4.74%	23	0.27%	8	0.10%	221	2.60%	7,726	91.07%	103	1.21%	0	0.00%	1,985	23.40%		
209	SHACKELFORD	2,251	2,063	7	0.33%	7	0.33%	1	0.05%	8	0.38%	2,028	98.31%	11	0.55%	1	0.05%	122	5.91%		
210	SHELBY	13,663	12,560	35	0.12%	5	0.04%	21	0.17%	1,948	15.51%	10,476	83.41%	88	0.70%	6	0.05%	363	2.89%		
211	SHERMAN	1,416	1,248	11	0.88%	0	0.00%	1	0.09%	3	0.26%	1,227	98.33%	3	0.26%	2	0.18%	233	18.67%		
212	SMITH	117,670	113,233	241	0.21%	113	0.10%	472	0.42%	19,349	17.09%	92,170	81.40%	879	0.78%	9	0.01%	5,725	5.06%		
213	SOMERVELL	5,466	5,165	14	0.27%	14	0.27%	10	0.19%	8	0.15%	5,052	97.81%	65	1.27%	2	0.04%	397	7.69%		
214	STARR	29,326	23,180	1,610	6.95%	1	0.01%	32	0.14%	26	0.11%	20,164	86.99%	1,332	5.74%	15	0.06%	22,069	95.21%		
215	STEPHENS	5,539	5,097	56	1.11%	12	0.23%	4	0.09%	63	1.23%	4,894	96.02%	67	1.32%	0	0.00%	483	9.48%		
216	STERLING	827	746	7	0.88%	0	0.00%	0	0.00%	1	0.15%	735	98.53%	3	0.44%	0	0.00%	154	20.64%		
217	STONEWALL	1,063	1,004	6	0.59%	2	0.24%	0	0.00%	22	2.23%	971	96.71%	2	0.24%	0	0.00%	87	8.67%		
218	SUTTON	2,434	2,138	25	1.18%	1	0.05%	2	0.11%	1	0.05%	2,092	97.86%	15	0.69%	1	0.05%	912	42.66%		
219	SWISHER	4,111	3,958	168	4.25%	2	0.06%	1	0.03%	141	3.56%	3,504	88.53%	140	3.53%	1	0.03%	1,080	27.29%		
220	TARRANT	912,896	879,260	8,142	0.93%	1,229	0.14%	19,380	2.20%	136,504	15.52%	709,030	80.64%	4,836	0.55%	139	0.02%	99,143	11.28%		
221	TAYLOR	72,067	68,863	986	1.43%	1,794	2.60%	500	0.73%	3,702	5.38%	61,587	89.43%	290	0.42%	4	0.01%	8,773	12.74%		
222	TERRELL	889	790	14	1.71%	2	0.28%	2	0.28%	1	0.14%	771	97.58%	0	0.00%	0	0.00%	278	35.19%		
223	TERRY	7,161	6,495	549	8.45%	7	0.11%	5	0.07%	191	2.94%	5,625	86.61%	112	1.73%	5	0.07%	2,515	38.72%		
224	THROCKMORTON	1,215	1,104	9	0.77%	1	0.10%	0	0.00%	0	0.00%	1,091	98.84%	3	0.29%	0	0.00%	60	5.43%		
225	TITUS	15,328	14,430	47	0.33%	26	0.18%	49	0.34%	1,824	12.64%	12,041	83.44%	436	3.02%	7	0.05%	1,744	12.09%		
226	TOM GREEN	59,037	56,243	432	0.77%	76	0.13%	325	0.58%	1,831	3.26%	53,298	94.76%	279	0.50%	2	0.00%	12,851	22.85%		
227	TRAVIS	584,466	552,699	10,336	1.87%	621	0.11%	15,028	2.72%	47,906	8.67%	471,245	85.26%	7,492	1.36%	71	0.01%	81,348	14.72%		
228	TRINITY	11,392	10,039	14	0.14%	5	0.05%	12	0.12%	879	8.75%	9,075	90.40%	53	0.52%	1	0.01%	277	2.76%		
229	TYLER	12,512	11,549	4	0.04%	8	0.07%	8	0.07%	802	6.94%	10,677	92.45%	48	0.41%	2	0.02%	181	1.57%		
230	UPSHER	25,769	23,798	21	0.09%	34	0.14%	29	0.12%	1,996	8.39%	21,639	90.93%	77	0.32%	2	0.01%	530	2.23%		
231	UPTON	2,133	1,954	91	4.66%	2	0.12%	1	0.06%	33	1.71%	1,818	93.04%	7	0.35%	1	0.06%	655	33.52%		
232	UVALDE	15,752	13,758	2,009	14.60%	14	0.10%	31	0.23%	39	0.28%	11,624	84.49%	37	0.27%	4	0.03%	7,570	55.02%		
233	VAL VERDE	26,508	24,854	2,628	10.57%	36	0.15%	111	0.45%	418	1.68%	21,541	86.67%	111	0.45%	8	0.03%</				

EXHIBIT B

			C		D												G		
					Voters with DPS Match														
			Hispanic (tracked since 2009)		American Indian/Alaskan		Asian/Pacific Islander		Black		White		Other		No Ethnicity		Total SOS Spanish		
			DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS No Ethnicity				
County Code	County Name	VR	Total	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
001	ANDERSON	25,810	22,159	94	0.42%	20	0.09%	61	0.28%	2,840	12.82%	18,928	85.42%	213	0.96%	3	0.01%	946	4.27%
002	ANDREWS	7,958	6,466	432	6.68%	13	0.20%	16	0.25%	104	1.61%	5,882	90.97%	18	0.28%	1	0.02%	1,847	28.56%
003	ANGELINA	47,132	39,717	130	0.33%	39	0.10%	106	0.27%	5,422	13.65%	33,697	84.84%	318	0.80%	5	0.01%	2,502	6.30%
004	ARANSAS	14,943	13,123	161	1.23%	23	0.18%	132	1.01%	108	0.82%	12,641	96.33%	57	0.43%	1	0.01%	1,637	12.47%
005	ARCHER	6,186	5,564	6	0.11%	8	0.14%	12	0.22%	15	0.27%	5,514	99.10%	8	0.14%	1	0.02%	103	1.85%
006	ARMSTRONG	1,404	1,177	1	0.09%	3	0.26%	0	0.00%	3	0.26%	1,166	99.15%	3	0.26%	0	0.00%	29	2.47%
007	ATASCOSA	23,266	17,727	958	5.40%	20	0.11%	23	0.13%	89	0.50%	16,080	90.71%	556	3.14%	1	0.01%	7,954	44.87%
008	AUSTIN	17,522	15,403	118	0.77%	10	0.06%	41	0.27%	1,309	8.50%	13,459	87.38%	464	3.01%	2	0.01%	1,225	7.95%
009	BAILEY	3,381	2,517	93	3.69%	5	0.20%	5	0.20%	31	1.23%	2,371	94.20%	10	0.40%	2	0.08%	783	31.11%
010	BANDERA	14,214	12,577	87	0.69%	16	0.13%	30	0.24%	35	0.28%	12,357	98.25%	49	0.39%	3	0.02%	1,133	9.01%
011	BASTROP	39,058	33,624	281	0.84%	34	0.10%	85	0.25%	2,529	7.52%	30,279	90.05%	411	1.22%	5	0.01%	3,820	11.36%
012	BAYLOR	2,526	2,086	4	0.19%	1	0.05%	2	0.10%	33	1.58%	2,042	97.89%	4	0.19%	0	0.00%	132	6.33%
013	BEE	14,365	10,916	170	1.56%	10	0.09%	25	0.23%	184	1.69%	10,022	91.81%	505	4.63%	0	0.00%	5,258	48.17%
014	BELL	149,320	125,110	1,421	1.14%	256	0.20%	2,375	1.90%	26,528	21.20%	89,702	71.70%	4,802	3.84%	26	0.02%	12,327	9.85%
015	BEXAR	863,645	671,995	28,307	4.21%	613	0.09%	9,032	1.34%	54,881	8.17%	560,228	83.37%	18,846	2.80%	88	0.01%	256,632	38.19%
016	BLANCO	6,911	6,163	27	0.44%	3	0.05%	13	0.21%	45	0.73%	6,053	98.22%	20	0.32%	2	0.03%	440	7.14%
017	BORDEN	435	380	0	0.00%	0	0.00%	1	0.26%	0	0.00%	378	99.47%	1	0.26%	0	0.00%	16	4.21%
018	BOSQUE	11,608	10,255	50	0.49%	4	0.04%	7	0.07%	149	1.45%	10,010	97.61%	34	0.33%	1	0.01%	534	5.21%
019	BOWIE	54,818	48,197	25	0.05%	50	0.10%	114	0.24%	9,140	18.96%	38,613	80.11%	244	0.51%	11	0.02%	689	1.32%
020	BRAZORIA	168,520	144,733	1,768	1.22%	118	0.08%	3,833	2.65%	16,948	11.71%	116,856	80.74%	5,194	3.59%	16	0.01%	18,992	13.12%
021	BRAZOS	85,356	74,151	676	0.91%	55	0.07%	886	1.19%	7,592	10.24%	64,359	86.79%	574	0.77%	9	0.01%	7,068	9.53%
022	BREWSTER	6,390	5,034	143	2.84%	5	0.10%	14	0.28%	58	1.15%	4,775	94.85%	35	0.70%	4	0.08%	1,307	25.96%
023	BRISCOE	1,140	892	16	1.79%	1	0.11%	0	0.00%	15	1.68%	846	94.84%	13	1.46%	1	0.11%	91	10.20%
024	BROOKS	6,607	3,363	226	6.72%	1	0.03%	3	0.09%	9	0.27%	3,092	91.94%	30	0.89%	2	0.06%	2,953	87.81%
025	BROWN	21,735	18,931	39	0.21%	18	0.10%	36	0.19%	532	2.81%	18,236	96.33%	68	0.36%	2	0.01%	1,561	8.25%
026	BURLESON	10,548	8,902	68	0.76%	3	0.03%	13	0.15%	947	10.64%	7,751	87.07%	118	1.33%	2	0.02%	674	7.57%
027	BURNET	25,484	22,934	55	0.24%	16	0.07%	53	0.23%	222	0.97%	22,515	98.17%	69	0.30%	4	0.02%	1,474	6.43%
028	CALDWELL	19,637	15,402	540	3.51%	15	0.10%	31	0.20%	1,091	7.08%	13,429	87.19%	290	1.88%	6	0.04%	4,025	26.13%
029	CALHOUN	12,121	9,620	70	0.73%	4	0.04%	166	1.73%	281	2.92%	8,780	91.27%	319	3.32%	0	0.00%	2,745	28.53%
030	CALLAHAN	8,585	7,520	23	0.31%	51	0.68%	12	0.16%	47	0.63%	7,366	97.95%	20	0.27%	1	0.01%	286	3.00%
031	CAMERON	170,543	108,159	10,572	9.77%	40	0.04%	414	0.38%	467	0.43%	95,089	87.92%	1,536	1.42%	41	0.04%	75,714	70.00%
032	CAMP	6,938	5,889	12	0.20%	12	0.20%	18	0.31%	1,080	18.34%	4,702	79.84%	63	1.07%	2	0.03%	242	4.13%
033	CARSON	4,217	3,680	6	0.16%	3	0.08%	2	0.05%	8	0.22%	3,651	99.21%	10	0.27%	0	0.00%	145	3.94%
034	CASS	17,924	15,140	3	0.02%	10	0.07%	8	0.05%	2,192	14.48%	12,861	84.95%	64	0.42%	2	0.01%	172	1.14%
035	CASTRO	4,077	2,919	225	7.71%	6	0.21%	5	0.17%	46	1.58%	2,459	84.24%	177	6.06%	1	0.03%	906	31.04%
036	CHAMBERS	23,277	19,960	82	0.41%	17	0.09%	106	0.53%	1,714	8.59%	17,773	89.04%	265	1.33%	3	0.02%	1,381	6.92%
037	CHEROKEE	26,342	23,071	30	0.13%	22	0.10%	47	0.20%	3,007	13.03%	19,844	86.01%	120	0.52%	1	0.00%	1,043	4.52%
038	CHILDRESS	3,526	2,902	14	0.48%	6	0.21%	5	0.17%	111	3.82%	2,750	94.76%	15	0.52%	1	0.03%	273	9.41%
039	CLAY	7,592	6,804	7	0.10%	11	0.16%	7	0.10%	15	0.22%	6,750	99.21%	12	0.18%	2	0.03%	135	1.98%
040	COCHRAN	1,757	1,325	89	6.72%	1	0.08%	0	0.00%	59	4.45%	1,171	88.38%	5	0.38%	0	0.00%	424	32.00%
041	COKE	2,346	1,937	8	0.41%	1	0.05%	0	0.00%	2	0.10%	1,920	99.12%	6	0.31%	0	0.00%	183	9.45%
042	COLEMAN	6,006	5,227	35	0.67%	8	0.15%	6	0.11%	84	1.61%	5,083	97.25%	10	0.19%	1	0.02%	451	8.63%
043	COLLIN	427,811	375,909	1,229	0.33%	576	0.15%	14,569	3.88%	30,628	8.15%	325,817	86.67%	3,045	0.81%	45	0.01%	19,432	5.17%
044	COLLINGSWORTH	1,847	1,500	11	0.73%	5	0.33%	0	0.00%	54	3.60%	1,421	94.73%	9	0.60%	0	0.00%	143	9.53%
045	COLORADO	13,003	10,971	41	0.37%	5	0.05%	12	0.11%	1,334	12.16%	9,363	85.34%	214	1.95%	2	0.02%	1,176	10.72%
046	COMAL	73,754	64,729	636	0.98%	65	0.10%	286	0.44%	880	1.36%	61,854	95.56%	1,002	1.55%	6	0.01%	7,959	12.30%
047	COMANCHE	8,862	7,302	42	0.58%	6	0.08%	10	0.14%	10	0.14%	7,068	96.80%	165	2.26%	1	0.01%	654	8.96%
048	CONCHO	1,664	1,382	17	1.23%	0	0.00%	2	0.14%	8	0.58%	1,351	97.76%	4	0.29%	0	0.00%	267	19.32%
049	COOKE	22,736	20,279	105	0.52%	30	0.15%	65	0.32%	483	2.38%	19,549	96.40%	43	0.21%	4	0.02%	763	3.76%
050	CORYELL	33,662	28,263	106	0.38%	75	0.27%	406	1.44%	3,771	13.34%	23,062	81.60%	839	2.97%	4	0.01%	2,129	7.53%
051	COTTLE	1,124	875	5	0.57%	3	0.34%	0	0.00%	71	8.11%	792	90.51%	4	0.46%	0	0.00%	76	8.69%
052	CRANE	2,366	1,905	147	7.72%	1	0.05%	5	0.26%	55	2.89%	1,696	89.03%	1	0.05%	0	0.00%	648	34.02%
053	CROCKETT	2,524	1,870	42	2.25%	1	0.05%	4	0.21%	5	0.27%	1,812	96.90%	5	0.27%	1	0.05%	834	44.60%
054	CROSBY	3,618	2,542	65	2.56%	3	0.12%	2	0.08%	79	3.11%	2,369	93.19%	23	0.90%	1	0.04%	884	34.78%
055	CULBERSON	1,721	1,154	79	6.85%	3	0.26%	4	0.35%	7	0.61%	1,056	91.51%	5	0.43%	0	0.00%	727	63.00%
056	DALLAM	2,923	2,414	31	1.28%	4	0.17%	6	0.25%	35	1.45%	2,331	96.56%	7	0.29%	0	0.00%	447	18.52%
057	DALLAS	1,103,074	882,428	15,551	1.76%	1,118	0.13%	21,103	2.39%	248,259	28.13%	589,995	66.86%	6,236	0.71%	166	0.02%	100,295	11.37%
058	DAWSON	7,485	5,137	180	3.50%	6	0.12%	5	0.10%	164	3.19%	4,738	92.23%	43	0.84%	1	0.02%	1,919	37.36%
059	DEAF SMITH	8,275	6,222	108	1.74%	5	0.08%	14	0.23%	55	0.88%	5,819	93.52%	219	3.52%	2	0.03%	2,489	40.00%
060	DELTA	3,447	2,923	2	0.07%	10	0.34%	5	0.17%	190	6.50%	2,703	92.47%	13	0.44%	0	0.00%	53	1.81%
061	DENTON	356,927	318,906	1,203	0.38%	494	0.15%	7,670	2.41%	26,115	8.19%	281,118	88.15%	2,273	0.71%	33	0.01%	19,698	6.18%
062	DEWITT	11,637	9,643	39	0.40%	3	0.03%	8	0.08%	613	6.36%	8,913	92.43%	64	0.66%	3	0.03%	1,750	18.15%
063	DICKENS	1,355	1,031	10	0.97%	0	0.00%	2	0.19%	10	0.97%	1,002	97.19%	7	0.68%	0	0.00%	119	11.54%
064	DIMMIT	6,785	3,795	839	22.11%	3	0.08%	5	0.13%	32	0.84%	2,890	76.15%	23	0.61%	3	0.08%	2,964	78.10%
065	DONLEY	2,413	2,018	4	0.20%	3	0.15%	3	0.15%	53	2.63%	1,948	96.53%	6	0.30%	1	0.05%	59	2.92%
066	DUVAL	8,717	5,403	201	3.72%	1	0.02%	8	0.15%	10	0.19%	5,145	95.22%	36	0.67%	2	0.04%	4,539	84.01%
067	EASTLAND	10,055	8,644	32	0.37%	15													

EXHIBIT B

			C	D														G	
				Voters with DPS Match															
			Hispanic (tracked since 2009)		American Indian/Alaskan		Asian/Pacific Islander		Black		White		Other		No Ethnicity		Total SOS Spanish		
			DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS No Ethnicity				
County Code	County Name	VR	Total Matches	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
096	HALL	2,051	1,562	5	0.32%	6	0.38%	3	0.19%	91	5.83%	1,447	92.64%	9	0.58%	1	0.06%	178	11.40%
097	HAMILTON	5,364	4,747	24	0.51%	5	0.11%	3	0.06%	4,676	98.50%	32	0.67%	2	0.04%	2	0.04%	139	2.93%
098	HANSFORD	3,013	2,415	33	1.37%	0	0.00%	2	0.08%	3	0.12%	2,344	97.06%	32	1.33%	1	0.04%	351	14.53%
099	HARDEMAN	2,559	2,155	6	0.28%	3	0.14%	2	0.09%	85	3.94%	2,057	95.45%	2	0.09%	0	0.00%	166	7.70%
100	HARDIN	34,426	30,270	11	0.04%	15	0.05%	43	0.14%	1,721	5.69%	28,373	93.73%	106	0.35%	1	0.00%	685	2.26%
101	HARRIS	1,881,312	1,522,509	36,207	2.38%	1,268	0.08%	60,807	3.99%	356,227	23.40%	974,076	63.98%	93,700	6.15%	224	0.01%	243,123	15.97%
102	HARRISON	42,207	35,508	42	0.12%	31	0.09%	59	0.17%	7,670	21.60%	27,616	77.77%	86	0.24%	4	0.01%	751	2.12%
103	HARTLEY	2,734	2,394	9	0.38%	4	0.17%	2	0.08%	3	0.13%	2,362	99.08%	4	0.17%	0	0.00%	121	5.08%
104	HASKELL	3,649	2,986	19	0.64%	14	0.47%	4	0.13%	62	2.08%	2,884	96.58%	3	0.10%	0	0.00%	350	11.72%
105	HAYS	95,529	81,324	2,003	2.46%	67	0.08%	443	0.54%	2,817	3.46%	74,672	91.82%	1,307	1.61%	15	0.02%	14,073	17.30%
106	HEMPHILL	2,149	1,880	5	0.27%	1	0.05%	1	0.05%	1	0.05%	1,856	98.72%	15	0.80%	1	0.05%	121	6.44%
107	HENDERSON	47,917	41,599	106	0.25%	37	0.09%	67	0.17%	2,478	5.96%	38,559	92.69%	345	0.83%	7	0.02%	1,333	3.20%
108	HIDALGO	287,061	170,612	27,586	16.17%	61	0.04%	1,172	0.69%	850	0.50%	138,036	80.91%	2,853	1.67%	54	0.03%	128,558	75.35%
109	HILL	21,582	19,048	87	0.46%	26	0.14%	28	0.15%	1,063	5.58%	17,768	93.28%	75	0.39%	1	0.01%	1,209	6.35%
110	HOCKLEY	13,018	10,388	482	4.64%	12	0.12%	15	0.14%	294	2.83%	9,546	91.89%	36	0.35%	3	0.03%	2,611	25.13%
111	HOOD	33,387	30,502	57	0.19%	41	0.13%	58	0.19%	111	0.36%	29,988	98.31%	243	0.80%	4	0.01%	1,106	3.63%
112	HOPKINS	20,419	17,667	42	0.24%	17	0.10%	33	0.19%	1,271	7.19%	16,248	91.97%	54	0.31%	2	0.01%	511	2.89%
113	HOUSTON	13,066	11,091	16	0.14%	4	0.04%	13	0.12%	2,288	20.63%	8,686	78.32%	81	0.73%	3	0.03%	274	2.47%
114	HOWARD	16,383	13,380	255	1.91%	24	0.18%	45	0.34%	436	3.26%	12,578	94.01%	41	0.31%	1	0.01%	2,605	19.47%
115	HUDSPETH	1,575	1,014	46	4.54%	1	0.10%	1	0.10%	10	0.99%	950	93.69%	3	0.30%	3	0.30%	466	45.96%
116	HUNT	46,487	41,528	94	0.23%	66	0.16%	131	0.32%	3,171	7.64%	37,907	91.28%	155	0.37%	4	0.01%	1,651	3.98%
117	HUTCHINSON	13,680	11,799	30	0.25%	31	0.26%	17	0.14%	194	1.64%	11,482	97.31%	44	0.37%	1	0.01%	972	8.24%
118	IRION	1,247	1,045	10	0.96%	0	0.00%	1	0.10%	6	0.57%	1,027	98.28%	1	0.10%	0	0.00%	151	14.55%
119	JACK	4,736	4,183	8	0.19%	4	0.10%	4	0.10%	22	0.53%	4,140	98.97%	5	0.12%	0	0.00%	123	2.94%
120	JACKSON	8,521	7,030	43	0.61%	4	0.05%	5	0.07%	464	6.60%	6,447	91.71%	67	0.95%	0	0.00%	1,136	16.16%
121	JASPER	20,868	17,225	6	0.03%	18	0.10%	15	0.09%	2,568	14.91%	14,561	84.53%	53	0.31%	4	0.02%	299	1.74%
122	JEFF DAVIS	1,544	1,276	18	1.41%	2	0.16%	1	0.08%	2	0.16%	1,248	97.81%	5	0.39%	0	0.00%	212	16.61%
123	JEFFERSON	140,832	116,605	193	0.17%	75	0.06%	1,824	1.56%	40,143	34.43%	73,040	62.64%	1,315	1.13%	15	0.01%	6,481	5.56%
124	JIM HOGG	3,696	2,297	149	6.49%	3	0.13%	0	0.00%	7	0.30%	2,048	89.16%	90	3.92%	0	0.00%	2,053	89.38%
125	JIM WELLS	24,966	16,663	458	2.75%	10	0.06%	34	0.20%	88	0.53%	15,997	96.00%	73	0.44%	3	0.02%	11,199	67.21%
126	JOHNSON	77,879	69,687	245	0.35%	82	0.12%	167	0.24%	1,508	2.16%	66,862	95.95%	815	1.17%	8	0.01%	4,524	6.49%
127	JONES	9,777	8,428	138	1.64%	184	2.18%	5	0.06%	255	3.03%	7,812	92.69%	31	0.37%	3	0.04%	980	11.63%
128	KARNES	7,563	5,556	79	1.42%	2	0.04%	6	0.11%	101	1.82%	5,292	95.25%	75	1.35%	1	0.02%	1,933	34.79%
129	KAUFMAN	56,477	48,327	515	1.07%	46	0.10%	168	0.35%	5,225	10.81%	41,879	86.66%	490	1.01%	4	0.01%	2,638	5.46%
130	KENDALL	24,502	22,081	207	0.94%	13	0.06%	72	0.33%	85	0.38%	21,590	97.78%	112	0.51%	2	0.01%	1,937	8.77%
131	KENEDY	351	247	13	5.26%	0	0.00%	0	0.00%	0	0.00%	233	94.33%	1	0.40%	0	0.00%	150	60.73%
132	KENT	615	524	3	0.57%	1	0.19%	0	0.00%	3	0.57%	517	98.66%	0	0.00%	0	0.00%	39	7.44%
133	KERR	31,685	27,497	88	0.32%	34	0.12%	61	0.22%	318	1.16%	26,826	97.56%	164	0.60%	6	0.02%	2,742	9.97%
134	KIMBLE	2,888	2,477	12	0.48%	3	0.12%	8	0.32%	5	0.20%	2,440	98.51%	9	0.36%	0	0.00%	240	9.69%
135	KING	187	156	0	0.00%	1	0.64%	0	0.00%	0	0.00%	154	98.72%	1	0.64%	0	0.00%	5	3.21%
136	KINNEY	2,308	1,722	82	4.76%	3	0.17%	2	0.12%	30	1.74%	1,591	92.39%	12	0.70%	2	0.12%	514	29.85%
137	KLEBERG	17,106	12,626	741	5.87%	10	0.08%	82	0.65%	446	3.53%	11,274	89.29%	71	0.56%	2	0.02%	7,022	55.62%
138	KNOX	2,253	1,783	5	0.28%	5	0.28%	3	0.17%	78	4.37%	1,689	94.73%	3	0.17%	0	0.00%	298	16.71%
139	LAMAR	28,064	23,968	10	0.04%	91	0.38%	87	0.36%	2,744	11.45%	20,894	87.17%	136	0.57%	6	0.03%	352	1.47%
140	LAMB	8,305	6,189	174	2.81%	10	0.16%	3	0.05%	266	4.30%	5,638	91.10%	98	1.58%	0	0.00%	1,867	30.17%
141	LAMPASAS	12,449	11,003	71	0.65%	17	0.15%	74	0.67%	364	3.31%	10,317	93.77%	159	1.45%	1	0.01%	866	7.87%
142	LA SALLE	3,868	2,251	289	12.84%	0	0.00%	1	0.04%	5	0.22%	1,918	85.21%	37	1.64%	1	0.04%	1,616	71.79%
143	LAVACA	12,926	11,312	15	0.13%	8	0.07%	11	0.10%	522	4.61%	10,681	94.42%	74	0.65%	1	0.01%	774	6.84%
144	LEE	9,232	8,029	41	0.51%	4	0.05%	10	0.12%	784	9.76%	7,095	88.37%	93	1.16%	2	0.02%	552	6.88%
145	LEON	10,505	9,214	7	0.08%	10	0.11%	20	0.22%	622	6.75%	8,508	92.34%	45	0.49%	2	0.02%	315	3.42%
146	LIBERTY	41,923	35,403	179	0.51%	46	0.13%	85	0.24%	3,779	10.67%	31,173	88.05%	138	0.39%	3	0.01%	1,777	5.02%
147	LIMESTONE	13,132	11,052	27	0.24%	5	0.05%	19	0.17%	1,782	16.11%	9,198	83.15%	25	0.23%	6	0.05%	546	4.94%
148	LIPSComb	1,852	1,612	15	0.93%	7	0.43%	2	0.12%	0	0.00%	1,581	98.08%	7	0.43%	0	0.00%	129	8.00%
149	LIVE OAK	6,956	5,563	37	0.67%	3	0.05%	9	0.16%	14	0.25%	5,457	98.09%	43	0.77%	0	0.00%	1,356	24.38%
150	LLANO	13,743	12,447	13	0.10%	11	0.09%	22	0.18%	44	0.35%	12,342	99.16%	14	0.11%	1	0.01%	319	2.56%
151	LOVING	122	91	0	0.00%	0	0.00%	0	0.00%	0	0.00%	91	100.00%	0	0.00%	0	0.00%	13	14.29%
152	LUBBOCK	148,353	124,479	3,165	2.54%	129	0.10%	866	0.70%	7,504	6.03%	112,254	90.18%	546	0.44%	15	0.01%	21,549	17.31%
153	LYNN	3,773	2,680	102	3.81%	4	0.15%	1	0.04%	66	2.46%	2,498	93.21%	9	0.34%	0	0.00%	797	29.74%
154	MADISON	6,413	5,371	12	0.22%	11	0.20%	16	0.30%	699	13.01%	4,579	85.25%	53	0.99%	1	0.02%	241	4.49%
155	MARION	6,863	5,465	2	0.04%	4	0.07%	4	0.07%	1,075	19.67%	4,365	79.87%	13	0.24%	2	0.04%	78	1.43%
156	MARTIN	2,933	2,227	55	2.47%	3	0.13%	0	0.00%	21	0.94%	2,146	96.36%	1	0.04%	1	0.04%	592	26.58%
157	MASON	2,812	2,392	36	1.51%	4	0.17%	1	0.04%	2	0.08%	2,335	97.62%	12	0.50%	2	0.08%	236	9.95%
158	MATAGORDA	20,596	16,726	453	2.71%	8	0.05%	181	1.08%	2,090	12.50%	13,908	83.15%	82	0.49%	2	0.02%	2,922	17.47%
159	MAVERICK	26,916	15,013	3,869	25.77%	116	0.77%	25	0.17%	24	0.16%	10,691	71.21%	267	1.78%	21	0.14%	13,344	88.88%
160	MCCULLOCH	4,943	4,129	147	3.56%	5	0.12%	5	0.12%	69	1.67%	3,792	91.84%	111	2.69%	0	0.00%	670	16.23%
161	MCLENNAN	122,599	104,180	710	0.68%	103	0.10%	547	0.53%	14,243	13.67%	87,390	83.88%	1,175	1.13%	12	0.01%	9,347	8.97%
162	MCMULLEN	709	491	13	2.65%	0	0.00%	0	0.00%	1	0.20%	470	95.72%	7	1.43%				

EXHIBIT B

			C	D												G					
				Voters with DPS Match																	
			Hispanic (tracked since 2009)		American Indian/Alaskan		Asian/Pacific Islander		Black		White		Other		No Ethnicity		Total SOS Spanish				
			DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS Ethnicity		DPS No Ethnicity						
County Code	County Name	VR	Total Matches	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%		
191	RANDALL	75,599	68,145	204	0.30%	81	0.12%	291	0.43%	1,040	1.53%	66,356	97.37%	169	0.25%	4	0.01%	5,387	7.91%		
192	REAGAN	1,744	1,320	72	5.45%	3	0.23%	1	0.08%	1	0.08%	26	1.97%	1,212	91.82%	6	0.45%	0	0.00%	445	33.71%
193	REAL	2,410	2,033	69	3.39%	1	0.05%	1	0.05%	5	0.25%	1,950	95.92%	7	0.34%	0	0.00%	282	13.87%		
194	RED RIVER	7,455	6,276	2	0.03%	13	0.21%	3	0.05%	939	14.96%	5,290	84.29%	28	0.45%	1	0.02%	117	1.86%		
195	REEVES	6,056	4,430	156	3.52%	6	0.14%	10	0.23%	88	1.99%	4,153	93.75%	15	0.34%	2	0.05%	3,118	70.38%		
196	REFUGIO	5,065	3,965	91	2.30%	3	0.08%	3	0.08%	238	6.00%	3,581	90.32%	49	1.24%	0	0.00%	1,369	34.53%		
197	ROBERTS	680	569	1	0.18%	1	0.18%	0	0.00%	0	0.00%	564	99.12%	3	0.53%	0	0.00%	10	1.76%		
198	ROBERTSON	10,932	8,858	55	0.62%	6	0.07%	27	0.30%	1,960	22.13%	6,762	76.34%	44	0.50%	4	0.05%	754	8.51%		
199	ROCKWALL	45,205	40,287	151	0.37%	37	0.09%	424	1.05%	2,093	5.20%	37,417	92.88%	161	0.40%	4	0.01%	2,183	5.42%		
200	RUNNELS	6,622	5,587	106	1.90%	18	0.32%	10	0.18%	67	1.20%	5,369	96.10%	16	0.29%	1	0.02%	1,033	18.49%		
201	RUSK	29,831	25,084	34	0.14%	21	0.08%	47	0.19%	3,726	14.85%	21,167	84.38%	83	0.33%	6	0.02%	776	3.09%		
202	SABINE	7,271	6,080	1	0.02%	5	0.08%	5	0.08%	5	0.08%	5,699	93.73%	12	0.20%	2	0.03%	82	1.35%		
203	SAN AUGUSTINE	5,899	4,575	0	0.00%	2	0.04%	4	0.09%	967	21.14%	3,595	78.58%	7	0.15%	0	0.00%	67	1.46%		
204	SAN JACINTO	15,436	13,393	36	0.27%	14	0.10%	22	0.16%	1,382	10.32%	11,880	88.70%	59	0.44%	0	0.00%	443	3.31%		
205	SAN PATRICIO	41,507	30,749	1,525	4.96%	36	0.12%	156	0.51%	575	1.87%	28,247	91.86%	203	0.66%	7	0.02%	11,660	37.92%		
206	SAN SABA	3,677	3,060	18	0.59%	1	0.03%	5	0.16%	8	0.26%	2,966	96.93%	60	1.95%	2	0.07%	338	11.05%		
207	SCHLEICHER	1,765	1,386	17	1.23%	0	0.00%	1	0.07%	15	1.08%	1,349	97.33%	4	0.29%	0	0.00%	371	26.77%		
208	SCURRY	9,110	7,337	348	4.74%	20	0.27%	7	0.10%	191	2.60%	6,682	91.07%	89	1.21%	0	0.00%	1,415	19.29%		
209	SHACKELFORD	2,251	1,834	6	0.33%	6	0.33%	1	0.05%	7	0.38%	1,803	98.31%	10	0.55%	1	0.05%	82	4.47%		
210	SHELBY	13,663	10,646	13	0.12%	4	0.04%	18	0.17%	1,651	15.51%	8,880	83.41%	75	0.70%	5	0.05%	250	2.35%		
211	SHERMAN	1,416	1,137	10	0.88%	0	0.00%	1	0.09%	3	0.26%	1,118	98.33%	3	0.26%	2	0.18%	164	14.42%		
212	SMITH	117,670	101,487	216	0.21%	101	0.10%	423	0.42%	17,342	17.09%	82,609	81.40%	788	0.78%	8	0.01%	4,077	4.02%		
213	SOMERVELL	5,466	4,742	13	0.27%	13	0.27%	9	0.19%	7	0.15%	4,638	97.81%	60	1.27%	2	0.04%	295	6.22%		
214	STARR	29,326	15,910	1,105	6.95%	1	0.01%	22	0.14%	18	0.11%	13,840	86.99%	914	5.74%	10	0.06%	15,144	95.19%		
215	STEPHENS	5,539	4,702	52	1.11%	11	0.23%	4	0.09%	58	1.23%	4,515	96.02%	62	1.32%	0	0.00%	383	8.15%		
216	STERLING	827	678	6	0.88%	0	0.00%	0	0.00%	1	0.15%	668	98.53%	3	0.44%	0	0.00%	116	17.11%		
217	STONEWALL	1,063	851	5	0.59%	2	0.24%	0	0.00%	19	2.23%	823	96.71%	2	0.24%	0	0.00%	62	7.29%		
218	SUTTON	2,434	1,871	22	1.18%	1	0.05%	2	0.11%	1	0.05%	1,831	97.86%	13	0.69%	1	0.05%	715	38.21%		
219	SWISHER	4,111	3,199	136	4.25%	2	0.06%	1	0.03%	114	3.56%	2,832	88.53%	113	3.53%	1	0.03%	658	20.57%		
220	TARRANT	912,896	790,244	7,318	0.93%	1,105	0.14%	17,418	2.20%	122,684	15.52%	637,248	80.64%	4,346	0.55%	125	0.02%	71,326	9.03%		
221	TAYLOR	72,067	62,689	898	1.43%	1,633	2.60%	455	0.73%	3,370	5.38%	56,065	89.43%	264	0.42%	4	0.01%	3,269	10.52%		
222	TERRELL	889	702	12	1.71%	2	0.28%	2	0.28%	1	0.14%	685	97.58%	0	0.00%	0	0.00%	238	33.90%		
223	TERRY	7,161	5,370	454	8.45%	6	0.11%	4	0.07%	158	2.94%	4,651	86.61%	93	1.73%	4	0.07%	1,756	32.70%		
224	THROCKMORTON	1,215	1,037	8	0.77%	1	0.10%	0	0.00%	0	0.00%	1,025	98.84%	3	0.29%	0	0.00%	49	4.73%		
225	TITUS	15,328	12,762	42	0.33%	23	0.18%	43	0.34%	1,613	12.64%	10,649	83.44%	386	3.02%	6	0.05%	1,160	9.09%		
226	TOM GREEN	59,037	50,381	387	0.77%	68	0.13%	291	0.58%	1,640	3.26%	47,743	94.76%	250	0.50%	2	0.00%	9,897	19.64%		
227	TRAVIS	584,466	488,814	9,141	1.87%	549	0.11%	13,291	2.72%	42,369	8.67%	416,775	85.26%	6,626	1.36%	63	0.01%	60,353	12.35%		
228	TRINITY	11,397	9,152	13	0.14%	5	0.05%	11	0.12%	801	8.75%	8,273	90.40%	48	0.52%	1	0.01%	221	2.41%		
229	TYLER	12,512	10,454	4	0.04%	7	0.07%	7	0.07%	726	6.94%	9,665	92.45%	43	0.41%	2	0.02%	149	1.43%		
230	UPSHUR	25,769	21,973	19	0.09%	31	0.14%	27	0.12%	1,843	8.39%	19,980	90.93%	71	0.32%	2	0.01%	412	1.88%		
231	UPTON	2,133	1,696	79	4.66%	2	0.12%	1	0.06%	29	1.71%	1,578	93.04%	6	0.35%	1	0.06%	493	29.07%		
232	UVALDE	15,752	11,027	1,610	14.60%	11	0.10%	25	0.23%	31	0.28%	9,317	84.49%	30	0.27%	3	0.03%	5,529	50.14%		
233	VAL VERDE	26,508	17,882	1,891	10.57%	26	0.15%	80	0.45%	301	1.68%	15,498	86.67%	80	0.45%	6	0.03%	10,288	57.53%		
234	VAN ZANDT	31,987	28,075	36	0.13%	39	0.14%	50	0.18%	740	2.64%	27,059	96.38%	150	0.53%	1	0.00%	786	2.80%		
235	VICTORIA	49,603	40,870	320	0.78%	32	0.08%	178	0.44%	2,316	5.67%	37,788	92.46%	231	0.57%	5	0.01%	11,121	27.21%		
236	WALKER	29,183	25,590	100	0.39%	26	0.10%	92	0.36%	4,593	17.95%	20,469	79.99%	307	1.20%	3	0.01%	1,504	5.88%		
237	WALLER	27,678	22,785	202	0.89%	22	0.10%	56	0.25%	7,807	34.26%	13,998	61.44%	696	3.05%	4	0.02%	1,727	7.58%		
238	WARD	6,054	5,029	263	5.23%	1	0.02%	5	0.10%	185	3.68%	4,552	90.52%	23	0.46%	0	0.00%	1,679	33.39%		
239	WASHINGTON	21,917	18,885	149	0.79%	12	0.06%	125	0.66%	2,780	14.72%	15,373	81.40%	445	2.36%	1	0.01%	780	4.13%		
240	WEBB	105,907	64,424	7,805	12.12%	17	0.03%	175	0.27%	222	0.34%	55,292	85.83%	897	1.39%	16	0.02%	54,948	85.29%		
241	WHARTON	24,072	19,717	507	2.57%	3	0.02%	32	0.16%	2,882	14.62%	15,774	80.00%	516	2.62%	3	0.02%	3,919	19.88%		
242	WHEELER	3,471	2,944	1	0.03%	5	0.17%	8	0.27%	49	1.66%	2,824	95.92%	57	1.94%	0	0.00%	157	5.33%		
243	WICHITA	75,990	62,862	179	0.28%	231	0.37%	673	1.07%	5,050	8.03%	56,142	89.31%	580	0.92%	7	0.01%	4,647	7.39%		
244	WILBARGER	7,914	6,570	25	0.38%	9	0.14%	25	0.38%	444	6.76%	6,056	92.18%	9	0.14%	2	0.03%	755	11.49%		
245	WILLACY	11,083	6,256	425	6.79%	0	0.00%	5	0.08%	37	0.59%	5,481	87.61%	306	4.89%	2	0.03%	4,956	79.22%		
246	WILLIAMSON	234,574	207,491	1,468	0.71%	194	0.09%	3,967	1.91%	11,676	5.63%	188,091	90.65%	2,075	1.00%	20	0.01%	19,948	9.61%		
247	WILSON	26,517	21,972	223	1.01%	15	0.07%	46	0.21%	380	1.73%	21,109	96.07%	193	0.88%	6	0.03%	5,383	24.50%		
248	WINKLER	3,505	2,861	129	4.51%	2	0.07%	3	0.10%	70	2.45%	2,646	92.49%	10	0.35%	1	0.03%	898	31.39%		
249	WISE	34,553	31,316	126	0.40%	48	0.15%	56	0.18%	156	0.50%	30,747	98.18%	181	0.58%	2	0.01%	1,599	5.11%		
250	WOOD	26,171	23,399	44	0.19%	27	0.12%	41	0.18%	1,117	4.77%	22,093	94.42%	73	0.31%	4	0.02%	525	2.24%		
251	YOAKUM	3,867	2,967	280	9.44%	2	0.07%	2	0.07%	35	1.18%	2,587	87.19%	61	2.06%	0	0.00%	934	31.48%		
252	YOUNG	11,050	9,565	46	0.48%	8	0.08%	12	0.13%	77	0.81%	9,399	98.26%	22	0.23%	1	0.01%	425	4.44%		
253	ZAPATA	7,277	4,563	177	3.88%	2	0.04%	3	0.07%	11	0.24%	4,096	89.77%	270	5.92%	4	0.09%	3,731	81.77%		
254	ZAVALA	8,203	3,987	1,029	25.81%	3	0.08%	1	0.03%	16	0.40%	2,913	73.06%	23	0.58%	2	0.05%	3,420	85.78%		

Exhibit 6



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

December 23, 2011

C. Havird Jones, Jr., Esq.
Assistant Deputy Attorney General
P.O. Box 11549
Columbia, South Carolina 29211-1549

Dear Mr. Jones:

This refers to Act R54 (A27 H3003) (2011), relating to domicile factors, duplicate registration, consideration of challenges, the State Election Commission voter registration card system implementation, photographic identification requirements and provisional ballots, special identification card provisions, the State Election Commission voter education program, and the State Election Commission registered voter list, for the State of South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. On August 29, 2011, the Attorney General informed you that no objection would be interposed to sections 1 and 3 of Act R54, and that additional information was required to complete our review of sections 2, 4, 5, 6, 7, and 8 of Act R54. We received your response to our request for additional information on October 27, 2011; additional information was received through December 23, 2011.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that the proposed changes have neither the purpose nor the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. *Georgia v. United States*, 411 U.S. 526 (1973); Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.52(c). The voting change at issue must be measured against the benchmark practice to determine whether it would "lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." *Beer v. United States*, 425 U.S. 130, 141 (1976).

We have given careful consideration to the information you provided, as well as Census data and information and comments from other interested persons. The Attorney General does not interpose any objection to sections 2 and 6 of Act R54, concerning issuance of a duplicate registration notification card and amendment of procedures for special identification cards issued by the Department of Motor Vehicles (DMV). However, we note that Section 5 of the Voting Rights Act expressly provides that failure of the Attorney General to object does not bar subsequent litigation to enjoin enforcement of the changes. 28 C.F.R. 51.41.

With regard to section 5 of Act R54, concerning photographic identification requirements and provisional ballots, I cannot conclude that the state has sustained its burden under Section 5 of the Voting Rights Act. Therefore, on behalf of the Attorney General, I must object to section 5 of Act R54.

Section 5 of Act R54 would require voters to present one of five forms of photo identification to vote in person. Currently, state law does not require voters to present photo identification in order to vote; in addition to a driver's license or non-driver photo identification card, an elector can vote using a voter registration card with no photograph, along with the voter's signature on the poll list. The current version of the state's identification requirement has been in effect since 1988. In the state's submission and in the record of the legislative proceedings, the justification offered for changing the current practice to require photo identification to vote in person has been to combat voter fraud. Although the state has a legitimate interest in preventing voter fraud and safeguarding voter confidence, *Crawford v. Marion County Election Board*, 128 S. Ct. 1610 (2008), the state's submission did not include any evidence or instance of either in-person voter impersonation or any other type of fraud that is not already addressed by the state's existing voter identification requirement and that arguably could be deterred by requiring voters to present only photo identification at the polls.

In assessing the impact of the proposed photo identification requirements in section 5 of Act R54, we turn first to the data that the state has provided concerning registered voters within the state. The most recent voter registration data available from the State Election Commission indicate that, as of October 1, 2011, there were a total of 2,701,843 registered voters in the state, of whom 69.6% were white and 30.4% were non-white. These data also show that of the total number of registered voters in the state, 239,333 (or 8.9%) did not possess DMV-issued photo identification (either a driver's license or a non-driver's photo ID card) that would satisfy the requirements under Act R54.¹ When disaggregated by race, the state's data show that 8.4% of white registered voters lacked any form of DMV-issued ID, as compared to 10.0% of non-white registered voters. In other words, according to the state's data, which compare the available data in the state's voter registration database with the available data in the state's DMV database, minority registered voters were nearly 20% more likely to lack DMV-issued ID than white registered voters, and thus to be effectively disenfranchised by Act R54's new requirements. We note that the voter registration data matched against the DMV database, and provided to us by the state, does not include several categories of existing registered voters listed as inactive voters, and hence, the number of registered voters without DMV-issued ID may well be higher than even these numbers suggest.

¹ Section 5 of Act R54 would also permit a voter to vote in person using a U.S. passport, a military photo identification, or a state voter registration card containing a photograph of the voter. The state has produced no data demonstrating what percent of registered voters lack a DMV-issued identification but do possess a U.S. passport or military photo identification. The state voter registration card containing a photograph of the voter does not yet exist and is proposed to be implemented by section 4 of Act R54.

Put differently, although non-white voters comprised 30.4% of the state's registered voters, they constituted 34.2% of registered voters who did not have the requisite DMV-issued identification to vote. Non-white voters were therefore disproportionately represented, to a significant degree, in the group of registered voters who, under the proposed law, would be rendered ineligible to go to the polls and participate in the election.

An examination of the county-by-county rates of total registered voters without DMV-issued identification raises additional concerns. Across the state's 46 counties, the rate of registered voters without DMV-issued identification ranges from a low of 6.3% to a high of 14.2%. Notably, seven counties with the highest percentages of registered voters who lack DMV-issued identification are also among the ten counties in South Carolina that have the highest percentage of voting-age persons who are non-white.

The absolute number of minority citizens whose exercise of the franchise could be adversely affected by the proposed requirements runs into the tens of thousands. According to the state's statistics, there are 81,938 minority citizens who are already registered to vote and who lack DMV-issued identification.

These data showing significant racial disparities in the proposed photo identification requirement are of course as available to the state as they are to the Attorney General. However, both in the state's initial submission and in the subsequent communications between us during the course of our review, the state has failed entirely to address the disparity between the proportions of white and non-white registered voters who lack DMV-issued identification.

In sum, however analyzed, the state's data demonstrate that non-white voters are both significantly burdened by section 5 of Act R54 in absolute terms, and also disproportionately unlikely to possess the most common types of photo identification among the forms of identification that would be necessary for in-person voting under the proposed law.

Act R54 includes an exemption to the photo identification requirement if "the elector suffers from a reasonable impediment that prevents the elector from obtaining a photograph identification." The Act provides that this exemption is to be applied by the individual county boards of registration and elections, but does not provide a definition of "reasonable impediment" or guidance regarding how this standard should be interpreted or applied. On August 16, 2011, the state attorney general issued an opinion that provides some limited guidance on this provision, but no additional guidelines have been made available. You have further informed us that the state attorney general's opinion will not be supplemented to provide additional clarity, and no other state entity plans to issue any further guidance on applying the "reasonable impediment" exemption. Given the ambiguity of the Act's "reasonable impediment" exemption and the uncertainty as to how it may be applied, we cannot conclude that this provision will mitigate the law's discriminatory effects. To the contrary, the exemption's vagueness raises the possibility that it will be applied differently from county to county, and possibly from polling place to polling place, and thus risks exacerbating rather than mitigating the retrogressive effect of the new requirements on minority voters.

Section 4 of Act R54 requires the State Election Commission to implement a system in order to issue new free photographic voter registration cards, to be used for voting purposes only. This new system has the potential to mitigate the discriminatory effect described above as regards the existing forms of DMV-issued identification. However, the procedures submitted by the state purporting to set forth the specifications of the system and planned distribution of the photo voter registration cards were described to us as being not final and subject to change. In addition, section 4 provides that the new cards “may be used for voting purposes only,” but the state’s current requirements, in light of the Attorney General’s objection to section 5 of Act R54, would not permit this new registration card to be used as an allowable form of ID for voting.

Section 7 of Act R54 requires the State Election Commission to undertake a number of training, public education, and outreach activities regarding the new photo identification requirements and other provisions of the Act. In the course of our review, the state has provided various drafts of educational material it believes may be effective, but has not developed any final training or educational materials. And section 8 of Act R54, in conjunction with section 7 of the Act, requires the State Election Commission to contact registered voters who lack the requisite identification to inform them of the manner in which they can obtain the necessary identification. The state has provided significantly conflicting information regarding how it will ascertain which voters will be targeted by this program, and has not provided details regarding this proposed process, which is not yet final.

Because the proposed procedures to implement sections 4, 7, and 8 are not yet final, and because these changes are related to the proposed photographic identification requirement in section 5 of Act R54, the Attorney General will make no determination with regard to sections 4, 7, and 8 of the Act. See 28 C.F.R. 51.22(b), 51.35.

We recognize the possibility that efforts by the state, including efforts made pursuant to sections 4, 7, and 8 of Act R54, if applied comprehensively throughout the state, could potentially mitigate Act R54’s discriminatory effects. Of course, if the state adopts finalized measures that substantially address the racial disparities described above, the state should not hesitate to resubmit section 5 of Act R54 for further review under Section 5 of the Voting Rights Act. 28 C.F.R. 51.45.

As the state may be aware, the Attorney General interposed an objection in 1994 to a voter photo identification law in Louisiana that would have required first-time voters to show a driver’s license or other photo identification at the polls, on the ground that this requirement would have had a retrogressive effect at that time on Louisiana’s minority voters. In 1997, Louisiana submitted a modified version of its voter identification requirement that included measures designed to substantially address this retrogressive effect, and the Attorney General interposed no objection to this revised procedure.

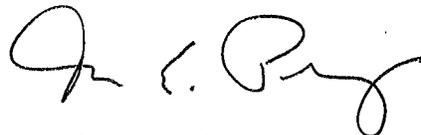
Until South Carolina succeeds in substantially addressing the racial disparities described above, however, the state cannot meet its burden of proving that, when compared to the benchmark standard, the voter identification requirements proposed in section 5 of Act R54 will not have a retrogressive effect. Because we conclude that the state has failed to meet its burden

of demonstrating that section 5 of Act R54 will not have a retrogressive effect, we do not make any determination as to whether the state has established that the proposed changes to its voter identification requirements were adopted with no discriminatory purpose.

The state made its initial submission to the Attorney General on June 30, 2011. Almost six months later, and on the 55th day of the 60-day administrative review period following your response to our written request for additional information, the state forwarded an undated letter from the state DMV director that purports to disagree with the data previously provided to us by the State Election Commission regarding the number of registered voters in the state who lack DMV-issued identification. We followed up with you immediately by telephone, but the state offered no additional supporting documentation. Moreover, the state did not provide any data whatsoever refuting the fact, demonstrated by the state's earlier data, that minority registered voters are about 20% more likely than white registered voters to lack DMV-issued identification. The state instead advised that it had nothing further to add to assist in our analysis. The absence of any supporting documentation to accompany this new letter, including racial data and methodology, reinforces our conclusion that the state has not met its burden of proving that the requirements of section 5 of Act R54 comply with the Voting Rights Act. In this regard, I note that our regulations permit the state to request that the Attorney General reconsider this objection. 28 C.F.R. 51.45. Any request for reconsideration should be in written form and should contain all relevant information or legal argument. We also reiterate our willingness to continue our discussions regarding efforts the state may take to address the racial gap that presently exists among photo identification holders in the state.

Under Section 5 of the Voting Rights Act you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed changes neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. 28 C.F.R. 51.44. However, until the objection is withdrawn or a judgment from the United States District Court for the District of Columbia is obtained, the submitted change continues to be legally unenforceable. *Clark v. Roemer*, 500 U.S. 646 (1991); 28 C.F.R. 51.10. To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action that South Carolina plans to take concerning this matter. If you have any questions, you should contact Robert S. Berman (202-514-8690), a deputy chief of the Voting Section.

Sincerely,



Thomas E. Perez
Assistant Attorney General

Exhibit 7



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 12 2012

Mr. Keith Ingram
Director of Elections
Elections Division
Office of the Texas Secretary of State
P.O. Box 12060
Austin, Texas 78711-2060

Dear Mr. Ingram:

This refers to Chapter 123 (S.B. 14) (2011), which amends the Texas Transportation Code relating to the issuance of election identification certificates, and which amends the Texas Election Code relating to the procedures for implementing the photographic identification requirements, including registration procedures, provisional-ballot procedures, notice requirements, and education and training requirements, for the State of Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your response to our January 9, 2012 follow-up to our September 23, 2011 request for additional information on January 12, 2012; additional information was received through February 17, 2012.

According to the 2010 Census, the State of Texas had a total population of 25,145,561, of whom 9,460,921 (37.6%) were Hispanic, 2,975,739 (11.8%) were black, 1,027,956 (4.1%) were Asian, and 11,397,345 (45.3%) were Anglo. Texas's total voting-age population was 18,279,737, of whom 6,143,144 (33.6%) were Hispanic, 2,102,474 (11.5%) were black, 758,636 (4.2%) were Asian, and 9,074,684 (49.6%) were Anglo. The five-year aggregate American Community Survey (2006-2010) estimates that Texas had a Hispanic citizen voting-age population of 25.5 percent.

We have carefully considered the information you have provided, as well as census data, comments and information from other interested parties, and other information, including the state's previous submissions. Under Section 5, the Attorney General must determine whether the submitting authority has met its burden of showing that the proposed changes have neither the purpose nor the effect of denying or abridging the right to vote on account of race or color or membership in a language minority group. *Georgia v. United States*, 411 U.S. 526 (1973); *Procedures for the Administration of Section 5 of the Voting Rights Act of 1965*, 28 C.F.R. 51.52(c). With regard to Sections 9 and 14 of S.B. 14, concerning photographic identification

51.52(c). With regard to Sections 9 and 14 of S.B. 14, concerning photographic identification requirements for in-person voting and acceptable forms of photographic identification, I cannot conclude that the state has sustained its burden under Section 5 of the Voting Rights Act. Therefore, on behalf of the Attorney General, I must object to Sections 9 and 14 of S.B. 14.

We start our analysis recognizing the state's legitimate interest in preventing voter fraud and safeguarding voter confidence. *Crawford v. Marion County Election Bd.*, 553 U.S. 181 (2008). In that vein, the state's sole justifications for changing the current practice to require photographic identification to vote in person that appear in the legislative proceedings and are presented in its submission are to ensure electoral integrity and deter ineligible voters from voting. At the same time, we note that the state's submission did not include evidence of significant in-person voter impersonation not already addressed by the state's existing laws.

The voting changes at issue must be measured against the benchmark practice to determine whether they would "lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." *Beer v. United States*, 425 U.S. 130, 141 (1976). In support of its position that this proposed requirement will not have such a prohibited effect, the state provided two sets of registered-voter data, which were matched with two different data sources maintained by the state's Department of Public Safety (DPS). One set was current as of September 16, 2011, and the other as of early January 2012. The September data reported that there were 12,780,841 registered voters, of whom 2,785,227 (21.8%) were Hispanic. The January data reported that there were 12,892,280 registered voters, of whom 2,810,869 (21.8%) were Hispanic.

There is, however, a significant difference between the two data sets with regard to the number and characteristics of those registered voters without a driver's license or personal identification card issued by DPS. The September data indicate that 603,892 (4.7%) of the state's registered voters do not have such identification; this population consists of 174,866 voters (29.0% of the 603,892 voters) who are Hispanic and 429,026 voters (71.0%) who are non-Hispanic. The January data indicate that 795,955 (6.2%) of the state's registered voters do not have such identification; this population consists of 304,389 voters (38.2%) who are Hispanic and 491,566 voters (61.8%) who are non-Hispanic. The state has not provided an explanation for the disparate results. More significantly, it declined to offer an opinion on which of the two data sets is more accurate. Accordingly, we have considered both in reviewing your submission.

Starting our analysis with the September data set, 6.3 percent of Hispanic registered voters do not have the forms of identification described above, but only 4.3 percent of non-Hispanic registered voters are similarly situated. Therefore, a Hispanic voter is 46.5 percent more likely than a non-Hispanic voter to lack these forms of identification. In addition, although Hispanic voters represent only 21.8 percent of the registered voters in the state, Hispanic voters represent fully 29.0 percent of the registered voters without such identification.

Our analysis of the January data indicates that 10.8 percent of Hispanic registered voters do not have a driver's license or personal identification card issued by DPS, but only 4.9 percent of non-Hispanic registered voters do not have such identification. So, Hispanic registered voters are more than twice as likely as non-Hispanic registered voters to lack such identification. Under

the data provided in January, Hispanics make up only 21.8 percent of all registered voters, but fully 38.2 percent of the registered voters who lack these forms of identification.

Thus, we conclude that the total number of registered voters who lack a driver's license or personal identification card issued by DPS could range from 603,892 to 795,955. The disparity between the percentages of Hispanics and non-Hispanics who lack these forms of identification ranges from 46.5 to 120.0 percent. That is, according to the state's own data, a Hispanic registered voter is at least 46.5 percent, and potentially 120.0 percent, more likely than a non-Hispanic registered voter to lack this identification. Even using the data most favorable to the state, Hispanics disproportionately lack either a driver's license or a personal identification card issued by DPS, and that disparity is statistically significant.

The state has provided no data on whether African American or Asian registered voters are also disproportionately affected by S.B. 14.

Sections 9 and 14 of S.B. 14 would also permit a voter to vote in person using military photographic identification, a United States citizenship certificate that contains the person's photograph, a United States passport, or a license to carry a concealed handgun. The state has produced no data showing what percent of registered voters lack a driver's license or personal identification card issued by DPS, but do possess another allowable form of photographic identification. Nor has the state provided any data on the demographic makeup of such voters. In addition, when the Texas Legislature was considering S.B. 14, there were a number of legislative proposals to expand the forms of identification that could be used by voters to meet this new requirement – including proposals to allow any state-issued or tribal identification with a photograph to be used for regular voting – but those proposals were rejected.

In view of the statistical evidence illustrating the impact of S.B. 14 on Hispanic registered voters, we turn to those steps that the state has identified it will take to mitigate that effect.

You have informed us that the DPS-issued "free" election identification certificate, which is proposed to be implemented by Section 20 of S.B. 14, would protect voters who do not already have another acceptable form of identification. The application process for these certificates will mirror the manner in which a person obtains a driver's license. First-time applicants will be required to furnish various supplemental documents and undergo an application process that includes fingerprinting and traveling to a driver's license office.

An applicant for an election identification certificate will be required to provide two pieces of secondary identification, or one piece of secondary identification and two supporting documents. If a voter does not possess any of these documents, the least expensive option will be to spend \$22 on a copy of the voter's birth certificate. There is a statistically significant correlation between the Hispanic population percentage of a county and the percentage of a county's population that lives below the poverty line. The legislature tabled amendments that would have prohibited state agencies from charging for any underlying documents needed to obtain an acceptable form of photographic identification.

As noted above, an applicant for an election identification certificate will have to travel to a driver's license office. This raises three discrete issues. First, according to the most recent American Community Survey three-year estimates, 7.3 percent of Hispanic or Latino households do not have an available vehicle, as compared with only 3.8 percent of non-Hispanic white households that lack an available vehicle. Statistically significant correlations exist between the Hispanic voting-age population percentage of a county, and the percentage of occupied housing units without a vehicle.

Second, in 81 of the state's 254 counties, there are no operational driver's license offices. The disparity in the rates between Hispanics and non-Hispanics with regard to the possession of either a driver's license or personal identification card issued by DPS is particularly stark in counties without driver's license offices. According to the September 2011 data, 10.0 percent of Hispanics in counties without driver's license offices do not have either form of identification, compared to 5.5 percent of non-Hispanics. According to the January 2012 data, that comparison is 14.6 percent of Hispanics in counties without driver's license offices, as compared to 8.8 percent of non-Hispanics. During the legislative hearings, one senator stated that some voters in his district could have to travel up to 176 miles roundtrip in order to reach a driver's license office. The legislature tabled amendments that would have, for example, provided reimbursement to voters who live below the poverty line for travel expenses incurred in applying for the requisite identification.

The third and final point is the limited hours that such offices are open. Only 49 of the 221 currently open driver's license offices across the state have extended hours. Even Senator Troy Fraser, the primary author of this legislation in the Senate, acknowledged during the legislative hearing that, "You gotta work to make sure that [DPS offices] are open." Despite the apparent recognition of the situation, the legislature tabled an amendment that would have required driver's license offices to be open until 7:00 p.m. or later on at least one weekday and during four or more hours on at least two Saturdays each month.

The legislation mandates a statewide voter-education effort concerning the new identification requirement, but does not provide specific standards for the program. The state, however, has yet to approve a final version of the materials designed to accomplish that goal, either for voters or for election officials. The state has indicated that it will implement a new educational program; but as of this date, our information indicates that the currently proposed plan will incorporate the new identification requirement into a general voter-education program.

The legislation requires that poll-worker training materials reflect the new identification requirements. This is particularly vital because a poll-worker can permit a voter to cast a ballot if the name as listed on the documentation is "substantially similar to but does not match exactly" the name on the voter registration list, and if the voter also submits an affidavit stating that he or she is the person on the list of registered voters. Though the Secretary of State's office has adopted an administrative rule to guide poll-workers in determining when names are substantially similar, the rule gives poll-workers a great deal of discretion. The state has provided no enforcement guidelines to prevent the vagueness of this standard from leading to inconsistency or bias in its application.

Even after submitting data that show over 600,000 registered voters do not have either a driver's license or personal identification card issued by DPS – and that a disproportionate share of those registered voters are Hispanic – the state has failed to propose, much less adopt, any program for individuals who have to travel a significant distance to a DPS office, who have limited access to transportation, or who are unable to get to a DPS office during their hours of operation. This failure is particularly noteworthy given Texas's geography and demographics, which arguably make the necessity for mitigating measures greater than in other states. The state also has not developed any specific proposals to educate either voters about how to comply with the new identification requirement or poll officials about how to enforce the proposed change.

In conclusion, the state has not met its burden of proving that, when compared to the benchmark, the proposed requirement will not have a retrogressive effect, or that any specific features of the proposed law will prevent or mitigate that retrogression. Additionally, the state has failed to demonstrate why it could not meet its stated goals of ensuring electoral integrity and deterring ineligible voters from voting in a manner that would have avoided this retrogressive effect. Because we conclude that the state has failed to meet its burden of demonstrating that the proposed law will not have a retrogressive effect, we do not make any determination as to whether the state has established that the proposed changes were adopted with no discriminatory purpose.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. *Georgia v. United States*, 411 U.S. 526 (1973); 28 C.F.R. 51.52. In light of the considerations discussed above, I cannot conclude that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the changes affecting voting that are occasioned by Sections 9 and 14 of Chapter 123 (S.B. 14) (2011). Sections 1 through 8, 10 through 13, 15, and 17 through 22 of S.B. 14 are directly related to the procedures for implementing the photographic identification requirements, including registration procedures, provisional-ballot procedures, notice requirements, and education and training requirements. Accordingly, no determination by the Attorney General is required or appropriate under Section 5. 28 C.F.R. 51.22 and 51.35.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these proposed changes neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. 28 C.F.R. 51.45. However, until the objection is withdrawn or a judgment from the United States District Court for the District of Columbia is obtained, the submitted changes continue to be legally unenforceable. *Clark v. Roemer*, 500 U.S. 646 (1991); 28 C.F.R. 51.10. To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action that the State of Texas plans to take concerning this matter. If you have any questions, you should contact Robert S. Berman (202/514-8690), a deputy chief in the Voting Section.

Because the Section 5 status of this legislation is presently before the United States District Court for the District of Columbia in *State of Texas v. Holder*, No. 1:12-cv-00128 (D.D.C.), we are providing the Court and counsel of record with a copy of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. E. Perez', written in a cursive style.

Thomas E. Perez
Assistant Attorney General

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS

Plaintiff,

vs.

ERIC H. HOLDER, JR.,
ATTORNEY GENERAL OF THE
UNITED STATES

Defendant.

Case No. 1:12-cv-00128
RMC-DST-RLW

ORDER

For the reasons set forth in the State of Texas's motion, the Court hereby GRANTS plaintiff's motion to amend its complaint.

It is so ORDERED this _____ day of _____, 2012.

United States Judge