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**HOUSE COMMITTEE ON ELECTIONS  
TEXAS HOUSE OF REPRESENTATIVES  
INTERIM REPORT 2006**

**A REPORT TO THE  
HOUSE OF REPRESENTATIVES  
80TH TEXAS LEGISLATURE**

**MARY DENNY  
CHAIRMAN**

**CLERKS  
NOE BARRIOS  
NICOLE TUNKS**

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Committee On  
Elections

December 20, 2006

Mary Denny  
Chairman

P.O. Box 2910  
Austin, Texas 78768-2910

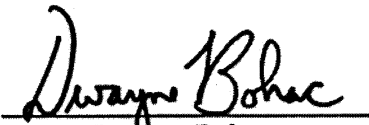
The Honorable Tom Craddick  
Speaker, Texas House of Representatives  
Members of the Texas House of Representatives  
Texas State Capitol, Rm. 2W.13  
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:


The Committee on Elections of the Seventy-Ninth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eightieth Legislature.

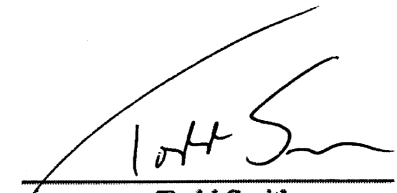
Respectfully submitted,

  
Mary Denny

  
Dwayne Bohac

Rafael Anchia

  
Bryan Hughes

  
Todd Smith

  
Charles "Doc" Anderson

  
Jesse Jones

Dwayne Bohac, Vice-Chairman

Members: Todd Smith, Rafael Anchia, Charles "Doc" Anderson, Bryan Hughes, Jesse Jones

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## INTRODUCTION

At the start of the 79th regular legislative session, the honorable Tom Craddick, Speaker of the Texas House of Representatives, appointed seven members to the House Committee on Elections. Chairman Mary Denny was reappointed to lead the committee and membership in the committee included: Dwayne Bohac, vice-chairman, Todd Smith, CBO, Rafael Anchia, Charles "Doc" Anderson, Bryan Hughes, and Jesse Jones.

Speaker Craddick assigned the committee five charges to study during the interim: monitor continued implementation of the federal Help America Vote Act of 2002 (HAVA) by the Office of the Secretary of State, as major HAVA deadlines occur throughout 2006; examine the prevalence of fraud in Texas elections, considering prosecution rates and measures for prevention; examine the growing use of technology in campaigns and the administration of elections, and the need to recodify sections of the Texas Election Code to reflect our current practices; examine ways to improve the uniformity and efficiency of elections held by political subdivisions, particularly by exploring market practices for leasing voting equipment; and monitor the agencies and programs under the committee's jurisdiction.

The committee especially thanks the honorable Roger Williams, Texas Secretary of State and his entire staff for their cooperation and support in providing timely and accurate information to the committee. We also thank and appreciate David Reisman, Executive Director, Texas Ethics Commission, and his staff for their work in assisting the committee with its charges. Finally, the committee appreciates all the elections officials, advocates, voters, and individuals who testified at the committee's public hearings.

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### **Charge # 1**

***Monitor the continued implementation of the federal Help America Vote Act of 2002 (HAVA) by the Office of the Secretary of State, as major HAVA deadlines occur throughout 2006.***

#### **Background:**

The federal Help America Vote Act of 2002 (HAVA) was passed by Congress following the 2000 presidential election, with its widespread reports of inefficiency, uncertainty, and potential voter disfranchisement. The legislation provided federal funds to states in exchange for the implementation of certain election reforms. The major components of HAVA include the creation and use of a computerized statewide voter registration system, a procedure for the casting of provisional ballots, the upgrade of error-prone voting machines, and full access to private, independent voting for disabled voters.<sup>1</sup>

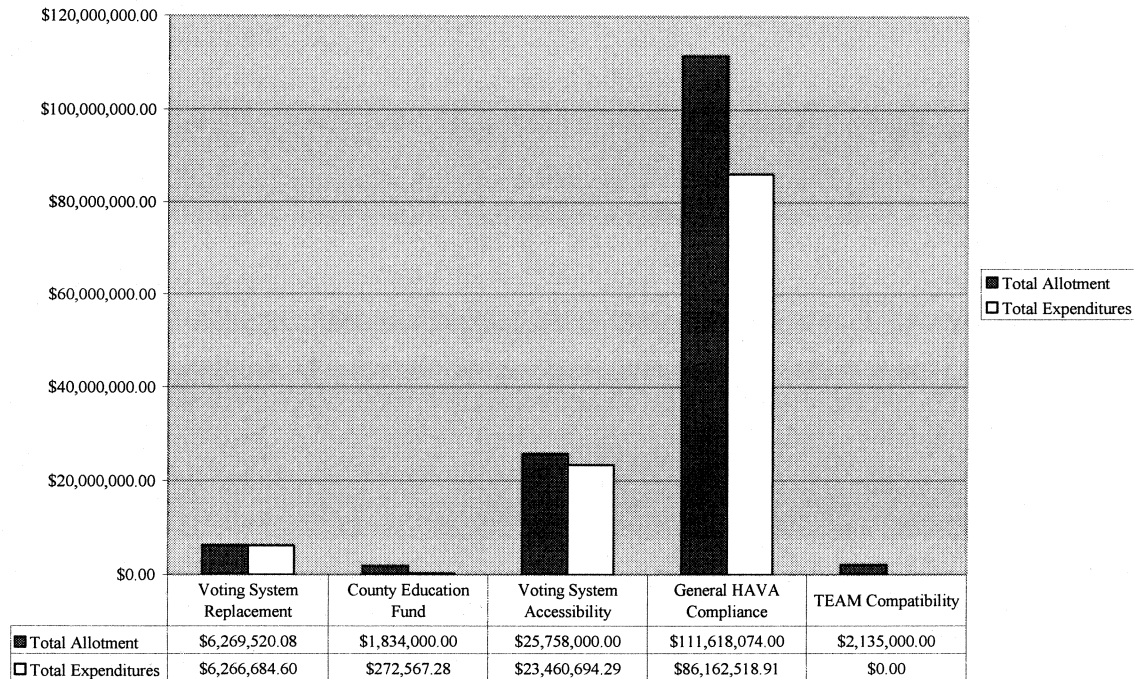
Texas began implementation of this landmark election reform legislation during the 78th regular legislative session. By the time of the 79th regular legislative session, most of the changes in statute required to meet the provisions of HAVA were already in place.<sup>2</sup> Two significant pieces of legislation, House Bills 2280 and 2309, were enacted during the 79th regular legislative session.<sup>3</sup> These two bills completed implementation of the statewide computerized voter registration database and refined previously enacted policies to ensure better compliance with HAVA's provisions. During the interim period following the regular session, the Secretary of State's office proceeded with full implementation of the Act through coordination with county election officials and the design of state level programs, as well as by officially prescribing procedures and adopting administrative rules related to HAVA.

HAVA outlines specifics for various areas of election reform. It also places deadlines on the states for compliance in meeting these requirements. The Act contained two major dates for compliance: January 1, 2004, and January 1, 2006. Texas was successful in implementing the reforms required by the January 1, 2004, deadline, and the Secretary of State shifted its focus after that time to ensure compliance with the 2006 deadline. This latter deadline included three major hurdles: replacement of all punch-card and lever voting machines used in federal elections, acquisition of at least one accessible voting machine in each polling place used in a federal election, and the creation and use of a computerized statewide voter registration database. Timely compliance with these requirements is imperative because of the fiscal implications of non-compliance. HAVA states that failure to meet the deadlines or standards set forth will force repayment of funds by the states and local jurisdictions who received grant money.

As of June, 2006, Texas counties had spent almost \$116 million of the total allotted to them for election reform. This accounts for about 79% of the total HAVA budget that is being directed to counties for improvements, and most has been spent on the acquisition of new voting machines to replace punch-card and lever systems or to provide accessibility to disabled voters. In addition, the state itself has federal funds, which are being used for the development of the statewide voter registration database, voter education, poll worker training, and general HAVA administration. Figure 1 shows the amount of HAVA funds allotted and spent for various

categories of election reform. Appendix 1a contains detailed county-by-county information on the allotment and expenditures of those funds.

Figure 1- HAVA Funding and Expenditures by Category



In July, 2005, electionline.org, a non-partisan clearinghouse for news and analysis on election reform, reported that the U.S. Justice Department (DOJ) had indicated that most states would not face penalties for failure to meet the January 1, 2006, deadlines, as long as they were "making a good-faith effort and are well on their way" towards compliance.<sup>4</sup> Since that time, the DOJ has sued New York and Alabama for failure to comply with the provisions of HAVA in a timely manner.<sup>5</sup> In addition, the U.S. Election Assistance Commission (EAC) has asked California to repay \$3 million in HAVA funds following an audit that revealed significant misuse of the election reform grants. While a majority of this money will be refunded to the state's election fund and used to legitimately improve election administration in California, over \$500,000 is to be returned to the U.S. Treasury.<sup>6</sup>

In February 2006, the Inspector General of the EAC, who is responsible for auditing federal funds, announced the priority of states to be audited for the use of HAVA money. Texas has been placed into the high priority category.<sup>7</sup> With the second highest total of HAVA funds received among states in this category, the likelihood of an audit being conducted in Texas is strong, and the need for compliance with HAVA-imposed deadlines is even more important.

The House Committee on Elections assessed the level of the state's compliance with the January 1, 2006, deadlines at a public hearing on April 26, 2006, and also through frequent communication with the staff of the Elections Division at the Texas Secretary of State. Although

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more remains to be done to ensure that elections in Texas are the safest and most reliable in the nation, at this time, the state is in full compliance with all HAVA requirements and deadlines.

**Witness List for April 26, 2006 Public Hearing:**

Paul Alotto

Dennis Borel (Coalition of Texans with Disabilities)

Veronica Castro (Vote-PAD)

Catherine Clark (Texas Association of School Boards)

Luis Figueroa (MALDEF- Mexican American Legal Defense and Education Fund)

Bob Kafka (Institute for Disability Access)

Ann McGeehan (Elections Division, Texas Secretary of State)

Jennifer McPhail (ADAPT of Texas and self)

Albert Metz (ADAPT of Texas)

Leilah Powell (Bexar County Commissioners Court)

Fred Rangel (Coalition for Voter Integrity)

Karen Renick (Vote Rescue and self)

Laurie Vanhose (Advocacy, Inc.)

Lupe Vasquez (ADAPT of Texas and self)

Michael Vasquez (Texas Conference of Urban Counties)

**Computerized Statewide Voter Registration Database:**

HAVA requires the implementation of a:

*single, uniform, official, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the State.*<sup>8</sup>

This section of HAVA continues with requirements for safeguarding the system, safeguarding voters from inappropriate removal from the list, and verifying voter registration information, particularly through use of the voter's driver's license number or the last four digits of a voter's social security number.<sup>9</sup> The original deadline for implementation of this portion of HAVA was January 1, 2004, unless the state received a waiver. Texas, like most other states, was granted a waiver and extension until January 1, 2006, to complete its implementation of the registration system reforms.

Prior to January 1, 2006, Texas maintained a dual system of voter registration. About 100 of the 254 counties in Texas, especially more populous ones like Harris and Dallas, had independent computerized lists of registered voters. The remaining 154 counties used the state-maintained Texas Voter Registration Online System (TVRS). The Secretary of State maintained a master voter file in TVRS. Counties not using TVRS updated with the state master file once per week, but this was not the official list of registered voters that was used in an election. Texas counties ultimately remained in control of their official voter registration lists.<sup>10</sup> During 2003 and 2004,

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the office of the Secretary of State surveyed counties on the systems in use locally, and secured a vendor, IBM, working with Austin-based Hart InterCivic, Inc., to design and develop a new centralized registration system to meet the HAVA requirements.

The following requirements of HAVA needed to be met by the January 1, 2006, deadline for the state to achieve full compliance with regards to the computerized statewide voter registration database. These included:

- Use of a single computerized list to serve as the system for storing and managing the official list of all registered voters in the state;
- Name and registration information of every legally registered voter;
- Issuance of a unique identifier to each legally registered voter;
- Coordination of the list with other state voter registration agencies;
- Immediate electronic access to the list by any election official in the state;
- Expedited electronic entry of all voter registration information obtained by local election officials; and
- Verification of voter information with the Department of Public Safety (DPS) and the Social Security Administration (SSA), for all new voter registration applications received on January 1, 2006, or later.

During the 79th regular legislative session, changes in the Election Code were made to meet some of these requirements. House Bill 2280 modified provisions regarding the timeliness of data transfer from other state registration agencies and from counties to the Secretary of State. The bill also added language clarifying the electronic transmission of voter registration information from the Department of Public Safety to the Secretary of State. With the passage of this legislation, the Secretary of State became the agency responsible for storing and managing the official list of registered voters in Texas.<sup>11</sup>

House Bill 2280 provided the legal framework needed to initiate HAVA compliance, but implementation of the actual system was needed by January 1, 2006, to fully meet the requirements of the federal Act. The system that was developed by the Secretary of State through the outside vendors is called TEAM- Texas Election Administration and Management. TEAM will offer several tools to local election officials, in addition to serving as the gateway to the state-managed voter registration list.

Under a timeline proposed during 2004 when the initial planning stages of TEAM were occurring, the voter registration component of this new election system was scheduled to be fully operational by the January 1, 2006, HAVA deadline. However, because the Secretary of State encountered delays in securing funding for the project, that timeline was set back by six months. At the time the decision to delay full deployment was made, the Secretary of State's office also announced an interim solution to ensure that the state would still comply with the January 1, 2006, HAVA deadline. Thus, while the state technically met the requirements laid out in HAVA by January 1, 2006, the new system was not fully operable at that time.<sup>12</sup>

The system currently in use by the state is a hybrid of the existing Texas Voter Registration System and the integration of some components of the newly developed system. Using TVRS as



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a base, the Secretary of State updated the statewide master list with county submissions of end-of-year 2005 voter database records. This list is now the official list of voters for the state, and counties are currently cooperating with HAVA requirements by making daily updates of voter registration activity to the interim system via an internal website. Meanwhile, the Secretary of State is also receiving electronic updates from other state agencies, such as the Department of Public Safety and Department of Health, and is electronically verifying information against the drivers' license database at DPS and with the SSA. The interim system is expected to be phased out by July and fully replaced by the new TEAM system that is under development.<sup>13</sup>

In keeping with the tradition of local control over elections, Texas has not mandated that counties use the new TEAM system for voter registration. Currently 216 counties are online with the state database; 220 are expected to be participating online by the official roll-out of TEAM in July. The remaining counties are continuing to use their existing voter registration systems. All voter registration data, other than that originating from voter registration agencies, is collected at the county level. Data entered by online counties will directly update the state registration list, once it has been verified. Data entered by offline counties will be converted and uploaded to the state database on a daily basis. The data entry fields, whether a county is online or offline, have been standardized by the Secretary of State to coordinate with the new TEAM system.<sup>14</sup>

In its "Voluntary Guidance on Implementation of Statewide Voter Registration Lists", issued July, 2005, the EAC stated that a "State database hosted on a single, central platform...and connected to terminals housed at the local level (often referred to as a "top down" system) is most closely akin to the requirements of HAVA." The guidance continues, however, to state that "bottom up" systems, where the state gathers information from local voter registration databases to compile the master list, do meet HAVA requirements as long as the State database is the official list of voters. The Texas system will be a hybrid of these two approaches, with online counties participating in a top down capacity and those counties with independent databases forming the bottom up section of the system.<sup>15</sup>

Once the state's database has received the information from county voter registrars or registration agencies, the Secretary of State submits the registration information to DPS or the SSA, as applicable, for verification. The Secretary of State's office reports that of the 241,365 registrations submitted with a drivers' license for verification since the January 1, 2006, implementation of the verification procedures, only 33,728, or 0.14% failed to match. Significantly fewer registration applications were submitted for verification with the last four digits of a voter's social security number, but more of these failed to produce a match. Of the 13,827 registrations submitted, 65% failed to match. Texas has established the matching criteria for driver's license submissions as a match on the last name, date of birth, and driver's license number. The state will also match on a former last name, if that is available. In contrast, the Social Security Administration has established the matching criteria for those submissions, requiring verification of the last four digits of the social security number, plus a match on the individual's first and last name, and date of birth.<sup>16</sup>

If a match can be made by verifying the registrant's information, the Secretary of State issues that voter a unique identification number, notifies the county of the match, and the county issues a

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voter registration certificate to the voter. If a match cannot be made, the Secretary of State notifies the county voter registrar that the individual's registration application has been rejected. In this situation, the county notifies the voter, who has 10 days to respond with correct information that will facilitate a match. A voter who responds timely, and whose resubmitted application is verified, will be registered to vote effective the date of the first application. A voter who fails to respond within the allotted time may still be registered to vote if a match is made with the new information, however, this voter's registration will not be effective until the date that the updated information is submitted. If an individual does not respond to the notice of "no match", then that individual is not added to the list of registered voters.<sup>17</sup>

With this procedure and the electronic transfer of data between counties and the state, as well as between the state and verification agencies, Texas meets the provisions of the EAC guidance regarding verification of voter registration.<sup>18</sup> The guidance also sets forth recommendations regarding the synchronization of data between the various entities, proposing that updates be sent from local entities to the state database and vice-versa at least once every 24 hours.<sup>19</sup> The procedures currently in place likewise meet this recommendation. County voter registrars will have real-time access to the state list of registered voters from their remote locations.<sup>20</sup>

In addition, voters will also have access to the system to verify registration status. When fully operational, TEAM will include an interactive voter website for voters in the November general election. A voter will be able to enter either his Texas drivers' license/personal identification number or unique voter number, as assigned by the Secretary of State, to find out registration status. The website will also give the voter precinct information, including a polling place location. While TEAM will allow enhanced access to election officials and voters to the centralized statewide voter registration database, access by third parties will be limited. Political parties, campaigns, and other non-affiliated groups or individuals will not be able to access the active list of voters. The list will contain significant personal information on voters, and this limitation is intended to protect the privacy of voters in Texas.<sup>21</sup>

Security of the statewide computerized voter registration database is especially important, not only for these privacy concerns, but also because any tampering with or damage to the list could lead to potential disfranchisement, as well as to election fraud. While the nationwide focus of election security has centered on the potential vulnerability of electronic voting machines to manipulation and hacking, similar scrutiny has not been heaped upon the security of the statewide voter registration databases. A recent report released by the Association for Computing Machinery has brought limited public attention to this issue. The report states the need for the new voter registration databases to be secured to prevent hackers from manipulating the list of registered voters.<sup>22</sup> Likewise, the EAC's voluntary guidance includes significant recommendations regarding the obligation of election officials concerning the security of the statewide voter registration list.<sup>23</sup>

TEAM has been designed to be a central system to which users over a broad geographic area will have access. This design is necessary in such a large state where election administration is decentralized. Unfortunately, wrongdoers also have greater a potential to access the database because of its constant interface with users via the public internet. Recent reports of large

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volumes of personal information being accessed by unauthorized individuals further highlight the need for diligent security. The University of Texas at El Paso, Texas Guaranteed Student Loan Corporation, the U.S. Department of Veterans' Affairs, and the University of Texas at Austin have all been in the news over the past year because of hacking, theft, and lax security protocols.<sup>24</sup>

According to the Elections Division at the Texas Secretary of State, industry best practices are being used to ensure that the voter registration database remains secure. Security for the new system includes both host-based measures (i.e. elaborate access controls to the host system at the Secretary of State's office), as well as network-based measures (i.e. numerous firewalls). In addition, all Secretary of State employees and all county users of the system will be required to sign a written information security policy before being granted access to the system.<sup>25</sup>

### **Upgrading Texas' Voting Systems:**

The state was overwhelmingly successful in meeting the January 1, 2006, deadline for both punch card/lever voting machine replacement and the acquisition of accessible voting machines. HAVA requires at least one fully accessible voting machine for voters with disabilities to be made available in every polling place in the state for all elections involving a federal office after January 1, 2006. HAVA also prohibits the use of punch card or lever voting machines in federal elections after this date.<sup>26</sup> At the March 2006 primary election, the first election following the deadline, each precinct in the state had complied with the accessibility standard, and all counties previously using punch card or lever systems had upgraded to new machines. Reaching these goals placed Texas in full compliance with these sections of HAVA.

The upgrade of voting systems received significant attention in the press throughout the last year, as each county considered the best way to meet the HAVA requirements. As with the voter registration database, the Secretary of State and legislature have attempted to preserve local control over elections with regard to meeting HAVA's voting system reforms. Counties are free to select the voting machine or combination of systems best suited to the community. Many counties held hearings, public forums, and demonstrations of the available machines before making a decision regarding a new voting system. Some counties chose to purchase enough machines only to satisfy the HAVA accessibility requirement in each polling place, while other counties took advantage of the allotted federal and state funds to fully upgrade their voting systems.

A majority of counties in Texas have secured contracts with one of two vendors- ES&S, Inc., a Nebraska company or Austin-based Hart InterCivic, Inc., for the acquisition of accessible voting machines. Five counties in Texas, however, chose to contract with the vendor AccuPoll, Inc. Their machines offered a voter verified paper trail once the ballots had been cast electronically.<sup>27</sup> Their voter verified paper trail is favored by some special interest groups because they allege those systems may provide added security although their claims lack evidentiary support. Unfortunately, on January 30, 2006, AccuPoll, Inc. declared bankruptcy, leaving its clients, including these Texas counties, without support and maintenance.<sup>28</sup>

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AccuPoll is not the only vendor with whom Texas counties have encountered problems as they sought to fulfill HAVA's voting system requirements. At least 50 counties who contracted with ES&S and Hart InterCivic found themselves without electronic early voting ballots as the March primary election neared. Throughout the state, several court challenges to candidates' applications for a place on the ballot delayed finalization of the primary ballot. Waiting for the outcome of appeals, many election officials postponed ordering those ballots from the vendors, and the vendors, in turn, faced difficulty in meeting the high demand for ballot programming so late in the election cycle.<sup>29</sup>

Ballots being sent overseas to voters and those being sent to military voters require extra mailing time for transit and return. Counties had a February 11, 2006, deadline for mailing ballots to those overseas and military voters who had requested one for the primary election. Many counties were unable to meet this deadline because of the programming delays. To ensure that overseas and military voters were not disfranchised due to the delay in mailing ballots, the Secretary of State issued an official Directive to counties extending the deadline for receipt of these ballots from March 12, 2006, to March 20, 2006.<sup>30</sup>

Also, in response to the programming delay, on February 16, 2006, the Secretary of State authorized counties to create emergency ballots during early voting, which began statewide on Tuesday, February 21, 2006. These emergency ballots were printed by the counties, hand-numbered and initialed, and then hand-counted or counted with an optical scanner following the close of the polls.<sup>31</sup> Some of the affected counties did receive their programmed ballots during early voting, and by Primary Election Day on March 7, 2006, the vendors had succeeded in meeting the needs of all counties, allowing voting machines to be used throughout the State.<sup>32</sup>

The use of the electronic voting machines on Primary Election Days came with its own set of challenges. Statewide, many counties experience "glitches" with the new machines. While few of these "glitches" were the result of programming errors made by the vendors, many resulted from poll workers who were not completely comfortable with the new equipment or from a failure to diligently follow recommended steps during the pre-election preparation of machines. In Tarrant County, a programming error caused a miscount of votes, but election officials failed to halt the counting when the error became apparent, waiting until later to investigate the discrepancies. In Tom Green County, results were delayed on election night, and a subsequent recount was suspended because a voting machine had not been properly backed up after early voting. In Williamson County, vote tallying for the primary run-off was delayed because an election worker counted several hundred ballots twice.<sup>33</sup>

At the April 26, 2006, public hearing, the Committee heard testimony from several witnesses who indicated that these reports were having a negative impact on voter confidence. Conversely, however, several individuals from the disabled community testified on the overwhelmingly positive benefit of the new electronic voting machines that allowed them to participate fully in such a sacred civic activity.

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### **Provisional Voting:**

Provisional voting was fully implemented in Texas by the HAVA deadline of January 1, 2004. By the spring elections of 2006, the new fail-safe voting procedures had been tested in several statewide elections, including the Presidential election in November 2004, constitutional amendment elections in 2003 and 2005, and the March 2006 primary election. Since implementation, Texas has not seen a high number of provisional ballots cast in the various elections. In November 2004, 36,193 provisional ballots were cast statewide. Of these 7,770 were counted. In the Republican party primary in 2006, only 341 provisional ballots were cast; the Democratic primary experienced similar low numbers of provisional ballots, with only 501 cast. Provisional ballots were most often not counted because the voter was not registered in the precinct where he or she was trying to vote.<sup>34</sup>

Overall, there have been few challenges in administering provisional voting here. Occasional reports have surfaced, however, that provisional voting has not been offered at every polling place. In 2004, a U.S. Department of Justice (DOJ) election inspector sent Texas a letter indicating that provisional voting had not been offered at an election earlier that year.<sup>35</sup> Responding to this, the Secretary of State has increased its emphasis on the importance of and proper procedures for provisional voting during poll worker training. Since receiving the letter from the DOJ, the Elections Division at the Secretary of State's office has not received any significant complaints regarding provisional voting.<sup>36</sup>

### **Voter Education:**

In January 2006, Secretary of State Roger Williams kicked off a multi-city tour of VOTEXAS—the state's new voter education program. The year-long initiative educates voters about all aspects of the election process, from finding out when and where to vote to understanding the new voting equipment. The tour features the VOTEXAS Mobile Exhibit, a bus equipped with voting systems in use throughout the state. As the exhibit travels to various cities, voters can familiarize themselves with voting on the machine specific to their locale. VOTEXAS is expected to travel to most areas in Texas during the year. In addition to the traveling exhibit, the Secretary of State's VOTEXAS initiative also educates the voting public through an internet website (<http://www.votexas.org/>) and public service announcements on radio and t.v.<sup>37</sup> Secretary Williams is doing a great job of educating voters and thereby helping to increase voter confidence in our systems.

Independent advocacy groups have also been educating voters about the reforms of HAVA. This is especially true within the disabled community. According to testimony at the April 26, 2006, public hearing, voter education is changing the mindset of disabled voters, showing them that they can vote, it is easier to vote now than before, and they can make their choices using a private ballot.<sup>38</sup> Testimony of other disability advocates countered, however, that the voter education efforts currently underway are not enough because many voters are still unaware that accessible voting is available in their polling places.<sup>39</sup>

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### **Election Official Training:**

In April, 2006, the Secretary of State signed a contract to create an online poll worker training component. The new curriculum will emphasize working with voters with disabilities and with minority language voters and will supplement the training currently provided by the Secretary of State to election workers (i.e. election handbook, video, and live election schools). The new component will be accessed via the internet, so that poll workers, particularly those in remote or rural areas, can receive training without having to travel.<sup>40</sup>

Testimony at the public hearing revealed other areas, in addition to working with disabled and minority language voters, where additional training may help election workers communicate. This included continued emphasis on provisional voting and the rights of voters to cast a provisional ballot, as well as more widely available information on the location of polling places.<sup>41</sup>

### **Committee Recommendations:**

The committee does not anticipate additional significant changes needed in the Election Code to facilitate the implementation of HAVA. At this point, the state is fully compliant with the requirements of the Act. However, the changed election climate as a result of HAVA implementation does lead to several recommended statute changes and policy priorities.

1. Because TEAM will interface with election officials and registered voters via the public internet, which increases the opportunity for malfeasance, it is imperative that the Secretary of State diligently implement adequate security for this new centralized database. Section 33.02 of the Texas Penal Code describes the criminal offense for breach of computer security. The penalty associated with the crime, however, is only a Class B misdemeanor, unless a dollar-value can be placed on the damage. Likewise, Section 37.10 of the Penal Code involves the offense of tampering with a government record. Neither of these offenses, however, adequately addresses the concerns surrounding manipulation of voter registration records to tamper with an election.

The 80th Legislature should consider adding a stringent criminal penalty for tampering with or attempting to tamper with the statewide voter registration database. Legislation should include penalties for authorized users of the system who share access or information with unauthorized individuals, including campaigns. The Elections Committee should also continue to monitor the measures taken by the Secretary of State in keeping the data within its new system secure.

2. To date, the focus of county-level compliance with HAVA has been on the replacement and upgrade of voting machines by the January 1, 2006, deadline. Counties, however, have available to them additional federal and state funds for general HAVA compliance, as well as a County Education Fund. The Elections Committee encourages the counties to use this money for poll worker and election official training, as well as enhanced voter education, especially regarding the new voting systems. Adequate training for those responsible for administering the elections,

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from the county elections administrator down to the precinct clerk is imperative to ensure that the millions spent on voting system reform are not wasted. Likewise, continued voter education is needed to make the public aware of the reforms that are taking place. Voters need to have confidence in both the machines and people responsible for tallying their votes.

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## Charge # 2

*Examine the prevalence of fraud in Texas Elections, considering prosecution rates and measures for prevention.*

### **Background:**

Many speak broadly of "election fraud" and "voter fraud" in Texas. This fraud refers not to a particular crime but to a variety of offenses found in the Texas Election Code, where an individual or group attempts to influence the outcome of a particular election through illegal means. These range from illegal voting and vote buying to tampering with electronic voting equipment. The allegations of such fraud in Texas elections are neither new nor uncommon. Unfortunately, the actual prevalence of these crimes, and the effectiveness of prosecution and prevention, are less apparent.

Widespread accounts stem from the early 20th century in South Texas, when *pistoleros* would round up Mexicans and Mexican-Americans, paying them with a shot of liquor or some nominal amount of money to cast pre-marked ballots.<sup>42</sup> Even more notorious is the story of Ballot Box 13 and Lyndon Johnson's 1948 race for the United States Senate, where votes appeared and evidence disappeared, before he was declared the victor.<sup>43</sup> In more recent times, fraud allegations from this region have centered on *politiqueras*, or vote brokers, who are paid to deliver votes. They purportedly do so by shepherding elderly voters to polling locations on election day or by manipulating the mail ballot system--paying others to request early voting ballots by mail and having those ballots sent to post office boxes.<sup>44</sup> Ten individuals, many of them *politiqueras*, were indicted in December 2005, in connection with large-scale mail ballot fraud in the 2004 McAllen city elections.<sup>45</sup>

Although most historical and many contemporary accounts of fraud in Texas elections have focused on the areas around San Antonio and the Rio Grande valley, election fraud is not confined to the South Texas region. Between 2001 and 2003, the Dallas County District Attorney's office investigated fraud relating to Dallas municipal elections, particularly the targeting of elderly voters' mail ballots.<sup>46</sup> Even more recently, Dallas County investigated complaints of voting irregularities, including the failure of poll workers to check voters' registrations, at a Highland Park Middle School polling site.<sup>47</sup> Likewise, as late as February 2006, Kaufman County officials continued to probe allegations of possible mail ballot tampering associated with the contested mayoral race in 2005.<sup>48</sup>

Overall, most allegations of election fraud that appear in the news or result in indictments relate to early voting by mail ballots. For example, the Texas Attorney General is currently investigating voting during the 2006 primary election in Duval County, where voter turnout reached 57% in an election that otherwise drew, on average, only 8% of voters statewide. Over half of the ballots cast in that election were early voting ballots sent by mail and allegedly included some cast by dead voters.<sup>49</sup> More isolated incidents include allegations in connection with in-person voting.<sup>50</sup> Recently, groups have raised concerns of potential fraud associated with electronic voting machines, but there have been no specific allegations of such machine



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tampering in Texas.

In order to better understand the prevalence of fraud in Texas elections, including prosecution rates, the House Committee on Elections requested research assistance from the Texas Legislative Council, who compiled data from various sources throughout the state (For a copy of this memo, see Appendix 2a). In addition, the committee staff monitored reported allegations of fraud during the interim.

### **Prosecution Rates:**

The avenues for investigating and prosecuting election fraud are as varied as the offenses and the people who commit them. Both individuals and local election officials may report allegations of fraud to local prosecuting attorneys, the Secretary of State, or the Office of the Attorney General (OAG). District and County Attorneys may refer the allegations, in turn, to the Secretary of State or the OAG, and the Secretary of State refers most allegations of election fraud to the OAG.<sup>51</sup>

Because of this hierarchical approach, the Secretary of State and the OAG are the main holders of statewide election fraud data. According to research conducted by the Texas Legislative Council:

[a]lthough both large-scale and small-scale vote fraud have been chronicled, a broad historical record of vote fraud investigation and prosecution in Texas is not available primarily due to limited and nonstandardized recordkeeping on this issue.<sup>52</sup>

Counties maintain their own databases of criminal cases, including election fraud cases, and there is not a uniform method for compiling this information. For example, some counties organize their cases by defendant name, while others use the Federal Bureau of Investigation's National Crime Information Center's offense codes. Likewise, the Secretary of State did not begin tracking the allegations of fraud that it has referred to the OAG until 2002, and they do not keep a log of the total number of allegations received or of the number that are not referred to the OAG.<sup>53</sup>

The OAG does keep records of election fraud allegations referred to them by other entities. Between August 2002 and June 2006, the OAG received 60 referrals, of which 37 were from the Secretary of State. The referrals include allegations of a variety of offenses- 22% relating to early voting by mail and 12% relating to illegal voting. In the past year alone, the OAG has obtained indictments for 11 individuals, with varying results. Five were adjudicated, four received deferred adjudication and supervision plus a fine ranging from \$500 to \$2,000, and one individual received probation plus a fine.<sup>54</sup>

Counties have had more marginal success in prosecuting individuals for alleged election fraud. Kenedy County has brought forth eight cases of illegal voting since 2000, and all of these ended in an agreement for pretrial diversion. In Hidalgo County, the six cases tried during this same

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period resulted in shock probation, deferred adjudication, or acquittals. Likewise, although the Brooks County Attorney has brought forth 14 cases involving illegal voting in the past two years, all resulted in dismissal or a failure to convict.<sup>55</sup>

### **Current Measures for Prevention:**

Measures for the prevention of fraud have centered primarily on the creation or enhancement of related offenses. In 2003, responding to widespread allegations of mail ballot fraud in connection with Dallas municipal elections, the legislature enacted House Bill 54 by Representatives Steven Wolens, Denny and Madden. This comprehensive bill added requirements for those who assist voters with their mail ballots, increased the penalties relating to unlawfully assisting such voters, and created new penalties for buying and selling mail ballots, among other reforms.<sup>56</sup> Similarly, during the 79th regular session, the legislature enacted a bill creating an offense for tampering with direct recording electronic voting machines to alter the outcome of an election.<sup>57</sup>

Increasing and adding penalties as a method of preventing fraud, however, is controversial. Recently, some have called for more of the penalties relating to illegal election activity to be enhanced to felonies.<sup>58</sup> During the 79th regular session, however, a bill to do just this, as well others that would have modified the offenses relating to early voting by mail ballots, failed to pass.<sup>59</sup> On the opposite side of this argument are those who feel that the increased penalties merely add to the difficulty in prosecuting such cases. Some election officials feel that reducing offenses to misdemeanors would actually lead to an increased prosecution rate.<sup>60</sup>

Recently, attempts to prevent fraud through education, rather than only through the threat of fines and jail time, has been undertaken by the state. In January 2006, Texas Attorney General Greg Abbott launched a statewide initiative to educate and train local officials on how to combat or prevent voter fraud. Attorney General Abbott referred to voter fraud in Texas as an "epidemic," occurring on a "large scale when viewed statewide."<sup>61</sup>

The initiative is directed at 48 counties within the state, of which 14 are counties where the OAG has recently investigated or prosecuted alleged violations of the Election Code. The remaining 34 counties are those with populations over 100,000. Officers from the OAG's Special Investigations Unit have been conducting training for police departments, sheriff's offices, and district and county attorneys in the targeted counties.<sup>62</sup> The OAG hopes that increased training of local law enforcement officials and prosecuting attorneys will both deter future fraud attempts and increase the prosecution rates of alleged election crimes.<sup>63</sup>

### **Committee Recommendations:**

The committee recommends working with the OAG and Texas District and County Attorneys Association in the next legislative session to review the need to add, enhance or reassess the effectiveness of criminal penalties provided by the Election Code. The legislature should provide educational assistance for prosecutors and election officials to improve understanding of

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**criminal violations of the Election Code.**

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### Charge # 3

*Examine the growing use of technology in campaigns and the administration of elections, and the need to recodify sections of the Texas Elections Code to reflect our current practices.*

#### **Background:**

In a recent court decision, a state District Judge referred to the current Election Code as "an archaic, cumbersome, confusing, poorly written document in need of serious legislative overhaul."<sup>64</sup> The most recent substantive recodification of Texas election law occurred in 1985, over 20 years ago.<sup>65</sup> During the legislative sessions that have followed, the legislature has enacted over 200 bills modifying election law in the state.<sup>66</sup> While some of these have been straightforward one-page bills making minor changes, others have been comprehensive pieces of legislation that encompassed reform in multiple areas of the law.

During the last interim, as one of its charges, the House Committee on Elections (Committee) began a preliminary examination of the need for recodification. This charge was prompted by testimony of election officials throughout the 78th regular legislative session that some parts of the Election Code were unwieldy. In particular, the Committee examined the need to consolidate election laws into a single body of text, rather than maintaining laws relating to the administration of various types of elections in separate statutory codes.<sup>67</sup> The legislature followed the committee's recommendation by enacting House Bill 1799. This bill transferred laws relating to the administration of local option liquor elections from the Alcoholic Beverage Code to the Election Code.<sup>68</sup>

The Committee also identified areas that deserved further attention as part of a complete recodification effort. One of these relates to the technological developments that have taken place in the administration of elections and campaigns since the 1985 recodification. These facets of American democracy are much more complex in 2006 than they were in 1985. The federal government has required electronic voting machines to be placed in each polling place and has mandated that all voter registration records be kept in a central computer database that is accessible to local election officials via the internet. Campaigns and lobbyists now disseminate their messages over websites, emails, and blogs, in addition to the traditional methods of mail, television, and radio. Unfortunately, modifications to the Election Code and the relevant sections of the Texas Government Code have not occurred as rapidly as these changes.

Several bills enacted during the 79th regular session further highlighted the need for comprehensive technological updates in the Election Code. House Bill 2309, an omnibus elections bill, included language that removed provisions relating to punch card and lever voting machines, as well as ballot stubs, from the statutes now that these forms of voting are outdated or prohibited.<sup>69</sup> Other minor bills from the legislative session refined election law and procedures relating to the use of Direct Record Electronic (DRE) voting machines, the use of the internet by election officials, and the method for reporting lobbying expenditures made on a credit card.<sup>70</sup> While these bills individually addressed some technological shortcomings in statute, guidance is still needed in certain areas regarding the use of technology.

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In completing this interim charge, the Elections Committee attempted to identify some specific technological advancements that current statutes and administrative rules do not regulate despite their growing use in the administration of elections, campaigns, and lobbying. The Committee heard testimony from a variety of individuals at a public hearing held on April 26, 2006. In addition, Committee staff conducted independent research relating to this issue.

**Witness List for April 26, 2006, Public Hearing:**

Dana DeBeauvoir (Legislative Committee of the Texas County & District Clerks' Association)  
Vickie Karp (Black Box Voting)  
Scott Houston (Texas Municipal League)  
David Reisman (Texas Ethics Commission)  
Karen Renick (self)  
David Rogers (self)  
Sonia Santana (ACLU and self)  
Cynthia Test (self)

**Technology in Campaigns and Legislative Lobbying**

*Internet and E-mail:*

The past few election cycles have witnessed a tremendous growth in the use of electronic communication by candidates and other political actors. For example, a brief review of the 151 members of the 79th Texas House of Representatives reveals that over half maintain a campaign website. These internet sites range from the simple to the complex; the most sophisticated of which contain recent legislative updates, links to government information sources, and requests for campaign contributions payable directly online.<sup>71</sup> Similarly, the use of the internet and e-mail by interest groups and individuals for legislative lobbying and commentary on legislative action has also grown.

Despite their increasing prevalence, however, use of the internet and e-mail is not as clearly regulated as more traditional forms of political speech. Title 15 of the Election Code regulates campaigns and the use of political funds, and the activities of those who try to influence legislative action are covered by Chapter 305 of the Texas Government Code. In general, these statutes do not specifically exclude or include communications made on an internet website or through e-mail among the regulated activities. The lack of legislative intent regarding the status of these communications leaves a void in the public policy surrounding their treatment.

In 2003, the legislature first addressed internet use in campaigns by expanding the definition of political advertising to include communications made on a website.<sup>72</sup> Thus, the websites maintained by legislative members and other candidates for public office would be covered under current political advertising laws.<sup>73</sup> On the contrary, the statute is silent on the status of e-mail communications sent by candidates or interest groups to potential voters. E-mails are not

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required to contain the same disclosure information as pamphlets or brochures mailed to a potential voter because of this.

E-mail communications sent by individuals or groups who support or oppose legislation are also not clearly under the purview of the Government Code's legislative advertising regulations. In requiring disclosure on legislative advertising, the Government Code defines such advertising as communications that are "published in a newspaper, magazine, or other periodical" or are "broadcast by radio or television," in return for consideration. The Government Code also includes communications that specifically appear in a "pamphlet, circular, flier, billboard or other sign...or similar form of written communication."<sup>74</sup> Electronic communications, including e-mails, websites, and podcasts, are absent from the definition.

In September 2005, the Texas Ethics Commission (Commission) issued an advisory opinion relating to the disclosure required on legislative advertising featured in a radio spot, when that information also appeared in an e-mail and on a website. In its opinion, the Commission stated:

[i]n 2003, the legislature amended section 251.001(16) of the Election Code to include in the definition of political advertising a communication that appears on a website... The legislature, however, did not add that type of communication to the definition of legislative advertising. Therefore, in our opinion the legislature did not intend the definition of legislative advertising to include a communication that appears on a website or a communication made by e-mail. Thus, those communications are not required to include a legislative advertising disclosure statement.<sup>75</sup>

At its July 2006, meeting, the issue of e-mail communications was again addressed by the Commission. During this meeting, the Commission adopted a rule that excludes communications made by e-mail from the definitions of both "campaign communication" and "political advertising."<sup>76</sup>

The Commission's interpretation of state law mirrors the position recently taken by the Federal Elections Commission (FEC) in interpreting federal campaign laws. In April 2006, the FEC promulgated rules "to provide guidance with respect to the use of the Internet in connection with Federal elections." The FEC notes in its explanation of these rules:

[t]he [FEC] does not consider e-mail to be a form of "general public political advertising" because there is virtually no cost associated with sending e-mail communications, even thousands of e-mails to thousands of recipients, and there is nothing in the record that suggests a payment is normally required to do so. All of the forms of "public communication" expressly listed by Congress normally involve at least some charge for delivery, such as telephone charges or postage.<sup>77</sup>

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Furthermore, the FEC concluded that e-mail communications are not required to contain a disclaimer unless the messages are sent by a political committee.<sup>78</sup>

*Blogs:*

Like e-mail and web pages, blogs are also a new medium in Texas politics that have not yet worked their way into the Election or Government Codes. During the 79th regular legislative session, bloggers became popular sources for commentary and for up-to-the-minute legislative reporting from the House and Senate galleries. In addition, several legislators wrote blogs from their desks during the daily sessions.<sup>79</sup>

Bloggers have referred to their craft as "the first democratic mass medium in the history of the world."<sup>80</sup> However, while blogs are indeed free of many of the constraints that restrict mainstream print and paper publishers, blogs are not currently afforded the same state statutory protection as other media news sources. For example, bloggers are not included in the press exemption that the Government Code grants to the media, freeing them from the requirement to register as a lobbyist for attempting to influence legislative action. Currently, this exemption includes:

a person who owns, publishes, or is employed by a newspaper, any other regularly published periodical, a radio station, a television station, a wire service, or any other bona fide news medium that in the ordinary course of business disseminates news, letters to the editors, editorial or other comment, or paid advertisements that directly or indirectly oppose or promote legislation or administrative action...<sup>81</sup>

At the federal level, however, the status of blogs as a "bona fide news medium" has been reinforced by the FEC's internet rules. In justifying the inclusion of bloggers under the media exemption, the FEC noted that bloggers at the federal level have received official press credentials and that they "are covering and reporting news stories in the same way that traditional media entities have reported on newsworthy events."<sup>82</sup>

In response to requests from the public, the Texas Ethics Commission has attempted to interpret the law regarding e-mail and internet communications. Without clear guidance on the intent of the legislature, however, this has been a difficult task. Commission Chairman Cullen Looney has also appointed a Task Force to study these issues, along with other recommendations for statutory changes, in greater depth. Included among the recommendations of the Task Force for action by the next legislature are clarification of the definitions of "political advertising" and "campaign communication," as these relate to e-mails, as well as legislative advertising, as it relates to both e-mails and websites.<sup>83</sup>

## **Technology in the Administration of Elections**

*Voting Machines:*

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Voting machines have become increasingly sophisticated through the years. Since the invention of the lever voting machine at the turn of the 20th century, Americans have consistently applied innovation to ballot casting and counting. Recently the country has seen the advent of the Direct Recording Electronic (DRE) voting machine. DREs are essentially modular computer systems programmed to record votes cast by voters on specific ballots and then to electronically tally the vote totals. These machines also include features that allow minority language voters and voters with most disabilities, including those who are blind or physically impaired, to cast votes independently. In addition to making voting easier for many voters, DRE machines ease some of the administrative burdens on election officials. Ballots can be quickly counted on election night, electronic records eliminate costly storage of mounds of paper records, and ballots for multiple jurisdictions can be used one machine, facilitating joint elections.

As a result of the state's implementation of the Help America Vote Act (HAVA), every county, city, and other small political subdivision in Texas is required to use at least one DRE machine in each polling place. Currently, this type of voting machine is the only one certified by the state that meets the federal government's accessibility standards for disabled voters.<sup>84</sup> Some jurisdictions in Texas have been using DREs for several years, even before their required use under HAVA. In most counties and political subdivisions, however, DREs were used for the first time in the 2006 primary or May uniform elections, when federal and state deadlines for their implementation took effect.

News from around Texas that reported on this inaugural use of DREs cited "glitches" and "snafus" as part of the experience in some areas.<sup>85</sup> Furthermore, testimony heard at the April 26, 2006, public hearing indicated that some voters in the state lost confidence quickly in election results when errors occurred with the new machines, whether or not the problems were quickly resolved.<sup>86</sup> On the other hand, disabled voters repeatedly expressed their pride in being able to cast a ballot without assistance for the first time in their lives.<sup>87</sup>

Proper security measures and pre-election testing can eliminate many of the potential problems and risks associated with the use of DRE voting machines, including many of those encountered during the primary and May elections. Currently, the Election Code contains minimal guidelines for maintaining the security and accuracy of DRE voting machines. Under the Chapter relating to DRE voting machines specifically, only one section has been added. This section lists four procedures to be completed by election officials when using DREs, including the use of a ballot review screen, required logic & accuracy testing prior to each election, daily audits of machines during early voting, and mandatory recounts of DRE records when machines are used for the first time.<sup>88</sup> The 79th legislature adopted provisions that clarified penalties for tampering with DRE systems to alter election outcomes, but a bill requiring the Secretary of State to prescribe more detailed and uniform testing procedures for DRE systems failed to be enacted.<sup>89</sup>

Procedures adopted by the Secretary of State's office minimally expand upon the requirements detailed in statute. In February 2006, the Secretary of State's Elections Division issued Election Advisory No. 2006-05 relating to "Direct Recording Electronic (DRE) Voting System Testing Requirements." This advisory requires jurisdictions to conduct basic diagnostic testing of hardware, as well as logic & accuracy testing of the voting systems prior to each election, but



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most details regarding testing procedures and the actual security of machines are left to the individual jurisdictions.<sup>90</sup> The Secretary of State has not, however, adopted any administrative rules relating to DRE use. In fact, the Administrative Code still contains many rules relating to the now-prohibited punch card and lever voting machines, while barely addressing the advent of the DRE.<sup>91</sup>

Despite the lack of guidance from the state, some jurisdictions have developed their own detailed security procedures to ensure the integrity of elections conducted with DREs and to bolster voter confidence in the machines. For example, the Travis County Elections Office has developed a sophisticated computer security plan for its elections, which won the national award from the Election Center for best management practice in December 2005. The plan incorporates Hash Code and Parallel Testing with more traditional security measures such as tracking sheets and employee screening to ensure proper security of its DRE voting system. Hash Code testing verifies that changes have not been made to the system's software, reducing the risk of a "trojan horse" code sequence that changes vote totals. Parallel testing, on the other hand, involves randomly removing machines from polling places on election day to test their accuracy in recording votes. In addition to ensuring that the machines have not been tampered with, these elaborate security plans also help to identify and eliminate potential problems prior to election day.<sup>92</sup> (See Appendix 3a for more details on the security plan implemented by Travis County)

Critics of voting with DREs have expressed the view that even with more diligent testing and security measures, including those used in Travis County, the integrity of elections using the new technology is still questionable. These individuals feel that the only way to ensure voter confidence and to elections from manipulation is to revert to a paper-only ballot system or to require the use of a voter verifiable paper audit trail (VVPAT) where DREs are used.<sup>93</sup> VVPAT is a printed record of the votes cast on the DRE, which voters may verify against their selections before or after ballots are finally cast. Recently, a group representing these interests tried unsuccessfully to obtain an injunction against future use of DREs in Texas unless the machines included VVPAT technology.<sup>94</sup>

Following the lead of the federal government, and maintaining the tradition of local control over elections, Texas has not mandated the use of VVPAT with DRE machines. Likewise, the state has not prohibited the use of this technology, as long as the machines meet other certification standards. In 2005, two machines using VVPAT technology were certified for use by the Secretary of State. Several counties contracted for the purchase of these machines to satisfy the accessibility requirements of HAVA. Unfortunately, the manufacturer of these machines, AccuPoll, Inc., filed for bankruptcy in January 2005, and the counties planning to incorporate the printed paper trail with their DRE voting machines have had to recontract with different vendors.<sup>95</sup> Because of this, and because no other vendors have applied for state certification of an accessible voting machine with VVPAT, there are currently no machines with this technology being used in Texas. The door for future certification of DREs with VVPAT remains open though.

Currently, 25 states require VVPAT technology. The experience of these states with the VVPAT technology on election day has varied from place to place.<sup>96</sup> The use of VVPAT raises a number

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of concerns, which must be adequately addressed in statute or administrative rules, to ensure that the technology is fully incorporated into the election process, rather than merely being a requirement that leads to further uncertainty in an election. VVPAT technology in and of itself does not increase security or prevent fraud with absolute certainty. In fact, VVPAT technology may cause and create more problems than it may allegedly solve. The only certainty of this technology is that it appeases certain special interest groups and provides false assurances to those with limited knowledge of election processes and procedures.

For example, the Cal Tech/MIT Voting Technology Project, when looking at the use of VVPAT in Nevada, raised concerns over how effective and accurate the paper trails actually were because the state did not have official procedures for addressing problems such as paper jams, low ink, and operator errors.<sup>97</sup> In addition to the need to deal with VVPAT errors, laws must address whether recounts involving paper trails will consider the electronic or the paper record as the official ballot, should there be a discrepancy between the two.<sup>98</sup> Election officials in California cited printer jams and the continued existence for potential fraud as reasons not to designate the paper record as the official ballot.<sup>99</sup> In Utah, election officials noted that recounts using the paper trails "would be an unbelievably complex process that would be more error-prone than the machine itself."<sup>100</sup> Finally, paper only verification systems could not be used by some disabled voters, the very citizens helped most by having DRE machines in the polling place. Some of the bills introduced at the federal level to require VVPAT in all elections using DREs have included the requirement that verification systems ensure access for disabled voters, but these bills have yet to pass.<sup>101</sup> Finally, any state mandate of VVPAT technology would result in a considerable unfunded mandate to county and local governing bodies.

The U.S. Elections Assistance Commission (EAC) recently issued voluntary Voting System Performance Guidelines, an update to the guidelines previously published by the National Institute of Standards and Technology in 2002. Volume 1, Section 7 of these guidelines relates to security requirements of voting systems and includes requirements that independent verification systems, such as voter verifiable paper audit trails, should also meet.<sup>102</sup> This fall, the EAC is expected to release additional guidance for state and local elections officials, in the form of comprehensive Management Guidelines. This second set of guidelines will focus more on procedures for using the new voting systems effectively, rather than on standards for their design, performance, and security.<sup>103</sup>

The state has previously taken a "wait-and-see" approach regarding procedures and specific requirements for DRE voting systems, in an effort to not conflict with potential federal regulations. Because of this, neither the legislature nor the Secretary of State have codified all of the procedures needed to securely and accurately use DRE machines in elections. The result is an Election Code that is not currently a complete repository of the laws and regulations needed for voting machine use.

#### *Military and Overseas Absentee Ballots:*

Thousands of Texas soldiers are stationed overseas each year during the election cycle. In addition, countless other Texans live overseas as a result of their jobs, families, or other

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commitments. Often, these individuals are living in combat zones, or other remote areas where there can be significant problems with mail delivery. To help protect the voting rights of these citizens, the federal and state governments have required procedures easing their access to ballots.

For example, overseas voters can submit a Federal Post Card Application (FPCA) that registers them to vote and serves as a ballot request for two election cycles.<sup>104</sup> In addition, state law gives overseas ballots an additional 5 days to arrive, following election day because of the frequent delays associated with international and military mail.<sup>105</sup> Voters also have the option of returning their marked ballots to election officials via facsimile.<sup>106</sup> Statute also requires election officials to mail overseas ballots at least 45 days prior to election day.<sup>107</sup>

Despite these efforts, many military voters still do not receive their absentee ballots, or they receive them with too little time to return the marked ballot by the deadline. Some officials, however, advocate expanding this authority to allow the e-mailing of ballots to voters. According to these individuals, such a method would eliminate the situation where mailed ballots must "catch up" with a voter who has been transferred to a new location or deployed into the field without having time to update their ballot address. The proposal would authorize election officials to email ballots to voters as a portable document file (PDF). The voter would then be responsible for printing the ballot, marking it, and returning it by mail to the appropriate election official.<sup>108</sup>

In addition to using email to transmit ballots to voters, some of these election officials also advocate allowing overseas voters to update addresses via e-mail. In February 2006, Bell County election officials estimated that thousands of ballots were unnecessarily sent overseas to soldiers who had moved home to Ft. Hood, but who had not updated their address with the election office.<sup>109</sup>

In testimony before the House Subcommittee on Military Personnel, Committee on Armed Services, the Comptroller General of the U.S., noted that technology, particularly e-mail, could improve communication between overseas voters and election officials but cautioned that security and privacy need to be safeguarded.<sup>110</sup> In its Best Practices for Overseas and Military Voters issued September 2004, the EAC encouraged "further use of faxing and e-mail in the distribution of absentee ballots" to military and overseas voters.<sup>111</sup> The current FPCA, revised in October 2005, now includes a place for applicants to include an e-mail address, as well as a fax number.<sup>112</sup>

### **Committee Recommendations:**

The House Committee on Elections repeats its previous recommendation for the appointment of a joint committee to consider comprehensive recodification of the Election Code (Code). In studying the Code for recodification, the Committee urges this group to incorporate the technology currently used in elections and campaigns, while also allowing flexibility within the Code for the advent of new technologies, such as e-mailed ballots or electronic poll books.

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Specifically, any recodification effort should expand laws relating to the use of DRE voting machines and associated technologies, such as VVPAT. Recodification should also ensure that legislative intent is clear regarding the treatment of electronic communications made on the internet or through e-mail, as those relate both to political campaigns and legislative lobbying.

For voters to have confidence in elections that use new technologies, it is imperative that procedures for their use and security are clearly defined. The new technologies cannot exist in a vacuum but must be incorporated into the larger body of election laws, which must consider not only security, but also voter privacy, disability access, and fiscal and administrative practicality.

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#### **Charge # 4**

#### ***Examine ways to improve the uniformity and efficiency of elections held by political subdivisions, particularly by exploring market practices for leasing voting equipment.***

Chairman Denny's work in the last two legislative sessions laid the statutory groundwork for improving the uniformity and efficiency of elections. The legislature's enactment of Denny's House Bill 57 in the 79th Regular Session reduced the number of election days from four uniform dates and several exceptions to two uniform dates throughout the state, in May and November. Furthermore, enactment of 78R House Bill 1549 to comply with HAVA established various statutory changes believed to improve efficiency of elections while complying with federal law. Therefore, Chairman Denny felt it important to allow political subdivisions time to comply with these new statutory frameworks while encouraging these political subdivisions to work together amongst themselves and with the Elections Division of the Texas Secretary of State before holding hearings on these relatively new changes.

The reduction in the number of uniform election dates was enacted because according to data collected by the Texas Secretary of State, less than three percent of political subdivisions in the state held elections on the uniform dates in February and September allowable under law prior to enactment of 79R H.B. 57. Prior law also provided an exception to the uniform date requirement for school and college districts holding elections to levy taxes or issue bonds. Often, these bond elections were not well publicized and had poor voter turnout with sometimes less than three percent of registered voters voting in those elections. In 2004, over \$7.5 billion in debt was issued as a result of school district bond elections. These extra elections were costly to taxpayers, both in terms of the cost of the actual election and the increases in taxes, especially considering the lack of participation. Additionally, concerns were expressed by those who administer elections about the timing and procedures of those elections. The enactment of this two day uniform election date law should lend improvement to the uniformity of elections throughout Texas.

Enactments to comply with the federal HAVA should improve the efficiency in Texas election processes and procedures. Among the various new changes enacted to comply with HAVA that are mentioned throughout this report, is the requirement of DRE's for all state and federal elections. The DRE requirement for state elections has led to some controversy because federal funds were provided to counties to comply with HAVA but not to other political subdivisions. The distinct change of requiring DRE's for state elections allowed the state to comply with federal disability laws. Furthermore, Chairman Denny believes this may lead to more efficient elections by encouraging political subdivisions to work together in the administration of elections. Nevertheless, potential problems may exist in market practices for leasing this type of voting equipment. Chairman Denny has encouraged the Texas Municipal League, the Texas Conference of Urban Counties, Texas Association of Counties, and the Texas Association of School Boards to work together and with the Elections Division of the Secretary of State to find ways to improve market practices for leasing this equipment. Denny believes it would be a mistake to disenfranchise the disabled community in attempting to address this issue. Removing the DRE requirement for state elections would harm the disabled community and may not

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survive judicial scrutiny from the United States Department of Justice. Finally, it may land political subdivisions in court for failure to comply with federal disability laws.

Uniformity in our electoral process and voter confusion as to when elections are held were resolved with the legislature's enactment of the uniform election date law. As all the organizations, political subdivisions and staff at the Elections Division of the Secretary of State are undertaking the task of working together to improve the efficiency of elections our state will benefit. Any recommendations from these working groups should be mindful of those the DRE technology is meant to help.

**Committee Recommendations:**

The Committee recommends working with the Secretary of State's office to monitor progress of marketing practices for leasing voting equipment and continue to encourage cooperation amongst political subdivisions for resolving market practice disputes in leasing voting equipment while exploring ways of holding voting equipment vendors accountable.

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**Charge # 5**  
***Monitor the agencies and programs under the committee's jurisdiction.***

**Office of the Secretary of State**

The Elections Division at the Office of the Secretary of State (SOS) serves as the statewide agency for election and voter information, and the Secretary of State is the chief election official for Texas. During the interim, the SOS oversaw several important elections, including a statewide constitutional amendment election in November 2005, and party primary and run-off elections in March and April 2006. Statewide candidates filed applications with the SOS for the November 2006 general election, and the office provided much needed guidance to political subdivisions during local elections held in May 2006.

In addition to providing leadership regarding the administration of elections, the Elections Division coordinated many projects relating to voting during the interim. Several of the projects resulted from legislation enacted during the 79th regular legislative session. The largest of these was final implementation of the federal Help America Vote Act (HAVA), which has been described in detail under Charge #1 of this report. Other significant programs for which the SOS was responsible included: continued certification of voting systems, implementation of a pilot program for the use of centralized voting locations, and implementation of procedures relating to the storage of election records.

To monitor the status of these programs, Chairman Denny met with officials from the SOS throughout the interim. Chairman Denny also attended meetings of the Elections Advisory Committee, which monitors the SOS's reporting of election night returns and tabulation of results.

*Texas Elections:*

Elections were held throughout Texas in November 2005, March 2006, and May 2006. Turnout for the Constitutional amendment election held in 2005 was a reported 17.97% of registered voters in the state.<sup>113</sup> Although this turnout was a dramatic increase over turnout for previous Constitutional amendment elections and the ballot contained the controversial gay marriage proposition, the figure still remains low, following an overall trend of declining voter participation in elections in Texas. The turnout for the primaries held in 2006 reaffirmed this trend with an all-time low turnout of 5.2% in the Republican primary and 4% in the Democratic primary.<sup>114</sup>

The SOS is responsible for tracking voter turnout in various elections. Increasing voter turnout, along with better voter education, has been two of the priorities of the Secretary over the past several months. During the 79th regular session, the legislature enacted additional requirements for monitoring turnout, requiring political subdivisions to report the number of votes cast in each election to the Secretary of State within 30 days of the election.<sup>115</sup>

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In addition to compiling turnout figures for elections, the SOS also unofficially tabulates results for statewide elections on election day. As part of this, SOS operates the Election Night Return system, where counties report returns to the state on election night via the internet. Official results are submitted in hard copy to SOS following the official canvass of results. The Election Night Return system monitors, gathers, and reports returns on races throughout the state during general and constitutional amendment elections, as well as party primary and runoff elections. The media and other interested individuals can access the return system directly with a paid subscription. Time delay results are also available to the public free of charge over the internet.<sup>116</sup>

At its September 2005, meeting, the Elections Advisory Committee received an update from SOS on the Election Night Return system and voted to maintain the fees charged for subscription to the system.<sup>117</sup> However, at the February 2006 meeting of the Advisory Committee, a vote to raise the fees for future elections was approved. The previous fees had been in effect since 1992. Currently the fees for subscribing to the system are: \$2,000 for remote access, \$1,500 for newswire data transfer, and \$12,375 for the Associated Press subscription.<sup>118</sup> These fees defray the SOS cost of operating the system and tabulating unofficial results on election night, and they are appropriated only to SOS for this use.<sup>119</sup>

The Elections Advisory Committee also appoints monitors for each election overseen by SOS. During the interim, the monitors release reports of the November 2004 and November 2005 elections. Overall, the monitors reported no significant problems arising during these elections.<sup>120</sup> Reports for the primary and runoff elections will not be available until the next meeting, to be held prior to the November 2006 elections. Since the primary elections in the spring, the SOS has focused its attention toward advising political subdivisions regarding the May 2006 local elections and toward preparations for the upcoming November general election.

This year's general election for state and county officers includes a contested race for Governor. In addition to the three party candidates, two individuals have also applied to run as independents. To appear on the ballot as an independent candidate for any office that appears on the general election ballot, other than president or vice-president, state law requires individuals to collect petition signatures. The signatures must be of registered voters who have not cast a ballot in a primary election that year or who have not signed another candidate's petition for that office. For governor, the total number of signatures required to be collected is one percent of the total votes received by all candidates for governor in the most recent gubernatorial general election.<sup>121</sup> This year, that total was 45,540.

Because of the large interest in the independent candidates and the statutory requirements that individuals only sign one petition, not vote in the primary, and be registered voters, the Secretary decided to individually verify each petition signature, rather than taking a statistical sampling, as authorized by state law. This process took the SOS about 6 weeks to complete and included entering signatures into a database, cross-checking those names against the state's computerized list of registered voters, and then against other petitions. Both candidates exceeded the required number of valid signatures and will appear on the November ballot.<sup>122</sup>



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*Voting Center Pilot Program:*

To vote on election day, voters are assigned a polling location based on their registration residence address. Although voters can vote at any early voting location during the period for early voting by personal appearance, they are restricted to casting a ballot at their assigned polling place if they choose to vote on election day itself. While the system of requiring voters to vote at their home voting location on election day maintains the traditions of voting within one's community, this has become increasingly impractical for many voters. Many individuals do not work in the neighborhoods where they live and may find themselves away from their precinct, but not the county, on election day.

In an effort to alleviate these issues, some areas of the country have experimented with the use of centrally located voting centers or "super precincts" where any voter in a given jurisdiction can cast a ballot on election day. This system is similar to that used for early voting in Texas, where voters are free to cast ballots at any of the polling places. In addition to providing convenience to voters, such vote centers have the potential of reducing the costs associated with elections, increasing voter turnout, and overcoming the persistent shortage of qualified, trained poll workers.

In 2005, Chairman Denny worked to have the legislature approved a pilot project to investigate the use of such voting centers in Texas. Under the pilot program, the SOS is responsible for selecting qualified participants from among interested counties to use vote centers during the November 2006 general election. The legislature required participating counties to meet certain technological standards, including implementation of a computerized voter registration system and the use of Direct Recording Electronic (DRE) voting machines, as well as any other standards deemed necessary by SOS. In addition, counties are required to hold a public hearing on the issue and to submit a transcript or recording of the hearing to SOS.<sup>123</sup>

Initially, the SOS received positive responses regarding participation in the pilot program. As counties more fully explored the possibility of participation, however, many remained reluctant to change their election system during the November gubernatorial election. Only a handful of counties officially considered participating in the pilot, beyond an initial query with SOS. Among these were Collin and Lubbock Counties.

The official and public response to hearings on participation in the pilot program varied significantly in these two counties. In Collin County, both political parties, as well as the county elections administrator, recommended against participation in the pilot. Citing concerns with the number and location of the proposed "super precincts," as well as a lack of guidance from the state, Collin County commissioners ultimately voted down the proposal.<sup>124</sup> In Lubbock County, however, participation in the project has won the approval of county commissioners. Commissioners cited the cost savings of needing fewer accessible voting machines with fewer precincts, as well as the potential for greater voter participation. In addition, the availability of trained poll workers was a significant concern for Lubbock County. At this time, Lubbock

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County is the only one in Texas that has applied to the SOS to participate in the pilot.<sup>125</sup>

*Voting System Certification:*

At the close of the regular legislative session, the Secretary of State was party to a lawsuit involving the state's process for certifying voting systems. Under Texas law, the Secretary finally approves or denies certification for voting systems. This final decision is made following recommendations and examinations of the systems by a group of qualified individuals. Vendors of the voting machines are responsible for applying for certification of their machines and bringing those machines to Austin for examination. Statutorily set standards for performance and use must be met by each machine.<sup>126</sup>

In response to concerns raised in the lawsuit, the legislature enacted House Bill 2465 to provide additional transparency to the certification process. This bill requires the Secretary of State to hold a public hearing, in addition to the examination sessions, where the public and interested stakeholders may submit written or oral comments prior to the approval of a voting system.<sup>127</sup>

*Election Record Preservation:*

Following each election, related records, such as ballots and poll logs are preserved for a finite length of time. This allows candidates, parties, and the general public to have access to the official documents relating to the elections, while also giving political subdivisions the flexibility to reduce the costs of storage, maintenance, and security after the preservation period has passed.

Prior to the 79th regular session, records involving most races in the state were securely preserved for 60 days following election day. Records related to an election for federal office, however, were subject to the federal standard, which required their preservation for at least 22 months. In an effort to standardize the period for retaining records, and to give the public more time to access records relating to state and local races, the legislature enacted House Bill 1580, which requires all election records to be preserved for 22 months.<sup>128</sup>

Prior to the enactment of HB 1580, the SOS had advised election officials that records could be transferred from their locked ballot boxes to other storage containers once the initial 60-day period had elapsed. Passage of the new law, however, failed to address the time for keeping records stored in ballot boxes. In effect, the bill required local entities not only to retain records for 22 months, but to preserve these records in the original locked ballot boxes.<sup>129</sup>

Unlike other methods for storage, ballot boxes are specifically designed containers, used to secure ballots on election day. For records to be retained in these boxes for 22 months, political subdivisions would be required to purchase additional sets because ballot boxes could not be reused in a subsequent election if they were needed for continued storage of the prior election's records. Such an enormous unfunded mandate to local government was not the intention of the Committee in passage of this legislation. To the contrary, discussion among Committee

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members during the public hearing to consider House Bill 1580 included possible cost savings for jurisdictions should they be able to retain records electronically, rather than in paper form.<sup>130</sup> In addition, the official fiscal analysis prepared for the bill by the Legislative Budget Board indicated that its passage would not have a significant fiscal impact to the state or to local entities.<sup>131</sup>

Following discussions with Chairman Denny, as well as Vice-Chairman Dwayne Bohac, also the bill's primary author, the Secretary of State issued an update to revise the requirements for retaining election records in ballot boxes. This new advisory counsels local entities that election records must be preserved for the entire 22-month period, as required by House Bill 1580, but that these records may be transferred from the locked ballot box following a 60-day period after the election.<sup>132</sup> This new advisory does not alter the requirements originally prescribed by the SOS for retaining DRE records for 22 months following an election.<sup>133</sup>

### **Texas Ethics Commission**

While the Secretary of State is responsible for the administrative side of elections, the Texas Ethics Commission (Commission) deals more with the political side. The Commission is comprised of a bi-partisan group of individuals appointed by the Governor, Speaker of the House, or Lieutenant Governor. The Commission is responsible for overseeing the reporting of campaign contributions and expenditures, as well as the personal financial statements required to be filed by state officeholders. In addition to monitoring campaign finance, the Commission also oversees registration of lobbyists and the reporting of expenditures made by these individuals as they attempt to influence legislative, executive, and administrative actions. The legislature did not take any major action regarding the activities of the Commission during the 79th regular session, as a comprehensive ethics reform bill was passed during the 78th regular session, but several minor modifications to ethics laws were enacted.

To monitor the actions taken by the Commission during the interim, Committee staff attended bi-monthly meetings of the Commission. In addition, the Committee heard testimony from the Executive Director and General Counsel of the Texas Ethics Commission at a public hearing held on April 26, 2006.

#### *Witness List for April 26, 2006, Public Hearing:*

Natalia Luna Ashley (General Counsel, Texas Ethics Commission)

David Reisman (Executive Director, Texas Ethics Commission)

#### *Continued Implementation of the Lobby Registration System:*

The comprehensive ethics reform bill enacted during the 78th regular legislative session included the implementation of an electronic reporting system for compiling data submitted by registered lobbyists regarding their expenditures and activities.<sup>134</sup> This system was fully implemented

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following the 78th regular session, but the Commission continues to implement enhancements to the software. The Commission also operates an electronic filing system for candidates and officeholders to submit reports of contributions and expenditures.<sup>135</sup> Following the 79th regular session, all campaign finance reports filed with the Commission are required to be filed electronically using this system.<sup>136</sup> To enhance disclosure of lobbying and campaign activity in the state, both of these electronic databases are searchable on the internet by the public at no cost.

At the public hearing, Commission staff testified that although the electronic reporting system used by the Commission for lobbying and campaign activity annually ranks among the top for disclosure in the country, significant upgrades are needed to maintain this level of quality, satisfy existing statutory requirements, and meet demands. Specifically, the Commission will need additional funds during the next biennium to upgrade electronic storage capacity and the web filer. These upgrades will allow the Commission to continue to maintain data and to retrieve that data quickly.<sup>137</sup>

#### *Rulemaking and Advisory Opinions:*

During the interim, the Commission adopted some rules relating to legislation passed during the legislative session and others to clarify previously existing rules. In total, the Commission adopted or made modifications to 17 administrative rules. The Commission has also issued 12 advisory opinions, in response to requests from individuals seeking clarification of the law.

#### *Commission Recommendations for Legislative Action:*

At the public hearing, Commission staff testified regarding several areas in the statute where they feel additional legislative guidance is needed. These included the status of e-mail and internet communications made by candidates and lobbyists, the definition of a gift, and corrections made to personal financial statements--as these relate to substantial compliance with the law. The first of these is discussed in detail in Charge #3 of this report.

The definition of a gift has received a great deal of attention by the public and the media. Individuals required to file personal financial statements with the Commission, are also required to identify and describe gifts received whose value exceeds \$250. The statute does not currently require the filers to specify the value of the gift, and in an advisory opinion issued in 1999, the Commission stated that "description," as required by statute did not include value.<sup>138</sup> Additional requests have been made of the Commission to modify this opinion and adopt rules requiring disclosure of the value. The Commission has deferred any action on this issue until clarification can be made by the legislature.<sup>139</sup>

Another aspect of personal financial statements requiring clarification is the treatment of corrections made to these reports by filers. During the 79th regular legislative session, House Bill 1800 was enacted to allow certain filers to self-correct reports without receiving a late fine, if

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Commission staff determined that the original report substantially complied with the law, and the bill statutorily defined substantial compliance. This bill only applies, however, to reports of contributions and expenditures, including those made by lobbyists; personal financial statements were not specifically included. Because of this, filers of personal financial statements must continue to appeal to the entire Commission for waiver or reduction of any fines that result from making corrections to the original report. The Commission, rather than the staff using the statutory definition, makes a determination of substantial compliance. Although at most, only an estimated 20 filers are affected by this requirement each year, Commission staff recommended to the Committee that these be included in the statute to allow for staff review for substantial compliance.<sup>140</sup>

In addition to these items addressed during the public hearing, the Commission is currently considering other recommendations for statutory changes. Commission Chair Cullen Looney has appointed a Task Force to develop these recommendations and will report them to the Legislature, as required by statute, by December 31, 2006. Currently, the Task Force is considering 20 possible recommended changes. The full Commission will vote on which recommendations to report to the Legislature at their November meeting.<sup>141</sup>

#### **Committee Recommendations:**

1. The Committee recommends reauthorizing the pilot program for the evaluation of vote centers. Because of the hesitancy by many counties to participate in a pilot project during a general election and concerns for disfranchising voters who are not knowledgeable about the pilot, the Committee recommends modifying the parameters of the pilot project to allow SOS broad rulemaking authority to implement the program, and to include requirements relating to the location of polling places, as well as efforts to educate voters.
2. The Committee recommends modifying Sec. 66.058 of the Texas Election Code to clarify that election records are not required to be stored in locked ballot boxes for the entire 22 month preservation period.
3. The Committee recommends modifying the Sec. 571.0771 or Chapter 572 of the Texas Government Code to include personal financial statements among the forms that may be self-corrected by officeholders and found to substantially comply with the law, without requiring official review by the full Ethics Commission.

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## ENDNOTES

- <sup>1</sup> The Help America Vote Act of 2002, 42 U.S.C. 15301-15545. Hereafter cited as HAVA.
- <sup>2</sup> Acts 2003, 78th Texas Legislature, ch. 1315.
- <sup>3</sup> Acts 2005, 79th Texas Legislature, chs. 1105, 1107.
- <sup>4</sup> William Welsh, "Penalties Unlikely for Missing Voter Database Deadline," in *Washington Technology*, 7/5/05, accessed via the internet at [www.washingtontechnology.com](http://www.washingtontechnology.com) on 7/5/05.
- <sup>5</sup> U.S. vs. NY State Board of Election, (N.D.N.Y. 2006), Civil Action No. 06-CV-0263; U.S. vs. State of Alabama (M.D. Ala. 2006), Civil Action No. 2:06-CV-392-SRW. New York failed to meet the deadline for upgrading voting machines or to implement the voter registration system; Alabama for failed to implement the statewide voter registration database.
- <sup>6</sup> U.S. Election Assistance Commission, "California Audit Final Resolution Report," 5/12/06.
- <sup>7</sup> The Election Center, "Member Alert," 2/22/06.
- <sup>8</sup> HAVA, Sec. 303(a)(1)(A).
- <sup>9</sup> HAVA, Sec. 303 (a)(2)- (a)(6).
- <sup>10</sup> *Texas State Plan*, pp. 2, 7-9.
- <sup>11</sup> Acts 2005, 79th Texas Legislature, ch. 1105.
- <sup>12</sup> Ann McGeehan, Director of the Elections Division, office of the Texas Secretary of State. Testimony at Public Hearing of the House Committee on Elections, 4/26/2006. Hereafter cited as Ann McGeehan, 4/26/2006 Testimony.
- <sup>13</sup> *id.* and Ann McGeehan, "Election Advisory No. 2005-10- Achieving HAVA Compliance in 2006," issued 11/23/2005.
- <sup>14</sup> Ann McGeehan, 4/26/2006 Testimony.
- <sup>15</sup> U.S. Election Assistance Commission, "Voluntary Guidance on Implementation of Statewide Voter Registration Lists," Washington, DC: July, 2005, p. 6. Hereafter cited as *EAC Voluntary Guidance*. Electionline.org, "Briefing-Assorted Rolls: Statewide Voter Registration Databases under HAVA," June, 2005, pp.4, 23.
- <sup>16</sup> Ann McGeehan, Director of Elections- Texas Secretary of State, "Memo to House Elections Committee Members- Information Requested at the April 26,2 006 Interim Hearing," 5/10/2006.
- <sup>17</sup> Ann McGeehan, 4/26/2006 Testimony.
- <sup>18</sup> *EAC Voluntary Guidance*, pp. 7-11.
- <sup>19</sup> *id.*, pp. 5-7.
- <sup>20</sup> Ann McGeehan, 4/26/2006 Testimony.
- <sup>21</sup> *id.*; This website encompasses the recommendation of the *EAC Voluntary Guidance*, p. 18.
- <sup>22</sup> Association for Computing Machinery, "Statewide Databases of Registered Voters: Study of Accuracy, Privacy, Usability, Security, and Reliability Issues," February, 2006. Declan McCullagh, "Voter databases must be secured, report says," 2/17/2006, accessed via the internet at: <http://www.news.com> on 2/17/2006.
- <sup>23</sup> *EAC Voluntary Guidance*, pp. 16-18.
- <sup>24</sup> Erica Molina Johnson, "Data Breached- Info on 4,719 UTEP students, staff accessed," in the *El Paso Times*; Pete Slover, "Loan Records Vanish- 1.3 million files include Texas students' names, Social Security numbers," in the *Dallas Morning News*, 6/2/2006; Christopher Lee, Steve Vogel, "Burglary exposes millions of veterans to identity theft," in the *Austin American-Statesman*, 5/23/2006; Hope Yen, "Veterans' Data Theft Went Unreported," in the *Austin American-Statesman*, 5/25/2006; Associated Press, "Security breached on 200,000 UT records," in the *Dallas Morning News*, 4/24/2006; Ralph K.M. Haurwitz, "UT breach stumping security officials," in the *Austin American-Statesman*, 4/25/2006.
- <sup>25</sup> Ann McGeehan, 4/26/2006 Testimony.
- <sup>26</sup> HAVA, Secs. 261-265, 102.
- <sup>27</sup> Texas Secretary of State, "Accessible Voting Devices Listed By County," accessed via the internet at: <http://www.sos.state.tx.us/elections/laws/accessibledevice.shtml> on 6/5/2006.
- <sup>28</sup> AccuPoll, Inc. Bankruptcy Notice, accessed via the internet at: [http://www.sos.state.tx.us/elections/laws/accupoll\\_bankrupt.shtml](http://www.sos.state.tx.us/elections/laws/accupoll_bankrupt.shtml) on 6/6/2006.
- <sup>29</sup> Isadora Vail, "With early voting due, counties are missing ballots," in the *San Antonio Express-News*, 2/18/2006.
- <sup>30</sup> Roger Williams, Texas Secretary of State, "Directive," 2/21/2006.
- <sup>31</sup> Ann McGeehan, "Urgent Memorandum to County Clerks/Elections Administrators, County Chairs- Status of Ballot and Programming Card Orders," issued 2/16/2006, accessed via the internet at: <http://www.sos.state.tx.us/elections/laws/urgent.shtml> on 5/1/2006.

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- <sup>32</sup> Ann McGeehan, 4/26/2006 Testimony.
- <sup>33</sup> Anna M. Tinsley and Anthony Spangler, "Vote spike blamed on program snafu," in the *Ft. Worth Star-Telegram*, 3/9/2006; Ty Meighan, "Let's quit running 'hillbilly' elections," in the *San Angelo Standard-Times*, 3/28/2006; "Diagnosing the Election Night Tabulation Ills," on *The Quorum Report*, 3/10/2006, accessed via the internet at <http://www.quorumreport.com>, on 3/13/2006; Paul A. Anthony, "Recount stirs voter angst," in the *San Angelo Standard-Times*, 4/3/2006; Jennifer Barrios, "Williamson County's few runoff ballots took six hours to count," in the *Austin American-Statesman*, 4/13/2006.
- <sup>34</sup> Ann McGeehan, 4/26/2006 Testimony.
- <sup>35</sup> memo from DOJ to SOS regarding provisional voting.
- <sup>36</sup> Ann McGeehan, 4/26/2006 Testimony.
- <sup>37</sup> *id.*; Texas Secretary of State, *VOTEXAS Voter Education Website*, available via the internet at: <http://www.votexas.org>, last accessed on 6/6/2006.
- <sup>38</sup> Dennis Borel, Testimony at Public Hearing of the House Committee on Elections, 4/26/2006.
- <sup>39</sup> Laurie Vanhose, Advocacy, Inc. Testimony at Public Hearing of the House Committee on Elections, 4/26/2006.
- <sup>40</sup> Ann McGeehan, 4/26/2006 Testimony.
- <sup>41</sup> Luis Figuerroa, MALDEF. Testimony at Public Hearing of the House Committee on Elections, 4/26/2006.
- <sup>42</sup> Robert Caro, *The Years of Lyndon Johnson: Means of Ascent*, (New York, Alfred Knopf: 1990), pp. 180-184.
- <sup>43</sup> see generally: Robert Caro, *The Years of Lyndon Johnson: Means of Ascent*, (New York, Alfred Knopf: 1990), particularly chs. 13-16.
- <sup>44</sup> Amy M. Young, researcher, Texas Legislative Council, memorandum to Mary Denny, Chair, House on Elections, "Vote Fraud in Texas," 6/14/2006, p. 3. Hereafter referred to as Leg. Council memo. James Osborne, "Poll Position- Officials watch politiqueras following voter fraud indictments," in *The Monitor*, 3/5/2006.
- <sup>45</sup> Associated Press, "Ten people, including former mayor, indicted for voter fraud," from *abc13.com*, 12/22/2005, accessed via the internet at <http://abclocal.go.com/ktrk/story?section+state&id+3749341&ft=print> on 1/5/2006.
- <sup>46</sup> Leg. Council memo, p. 3. See also testimony relating to House Bill 54, 78th regular legislative session, heard by the House Committee on Elections.
- <sup>47</sup> Kristen Holland, "DA looks into reports of voting irregularities," in the *Dallas Morning News*, 11/17/2005, accessed via the internet at [www.dallasnews.com](http://www.dallasnews.com) on 11/21/2005.
- <sup>48</sup> Jim Getz, "Ballot-box dispute 'definitely a crime'," in the *Dallas Morning News*, 2/2/2006, accessed via the internet at [www.dallasnews.com](http://www.dallasnews.com) on 2/3/2006.
- <sup>49</sup> George Zarazua, "Duval election numbers raise fraud allegations," in the *San Antonio Express-News*, 3/29/2006. Associated Press, "Voter fraud claim raised in primary," in the *Dallas Morning News*, 3/30/2006. Jaime Powell, "Voting fraud alleged in Duval," in the *Corpus Christi Caller-Times*, 4/24/2006.
- <sup>50</sup> Victoria Hirschberg, "Elections administrator sends complaints to state office," in *The Monitor*, 3/14/2006.
- <sup>51</sup> Leg. Council memo, pp. 2-3. See also Texas Election Code, Secs. 15.028, 31.006, and 273.001.
- <sup>52</sup> Leg. Council memo, p. 1.
- <sup>53</sup> *id.*, pp. 4-5.
- <sup>54</sup> *id.*, p. 5.
- <sup>55</sup> *id.*, p. 6.
- <sup>56</sup> Texas Legislature, 78th regular legislative session, House Bill 54.
- <sup>57</sup> Texas Legislature, 79th regular legislative session, House Bill 56.
- <sup>58</sup> Editors, "Voter fraud indictments evidence of big problem," in the *San Antonio Express-News*, 12/21/2005.
- <sup>59</sup> Texas Legislature, 79th regular legislative session, House Bills 3207, 1994, and 2405. See also Texas Legislature, 79th regular legislative session, Senate Bill 1052.
- <sup>60</sup> Leg. Council memo, p. 6.
- <sup>61</sup> Greg Abbott, "Voter Fraud Must Stop," in the *Ft. Worth Star Telegram*, 2/8/2006.
- <sup>62</sup> *id.* Also, Gromer Jeffers, Jr., "State Targets Election Fraud," in the *Dallas Morning News*, 1/29/2006. Guillermo Contreras, "Groups Blast Election Fraud Training Aid," in the *San Antonio Express-News*, 3/15/2006.
- <sup>63</sup> Greg Abbott, "Voter Fraud Must Stop," in the *Ft. Worth Star Telegram*, 2/8/2006.
- <sup>64</sup> *State of Texas v. Texas Association of Business*, Cause No. DIDC-05-906035, (167th Dis. Ct. of Travis Co., TX June 29, 2006).
- <sup>65</sup> Texas Legislature, 69th regular legislative session, Senate Bill 616.
- <sup>66</sup> Legislative Master List by Committee, "Bills Out of Committee," House Committee on Elections- 68th regular

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session - 79th regular session.

<sup>67</sup> House Committee on Elections, *Interim Report 2004, A Report to the House of Representatives, 79th Legislature*, pp. 12-15.

<sup>68</sup> Texas Legislature, 79th regular legislative session, House Bill 1799.

<sup>69</sup> Texas Legislature, 79th regular legislative session, House Bill 2309. As a result of the passage of the Help America Vote Act and House Bill 1549 (78R), the use of these types of machines are prohibited in Texas elections.

<sup>70</sup> Texas Legislature, 79th regular session. House Bills 56, 345, and 1508.

<sup>71</sup> Websites located through internet searches for "Texas", "campaign" and the last name of the Representative, using [www.google.com](http://www.google.com) and [www.yahoo.com](http://www.yahoo.com) search engines on 6/20/2006.

<sup>72</sup> Texas Legislature, 78th regular legislative session, House Bill 1606.

<sup>73</sup> Texas Election Code, Sec. 251.001 (16)(B)(ii).

<sup>74</sup> Texas Government Code, Sec. 305.027(e).

<sup>75</sup> Texas Ethics Commission, Ethics Advisory Opinion No. 464, September 9, 2005.

<sup>76</sup> Texas Ethics Commission, Adopted Rules, July 2006, "Definitions," accessed via the internet at [www.ethics.state.tx.us/rules/adopted\\_Jul\\_06.html](http://www.ethics.state.tx.us/rules/adopted_Jul_06.html) on 7/20/2006.

<sup>77</sup> Federal Election Commission, "11 CFR Parts 100, 110, and 114- Internet Communications," in the *Federal Register*, Vol. 71, No. 70, 4/12/2006, p.18596. Hereafter cited as FEC Rules.

<sup>78</sup> *id.*, pp. 18600-18601.

<sup>79</sup> Christopher Swope, "Instant Influence- a New Generation of Web Scribes is Shaking Up State Politics," in *Governing*, 7/2005.

<sup>80</sup> Fox News, "FEC Debates Blog Rules," on [foxnews.com](http://foxnews.com), 6/29/2005, accessed via the internet at [www.foxnews.com](http://www.foxnews.com) on 6/29/2005.

<sup>81</sup> Texas Government Code, Sec. 305.004.

<sup>82</sup> FEC Rules, p. 18611.

<sup>83</sup> David Reisman, Executive Director, Texas Ethics Commission. Testimony at public hearing of the House Committee on Elections, 4/26/2006. Ross Fischer, Chair of Task Force, "Memorandum to Chair Cullen R. Looney and Members of the Commission- Task Force List of Possible Recommendations," July 6, 2006.

<sup>84</sup> Joseph D. Rich, Chief, Voting Section, Civil Rights Division, U.S. Department of Justice. Letter to Ann McGeehan, 5/20/2003.

<sup>85</sup> Anna M. Tinsley and Anthony Spangler, "Vote spike blamed on program snafu," in the *Ft. Worth Star-Telegram*, 3/9/2006; Ty Meighan, "Let's quit running 'hillbilly' elections," in the *San Angelo Standard-Times*, 3/28/2006; "Diagnosing the Election Night Tabulation Ills," on *The Quorum Report*, 3/10/2006, accessed via the internet at <http://www.quorumreport.com>, on 3/13/2006; Paul A. Anthony, "Recount stirs voter angst," in the *San Angelo Standard-Times*, 4/3/2006; Jennifer Barrios, "Williamson County's few runoff ballots took six hours to count," in the *Austin American-Statesman*, 4/13/2006.

<sup>86</sup> See Testimony of Vickie Karp, David Rogers, Karen Renick, Cynthia Test, and Sonia Santana at public hearing of the House Committee on Elections, 4/26/2006.

<sup>87</sup> See Testimony of Jennifer McPhail, Lupe Vasquez, Laurie Vanhoose, and Dennis Borel relating to Interim Charge #1 at public hearing of the House Committee on Elections, 4/26/2006.

<sup>88</sup> Texas Election Code, Sec. 129.001

<sup>89</sup> Texas Legislature, 79th regular legislative session, House Bills 56 and 166.

<sup>90</sup> Ann McGeehan, Elections Advisory No. 2006-05- "Direct Recording Electronic (DRE) Voting System Testing Requirements," issued on 2/21/2006.

<sup>91</sup> See Texas Administrative Code, Ch. 81- "Elections", generally.

<sup>92</sup> Dana DeBeauvoir, Legislative Committee of the Texas County & District Clerks' Association. Testimony at public hearing of the House Committee on Elections, 4/26/2006.

<sup>93</sup> See Testimony of Vickie Karp, David Rogers, Karen Renick, Cynthia Test, and Sonia Santana at public hearing of the House Committee on Elections, 4/26/2006.

<sup>94</sup> Steven Kreytak, "Electronic voting lawsuit may be decided next week," in the *Austin American Statesman*, 7/7/2006; and Harvey Kronberg, "Judge rejects injunction preventing use of e-voting machines in Travis County," on [quorumreport.com](http://quorumreport.com), 7/11/2006, accessed via the internet at [www.quorumreport.com](http://www.quorumreport.com) on 7/11/2006.

<sup>95</sup> AccuPoll, Inc. Bankruptcy Notice, accessed via the internet at: [http://www.sos.state.tx.us/elections/laws/accupoll\\_bankrupt.shtml](http://www.sos.state.tx.us/elections/laws/accupoll_bankrupt.shtml) on 6/6/2006.



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- <sup>102</sup> U.S. Election Assistance Commission, "2005 Voluntary Voting System Guidelines, Vol. 1, Ver. 1.0," pp. 113-144.
- <sup>103</sup> U.S. Election Assistance Commission, Media Advisory- "EAC Discusses Implementing & managing Voting Systems Releases 'Quick Start Management Guide'," 6/15/2006.
- <sup>104</sup> Texas Election Code, Sec. 101.005(c)(2).
- <sup>105</sup> Texas Election Code, Sec. 86.007.
- <sup>106</sup> Texas Election Code, Sec. 105.001.
- <sup>107</sup> Texas Election Code, Sec. 86.004.
- <sup>108</sup> Dana DeBeauvoir, Legislative Committee of the Texas County & District Clerks' Association. Testimony at public hearing of the House Committee on Elections, 4/26/2006.
- <sup>109</sup> KCEN-TV/DT NBC 6 News- "Thousands of ballots are headed overseas to Ft. Hood Soldiers," 2/8/2006, accessed via the internet at [www.kcentv.com](http://www.kcentv.com) on 2/8/2006.
- <sup>110</sup> David M. Walker, Comptroller General of the United States. Statement before the Subcommittee on Military Personnel, Committee on Armed Services, House of Representatives, "Elections- Issues Affecting Military and Overseas Absentee Voters," 5/9/2001.
- <sup>111</sup> U.S. Election Assistance Commission, "Best Practices for Facilitating Voting by U.S. Citizens Covered by the Uniformed & Overseas Citizens Absentee Voting Act," September 2004, pp. 2, 10.
- <sup>112</sup> U.S. Department of Defense, Federal Voting Assistance Program, "Online Version of the Federal Post Card Application," available at [www.fvap.gov/pubs/onlinefpa.pdf](http://www.fvap.gov/pubs/onlinefpa.pdf).
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- <sup>114</sup> *id.*
- <sup>115</sup> Texas Legislature, 79th regular legislative session, House Bill 2309.
- <sup>116</sup> Texas Election Code, Chapter 68, generally.
- <sup>117</sup> Elections Advisory Committee, *Minutes*, 9/21/2005 meeting.
- <sup>118</sup> Elections Advisory Committee, *Minutes*, 2/9/2006 meeting.
- <sup>119</sup> Texas Election Code, Secs. 68.002 and 68.010.
- <sup>120</sup> Elections Advisory Committee, *Minutes*, 9/21/2005 meeting. Elections Advisory Committee, *Minutes*, 2/9/2006 meeting.
- <sup>121</sup> For information on requirements for independent candidates in the general election, see Texas Election Code, chapter 142, generally.
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- <sup>125</sup> Beth Gallaspy, "Casting your vote may get easier with proposed election changes," in *The Beaumont Enterprise*, 7/24/2006, accessed via the internet at [www.southeasttexaslive.com](http://www.southeasttexaslive.com) on 7/25/2006.

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<sup>126</sup> See Texas Election Code, Secs. 122.001-122.039

<sup>127</sup> Texas Legislature, 79th regular legislative session, House Bill 2465.

<sup>128</sup> Texas Legislature, 79th regular legislative session, House Bill 1580. See also the official "Bill Analysis" for House Bill 1580.

<sup>129</sup> Ann McGeehan, Director of Elections, Office of the Secretary of State, "Election Advisory No. 2006-01, House Bill 1580--New Election Record Retention Requirements", issued 1/3/2006.

<sup>130</sup> Electronic Recording of Public Hearing of the House Committee on Elections, held 4/20/2005, is available via the internet at: <http://www.house.state.tx.us/committees/broadcasts.php?session=79&cmte=240>

<sup>131</sup> Texas Legislature, 79th regular legislative session, "Fiscal Note" for House Bill 1580, as reported from the House Committee on Elections.

<sup>132</sup> Ann McGeehan, Director of Elections, Office of the Secretary of State, "Elections Advisory No. 2006-08, Record Retention Requirements Update," issued 4/26/2006.

<sup>133</sup> Ann McGeehan, Director of Elections, Office of the Secretary of State, "Election Advisory No. 2006-04, Direct Recording Electronic (DRE) Record Retention Requirements," issued 2/2/2006.

<sup>134</sup> Texas Legislature, 78th regular legislative session, House Bill 1606.

<sup>135</sup> Texas Government Code, Secs. 305.0064 and 571.066-571.0672. Public access to the filings are available on the internet at: [www.ethics.state.tx.us](http://www.ethics.state.tx.us).

<sup>136</sup> Texas Legislature, 79th regular legislative session, House Bill 350. This bill added special reports filed during the 8 days before an election to those required to be filed electronically. All other reports are also required to be filed electronically with the Commission.

<sup>137</sup> David Reisman, Executive Director, Texas Ethics Commission, testimony at public hearing of the House Committee on Elections, 4/26/2006.

<sup>138</sup> Texas Government Code, Sec. 572.023. While disclosure for certain categories of the personal financial statement requires specific values of the items, others, including disclosure of gifts, do not. See also, Texas Ethics Commission, *Ethics Advisory Opinion 415*, published 5/14/1999.

<sup>139</sup> David Reisman, Executive Director, Texas Ethics Commission, testimony at public hearing of the House Committee on Elections, 4/26/2006.

<sup>140</sup> Natalia Luna Ashley, General Counsel, Texas Ethics Commission, testimony at public hearing of the House Committee on Elections, 4/26/2006.

<sup>141</sup> Ross Fisher, Chair of Task Force, Texas Ethics Commission, memorandum to Chair Cullen R. Looney and Members of the Commission- "Task Force List of Possible Recommendations," 7/6/2006.

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**APPENDIX 1a**

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Appendix 1a  
HAVA Funding and Expenditures by County

County	Voting System Replacement		County Education Fund		Voting System Accessibility		General HAVA Compliance		TEAM Compatibility	
	Allotment	Expenditures	Allotment	Expenditures	Allotment	Expenditures	Allotment	Expenditures	Allotment	Expenditures
Anderson	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 75,000.00	\$ 75,000.00	\$ 324,363.58	\$ 321,790.00	\$ 8,000.00	\$ -
Andrews	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 15,000.00	\$ 15,000.00	\$ 65,540.34	\$ -	\$ 8,000.00	\$ -
Angelina	\$ 7,000.00	\$ 1,845.35	\$ 7,000.00	\$ 1,845.35	\$ 120,000.00	\$ 120,000.00	\$ 471,479.17	\$ 942,958.34	\$ 8,000.00	\$ -
Archer	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 42,000.00	\$ 42,000.00	\$ 110,448.34	\$ 110,448.34	\$ 8,000.00	\$ -
Aransas	\$ 7,000.00	\$ 1,249.20	\$ 7,000.00	\$ 1,249.20	\$ 27,000.00	\$ 27,000.00	\$ 109,450.62	\$ 109,450.62	\$ 8,000.00	\$ -
Armstrong	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 27,000.00	\$ 27,000.00	\$ 69,071.38	\$ 29,755.00	\$ 8,000.00	\$ -
Atascosa	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 75,000.00	\$ 75,000.00	\$ 255,347.91	\$ 246,739.75	\$ 8,000.00	\$ -
Austin	\$ 7,000.00	\$ 3,093.33	\$ 7,000.00	\$ 3,093.33	\$ 57,000.00	\$ 57,000.00	\$ 182,783.88	\$ 108,630.00	\$ 8,000.00	\$ -
Bailey	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 24,000.00	\$ 24,000.00	\$ 66,387.26	\$ 65,253.00	\$ 8,000.00	\$ -
Bandera	\$ 7,000.00	\$ 2,102.88	\$ 7,000.00	\$ 2,102.88	\$ 36,000.00	\$ 36,000.00	\$ 125,091.35	\$ 125,091.35	\$ 8,000.00	\$ -
Bastrop	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 66,000.00	\$ 66,000.00	\$ 286,012.17	\$ 271,297.00	\$ 8,000.00	\$ -
Baylor	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 18,000.00	\$ 18,000.00	\$ 51,061.31	\$ 39,988.00	\$ 8,000.00	\$ -
Bee	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 94,000.00	\$ 94,000.00	\$ 207,063.70	\$ -	\$ 8,000.00	\$ -
Bell	\$ 137,265.46	\$ 137,265.46	\$ 9,000.00	\$ 2,391.33	\$ 129,000.00	\$ 129,000.00	\$ 933,233.52	\$ 806,210.54	\$ 11,000.00	\$ -
Bexar	\$ 7,000.00	\$ 5,625.60	\$ 7,000.00	\$ 5,625.60	\$ 1,878,000.00	\$ 1,878,000.00	\$ 7,794,255.69	\$ 4,415,278.00	\$ 15,000.00	\$ -
Blanco	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 27,000.00	\$ 27,000.00	\$ 78,457.04	\$ 77,600.00	\$ 8,000.00	\$ -
Borden	\$ 7,000.00	\$ 1,032.20	\$ 7,000.00	\$ 1,032.20	\$ 24,000.00	\$ 24,000.00	\$ 63,064.69	\$ 32,430.00	\$ 8,000.00	\$ -
Bosque	\$ 7,000.00	\$ 1,526.18	\$ 7,000.00	\$ 1,526.18	\$ 54,000.00	\$ 54,000.00	\$ 159,978.93	\$ 65,355.00	\$ 8,000.00	\$ -
Bowie	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 111,000.00	\$ 111,000.00	\$ 489,994.92	\$ 327,430.00	\$ 8,000.00	\$ -
Brazoria	\$ 217,070.96	\$ 217,070.96	\$ 9,000.00	\$ 5,212.95	\$ 204,000.00	\$ 204,000.00	\$ 1,097,072.35	\$ 1,017,072.35	\$ 11,000.00	\$ -
Brazos	\$ 347,951.98	\$ 347,951.98	\$ 9,000.00	\$ 922.44	\$ 327,000.00	\$ 327,000.00	\$ 1,132,036.34	\$ 416,873.02	\$ 6,000.00	\$ -
Brewster	\$ 7,000.00	\$ 4,041.59	\$ 7,000.00	\$ 4,041.59	\$ 24,000.00	\$ 24,000.00	\$ 75,580.04	\$ 52,705.00	\$ 8,000.00	\$ -
Briscoe	\$ 7,000.00	\$ 1,338.20	\$ 7,000.00	\$ 1,338.20	\$ 21,000.00	\$ 21,000.00	\$ 57,058.00	\$ 38,018.32	\$ 8,000.00	\$ -
Brooks	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 30,000.00	\$ 30,000.00	\$ 81,838.47	\$ 81,838.47	\$ 8,000.00	\$ -
Brown	\$ 7,000.00	\$ 1,283.20	\$ 7,000.00	\$ 1,283.20	\$ 54,000.00	\$ 54,000.00	\$ 219,582.52	\$ 218,195.00	\$ 8,000.00	\$ -
Burleson	\$ 7,000.00	\$ 1,700.16	\$ 7,000.00	\$ 1,700.16	\$ 48,000.00	\$ 48,000.00	\$ 144,152.83	\$ -	\$ 8,000.00	\$ -
Burnet	\$ 7,000.00	\$ 2,526.54	\$ 7,000.00	\$ 2,526.54	\$ 72,000.00	\$ 72,000.00	\$ 246,972.22	\$ 246,972.22	\$ 8,000.00	\$ -
Caldwell	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 60,000.00	\$ 60,000.00	\$ 212,133.47	\$ -	\$ 8,000.00	\$ -
Calhoun	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 90,000.00	\$ 89,521.40	\$ 239,094.41	\$ 238,192.60	\$ 8,000.00	\$ -
Callahan	\$ 7,000.00	\$ 2,704.09	\$ 7,000.00	\$ 2,704.09	\$ 24,000.00	\$ 24,000.00	\$ 86,049.05	\$ 86,049.05	\$ 8,000.00	\$ -
Cameron	\$ 9,000.00	\$ 3,592.71	\$ 9,000.00	\$ 3,592.71	\$ 252,000.00	\$ 252,000.00	\$ 1,389,689.69	\$ 1,019,160.00	\$ 11,000.00	\$ -
Camp	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 39,000.00	\$ 39,000.00	\$ 111,775.26	\$ -	\$ 8,000.00	\$ -
Carson	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 30,000.00	\$ 30,000.00	\$ 78,811.43	\$ -	\$ 8,000.00	\$ -
Cass	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 78,000.00	\$ 78,000.00	\$ 247,378.97	\$ -	\$ 8,000.00	\$ -
Castro	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 27,000.00	\$ 27,000.00	\$ 75,158.81	\$ 76,158.81	\$ 8,000.00	\$ -
Chambers	\$ 44,691.08	\$ 44,691.08	\$ 7,000.00	\$ -	\$ 42,000.00	\$ 42,000.00	\$ 157,903.17	\$ -	\$ 8,000.00	\$ -
Cherokee	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 87,000.00	\$ 87,000.00	\$ 311,320.10	\$ 311,320.10	\$ 8,000.00	\$ -
Childress	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 15,000.00	\$ 15,000.00	\$ 53,918.75	\$ -	\$ 8,000.00	\$ -
Clay	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 51,000.00	\$ 51,000.00	\$ 135,100.11	\$ 135,100.11	\$ 6,000.00	\$ -
Cochran	\$ 7,000.00	\$ 2,070.44	\$ 7,000.00	\$ 2,070.44	\$ 24,000.00	\$ 24,000.00	\$ 63,064.69	\$ 63,064.69	\$ 8,000.00	\$ -
Coke	\$ 7,000.00	\$ 3,319.76	\$ 7,000.00	\$ 3,319.76	\$ 24,000.00	\$ 24,000.00	\$ 63,064.69	\$ 63,064.69	\$ 8,000.00	\$ -
Collman	\$ 7,000.00	\$ 966.88	\$ 7,000.00	\$ 966.88	\$ 45,000.00	\$ 45,000.00	\$ 118,229.10	\$ 118,229.10	\$ 8,000.00	\$ -
Collin	\$ 405,411.94	\$ 405,411.94	\$ 9,000.00	\$ -	\$ 381,000.00	\$ 381,000.00	\$ 2,160,184.95	\$ 2,625,817.21	\$ 15,000.00	\$ -
Collingsworth	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 24,000.00	\$ 24,000.00	\$ 63,064.69	\$ 46,882.00	\$ 8,000.00	\$ -
Colorado	\$ 7,000.00	\$ 689.20	\$ 7,000.00	\$ 689.20	\$ 57,000.00	\$ 57,000.00	\$ 174,632.02	\$ 48,980.00	\$ 8,000.00	\$ -
Comal	\$ 7,000.00	\$ 1,858.97	\$ 7,000.00	\$ 1,858.97	\$ 93,000.00	\$ 93,000.00	\$ 417,949.36	\$ 48,008.54	\$ 8,000.00	\$ -
Comanche	\$ 7,000.00	\$ 3,201.04	\$ 7,000.00	\$ 3,201.04	\$ 51,000.00	\$ 51,000.00	\$ 143,890.08	\$ 96,713.75	\$ 8,000.00	\$ -
Concho	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 27,000.00	\$ 27,000.00	\$ 69,071.38	\$ 69,071.38	\$ 8,000.00	\$ -
Cooke	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 78,000.00	\$ 78,000.00	\$ 251,546.03	\$ -	\$ 8,000.00	\$ -



County	Voting System Replacement		County Education Fund		Voting System Accessibility		General HAVA Compliance		TEAM Compatibility	
	Alloiment	Expenditures	Alloiment	Expenditures	Alloiment	Expenditures	Alloiment	Expenditures	Alloiment	Expenditures
Hartley		\$ 1,502.68	\$ 7,000.00	\$ 1,502.68	\$ 21,000.00	\$ -	\$ 59,535.07	\$ -	\$ 8,000.00	\$ -
Haskell			\$ 7,000.00		\$ 33,000.00		\$ 84,602.76		\$ 8,000.00	
Hays	\$ 111,727.70	\$ 111,727.70	\$ 7,000.00	\$ 85.00	\$ 105,000.00	\$ 105,000.00	\$ 504,096.21	\$ 601,977.42	\$ 8,000.00	\$ -
Hemphill			\$ 7,000.00		\$ 27,000.00	\$ 27,000.00	\$ 69,071.38	\$ 68,596.60	\$ 8,000.00	\$ -
Henderson			\$ 7,000.00		\$ 93,000.00	\$ -	\$ 407,257.02	\$ -	\$ 8,000.00	\$ -
Hidalgo	\$ 303,260.90	\$ 303,260.90	\$ 9,000.00	\$ 9,000.00	\$ 285,000.00	\$ 281,530.00	\$ 2,040,129.17	\$ 3,474,330.34	\$ 15,000.00	\$ -
Hill			\$ 7,000.00		\$ 84,000.00	\$ 84,000.00	\$ 263,748.47	\$ -	\$ 8,000.00	\$ -
Hockley			\$ 7,000.00		\$ 48,000.00	\$ 48,000.00	\$ 160,309.00	\$ 94,567.90	\$ 8,000.00	\$ -
Hood			\$ 7,000.00	\$ 4,669.91	\$ 48,000.00	\$ 48,000.00	\$ 221,364.23	\$ 211,105.00	\$ 8,000.00	\$ -
Hopkins			\$ 7,000.00		\$ 66,000.00	\$ -	\$ 226,288.51	\$ -	\$ 8,000.00	\$ -
Houston			\$ 7,000.00	\$ 1,244.08	\$ 66,000.00	\$ 66,000.00	\$ 203,164.97	\$ 114,012.00	\$ 8,000.00	\$ -
Howard	\$ 67,036.62	\$ 65,000.00	\$ 7,000.00	\$ 4,524.95	\$ 63,000.00	\$ 78,875.00	\$ 227,791.59	\$ 142,444.01	\$ 8,000.00	\$ -
Hudspeth			\$ 7,000.00		\$ 36,000.00	\$ -	\$ 87,091.45	\$ -	\$ 8,000.00	\$ -
Hunt			\$ 7,000.00	\$ 1,444.85	\$ 108,000.00	\$ 108,000.00	\$ 440,648.54	\$ 440,648.54	\$ 8,000.00	\$ -
Hutchinson			\$ 7,000.00		\$ 45,000.00	\$ 34,160.00	\$ 159,135.99	\$ 76,952.00	\$ 8,000.00	\$ -
Iron			\$ 7,000.00		\$ 18,000.00	\$ -	\$ 51,051.31	\$ -	\$ 8,000.00	\$ -
Jack			\$ 7,000.00		\$ 33,000.00	\$ 33,000.00	\$ 92,842.37	\$ 92,842.37	\$ 8,000.00	\$ -
Jackson			\$ 7,000.00	\$ 2,058.27	\$ 39,000.00	\$ 39,000.00	\$ 119,755.63	\$ -	\$ 8,000.00	\$ -
Jasper			\$ 7,000.00		\$ 60,000.00	\$ 60,000.00	\$ 224,484.90	\$ 128,375.00	\$ 8,000.00	\$ -
Jeff Davis			\$ 7,000.00		\$ 18,000.00	\$ 18,000.00	\$ 51,051.31	\$ 51,051.31	\$ 8,000.00	\$ -
Jefferson	\$ 338,375.32	\$ 338,375.32	\$ 9,000.00		\$ 318,000.00	\$ 318,000.00	\$ 1,381,412.61	\$ 1,190,656.68	\$ 11,000.00	\$ -
Jim Hogg			\$ 7,000.00		\$ 15,000.00	\$ 15,000.00	\$ 45,044.61	\$ 45,044.61	\$ 8,000.00	\$ -
Jim Wells			\$ 7,000.00		\$ 66,000.00	\$ -	\$ 239,728.72	\$ -	\$ 8,000.00	\$ -
Johnson			\$ 7,000.00	\$ 1,173.45	\$ 105,000.00	\$ 142,154.03	\$ 570,344.09	\$ 395,734.03	\$ 8,000.00	\$ -
Jones			\$ 7,000.00	\$ 2,335.79	\$ 48,000.00	\$ 48,000.00	\$ 160,360.85	\$ 151,891.00	\$ 8,000.00	\$ -
Karnes			\$ 7,000.00		\$ 66,000.00	\$ -	\$ 180,328.58	\$ -	\$ 8,000.00	\$ -
Kaufman			\$ 7,000.00		\$ 105,000.00	\$ -	\$ 411,582.11	\$ -	\$ 8,000.00	\$ -
Kendall			\$ 7,000.00		\$ 36,000.00	\$ -	\$ 140,984.31	\$ -	\$ 8,000.00	\$ -
Kenedy			\$ 7,000.00		\$ 21,000.00	\$ -	\$ 57,056.00	\$ -	\$ 8,000.00	\$ -
Kent			\$ 7,000.00		\$ 21,000.00	\$ 21,000.00	\$ 57,056.00	\$ 57,058.00	\$ 8,000.00	\$ -
Kerr			\$ 7,000.00		\$ 51,000.00	\$ 51,000.00	\$ 236,765.15	\$ 234,917.50	\$ 8,000.00	\$ -
Kimble			\$ 7,000.00	\$ 2,050.03	\$ 24,000.00	\$ 24,000.00	\$ 63,064.69	\$ 61,603.50	\$ 8,000.00	\$ -
King			\$ 7,000.00		\$ 15,000.00	\$ -	\$ 45,044.61	\$ -	\$ 8,000.00	\$ -
Kinney			\$ 7,000.00		\$ 15,000.00	\$ 15,000.00	\$ 45,044.61	\$ 45,044.61	\$ 8,000.00	\$ -
Kleberg			\$ 7,000.00		\$ 93,000.00	\$ 85,136.00	\$ 277,732.49	\$ 230,347.00	\$ 8,000.00	\$ -
Knox			\$ 7,000.00		\$ 33,000.00	\$ 32,400.00	\$ 81,084.77	\$ 50,072.00	\$ 8,000.00	\$ -
Lamar			\$ 7,000.00		\$ 99,000.00	\$ 99,000.00	\$ 341,121.77	\$ 315,400.00	\$ 8,000.00	\$ -
Lamb			\$ 7,000.00		\$ 39,000.00	\$ 38,455.00	\$ 119,375.76	\$ 213,305.00	\$ 8,000.00	\$ -
Lampasas			\$ 7,000.00	\$ 777.45	\$ 30,000.00	\$ 30,000.00	\$ 111,371.03	\$ 205,997.06	\$ 8,000.00	\$ -
La Salle			\$ 7,000.00		\$ 21,000.00	\$ -	\$ 58,569.93	\$ -	\$ 8,000.00	\$ -
Lavaca			\$ 7,000.00	\$ 1,826.32	\$ 60,000.00	\$ 60,000.00	\$ 178,208.90	\$ 147,570.00	\$ 8,000.00	\$ -
Lee			\$ 7,000.00		\$ 39,000.00	\$ -	\$ 122,547.37	\$ -	\$ 8,000.00	\$ -
Leon			\$ 7,000.00		\$ 45,000.00	\$ 45,000.00	\$ 136,403.30	\$ 126,403.04	\$ 8,000.00	\$ -
Liberty			\$ 7,000.00		\$ 90,000.00	\$ -	\$ 382,709.22	\$ -	\$ 8,000.00	\$ -
Limestone			\$ 7,000.00	\$ 1,618.82	\$ 63,000.00	\$ 63,000.00	\$ 191,750.29	\$ -	\$ 8,000.00	\$ -
Lipscomb			\$ 7,000.00	\$ 1,846.00	\$ 30,000.00	\$ 30,000.00	\$ 75,078.08	\$ 149,887.25	\$ 8,000.00	\$ -
LIVE Oak			\$ 7,000.00	\$ 1,672.14	\$ 45,000.00	\$ 45,000.00	\$ 128,287.38	\$ 128,287.38	\$ 8,000.00	\$ -
Llano			\$ 7,000.00	\$ 346.47	\$ 39,000.00	\$ 39,000.00	\$ 135,249.77	\$ 135,249.77	\$ 8,000.00	\$ -
Loving			\$ 7,000.00	\$ 1,885.79	\$ 15,000.00	\$ 15,000.00	\$ 45,044.61	\$ 28,070.00	\$ 8,000.00	\$ -
Lubbock			\$ 9,000.00		\$ 282,000.00	\$ 282,000.00	\$ 1,283,967.39	\$ 1,283,967.39	\$ 11,000.00	\$ -
Lynn			\$ 7,000.00		\$ 45,000.00	\$ -	\$ 108,071.17	\$ -	\$ 8,000.00	\$ -
Mason			\$ 7,000.00	\$ 1,404.70	\$ 27,000.00	\$ 27,000.00	\$ 94,767.71	\$ 94,767.71	\$ 8,000.00	\$ -
Marion			\$ 7,000.00		\$ 48,000.00	\$ 47,500.00	\$ 129,990.76	\$ 129,990.00	\$ 8,000.00	\$ -

County	Voting System Replacement		County Education Fund		Voting System Accessibility		General HAVA Compliance		TEAM Compatibility	
	Allotment	Expenditures	Allotment	Expenditures	Allotment	Expenditures	Allotment	Expenditures	Allotment	Expenditures
Martin	\$ 7,000.00	\$ -	\$ 7,000.00	\$ 2,176.38	\$ 30,000.00	\$ 75,078.03	\$ 72,859.75	\$ 8,000.00	\$ -	
Mason	\$ 7,000.00	\$ 2,350.70	\$ 7,000.00	\$ 2,350.70	\$ 27,000.00	\$ 69,071.39	\$ 44,480.00	\$ 8,000.00	\$ -	
Matagorda	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 57,000.00	\$ 220,113.37	\$ 120,870.00	\$ 8,000.00	\$ -	
Maverick	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 45,000.00	\$ 209,100.07	\$ -	\$ 8,000.00	\$ -	
McCulloch	\$ 9,000.00	\$ -	\$ 9,000.00	\$ -	\$ 33,000.00	\$ 90,078.55	\$ 86,814.00	\$ 8,000.00	\$ -	
McLennan	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 294,000.00	\$ 1,213,553.77	\$ 2,062,832.01	\$ 11,000.00	\$ -	
McMullen	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 18,000.00	\$ 51,051.31	\$ -	\$ 8,000.00	\$ -	
Medina	\$ 7,000.00	\$ 591.00	\$ 7,000.00	\$ 591.00	\$ 72,000.00	\$ 255,530.89	\$ -	\$ 8,000.00	\$ -	
Menard	\$ 7,000.00	\$ 894.20	\$ 7,000.00	\$ 894.20	\$ 21,000.00	\$ 57,058.00	\$ 53,705.00	\$ 8,000.00	\$ -	
Menard	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 162,000.00	\$ 647,305.27	\$ 58,140.00	\$ 8,000.00	\$ -	
Midland	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 66,000.00	\$ 202,267.53	\$ -	\$ 8,000.00	\$ -	
Milam	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 33,000.00	\$ 81,358.33	\$ 74,482.50	\$ 8,000.00	\$ -	
Mills	\$ 7,000.00	\$ 1,276.78	\$ 7,000.00	\$ 1,276.78	\$ 21,000.00	\$ 73,063.02	\$ 52,188.09	\$ 8,000.00	\$ -	
Mitchell	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 45,000.00	\$ 148,040.85	\$ -	\$ 8,000.00	\$ -	
Montague	\$ 9,000.00	\$ 8,247.33	\$ 9,000.00	\$ 8,247.33	\$ 219,000.00	\$ 1,264,187.96	\$ 1,264,187.96	\$ 11,000.00	\$ -	
Montgomery	\$ 7,000.00	\$ 2,732.28	\$ 7,000.00	\$ 2,732.28	\$ 27,000.00	\$ 107,374.39	\$ 107,374.39	\$ 8,000.00	\$ -	
Moore	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 33,945.00	\$ 104,984.38	\$ 104,222.00	\$ 8,000.00	\$ -	
Morris	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 21,000.00	\$ 57,058.00	\$ 56,890.00	\$ 8,000.00	\$ -	
Motley	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 87,000.00	\$ 353,642.80	\$ -	\$ 8,000.00	\$ -	
Nacogdoches	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 105,000.00	\$ 341,166.59	\$ 287,578.00	\$ 8,000.00	\$ -	
Navarro	\$ 7,000.00	\$ 1,925.59	\$ 7,000.00	\$ 1,925.59	\$ 66,000.00	\$ 176,523.85	\$ 242,190.00	\$ 8,000.00	\$ -	
Newton	\$ 7,000.00	\$ 567.10	\$ 7,000.00	\$ 567.10	\$ 30,000.00	\$ 106,014.89	\$ -	\$ 8,000.00	\$ -	
Nolan	\$ 9,000.00	\$ 5,558.19	\$ 9,000.00	\$ 5,558.19	\$ 369,000.00	\$ 1,634,284.04	\$ 1,634,284.04	\$ 11,000.00	\$ -	
Nueces	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 15,000.00	\$ 54,975.61	\$ -	\$ 8,000.00	\$ -	
Ochiltree	\$ 7,000.00	\$ 4,303.69	\$ 7,000.00	\$ 4,303.69	\$ 24,000.00	\$ 63,064.69	\$ 54,985.00	\$ 8,000.00	\$ -	
Oldham	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 90,000.00	\$ 426,603.27	\$ 157,510.00	\$ 8,000.00	\$ -	
Orange	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 60,000.00	\$ 199,913.65	\$ -	\$ 8,000.00	\$ -	
Palo Pinto	\$ 7,000.00	\$ 441.61	\$ 7,000.00	\$ 441.61	\$ 66,000.00	\$ 200,006.32	\$ 184,430.00	\$ 8,000.00	\$ -	
Panola	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 102,000.00	\$ 460,026.21	\$ -	\$ 8,000.00	\$ -	
Parker	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 30,000.00	\$ 86,871.56	\$ -	\$ 8,000.00	\$ -	
Parmer	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 30,000.00	\$ 108,563.34	\$ -	\$ 8,000.00	\$ -	
Pecos	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 63,000.00	\$ 252,568.26	\$ -	\$ 8,000.00	\$ -	
Polk	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 96,000.00	\$ 518,238.93	\$ 309,635.00	\$ 8,000.00	\$ -	
Potter	\$ 7,000.00	\$ 1,563.23	\$ 7,000.00	\$ 1,563.23	\$ 24,000.00	\$ 67,655.50	\$ 67,655.50	\$ 8,000.00	\$ -	
Presidio	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 24,000.00	\$ 75,843.26	\$ 70,215.00	\$ 8,000.00	\$ -	
Rains	\$ 7,000.00	\$ 6,213.94	\$ 7,000.00	\$ 6,213.94	\$ 96,000.00	\$ 499,703.80	\$ 498,783.48	\$ 8,000.00	\$ -	
Randall	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 21,000.00	\$ 57,058.00	\$ 57,058.00	\$ 8,000.00	\$ -	
Reagan	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 21,000.00	\$ 57,058.00	\$ -	\$ 8,000.00	\$ -	
Real	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 78,000.00	\$ 199,645.30	\$ -	\$ 8,000.00	\$ -	
Red River	\$ 41,498.86	\$ 40,700.00	\$ 7,000.00	\$ -	\$ 39,000.00	\$ 114,834.21	\$ 51,451.14	\$ 8,000.00	\$ -	
Reeves	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 33,000.00	\$ 89,141.32	\$ -	\$ 8,000.00	\$ -	
Refugio	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 18,000.00	\$ 51,051.31	\$ 51,051.31	\$ 8,000.00	\$ -	
Robertson	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 51,000.00	\$ 147,915.16	\$ 138,604.16	\$ 8,000.00	\$ -	
Rockwall	\$ 7,000.00	\$ 2,248.35	\$ 7,000.00	\$ 2,248.35	\$ 42,000.00	\$ 204,245.97	\$ 204,245.97	\$ 8,000.00	\$ -	
Rockwall	\$ 7,000.00	\$ 3,366.13	\$ 7,000.00	\$ 3,366.13	\$ 30,000.00	\$ 93,559.77	\$ 76,695.00	\$ 8,000.00	\$ -	
Runnels	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 114,000.00	\$ 370,158.19	\$ 272,750.00	\$ 8,000.00	\$ -	
Rusk	\$ 7,000.00	\$ 2,068.31	\$ 7,000.00	\$ 2,068.31	\$ 33,000.00	\$ 99,008.11	\$ 99,008.11	\$ 8,000.00	\$ -	
Sabine	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 36,000.00	\$ 99,287.75	\$ 182,375.50	\$ 8,000.00	\$ -	
San Augustine	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 35,940.00	\$ 138,471.75	\$ 135,045.00	\$ 8,000.00	\$ -	
San Jacinto	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 102,000.00	\$ 388,721.32	\$ 723,806.27	\$ 8,000.00	\$ -	
San Patricio	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 24,000.00	\$ 65,840.88	\$ -	\$ 8,000.00	\$ -	
San Saba	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ 15,000.00	\$ 45,044.61	\$ 44,675.00	\$ 8,000.00	\$ -	
Schleicher	\$ 7,000.00	\$ 2,485.70	\$ 7,000.00	\$ 2,485.70	\$ 36,000.00	\$ 120,915.73	\$ 265,471.73	\$ 8,000.00	\$ -	
Scurry	\$ 7,000.00	\$ -	\$ 7,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	

County	Voting System Replacement		County Education Fund		Voting System Accessibility		General HAVA Compliance		TEAM Compatibility	
	Allotment	Expenditures	Allotment	Expenditures	Allotment	Expenditures	Allotment	Expenditures	Allotment	Expenditures
Shackelford			\$ 7,000.00	\$ -	\$ 24,000.00	\$ -	\$ 63,064.69	\$ -	\$ 8,000.00	\$ -
Shelby			\$ 7,000.00	\$ 1,565.81	\$ 45,000.00	\$ 45,000.00	\$ 163,953.73	\$ -	\$ 8,000.00	\$ -
Sherman			\$ 7,000.00	\$ -	\$ 24,000.00	\$ -	\$ 63,064.69	\$ -	\$ 8,000.00	\$ -
Smith	\$ 229,839.84	\$ 229,839.84	\$ 9,000.00	\$ -	\$ 216,000.00	\$ 216,000.00	\$ 943,800.03	\$ 890,110.16	\$ 11,000.00	\$ -
Somervell			\$ 7,000.00	\$ -	\$ 21,000.00	\$ -	\$ 61,485.30	\$ -	\$ 8,000.00	\$ -
Starr			\$ 7,000.00	\$ -	\$ 33,000.00	\$ -	\$ 199,897.42	\$ -	\$ 8,000.00	\$ -
Stephens			\$ 7,000.00	\$ -	\$ 33,000.00	\$ 32,400.00	\$ 95,239.27	\$ 22,295.00	\$ 8,000.00	\$ -
Stearling			\$ 7,000.00	\$ -	\$ 15,000.00	\$ 15,000.00	\$ 45,044.61	\$ 45,044.61	\$ 8,000.00	\$ -
Stonewall			\$ 7,000.00	\$ -	\$ 30,000.00	\$ 30,000.00	\$ 75,078.08	\$ 70,073.00	\$ 8,000.00	\$ -
Sutton			\$ 7,000.00	\$ 244.71	\$ 18,000.00	\$ 18,000.00	\$ 51,051.31	\$ 51,051.31	\$ 8,000.00	\$ -
Swisher			\$ 7,000.00	\$ -	\$ 33,000.00	\$ 33,000.00	\$ 90,162.29	\$ -	\$ 8,000.00	\$ -
Tarrant			\$ 11,000.00	\$ -	\$ 1,605,000.00	\$ 1,605,000.00	\$ 7,360,291.57	\$ -	\$ 15,000.00	\$ -
Taylor	\$ 124,496.58	\$ 124,496.58	\$ 7,000.00	\$ 2,611.00	\$ 117,000.00	\$ 117,000.00	\$ 604,744.14	\$ 604,744.14	\$ 8,000.00	\$ -
Terrell			\$ 7,000.00	\$ -	\$ 15,000.00	\$ 15,000.00	\$ 45,044.61	\$ 45,044.61	\$ 8,000.00	\$ -
Terry			\$ 7,000.00	\$ 1,037.47	\$ 18,000.00	\$ 18,000.00	\$ 51,051.31	\$ 51,025.25	\$ 8,000.00	\$ -
Throckmorton			\$ 7,000.00	\$ 2,752.28	\$ 60,000.00	\$ 60,000.00	\$ 198,302.42	\$ 192,470.00	\$ 8,000.00	\$ -
Titus			\$ 7,000.00	\$ -	\$ 180,000.00	\$ -	\$ 667,009.78	\$ -	\$ 8,000.00	\$ -
Tom Green			\$ 11,000.00	\$ 11,000.00	\$ 690,000.00	\$ 690,000.00	\$ 3,851,570.42	\$ 4,674,302.39	\$ 15,000.00	\$ -
Travis			\$ 7,000.00	\$ -	\$ 60,000.00	\$ 60,000.00	\$ 162,508.39	\$ 127,881.50	\$ 8,000.00	\$ -
Trinity			\$ 7,000.00	\$ -	\$ 54,000.00	\$ 54,000.00	\$ 172,067.14	\$ -	\$ 8,000.00	\$ -
Tyler			\$ 7,000.00	\$ -	\$ 63,000.00	\$ 63,000.00	\$ 228,920.25	\$ 220,019.45	\$ 8,000.00	\$ -
Upshur			\$ 7,000.00	\$ 1,160.28	\$ 21,000.00	\$ 21,000.00	\$ 57,038.00	\$ 41,285.00	\$ 8,000.00	\$ -
Upton			\$ 7,000.00	\$ -	\$ 48,000.00	\$ -	\$ 167,076.96	\$ -	\$ 8,000.00	\$ -
Uvalde			\$ 7,000.00	\$ -	\$ 63,000.00	\$ -	\$ 247,676.72	\$ -	\$ 8,000.00	\$ -
Val Verde			\$ 7,000.00	\$ -	\$ 87,000.00	\$ 87,000.00	\$ 317,134.88	\$ 310,635.00	\$ 8,000.00	\$ -
Van Zandt			\$ 7,000.00	\$ 1,636.09	\$ 108,000.00	\$ 108,000.00	\$ 453,881.36	\$ 616,831.33	\$ 8,000.00	\$ -
Victoria	\$ 114,919.92	\$ 114,919.92	\$ 7,000.00	\$ 2,201.14	\$ 57,000.00	\$ 57,000.00	\$ 316,097.20	\$ 229,575.00	\$ 8,000.00	\$ -
Walker			\$ 7,000.00	\$ -	\$ 60,000.00	\$ 60,000.00	\$ 216,955.19	\$ 112,855.19	\$ 8,000.00	\$ -
Waller			\$ 7,000.00	\$ 2,037.65	\$ 27,000.00	\$ 27,000.00	\$ 84,262.82	\$ 61,660.00	\$ 8,000.00	\$ -
Ward			\$ 7,000.00	\$ 1,209.57	\$ 66,000.00	\$ 66,000.00	\$ 223,349.21	\$ 442,698.42	\$ 8,000.00	\$ -
Washington			\$ 9,000.00	\$ 2,983.60	\$ 126,000.00	\$ 126,000.00	\$ 743,845.74	\$ 647,901.00	\$ 8,000.00	\$ -
Webb			\$ 7,000.00	\$ 1,294.71	\$ 69,000.00	\$ 69,000.00	\$ 285,211.36	\$ 80,630.00	\$ 8,000.00	\$ -
Wharton			\$ 7,000.00	\$ 826.52	\$ 33,000.00	\$ 33,000.00	\$ 81,902.75	\$ -	\$ 8,000.00	\$ -
Wheeler			\$ 7,000.00	\$ 584.80	\$ 159,000.00	\$ 159,000.00	\$ 711,367.13	\$ 422,872.27	\$ 8,000.00	\$ -
Wichita			\$ 7,000.00	\$ -	\$ 39,000.00	\$ 39,000.00	\$ 120,290.05	\$ 117,410.05	\$ 8,000.00	\$ -
Wilbarger	\$ 169,187.66	\$ 169,187.66	\$ 7,000.00	\$ -	\$ 39,000.00	\$ 39,000.00	\$ 132,844.69	\$ -	\$ 8,000.00	\$ -
Willacy			\$ 9,000.00	\$ -	\$ 295,000.00	\$ 295,000.00	\$ 1,208,761.76	\$ 158,820.00	\$ 11,000.00	\$ -
Williamson			\$ 7,000.00	\$ 1,404.42	\$ 18,000.00	\$ 18,000.00	\$ 193,666.71	\$ 188,666.71	\$ 8,000.00	\$ -
Winkler			\$ 7,000.00	\$ 25,169.78	\$ 69,000.00	\$ 69,000.00	\$ 277,700.78	\$ 2,000.00	\$ 8,000.00	\$ -
Wise			\$ 7,000.00	\$ 1,289.00	\$ 36,000.00	\$ 36,000.00	\$ 196,641.14	\$ 128,425.00	\$ 8,000.00	\$ -
Wood			\$ 7,000.00	\$ 688.46	\$ 21,000.00	\$ 21,000.00	\$ 61,876.14	\$ 23,736.00	\$ 8,000.00	\$ -
Yoakum			\$ 7,000.00	\$ -	\$ 39,000.00	\$ 39,000.00	\$ 131,780.10	\$ -	\$ 8,000.00	\$ -
Young			\$ 7,000.00	\$ -	\$ 24,000.00	\$ -	\$ 80,595.23	\$ -	\$ 8,000.00	\$ -
Zapata			\$ 7,000.00	\$ -	\$ 21,000.00	\$ -	\$ 72,532.59	\$ -	\$ 8,000.00	\$ -
Zavala			\$ 1,834,000.00	\$ 272,867.28	\$ 25,758,000.00	\$ 23,460,694.29	\$ 111,618,074.00	\$ 86,162,518.91	\$ 2,135,000.00	\$ -

Source: Texas Secretary of State



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**APPENDIX 2a**

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DAVID DEWHURST  
Lieutenant Governor  
Joint Chair

TEXAS LEGISLATIVE COUNCIL

P.O. Box 12128, Capitol Station  
Austin, Texas 78711-2128  
Telephone: 512/463-1151

MILTON RISTER  
Executive Director



TOM CRADDICK  
Speaker of the House  
Joint Chair

MEMORANDUM

TO: The Honorable Mary Denny  
Chair, House Committee on Elections  
Attn: Nicole Tunks

FROM: Amy M. Young

DATE: June 14, 2006

SUBJECT: Vote Fraud in Texas

This memorandum is in response to your request for a brief overview of vote fraud in Texas, including information on allegations and prosecutions. Although both large-scale and small-scale vote fraud have been chronicled, a broad historical record of vote fraud investigation and prosecution in Texas is not available primarily due to limited and nonstandardized recordkeeping on this issue.

The memorandum is organized into three sections. The first section is a brief history of vote fraud in Texas. The second section contains information on the agencies and procedures involved in investigating and prosecuting vote fraud, including types of fraud, how gathering and tracking data have changed in recent years, and the degree of statewide standardization of vote fraud data. The third section includes statewide data on the incidence of documented vote fraud in Texas since 1998, including statewide data from the Office of the Attorney General (OAG), the secretary of state (SOS), the Texas Rangers, and the Texas Department of Public Safety (DPS). The section on statewide data concludes with some observations from county personnel and information on prosecutions at the county level.

### History

Vote fraud allegations have been made for as long as Texas has been a state, and some have been so widely reported that terms related to them--like *Ballot Box 13* and *Duke of Duval*--are part of our lexicon. The chronicled reports of vote fraud in the 19th century and much of the 20th century involve organized, large-scale operations controlled by a group or an individual undertaken to change the outcome of an election. The fraud strategies employed include armed persons threatening voters at the polls to intimidate them; major employers delivering to the polls truckloads of workers who had been directed how to vote; officials discounting the ballots of a

The Honorable Mary Denny  
June 14, 2006  
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candidate who won, resulting in the victory of a party machine's chosen candidate; and officials changing vote tallies for ballot boxes to swing an election to a favored candidate. However, these stories are rarely accompanied by information on how the fraud was stopped or whether it was successfully prosecuted. Today, vote fraud that is reported and investigated tends to be perpetrated on a subtler and decidedly smaller scale. According to a current election administrator, vote fraud occurs mostly in very small numbers, not on the scale of a grand conspiracy.

Although South Texas has long been labeled as a region with a high incidence of fraud, including large-scale systemic fraud, it is not alone. In 1896, in Robertson County, when there were several African American candidates on the Republican-Populist ticket, Democrats are reported to have stolen ballot boxes and intimidated voters by riding through the predominantly African American precincts with guns drawn. County Judge O. D. Cannon, on orders from his party, guarded the polls in his precinct at gunpoint, and he later boasted that he had prevented all African Americans from voting in that precinct. There were also rumors that Judge Cannon shot and wounded an African American candidate who was going to contest the election result in a state legislative race.

The mid-1900s were a time marked by powerful political party machines. The border counties were reputed to have some of the most fraudulent elections in the country, credited in part to "Duke of Duval" machine boss George Parr, who exerted enormous political influence over Duval and Jim Wells Counties. Stories abound in which machine bosses and large employers, or *patrones*, would use their substantial economic power over the workers, including many Mexican nationals, to control their votes and would even import thousands of voters from Mexico on election day to vote as instructed. This kind of fraud, called block voting, or *pachanga*, had been reported in South Texas since the late 19th century.

One of the most famous stories of a political machine boss allegedly securing an election involves the 1948 Democratic Party primary runoff between Lyndon Johnson and Coke Stevenson for a U.S. Senate seat. Six days after the election, the unofficial statewide count indicated that Stevenson had won by 113 votes despite allegations that money from the Johnson campaign had bought Johnson the lead in San Antonio, an area where Stevenson had beaten him two votes to one in the primary and despite reports of suspicious changes in the Houston area vote tally in favor of Johnson. When the Democratic Executive Committee arrived in Jim Wells County to certify the vote, the tally for the ballot box from Precinct 13 had changed from 765 to 60 in favor of Johnson to 965 to 60, giving Johnson the needed votes to win the Democratic Party nomination in the final official count. Although Stevenson took the case to court and tried to get the Federal Bureau of Investigation to look into the matter, his attempts were unsuccessful, and Johnson went to the U.S. Senate after winning the general election.

The issue of changing vote tallies was raised again in 2004 by Ciro Rodriguez, who lost a Democratic Party primary election to Henry Cuellar in a recount. Rodriguez was leading

The Honorable Mary Denny

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in the election by 150 votes until the manual recount. During the recount, a box of purportedly untabulated ballots from Zapata County surfaced. Eighty percent of the previously untabulated ballots were cast for Cuellar, enough to give him a small lead over Rodriguez. This lead grew with additional votes gained in Webb County. No fraud was proven, and Henry Cuellar won the Democratic Party nomination and the general election for the U.S. Congressional seat for District 28.

Vote buying on a scale broad enough to tip an election has also been alleged through Texas' history and is a practice that is considered to continue to this day. Early stories of large-scale vote buying involved a system of promising perks, such as food, alcohol, or a car engine, in exchange for a vote; more recent accounts involve campaigns employing professionals to secure votes, a practice made easier with the advent of the early voting mail ballot. For example, a fraudulent vote broker or contractor, known as a *politiquero* in South Texas, will open a post office box and pay people, including elderly, cognitively impaired individuals, to request a mail ballot and have it sent to the vote broker's post office box.

The fraudulent use of early voting mail ballots and the pattern of targeting minority communities, the elderly, and the disabled are not confined to any particular region in Texas. For instance, between 2001 and 2003, early voting mail ballot fraud in the Dallas municipal elections is believed by some to have changed the outcome of a city council election and a referendum on a \$2 billion Trinity River project. In this case, vote brokers allegedly identified from the newspaper the list of people getting mail ballots. The law was changed in 2003 to prohibit a person from assisting a voter who has not requested assistance or who has not chosen that person to provide assistance.

#### **Investigating and Prosecuting Vote Fraud: 2000 to Today**

A number of state and local governmental entities are involved in preventing, investigating, and prosecuting vote fraud in Texas, including the SOS, the OAG, district attorneys, county clerks, election administrators, DPS, the Texas Rangers, and local law enforcement officials.

There are several ways a vote fraud investigation can be initiated. An investigation may start with a citizen notifying the elections division of the SOS, which refers allegations of vote fraud to the OAG. The OAG investigates allegations and determines whether and how to move forward with prosecution. An individual also can notify the local district attorney, who may refer the allegation to the SOS or may investigate the allegation and prosecute eligible cases. In addition, an election administrator or other government official may request an investigation of alleged fraud. In the investigation phase, a local law enforcement agency, a district attorney, the governor, or the OAG can request investigatory assistance from the Texas Rangers.

Historically, there have been so few allegations of fraud referred to the SOS that, until 2002, allegations and referrals from the SOS to the OAG were filed as legal correspondence by the name of the person alleging fraud and were not tracked. In 2002, the SOS created a database to track allegations that are referred to the OAG, but the SOS has no log of the number of total allegations, including those not referred to the OAG. Currently, the written policy of the SOS is to instruct an individual who wants to lodge a complaint to do so, initially, with the local district attorney. If the district attorney does not take action within 90 days of the complaint, the complainant is to contact the SOS again, at which time the SOS will look into the alleged incident and, if there is at least some evidence to support the complaint, will refer the matter to the OAG.

Although the written policy remains the same, in 2002 the referral practice changed. The OAG now requests that the SOS refer any allegations of criminal activity to the OAG. The OAG's more aggressive stance toward investigating fraud in recent years has resulted in an increasing number of referrals from both the SOS and other entities, and a new statewide training initiative launched in January 2006 focuses on working with local law enforcement and prosecutors to identify, investigate, and prosecute vote fraud.

On another front, in 2003 the 78th Texas Legislature passed House Bill 54 to tighten the regulations governing assisting a voter with an early voting mail ballot and to facilitate prosecution by requiring the person assisting the voter to include some basic personal information and a signature indicating assistance. Although assessing the impact of House Bill 54 on early voting by mail ballot fraud is difficult, since 2003, there has been a rise in the number of allegations of fraud in early voting by mail ballot referred to the OAG for investigation.

#### **Statewide Data**

Data on the incidence of allegations, arrests, and prosecutions of vote fraud in the past six years was provided by state and local entities. The information is based on offenses currently prescribed by the Texas Election Code. Vote fraud types used in the data searches by the agencies include illegal voting; acting on behalf of a voter when the person acting is not eligible to do so; unlawfully influencing a voter by indicating how the voter should vote or marking a ballot differently than the voter instructs; assisting a person who has not requested or is not eligible for assistance; witnessing more than one application for an early voting mail ballot, other than an application for a relative; signing and mailing the carrier envelope for an early voting mail ballot for a person who does not need the assistance; failing to sign as a witness and to provide one's name and address on the mail-in ballot; and buying or selling early voting mail ballots. One of the offenses cited most often in DPS arrest records from 2000 to 2006 is illegal voting, defined in Section 64.012, Election Code. A person commits the offense of illegal voting if the person votes or attempts to vote in an election in which the person knows the person is not eligible to vote, knowingly votes or attempts to vote more than once in an election, knowingly

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impersonates another person and votes or attempts to vote as the impersonated person, or knowingly marks or attempts to mark another person's ballot without the consent of that person. Illegal voting is a third degree felony, and an attempt to vote illegally is a Class A misdemeanor.

The SOS and OAG are the major repositories of statewide data on vote fraud, but there is no comprehensive vote fraud tracking system in Texas. Not all counties track vote fraud specifically, and there is no statewide uniform standard for maintaining databases of such cases. For example, Harris County organizes cases according to offense but uses the broad category of violations of the Texas Election Code; Brooks County, and many others, group cases in narrower categories according to the Federal Bureau of Investigation's National Crime Information Center's offense codes; and Travis County organizes cases by defendant name and date of case. This lack of standardization in categorizing and collecting information on allegations, arrests, and prosecutions of vote fraud makes determining the prevalence of vote fraud activity in a particular region of Texas or across Texas difficult to ascertain.

#### Data From the Office of the Attorney General

According to the OAG, since August of 2002, the agency has received 60 referrals relating to election fraud allegations, with 37 of the referrals coming from the SOS. The number of referrals has increased since 2003, from 3 referrals in 2003 to 9 in 2004, 11 in 2005, and 35 by May of 2006. The referrals involve activity in 40 of Texas' 254 counties, the majority of which have only one referral each, with Hidalgo County having the most referrals with six. A majority of the referrals relate to the ballot or the act of voting, while other referrals involve bribery, candidate residency, and the firing of individuals for how they voted. According to the OAG, 22 percent of the referrals involve fraud relating to early voting by mail. Illegal voting is alleged in 12 percent of the referrals, and unlawful assistance in 10 percent. Information on the outcome of the investigations is not available at this time.

Since 2005, the OAG has obtained indictments for 11 people, and of those indicted, five have been adjudicated, four received deferred adjudication and supervision plus a fine, and one received probation plus a fine. The fines ranged from \$500 to \$2,000. Ten of the 11 indictments were related to early voting by mail.

#### Data From the Texas Rangers and Texas Department of Public Safety

Another indication of the incidence of vote fraud in Texas is offered by the number of investigations undertaken by the Texas Rangers and the number of arrests made by DPS.

According to the Texas Rangers, 25 investigations were conducted in 21 counties from May 1999 to May 2006. The highest number of investigations occurred in 2001 and 2002 with six in each year. The most frequent offenses investigated were unlawfully assisting a voter and unlawfully influencing a voter.

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DPS arrest records from April 2000 to January 2006 show 48 arrests in 16 counties and two Texas Highway Patrol regions for vote fraud. Of the 48 arrests, 31 were for illegally voting. Only five arrests occurred before 2003.

#### Observations From the County Level

The responses of election administrators, district attorneys, and county clerks with whom I spoke varied on the incidence of vote fraud, but there was some consistent agreement that the procedure for early voting by mail should receive additional scrutiny.

The opinions of election administrators, district attorneys, and county clerks range from not considering vote fraud to be a problem in their counties at all, to considering instances of vote fraud to be predominantly a result of ignorance or misinformation about the law, to believing that vote fraud is a significant problem. The most consistently noted area of vulnerability in the voting system is the early voting mail ballot. In one county, the election administrator noted that the county may send out between 5,000 and 30,000 early voting mail ballot applications, with 50 to 300 returned ballots being possibly fraudulent in the administrator's opinion. Although this represents a small percentage of the ballots mailed out, elections can be determined by only a few votes. This county recently had an election that was won by fewer than five votes.

Another concern voiced by officials is the difficulty of successfully prosecuting illegal voting as a felony. Some officials suggested that reducing the offense to a misdemeanor may lead to more prosecutions. The one case involving illegal voting in Denton County since 2000 was pled out to a misdemeanor offense of tampering with a governmental record. The eight cases involving illegal voting in Kenedy County since 2000 ended in an agreement for pretrial diversion. In Hidalgo County, since 2000, there have been six court cases involving illegal voting: one defendant was given shock probation, three were given deferred adjudication, and two were acquitted. Since August 2004, Brooks County has had 14 court cases involving illegal voting. Most of the cases were dismissed, and there were no convictions.

Please contact me at 463-1143 if you have questions or would like additional information.

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**APPENDIX 3a**

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# Method for Developing Security Procedures in a DRE Environment

Dana DeBeauvoir, Travis County Clerk

As November 2004 approached, everyone seemed to have one issue on his or her mind. From newspapers to television comedy to conversations in coffee houses, the Presidential election was the hot topic. But, this election year was different from four years ago. The 2000 Florida controversy, the resulting large-scale implementation of electronic voting, the strong memories of the 9/11 tragedy, and the polarized opinions of the country had culminated into a general anxiety not only about who was going to win but whether our election process could be disrupted and the results trusted.

In Travis County, Texas, we not only fielded questions of concern from citizens, political parties, candidates, and media organizations; we had our own uneasy feelings, feelings that turned from worry to conviction. We were going to do whatever it took to make sure our election was protected and that the public could trust that it was safe, fair, and accurate, no matter what happened here or anywhere in the world. That was an admirable, lofty goal, but how do you implement stubborn determination?

Believe it or not, we laid an egg. Our first inspiration for the egg came from our association with the legal community and their use of the rules of evidence. According to Article I of the Federal Rules of Evidence, "these rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined."

Make no mistake, we are not attorneys, but when we saw their standards for rules of evidence, we thought they were on to something. To give support and integrity to evidence, you need to make sure you have: something physical (reports, audit logs, etc.), recorded details about persons who were involved in creating or collecting the evidence (times, dates, names, signatures, etc.), and secure storage so that evidence cannot be tampered with (areas with limited access). We decided to adapt these standards to our election processes.

The second part of this idea came from our computer staff and their obsession with developing risk analyses. So, we broke down the election process into categories and began to brainstorm about the possible minor or catastrophic events that could happen in each area. (Coming up with scenarios of horrible events is easier than you think thanks not only to real life news stories, but our exposure to the creative minds of television and movie scriptwriters.)

As ideas poured out, the rule quickly became that generalities had to be broken down to tangible events. For example, to say, "someone could tamper with the DRE system" had to be followed up with ideas of specifically how someone would go about doing such a deed. Therefore, what we ended up with was a tool that provided perspective, replaced emotion with facts, and guided us to a detailed plan of action.

If you look at the attachments, you will see the evolution of our egg and examples of how we combined all of our ideas into a method of mitigating risks and providing verifiable checks and audits that election procedures were properly followed.

The result of our egg analysis was not only a new way of thinking for us, but also a plan and checklist for what needed to be done for the 2004 election and for all future elections. The process led us to reinforce and fine-tune many of our existing practices and to develop new initiatives. Listed below are some examples of new, continued, or enhanced practices that increase a secure election environment and promote public trust. Examples of these items are provided in the attachments, and since we are particularly proud of the work we did to increase security by using hash code and parallel testing, we have included more detail on these practices.

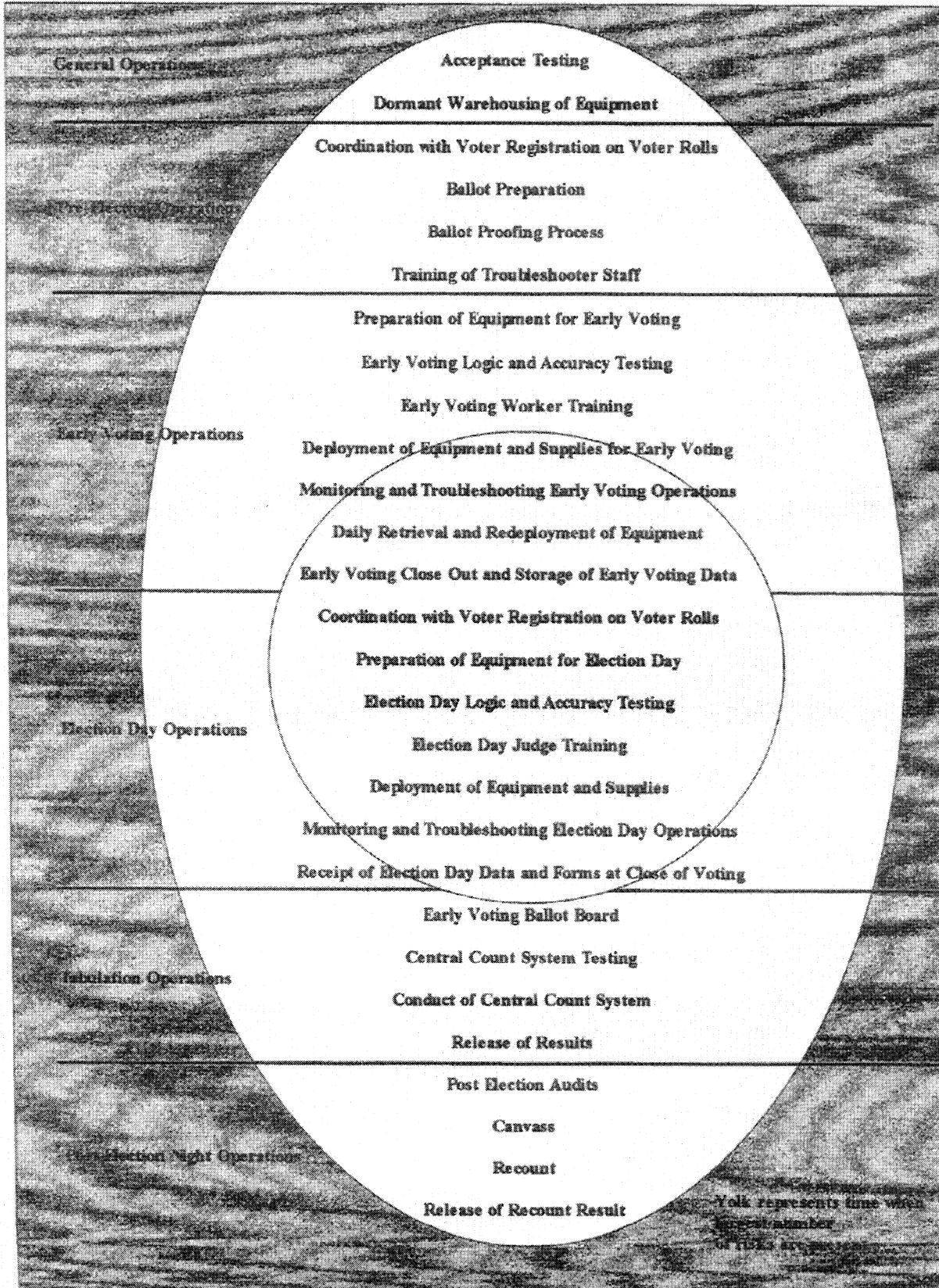
#### **New, Enhanced, or Continued Security Practices**

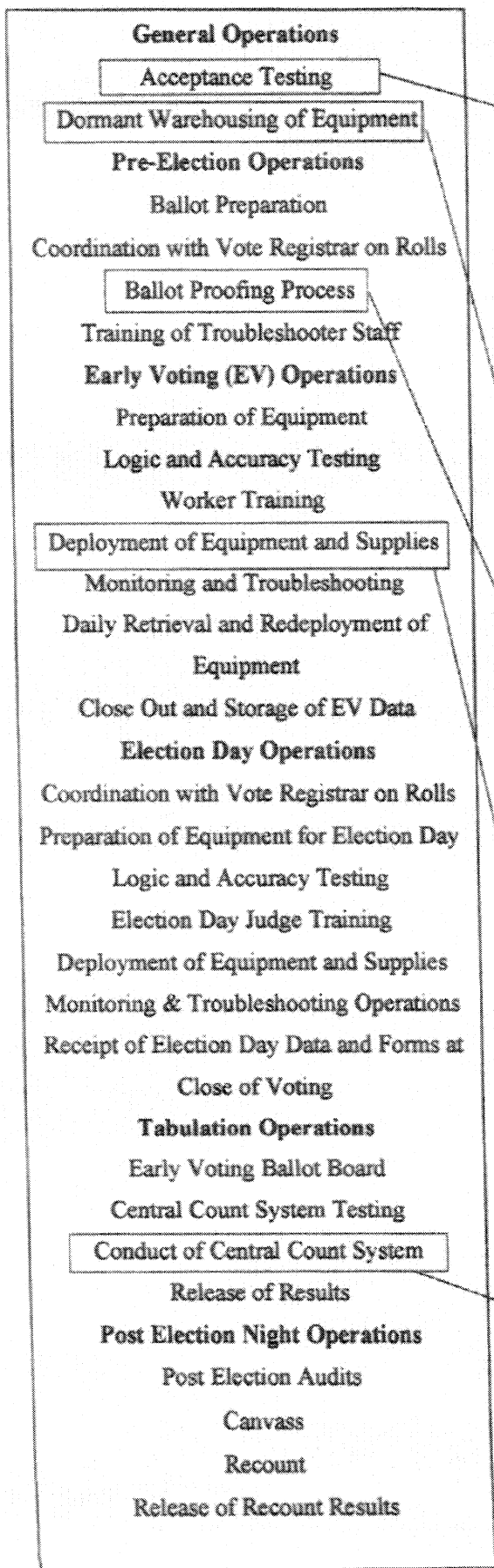
- Provide public invitation to attend all programming and testing activities
- Maintain written procedures and initialed tracking sheets
- Maintain independence from vendors
- Recruit, screen, and train skilled and trusted employees
- Coordinate emergency management plans with other relevant agencies
- Use Sheriff and Constable Officers to secure early voting electronic ballot boxes
- Improve security for the building where election activities occur
- Implement employee procedures that lower risk
- Conduct extensive pre-purchase testing of new equipment or software
- Provide continuous functionality testing of equipment
- Conduct Hash Code Testing on software
- Perform High Volume Testing of ballot programming
- Perform Parallel Testing
- Conduct Early Voting and Election Day audits by matching counts of voters by location as reported by the electronic voting system to the number of names on signature rosters
- Conduct post-election verification using the three redundant electronic sources, paper results printed from the electronic ballot boxes, and precinct-by-precinct election results

(When reviewing these practices, it may be helpful to understand that in Texas, a County cannot use a voting system unless the Texas Secretary of State has certified it. To date, no system allowing voter-verifiable paper ballots has been authorized, and therefore, could not be considered for use in the 2004 Presidential Election.)

Finally, about that egg concept... after you have read this, you may ask why we went with an egg shape instead of a rectangle or a circle. Truth be told, it started because the County Clerk's first drawing of an oval was less than perfect and resembled an egg. However, we capitalized on that idea. After all, we were birthing a new idea. Second, an egg has a hard shell wrapped around a permeable membrane. The shell ultimately served as a perfect metaphor and guide for determining the security levels needed for different groups (general public, candidates, law enforcement, etc.), and the membrane represented how information would flow back and forth through the process. Finally, the egg became a symbol for us. It is something with immeasurable value; something that must be given great love, care, and protection; and something that represents elections as the beginning and nucleus for a living democracy.

# Egg Concept for Defining and Mitigating Security Risks in a DRE Environment





**A Few Examples of Risk Assessments and Strategies Devised to Reduce Risks**

**Independently Test Voting System Products Before Purchase and Use**  
 Risk: Equipment or software is inferior or subject to vendor manipulation.  
 Practice: Perform hands-on mock trial of equipment or software with vendor present only to answer questions. Produce and audit all available reports. For important demonstrations (such as purchase of new voting system) include diverse group of outside parties to view and participate in testing. Have sign in sheet of viewers and request written evaluations and comments from participants.

**Prevent Physical Damage to Electronic Voting Equipment**  
 Risk: Fire in warehouse and activation of sprinkler system damages DRE equipment.  
 Practice: Cover equipment carts with plastic covers to prevent water damage.

**Physically Secure Ballot Programming Computer**  
 Risk: Unauthorized user tampers with ballot programming computer.  
 Practice: Ballot programming and tabulation computer is kept in room with a motion detector, surveillance camera, and pass code lock. Five employees issued pass code. Ballot software is protected by a series of passwords that are issued only to five employees. Use of this computer is only done when two or more authorized employees/watchers are present.

**Protect Early Voting Electronic Ballot Box**  
 Risk: Theft or tampering of early voting ballot box after hours at early voting locations.  
 Practice: Every night during Early Voting, the electronic ballot boxes are picked up at the polling locations by law enforcement officers. Overnight the boxes are locked in a secured room with a surveillance camera. During the Presidential Election, we were even more vigilant and had law enforcement officers stationed outside the room during the evenings. Each morning, law enforcement transported the boxes back out to the early voting locations

**Promote Openness of the Tabulation Process**  
 Risk: Perception that unethical practices are occurring behind the scenes on Election Night.  
 Practice: On Election Day and Night, poll watchers, party officials, and oversight committee members are encouraged to closely observe all election night activities. All tabulation activities are performed in a room with windows so that all members of the general public and the media can view the proceedings.

## **Use of Parallel Testing to Detect Presence of "Time Bomb" Software Codes** *(Abbreviated version of our procedures as used with Hart Intercivic E-Slate System)*

**Risk:** Introduction of malicious software program written so that it is activated during the actual election process and therefore goes undetected in pre-election testing.

**Practice:** Perform parallel testing during Early Voting and Election Day to ensure that no such program is being activated. Randomly pull out equipment slated for polling location just before it is to be sent out. Perform testing in ELECTION mode so that it mirrors the election cycle of opening polls, casting ballots, and closing polls. Conduct test in a controlled environment under video surveillance. Encourage public viewing of test.

### **A. Parallel Test Spreadsheet**

1. Create a spreadsheet using the Logic and Accuracy spreadsheet as a template.
2. Randomly enter votes for each precinct in no particular pattern (so software will not identify if it as a test).
3. Include enough ballots to ensure at least two ballots are cast per hour per day.

### **B. Paper Ballots**

1. Using the Parallel Test spreadsheet, mark all paper ballots according to spreadsheet.
2. Double check ballots where marked correctly to ensure 100% accuracy.
3. Make a stack of ballots for each day of Early Voting and one stack for Election Day.

### **C. Polling Location Equipment**

1. Randomly select a polling location during the day of delivery of equipment.
2. Replace removed equipment with extra equipment.
3. Place equipment in secured area and clearly mark as PARALLEL TEST EQUIPMENT.

### **D. Ballot Box Preparation**

1. Gather 2 Ballot boxes with red seals. (one for Early Voting and one for Election Day)
2. Lock and seal the boxes. Record the seal numbers. Seals are not broken until the end of each test period.

### **E. Secured Area**

1. Setup all parallel test equipment where all actions are visibly recorded by video surveillance.
2. Tag area with PARALLEL TEST - AUTHORIZED PERSONNEL ONLY signs.

### **F. Casting Votes**

1. Use ballots designated for the specified day and corresponding parallel test.
2. Retrieve an access code for the first ballot and begin voting ballot one e-Slate as marked on paper ballot.
3. Once ballot has been cast print your initials, date, and time on the top right hand corner of the paper ballot.
4. Then print your initials, date, and time on the parallel test spreadsheet.
5. Staple access code to paper ballot on top left hand corner.
6. Insert paper ballot into ballot box.
7. Two ballots per hour per day should be voted.

### **G. Tabulation of results**

1. Once the parallel test is completed, all materials should be placed in the BOSS room.
2. Tabulation of results will occur after the Official Elections results have been finalized.
3. Create a database in TALLY named PARALLEL TEST - "Name of election".
4. Insert MBB cards from parallel test equipment.
5. Tabulate results.
6. Print Cumulative reports.

### **H. Backup equipment (SERVO)**

1. Using SERVO, create an event using the same naming convention in TALLY.
2. Backup all parallel test equipment to this event.
3. Print out "Devices backed up report".
4. Compare totals between TALLY, SERVO, and the parallel test spreadsheet. Totals should match identically.

**Use of Hash Code Testing to Detect Modification of Software**  
*(Abbreviated version of our procedures as used with Hart Intercivic E-Slate System)*

**Risk:** Modification of software by vendor, employee, or outsider.

**Practice:** Use Hash Code testing to verify that software files installed on computers are the same as the software files qualified by an Independent Testing Authority and certified by the Secretary of State. Hash Code is a digital algorithm signature of a variable-sized amount of text that is converted into a fixed-sized output that can be used to determine if two objects are equal. Testing must be performed before and after the software is used in an election.

**A. Create Hash Code Spreadsheet**

1. Access NIST website to obtain hash types and file names. ([www.nsr1.nist.gov/votedata.html](http://www.nsr1.nist.gov/votedata.html))
2. Download zip format file from website.
3. Open file CompleteNSR1file.txt in Excel and follow steps in Excel wizard when opening the text document.
4. Sort by Product Code, then File Name. Delete rows NOT for Code 9031. (9031 is for our e-Slate system.)
5. Save file.

**B. Install Hash Master Software**

1. Verify that each station has the Hash Master software installed. If not, use the setup.exe file on installation CD.
2. Follow instructions in the software wizard to complete installation of Hash Master.

**C. Execute the Hash Code function (from Readme.txt)**

1. To calculate and display the hash of a file:
  - a. From the File menu, select "Select Algorithm." The "Configure Hash Options" window appears.
  - b. Select the hash algorithm to be used (Travis County uses MD5 or SHA-1).
  - c. Click "Save." The hash algorithm selected displays in the Hash Master window.
  - d. From the File menu, select Process Files. The "Select one or more files to process" window appears.
  - e. In the Look In field, find the directory that contains the file(s) to be processed. Complete one group of files per software at a time. Refer to the Hash Code spreadsheet to determine file paths for each software type.
  - f. Select the file(s) to be processed.
  - g. Click the Open button. The "Select one or more files to process" window closes. The path to the last file selected and its hash value appear in the Hash Master window.
    1. To copy the hash to the Clipboard: From the Edit menu, select Copy Hash to Clipboard. —OR— While in the Hash Master window, hold down the Ctrl key and press C.
    2. To view the File Hash Report for the file(s) just processed: From the Report menu, select View Report. The "Hash Report" window appears showing the File Hash Report. The File Hash Report contains the path and hash value for each file processed with the Process Files command.
    3. To print the File Hash Report for the file(s) just processed: From the Report menu, select Print Report. —OR— View the report, then click the Print tool icon at the top of the Hash Report window.
    4. To save the File Hash Report as PDF for the file (s) just processed: From the Report menu, select Save report as PDF. The Save report as PDF window appears showing the file directory. Indicated the file name and location where you want to save. Click the save button.
    5. To run the Third Party Hash for the last file just processed: Do not change the hash algorithm that was in effect when you processed the file. From the File menu, select Third Party. A command prompt window appears. Wait until the third-party hash utility finishes.
2. After completing one group of files for a specific software and hash type, exist Hash Master and repeat the process for all files for each software and Hash Type from the beginning.

**D. Compare Hash Code files**

1. Generate a paper report from Hash Master for each computer, hash type, and group of files. Staple each report to the Hash Code spreadsheet that corresponds to each group of files.
2. Label each report to identify which computer it was generated from. (i.e. BOSS computer)
3. Compare Hash Code files generated from Hash Master to files located on the Hash Code Spreadsheet. All files should be accounted for and match identically.