

By: Denny, Howard, Uresti, Jones of Dallas

H.B. No. 1549

Substitute the following for H.B. No. 1549:

By: Denny

C.S.H.B. No. 1549

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to changes required in election laws to implement the  
3 federal Help America Vote Act of 2002.

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

5 SECTION 1. Section 13.002, Election Code, is amended by  
6 amending Subsection (c) and adding Subsection (e) to read as  
7 follows:

8 (c) A registration application must include:

9 (1) the applicant's first name, middle name, if any,  
10 last name, and former name, if any;

11 (2) the month, day, and year of the applicant's birth;

12 (3) a statement that the applicant is a United States  
13 citizen;

14 (4) a statement that the applicant is a resident of the  
15 county;

16 (5) a statement that the applicant has not been  
17 determined mentally incompetent by a final judgment of a court;

18 (6) a statement that the applicant has not been  
19 finally convicted of a felony or that the applicant is a felon  
20 eligible for registration under Section 13.001;

21 (7) the applicant's residence address or, if the  
22 residence has no address, the address at which the applicant  
23 receives mail and a concise description of the location of the  
24 applicant's residence;

1           (8) the following information identifying the  
2 applicant:

3                   (A) the applicant's Texas driver's license number  
4 or the number of a personal identification card issued by the  
5 Department of Public Safety;

6                   (B) if the applicant has not been issued a number  
7 described by Paragraph (A), the last four digits of the applicant's  
8 social security number; or

9                   (C) if the applicant has not been issued a number  
10 described by Paragraph (A) or (B), another means of identification  
11 as prescribed by the secretary of state;

12           (9) if the application is made by an agent, a statement  
13 of the agent's relationship to the applicant; and

14           (10) [~~(9)~~] the city and county in which the applicant  
15 formerly resided.

16           (e) Along with a registration application, an applicant may  
17 provide a copy of a document described by Section 63.0101 that  
18 establishes the applicant's identity.

19           SECTION 2. Section 13.121(a), Election Code, is amended to  
20 read as follows:

21           (a) The officially prescribed application form for  
22 registration by mail must be in the form of a business reply  
23 postcard, unless another form or system is used under Subsection  
24 (b), with postage paid by the state. [~~The form may not be larger~~  
25 ~~than the form in use immediately prior to January 1, 1986.~~] The  
26 secretary of state shall design the form to enhance the legibility  
27 of its contents.

1 SECTION 3. Section 13.122, Election Code, is amended by  
2 amending Subsection (a) and by adding Subsection (d) to read as  
3 follows:

4 (a) In addition to the other statements and spaces for  
5 entering information that appear on an officially prescribed  
6 registration application form, each official form must include:

7 (1) the statement: "I understand that giving false  
8 information to procure a voter registration is perjury and a crime  
9 under state and federal law.";

10 (2) a space for the applicant's registration number;

11 (3) a space for the applicant's Texas driver's license  
12 number or number of a personal identification card issued by the  
13 Department of Public Safety;

14 (4) a space for the applicant's telephone number;

15 (5) a space for the applicant's social security  
16 number;

17 (6) a space for the applicant's sex;

18 (7) a statement indicating that the furnishing of the  
19 applicant's [~~driver's license number, personal identification card~~  
20 ~~number,~~] telephone number[~~, social security number,~~] and sex is  
21 optional;

22 (8) a space or box for indicating whether the  
23 applicant or voter is submitting new registration information or a  
24 change in current registration information;

25 (9) a statement instructing a voter who is using the  
26 form to make a change in current registration information to enter  
27 the voter's name and the changed information in the appropriate

1 spaces on the form;

2 (10) a statement that if the applicant declines to  
3 register to vote, that fact will remain confidential and will be  
4 used only for voter registration purposes;

5 (11) a statement that if the applicant does register  
6 to vote, information regarding the agency or office to which the  
7 application is submitted will remain confidential and will be used  
8 only for voter registration purposes; and

9 (12) any other voter registration information  
10 required by federal law or considered appropriate and required by  
11 the secretary of state.

12 (d) The secretary of state shall prescribe procedures to  
13 inform an applicant who applies for registration by mail of the  
14 requirement that before voting for the first time in an election for  
15 federal office an applicant must provide a copy of a document  
16 described by Section 63.0101 that establishes the applicant's  
17 identity. The procedures must include providing an instructional  
18 sheet to be distributed with the official registration application  
19 form describing the requirement and a method by which an applicant  
20 may submit the document along with the official registration  
21 application form. This subsection expires on the earlier of:

22 (1) January 1, 2006; or

23 (2) the date the secretary of state certifies that the  
24 statewide computerized voter registration list has been  
25 implemented.

26 SECTION 4. Section 18.005(a), Election Code, is amended to  
27 read as follows:

1 (a) Each original and supplemental list of registered  
2 voters must:

3 (1) contain the voter's name, residence address, date  
4 of birth, and registration number as provided by the statewide  
5 computerized voter registration list;

6 (2) be arranged alphabetically by voter name; ~~and~~

7 (3) contain the notation required by Section 15.111;  
8 and

9 (4) until Section 13.122(d) expires, identify each  
10 voter registered by mail for the first time who failed to provide a  
11 copy of a document described by Section 63.0101 establishing the  
12 voter's identity at the time of registration.

13 SECTION 5. Effective January 1, 2006, the heading to  
14 Subchapter C, Chapter 18, Election Code, is amended to read as  
15 follows:

16 SUBCHAPTER C. STATEWIDE VOTER REGISTRATION LIST [~~REGISTRATION~~  
17 ~~SERVICE PROGRAM~~]

18 SECTION 6. Effective January 1, 2006, Section 18.061,  
19 Election Code, is amended to read as follows:

20 Sec. 18.061. STATEWIDE COMPUTERIZED VOTER REGISTRATION  
21 LIST [~~REGISTRATION SERVICE PROGRAM AUTHORIZED~~]. (a) The secretary  
22 of state shall [~~may~~] implement and maintain a statewide  
23 computerized voter registration list that serves as the single  
24 system for storing and managing the official list of registered  
25 voters in the state [~~registration service program to assist~~  
26 ~~registrars in maintaining accurate lists of registered voters~~].

27 (b) The statewide computerized voter registration list [A

1 ~~service program] must [include]:~~

2 (1) contain the name and registration information of  
3 each voter registered in the state [~~obtaining registration~~  
4 ~~information from registrars and other available sources for a~~  
5 ~~master file on registered voters];~~

6 (2) assign a unique identifier to each registered  
7 voter [~~periodically obtaining information from registrars and~~  
8 ~~other available sources for the following purposes:~~

9 [~~(A) to aid in determining the proper status of~~  
10 ~~voters on the lists of registered voters; and~~

11 [~~(B) to aid in ascertaining the proper~~  
12 ~~registration information for each registered voter]; and~~

13 (3) be available to any election official in the state  
14 through immediate electronic access [~~furnishing information that~~  
15 ~~may be useful to the registrars in the performance of their official~~  
16 ~~duties].~~

17 (c) Under procedures prescribed by the secretary of state,  
18 each voter registrar shall provide to the secretary of state on an  
19 expedited basis the information necessary to maintain the  
20 registration list established under Subsection (a). The procedures  
21 shall provide for the electronic submission of the information.

22 [~~The secretary of state may contract with counties to provide them~~  
23 ~~with electronic data services to facilitate the implementation of~~  
24 ~~the registration service program. The secretary shall use funds~~  
25 ~~collected under the contracts to defray expenses incurred in~~  
26 ~~implementing the registration service program.]~~

27 SECTION 7. Effective January 1, 2006, Section 18.064,

1 Election Code, is amended to read as follows:

2       Sec. 18.064. SANCTION FOR NONCOMPLIANCE. If a registrar  
3 fails to substantially comply with Section 15.083 [~~14.025~~], 16.032,  
4 18.042, or 18.061 [~~18.063~~] or with rules adopted by the secretary of  
5 state implementing the statewide computerized voter registration  
6 list [~~registration service program~~], the registrar is not entitled  
7 to receive state funds for financing voter registration in the  
8 county.

9       SECTION 8. Effective January 1, 2006, Section 18.065(a),  
10 Election Code, is amended to read as follows:

11       (a) The secretary of state shall monitor each registrar for  
12 substantial compliance with Sections 15.083 [~~14.025~~], 16.032,  
13 18.042, and 18.061 [~~18.063~~] and with rules implementing the  
14 statewide computerized voter registration list [~~registration~~  
15 ~~service program~~].

16       SECTION 9. Effective January 1, 2006, the heading to  
17 Section 18.066, Election Code, is amended to read as follows:

18       Sec. 18.066. AVAILABILITY OF STATEWIDE COMPUTERIZED VOTER  
19 REGISTRATION LIST [~~MASTER FILE~~] INFORMATION.

20       SECTION 10. Effective January 1, 2006, Section 18.066(a),  
21 Election Code, is amended to read as follows:

22       (a) The secretary of state shall furnish information in the  
23 statewide computerized voter registration list [~~state master file~~]  
24 to any person on request not later than the 15th day after the date  
25 the request is received.

26       SECTION 11. Effective January 1, 2006, the heading to  
27 Section 18.067, Election Code, is amended to read as follows:

1           Sec. 18.067. UNLAWFUL USE OF STATEWIDE COMPUTERIZED VOTER  
2 REGISTRATION LIST [~~MASTER FILE~~] INFORMATION.

3           SECTION 12. Section 19.004, Election Code, is amended by  
4 amending Subsection (a) and adding Subsection (d) to read as  
5 follows:

6           (a) Except as provided by Subsection (d), state [~~State~~]  
7 funds disbursed under this chapter may be used only to defray  
8 expenses of the registrar's office in connection with voter  
9 registration, including additional expenses related to:

10           (1) implementation of the National Voter Registration  
11 Act of 1993 (42 U.S.C. Section 1973gg et seq.); and

12           (2) complying with the weekly updating requirements  
13 prescribed by Section 18.063.

14           (d) If the secretary of state determines that federal  
15 matching funds are available under the federal Help America Vote  
16 Act of 2002, the secretary of state shall certify to the comptroller  
17 the amount of state funds required to qualify for the maximum amount  
18 of federal matching funds. On receipt of the certification, the  
19 comptroller shall deposit from funds otherwise available under this  
20 chapter an amount equal to the certified amount in the election  
21 improvement fund established under Section 31.011.

22           SECTION 13. Chapter 31, Election Code, is amended by adding  
23 Sections 31.010 and 31.011 to read as follows:

24           Sec. 31.010. IMPLEMENTATION OF FEDERAL HELP AMERICA VOTE  
25 ACT. (a) The secretary of state may adopt rules as necessary to  
26 implement the federal Help America Vote Act of 2002.

27           (b) The secretary of state shall adopt rules establishing



1 state-based administrative complaint procedures to remedy  
2 grievances that meet the requirements of Section 402(a) of the  
3 federal Help America Vote Act of 2002.

4 Sec. 31.011. ELECTION IMPROVEMENT FUND. (a) The election  
5 improvement fund is created as a dedicated account in the general  
6 revenue fund and consists of federal funds designated for election  
7 improvement, matching funds from the state or a political  
8 subdivision, and depository interest earned on the assets of the  
9 fund.

10 (b) Money in the fund may be appropriated only to provide  
11 funding for the following purposes:

12 (1) to improve election administration at the state  
13 and local level;

14 (2) to make grants to local governments for the  
15 improvement or replacement of voting systems;

16 (3) to create a single uniform official centralized  
17 interactive voter registration database; and

18 (4) to comply with other election requirements of the  
19 federal government.

20 (c) The fund is exempt from the application of Section  
21 403.095, Government Code.

22 SECTION 14. Section 41.001(a), Election Code, is amended to  
23 read as follows:

24 (a) Except as otherwise provided by this subchapter, each  
25 general or special election in this state shall be held on one of  
26 the following dates:

27 (1) the first Saturday in February;

- 1           (2) the third [~~first~~] Saturday in May;
- 2           (3) the second Saturday in September; or
- 3           (4) the first Tuesday after the first Monday in
- 4 November.

5           SECTION 15. Section 41.0052(a), Election Code, is amended

6 to read as follows:

7           (a) The governing body of a political subdivision other than

8 a county may, not later than December 31, 2004 [~~1999~~], change the

9 date on which it holds its general election for officers to another

10 authorized uniform election date. [~~An election on the new date may~~

11 ~~not be held before 2000.~~]

12           SECTION 16. Section 41.007(b), Election Code, is amended to

13 read as follows:

14           (b) The runoff primary election date is the third [~~second~~]

15 Tuesday in April following the general primary election.

16           SECTION 17. Section 52.008(a), Election Code, is amended to

17 read as follows:

18           (a) The authority responsible for procuring the election

19 supplies shall [~~may~~] have a supply of sample ballots printed.

20           SECTION 18. Section 52.074, Election Code, is amended to

21 read as follows:

22           Sec. 52.074. PROVISIONAL BALLOT [~~STUB~~] FOR CERTAIN VOTERS.

23 [~~(a)~~] The authority responsible for having the official ballot

24 prepared shall have a provisional [~~detached~~] ballot [~~stub~~] prepared

25 in a form approved by the secretary of state [~~as provided by this~~

26 ~~section~~] for use by a voter who executes an affidavit in accordance

27 with Section 63.011 [~~63.010~~].

1           ~~[(b) The ballot stub shall be in a form approved by the~~  
2 ~~secretary of state and must include:~~

3                   ~~[(1) a space for entering the number matching the~~  
4 ~~corresponding ballot number;~~

5                   ~~[(2) spaces for entering the designation of the nature~~  
6 ~~of the election and the date of the election;~~

7                   ~~[(3) the instruction: "Sign ballot stub, enclose in~~  
8 ~~envelope, and give to election officer."; and~~

9                   ~~[(4) a space for the voter's signature.]~~

10           SECTION 19. Section 61.005, Election Code, is amended to  
11 read as follows:

12           Sec. 61.005. SECURITY OF BALLOTS, BALLOT BOXES, ~~[STUBS,~~  
13 AND ENVELOPES. (a) From the time a presiding judge receives the  
14 official ballots for an election until the precinct returns for  
15 that election have been certified, the presiding judge shall take  
16 the precautions necessary to prevent access to the ballots, ballot  
17 boxes, ~~[ballot stubs,~~ and ~~[stub]~~ envelopes used for provisional  
18 ballots in a manner not authorized by law.

19           (b) The ballots, ballot boxes, ~~[ballot stubs,~~ and ~~[stub]~~  
20 envelopes used for provisional ballots at a polling place shall be  
21 in plain view of at least one election officer from the time the  
22 polls open for voting until the precinct returns have been  
23 certified.

24           (c) A presiding election judge commits an offense if the  
25 judge fails to prevent another person from handling a ballot box  
26 containing voters' marked ballots or an envelope containing a  
27 voter's provisional ballot ~~[voters' signed ballot stubs]~~ in an

1 unauthorized manner or from making an unauthorized entry into the  
2 ballot box or envelope. An offense under this subsection is a Class  
3 A misdemeanor.

4 SECTION 20. Subchapter A, Chapter 61, Election Code, is  
5 amended by adding Section 61.012 to read as follows:

6 Sec. 61.012. ACCESS BY PERSONS WITH DISABILITIES. (a) Not  
7 later than January 1, 2006, each polling place must provide at least  
8 one voting station that:

9 (1) complies with Section 504 of the federal  
10 Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its  
11 subsequent amendments and Title II of the federal Americans with  
12 Disabilities Act (42 U.S.C. Section 12131 et seq.) and its  
13 subsequent amendments; and

14 (2) provides a practical and effective means for  
15 voters with physical disabilities to cast a secret ballot.

16 (b) Subsection (a) applies only to a polling place that uses  
17 an electronic voting system unless the secretary of state certifies  
18 that federal law requires the application of Subsection (a) to all  
19 forms of voting at a polling place.

20 SECTION 21. Section 62.006, Election Code, is amended to  
21 read as follows:

22 Sec. 62.006. PLACING BOX [~~AND ENVELOPE~~] FOR DEPOSIT OF  
23 MARKED BALLOTS [~~AND STUBS~~]. The ballot box to be used by the voters  
24 to deposit marked ballots shall be locked. The ballot box and the  
25 box used for the deposit of provisional ballots [~~envelope no. 5~~]  
26 shall be placed where they will be in plain view of the election  
27 officers, watchers, and persons waiting to vote.

1 SECTION 22. Section 62.009(c), Election Code, is amended to  
2 read as follows:

3 (c) The provisional ballots [~~with stubs~~] shall be placed  
4 separately from the regular ballots.

5 SECTION 23. Section 62.011, Election Code, is amended by  
6 amending Subsections (b) and (c) and adding Subsection (d) to read  
7 as follows:

8 (b) The secretary of state shall prescribe the form and  
9 content of the instruction poster. If it is not practical to fit  
10 all of the information required by this section on a single poster,  
11 the secretary of state may provide for the use of two or more  
12 posters to convey the information.

13 (c) The poster must include instructions applicable to the  
14 election on:

- 15 (1) marking and depositing the ballot;  
16 (2) voting for a write-in candidate;  
17 (3) casting a straight-party vote;  
18 (4) casting a provisional ballot;  
19 (5) until the expiration of Section 13.122(d), voting  
20 for the first time by a person who registered by mail; and

21 (6) [~~4~~] securing an additional ballot if the voter's  
22 original ballot is spoiled.

23 (d) The poster must also include the following information:

24 (1) the date of the election and the hours during which  
25 the polling place is open;

26 (2) general information on voting rights under state  
27 and federal laws, including information on the right of an

1 individual to cast a provisional ballot and the individuals to  
2 contact if a person believes these rights have been violated; and  
3 (3) general information on state and federal laws that  
4 prohibit acts of fraud or misrepresentation.

5 SECTION 24. Section 62.012, Election Code, is amended to  
6 read as follows:

7 Sec. 62.012. POSTING SAMPLE BALLOT. An [~~If sample ballots~~  
8 ~~are provided for a polling place, an~~] election officer shall post a  
9 sample ballot in one or more locations in the polling place where it  
10 can be read by persons waiting to vote.

11 SECTION 25. Section 63.008, Election Code, is amended to  
12 read as follows:

13 Sec. 63.008. VOTER WITHOUT CERTIFICATE WHO IS ON LIST. (a)  
14 A voter who does not present a voter registration certificate when  
15 offering to vote, but whose name is on the list of registered voters  
16 for the precinct in which the voter is offering to vote, shall be  
17 accepted for voting if the voter executes an affidavit stating that  
18 the voter does not have the voter's voter registration certificate  
19 in the voter's possession at the polling place at the time of  
20 offering to vote and[+

21 [~~(1)~~] the voter presents proof of identification in a  
22 form described by Section 63.0101[~~, or~~

23 [~~(2) the affidavit is also signed by a person who is~~  
24 ~~working at the polling place and who attests to the identity of the~~  
25 ~~voter].~~

26 (b) If the requirements prescribed by Subsection (a) are not  
27 met, the voter may [~~not~~] be accepted for provisional voting only

1 under Section 63.011~~[, and an election officer shall indicate~~  
2 ~~beside the voter's name on the list of registered voters that the~~  
3 ~~voter was rejected under this section]~~.

4 SECTION 26. Section 63.009, Election Code, is amended to  
5 read as follows:

6 Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST.

7 (a) Except as provided by Subsection (b), a voter who does not  
8 present a voter registration certificate when offering to vote, and  
9 whose name is not on the list of registered voters for the precinct  
10 in which the voter is offering to vote, shall be accepted for  
11 provisional voting ~~[if the voter presents proof of identification~~  
12 ~~and executes an affidavit]~~ in accordance with Section 63.011  
13 ~~[63.010]~~.

14 (b) If an election officer can determine from the voter  
15 registrar that the person is a registered voter of the county, the  
16 affidavits required by Sections 63.007 and 63.008 are substituted  
17 for the affidavit required by Section 63.011 ~~[63.010]~~ in complying  
18 with that section. After the voter is accepted under this  
19 subsection, an election officer shall also indicate beside the  
20 voter's name on the poll list that the voter was accepted under this  
21 section.

22 SECTION 27. Section 63.0101, Election Code, is amended to  
23 read as follows:

24 Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION.

25 The following documentation is acceptable as proof of  
26 identification under this chapter:

- 27 (1) a driver's license or personal identification card

1 issued to the person by the Department of Public Safety or a similar  
2 document issued to the person by an agency of another state,  
3 regardless of whether the license or card has expired;

4 (2) a form of identification containing the person's  
5 photograph that establishes the person's identity;

6 (3) a birth certificate or other document confirming  
7 birth that is admissible in a court of law and establishes the  
8 person's identity;

9 (4) United States citizenship papers issued to the  
10 person;

11 (5) a United States passport issued to the person;

12 (6) ~~[pre-printed checks containing the person's name  
13 that are issued for a financial institution doing business in this  
14 state,~~

15 ~~[(7)]~~ official mail addressed to the person by name  
16 from a governmental entity;

17 (7) a copy of a current utility bill, bank statement,  
18 government check, paycheck, or other government document that shows  
19 the name and address of the voter ~~[(8) two other forms of  
20 identification that establish the person's identity];~~ or

21 (8) ~~[(9)]~~ any other form of identification prescribed  
22 by the secretary of state.

23 SECTION 28. Chapter 63, Election Code, is amended by adding  
24 Section 63.011 to read as follows:

25 Sec. 63.011. PROVISIONAL VOTING. (a) A person to whom  
26 Section 63.008(b) or 63.009(a) applies may cast a provisional  
27 ballot if the person executes an affidavit stating that the person:



1           (1) is a registered voter in the precinct in which the  
2 person seeks to vote; and

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

4           (b) A form for the affidavit shall be printed on an envelope  
5 in which the provisional ballot voted by the person may be placed  
6 and must include a space for entering the identification number of  
7 the provisional ballot voted by the person. The affidavit form may  
8 include space for disclosure of any necessary information to enable  
9 the person to register to vote under Chapter 13. The secretary of  
10 state shall prescribe the form of the affidavit under this section.

11           (c) After executing the affidavit, the person shall be given  
12 a provisional ballot for the election. An election officer shall  
13 record the number of the ballot on the space provided on the  
14 affidavit.

15           (d) An election officer shall enter "provisional vote" on  
16 the poll list beside the name of each voter who is accepted for  
17 voting under this section.

18           SECTION 29. Section 63.012(a), Election Code, is amended to  
19 read as follows:

20           (a) An election officer commits an offense if the officer  
21 knowingly:

22           (1) permits an ineligible voter to vote other than as  
23 provided by Section 63.011 [~~without having been challenged~~]; or

24           (2) refuses to accept a person for voting whose  
25 acceptance is required by this code.

26           SECTION 30. Section 64.001, Election Code, is amended to  
27 read as follows:

1           Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT[~~;~~ ~~DEPOSIT~~  
2 ~~OF STUB~~]. (a) After a voter is accepted for voting, the voter shall  
3 select a ballot, go to a voting station, and prepare the ballot[~~;~~  
4 ~~except as provided by Subsection (b)~~].

5           (b) A voter who executes an affidavit in accordance with  
6 Section 63.011 [~~63.010~~] shall select a provisional ballot [~~with a~~  
7 ~~stub and, before going to a voting station:~~

8                   ~~[(1) unclip the stub and envelope from the ballot;~~

9                   ~~[(2) sign the stub and enclose it in the envelope; and~~

10                   ~~[(3) seal the envelope and give it to an election~~  
11 ~~officer.~~

12           ~~[(c) The election officer shall deposit the ballot stub~~  
13 ~~enclosed in its envelope in envelope no. 5].~~

14           SECTION 31. Section 64.008, Election Code, is amended to  
15 read as follows:

16           Sec. 64.008. DEPOSITING BALLOT. (a) Except as provided by  
17 Subsection (b), after [~~After~~] a voter has marked the ballot, the  
18 voter shall fold the ballot to conceal the way it is marked but to  
19 expose the presiding judge's signature, and shall deposit it in the  
20 ballot box used for the deposit of marked ballots.

21           (b) After a voter has marked a provisional ballot, the  
22 voter shall enclose the ballot in the envelope on which the voter's  
23 executed affidavit is printed. The person shall seal the envelope  
24 and deposit it in a box available for the deposit of provisional  
25 ballots.

26           (c) At the time a person casts a provisional ballot under  
27 Subsection (b), an election officer shall give the person written

1 information describing how the person may use the free access  
2 system established under Section 65.059 to obtain information on  
3 the disposition of the person's vote.

4 SECTION 32. Subchapter A, Chapter 64, Election Code, is  
5 amended by adding Section 64.0081 to read as follows:

6 Sec. 64.0081. DEPOSIT OF CERTAIN BALLOTS. (a) The  
7 presiding judge shall provide a separate ballot box to be used for  
8 depositing marked ballots of a voter who is permitted, under a state  
9 or federal court order, to cast a ballot in an election for a  
10 federal office after the time allowed by Subchapter B, Chapter 41.

11 (b) The early voting ballot board shall count ballots  
12 described by Subsection (a) with accepted provisional ballots under  
13 Section 65.057.

14 SECTION 33. Sections 65.001-65.015, Election Code, are  
15 designated as Subchapter A, Chapter 65, Election Code, and a  
16 heading is added to that subchapter to read as follows:

17 SUBCHAPTER A. COUNTING VOTES GENERALLY

18 SECTION 34. Section 65.009, Election Code, is amended by  
19 adding Subsection (d) to read as follows:

20 (d) The intent of the voter in marking a ballot may be  
21 determined by:

22 (1) a distinguishing mark adjacent to the name of a  
23 candidate or political party or a voting choice associated with a  
24 proposition;

25 (2) an oval, box, or similar marking clearly drawn  
26 around the name of a candidate or political party or a voting choice  
27 associated with a proposition;

1           (3) a line drawn through:

2                   (A) the names of all candidates in a manner that  
3 indicates a preference for the candidates not marked if the names of  
4 the candidates not marked do not exceed the number of persons that  
5 may be elected to that office;

6                   (B) the name of each political party except one  
7 in a manner that clearly indicates a preference for the political  
8 party not marked; or

9                   (C) a voting choice associated with a proposition  
10 in a manner that clearly indicates a preference for the other voting  
11 choice associated with the proposition; or

12           (4) any other evidence that clearly indicates the  
13 intent of the voter in choosing a candidate or political party or  
14 deciding on a proposition.

15           SECTION 35. Section 65.010(a), Election Code, is amended to  
16 read as follows:

17           (a) The following ballots may not be counted:

18                   (1) a ballot that is not provided to the voter at the  
19 polling place;

20                   (2) two or more ballots that are folded together in a  
21 manner indicating that they were folded together when deposited in  
22 the ballot box;

23                   (3) a write-in envelope containing a write-in vote  
24 without an attached ballot;

25                   (4) a ballot that has not been deposited in the ballot  
26 box used for the deposit of marked ballots; or

27                   (5) a provisional ballot that is not accepted under

1 Subchapter B [~~with an unsigned stub~~].

2 SECTION 36. Chapter 65, Election Code, is amended by adding  
3 Subchapter B to read as follows:

4 SUBCHAPTER B. VERIFICATION AND COUNTING OF PROVISIONAL BALLOTS

5 Sec. 65.051. DUTY OF EARLY VOTING BALLOT BOARD. (a) The  
6 early voting ballot board shall verify and count provisional  
7 ballots as provided by this subchapter not later than the seventh  
8 day after the date of an election.

9 (b) Except as provided by this subchapter, the conduct of  
10 the board is governed by the same procedures as are provided by  
11 Chapter 87.

12 Sec. 65.052. DUTY OF VOTER REGISTRAR. The secretary of  
13 state shall prescribe procedures by which the voter registrar of  
14 the county in which a provisional ballot is cast shall provide  
15 assistance to the early voting ballot board in executing its  
16 authority under this subchapter.

17 Sec. 65.053. DELIVERY OF PROVISIONAL BALLOTS. The  
18 presiding judge of an election precinct shall deliver in person to a  
19 member of the early voting ballot board the box containing each  
20 envelope containing a provisional ballot that was cast in the  
21 precinct.

22 Sec. 65.054. ACCEPTING PROVISIONAL BALLOT. (a) The early  
23 voting ballot board shall examine each affidavit executed under  
24 Section 63.011 and determine whether to accept the provisional  
25 ballot of the voter who executed the affidavit.

26 (b) A provisional ballot may be accepted only if the board  
27 determines that, from the information in the affidavit or contained

1 in public records, the person is eligible to vote in the election.

2 (c) If a provisional ballot is accepted, the board shall  
3 enter the voter's name on a list of voters whose provisional ballots  
4 are accepted.

5 (d) If a provisional ballot is rejected, the board shall  
6 indicate the rejection by marking "rejected" on the envelope  
7 containing the provisional ballot.

8 Sec. 65.055. DISPOSITION OF ACCEPTED PROVISIONAL BALLOT AND  
9 AFFIDAVIT. (a) The early voting ballot board shall open each  
10 envelope containing an accepted provisional ballot without  
11 defacing the affidavit located on the outside of the envelope and  
12 shall remove the ballot.

13 (b) The board shall place the ballot in a ballot box  
14 containing all the provisional ballots accepted for voting in the  
15 election.

16 (c) For each accepted provisional ballot, the board shall  
17 place the corresponding envelope on which is printed the voter's  
18 affidavit executed under Section 63.011 in a sealed envelope and  
19 shall deliver the envelope to the general custodian of election  
20 records, to be retained for the period for preserving precinct  
21 election returns.

22 Sec. 65.056. DISPOSITION OF REJECTED PROVISIONAL BALLOT.

23 (a) If the affidavit on the envelope of a rejected provisional  
24 ballot contains the information necessary to enable the person to  
25 register to vote under Chapter 13, the early voting ballot board  
26 shall send a copy of the affidavit to the voter registrar. On  
27 receipt, the voter registrar shall treat the copy as an application

1 for registration under Chapter 13.

2 (b) The early voting ballot board shall place the envelopes  
3 containing rejected provisional ballots in an envelope and shall  
4 seal the envelope. More than one envelope may be used if necessary.

5 (c) The envelope for the rejected provisional ballots must  
6 indicate the date and identity of the election, be labeled  
7 "rejected provisional ballots," and be signed by the board's  
8 presiding judge.

9 (d) A board member shall deliver the envelope containing the  
10 rejected provisional ballots to the general custodian of election  
11 records to be preserved for the period for preserving the precinct  
12 election records. The envelope may not be placed in the box  
13 containing the accepted provisional ballots.

14 Sec. 65.057. PROCESSING ACCEPTED PROVISIONAL BALLOTS. (a)  
15 The early voting ballot board shall count accepted provisional  
16 ballots as follows:

17 (1) for ballots to be counted manually, in the manner  
18 provided by Subchapter D, Chapter 87;

19 (2) for ballots to be counted by automatic tabulating  
20 equipment at a central counting station, in the manner provided by  
21 Subchapter F, Chapter 87; and

22 (3) for ballots to be counted by any other means, in  
23 the manner provided by rules adopted by the secretary of state.

24 (b) The board shall also include in the count of accepted  
25 provisional ballots any ballots described by Section 64.0081.

26 (c) On counting the ballots under this section, the board  
27 shall report the results to the local canvassing authority for the

1 election.

2 Sec. 65.058. PRESERVATION OF PROVISIONAL VOTING RECORDS  
3 GENERALLY. The returns of provisional ballots that are accepted,  
4 the accepted ballots, and other provisional voting records shall be  
5 preserved after the election in the same manner as the  
6 corresponding precinct election returns.

7 Sec. 65.059. NOTICE TO PROVISIONAL VOTER. The early voting  
8 ballot board shall implement a system, under rules adopted by the  
9 secretary of state, to allow a person who casts a provisional ballot  
10 under Section 63.011 to obtain access free of charge to information  
11 on the disposition of the person's ballot. The system:

12 (1) must allow the person to determine whether the  
13 person's ballot was counted, and, if the person's ballot was not  
14 accepted, must indicate the reason why;

15 (2) must provide the information only to the person  
16 who cast the provisional ballot; and

17 (3) may involve the use of a toll-free telephone  
18 number or the Internet.

19 SECTION 37. Section 66.003, Election Code, is amended to  
20 read as follows:

21 Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS. (a)  
22 Four [~~Five~~] envelopes shall be furnished to each polling place for  
23 use in assembling and distributing the precinct election records.

24 (b) The envelopes shall be labeled and addressed as follows:

25 (1) "Envelope No. 1," addressed to the presiding  
26 officer of the local canvassing authority;

27 (2) "Envelope No. 2," addressed to the general



1 custodian of election records;

2 (3) "Envelope No. 3," addressed to the presiding  
3 judge; and

4 (4) "Envelope No. 4," addressed to the voter  
5 registrar [~~and~~

6 [~~(5) "Envelope No. 5," addressed to the general  
7 custodian of election records~~].

8 SECTION 38. Section 66.021(b), Election Code, is amended to  
9 read as follows:

10 (b) The judge shall seal envelopes no. 1, no. 2, and no. 4 [~~and no. 5~~]  
11 and lock ballot boxes no. 3 and no. 4 as soon as they are  
12 ready for distribution.

13 SECTION 39. Section 66.0241, Election Code, is amended to  
14 read as follows:

15 Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4  
16 must contain:

17 (1) the precinct list of registered voters;

18 (2) the registration correction list;

19 (3) the registration omissions list;

20 (4) any statements of residence executed under Section  
21 63.0011; and

22 (5) any affidavits executed under Section 63.007 or  
23 63.011 [~~63.010~~].

24 SECTION 40. Section 66.051(b), Election Code, is amended to  
25 read as follows:

26 (b) The presiding judge shall deliver envelope no. 2,  
27 [~~envelope no. 5,~~] ballot box no. 3, and ballot box no. 4 and its key

1 in person to the general custodian of election records.

2 SECTION 41. Sections 66.058(b), (c), and (d), Election  
3 Code, are amended to read as follows:

4 (b) The voted ballots [~~and ballot stubs~~] shall be preserved  
5 securely in a locked room in the locked ballot box [~~or sealed~~  
6 ~~envelope, as applicable,~~] in which they are delivered to the  
7 general custodian of election records. Except as permitted by this  
8 code, a ballot box containing voted ballots [~~or an envelope~~  
9 ~~containing ballot stubs~~] may not be opened during the preservation  
10 period.

11 (c) If during the preservation period an authorized entry is  
12 made into a ballot box containing voted ballots [~~or an envelope~~  
13 ~~containing ballot stubs~~], when the purpose for the entry is  
14 fulfilled, the box [~~or envelope~~] shall be relocked [~~or resealed, as~~  
15 ~~applicable~~], and the box and key [~~or envelope~~] returned to the  
16 custodian.

17 (d) A custodian of a ballot box containing voted ballots [~~or~~  
18 ~~an envelope containing ballot stubs~~] commits an offense if, during  
19 the preservation period prescribed by Subsection (a), the  
20 custodian:

21 (1) makes an unauthorized entry into the box [~~or~~  
22 ~~envelope~~]; or

23 (2) fails to prevent another person from handling the  
24 box [~~or envelope~~] in an unauthorized manner or from making an  
25 unauthorized entry into the box [~~or envelope~~].

26 SECTION 42. Section 66.059, Election Code, is amended to  
27 read as follows:

1           Sec. 66.059. RETRIEVING       ERRONEOUSLY       PLACED       ELECTION  
2 RECORDS. (a) On written application by the presiding officer of  
3 the local canvassing authority or the presiding judge of the  
4 election precinct, a district judge of the county in which a ballot  
5 box containing voted ballots [~~or an envelope containing ballot~~  
6 ~~stubs~~] is in custody may order the box [~~or envelope~~] opened to  
7 retrieve an election record that was erroneously placed in the box  
8 [~~or envelope~~].

9           (b) The district judge shall post a notice of the date,  
10 hour, and place for opening the box [~~or envelope~~] on the bulletin  
11 board used for posting notices of the meetings of the governing body  
12 of the political subdivision served by the general custodian of  
13 election records. The notice must remain posted continuously for  
14 the 24 hours immediately preceding the hour set for opening the box  
15 [~~or envelope~~].

16           (c) Any interested person may observe the opening of the box  
17 [~~or envelope~~].

18           (d) The district judge shall issue the orders necessary to  
19 safeguard the contents of a ballot box [~~or envelope~~] opened under  
20 this section.

21           SECTION 43. Section 67.003, Election Code, is amended to  
22 read as follows:

23           Sec. 67.003. TIME FOR LOCAL CANVASS. Each local canvassing  
24 authority shall convene to conduct the local canvass at the time set  
25 by the canvassing authority's presiding officer:

26                 (1) on the eighth [~~seventh~~] day after election day for  
27 the general election for state and county officers; or

1           (2) not earlier than the eighth [~~third~~] day or later  
2 than the 11th [~~sixth~~] day after election day for an election other  
3 than the general election for state and county officers.

4           SECTION 44. Section 86.002, Election Code, is amended by  
5 adding Subsection (f) to read as follows:

6           (f) For an election for a federal office, if the list of  
7 registered voters indicates that the voter did not provide a copy of  
8 a document described by Section 63.0101 establishing the voter's  
9 identity at the time of initial registration by mail, the clerk  
10 shall provide with the balloting materials notice to the voter that  
11 the voter must provide a copy of a document described by Section  
12 63.0101 establishing the voter's identity when returning the  
13 ballot. The secretary of state shall prescribe the form of the  
14 notice. This subsection expires on the earlier of:

15                 (1) January 1, 2006; or

16                 (2) the date the secretary of state certifies that the  
17 statewide computerized voter registration list has been  
18 implemented.

19           SECTION 45. Section 86.005, Election Code, is amended by  
20 adding Subsection (f) to read as follows:

21           (f) If the voter is required to provide a copy of a document  
22 described by Section 63.0101 establishing the voter's identity, the  
23 voter shall include the copy in the official carrier envelope. This  
24 subsection expires on the expiration of Section 86.002(f).

25           SECTION 46. Subchapter C, Chapter 87, Election Code, is  
26 amended by adding Section 87.0411 to read as follows:

27           Sec. 87.0411. ACCEPTANCE OF NEW VOTER IN ELECTION FOR

1 FEDERAL OFFICE. (a) A ballot for which notice was provided under  
2 Section 86.002(f) may be accepted only if:

3 (1) the voter provided the required documentation of  
4 the voter's identity; or

5 (2) the early voting ballot board determines that the  
6 person is eligible to vote.

7 (b) This section expires on the expiration of Section  
8 86.002(f).

9 SECTION 47. Section 101.005(c), Election Code, is amended  
10 to read as follows:

11 (c) An application shall be treated as if it requests a  
12 ballot for:

13 (1) a runoff election that results from an election  
14 for which a ballot is requested; and

15 (2) each election for a federal office, including a  
16 primary or runoff election, that occurs on or before the date of the  
17 second general election for state and county officers that occurs  
18 after the date the application is submitted.

19 SECTION 48. Section 101.006(a), Election Code, is amended  
20 to read as follows:

21 (a) The submission of a federal postcard application that  
22 complies with the applicable requirements by an unregistered  
23 applicant constitutes registration by the applicant only for the  
24 purpose of voting in the election for which a ballot is requested  
25 and each election for a federal office that occurs on or before the  
26 date of the second general election for state and county officers  
27 that occurs after the date the application is submitted.

1 SECTION 49. Chapter 101, Election Code, is amended by  
2 adding Section 101.013 to read as follows:

3 Sec. 101.013. DESIGNATION OF SECRETARY OF STATE. The  
4 secretary of state is designated as the state office to provide  
5 information regarding voter registration procedures and absentee  
6 ballot procedures, including procedures related to the federal  
7 write-in absentee ballot, to be used by persons eligible to vote  
8 under the federal Uniformed and Overseas Citizens Absentee Voting  
9 Act (42 U.S.C. Section 1973ff et seq.), as amended.

10 SECTION 50. Section 122.001, Election Code, is amended by  
11 amending Subsection (a) and adding Subsections (d) and (e) to read  
12 as follows:

13 (a) A voting system may not be used in an election unless the  
14 system:

15 (1) preserves the secrecy of the ballot;

16 (2) is suitable for the purpose for which it is  
17 intended;

18 (3) operates safely, efficiently, and accurately and  
19 complies with the error rate standards of the voting system  
20 standards adopted by the Federal Election Commission;

21 (4) is safe from fraudulent or unauthorized  
22 manipulation;

23 (5) permits voting on all offices and measures to be  
24 voted on at the election;

25 (6) prevents counting votes on offices and measures on  
26 which the voter is not entitled to vote;

27 (7) prevents counting votes by the same voter for more

1 than one candidate for the same office or, in elections in which a  
2 voter is entitled to vote for more than one candidate for the same  
3 office, prevents counting votes for more than the number of  
4 candidates for which the voter is entitled to vote;

5 (8) prevents counting a vote on the same office or  
6 measure more than once;

7 (9) permits write-in voting;

8 (10) is capable of permitting straight-party voting;

9 and

10 (11) is capable of providing records from which the  
11 operation of the voting system may be audited.

12 (d) Effective January 1, 2006, a voting system may not be  
13 used in an election if the system uses:

14 (1) mechanical voting machines; or

15 (2) a punch-card ballot or similar form of tabulating  
16 card.

17 (e) For an election for federal office in which a state or  
18 federal court order has extended the time for voting beyond the time  
19 allowed by Subchapter B, Chapter 41, a voting system must provide a  
20 separate count of the votes cast after the time allowed by that  
21 subchapter.

22 SECTION 51. Section 124.006, Election Code, is amended to  
23 read as follows:

24 Sec. 124.006. IMPLEMENTATION OF PROVISIONAL BALLOT [~~STUB~~]  
25 SYSTEM. The secretary of state shall prescribe the form of a  
26 provisional ballot [~~stub and ballot for use with a stub~~] and the  
27 necessary procedures to implement the casting of a provisional

1 ballot as described by Section 63.011 and the verification and  
2 processing of provisional ballots under Subchapter B, Chapter 65,  
3 for [ballot stub system prescribed by Section 52.074 for use with]  
4 each voting system used in this state.

5 SECTION 52. Section 127.130, Election Code, is amended by  
6 adding Subsection (c-1) to read as follows:

7 (c-1) In any manual count conducted under this code, an  
8 irregularly marked vote on a ballot on which a voter indicates a  
9 vote by making a mark on the ballot is considered in the same manner  
10 as provided by Section 65.009.

11 SECTION 53. Section 172.116(b), Election Code, is amended  
12 to read as follows:

13 (b) The committee shall convene to conduct the local canvass  
14 at the county seat not earlier than 6 p.m. on the second [~~first~~]  
15 Thursday or later than 1 p.m. on the second [~~first~~] Friday after  
16 election day at the hour specified by the county chair.

17 SECTION 54. Sections 203.012(a) and (b), Election Code, are  
18 amended to read as follows:

19 (a) The commissioners court shall convene to conduct the  
20 local canvass not later than the 10th [~~third~~] day after election  
21 day.

22 (b) The governor shall conduct the state canvass not later  
23 than the 14th [~~seventh~~] day after election day.

24 SECTION 55. Section 213.007(a), Election Code, is amended  
25 to read as follows:

26 (a) On presentation by a recount committee chair of a  
27 written order signed by the recount supervisor, the custodian of



1 voted ballots, voting machines or test materials or programs used  
2 in counting electronic voting system ballots shall make the  
3 ballots, machines, or materials or programs, including the records  
4 from which the operation of the voting system may be audited,  
5 available to the committee.

6 SECTION 56. Section 221.008, Election Code, is amended to  
7 read as follows:

8 Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.

9 A tribunal hearing an election contest may cause secured ballot  
10 boxes, [~~envelopes,~~] voting machines, voting devices, or other  
11 equipment used in the election to be unsecured to determine the  
12 correct vote count or any other fact that the tribunal considers  
13 pertinent to a fair and just disposition of the contest.

14 SECTION 57. Sections 273.041, 273.042, and 273.043,  
15 Election Code, are amended to read as follows:

16 Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the  
17 investigation of criminal conduct in connection with an election, a  
18 grand jury, on finding probable cause to believe an offense was  
19 committed, may request a district judge of the county served by the  
20 grand jury to order an examination of the voted ballots [~~and the~~  
21 ~~ballot stubs~~] in the election.

22 Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a  
23 grand jury for an examination of voted ballots [~~and ballot stubs~~], a  
24 district judge may order the custodian of the ballots [~~and ballot~~  
25 ~~stubs~~] and the custodian of the keys to the ballot boxes to deliver  
26 the ballot boxes and the [~~7~~] keys[~~, and envelopes~~] to the grand  
27 jury.

1           Sec. 273.043. CONDUCT OF EXAMINATION. The examination of  
2 ballots [~~and ballot stubs~~] under this subchapter shall be conducted  
3 in secret before the grand jury.

4           SECTION 58. (a) Sections 62.0081, 63.010, 65.005(d),  
5 66.0242, and 66.058(h) and Chapter 88, Election Code, are repealed.

6           (b) Effective January 1, 2006, Sections 18.062, 18.063, and  
7 122.0011, Election Code, are repealed.

8           SECTION 59. This Act takes effect January 1, 2004.