SECTION 5 RECOMMENDATION MEMORANDUM: August 25, 2005

Re: Act No. 53 (H.B. 244)(2005), which amends and provides: definitions of election terms, summaries of proposed constitutional amendments, duties of municipal governing authorities, training requirements for election officials, candidate qualification schedules and procedures, nonpartisan election schedules and procedures, ballot procedures and forms, voter registration procedures, polling places and election equipment, voting method and machines for municipalities, absentee voting procedures, poll watchers, electioneering prohibitions, provisional voting requirements and procedures, voter information at polling places, majority vote requirement, special election procedures, penalties for violation of election code, Uniformed and Overseas Citizens Absentee Voting Act changes, and voter identification requirements.

TIME LIMIT

Submission Received: June 13, 2005
Supplemental Information Received: July 25, 2005
July 28, 2005
August 1, 2005
August 2, 2005
August 22, 2005

Interim Letter Sent: August 2, 2005
Due Out Date: September 30, 2005

FACTUAL INVESTIGATION AND LEGAL REVIEW

By: Robert Berman, Deputy Chief
Amy Zubrensky, Trial Attorney
Heather Moss, Civil Rights Analyst
Joshua Rogers, Trial Attorney
Toby Moore, Geographer/Social Science Analyst

RECOMMENDATION: Objection to Section 59 (supported by Berman, Zubrensky, Moss, and Moore); no objection to remaining changes; 2 no objection to all changes including Section 59 (supported by Rogers).

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2 A complete description and analysis of all changes other than Section 59, which amends the state’s voter identification requirement, are contained in a separate memorandum, and the proposed letter informs state officials that no objection will be interposed to these changes.

EXHIBIT: 28 - A
I. BACKGROUND

A. Demographics and statistics

According to the 2000 Census, the State of Georgia has a total population of 8,186,453, of whom 2,348,626 (28.7%) are black and 5,128,661 (62.6%) are white. The state has a total voting age population of 6,017,219, of whom 1,595,631 (26.5%) are black and 3,925,585 (65.2%) are white. On August 11, 2005, the Census Bureau released its 2004 estimates of a total population for the state of 8,829,383, of whom 2,658,068 (30.1%) were black and 5,936,829 were white.

B. Benchmark standard, practice, or procedure

Voters in Georgia may present any one of the following 17 forms of voter identification to establish their eligibility to cast a ballot:

1. Valid Georgia driver’s license;
2. Valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification;
3. Valid United States passport;
4. Valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, the State of Georgia, or any county, municipality, board, authority or other entity of Georgia;
5. Valid employee identification card containing a photograph of the elector issued by any employer of the elector in the ordinary course of business;
6. Valid student identification containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;
7. Valid Georgia license to carry a pistol or revolver;
8. Valid pilot’s license;
9. Military ID;
10. Birth certificate;
11. Social security card;
12. Naturalization documentation;
13. Copy of court records showing adoption, name, or sex change;
14. Utility bill;
15. Bank statement showing name and address of the elector;
16. Government check or payment with name and address of the elector; or
17. Other government document showing name and address of the elector.

An elector who is unable to produce an acceptable form of identification may sign a statement under oath swearing and affirming that he is the person identified on the elector’s voter certificate under penalty of law and may vote a regular ballot, unless he is a first time registrant by mail in which case he may vote a provisional ballot.

To vote absentee, an elector must qualify according to the following list of enumerated acceptable reasons:

- I am required to be absent from my precinct all day on primary or election day (7:00 a.m. to 7:00 p.m.).
- I am unable to vote in person because of a physical disability.
- I am unable to vote in person because I am required to give constant care to someone who is physically disabled.
- I am an election official who will perform official acts or duties in connection with the primary or election.
- I will be unable to be present at the polls because the date of the primary or election falls on a religious holiday which I observe.
- I will be unable to be present at the polls because I am required to be on duty in my place of employment for the protection of the health, life, or safety of the public during the entire time the polls are open and my place of employment is within my precinct.
- I am 75 years of age or older.
- I am a citizen of the United States permanently residing outside the United States, was last domiciled in Georgia, and am not domiciled or voting in any other state.
- I am a member of the Armed Forces or Merchant Marines of the United States, or a spouse or dependent of the member, residing outside the County.

These are the benchmark standards, practices, and procedures for our analysis.

C. Proposed standard, practice, or procedure

Act No. 53 (H.B. 244)(2005) amends portions of state’s election code. The Act contains numerous changes that are not controversial and do not raise retrogression concerns. Controversy centered on Section 59, which amends Ga. Code Ann. § 21-2-417 regarding the state’s voter identification requirement.

The proposed practice eliminates twelve forms of identification accepted under the benchmark practice and adds one new form, resulting in the six following forms of acceptable identification:

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2 Under the benchmark practice, falsely swearing or affirming such a statement under oath is punishable as a felony. This penalty is distinctly set form on the face of the statement. Additional penalties may apply (e.g., repeat voting in the same election, a violation of Ga. Code Ann. § 21-2-572, is punishable as a felony).
(1) Georgia driver’s license, which was properly issued by the appropriate state agency;

(2) Photographic identification card issued a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification;

(3) United States passport;

(4) A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, Georgia, or any county, municipality, board, authority or other entity of Georgia;

(5) United States military photographic identification card; or

(6) Tribal photographic identification card.

The identification need not contain the elector’s address. The affidavit of identity for electors who cannot produce acceptable photo identification is eliminated. As proposed, a voter who cannot produce an acceptable photo identification may vote a provisional ballot, but must thereafter produce a valid photographic identification to the registrar within 48 hours of the election in order for his vote to be counted.

Section 66 of the bill permits indigent persons who do not otherwise have approved photo identification and cannot afford to pay the fees to obtain such identification to receive one free of charge from the Georgia Department of Public Safety. Section 50 broadens the ability of electors to vote absentee without providing a reason. Absentee voters are not subject to the identification requirement, though “advance” voters who vote in person at clerks’ offices must present photo ID pursuant to these requirements.

Finally, there is a new provision applicable to first time voters who registered by mail and who have not otherwise verified their identification through government issued photographic identification. Such voters shall present to the poll workers one of the six forms of acceptable photographic identification listed above, or may present a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector. If the elector does not have any of the acceptable forms of identification, he may vote a provisional ballot upon swearing or affirming that the elector is the person identified in the elector’s voter certificate. Such provisional ballot shall only be counted if the voter is able to produce current and valid identification to the registrar for verification with 48-hours as provided Ga. Code Ann. § 21-2-419.

II. FACTS

A. Information obtained from the submitting authority

The state’s initial submission, received on June 13, 2005, consisted of a nine-page cover letter, copies of Act No. 53 including a “redlined” copy of the Act, charts identifying changes to
and the Section 5 history of each affected provision, a list of minority community contacts, newspaper articles regarding the legislative process, and editorials regarding the Act. The cover letter references the legislature’s website for the legislative history, including previous versions of the bill, proposed amendments, and roll call votes.

In its initial submission, the state indicated that the Act contains a number of provisions designed to clarify provisions of the Georgia Election Code in order to increase the efficiency of the electoral process, especially as it relates to municipal elections in many instances. The state also indicated that the state enacted the voter identification provisions to address legislative concerns regarding voter fraud.

During a June 25, 2005, telephone conversation with Deputy Attorney General Dennis Dunn (W), we requested information regarding the legislative history of the bill, including expert testimony, witness statements, and transcripts or tapes of hearings. The state provided this information on July 25, 2005. Upon our informal request, the state also provided a spreadsheet containing data from the Georgia Department of Driver’s Services (“DDS”) regarding persons holding valid driver’s licenses and state identification cards. We received these data on July 28, August 1, and August 22, 2005. The data are set forth in part II.C.2.

Additionally, Deputy Attorney General Dunn clarified that with regard to implementation of Subpart (c) of Section 59, first-time voters who had provided identification upon registering would be required to show photo identification at the polls, while those first-time voters who had not previously provided identification upon registration would be permitted to show any of the non-photo IDs listed in Subpart (c) (e.g. current utility bill, bank statement, government check, paycheck, or other government document) or a photo ID.

According to the Georgia General Assembly’s website, Representative Sue Burmeister (W) of Augusta sponsored HB 244. Numerous amendments were proposed during the bill’s consideration; a majority of the amendments were proposed by members of the Black Caucus who sought to retain some forms of voter identification that were eliminated by the bill. Senator Kasim Reed (B) also proposed an amendment making the identification requirement effective after the state appropriated funds to educate voters about the proposed identification and registration requirements. All of these proposed amendments failed.

The legislation passed the House on March 11, and the Senate on March 29, 2005. The vote on final passage in the House was 91 yea, 7 nay (with 9 abstaining and 5 excused), and in the Senate was 31 yea, 20 nay (with 2 abstaining and 3 excused). All black legislators with the exception of Representative Willie Talton voted against, abstained or were excused from voting on the bill. Of the three Hispanic legislators in the General Assembly, two, Senator Sam Zamarripa and Representative Pedro Martin, joined with the Black Caucus in opposing the bill. The third Hispanic legislator, Representative David Casas, supported the bill.
B. Information obtained from other sources

1. Proponents and Arguments in Favor of Pre clearance

We received numerous letters from elected officials, both in the state legislature and in other offices, and private individuals expressing their views that the proposed legislation was not retrogressive either in purpose or effect. Many of the letters presented similar points in support of their position; all are set forth at Tab 6A to this memorandum. We have summarized those of state officials above, as well as a representative sample of letters from other supporters.

Representative Burmeister, the sponsor of the legislation, informed Voting Section staff that September 11 caused her to reflect on the case with which the terrorists obtained IDs. She stated that voter fraud is serious but hard to prove because fraud, by its nature, is subversive. She is aware of vote buying in certain precincts, and specifically related an incident in which the former mayor of Augusta, Mayor Ed McEntyre, approached her and offered to put her name on a palm card, pick up voters in a van, and pay them to vote for the candidates on the card, in exchange for $2,000. Rep. Burmeister also read “Stealing Elections” by John Fund and was concerned about how elections could be stolen by such means. Rep. Burmeister said that if there are fewer black voters because of this bill, it will only be because there is less opportunity for fraud. She said that when black voters in her black precincts are not paid to vote, they do not go to the polls. She added the 48-hour provisional ballot allowance so that people who legitimately have identification can vote in response to concerns about voters whose identification is stolen.

Rep. Burmeister also explained the exemption of absentee ballots from the identification requirement. She does not support this but accepted this into the final version because the absentee voting process creates a paper trail which will prevent vote fraud, and will ensure that rural voters can vote even if they cannot make it to a DDS office. Senator Cecil Staton (W), who authored the parallel Senate bill, supports preclearance and provided a letter mirroring the arguments made by Rep. Burmeister.

Susan Laccetti Meyers, Chief Policy Advisor to the Georgia House of Representatives, who worked with Rep. Burmeister in developing the legislation, told us that the Legislature did not conduct any statistical analysis of the effect of the photo ID requirement on minority voters. Instead, they relied on the statistic that more citizens had driver’s licenses than were registered to vote.

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2 Rep. Burmeister stated that the Governor had passed legislation to mandate a DDS office in every county, and that individuals can obtain state IDs in Kroger grocery stores. Neither statement is correct. The Governor’s Office has confirmed that the Georgia General Assembly has passed no legislation mandating a DDS office in every county. The latter statement refers to a program that was discontinued in 2003 whereby the state had operated satellite driver’s license renewal centers in some Kroger stores.
vote, the John Fund book, and other anecdotal information. Members of the leadership noted that citizens need identification for everything these days, so concluded that the requirement did not seem arduous. In addition, Rep. Talton (B) told her that minorities were more vulnerable to having mail, such as bills and checks, stolen from their mailboxes. She said that private-sector employee and student ID cards were eliminated because members felt insecure about private sector controls, and believed that procedures used by government entities would be more reliable. She said that legislators heard testimony from several county election board members about the potential for vote fraud; and also considered the experience of states such as Florida, Wisconsin, and Indiana with voter ID laws, along with the National Conference of State Legislatures list of state voter ID requirements. Ms. Meyers said that opponents simply denied that there was any fraud of which they were aware, but did not present evidence or witnesses to contradict the evidence that proponents brought forth.

Representative Talton (B), who is Chief Deputy Sheriff in the Houston County Sheriff’s Department, supports preclearance. He stated that identity fraud is common, and that officers in Houston County arrest individuals every day with fraudulent driver’s licenses and IDs. He concludes that the law is color blind, and does not unduly burden any race, class, or ethnic group.

We received several comment letters from members and directors of county boards of registrars, including Gary J. Smith, Director of Registrations and Elections of Forsyth County, and Frank Strickland and Harry MacDougald, members of the Fulton County Board of Registrations and Elections. The registrars emphasized that requiring photo ID would diminish the potential for fraud. Each provided the following additional information.

Mr. Smith reviewed the affidavits of identity that had been used by voters who lacked identification at the November 2004 election. In Forsyth County, 37 voters had signed affidavits of identity in lieu of presenting identification. This constituted 0.08 percent of those voting at precincts (i.e., excluding absentee and early voters) in Forsyth County.

Mr. Strickland stated that 2,456 fraudulent voter registration forms were submitted to the Fulton County elections board prior to November 2004. These have been referred to the FBI. Mr. Strickland also stated that he relied on data from the Secretary of State that showed 6,675,100 driver’s licenses and state identification cards issued to Georgians aged 18 or older, and 4,414,663 Georgians registered to vote, as of February 2005. He concluded that these numbers demonstrate that an overwhelming majority of registered voters already have a state-issued ID.

Mr. MacDougald stated that prior to November 2004, Fulton County received 8,112 applications containing “missing or irregular” information. The board sent letters to all 8,112 applicants and received only 55 responses. Mr. MacDougald concluded that all of the remaining applications were “bogus.” He also stated that 15,237 of 105,553 precinct cards mailed to registered voters in the county were returned as undeliverable. In addition, 3,071 precinct cards
mailed to 45,907 new registrants were returned as undeliverable. Of these 3,071 returned cards, 921 persons voted. He concludes that 11,128 total registration applications were either "bogus or problematic in a serious way" and that this crisis will be addressed by requiring photo identification for voter registration.

2. Proponents and Arguments in Favor of Objection

As with those who support the legislation, we received many letters from elected officials, organizations and individuals urging the Attorney General to interpose an objection to the proposed changes. Many of the letters presented similar points which are summarized below, the complete set of letters are set forth at Tab 6B. Opponents of the changes argue that the proposed changes are retrogressive in both purpose and effect based on the following factors: (1) the discrepancy between black and white ownership of photo identification; (2) the discrepancy between black and white access to motor vehicles as a proxy for driver's license ownership; (3) the poverty gap between blacks and whites, which both causes blacks to have less ownership of acceptable photo ID, and creates higher barriers for blacks without ID to obtain it; and (4) the ineffectiveness of the mitigating factors (i.e., no-fault absentee voting and free ID for indigent persons) to counteract the potential retrogressive effects on minority voters.

Representative Stan Watson (B), Chairman of the Georgia Legislative Black Caucus, stated that proponents provided no evidence to support the elimination of each form of identification. They spoke only generally about voter fraud and mail being stolen. He responded that mail is stolen for financial gain (credit card fraud, benefit checks, etc.) and that persons are unlikely to risk being caught by using stolen mail to impersonate a voter. Rep. Watson believes that proponents knew they had a majority and thus made little effort to gain support during the legislative process, and that this bill is an attempt to test Section 5.

Senator Ed Harbison (B) can testify that many of his constituents do not drive or have a non-driver's identification card, though they have types of ID that are eliminated. Senator Harbison stated that the majority would not hear the concerns of the Black Caucus during consideration of the bill, so they staged a walk out of the proceedings, which was reported nationally.6

6 Media accounts reflect that members of the Georgia Legislative Black Caucus expressed outrage at the enactment of the revisions to the photographic identification provisions. African-American and some white Democratic lawmakers staged walkouts in the House and Senate on March 11, 2005, to protest the photo identification requirements that they likened to poll taxes. Nancy Badertscher, Carlos Campos, "ID Debate Heats Up," Atlanta Journal-Constitution, March, 13, 2005. Senator Emmanuel Jones (B) wore shackles to the well of the Senate, and Representative Alisha Thomas Morgan (B) brought shackles to the well of the House to symbolize the bill's potential to restrict the black vote. Mike Phillips, "ID Bill Could Make Georgia Unique in Turn Away Voters," Macon Telegraph, March 19, 2005; Carlos Campos, "Firebrand 'Standing Up': Legislator Makes No
Senator Emanuel Jones (B), a member of the Senate State and Local Government Committee, attended all meetings regarding the bill, and proposed numerous amendments to retain specific forms of identification because there were no justifiable reasons for their elimination. Senator Jones stated that these amendments were voted down without any debate. Senator Jones noted that the Black Caucus requested postponement of implementation of the ID portions until DDS locations are established in every county. Senator Jones stated that this request was dismissed and that he knows of no plan by the Governor to make such expansions.

Senator Robert Brown (B) stated that proponents never specifically addressed the reasoning behind the elimination of each form of ID or the discrepancies between whites and blacks ownership of driver’s licenses and ID cards. Senator Brown can testify that black voters prefer to vote in person rather than absentee. He noted that he has advocated absentee voting within the black community, particularly to the elderly who have always been authorized to vote absentee, but has found that they still prefer to vote in person on election day. Senator Brown asserted that for these reasons, the extended absentee voting period and the addition of “no excuse” absentee voting will not mitigate the retrogression caused by the proposed ID restrictions.

Secretary of State Cathy Cox (W) opposed HB 244 in an April 8, 2005 letter to Governor Perdue, urging him to veto the law, and submitted a letter opposing preclearance. She provided a list of registered voters who lack birth certificates for whom obtaining a photo ID would be particularly difficult. She can also testify to the absence of any complaints of voter fraud via impersonation during her tenure. Secretary Cox stressed that there are DDS offices in only one-third of the counties, none within the City of Atlanta, and that DDS headquarters is not served by any form of public transportation.

The Mayor of Atlanta, Shirley Franklin (B), opposes preclearance, and can testify to the experience of her mother, who recently moved to Atlanta from Philadelphia, in attempting to obtain a Georgia identification card. Her mother went to several DDS offices before finding one that was open. Her expired Pennsylvania identification was rejected as sufficient documentation to obtain a Georgia ID card, and she was told to produce her original birth certificate. Mayor Franklin’s mother has never had a birth certificate, but is currently attempting to obtain an analogous document from North Carolina, where she was born. Mayor Franklin noted that this process would be much more arduous for someone without resources or supportive family in the area. Mayor Franklin believes that even if the intent of the legislation is not to disenfranchise minority voters, it will “inarguably have that result.”


Apologies for Her Convictions,” Atlanta Journal-Constitution, March 24, 2005. Representative Morgan then refused to leave the well of the House after her time to speak expired, instead singing the civil rights anthem, “Ain’t Gonna Let Nobody Turn Me Around.” Id.
A coalition of voting rights organizations provided a letter urging an objection. The coalition states that the photo identification requirements carry a retrogressive racial impact because blacks in Georgia are six times more likely than whites to live below the poverty level, and five times less likely than whites to have access to a motor vehicle than whites. As 103 counties lack a DDS location, these two factors result in disparately less access by blacks than whites to DDS locations. In addition, the limited transportation alternatives for those who lack access to motor vehicles, particularly in rural Georgia, add to the economic burdens related to obtaining an identification card, and remain unchanged even if an indigent citizen qualifies for the free ID. The coalition states that the legislature failed to investigate the racial impact of Act 53, and took no action to mitigate the potential racial impact of the legislation by, for example, providing funds for voter education about the new requirements. Finally, the letter asserts that the stated purpose of the photo identification requirement is pretextual because the purported justification of preventing fraud is undermined by the exemption of absentee ballots from the photo identification requirement.

The NAACP Legal Defense and Educational Fund opposes preclearance of HB 244. In addition to arguments similar to those above, Director-Counsel Theodore Shaw analogizes the identification requirements to "reregistration" and "reidentification" measures that the Department has objected to in the past.

C. Public Source Data

1. Process & Fees to Obtain Driver's License and Identification Cards

The initial submission provided no information regarding DDS locations, hours, fees, or requirements to obtain a photo ID. Our research shows that the Georgia General Assembly created the Department of Driver Services in House Bill 501 (2005) as a successor to the Department of Motor Vehicles. Effective July 1, 2005, Georgia residents can apply for driver's licences and a state-issued photo identification card at one of the state's 56 DDS locations, 53 of which are full service centers and 3 part-time sites. The City of Atlanta has not had a DDS location for the past year, although the Governor's August 6, 2005, press release states that negotiations are underway to lease a new site. DDS customer service centers are open to the public Tuesday through Saturday, from 9:00 am to 5:00 pm. Monday hours have been added for select locations for appointment-only road tests. According to the Governor's August 6, 2005, press release, DDS will also begin to issue photo identification cards at certain designated locations on Mondays. According to DDS Commissioner Greg Dozier, the designated sites are all located in the Atlanta area and are as follows: Shannon Mall, North Cobb, Lawrenceville, and Conyers.

The groups include the Voting Rights Project of the Lawyers' Committee for Civil Rights Under Law, National Voting Rights Institute, National Voting Rights Project of the ACLU, MALDEF, Georgia Association of Black Elected Officials, Georgia Association of Latino Elected Officials, AARP Georgia, and others.
According to Commissioner Dozier, five DDS locations are accessible via public transportation: the South DeKalb, Shannon Mall, and Sandy Springs sites in the Atlanta area are accessible via the Metropolitan Atlanta Rapid Transit Authority (MARTA); the Marietta location is accessible by Cobb Community Transit; and the Norcross location is accessible via Gwinnett County Transit. The remaining 51 sites are accessible only by personal transportation or taxi service.

The Governor recently announced the creation of the Georgia Licensing on Wheels ("GLOW") program. Announced on August 6, 2005, the GLOW program will use a mobile licensing bus to travel the state with the capacity to issue up to 300 photo identification cards per day. The state estimates that if the mobile unit is operational four days per week, the program has the capacity to serve 38,400 persons a year. According to Commissioner Dozier, the bus will be staffed by four DDS employees licensed to operate the ID-issuing equipment.

Commissioner Dozier has stated that the GLOW tours will initially run weekly from Tuesday through Saturday, and may eventually also run on Mondays. DDS is currently mapping out routes and schedules, dividing the state into corridors which the GLOW program will visit based on the following factors: (1) the geographical need based on lack of DDS locations, (2) the population’s need regardless of the presence of a DDS location; (3) requests from citizen groups; (4) geographic accessibility for groups and citizens; and (5) convenient times for groups and citizens. Dozier reported that community groups have already begun contacting DDS to make GLOW tour requests.

No information about the GLOW program is currently posted on the DDS website, though Dozier anticipates posting tour information when the routes are determined. Dozier has identified the first 36 counties to be visited by the GLOW program, starting on August 30, 2005 in Fulton County. The initial schedule and map of counties anticipated to be served by the program is attached at Tab #. DDS will also conduct a public service campaign, focusing on radio announcements and informational pamphlets issued to organizations by request. Dozier states that DDS plans to continue the program indefinitely.

Individuals may also register to vote through the GLOW program while obtaining an ID card. If an individual wants to register to vote, the DDS employee will click “yes” on the computer, and the registration applications will be batched and transmitted to the SOS every night or when the computers are returned to DDS headquarters. Voter registration applications will be transmitted electronically with no additional forms for applicants to complete.

5 Public transportation costs are as follows: Marta round-trip fare is $3.50. Out-of-District Routes, which are routes that travel to Cobb, Clayton, or Gwinnett Counties are an additional $1.50. Seniors citizens, disabled riders and Medicare recipients pay $1.70 round-trip within the district and $2.50 out-of-district. Gwinnett County Transit is $3.50 round-trip ($6 express bus round-trip), $1.70 round-trip for Senior/Youth/Disabled, $7 for paratransit round-trip. Transfers to MARTA trains and buses are free. Cobb Community Transit is $2.50 round-trip for an adult, $1.60 youth round-trip, $1.20 for senior citizens and disabled, and $5 for paratransit round-trip.
According to Commissioner Dozier, 31 DDS customer service centers will offer appointments for those who need an ID for voting purposes beginning in September 2005. Appointments will be reserved for groups, such as senior centers, church groups, and others. It will be the department’s intention to schedule individuals and small groups together to ensure that the allocated appointment times are maximized. There will be a minimum of 3,960 slots per month available for appointments, which would provide the opportunity for 47,520 appointments on an annual basis.

According to the DDS website, first-time applicants for a Georgia driver’s license, learner’s permit, or state identification card must show an acceptable form of identification that indicates the applicant’s full name and date of birth. Acceptable items include: original or certified copy of birth certificate issued by an office of vital records; certified copy of birth registration; certified copy of court records (adoption, name change, or sex change); certified naturalization records; immigration ID card; and valid United States passport. Anyone applying for a Georgia driver’s licence or identification card must provide a Social Security number at the time of issuance. It is not required for an applicant to have their original Social Security card. United States citizens must provide proof of citizenship, in the form of a birth certificate, United States passport, or certificate of citizenship. Non-United States citizens must present proper INS documentation in English or translated into English by an approved translator.

To obtain a certified copy of one’s birth certificate in Georgia, a citizen must provide the following information: full name as shown on birth certificate, date of birth, place of birth, current age, sex, full name of mother (including maiden name), and full name of father to the State Vital Records Office. The requester must also provide a photocopy of a valid photo identification card, such as a driver’s license, state issued photo ID card, or employer issued photo identification. If a person is requesting a birth certificate in order to obtain a photo ID card, and does not already possess the ID required for the request, he or she may present a signed Social Security card as ID based upon the comparison of the signatures from the card and the application. If the requestor has no ID at all, the State Vital Records Office will mail out the certified copy of the birth certificate under the assumption that it will not be delivered by the post office to a location where a person of that name does not live.

According to the Georgia Division of Public Health’s Vital Records website, applicants should allow 10 to 12 weeks to process routine requests for certified copies received by regular mail that do not involve any changes or directions and do not require filing of a new certificate. Requests made by overnight delivery are usually processed within three to five business days of receipt.

Georgia law requires non-refundable pre-payment before a record such as a birth certificate is released.

\[^7\] Some county offices (e.g. Fulton County) will only accept a photo ID and will refer people who lack ID to the State Office in Atlanta. Dunn told us that vital records offices are independently run in each county so we have been unable to ascertain what the practices are in every county within the state.
certificate can be provided. A $10 search fee is required in order to receive one certified copy. Additional certifications of the same record ordered at the same time may be acquired for a $5 fee. A multi-year search requires an additional $10 fee. Records are sent by overnight for an additional fee of $16.81. An additional fee of $9.95 is also charged for credit card payments made through VitalChek. There is no additional charge for payment by certified check or money order. All credit card payments must be made through VitalChek.

Some state residents were born outside of hospitals and were never issued birth certificates. According to the United States Department of Health and Human Services, Centers for Disease Control and Prevention, and the National Center for Health Statistics, over 40 percent of live births in the United States occurred outside of a hospital as late as 1940. Midwifery was not certified in Georgia until the late 1940s. The Lay Midwifery Act of 1955 empowered the Georgia Department of Human Resources (DHR) to set educational requirements and certify lay midwives. As a result, some Georgia citizens were delivered at home before this time and were never issued birth certificates because they were not delivered by a certified medical professional.

We have been unable to obtain an estimate of the number of persons without birth certificates. According to the 2000 Census, there were 616,935 whites aged 65 and over, and 273,486 whites aged 75 and over; and 154,469 blacks aged 65 and over, and 67,051 aged 75 and over.

Individuals may use expired and suspended driver’s licenses as acceptable photo ID for voting. Licenses can be suspended for criminal misconduct such as failure to pay child support. Suspension of a driver’s license cannot occur for non-payment of parking tickets. The court is responsible for the collection of a driver’s license upon conviction of a crime for which suspension is a punishment. If the court fails to do so, DDS sends the person a letter to collect it. Deputy Attorney General Dunn stated that if the voter has not yet surrendered his license, he could use it as photo ID for voting, even if it is suspended.

Any person old enough to sign his name or make a mark indicating his legal signature can apply for a Georgia photo identification card. A suspended or revoked license does not prohibit a resident from applying for an identification card. A Georgia ID cardholder is not required to surrender his ID card when a driver’s licence is secured or reinstated. In order to secure a Georgia ID card an applicant must furnish proof of residency in the State of Georgia. The following items showing a valid Georgia address are accepted: utility bill; bank statement; rental contracts and/or receipts; employer verification; or Georgia license issued to parent, guardian, or spouse. The applicant must surrender all previous driver’s licences, identification cards, and permits. A certified Motor Vehicle Report or status letter from a previous state can be used if an applicant had a previous license or ID card, but does not have in his possession a license or identification to surrender.

The cost for an license or identification card is $20 for 5 years or $35 for 10 years. For those eligible, licences can be renewed via the internet, mail, or telephone. According to the

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The VitalChek Network is a private entity that is not affiliated with the State of Georgia.
Governor's July 1, 2005, press release, almost 1.4 million citizens have renewed a license by one of these means.

2. **Driver's License/DDC Card Ownership**

Prior to signing HB 244 into law, Governor Perdue estimated that 300,000 Georgians do not have a driver’s license or other acceptable photo identification that could be used at the polls, but that 50,000 are incarcerated persons. See Jim Tharpe, Nancy Badertscher, “Voter ID Bill Likely to be Law,” *Atlanta Journal-Constitution*, April 2, 2005. The United States Department of Transportation released data that in 2003, the latest available date, Georgia had 5,737,933 licensed drivers and a driving-age population of 6,632,373. This would constitute 86.8% of the voting age population who had driver's licenses.

The Georgia Department of Driver Services has provided data in response to our request. The DDS data contains counts of persons 18 and over with driver’s licenses and state ID cards. According to the DDS database, Georgia currently reports that 6,108,560 voting age persons have unexpired driver’s licenses, which include commercial licenses, DUI permits, suspended and revoked licenses. Georgia also reports that 690,538 voting age persons have unexpired ID cards, and 288,883 voting age persons have both a driver’s license and ID card. This totals 7,087,981 persons of voting age with a photo ID from DDS. Of this group, 1,260,780 are black (17.7%), 2,687,706 (37.9%) are white, and 2,870,984 (40%) are of “unknown” race. The remaining 268,511 are comprised of Asian/Pacific Islander, Hispanic/Latino, Indian, multi-racial, other, and “refused to state.”

Of the 4,216,997 voting age persons in the database who are of known racial background or refused to state, 29.8% are black and 65.1% are white. Discussion of the reliability of this data is contained in Part II. D, infra.

3. **Access to Vehicles**

Data regarding access to vehicles is often used as a reasonable proxy for driver’s license ownership, as persons who do not have a vehicle are less likely to have a driver’s license. According to the Census Bureau data tabulations (SF-3), a total of 390,414 Georgia voting-age individuals lack access to a vehicle. When examined at the household level, this constitutes 242,929 households without access to a vehicle. The racial breakdown of these households reflects that there are 142,171 black non-Hispanic households without access to a vehicle, and 89,232 white non-Hispanic households without access to a vehicle. This constitutes 17.7 percent

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\(^5\) Individuals may have both a Georgia driver's license and a Georgia ID card, or one or the other. For convenience, we sometimes refer to a person who holds either type as having a "DDS card" because for voting purposes, it is access to the card, rather than the type of card, that is significant.

\(^6\) DUI permits are driving permits issued to persons whose regular license are revoked for DUI convictions so they can drive to and from work.
of black households and 4.4 percent of white households.

Ms. Meyers provided a 2004 report conducted by Georgians for Better Transportation containing vehicle access data that are consistent with the census numbers. The report, "Blueprint 2030: Affordable Mobility and Access for All of Atlanta and Georgia," notes that 250,000 households in Georgia lack access to a vehicle, and that 140,000 of those are headed by an African-American household. Id. at 22. It also finds that nine counties contain half of the vehicle-less households in the state: Fulton, DeKalb, Chatham, Richmond, Cobb, Muscogee, Gwinnett, Bibb, and Dougherty, and that each of these nine counties have more than 5,000 households with no vehicle. Id. at 23. The report also finds that six of these nine counties would be on the list of counties with more than 5,000 African-American households without vehicles. Id.

Table 1: No vehicle households in counties with more than 5,000 total population

<table>
<thead>
<tr>
<th>County</th>
<th>All households with no vehicle</th>
<th>Households with no vehicle headed by African-Americans</th>
<th>Percentage of households with no vehicle headed by African-American</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fulton</td>
<td>48,859</td>
<td>36,221</td>
<td>74.1%</td>
</tr>
<tr>
<td>DeKalb</td>
<td>22,763</td>
<td>14,458</td>
<td>63.5%</td>
</tr>
<tr>
<td>Chatham</td>
<td>10,678</td>
<td>7,309</td>
<td>68.4%</td>
</tr>
<tr>
<td>Richmond</td>
<td>8,969</td>
<td>6,207</td>
<td>69.2%</td>
</tr>
<tr>
<td>Cobb</td>
<td>8,675</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Muscogee</td>
<td>8,154</td>
<td>5,715</td>
<td>70%</td>
</tr>
<tr>
<td>Gwinnett</td>
<td>6,294</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Bibb</td>
<td>7,423</td>
<td>5,541</td>
<td>74.6%</td>
</tr>
<tr>
<td>Dougherty</td>
<td>4,597</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

The report further notes that Georgia does not have large disparities in shares of households without vehicles between urban and rural areas. Id. at 24. It states that across Georgia, levels of African-American households without vehicles are higher in the smaller urbanized areas of the state in than Atlanta, often at levels of 20 percent, yielding on overall statewide rate of 18 percent in no vehicles available for African-American households. Id. In contrast, the statewide rate for white households with no vehicles available is 4.41 percent.
We also compared access to vehicles by race in counties with DDS offices versus counties without DDS offices. Census data show that five times more black households in counties without DDS offices lack access to a motor vehicle compared to white households. This data can be expressed as follows:

Table 2: Households in counties with no DDS offices with no vehicle, by race

<table>
<thead>
<tr>
<th>Race of household</th>
<th>Households in counties without DDS offices</th>
<th>Households with no vehicle</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>White non-Hispanic</td>
<td>554,971</td>
<td>25,843</td>
<td>4.7%</td>
</tr>
<tr>
<td>Black non-Hispanic</td>
<td>140,148</td>
<td>28,085</td>
<td>20.0%</td>
</tr>
<tr>
<td>Hispanic households</td>
<td>11,882</td>
<td>1,329</td>
<td>11.2%</td>
</tr>
</tbody>
</table>

4. Other currently acceptable forms of voter identification

United States passport: According to the United States Department of State website, there are approximately 210 passport acceptance facilities in the State of Georgia. The basic fee for obtaining a passport is $97. To obtain a passport, proof of United States citizenship must be presented with any of the following: previous United States passport, certified birth certificate, consular report of birth abroad, naturalization certificate, or certificate of citizenship. If an applicant does not have a previous United States passport or a certified birth certificate, he must provide a letter of no record issued by the State Vital Statistics office, and as many of the following as possible: baptismal certificate, hospital birth certificate, census record, early school record, family bible record, and doctor’s record of post-natal care. Routine passport service takes approximately six weeks.

Fewer than 20 percent of all United States citizens hold a valid passport. We were unable to obtain the total number of Georgia citizens with passports. The United States Passport application, Form DS-11, does not contain a field for self-identification of a racial category, and we were unable to obtain information regarding access to United States passports by race.

Government checks/paychecks/documents: With 620,620 black persons in poverty compared to 564,970 white persons, black persons in Georgia are more likely to fall below the poverty line than are white persons. These census statistics indicate 26 percent of the black population and 11 percent of the white population fall below the poverty line. Median household income in 1999 was $30,998 for blacks and $48,002 for whites. Per capita income in 1999 was $12,576 for blacks and $25,133 for whites.

Among individuals who lack access to a vehicle in the state, a greater number of blacks are below the poverty line and receive public assistance as compared to whites. The Public Use
Microdata Sample [PUMS] of the 2000 Census reflects that among individuals who lack access to a vehicle in the state, 101,522 (46.3%) blacks were beneath the poverty line, compared to 35,605 (28.3%) whites. In addition, approximately 74,912 voting-age blacks without access to a vehicle in the state receive either Social Security, Supplemental Security Income or public assistance, compared to 56,750 whites.

According to the Georgia Department of Human Resources, the total number of persons receiving Temporary Aid to Needy Families ("TANF") subsidies as of February 2000 was 129,822 (99,817 children, 30,005 adults). The racial/ethnic breakdown of TANF recipients was 80.9 percent black, 17 percent white, 1.3 percent Hispanic, and 0.3 percent Asian.

Firearms permit/hunting or fishing license/pilot's license: We were unable to obtain any data regarding the number of persons, by race, who hold permits or licenses for hunting, fishing, piloting aircraft, or carrying firearms.

College and university issued identification: We were unable to obtain data regarding the number of persons, by race, who attend private colleges and universities, and who would therefore hold photo identification from such institutions. According to the Regents of the University of Georgia, there were 56,831 black students enrolled in all state colleges and universities in Georgia, and 154,924 white students, in Spring 2005. This constitutes 3.16 percent of black voting age population and 3.76 percent of white voting age population based on estimated 2005 voting age population. According to the National Center for Education Statistics there were 13,476 students enrolled in degree-granting historically black private colleges and universities in Georgia in 2000.

Employer-issued identification: According to the Bureau of Labor Statistics survey of employment, in 2004, the average unemployment rate for blacks in Georgia was 7.7 percent, for whites 3.5 percent, and for Hispanics 4.6 percent. The most recent workforce numbers are based on the 2000 Census, which indicates that 36.6 percent of blacks, aged 16 and over, were not in the labor force, compared to 33.1 percent of non-Hispanics whites in the same age group.

According to the 2000 Census, 14.3 percent of white and 19.4 percent of black Georgians work for local, state, or federal government, while 78.6 percent of white and 76.9 percent of black Georgians work for private employers. These figures do not include those who are self-employed in unincorporated businesses or are unpaid family workers.

The submitting authority did not provide, and we were unable to obtain, information about the prevalence of photo identification issued by private or public employers. Deputy

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The Public Use Microdata Samples are a sample (usually 5%) of the individual household or individual records used in the census data. These files contain records for a sample of housing units with information on the characteristics of each unit and each person in it. While preserving confidentiality (by removing identifiers), these microdata files permit users with special data needs to prepare virtually any tabulation.
General Counsel of the Association of County Commissioners Ken Kimbro stated that most counties probably issued photo identification to their employees, but that some of the smaller and more rural counties might not. He provided a list of county managers and administrators. We contacted 30 of the individuals listed in a range of counties of varying size and location. We found that six of the seven largest counties we contacted (pop. 59,000 and over) provide photo identification to their employees, none of the nine smallest counties contacted (pop. 15,000 and under) provide photo identification to their employees, and ten out of sixteen of the mid-size counties (pop. 15,500 to 49,000) provide photo identification to some employees, based on the employee's position (e.g., building inspector) or location of employment (e.g., courthouse).

We were also unable to obtain information about the issuance of photo identification by private employers. We know anecdotally that some Georgia employers such as Delta Airlines and Home Depot issue photo identification, but there is no central source for this type of data.

Certified naturalization documents: According to the 2000 Census, there were 169,232 naturalized citizens residing in the State of Georgia; of whom 29,490 (17.4%) were non-Hispanic black persons and 45,760 (27%) were non-Hispanic white persons. All naturalized citizens are issued an official certificate by Citizenship and Immigration Services at the time of naturalization. Those applying for naturalization are required to provide two photographs that adhere to passport photo standards. Since 1929, all naturalization certificates issued include a photograph of the new citizen. Copies of certified naturalization documents can be obtained from the Bureau of Citizenship and Immigration Services and requires payment of a fee of $210.

Although naturalization certificates were specifically repealed by Section 59 of HH 244 as acceptable voter ID, the statute allows a voter to show any valid identification card issued by a branch, department, agency or entity of the United States provided that the card contains the elector's picture. Deputy Attorney General Dunn was unsure whether naturalization certificates contained a photograph of the elector, but stated that if they did, they would be considered acceptable photo ID for voting.12

Tribal Identification: The 2000 Census reports that 21,737 persons in Georgia who identified themselves as American Indian or Alaska Native. Of these, 16,104 persons, or 0.3 percent of the total population, were voting age. Of the 8,036 households headed by an American Indian/Alaska Native, 671 (8.3%) had no vehicle available.

There are no federally recognized Native American tribes in Georgia. The state code does recognize the following tribes as legitimate American Indian tribes pursuant to Ga. Code Ann. § 44-12-300: Georgia Tribe of Eastern Cherokees, the Lower Muscogee Creek Tribe, and the

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12 Because specific reference to naturalization certificates as valid voter ID is removed under the proposed statute and as such documents are valid indefinitely, we anticipate that, in certain circumstances, such as a citizen who naturalized as a child, election officials may require additional confirmation of the voter's identity with a current photo.
Creeks of Georgia Tribal Council. Only the Lower Muscogee Creek Tribe has a reservation in the state. The census reports that this reservation, the Tama Reservation, had a population of 57 persons (45 persons of voting age) in 2000. The Lower Muscogee Creek Tribe does not issue tribal photo identification to its members according to Principal Chief Vonnie McCormick. Additionally, the Bureau of Indian Affairs does not issue identification to non-federally recognized tribes.

To the best of our knowledge, each tribe has its own practice with respect to issuance of identification, including whether ID is issued and whether it contains a photograph of the member. Anecdotal evidence suggests that most tribal IDs do not contain photographs.

Affidavit alternative: Under the benchmark statute, voters who are unable to produce any of the 17 forms of identification may sign a statement swearing or affirming to their identity. For the purpose of determining the number of people who lack appropriate identification, an analysis of the number of affidavits used in recent elections by county would be informative. In addition, because voter registration records are kept by race, the proportion of black and white persons who lack identification could have been tabulated and analyzed. The submitting authority did not provide any analysis of these records, which remain in the custody of county officials after an election.

D. Factual analysis

Georgia's voter ID law was enacted in 1997 with the following forms of acceptable identification for voting: valid driver's license or state ID card, U.S. Passport; U.S. military ID; photo identification from any employer; student photo identification from any private or public college, university, or technical school; valid pilot's license; Social Security card; certified naturalization documents; certified copy of birth certificate; certified copy of specified court records; valid hunting or fishing license; or valid permit to carry a pistol or revolver. Any voter who was unable to produce one of these forms was allowed to sign a statement under oath, swearing or affirming that he is the person identified on the voter's certificate under penalty of law. The voter was then permitted to vote a regular ballot without delay.

We precleared the benchmark procedure based on two main factors: (1) the fail-safe procedure ensured that voters were not turned away for lack of authorized identification, and (2) minority contacts did not urge an objection, primarily because no voters would be turned away if they did not have proper identification.

The current voter identification requirement was modified in 2003 when the legislature added the acceptable forms of identification specified in the Help America Vote Act. Added forms of identification included: utility bills, bank statements, government checks or paychecks, and government documents that show the name and address of the elector. We precleared this change because it added, rather than subtracted, acceptable forms of ID for voting.
The appropriate analysis of the restriction of the voter ID requirement first identifies whether there are individuals who are permitted to vote under the benchmark procedure who will now be precluded from casting a ballot at the polls under the current procedure, and if so, ascertains whether minorities are disproportionately represented in that group.

The submitting authority provided almost no information regarding the availability of the seventeen forms of identification that are acceptable under the benchmark, the method to obtain them, or any discrepancies in ownership of these forms of identification by race. As it is the jurisdiction’s burden to demonstrate that the proposed voting change is not retrogressive, it has failed to do so. However, we have made significant efforts to obtain as much information as possible about each form of identification to conduct a thorough analysis. We were somewhat hampered by the lack of data on the availability and distribution of many forms of identification, but draw the best conclusions we can given the data limitations.

Driver’s Licenses & DDS Cards: Governor Perdue estimated that approximately 300,000 voting age Georgians do not have a driver’s license or ID card. Legislators did not acknowledge whether this fact was correct, nor seek any data regarding the racial composition of the group of individuals without ID during debates over HB 244. Proponents stated that more persons had a valid driver’s license or ID card than those were registered voters. Ms. Meyers stated that the legislature’s intention was “color-blind,” but acknowledged that they did not investigate or consider any data regarding racial disparities among persons who held driver’s licenses or DDS cards. She stated that in terms of statistical analysis, the legislature relied on the numbers showing that more Georgia residents overall had DDS cards than were registered to vote.

(i) Statewide Totals

We requested data from the Georgia Department of Driver Services regarding persons who hold valid driver’s licenses and/or ID cards to attempt to estimate any potential shortfall and the racial makeup of such a group. In examining the data provided by DDS, we have determined that it is not reliable for purposes of estimating the number of people with and without DDS-issued identification. This is due to an apparently unknowable number of records that are no longer valid due to death, persons moving out of the state, and other reasons. The data received from the state showed a total of 7,087,981 people of voting age with either a DDS drivers license, a photo ID issued by DDS, or both, on August 16, 2005. This total is broken down in the following table. Note that each category is mutually exclusive.

Table 1. Numbers of DDS-issued cards in Georgia, Aug. 16, 2005

- 20 -

12 The statistical analysis contained in this section was conducted internally by Dr. Toby Moore, Geographer/Social Science Analyst.
The voting-age population of Georgia in 2005 is available only as an estimate or as a projection. In April 2005, the Census Bureau projected the VAP of Georgia to be 6,565,095 on July 1, 2005. However, the latest estimate for county-level totals, necessary for the analysis below and released in January 2005, had Georgia with a VAP of 6,496,816 in 2004. Extending that estimate to July 1, 2005 based on each county’s 2003-2004 growth rate yielded a 2005 VAP estimate of 6,621,137.

The data from the state, then, suggests 466,844 more persons with a DDS card than the higher of the two estimates of current VAP, or 7 percent. The state has been unable to quantify this discrepancy. When pressed to explain the difference, DDS Data Manager Loraine Piro stated to Voting Section staff that unexpired licenses remain in the database until they expire, so they belong to persons who have died, moved out of the state without cancelling their licenses, or had their licenses suspended or revoked (including persons who are incarcerated). As licenses issued prior to July 1, 2005 have a four-year expiration, we can assume that these records contain no more than four years’ worth of individuals who died, moved, or had licenses revoked or suspended within that timeframe.

There is no way to reliably estimate this number. The death rate in Georgia is approximately 66,016 per year, which could result in an extra 264,064 records in the database over four years. The Census Bureau’s 2003 American Community Survey estimated that 243,100 Georgia residents had moved into the state in the past year.16 Given a net migration of around 40,000, on average, it would appear that another 200,000 or so people are leaving the state each year. In a four-year period, persons who move into Georgia may obtain a DDS card, and persons who move out of Georgia may leave an unexpired DDS card behind, thus creating additional bad records. The American Community Survey also found that another 335,734 people had moved from a different county within the state; these in-state migrants also complicate the DDS database if they change county of residence without submitting a change of address with the DDS. Prison population numbers would be unhelpful without information regarding length of sentences being served by such population to determine whether their licenses might still be unexpired in the database.

This unavoidable “churn” is associated with a live data base that was not designed to be used for statistical analysis or predictive purposes. Deaths, people moving from county to county, in and out of the state, and in and out of license status all create disruptions in the data, particularly in quickly growing counties, of which Georgia has a significant number. As a result of these factors, the “overage” in the DDS database is of no use in estimating the total number of

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16 This refers only to persons who moved into the state from another state, not international migration.
persons with a DDS card, or whether a shortfall exists of state residents who lack DDS cards.

A second cause for concern regarding the reliability of the data for predictive purposes is that it appears to show many more "bad records" than in two previous sets of data provided by the state. This third set of spreadsheets, which was supposed to eliminate 16 and 17 year olds who were included in the prior query, resulted in an increase in the number of DDS card holders by approximately 393,000, eliminating what had previously appeared to be a shortfall statewide and creating the impossible statistic of an "overage." The state has provided no explanation of why the numbers diverged so significantly from the first two submissions, although Ms. Piro suggested that commercial licenses and DUI permits may have been added and could explain some of the increase, however, she was not certain that these categories of licenses were not present in the first data sets. Given the difference between this data and data submitted earlier by the state, as detailed at Tab 3, there is reason to doubt its accuracy. Combined with unavoidable error in estimating current VAP, it appears that the quality of the DDS dataset is not sufficient to estimate the size or even the existence of the voting-age population of Georgia that lacks a DDS card.

(ii) County-Level Totals

To the extent that one wanted to compare the data provided by the state at the county level with estimated VAP, projections for 2005 VAP were produced by repeating the 2003-2004 growth rate. Clearly this estimate is inexact and the source of additional unavoidable error. Nevertheless, these two variables, people of voting age with a DDS-issued card and people of voting-age, represent the key variables for further analysis. These two variables were compared in a ratio to determine the number of licenses per 100 residents of voting age. The full results are given in the table attached to this memo at Tab 3.

The county-level ratios of licenses to 100 population ranged from 41.7 in Chattahoochee County to 117.7 in Bartow County.15 The Chattahoochee County ratio was a clear outlier caused by the large military base in the county. The next lowest county was Wheeler County, with 76.2 cards per 100 population. In all, 47 counties had fewer people with cards than voting-age population, while the remaining 112 counties had more people with cards than voting-age population.

Ten of the 47 counties with few cards had a DDS office, or 21.3 percent. Forty-three of the other 112 counties had DDS offices, or 38.4 percent. However, the average size of counties with more cards was about 52,000, compared to only 16,000 in those counties with few cards. It

15 Note that these figures do not take group quarters populations or other elements that might skew the population figures into account. It is also important to note that the reliability at the county level is low, that is, our ability to use individual counties as illustrations or evidence is far less reliable than aggregate measures. It appears that much of the overage at the county level stems from the "churn" generated by population growth in dynamic counties.
is assumed that DDS locations are located in or near population centers.

(iii) Correlations between Race and ID Card Ownership

For a number of reasons, not the least of which is the apparently poor quality of the DDS data, it is a difficult enterprise to examine the data for correlations between race and card ownership. The data on both population and licensing is of poor quality for these purposes and thus prevent a conclusive finding of a clear correlation between race and identification ownership.

Nevertheless, some evidence supports the Census data suggesting that blacks have fewer drivers licenses than whites. For example, the 10 counties (not including Chattahoochee) with the lowest rates of card ownership had a black 20-and-over population of 29.4 percent, while the 10 counties with the highest rates had a black population of 18.3 percent. On the other hand, the number of licenses per 100 people in the 10 blackest and 10 whitest counties were nearly identical.

Correlations across the 158 counties were inconclusive. The following table shows the results of Pearson’s correlation between percent non-white and the ratio of card ownership. The correlation coefficient is the measure of the strength of the relationship between two variables. Correlation scores vary between 1 and -1, with 0 meaning no correlation. Unlike regression, it does not provide a means of predicting one variable from the other, but only gives an indication of how closely the two variables are associated. In the current instance, a negative correlation would mean that as counties increase in minority population, they decrease in card ownership.

Table 2. Correlations between race and card ownership

<table>
<thead>
<tr>
<th>correlation between race and:</th>
<th>correlation across 158 counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>ID:VAP</td>
<td>0.15</td>
</tr>
<tr>
<td>ID:VAP minus correctional population</td>
<td>0.03</td>
</tr>
<tr>
<td>ID:VAP minus all group quarters population</td>
<td>0.13</td>
</tr>
</tbody>
</table>

The correlations in each case were weak, but notice that the trend reversed when the group quarters population is subtracted. The group quarters population is a difficult issue for two reasons, and appears to be key to gleaning what evidence is in the data:

1. It includes people who may or may not have cards, and whose cards may or may not be issued from the county in which they reside. College students, prisoners and military personnel all pollute the database at the county level. One solution would be to subtract all or part of the group quarters population, but doing so
would remove people whom we know have cards from the population figures without removing them from the license figures.

2. A greater problem is that concentrations of group quarters populations are themselves correlated with race. That is, counties with higher black populations tend to have a higher percentage of their population in group quarters, particularly prisons. Subtracting group quarters populations, while intuitively defensible, skews the resulting data by taking population out of non-white counties and eliminating evidence of any shortfall of licenses.

In fact, a curious correlation between race and the degree of license ownership emerges when counties with large group quarters populations begin to be removed from the data set. The following table summarizes a set of correlations performed on successive subsets of Georgia counties, as counties with large (and skewing) populations of students, prisoners and military personnel are removed from the correlation.

Table 3. Correlations between race and card ownership as group quarters is controlled

<table>
<thead>
<tr>
<th></th>
<th>number of counties</th>
<th>population</th>
<th>correlation</th>
</tr>
</thead>
<tbody>
<tr>
<td>counties with less than 10% GQ VAP</td>
<td>138</td>
<td>6,266,518</td>
<td>-0.02</td>
</tr>
<tr>
<td>all counties with less than 5% GQ VAP</td>
<td>108</td>
<td>4,658,445</td>
<td>-0.08</td>
</tr>
<tr>
<td>all counties with less than 2% GQ VAP</td>
<td>62</td>
<td>2,873,075</td>
<td>-0.19</td>
</tr>
<tr>
<td>all counties with less than 1% GQ VAP</td>
<td>23</td>
<td>592,531</td>
<td>-0.35</td>
</tr>
</tbody>
</table>

Dr. Moore stated that while there might be other explanations for the emergence of this correlation, his professional opinion at this point is that group quarters populations, along with "noise" in the data, obscures the modest correlation between race and card ownership that surfaces when counties with significant group quarters populations are removed from the study. Removing those counties from the sample appears to uncover a relationship that is otherwise hidden. On the other hand, the final correlation, while statistically significant, is based on less than 10 percent of the state’s VAP and 14 percent of its counties. It is possible that further work in refining the query of the DDS data would result in a more convincing set of correlations.

The bottom line is that the DDS data provided by the state is not sufficient to answer the question of whether race correlates with lack of DDS card ownership in Georgia. The poor quality of the DDS data; the unavoidable error in the estimation of VAP for 2005 (particularly at the county level); the inter-correlations between race and poverty, educational attainment, county growth, group quarters population, and so on; and the other hypothesized correlations with card ownership (e.g., age), make it extremely difficult to derive meaningful patterns from the DDS
(iv) Racial Identifications in the DDS Database

The DDS database contains racial identifications for approximately 4.2 million Georgians who have a DDS card, or approximately 59 percent of the people for in the data set. The database contains records for approximately 2.88 million people without racial IDs, or 41 percent of the records. Roughly half of the records with racial ID these come from voter registrations submitted at DDS offices since April 1, 2001. The other half are left over from previous Georgia policies of collecting racial information during the license (or ID card) application process. That practice ended at some point in the past, but exactly when is unclear, as is how that information was originally collected. Individuals who renewed their licenses or cards had their racial identifications preserved in their records. "Motor voter" registrants constitute approximately 29 percent of the records in the database, and "old records" constitute approximately 28 percent of the records in the database. Racial identity information regarding persons who register to vote at motor vehicles agencies compared to other locations is not available in the EAC Report to Congress, the Georgia 2005 Voter Registration Report to the EAC,\textsuperscript{25} nor other available sources. Therefore, we cannot draw conclusions about the representativeness of the records that have race identification other than to say they are a non-random sample of the total number of records.

Accordingly, Dr. Moore stated his strong belief that these racial identifications are not useful for determining the race of people in Georgia who do not have DDS cards. This based on two reasons:

1) No reputable statistician would infer characteristics of a population by analyzing the characteristics of a non-random sample. The people for whom we have racial identifications are undeniably a non-random sample of the entire data set. The state has provided no evidence of the old practice of obtaining racial identifications, so we have no way of knowing how representative that is, or of knowing whether blacks or whites fail to renew these old licenses at the same rate. Similarly with the "motor voter" registrations: it reflects not people who come into DDS locations for cards, but those people who a) come in for cards; b) have not registered to vote; c) choose to register to vote; and d) give their racial identity. Each step in that process makes the end group less and less representative of the total pool of ID card holders.

2) Even if the motor voter registrations were reliable indicators of who has obtained a DDS card since 2001, that rate in comparison to black voting-age population does not tell

\textsuperscript{25} Approximately 57.5 \% of all new voter registration applications in Georgia between the close of registration for the November 2002 general election and the November 2004 general election were received from Georgia motor vehicle offices, according to Georgia's response to the EAC Voter Registration Survey. Available at: http://www.epic.org/foia_docs/eac/georgia.pdf. However, this report does not discuss the racial identity of persons who register to vote at DDS.