<table>
<thead>
<tr>
<th>STATE OF TEXAS,</th>
<th>Case No. 1:12-CV-00128</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plaintiff</td>
<td>(RMC, DST, RLW)</td>
</tr>
<tr>
<td>vs.</td>
<td>Three-Judge Court</td>
</tr>
<tr>
<td>ERIC H. HOLDER, JR.,</td>
<td>in His Official Capacity as Attorney General of the United States,</td>
</tr>
<tr>
<td>Defendant.</td>
<td></td>
</tr>
</tbody>
</table>
Law Enforcement with the Office of the Attorney General,

and Ann McGeehan, Director of Elections, the Secretary
of State's office; and Rebecca Davio, Assistant Director
for Driver's License with the Department of Public
Safety.

When we have completed the invited
testimony and you've had an opportunity to question
those who have been invited, then I will -- I don't
think the list is as long as it was last year, but
certainly I'm sure there will be discussion among the
members concerning their testimony.

Then we'll open up for public testimony.
You will recall last session, we would announce the
names of those who were in line, and you are in line in
order of your registration at the front desk. We will
have those persons escorted down to the well, and then
they will be allowed to begin their testimony.

It's the intent of the Chair to impose a
three-minute time limit on the public testimony as well,
and I will not recognize anyone to interrupt someone
giving public testimony until their time has run. There
is a timer at the front at the secretary's desk. There
will be a warning; I think it's a 30-second warning.

Members, we do have a court reporter,
Ms. Kennedy.

Ms. Kennedy, would you stand so everyone
can see you.

Remember Ms. Kennedy from last time. I
think she went 12 or 13 hours.

Because we're making a record here,
obviously we need to be mindful that the court reporter
only has two hands and can only type one person at a
time. So the Chair will be careful to help you remember
that we cannot have people talking over each other.

Also we need to try to identify each other
so that -- or identify yourself when you're speaking or
I'll try to do that so that the record will be clear as
to the source of the comments being recorded.

We will take periodic breaks in order to
allow the court reporter a little time, but we will move
expeditiously as we move through the process.

There is a document -- like last session,
we will have an orderly process for admitting documents
into the record. They will be labeled as exhibits and
be referred to in the record and will be received in the
record by exhibit number. So when you have an exhibit
that you want to introduce into the record, well, then,
you'll need to have it marked. And the secretary's desk
up here will have a procedure for marking your exhibits
and receiving them in the record.

Once we have completed the public
testimony -- and, obviously, we're going to be
interrupted by our Senate session which begins at 11:00.
Once we finish the public testimony, then it will be
appropriate for you to lay out any amendments that you
may wish to have considered by the body.
And once that's completed, then,
Obviously, we will vote on our resolutions to rise and
report back to the full Senate.
That is basically the layout of the
procedure. Any questions?

Senator Van de Putte.

SEN. VAN de PUTTE: Thank you,
Mr. Chairman. Thank you for outlining the process and
the procedures that we will be using today. My question
is specifically with those members of the public who
wish to offer testimony sometimes today who have
disabilities. To my knowledge, we have people coming to
the floor who are in wheelchairs and will not be able to
use the podium. I wanted to ask what sort of amenities
or accommodations we will have so that they will be able
to have that, but some sort of a table so they can refer
to their documents when they're testifying.

CHAIRMAN DUNCAN: Thank you, Senator Van
de Putte, an excellent question.

We do have a wireless mic that will be
available for those who cannot access the mic -- at the
secretary's desk.

SEN. VAN de PUTTE: Would it be possible
for those members of the public who are offering
testimony who have disabilities who are in a wheelchair
to have some sort of -- either a table or something so
that they can refer to their notes? The problem with
last time is that they weren't able to actually, because
they don't have use of the podium.

CHAIRMAN DUNCAN: Senator, we can
accommodate that.

SEN. VAN de PUTTE: Thank you very much,
Mr. Chairman.

CHAIRMAN DUNCAN: Members, also I forgot
to mention, the resolution that we passed yesterday
allows us to have a staff person on the floor to assist
us. And so if you wish to have that person sit, well,
then, you'll need to ask the sergeant for a chair, and
we have chairs available back there.

Any other questions?
All right. The Chair hears none.

Senator Fraser, you're recognized to
explain Senate Bill 14.

LAYING OUT OF SENATE BILL 14
SEN. FRASER: Thank you, members.
Obviously, this is an issue that we know a lot about, we had a lot of experience with two years ago. The issue I think has been defined and talked about a lot. I think we all recognize the dangers of voter fraud has threatened the integrity of the electoral process for the entire history of the United States. The threat continues today. In 2005, there was a Commission, a bipartisan commission, the Carter-Baker Commission, that was appointed by the Election Commission. Of course, President Carter, a past president, James Baker, Secretary of State, they reaffirmed the dangers by saying, "Elections are at the heart of democracy. Americans are losing confidence in the fairness of elections. And while we do not face a crisis today, we need to address the problem of our electoral system."

The Commission concluded at the end of the day, "There is considerable national evidence of in-person voter fraud. And regardless of whether one believes that voter impersonation is widespread or relatively rare, there can be no serious dispute that the real effect can be substantial because in a close election, even a small amount of fraud could make the margin of difference."

Texas today has a legitimate interest in protecting elections. It is imperative that we protect the public's confidence in elections by deterring and detecting voter fraud.

In upholding the Indiana photo ID law, the U.S. Supreme Court stated, "Confidence in the integrity of our electoral process is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic process and breeds distrust of our government. Voters who fear the legitimate votes will be outweighed by fraudulent ones, will feel disenfranchised."

On October 10, Lighthouse poll, which I have here and be entering into the record -- it's the newest poll that is out -- shows that 86 percent of Texas voters -- that's both Republican and Democrats -- favor voter photo ID laws.

The bill that we're laying out today is in compliance with the U.S. Supreme Court Decision which upheld the Indiana voter ID legislation because it, No. 1, deters and detects fraud, 2, it protects the confidence in elections, and, 3, it counts only eligible voters' votes.

It also complies with the Supreme Court decision, because it offset burdens on voters by providing access to free ID cards, allowing for provisional ballots and absentee ballots, ensuring that obtaining photo ID is no more inconvenient or burdensome.
than the usual act of voting and providing an exception for elderly voters.

The current law, as you know, provides that when a voter shows up to vote, he or she must just show a valid voter registration card. If unable to do so, the voter may show a photo ID card or other official mail from a government entity -- utility bill, bank statement, government check, paycheck or other government document with name and address -- and sign an affidavit.

Senate Bill 14, what we're doing with this bill, Senate Bill 14 would require a voter to show a photo ID except that people 70 or older on January 1, 2012, may continue to vote with just a registration card, under current law.

Acceptable ID will include an unexpired card issued by the Department of Public Safety, a military ID, a passport or a citizenship certificate with photo. Voters who cannot produce an acceptable form of photo identification will be allowed to cast a provisional ballot. That ballot will be counted if the voter returns within six days to show a photo ID.

It would also provide for statewide training and notification of the changes required for the individual to vote with the photo ID. It would provide for a free DPS-issued identification card to any registered voter who requests an identification card.

Every fraudulent vote effectively still is a legitimate vote. Elections are too important to leave unprotected when the Legislature could take proactive steps to prevent fraud and protect our democracy.

Mr. President, that is what Senate Bill 14 does. And if there's no questions, I would move passage.

SEN. WHITMIRE: Mr. President --
SEN. VAN de PUTTE: Yes.
SEN. WHITMIRE: -- could we slow down?
Will the gentleman yield?
CHAIRMAN DUNCAN: I think Senator Van de Putte was first on the list, Senator.

SEN. VAN de PUTTE: Thank you,
Mr. Chairman, I think. Mr, Chairman, inquiry. At what point in the proceedings today would a motion be in order to move that all of the testimony and record from this issue from the 2009 legislative session be made into the record? Would that be done -- would that motion be proper at the point of original testimony or at the beginning of these questions at this point?
CHAIRMAN DUNCAN: Senator, at any time that one would want to make that motion, it would be recognized.
SEN. VAN de PUTTE: Mr. Chairman, would you recognize me for that motion at this time?

SEN. FRASER: Mr. Chairman --

CHAIRMAN DUNCAN: Before we do that, we do have a motion in writing that Sen. Huffman intends to introduce with the record, so why don't we do that first and then we'll do everything else. And it would be my suggestion to -- and what I had hoped to do was finish the testimony or at least the question and answers on the bill and then start at that point in time putting evidence into the record. So if that's suitable with everyone, it just makes a little more sense to me to keep it in order that way.

SEN. VAN de PUTTE: Thank you, Mr. Chairman.

And then I would like to ask my colleague, the author of the bill, to yield.

CHAIRMAN DUNCAN: Okay.

SEN. FRASER: Mr. Chairman, before we --

CHAIRMAN DUNCAN: Senator Fraser, why don't we approach the chair; approach. (Off-the-record discussion at bench)

CHAIRMAN DUNCAN: The Chairman recognizes Senator Huffman for motion in writing.

SEN. HUFFMAN: Thank you, Mr. Chairman.

At this time I move that the entire record and transcripts of the hearing related to Senate Bill 362 heard by the Committee of the Whole during the 81st Legislative session be included in the record and would move that it marked as Exhibit No. 1.

Exhibit No. 1 includes all the invited public and written testimony, in addition to all of the exhibits submitted by the members during the hearing on Senate Bill 362. The previous testimony and debate on Senate Bill 362 is relevant, because then and now the objective is to create legislation that protects the integrity and reliability of the electoral process. It includes 870 pages of transcribed testimony. There were 13 invited witnesses plus two resource witnesses, 36 public witnesses and 29 written articles presented. So it includes all the exhibits as well, submitted by members during the 81st legislative session on the Committee of the Whole, which totals 55 total exhibits.

At this time I move for introduction of Exhibit No. 1 into the Committee of the Whole's records.

(Exhibit No. 1 marked)

CHAIRMAN DUNCAN: Members, you've heard the motion. Is there any objection to the motion?

SEN. DAVIS: Question.

CHAIRMAN DUNCAN: Senator Davis, do you have a question?
SEN. HUFFMAN: I am not advised on that, but I would certainly have no objection and would move for all of that to be included in the record, because I think it would certainly make it, you know, more complete and certainly would be relevant.

The record has been certified by Patsy Spaw, the Secretary of the Senate, and so we might check with her to see if that was done. If not, we could certainly make sure that it was placed in Exhibit No. 1 as part of the record.

SEN. DAVIS: Thank you. I would appreciate that.

CHAIRMAN DUNCAN: I suggest that it be Exhibit 1A, if there are additional information, so that it can be kept separate from what you are going to introduce in your motion in writing as Exhibit 1.

SEN. HUFFMAN: Yes, sir.

CHAIRMAN DUNCAN: Okay. Is there any objection to Exhibit 1 being included in the record?

All right. The Chair hears none. Exhibit 1 will be included in the record.

(Exhibit No. 1 admitted)

CHAIRMAN DUNCAN: All right. Sen. Van de Putte.

SEN. VAN de PUTTE: Thank you, Mr. Chairman.

Questions from Senate Floor

SEN. VAN de PUTTE: Would the gentleman yield, the author of the bill yield?

SEN. FRASER: I would yield.
SEN. FRASER: Well, if you don't mind, the
bill before us today is Senate Bill 14, and I will
probably spend my time talking about that bill. The
bill you're addressing, obviously, didn't get through
the process. So I'm going to be addressing the comments
on Senate Bill 14 which is before us. So I would be
glad to describe it, if you would like.

SEN. VAN de PUTTE: Well, my question has
to deal with -- I understand that since last we met,
there are two years and different court cases. And the
bill that was before this body last legislative session
was modeled on a Georgia law and used the template. And
I understand it, this year's model is fashioned after
the Indiana law?

SEN. FRASER: And I think you actually
have made the point that I was going to make. Two years
have passed. Since that time, we've had, you know,
obviously, the confirmation by the Supreme Court on the
photo ID and then also the preclearance of the Georgia
bill by Dale Jays (phonetic).

So looking at, you know, the experience of
the bill in place, the simplicity of the photo ID, we
chose to go with that. And as you will remember, the
recommendation by President Carter and Secretary of
State Baker was, you know, the national photo ID, and
that's what we're attempting to implement.

SEN. VAN de PUTTE: Thank you.
Mr. Chairman.

And a few other questions. With the
Carter-Baker Commission, they felt very strongly about
encouraging the maximum participation in voter and
suggested the type of strategies that we're using. But
the addendum for both gentlemen and the members of the
commission were that they, as I recall, and entered into
the record during last legislative session, was that the
conclusion of the commission was that we should not
implement the type of photo identification until you had
universal registration, and I believe that was one. But
given that or not, what I really wanted to ask you is --

SEN. FRASER: Hold on a second. I'm
sorry. I disagree with that. That is not what the
commission said. And if you would like to correct that,
but I disagree.

SEN. VAN de PUTTE: The State of Georgia
is under two sections of the Voting Rights Act, as is
Texas. Is that correct?

SEN. FRASER: They are a Section 5 voting
rights state like Texas.

SEN. VAN de PUTTE: And to your knowledge,
is the State of Indiana subject to Section 5 of the Voting Rights Act?

SEN. FRASER: To my knowledge, they are not.

SEN. VAN de PUTTE: So Indiana would have a different burden of proof under a legal document and a legal challenge than the State of Georgia?

(Brief pause)

SEN. FRASER: I'm sorry. I was asking for some data. Would you reask the question, please.

SEN. VAN de PUTTE: The State of Indiana, which your bill is modeled after, without two alternate forms of identification; whereas, the Georgia bill that we talked about last legislative session had two -- certainly had a photo identification, but if the voter was unable to produce a photo identification, they could produce for the election judges two forms of identification without, and it was utility bill and -- in fact, the things that you struck here.

But in Indiana that requirement is not there, so we went with the Indiana bill. But my question is, Indiana is not subject to Section 5 of the Voting Rights Act. So their legal hurdle to the Department of Justice challenge is very different than what happened in the State of Georgia. Is that correct?

SEN. FRASER: The Indiana law has been approved by the U.S. Supreme Court, the Georgia law was precleared by the Department of Justice, and both of those have gone through that challenge.

SEN. VAN de PUTTE: Senator Fraser, when this legislature passes the voter identification bill -- and there is no doubt that this bill will pass -- it will have to proceed to the Department of Justice for clearance?

SEN. FRASER: As a Section 5 state, we are subject to Section 5 rules.

SEN. VAN de PUTTE: So, yes, it will proceed to the Department of Justice?

SEN. FRASER: We are a Section 5 voter rights state, and we will be subject to those laws.

SEN. VAN de PUTTE: And do you have any concerns that a Section 5 state as Texas would offer to the Department of Justice a voter identification bill that mirrors a non-Section 5 state rather than something that has already been upheld in the Georgia law, a Section 5 state?

SEN. FRASER: We are offering a bill that has been approved by the U.S. Supreme Court. And the parameters that the Supreme Court set, we meet all of those tests.

SEN. VAN de PUTTE: However, in the Indiana court and in the Supreme Court case on Indiana,
what they said was, the undue burden was -- did not be
demonstrative because they did not have the level of
minority voters, that was never a check point, because
they did not have to go through the Department of
Justice. Is that correct?

SEN. FRASER: I'm sorry. I'm having
equipment failure here. Just a second.
(Brief pause)
SEN. FRASER: Senator, I'm sorry. I'm
asking for data, backup data, because the information
that you're addressing, my information doesn't agree
with that, is that the Georgia law that I have in front
of me said it is a photo ID. Do you have something that
shows differently?

SEN. VAN de PUTTE: Yes. In the Georgia
bill, you have to have a photo ID. However --
SEN. FRASER: I realize you're saying
that, but do you have -- you know, do you --
SEN. VAN de PUTTE: The bill that you
introduced last year had the two alternate forms of ID,
which was exactly the Georgia bill. We used the model
of the Georgia bill.
SEN. FRASER: And that bill is not before
us today; Senate Bill 14 is before us.
SEN. VAN de PUTTE: That's correct. And
so my question is --
SEN. FRASER: And I would ask you, did you
vote for that bill last year?
SEN. VAN de PUTTE: No, sir, I didn't.
SEN. FRASER: Okay.
SEN. VAN de PUTTE: But my question is, do
you have any concerns that we will offer to the
Department of Justice a bill, a voter identification
bill that is modeled after a state law that does not
have to go through Section 5, rather than a Georgia
model which already has been proven and has been
affirmed, both in the court case and the Department of
Justice? That was my question. Do you have any concern
that we will have done all of this debate and work, and
certainly to ensure the ballot security, only to be shut
down at the Department of Justice, because we are a
Section 5 state and what we're offering in your bill is
not something that has been approved by the Department
of Justice?
SEN. FRASER: I have no concern about
Senate Bill 14, both going before the U.S. Supreme Court
or going before the Department of Justice.
SEN. VAN de PUTTE: Thank you, Senator
Fraser. I wanted to ask a little bit of your thinking.
And in the bill that you have before us, the student
identifications were omitted from your list of
acceptable documentation. And could you give me the
rationale why a student photo identification is not
acceptable form of identification?
SEN. FRASER: The types of identification
we've included are one from a government entity that
would identify that person as who they are, that they
say they are, they're a valid voter and a citizen of the
United States, and these are the ones that we have
suggested that would be acceptable.
SEN. VAN de PUTTE: So the rationale for
not having student identification cards on the list,
since you omitted them, is because they aren't issued by
a governmental entity?
SEN. FRASER: I didn't say that.
SEN. VAN de PUTTE: I'm sorry. Can you
repeat your answer?
SEN. FRASER: I said I did not say that.
SEN. VAN de PUTTE: So why were the
student identifications -- you explained that the
student identifications were omitted from the list of
acceptable documentation, because it was not a
government entity.
SEN. FRASER: The four types of
identification that we are offering up we believe are
less confusing, they're simpler for both voters and
election voters. Everyone knows what they look like.
There is a standardization of those, and they all look
alike and it would be less confusing for the systems who
are accepting the voter IT.
SEN. VAN de PUTTE: And, Senator Fraser,
one of the provisions in your bill also omits birth
certificates from the list of acceptable forms of
identification, even though that does come from
government entities. And so why is it that birth
certificates were omitted?
SEN. FRASER: This is requiring a photo
ID, current photo ID.
SEN. VAN de PUTTE: Senator Fraser, are
there any provisions in the bill to accommodate a voter
that has a different address on their photo
identification and their voter registration card?
SEN. FRASER: The Secretary of State is
here as a resource witness, and I'm sure they will be
glad to answer that.
SEN. VAN de PUTTE: No, I'm not asking the
difference. I'm asking, is there any provision in
Senate Bill 14?
SEN. FRASER: It is not addressed, because
that is taken care of by the Secretary of State, that we
don't address that in the bill. That would be by an
interpretation of rule of the Secretary of State. They
will be here, and you can ask them that question.
SEN. VAN de PUTTE: So also you would
prefer that we ask the Secretary of State what sort of
provision, since your bill is silent on different last
names?

SEN. FRASER: Again, that's a question
that --

SEN. VAN de PUTTE: So, for example, women
that got married?

SEN. FRASER: We've actually got two
different -- you know, kind of an overlap here. We've
got the Department of Public Safety that I believe
Senator Williams is going to be answering questions,
because that's his area. And then we also have the
Secretary of State available as a resource that I think
you can ask that question.

SEN. VAN de PUTTE: Senator Fraser, under
Senate Bill 14, your voters can cast a provisional
ballot. Under the Indiana bill, that is set at a 10-day
cure. Why is it that you chose a six-day cure?

SEN. FRASER: And you'll remember, the
Georgia law is only 48 hours, two days. They went 10
days; the Georgia law went two days. We decided that
six days should be sufficient to come back.

SEN. VAN de PUTTE: And as I understand
it, the Georgia law does have a 48, but they can use two
alternate forms of ID which are not in your bill. So
what sort of --

SEN. FRASER: I'm sorry. You know, you
keep saying that. You need to pull up the data to show
me that, please.

SEN. VAN de PUTTE: So to prove their
provisional ballot is correct and the six-day cure, what
documentation does your bill have that is acceptable?

SEN. FRASER: Photo ID.

SEN. VAN de PUTTE: So only a photo
identification. So they would have to --

SEN. FRASER: The acceptable photo IDs
that are outlined in the bill would be an acceptable
form, yes.

SEN. VAN de PUTTE: Senator Fraser, do you
know right now in the State of Texas, we're able to cast
provisional ballots? That's correct, isn't it?

SEN. FRASER: I'm sorry. Ask that again.

SEN. VAN de PUTTE: Current election law
allows Texas voters to cast a provisional ballot. Is
that correct?

SEN. FRASER: I'm sorry. That is another
question I think you should ask the Secretary of State.
It is my belief that, but I'm sorry, I don't want to
answer that. You can, if you don't mind, ask the
Secretary of State.

SEN. VAN de PUTTE: Thank you, Senator.
Since it's based on Indiana law, do you believe that the
State of Texas has a greater minority population than
the State of Indiana?

SEN. FRASER: I'm not advised.

SEN. VAN de PUTTE: To your knowledge,
have any studies been done to determine if there has
been, under current Texas voter laws, any impact that it
would have on affected class of Latino and
African-American voters?

SEN. FRASER: The bill that I'm laying out
today is a model that has been approved by the U.S.
Supreme Court, it has been precleared by the Department
of Justice in Georgia. It will deter fraud. We're
providing free access of cards. And, yes, we believe
this will protect confidence in election in making sure
only eligible voters are counted.

SEN. VAN de PUTTE: Senator Fraser, on the
availability of free identification cards, is there a
means test, or what sort of proof do citizens have to
give to the Department of Public Safety to be able to
get a free identification card under your bill?

SEN. FRASER: The Department of Public
Safety is here as a resources witness. Senator Williams
is also here. That's his area of expertise. If you
have a question about that, if you would like, I will
yield to Senator Williams now or you can wait and ask
the DPS when it comes up.

SEN. VAN de PUTTE: Well, right now the
DPS I don't think gives free IDs. But in your bill,
what sort of process or documentation can voters use to
get a free identification card, in your bill? What are

the --

SEN. FRASER: If you would like I can
yield to Senator Williams or we can wait and have the
DPS. Our instruction is the bill, is that they will
issue an ID card and they will not charge. That is very
clear to the DPS. And if you want to ask how that will
be done, they will be coming up, and you will be able to
ask that question. Or if you would like for me to yield
to Senator Williams, we'll let him answer that.

SEN. VAN de PUTTE: No, Senator. Thank
you. I appreciate this is just a different bill from
last legislative session, and I was trying to get at
least some of your thinking of why you went with a
different bill than last year, a more restrictive, a far
more restrictive bill than what we debated last
legislative session. And I look forward to the
questions, I look forward to the testimony today, but I
don't have any other further questions.

And I'm sure some of my colleagues have
questions, both of the author of the bill and any of the
other senators that have certain sections that they have
got expertise on.
But thank you very much, Mr. Chairman. I don't have any other further questions.

CHAIRMAN DUNCAN: Senator Watson?

SEN. WATSON: Thank you, Mr. Chair.

Will the senator yield for a couple of questions? Oh, I'm sorry.

SEN. FRASER: One second, please. Are you wanting me to yield?

SEN. WATSON: Yes --

SEN. FRASER: Hold on a second, please.

SEN. WATSON: -- if you don't mind.

(Brief pause)

(Senator Whitmire speaking without mic)

SEN. FRASER: Do you have the floor now?

(Senator Whitmire speaking without mic)

SEN. FRASER: No, you're asking questions over here.

(Senator Whitmire speaking without mic)

SEN. FRASER: Making sure I get the answers correct.

I will yield now.

SEN. WATSON: Thank you, Chairman Fraser.

I want, if you don't mind, to ask about the fiscal note for just a second. The fiscal note that was attached to your bill, Senate Bill 14, indicates that the fiscal implication to the state is anticipated to be $2 million. Is that correct?

SEN. FRASER: Could you hold one second.

SEN. WATSON: Sure.

SEN. FRASER: I need to pull the data here.

(Brief pause)

SEN. FRASER: Senator, I was just verifying. We spent a lot of time last night talking about this. I think you're aware that the HAVA funds that come from the federal government, which I believe are Help America Vote Institute, I guess it is, Help America Vote, the HAVA, there are funds that come to every state to the secretary of state. We have a fund that is setting in the Secretary of State's office that would be more than sufficient to handle this.

In other states like Indiana and Georgia, the HAVA funds have been used before. We have requested that those funds be available for this. They advised us back, until the passage of the bill, they can't approve the funds. But the assumption is that those funds are before the Secretary of State, and they will be here at some point. You can ask them about those funds, the parameters, but it is our belief that the HAVA funds will be available for this and would offset the fiscal note.

SEN. WATSON: I appreciate that answer.

TX_00000912
JA_000911

My question was, it's a $2 million fiscal note. Right?

SEN. FRASER: Right now the fiscal note that was delivered is $2 million, yes.

SEN. WATSON: Okay. And that's what I really wanted to ask about. And I'll talk about the fact that y'all want to take some federal funds, here in a second. But first of all, last session when we were talking about the fiscal note, my memory was and is, that at the beginning of the session when you filed the bill last session, there was a zero fiscal note, and then that got changed to the same as it is right now, a $2 million fiscal note for voter awareness, and it was exclusively for voter awareness in the second fiscal note.

Can you tell me what analysis has gone into coming up with how much money should be spent on voter awareness and voter education regarding this bill, in order to get to that $2 million?

SEN. FRASER: I think the analysis on this comes from the Secretary of State's office, and I'm sure they will be glad to answer your question. Two years ago before we started, we advised them that we needed voter education. If you remember in the bill, we discussed in that when we were discussing that, that we needed to have an appropriation for that. I think Senator Ogden stood up and talked about the fact that they would be willing to make sure that there was money there. Since then, we have been made aware that the Secretary of State not only I think has a plan for doing that but also a plan for requesting the funds from HAVA.

SEN. WATSON: Well, I'll ask about that. So, then, let me ask you another question. You indicated in your opening comments that -- and I've read your legislation -- under this bill, everyone gets a free identification card if they come in and ask for a free identification card, they show a voter registration card and/or they apply for a registration card. That $2 million that you've just talked about doesn't include the cost, any of the cost for providing these free identification cards, does it?

SEN. FRASER: I'm sorry. I was doing something else. Would you ask that last question again, please.

SEN. WATSON: Does the $2 million in the fiscal note include any of the cost of providing free identification cards?

SEN. FRASER: To my knowledge, it does not.

SEN. WATSON: And, in fact, there is no means test and your bill forbids DPS from collecting a
fee. If any eligible voter comes in or submits a registration application, they can then avoid what is the typical $15 fee?

SEN. FRASER: Senator, have you seen the numbers that have been collected by DPS on the number of eligible voters that have registered since 2006, the ones that registered with a driver's license or a driver's license and a social security card that identified the number of people registering --

SEN. WATSON: Yes.

SEN. FRASER: -- that already had identification? So the question you're asking is, the universe we're talking about we believe is very, very, very small. In fact, the Carter Commission, after the implementation in both Indiana and Georgia, and actually Mississippi they looked at, they found that only 1.2 percent of people did not have, already have a photo ID available, so the universe of this, so the question you're asking --

SEN. WATSON: Then why don't we talk about specific numbers. With you talking about those numbers, you're probably aware that in 2007, House Bill 218 was offered. It was referred to the committee, the Senate Committee on State Affairs. And in that one, which was HB 218, DPS talked specifically about identification cards and it put a fiscal note, it believed that it would be $1.3 million per biennium or $4 million every six years out of the highway fund. Were you familiar with that?

SEN. FRASER: Senator, you're getting into an area that's outside of my area of expertise. We have the person that's in charge of that. You've got two choices. Either you can ask that question of DPS as a resource when it comes up, or I will yield to Senator Williams right now and he can answer your question.

SEN. WATSON: Senator, if you would answer that question.

SEN. FRASER: I now yield to Senator Williams.

SEN. WILLIAMS: I just want to be sure I've got your question right.

SEN. WATSON: Sure. Since we're talking about numbers here -- and I'm trying to get a feel for what the cost of this is -- in House Bill 218 in the 2007 -- the 80th legislative session, there was a bill filed that dealt with the provision of identification cards. And in that one, the LBB indicated the fiscal note would be $1.3 million or $4 million every year coming out of the highway fund. Are you familiar with that?

SEN. WILLIAMS: I'm not familiar with House Bill 218. But, you know, I take what you're
saying --

SEN. WATSON: Sure. Okay.

SEN. WILLIAMS: -- at value.

SEN. WATSON: And since I anticipate that there would be deferral to you on the next question, too, let me just go ahead and ask that. Last session, in the 81st session, there was a bill by -- it was HB 2335 that indicated, similar to what Senate Bill 14 does, not, that there couldn't be a fee charged for issuing a document that someone might use as proof of their identification for purposes of voting. In the fiscal note there, the LBB singled out DPS identification cards, which is what we're talking about here, and assumed that if everyone used those, the number they came up in that fiscal note was $47 million over five years. Are you familiar with that one?

SEN. WILLIAMS: I'm not familiar with that --

SEN. WATSON: Okay.

SEN. WILLIAMS: -- particular bill. But what I can tell you is that the cost to the Department of Public Safety for issuing an ID card is about $1.67. It's a very small amount of money. So $47 million sounds -- that's a lot of IDs at a buck 67 apiece. And so what I would say is that when I discussed this with the Department of Public Safety recently -- and they'll be here to testify about this in detail more -- I think that it would be difficult for them to determine now how many people might take advantage of the free ID card. I think it's probably not possible for them to estimate that.

But the cost, I think we're all pretty comfortable that it would be fairly negligible. When you look at the universe of registered voters, which is somewhere around 13 million people, I think, and you've got about 15 million people that have either a driver's license -- and I can get you the exact numbers. I have them here -- there are a lot of people that already --

SEN. WATSON: Right.

SEN. WILLIAMS: -- have state ID cards. And a lot of the folks that don't have those would be using a mail-in ballot, and there is no requirement to present any kind of photo identification for a mail-in ballot, and this legislative doesn't touch that. So we think that the chances that there's going to be somebody who is going to want to avail themselves, there will be some, but it's going to be a very small number.

SEN. WATSON: Of course, what I'm attempting to do is not engage in that as I vote no this. What I've tried to go is go back and find out what the LBB, which we rely upon for fiscal notes, has actually said about these sorts of things, with previous
legislation that has addressed this, as opposed to
speculation.

SEN. WILLIAMS: And, Senator Watson, I
understand, and there are a lot of things -- I'm not
familiar with those bills. And what I would tell you is
that each -- the LBB comes up with their methodology
based on what each bill's requirements are. And not
being familiar with that --

SEN. WATSON: Sure.

SEN. WILLIAMS: -- I can't tell you what
the difference between that and this is. But we did
specifically sit down and talk to DPS, and they really
don't expect that this is going to be any big burden on
the agency that they're not going to be able to handle.

SEN. WATSON: Thank you for your answer.

SEN. WILLIAMS: Yes.

SEN. WATSON: I have a couple more
questions for Senator Fraser, if that would be all
right.

SEN. FRASER: I'm back with you.

SEN. WATSON: Okay. Great! Thank you,

Would the HAVA money that -- first of all,
you're familiar that in the base budget that the Senate
has but out, the $2 million for this biennium for voter
education has been explicitly cut. You're familiar with
that. Right?

SEN. FRASER: I don't think the word
"explicitly cut," I don't think it's been addressed.

SEN. WATSON: Well, it's been struck
through in the base budget. Did you know that?

SEN. FRASER: I'm not advised.

SEN. WATSON: Okay. Are you also familiar
that in this budget it calls for a $358 million cut to
the DPS budget?

SEN. FRASER: Again, I'm not on Finance;
I'm not sure you're on Finance. And so, no, I
haven't -- the base bill is the starting point of
discussion, so I'm not advised.

SEN. WATSON: All right. So you're not
advised whether, out of that 9.5 percent of the cut
comes in regulatory and the licensing area for DPS?

SEN. FRASER: Well, and as you know, as we
start the session, that's a draft budget as a starting
point. We're a long ways from that being concluded. So
the answer is no, I'm not aware.

SEN. WATSON: Thank you very much.

Thank you, Mr. Chairman.

SEN. ELTIFE: Senator Whitmire, what
purpose do you rise?

SEN. WHITMIRE: Will the gentleman yield?

SEN. ELTIFE: Senator Fraser yield?
SEN. FRASER: Be glad to.

SEN. WHITMIRE: Senator Fraser, a couple of questions about the implementation of your legislation if it passes. First off, I have to make this observation: Have you ever seen the gallery so empty when the Legislature is considering something that's been given such a high billing as Senator Duncan was making yesterday when he asked us to go to Committee of the Whole? I mean, how timely this was and how critical it was? The Governor has made it an emergency, and I don't think I've--I don't know if there's 20 people in the gallery. If it's so important, can you explain to me why the gallery is empty--

SEN. FRASER: I am not advised.

SEN. WHITMIRE: -- based on--

SEN. FRASER: I'm concentrating on the action on the floor rather than looking up and seeing who is in the gallery.

SEN. WHITMIRE: Well, but it's an indication, if the public is really concerned, particularly based on your polling data, which I'm sure you would join with, we don't govern in the state by polls normally, do we?

SEN. FRASER: Well, other than I find it interesting, whenever they asked the people of your district that you represent--

SEN. WHITMIRE: Sure.

SEN. FRASER: -- of whether they're in favor, the polls continue to show that the public, both Republican and Democrat--

SEN. WHITMIRE: Well--

SEN. FRASER: -- you say, "Will you support a person voting with a photo ID?"

SEN. WHITMIRE: And did you include in that question and would you be for it if it would disenfranchise senior citizens, students or others? You and I know it's all in how you ask the question. In fact, the way you're stating it, I'm surprised you didn't get 100 percent. If you ask people, "Are you against vote fraud?" I would assume you would get 100 percent.

SEN. FRASER: Here's the question--

SEN. WHITMIRE: It's the unintended consequences that we're concerned about.

SEN. FRASER: "Do you favor or oppose requiring a photo ID before a person is allowed to vote?" Pretty straightforward.

SEN. WHITMIRE: I'm surprised you didn't get 100 percent if you include "and stop fraud." It's when you add into it, "if it meant disenfranchising senior citizens," and then I think you would have a
significant drop.
The bottom line is, Senator Fraser, and
we'll have -- and let's have this ballot: Would you
concede that we're all, all 31 of us are against
election fraud?
SEN. FRASER: I will not concede that
until after the vote, and we're assuming the ones that
vote for it are --
SEN. WHITMIRE: Well, let me go ahead and
speak for the 12 of us that are probably going to vote
"No." We're all against election fraud. And I would
suggest we've actually seen an election process since we
took this up two years ago. Let's look at the most
recent election. What fraudulent activity this past
November are you so concerned about? I think it's the
election -- and maybe I should be more concerned.
If you look at the election results, it
was an overwhelming victorious day for Republicans in
November. You replaced 34 Democrats in the house. Now,
are you suggesting there was significant fraud on that
election day?
SEN. FRASER: Senator, all we're trying to
do with this bill is that when you walk into the polling
place and represent that you are John Whitmire --
SEN. WHITMIRE: Sure.
SEN. FRASER: -- that you can prove you
are who you say you are before you vote, it's a very
simple concept.
SEN. WHITMIRE: Except, Senator Fraser,
the unintended consequences that you're going to
disenfranchise people that have not been able to acquire
these cards, and that's what I want to spend a few
moments on. Walk me through a real life example of how
a senior citizen in my district is going to acquire that
card. Do they do it by mail? Do they have to do it in
person? What's the process?
SEN. FRASER: Senior citizens over --
SEN. WHITMIRE: Give me a real life.
Don't say, "We're going to provide it." Let's break
down what an 86-year-old lady in my district, never been
required to have one, how is she going to get her card?
SEN. FRASER: She would vote under current
law because she's exempt.
SEN. WHITMIRE: You've given her an
exemption. Does she have to prove, that day, her age?
I mean, Troy --
SEN. FRASER: You can ask that question of
the Secretary of State. But I'm assuming --
SEN. WHITMIRE: Well, you're the author.
And let me just tell you, like I said, we're all against
fraud. As elected officials, it's in our own personal
self-interest to have honest elections with the highest
integrity. We're doing it for the people that we
represent as well. So that's not the issue, are we for
or against fraud? It's the implementation, it's the
disenfranchisement, Troy, that we're fighting for and
what we've been fighting for, for the last couple of
years. Tell me how we're going to address the
unintended consequences of someone not being able to
vote on election day, because I know you don't want
that. And I --

SEN. FRASER: I was sent down here by the
people of my district to represent their views. The
polling of my district shows that it's almost 90 percent
of the people in favor of it.

SEN. WHITMIRE: Okay.

SEN. FRASER: The district that you
represent, I think if you poll in that district -- and I
have used some polling that shows close to the same
number -- that say that when they're asked, "Do you
think you should have to show a photo ID?" and they say
yes.

SEN. WHITMIRE: And my --
SEN. FRASER: So my answer is, we need to
pass this, because the people in our district --

SEN. WHITMIRE: Well --
SEN. FRASER: -- believe that they should
show a photo ID.

SEN. WHITMIRE: First of all, I don't
govern by poll. And if I was at a town hall meeting and
I walked through, after they've said they're for voter
ID, then I start talking about the implementation of it,
they start being just as concerned as I am. So I want
to know how people are going to acquire these cards.
Forget the 86-year-old. Let's go to a 56-year-old
person. How do they acquire the card? Are you familiar
in Houston it takes two to three hours to get a driver's
license at the DPS office?

SEN. FRASER: John, I was about to ask
you, you know, ask you your age, but I know your age.
We're both 61. A 61-year-old person in our age group,
is it going to be a real problem for you and I to drive
down to the DPS to get --

SEN. WHITMIRE: Well, see, that's what's
so sad about this discussion. You're not putting
yourself in the shoes of someone who doesn't have the
means that you and I have, they have to depend on
someone else for transportation. They may not have any
resources. How is a 56-year-old person in Houston,
Texas, going to acquire this card --

SEN. FRASER: We are not changing --
SEN. WHITMIRE: -- no driver's license.
SEN. FRASER: We are not changing the
mail-in ballot. And if someone has a reason that they

TX_0000919
JA_000918
SEN. WHITMIRE: On a mail-in ballot, how do you prove -- that's early voting. How do you verify who you are in that instance?

SEN. FRASER: I'm sure the Secretary of State would be glad to answer that.

SEN. WHITMIRE: Okay. But that's not what we're talking about. We're talking about on election day, a person in Houston wants to vote, how do they acquire the voter ID, photo ID?

SEN. FRASER: The DPS and the Secretary of State will both be here and I'm sure they will be glad to answer that question.

SEN. WHITMIRE: Troy, you're proposing this. And before we go forward, I would like to know, do you have to go to the DPS office? Do you order it by mail? That's a critical concern of all of us that are voting "No" against this bill. And I don't --

SEN. FRASER: Senator, did --

SEN. WHITMIRE: -- think you want to disenfranchise anybody, but I'm afraid that there's unintended consequences that you have not envisioned.

SEN. FRASER: Did another senator advise you of what you had to do to go down to the DPS office to get your driver's license?

SEN. WHITMIRE: Well, we're not talking about me. We're fortunate you and I are fortunate. We probably don't have to wait in lines. In Houston, Texas --

SEN. FRASER: There are 15 million drivers in Texas. Of the 31 Senate districts, I think that would mean there's about 500,000, I believe, in my district. And I don't think I've got a one of them that I instructed on how to go down and get a photo ID.

SEN. WHITMIRE: Okay. Well, let me just tell you about the DPS operations in Harris County. A working person cannot go by and get their license renewed on their lunch hour, before work or after work, because literally it's a two to three-hour wait. So how do you add this new group of participants that have to show up at a DPS office to get a voter ID?

SEN. FRASER: We have someone coming from the DPS. I think you can ask that question or I'll yield to Senator Williams.

SEN. WHITMIRE: I'm not sure if they're --

SEN. FRASER: The bill that I'm laying out is very clear, that it complies with the Supreme Court ramification and it also has been cleared by the Department of Justice.

SEN. WHITMIRE: Okay. So you don't know. Is that your answer?
SEN. FRASER: I said we've got resource witnesses that are coming. I'm not an expert in that area. We do have an expert coming, and they'll be glad to answer your question.

SEN. WHITMIRE: The DPS folks will have to publicly say at Gessner and I-10 or at Tacoma and 290, two sites in my district -- and I complained and asked for more resources -- it's a two- to three-hour wait, Governor Dewhurst, to get your driver's license renewed. So you can't even go over there on your lunch hour and get a driver's license, and now you want the folks to go over there and, I assume, wait in line to get a voter ID.

Let me ask you another question about the education that you're going to provide. Is it going to be done in bilingual materials with a --

SEN. FRASER: I'm sure the Secretary of State will be glad to answer that question.

SEN. WHITMIRE: Well, you're the sponsor.

SEN. FRASER: And as the sponsor, I invited the Secretary of State as a resource witness, to make sure we have someone that knows the answer to that particular question.

SEN. WHITMIRE: One also is your bill provides same-day registration. Now, according to you, you're going to have a fail-safe system that you'll know who is showing up to vote. Are you open to the idea that someone who has gotten motivated in the last 30 days, maybe the days just leading up to the election, with this secure form of ID can show up on election day, prove who they are and ask to vote?

SEN. FRASER: The bill does not provide for same-day registration.

SEN. WHITMIRE: I'm sorry. What?

SEN. FRASER: The bill does not provide for same-day registration.

SEN. WHITMIRE: Would you be amenable to us proposing it and --

SEN. FRASER: The bill does not provide, as I -- I filed the bill, and the bill does not provide for same-day registration.

SEN. WHITMIRE: Okay. Thank you for your answers.

CHAIRMAN DUNCAN: Senator Uresti.

SEN. URESTI: Thank you, Mr. Chairman. Would the gentleman yield for some questions?

SEN. FRASER: I would love to yield.

SEN. URESTI: Thank you, Senator Fraser. I want to ask you a few questions, kind of to follow on what Dean Whitmire asked you specifically regarding the DPS offices. And I don't know if they're here yet or
not. But particularly about my district, you know how
large it is. It goes from San Antonio all the way to
El Paso, and it has 23 counties, as I'm sure you're
aware, Senator Fraser.

And one of the concerns that I have is
that between here and El Paso -- and you may know this.
If not, I would like to let you know and the other
members know -- well, let me ask you this: Do you know
how many of my 23 counties do not have a DPS office?

SEN. FRASER: Senator, you know, the start
of your description of this, I'm very familiar with the
district, because I used to represent a lot of it. And
that area between -- going out toward El Paso, I've had
that when I was a state rep. It was in my state
representative district. And then part of your other
district was when I was a senator. So, yes, I'm very
familiar with it.

The answer to your question that you're
asking about driver's license location, we'll have
somebody from DPS here, and I'm sure they'll be glad to
answer that question for you.

SEN. URESTI: Well, in the meantime,
Senator Fraser, let me let you and the members know.
There are eight counties in my district out of the 23
that do not have a DPS office. Loving County has no
office, Crockett County, Hudspeth County, Jeff Davis
County, Kinney County, Real County -- we had some good
folks here yesterday representing Real County -- and
Terrell County have their offices temporarily closed.
And, Senator Fraser, do you know how many people live in
those counties? There are 47,000 people that live in
those counties in my district that don't have a DPS
office.

SEN. FRASER: Do you know how many in
those counties drive that have a license?

SEN. URESTI: No, I don't. Do you know,
Senator?

SEN. FRASER: I don't, no. I have been
out in those counties and I see people driving. I'm
assuming they have a driver's license.

SEN. URESTI: Well, it makes it even more
difficult if they don't have a driver's license and they
need to get a driver's license or a photo ID to vote.
How are they going to drive long distances in order to
retrieve that -- or obtain that ID?

SEN. FRASER: Again, the data we've been
shown is that people registered to vote -- and I guess I
would like to look in your area -- but about 90 percent
of the people that are coming in show their driver's
license when they register to vote.

You know, yes, there's -- it looks like
there's a lot of people or, you know, 47,000, but I'm
assuming that the bulk of those, probably a lot of them
20 have IDs.
21 SEN. URESTI: Well, that's an assumption,
22 Senator Fraser, that you're making that I don't have the
23 luxury of making on behalf of those 47,000 people. But
24 in addition to that, Senator Fraser and members, there's
25 another 70,000, another 70,000 constituents in my
0070
district that have access to only partial or sporadic
2 service; for example, Senator Fraser, the first Tuesday
3 of each month from 9:00 to 4:00. So they have one day a
4 month, members, to go and get an ID, and that's between
5 the hours of 9:00 to 4:00.
6 Well, if you can't get off of work that
7 one month -- that one Tuesday and that's the only day
8 it's open, what are my constituents supposed to do,
9 Senator Fraser?
10 SEN. FRASER: I think that's probably a
11 question you would want to ask the DPS. Or if you
12 would like, I will yield to Senator Williams.
13 SEN. URESTI: But this isn't their bill;
14 this is your bill, Senator Fraser.
15 SEN. FRASER: And that's the reason I
16 bring in, you know, knowledgeable witnesses, expert
17 witnesses that can answer these questions. We have
18 someone from DPS that will be here. Or Senator
19 Williams, that's in the area of his committee.
20 SEN. URESTI: So they're going to answer
21 my question as to what should my constituents do if they
22 can't get off of work that one Tuesday of the month in
23 order to get their ID to vote? That's what you're
24 saying, they're going to answer that question?
25 SEN. FRASER: You'll just have to ask
0071
them.
2 SEN. URESTI: This is your bill, Senator
3 Fraser. I'm asking you, because I need to go back to my
4 district and tell them that they have to get a photo ID
5 in order to vote. And their first question to me is
6 going to be, "Well, Senator Uresti, you know that our
7 DPS offices are closed," or "We have no DPS office in
8 our county," or "It's only open on one Tuesday a month."
9 What am I supposed to do, Sen. Uresti?"
10 SEN. FRASER: Again, the DPS will be here.
11 You can outline the problem, and you can outline the
12 problem with Senator Williams, and you're free to ask
13 them those questions.
14 SEN. URESTI: Sen. Fraser, in addition to
15 those counties that have no DPS offices, many of my
16 constituents in several other counties are going to have
17 to travel long distances in order to get an ID. For
18 example, my constituents in Crockett County, Ozona, will
19 have to travel 163 miles round trip to San Angelo to get
20 to the nearest DPS office. And if you live in Sanderson
in Terrell County, you will have to travel 170 miles round trip to get to Fort Stockton. If you live in Sierra Blanca in Hudspeth County, you have to travel 176 miles to get to El Paso in order to get to the DPS office. Did you know that, Sen. Fraser?

SEN FRASER: I'm very aware of that, that, you know, the district I represented, there were bus routes that were 80 to 90 miles each way for kids to attend public school, because the people lived out in the country.

SEN. URESTI: And would you agree with me, then, that that's going to be a challenge for those folks?

SEN FRASER: We're not changing the early voting mail-in ballot rules, and that will still be an option for people.

SEN. URESTI: So they don't need an ID to vote by mail?

SEN FRASER: By mail? Again, you can ask the Secretary of State. We're not addressing the mail-in ballots. The Secretary of State will be here. Someone from their office, you can ask that question.

SEN. URESTI: Well, let me just mention a few more of my counties. If you live in Van Horn in Culberson County, you have to travel 200 miles round trip to Marfa, which is the nearest DPS office. If you live in Pecos, which is in Reeves County, you have to travel 143 miles to Fort Stockton. If you live in Rocksprings in Edwards County, it's 152 miles round trip to Del Rio, Sen. Fraser. And finally, if you live in Medina, which is in Hondo, if you live in Hondo, which is in Medina County, you have to travel 84 miles.

And so again my question; Sen. Fraser -- if you can't answer it, just let me know -- what am I supposed to tell my constituents -- because this is your bill; it's not my bill -- how are they supposed to get their Texas ID if their DPS office is --

SEN FRASER: Senator, if I were you, when the DPS comes up, I would ask them questions and say, "Is there a way that we could do something like a temporary van coming through to accommodate those people?" And if I were the senator from that area, that probably would be a question I would ask the DPS. But again, they're coming forward, and that's a question I think that is appropriate of the DPS of, you know, "How do we make sure that we accommodate those people?"

SEN. URESTI: Well, it's a great suggestion, Senator Fraser. But what if DPS says, "We can't do that. It's not in the budget, the $2 million that we're being allocated"? So then what do I tell my constituents?

SEN FRASER: Well, you're assuming...
SEN. URESTI: Well, you're assuming that
they're going to say that they will be able to do it.

SEN. FRASER: No. I'm assuming that the
DPS is going to come up and you'll have the opportunity
to ask them.

SEN. URESTI: Okay. So then let's assume
the DPS spokesperson says, "Great idea that Senator
Fraser has. We can do that," there's going to be a cost
associated with that. Isn't that correct? That's not
included in the fiscal note of $2 million?

SEN. FRASER: Again, I'm not advised, I
think the DPS could advise you on that, or
Sen. Williams.

SEN. URESTI: Do we know when they're
going to be available to answer or --
SEN. FRASER: I think they're on hand.
And as soon as we complete these questioning, I think
we'll going to bring -- you know, as soon as we start
the -- well, I think that the plan -- I'm not speaking
for the Chair, but I believe we're going to allow
questions from members, then we're going to have invited
guests. And then once we start the public testimony,
they would be ready to come up, and I think they'll
answer any questions you've got.

SEN. URESTI: Senator Fraser, let me ask
you a few more questions, if I may, please. And I want
to be clear. So as I understand it, in order to vote

with your bill, if your bill passes, you can have a
voter registration card and a Texas ID or a driver's
license, and you're able to vote with both of those
documents. Correct?

SEN. FRASER: Actually, you don't -- if
you go in and you're on the voter roll and you have a
driver's license, they'll allow you to vote, because I
know that's -- you know, I do that now.

SEN. URESTI: So you don't need your voter
registration card, is my real question? If you have a
valid Texas ID or a valid Texas driver's license, then
you do not need --

SEN. FRASER: I think probably if you'll
ask the Secretary of State. But my understanding is
that you just have to identify yourself with a photo.
And if you're on the voter roll and you're at the
correct voting location, you live in that precinct and
you're on that roll and you show them your ID, I believe
you'll be allowed to vote.

SEN. URESTI: And that's my question, but
I want to be specific about it. So if I have a valid
photo ID or a valid Texas driver's license and I'm on
the rolls, then I do not need a voter registration card.
Correct?
SEN. FRASER: To my understanding, the answer is yes. But I still think I would ask that question of the Secretary of State.

SEN. URESTI: Well, I'm pretty sure that's correct. That's what I read. Then why do we need a voter registration card, then? Why are we going to need voter registration cards after your bill passes?

SEN. FRASER: Good question. Why don't you ask that of the Secretary of State. It might be a -- you could offer that as a cost-saving measure.

SEN. URESTI: But it's your bill, Senator Fraser. I mean --

SEN. FRASER: All my bill is addressing is the photo identification when you vote. You know, Carlos, when you walk in and they say, "Senator Uresti, you know, we'll need some identification," and even though you're on the roll, you're going to have to show a photo ID.

SEN. URESTI: And that's correct, and I agree with you, Senator Fraser. But the result will be, you do not need your voter registration card, then?

SEN. FRASER: That is my understanding. But again, I would ask the Secretary of State.

SEN. URESTI: Okay. That's all the question I have for now, Mr. Chairman.

Thank you, Senator Fraser.

CHAIRMAN DUNCAN: Thank you, Senator.

Senator Gallegos.

SEN. GALLEGOS: Senator Fraser, the questions that you're being asked and are asking us to wait for resource witnesses, I'm concerned that we're not getting answers from the author of the bill. Now, Senator Huffman just showed us a box with testimony and questions and supposedly answers that were asked two years ago. And a lot of the questions that you're referring to that we get answers from resource witnesses weren't answered at that time.

I mean, we just want an assurance here that whatever was in that box that Senator Huffman had did not have all the questions answered. I heard what she told Senator Davis, but a lot of the questions that you're being asked today were the same questions that were asked two years ago and have never been answered.

SEN. FRASER: Senator, I stayed up very late last night reading the deposition of the questions that were asked, that you asked me last year, the answers. And I guess if you're concerned about that, maybe you should get that deposition and you read it and that way you can feel more comfortable about what was asked and what was answered. Have you read the deposition?
SEN. GALLEGOS: There will be plenty of time for that. But I'm just asking you, as the author of the bill. You know, I mean, you are laying it out, and you're trying to explain it. And you're asking us to ask resource witnesses on questions, especially the questions that Senator Uresti had. And it concerns me that before we even, you know, lay it out and go forward with a bill, that the people that are here listening, at least they have the right to -- they leave, they have the right to know these questions, especially those questions that Senator Uresti just got through asking you. And it concerns me that we cannot get answers at the time that the bill is laid out, before we even go forward with the witnesses. And that just concerns me, that we're not getting answers.

SEN. FRASER: I think you can take a lot of comfort in the fact that we will not ask you to vote for the bill until we bring up an expert witness and you will be allowed to ask those question and get the answer you're looking for.

SEN. GALLEGOS: Well, I mean, we did that two years ago. And some of the questions that the box that Senator Huffman had still doesn't have answers in that box that she had that's going to be introduced as Exhibit No. 1.

SEN. FRASER: Have you read all the data that was in the box?

SEN. GALLEGOS: I have not read it; I have not read it. But, you know, I would think that, especially some of the questions that I asked and I'm fixing to ask you, you know, that if those answers aren't in that box that Senator Huffman introduced as Exhibit No. 1. I just want to make a point that it concerns me that these questions these senators have about their districts are not being answered. I just wanted to make that point.

And on another question, Senator, on the fiscal note -- and I know that Senator Watson brought it up -- it says that it's $2 million to implement. Now, here is my concern on that, is that Texas is ranked No. 2 nationally in this country as far as population. Missouri is ranked 19th. Yet, the numbers that I'm looking at on the costs that the Secretary of the State of Missouri on implementing -- and Missouri only has 5.9, we have 25 million -- Missouri has 5.9 in population, and the Secretary of the State of Missouri is going it's going to cost $6 million just to implement their voter ID program, and that's just the first year. The second year, another $4 million.

Now, with only 5.9 in population, and I'm looking at Texas that has 25 million, now, what kind of methodology is the Secretary of State using in Missouri?
as opposed to the Secretary of State in Texas? To me, that math -- you know, I'm not an expert in math, but I can tell the difference between 5.9 and 25 million to implement a voter ID bill, you know, that obviously there's something wrong here in the numbers. Can you tell me the difference in 6 million for Missouri and 2 million in implementing the cost of voter ID in Texas?

SEN. FRASER: I'm not a citizen of Missouri, so we don't have access to that information. And you and I have been in the Legislature a long time, and you're very aware that your fiscal note -- whenever you file a bill, you get a fiscal note with a bill, they look at the cost, and this is the cost that's been estimated.

SEN. GALLEGOS: You know, Senator, I'm concerned here that this number that has been laid out in this bill -- you know, and we do have -- and I don't know if the rules if we have the Ogden amendment on this bill, where you're looking at one number and then all of a sudden, before we start implementing the bill, it's going to cost us $30 million to implement the bill by the numbers -- if we use the formula being used by Missouri that has only 5.9 in population. Now, that really concerns me. $30 million, Senator Watson could use that here and stop the closure of those Austin Independent School District schools that are being closed. They could use that $30 million that I see as opposed to what I'm seeing as the formula in math that Missouri used.

Now, it concerns me that the fiscal note in this bill is misleading, according to the other states that are using more money and less population to implement their voter ID bill. That concerns me, Senator. And, I mean, is there somebody that can answer that question for me, why it costs so little on a state that has 25 million in population as opposed to another state that has 5 million and it's triple the cost?

You know, I mean, that concerns me, and that should concern you, when you're given a number, and we're telling the people in the audience here, the taxpayers, it's only going to cost us $2 million. And we have 25 million in population, Missouri only has 5.9 million, and it's costing them $6 million to implement voter ID. Now, you know, that really concerns me. And I don't want to mislead the public in any form or fashion that it's only going to cost us $2 million to upstart voter ID when that is a misleading number. And that concerns me, Senator, and it should concern you. If this number is misleading, now who can answer that question for me?

SEN. FRASER: I think you're very aware of...
the fact that this number comes from LBB. I believe they probably called the Secretary of State and asked for that number. So if you have a concern about it, probably you should ask the LBB and/or the Secretary of State. I believe the Secretary of State is going to tell you there are HAVA funds that they're requesting that would possibly even eliminate that $2 million.

SEN. GALLEGOS: Well, I mean, I heard you tell Senator Watson about the HAVA funds. I'm just saying on straight-up, straight-up implementation, that $2 million as opposed to $6 million in Missouri, you know, that's without HAVA funds, too. I'm saying that when you come down to it, if that number -- if, when the implementation starts, instead of $2 million it's $30 million, then, you know, I'm concerned.

I believe that the Ogden amendment should go on there and say if it's going to be over what you're showing on the fiscal note that it shouldn't be implemented if it's going to cost that type of money. That's a lot of money; that's a lot of money to implement voter ID when you're just saying -- well, not you -- but the fiscal note on this bill is saying only two million bucks. Now, you know, that just concerns me, Senator. And I guess I'll ask that question when the proper resource witness comes up.

Senator Fraser, the other question I had was similar to Senator Uresti's question. Now, two years ago, I put maps up on one of my amendments where the City of Houston has no DPS offices within the 610 loop. The City of Fort Worth, I believe -- let me see here. Let me look at my notes here. The City of Fort Worth I think doesn't have any either inside -- what is that loop? 82, 182? -- 81. And Dallas, Senator West, only has one -- only has one inside the city, only has one DPS center inside the city. And it concerns me, if we're going to mandate Texans to get a photo ID and you have no place to send them to, especially inside the loop and especially those without transportation, and if they can't get to it on a bus route, to one of the DPS centers --

SEN. FRASER: Senator, if you have evidence that someone in your district has the inability to get a driver's license, I wish you would bring that forward.

SEN. GALLEGOS: I'm talking about your bill that mandates a photo ID. And if we're going to mandate Texans, then we should at least allow them the opportunity to have places where they can get it, where they don't have to travel 150 miles, like Senator Uresti just said. That's my concern, especially the elderly that don't have any and they're going to have to get a
photo ID, that that person is going to have to travel
150 miles, even from their house inside the loop, those
people that don't have cars and they have to do public
transportation.

Now, I'm looking at the map in the City of
Houston, the bus route where it takes them three buses
just to get close to a DPS center from anywhere inside
the 610 loop. That really concerns me, Senator, on
this, and hopefully that -- Senator Fraser?

SEN. FRASER: I'm with you.

SEN. GALLEGOS: Hopefully that you will
look at it and maybe in some of our amendments will take
that into consideration. I'm just telling you, you
know, what's in Houston, not in Horseshoe Bay where you
live. And, you know, that is really a problem that we
have, especially those of us that represent minority
communities like Senator Uresti and me and others on
this floor.

There is another issue, Senator Fraser,

that I wanted to ask you. On driver's license, you
know, it says on a driver's license that's -- on a
driver's license that's pulled from somebody for
whatever reason, DPS gives you a temporary, and that
temporary is good for about 40 days or in some cases
when they've been stopped for a DWI or anything but
still have not gone through the legal process, they are
given a paper temporary license, and it says on that
paper that this is used for identification purposes.

Now, I guess my question to you would be
that if that is pulled -- and there's several thousands
of drivers, of Texans, that are using this paper ID
right now -- that if a driver's license is pulled for
whatever reason, that that DPS certification, paper
temporary license can be used as an ID to go vote.

SEN. FRASER: Senator, if you don't mind,
I'm going to yield to Senator Williams on that question.
If you don't mind, he'll answer that question for you.

SEN. WILLIAMS: Senator Gallegos, I had a
similar question of what you have as I visited with the
Department of Public Safety about this. And, in fact,
it had been a while since I had renewed my license. And
they now issue -- these temporary licenses actually have
a photo on the license, and it would be valid under
Sen. Fraser's bill as identification if you went to
vote.

And, you know, in more detail, we could
get the Department of Public Safety to give you some
more detail on that. But now the temporary licenses
actually have a photo on the paper license that you're
referring to.

SEN. GALLEGOS: Well, Senator Williams,
I'm showing that 98,000 drivers right now have temporary
licenses without photo IDs.

SEN. WILLIAMS: Well, you know, I'm not advised about that. I think we ought to get the Department of Public Safety --

SEN. GALLEGOS: Well, I agree.

SEN. WILLIAMS: I'm told that these, you know, temporary licenses you used to get when you were in the process of renewing your licenses now have your ID on them, your photo.

SEN. GALLEGOS: Senator Williams, I understand what you just told me. But, you know, I've known some folks that have had their license pulled and have not gone through the process, and there is no photo ID. All they're given is the sheet of paper that I have right here that they're driving with, 98,184 that are driving with this paper right here, no photo ID.

And it says -- it says here -- well, I'm not going to read it to you. Just trust me, you can read it yourself. It says that this would be used for identification purposes.

SEN. WILLIAMS: Well, thank you, Senator Gallegos. And I'm glad that you raised this issue, and we ought to ask the Department of Public Safety to clear it up for us. Thank you.

SEN. GALLEGOS: That's why I brought it up, Senator Williams and Senator Fraser. That's being done on temporary suspended license, no photo ID. But on the face of this sheet that DPS has given out, it says that this is for identification purposes. I just wanted to point that out. I do have an amendment that I hope you will take, Senator, that alleviates almost 100,000 that we know of right now.

SEN. FRASER: Have you turned that amendment in? If you get the amendments in so we get a chance to look at them --

SEN. GALLEGOS: Sure.

SEN. FRASER: -- I think there's a better chance for you, you know, us to understand what you're trying to do. So if you have an amendment, I would ask you to turn it in.

SEN. GALLEGOS: Sure.

Thank you, Mr. Chairman.

CHAIRMAN DUNCAN: Senator Davis.

SEN. DAVIS: Senator Fraser, will you yield for some questions, please?

SEN. FRASER: If you will allow me one second to get some better headsets on.

SEN. DAVIS: I was going to ask you if you could hear me.

(Laughter)

(Brief pause)

SEN. FRASER: I will now yield.
SEN. DAVIS: Can you hear me okay, Senator Fraser?

SEN. FRASER: Right now I am.

SEN. DAVIS: All right. A couple of questions for you. You've talked earlier this morning about both the Supreme Court opinion in the Indiana case and also the Justice Department review of Georgia. Are you aware that in each of those, there were particular instances that made the acceptance of those particular laws different than yours might be interpreted by those same bodies?

SEN. FRASER: If you don't mind, we've got, you know -- Senator Huffman, I think is prepared to, you know, answer legal questions. If you've got a question about a -- do you have specific examples --

SEN. DAVIS: Well, I would --

SEN. FRASER: -- that you would like to --

and we also, I believe, are going to have someone from Indiana here this afternoon, and we're also going to have an invited -- an attorney that will address that. So if you have specific questions about that, that might be the appropriate place.

SEN. DAVIS: Well, I'll read to you from those in a moment. But let's start just by talking about what's required on the Texas voter registration application right now. Right now a person may put their driver's license number or their social security number on their registration application to become a voter in the State of Texas. Correct?

SEN. FRASER: You've got the data. And I think probably the best person to ask and that's the Secretary of State.

SEN. DAVIS: Well, I have it right here. And there are some people who can't provide that information, and there's another opportunity for that person to attest to whom they are, to attest to the fact that they're a legal citizen and not a felon who would be prevented from voting. And I'm sure the Secretary of State probably has a number that shows to us -- and we will ask for this on the record today -- how many people fill out Section No. 9, the attestation clause, versus the people who are able to fill out Section 8, and what's the gulf between that. Are you aware what the gulf is between those two numbers?

SEN. FRASER: I believe I know the section you're talking about, but I actually would prefer you ask that of the Secretary of State's office.

SEN. DAVIS: Okay. But I'm asking you. Are you aware -- under your bill that you're proposing, are you aware of what the gulf is, the gap is between those two numbers, the people who are able to provide their driver's license or social security number versus
those that fill out the attestation clause, because they don't have either?

SEN. FRASER: When you ask the Secretary of State that question, I will be listening very carefully to make sure that I hear what they say.

SEN. DAVIS: And would you agree that it's probably the case that if I fill out Section 9, the attestation clause, because I can't fill out Section 8 with either a social security number or my driver's license number, that I will probably be impacted by a bill that's going to require what your bill requires in order for me to vote?

SEN. FRASER: Again, that would be a good second of the Secretary of State.

SEN. DAVIS: Well, I'm asking you as the bill's author. Are you concerned that there will be an impact to those people who currently cannot fill out Section 8 but can only fill out the attestation clause in Section 9?

SEN. FRASER: And again, you're making a reference to Section 8 that -- you know, I'm sorry. I don't -- I'm not -- I don't know what you're referring to. The Secretary of State is the expert in that area. And when you ask that question, I'll be listening and will, you know, listen to the response.

SEN. DAVIS: Earlier you talked about the Executive Director from the Carter-Baker Commission, and you cited a statistic, that only 1.2 percent of Americans would be affected by a requirement that a photo ID be required. Correct?

SEN. FRASER: I did make that reference, yes.

SEN. DAVIS: Are you aware that that was limited to a study of only three states, and Texas was not one of them?

SEN. FRASER: Yes, because at that time the Carter-Baker was looking at the states that had issued a photo ID.

SEN. DAVIS: And would you agree that it may be the case that if I live in one of those three states and it's easier for me to get a driver's license in that state, then I may have a lower percentage of citizens who don't have a photo ID than another state might have where it's more difficult to get a driver's license?

SEN. FRASER: I'm not advised.

SEN. DAVIS: Are you aware that even in those states, in the 1.2 percentage number, there was a disparate impact that was found on elderly and women and African-Americans in terms of people who actually had the eligible photo ID that's counted in that percentage?

SEN. FRASER: I'm not advised.
SEN. DAVIS: Does it concern you at all that the bill that we are looking at today, the bill that you filed, might have a disparate impact on women, minorities and senior citizens, possibly disabled people in the State of Texas?

SEN. FRASER: The bill that we're filing today I believe will be approved by the U.S. Supreme Court, and also the bill in Georgia was precleared by the Justice Department. So I believe our bill will comply with both of those.

SEN. DAVIS: Okay. Well I'm going to read to you from the Supreme Court opinion, the U.S. Supreme Court opinion when it was reviewing the Indiana law.

They acknowledged that there is evidence in the record, in fact, of which we may take judicial notice that indicates that a somewhat heavier burden may be placed on a limited number of persons by virtue of the photo ID requirement. They include elderly persons born out of state, persons who, because of economic or other personal limitations, may find it difficult either to secure a copy of their birth certificate or to assemble the other required documentation to obtain a state-issued ID, homeless persons and persons with a religious objection to being photographed.

"If we assume, as the evidence suggests, that some members of these classes were registered voters when the Indiana law was enacted, the new identification requirement may have imposed a special burden on their right to vote. The severity of that burden is, of course, mitigated by the fact that if eligible voters without photo ID may cast provisional ballots, that will ultimately be counted."

Are you aware that in the State of Indiana, I can cast a provisional ballot, and the Supreme Court made its decision in terms of whether the burden was constitutionally acceptable, based on the fact in Indiana, I can cast a provisional ballot, and if I attest to the fact that I'm unable to pay for the cost of getting the underlying documents to receive a photo ID, that I do not, in voting my provisional ballot, have to show a photo ID?

SEN. FRASER: Senator, my observation is that what you've read from the Supreme Court opinion is a portion of it, but it's a snippet. And it also continues to say that these do not present an undue burden for the person to vote.

SEN. DAVIS: That's correct. They said they did not believe that it created a constitutionally prohibited burden, based on the fact that voters in the State of Indiana have the opportunity to vote a provisional ballot even if they don't have a photo ID.
if they can show that they were unable to get one, either because of their circumstances as an elderly person or because they're indigent. Does your bill provide a special exception for people under those circumstances to vote a provisional ballot?

SEN. FRASER: The bill that I'm moving forward I believe will be approved by the U.S. Supreme Court and will be precleared by the Department of Justice.

SEN. DAVIS: Okay. Let's look at the things that are required in your bill in terms of a photo ID. And I appreciate what you said earlier. I think it's true. I think if you ask anybody on the street that you might walk up to at this moment in time whether they think it's a good idea for someone to show a photo ID in order to vote, they would probably agree. What they might not understand in agreeing with that, though, are what the requirements are going to be in the State of Texas in order for them to comply with that particular requirement, and they also might not appreciate the challenge and the difficulty that some people may have in supplying that.

SEN. FRASER: Senator, this is not rocket science. The people of your district understand very clearly that when they walk into that voting booth, they have to show a photo ID proving they are who they say they are. The people in Fort Worth, that area, I have the polling data -- I believe the number is about around 90 percent. And of that, that's Republicans and Democrats. So I believe the people that elected you, sent you down here, have said, "We believe that when you go in to vote, you should show identification to prove you are who you say you are." It's a very, very simple concept.

SEN. DAVIS: Are you aware that in the Indiana law and also in the Georgia law people are allowed to come and vote with a state issued student ID if they're attending a state university?

SEN. FRASER: I'm not advised.

SEN. DAVIS: And your bill does not allow that kind of a photo ID to be used. Is that correct?

SEN. FRASER: We have four forms of ID that we have laid out as acceptable. Those are all recognized acceptable forms of identification that we have recommended.

SEN. DAVIS: And it does not include that, for the record. Are you also aware that in the Indiana law and in the Georgia law, the ID can be expired and still be utilized, but under the requirements in your bill, that cannot occur?

SEN. FRASER: You know, I think our belief is that someone should have a valid ID that has not
Texas believe you should have a valid ID.

SEN. DAVIS: What will I do if my driver's license expires the day before I go to vote and I'm not aware of it until I show up at the polling place?

SEN. FRASER: And I would ask you, what would happen if you were driving to the polling place with an invalid driver's license? What would happen?

SEN. DAVIS: I would get a ticket, but I wouldn't be denied my constitutional right to vote as a legal citizen of the United States.

SEN. FRASER: You would not be denied your right to vote. Under this law and under this bill, as you know, if you walk in with an invalid driver's license, you would be allowed to vote. It would be a provision vote, and you would be allowed six days to go back to the place that issues driver's license, get a valid license and come back, and your vote would be counted.

SEN. DAVIS: Well, we had a conversation about that earlier in terms of how difficult and challenging -- for some people it actually is -- to be able to comply with that requirement. But let me ask you for a moment, if I bring in a state-issued Texas driver's license and it expired 30 days ago or 60 days ago or a year ago, how does that fail to prove that I'm the person on the card, simply because it has expired?

SEN. FRASER: Well, I would ask you the same question. If your driver's license expired 30 days ago, is it acceptable to the patrolman that just stopped you? It's expired.

SEN. DAVIS: I'm asking you the question. The reason that we are advocating or you are advocating for photo ID is so that the person who is receiving my ballot can verify that I am the person casting it. Correct?

SEN. FRASER: Yes.

SEN. DAVIS: And if my driver's license is expired but it's a state-issued driver's license and it has my name and it has my picture on it and my name matches what's on the registrar's -- the precinct rolls, how does that fail to prove that I'm who I am?

SEN. FRASER: I think we go back to the word "valid," do you have a valid Texas driver's license?

SEN. DAVIS: How does it fail to prove that I am who I am?

SEN. FRASER: You don't have a valid Texas driver's license.

SEN. DAVIS: And as I said earlier, in Georgia and in Indiana, under the laws that were deemed acceptable by the Supreme Court and the courts in...
Georgia received preclearance by the Department of Justice, each of those allows some acceptance of expired IDs.

I want to talk a little bit about how difficult it is, because I really think every one of us in this room needs to appreciate the burden that people have when they're being asked to supply some of the documentation that's required in your bill. And I've put together a little chart that I just want to go over very quickly. I won't belabor the point.

Can you bring it closer over here, Dan, so I can actually point at it?

Thank you.

Now, each of us, whether we're in the Senate or the House of Representatives in the State of Texas, we each bring unique backgrounds and perspectives to the table. And because of our unique backgrounds and perspectives, we're able to represent people in ways that hopefully contribute to a better understanding for each of us in terms of how we can best serve them.

Senator Fraser, I came from a fairly challenged background before I arrived on the floor of the Texas Senate. I had the opportunity to receive an incredible education that ultimately allowed me the privilege of standing here and having a conversation with you today. But there was a time when I was indigent, there was a time when I was a single mother and I was working a full-time job during the day in Dallas, from which I had to leave my house at 6 o'clock in the morning every morning to arrive at, and I worked a part-time job four nights a week waiting tables.

If I had been required during that point in time to show some of the ID requirements that are being proposed under your bill, I have to admit to you that I would have been quite challenged in being able to accomplish it. I had gotten divorced, so my name was different on my state ID than was on the registration rolls. And so because of that, I would have had to go through the process of trying to get a new state ID.

And, honestly, with my schedule, it would have been fairly impossible for me to achieve it.

I think it's pretty easy for us to stand on the Senate floor where we are today and the shoes we're in today and say, "Why should that be a problem?"

But for people who have to take time off of work and for whom that's an unaffordable idea, it can be a very, very real problem.

The other issue, in trying to receive a state ID in the State of Texas is, it's almost a circular process. In order to get the state ID, you have to have underlying ID that provide you with the opportunity to get that ID. And I know we're talking...
right now in the State of Texas about giving free ID to
people who come in to the Department of Motor Vehicles
and ask for that ID, based on the fact that they want to
vote.

But if I can't provide underlying
documentation, I'm going to have to go get that
underlying documentation, and it's going to cost me
money, and I'm concerned about that person. I'm
concerned that if I need a birth certificate in the
State of Texas, it's going to cost me $23. I'm also
concerned that I might have a really hard time getting
that birth certificate. And if you look to see what you
can show in order to get it, you see the circularity of
the problem. You can show a driver's license or you can
show a state ID. Well, the reason I need the birth
certificate is so I can get my driver's license or my
state ID.

In order for me to get a birth
certificate, I can show a social security card as one of
my underlying two documents that are required. But in
order to have a social security card, I've got to have a
driver's license or a state ID, so it puts me right back
at my original problem. To get my driver's license or
my state ID, I might be able to use a passport. But in
order to use my passport, I'm going to have to have a
birth certificate, but I couldn't get my birth
certificate because I didn't have a driver's license or
a state ID to get my birth certificate.

You see the problem? It's not just the
problem of the time one has to take off of work in order
to comply with this requirement, it's not just a problem
of how much money it costs. Sometimes it can be a
problem of almost a near impossibility for a person to
be able to provide the underlying documentation in order
for them to go and vote.

And my concern about that is, we will
disparately impact persons who find greater challenges
in fulfilling the underlying documentation requirements;
and, yet, we haven't provided anywhere in the bill, as
was done in Indiana, a provisional opportunity for
someone to come and cast a ballot and say that they were
unable to comply with the requirements for a photo ID.

Why is that?

SEN. FRASER: Senator, I appreciate the
story you just gave. And I would advise you of the
other 31 members here. There's a lot of people that can
tell like stories. When I was 16 and working on a
potato picker in California or when I was 17 working
picking cucumbers in Rising Star or when I was 18,
picking cotton in West Texas, I figured out a way to
have time after work to go get a driver's license,
because I really wanted one. I worked that into the
schedule, as I think a lot of people do.

I think what I would ask you is to give evidence, either in Indiana or Georgia, of a single person that has come forward and said that they were denied their ability to vote because of these provisions, because in my knowledge, there has not been a single person that came forward.

SEN. DAVIS: And again, you know, when you turn to those two laws, they actually provide some exceptions that are not provided in your bill, and so the instances in which people were excluded or prohibited from exercising their constitutional right to vote won't have been challenged in the same way as being proposed for the State of Texas under this particular bill.

I want to ask you a question about what happens, as a woman, if I come in to vote and I have my state ID, and the name on my state ID is different than my name on the registrar's certificate, because I've either married or divorced. What will happen in that situation?

SEN. FRASER: The question has already been asked twice. We will have someone here from the Secretary of State and the DPS that can answer that question for you.

SEN. DAVIS: Okay. Back to the fiscal note, Senator Fraser. The fiscal note --

SEN. FRASER: We've also talked about that a couple of times.

SEN. DAVIS: Yes, we did, but I want to ask this question. The fiscal note, of course, described the methodology under which the $2 million figure was compiled, and it specifically states that it left out the cost for training poll workers and election officers. It specifically states that it left out any cost for coordinating voter registration drives. It specifically states that it left out the costs of providing the ID cards, all of that because it is an unknown number.

SEN. FRASER: Well, you're making an assumption, and this amount was brought forward by LBB after they talked to the secretary of the State. The Secretary of State, I think, they can answer that question. But I disagree that it's unknown. I believe the Secretary of State and LBB knew exactly what they were doing when they brought it forward, because that's their job.

SEN. DAVIS: Well, it literally says that. It says, "The fiscal impact of the revenue loss from the prohibition of DPS to collect a fee is unknown because it is not known how many people would make such a
SEN. FRASER: And that is a correct statement.

SEN. DAVIS: And it also says that the cost of coordinating voter registration drives or other activities designed to expand registration is also unknown, and it also says that the cost for responsibilities, the training for people who would be responsible for implementing this is unknown.

Now, if I file a bill this session and I'm challenged, based on the fiscal impact of the bill, clearly this session more than any other will be very, very concerned about that. And the LBB has put a statement on it that they really don't know what the cost is, but intuitively we understand there's going to be a cost. We'll probably have a conversation about that. Right?

SEN. FRASER: And I think the conversation you should have should be the Secretary of State in discussing the HAVA funds that the federal government has provided to both Indiana and Georgia for the implementation of their law that we believe will be approved for that, but it has not been approved, because HAVA has clearly said the bill has to be passed before they could pass judgment on whether those funds could be used. That amount of money is setting in the Secretary of State's office now, and I think that would be a good question to ask them.

SEN. DAVIS: Let me ask a question about the bill itself. I'm a little confused about a section. This is on Page 5. I'm reading from Section 8, Subsection (a). "If the voter's address is omitted from the precinct list under Section 18.005(c), the officer shall ask the voter if the voter's residence, if listed, on ID presented by the voter under Section 63.001(b) is current and whether the voter has changed residence within the county." What if the answer is "No," what is the election worker to do at that point?

SEN. FRASER: That's a perfect question to ask the Secretary of State.

SEN. DAVIS: It's your bill, though, Senator Fraser, and the language is here. And there is no guidance for someone -- if we were to vote on a bill like this, how are we to know how a situation like that would be handled if it's not addressed in the bill?

SEN. FRASER: Senator, I'm sure you're aware through -- the past session, you were here. You're reading current law. There is one change there where we insert "presented by the voter under Section 63.001," which is the description I think of the photo ID. But basically that is current law, and I think it would be a good thing to ask the Secretary of State.
Everything you've read is current law.

SEN. DAVIS: Well, it's not current law, because it changes it from the difference being on the voter registration certificate versus being on the person's ID. What I'm concerned about is that if I come in with an ID and my address has changed and I have the correct address on the precinct list that's different than what's on my ID, that a poll worker might actually reject my opportunity to vote, because the address on my ID is showing differently than is showing on the precinct list.

SEN. FRASER: And the good thing about that is, these HAVA funds that we're going to request will also train poll workers to make sure they understand it. The ruling would be made by the Secretary of State, and they will train them how to do that, and I feel very comfortable that you would get to vote.

SEN. DAVIS: Well, I'm glad you feel very comfortable, Senator Fraser. I remain very, very concerned about the number of people under the very severe restrictions that are imposed by the bill you have proposed. I'm very concerned about the number of people who may be impacted by it. And I understand and agree with you, that assuring that voter fraud is not occurring is very, very important, and it's a conversation we should be having and a cure we should all attempt to find.

But in the process, I'm very afraid that we're going to wind up disenfranchising people who currently are legal citizens in the State of Texas who have the legal opportunity to vote and are going to be denied the right for that right under your bill as it's proposed today.

SEN. FRASER: And I believe our bill will be approved by the U.S. Supreme Court and approved in Section 5 by the Department of Justice.

Thank you.

SEN. DAVIS: Thank you.

CHAIRMAN DUNCAN: Senator West.

SEN. WEST: Thank you very much, Mr. Chairman. I would like to ask the author a couple of questions.

Senator Fraser, good morning, sir.

SEN. FRASER: I think we commented about the Barry White voice last year. I was reading the deposition.

SEN. WEST: That was actually Billy Ocean, which both of us like.

SEN. FRASER: Both of us do like. I agree.

SEN. WEST: Now, we're not going to have
any unfunded mandates on counties, are we? This bill would not occasion any unfunded mandates on counties.

SEN. FRASER: This bill?

SEN. WEST: Yes, this bill that you're proposing. The counties will not have to pick up any of this cost -- is that correct -- because that would be an unfunded mandate? And I know you are not for unfunded mandates. Right?

SEN. FRASER: I am not for -- I'm opposed to unfunded mandate, but I'm not advised of whether it would be --

SEN. WEST: So you can tell counties, you can tell all county officials in the sound of my voice and your voice that there will be no unfunded mandates in this bill and counties will not have to spend any money that they don't have right now to implement this particular bill. Correct?

SEN. FRASER: I had my largest county, Bell County, in my office last week, and I told Judge Burrows at that time that I'm opposed to unfunded mandate and, you know, we'll do everything we can to keep them off the counties.

SEN. WEST: So you're telling county officials there are no unfunded mandates coming from this bill?

SEN. FRASER: I didn't say that.

SEN. WEST: So there may be unfunded mandates coming from this bill?

SEN. FRASER: Not advised.

SEN. WEST: So let me back up. And I want to pursue this just a minute now. You philosophically are not for unfunded mandates. Right?

SEN. FRASER: That's a correct statement.

SEN. WEST: That is a correct statement.

And you, by your action in previous legislatures, have made certain that you have not passed any bills that would provide for unfunded mandates on the counties. Right?

SEN. FRASER: I have made an effort not to vote, if possible.

SEN. WEST: Okay. Now, in this particular bill, it is your objective to make certain that there are no unfunded mandates on any county in this entire state. Is that correct?

SEN. FRASER: I'm not advised.

SEN. WEST: You're not advised as to what your objective is?

SEN. FRASER: No. My philosophy is that I do everything I can trying to keep any unfunded mandates. I'm not advised of how they would be impacted.

SEN. WEST: All right. So you can't tell
SEN. FRASER: Well, as you know, a lot of
times there's unintended consequences, and we don't know
until it's passed, the impact.
SEN. WEST: It was your bill, though.

This is your bill. You don't know --
SEN. FRASER: My bill says that --
SEN. WEST: I'm just --
SEN. FRASER: -- when you walk into the --
SEN. WEST: I'm just trying to find out
whether or not county officials are going to have to
pick up any of the cost in terms of putting this bill
into effect. You tell me. Tell the county officials
that there are no unfunded mandates in this bill. Tell
them.
SEN. FRASER: I'm not advised.
SEN. WEST: So what you're telling county
officials, that you're not advised as to whether or not
there is any unfunded mandates in this bill. Correct?
SEN. FRASER: I'm sure that there's
probably an expert witness coming. You probably can ask
a question. Someone, or someone may be coming to
testify about that, but --
SEN. WEST: All right. Let's talk about
expert witnesses. Did you ask for the fiscal note in
this bill?
SEN. FRASER: I'm sorry?
SEN. WEST: Did you ask for the fiscal
analysis in this bill -- the fiscal note?
SEN. FRASER: No. I think the committee
chairman did. I believe the -- there is a fiscal note
requested. I did not request it.
SEN. WEST: Did you review the fiscal
note?
SEN. FRASER: The fiscal note was handed
to me. I read the fiscal note. I guess reviewing it,
yes, I read it.
SEN. WEST: Okay. Go to the local
government impact section of it, Page 2 of 3, down at
the bottom.
SEN. FRASER: Yes.
SEN. WEST: Okay. Second paragraph,
"According to Texas Association of Counties, Tarrant
County anticipated a one-time cost to reprint
provisional balloting materials and provides new
notices, of $8,000. Bexar County stated that due to
limited space on current registration certificate, large
cards would be necessary, resulting in additional costs
for cards, printing and postage of $381,000," et cetera.

Is that a cost that is going to be picked
up by the state or is that going to be a cost that's
going to be occasioned by the counties?

SEN. FRASER: Senator, you're on the Finance Committee. You helped with proposing the draft bill, and then you will be voting on the bill coming out of the committee that you send to us, so I think you would be better to answer that. My job is to pass the bill. The implementation of the bill, then, and the cost will have to be considered by the Finance Committee.

SEN. WEST: So let me make sure that I understand this, then. The answer to that question is, you don't know. So if we don't appropriate that money -- that being the Legislature doesn't appropriate that money -- then that's an unfunded mandate. Correct?

SEN. FRASER: My job is to bring the bill forward, put it before the membership, advise what the bill will do. And then if there's a fiscal impact --

SEN. WEST: Advise what the bill will do?

SEN. FRASER: The bill is going --

SEN. WEST: Is that your job? Didn't you just say part of your job is to advise what it will do?

SEN. FRASER: Yes. What it's going to do is that when you walk into --

(Simultaneous discussion)

SEN. WEST: So I'm asking you --

SEN. FRASER: -- in Oak Cliff and want to vote, you're going to have to show your smiling face --

SEN. WEST: And I'm asking what it will do. I'm asking what it will do in terms of unfunded mandates right now.

SEN. FRASER: Not advised about unfunded mandates.

SEN. WEST: Not advised. So where will the counties get this money under the local impact --

(Simultaneous discussion)

SEN. FRASER: And I think that's going to be your responsibility as a member of Finance.

SEN. WEST: Do you know -- then let me ask this question. Do you know where the county will get the money from, counties will get that money from? Under the local government impact, do you know where the counties will get that money from?

SEN. FRASER: You're asking me a question.

No, I do not know --

SEN. WEST: Okay. Thank you. Now, as it relates to -- this bill, plus the costs that we don't know, you've said repeatedly that it's going to cost at least $2 million. And we know, based on the fiscal note, that there's still some undetermined cost.

SEN. FRASER: I have not said one time that it's going to cost $2 million. I've said there is a fiscal note that has been projected, but there are...
dollar in the HAVA fund, federal funds, that are
setting in the Secretary of State's office that far
exceed that number. And I think the Secretary of State
probably will let us know what that is. So there is a
pot of money there that we believe will help offset some
of the associated expenses. I do not believe the cost
will be $2 million.

SEN. WEST: Now, the HAVA funds, is that
general revenue or is that federal funds?
SEN. FRASER: Federal funds.
SEN. WEST: Okay.
SEN. FRASER: And I believe I'm right, but
again, I would ask that question of the Secretary of
State if I were you.
SEN. WEST: Okay. Well, as it relates to

general revenue, now, as I understand and as I've used
the term "general revenue" over the last 17 years I've
been here -- and maybe Senator Ogden or someone else on
the Finance Committee can correct me if I'm wrong --
general revenue basically means state funds -- right --
monies that we get from state --
SEN. FRASER: You are the member of
Finance.
SEN. WEST: Well, let me -- general
revenue -- okay. Well, then, take my word for it;
that's what it means. It means monies that we receive
from tax revenues in the State of Texas, not HAVA funds
but revenues from taxes and revenues that are -- and
sources of revenues that we get from citizens in the
State of Texas. And that's what this deals with, it is
specifically general revenue-related funds, not HAVA
funds. HAVA funds are federal funds. So let's make
sure -- in terms of my questions, that's the distinction
that I'm making.
SEN. FRASER: Well, the distinction you're
not making is that if the HAVA funds are not available,
yes, there would be a cost to the state. But if HAVA
funds are available, it would offset that cost to the
state.
SEN. WEST: Where do you see that in this
fiscal note?
SEN. FRASER: It's not in that. That's
correction --
SEN. WEST: Then how are you making that
statement, if it's not in this fiscal note? There's
nothing in the fiscal note that says that.
SEN. FRASER: Mr. Chairman?
CHAIRMAN DUNCAN: Senator Fraser.
SEN. FRASER: Could I please enter into
the record -- this is information coming that is
addressing the questions he's talked about addressing
HAVA. I would like to have this added as an exhibit,
please.

CHAIRMAN DUNCAN: Bring it forward to the
Secretary, if you would, and we'll need to --

SEN. WEST: May we approach on it, Your
Honor -- Your Honor -- may we approach on it,

Mr. Chairman?

CHAIRMAN DUNCAN: You may.

(Brief pause)

SEN. FRASER: Mr. President?

CHAIRMAN DUNCAN: Senator Fraser, if
you'll hold on just a minute. I'm going to allow --
we're already premarked a couple of exhibits. And so
just in order to keep the record flowing correctly, I'm
go to recognize Sen. Van de Putte at this point to
introduce a motion in writing.

Senator Van de Putte.

SEN. VAN de PUTTE: Thank you,
Mr. Chairman. And thank you, Chairman, and the bill
author, to yield so that I can move that all actions
taken by the Senate on the 81st Legislature on Senate
Bill 362, as contained in the official Senate Journal,
be included in the record as Exhibit 2. The Senate
Journal excerpts shall include motions, remarks, written
responses, exhibits and any other material directly
related to Senate Bill 362.

Mr. Chairman, I move this motion in
writing.

CHAIRMAN DUNCAN: Members, you've heard
the motion. Is there any objection?

The Chair hears none. Exhibit 2 will be
received into the record.

(Exhibit No. 2 marked and admitted)

CHAIRMAN DUNCAN: Now, Senator Fraser,
you're recognized on Exhibit 3, I believe.

SEN. FRASER: And, members, just to
clarify, what we're entering here is the answer to the
question that we've been discussing. It is a letter
from the Secretary of State, Hope Andrade, saying that

the $2 million we're discussing, there is sufficient
HAVA funds allocated to voter education and poll worker
training that would cover this expense that is
available.

Also, in addition to your question, we
have been advised by other counties saying they do not
expect more than a nominal cost for counties, existing
staff and resources should be sufficient to implement
the new law.

And I would request this be entered into
the record.

CHAIRMAN DUNCAN: Members, Senator Fraser
sends up Exhibit No. 3. It will be received into the
record.
Exhibit No. 3 marked and admitted

CHAIRMAN DUNCAN: Senator Fraser, you still have the floor. Senator West, Senator has yielded to you for questions.

And before we do that, before we do that, let me make an announcement. We typically adjourn 30 minutes ahead of session in order to allow the sergeants and secretary to prepare for the Senate session. So at 10:30, I'll recognize a member on a motion to rise and report progress. So if you can watch the clock. It doesn't mean we're going to cut you off, it just means at that point in time, we'll have to cease until we finish the Senate session.

SEN. WEST: Thank you, Mr. Chairman.

Senator Fraser?

SEN. FRASER: Yes.

SEN. WEST: Okay. So you've admitted this as part of the record. So these are federal funds and not general revenue. Is that correct?

SEN. FRASER: No. Those are federal funds, as I understand it, yes.

SEN. WEST: It's not general revenue?

SEN. FRASER: Yes.

SEN. WEST: Okay. And the certainty of it is still up in the air. Based on this document from the Secretary of State, they still have to confirm that the funds can, in fact, be used for this particular purpose?

SEN. FRASER: That is correct, and that's what I advised earlier, is that HAVA has said until the passage of the bill, they would not rule, but the funds have been used before in Indiana and Georgia, and it is expected that we will be able to use them here.

SEN. WEST: Okay. Now, you had made mention also that you've talked to some other counties and that there won't be any unfunded mandates on those counties?

SEN. FRASER: You didn't read the rest of the fiscal note, is that Comal County reported the costs associated with the provision would be absorbed within existing revenues. You gave one example, but I think most of the counties expect this to be a nominal cost and that they have existing staff and resources --

SEN. WEST: And then --

SEN. FRASER: To handle this.

SEN. WEST: I'm sorry. You said most of the counties. You've given examples of three. You said most of the counties. Is --

SEN. FRASER: Do you have evidence from others? I --

SEN. WEST: There's 254 counties, and you've just made a statement that most of the counties have said they can absorb it within their normal --
SEN. FRASER: I said I do not expect it to be more than a nominal cost.
SEN. WEST: But otherwise -- now Bexar County is saying it's going to be over $380,000. That's not a nominal cost, is it?
SEN. FRASER: Well, I guess that's something you should consider in the Finance Committee.
SEN. WEST: Who has a huge budget?
SEN. FRASER: The large counties.
SEN. WEST: I'm sorry?
SEN. FRASER: The large counties.
SEN. WEST: They have huge budgets?
SEN. FRASER: Yes. And you will have to make that decision.
SEN. WEST: They don't have budget shortfalls in large counties?
SEN. FRASER: If I were you, then I would discuss that with the chairman --
SEN. WEST: But the reality is, the reality is, is that if -- and I won't belabor the point -- the reality is, if those counties will have to fund this out of existing revenue from their budgets, it's going to be an unfunded mandate on them if the state does not appropriate the money. Is that correct?
SEN. FRASER: Yes. It is expected that it will be a nominal cost for counties. Existing staff and resources should be sufficient to implement the new law.
SEN. WEST: And where are you getting that from?
SEN. FRASER: From the sheet here. If you'll follow, Comal County reported the cost associated with the provision of the bill should be absorbed within existing revenues.
SEN. WEST: But that's Comal County.
SEN. FRASER: From the sheet here. If you'll follow, Comal County reported the cost associated with the provision of the bill should be absorbed within existing revenues.
SEN. WEST: But that's Comal County. That's not Travis County, that's not Harris County, that's not Bell County or any of the other counties.
SEN. FRASER: I think what you should do, then, is get 254 counties, if you'll call them all and get that number and --
SEN. WEST: Okay. Well, I mean, it's your bill.
(Simultaneous discussion)
SEN. FRASER: -- Finance.
SEN. WEST: And the reality is, if it's an unfunded mandate, you're responsible for it if this bill passes. Now, let me ask you this: The $2 million, the $2 million that you're talking about, if it does not come from HAVA funds, then it's going to have to come from general revenue. Is that correct?
SEN. FRASER: I'm not advised. I'm not a
member of Finance; you are. And I think that would be a
decision of Finance.

SEN. WEST: Let's talk about just sections
of the bill. Specifically, the issue concerning -- and
I think you and Senator Davis have gone over this. And
I'm on page, in Section 7 of the bill, specifically (c)
and (d). Let me know when you're with me on it.

SEN. FRASER: What page are you on?

SEN. WEST: I'm in Section 7 of the bill.

SEN. FRASER: That's Section 11.


SEN. FRASER: Okay. As relates to -- let's
talk about the election officer. Now, what's the
definition of the election officer?

SEN. FRASER: That would be a good
question to the Secretary of State.

SEN. WEST: So you don't know what an
election officer is?

SEN. FRASER: I've got a witness, you
know, an expert witness coming in that -- you know, I
think I do, but it would be improper for me to answer.
I've got an expert person you can ask.

SEN. WEST: Let me ask this: Did you rely
on the Secretary of State's office in helping to draft
this bill?

SEN. FRASER: We have had a lot of
discussion with the Secretary of State's office over the
last three years in the process of drafting bills.

SEN. WEST: So you don't know what an
election officer is?

SEN. FRASER: I didn't say I don't know
what the election officer is. But the Secretary of
State is coming, and it would be improper for me to
answer that if we have an expert witness that can answer
it, you know, for sure.

SEN. WEST: So it would be improper for
you to answer what an election officer is?

SEN. FRASER: No. We've got an expert
witness that would be the better person to ask.

SEN. WEST: Okay. In terms of what an
election officer is in your bill. Okay.

As it relates to Section (d), you say
that, "If the voter's name is on the precinct list of
registered voters and the voter's identity can be
verified from the documentation presented under
Subsection (b), the voter shall be accepted for voting."

But if, indeed -- and the election officer is to make
that determination. Is that correct?

SEN. FRASER: Again, that's a great
question to ask the Secretary of State's office.

SEN. WEST: How does your bill work? Tell
SEN. FRASER: You know, it's a --

(Simultaneous discussion)

SEN. WEST: I mean, would that be a great
time to ask the Secretary of State?

SEN. FRASER: It's a great concept. You
walk in in Oak Cliff to vote. And if you're in the
right precinct and your name is on the list and you pull
out your driver's license and you show it to them and
your smiling face on your driver's license matches
you --

SEN. WEST: Well, let me --

SEN. FRASER: -- I think they're going to
hand you a ballot and allow you to vote.

SEN. WEST: Then let me ask you this: My
last name is spelled W-e-s-t. Suppose there's some
typographical error where they spelled it W-e-s, but
it's me. I have an ID, but my name is misspelled. What
happens then? I have to vote a provisional ballot?

SEN. FRASER: I think that would be a good
question for the Secretary of State, because I think
they will cover that in the training with the election
officials you're discussing.

SEN. WEST: What is your, intent, Senator?

SEN. FRASER: My intent is that the
Secretary of State would make a ruling on that.

SEN. WEST: Under those circumstances,
what would be your intent, as the author of this bill?

SEN. FRASER: My intent as the author of
the bill is that I'm going to give the authorization to
the Secretary of State to make a ruling and train the
poll workers so that it would be clear that they're
allowing the proper person to vote.

SEN. WEST: They're allowing the proper
person to vote. So in that circumstance, would it be up
to the election officer there to determine whether I'm
the same person --

SEN. FRASER: I think it would be up to
the Secretary of State --

SEN. WEST: Let me finish, let me finish.

-- whose last name is W-e-s, but my
identification says W-e-s-t, and I'm presenting that, it
would be up to that election worker. Right?

SEN. FRASER: I think that would be a
great question to ask the Secretary of State.

SEN. WEST: But what's your intent,
though? I'm just asking your intent. I can't ask the
Secretary of the Senate what's your -- I mean, Secretary
of State what your intent is.
SEN. FRASER: I intend to --

(Simultaneous discussion)

SEN. WEST: You've got to manifest your intent so the Secretary of State will know, have some guidance in terms of how this bill should be implemented. Don't you agree, as the author of the bill?

SEN. FRASER: My intent is to give the Secretary of State the authorization to determine the rules, train the poll workers. They would make a determination on that.

SEN. WEST: So the poll worker in this instance would be the election officer? I have to ask the Secretary of State?

SEN. FRASER: You need to ask the secretary of State.

SEN. WEST: Okay. Poll workers, let's talk about poll workers. How much do we pay poll workers?

SEN. FRASER: That would be a good question to ask the Secretary of State.

SEN. WEST: Okay. What's the minimum wage? I would ask the Secretary of State?

SEN. FRASER: What does that have to do with this bill?

SEN. WEST: I mean, I'm just trying to understand exactly how much we pay our poll workers.

SEN. FRASER: Again, Senator, you're asking the question. I would suspect probably poll workers may be paid different from one county to another. And it's an area -- I think that that's a good question of the Secretary of State.

SEN. WEST: Okay. Now, you keep referring to the Secretary of State. But in the bill analysis, doesn't it also say that this bill does not expressly grant any additional rulemaking authority to the state office -- to a state officer, institution or agency?

SEN. FRASER: Senator, I'm sorry. I'm not advised. I do not have a bill analysis. Do you have one in front of you you would like show me?

SEN. WEST: I do. Look under "Rulemaking Authority."

SEN. FRASER: We don't have it.

SEN. WEST: You don't have a -- okay. In the bill analysis, what it says is that this bill does not expressly grant any additional rulemaking authority to a state officer, institution or agency?

SEN. FRASER: Isn't that standard language that's put on every bill?

SEN. WEST: I don't know. But what I'm
SEN. FRASER: You don't know?
SEN. WEST: -- given the fact that you are
deferring everything to the Secretary of State, are you
going to put some additional language in the bill that
provides the Secretary of State some additional
rulemaking?
SEN. FRASER: I think the key word there,
this does not provide any additional. I think it's
assumed that the Secretary of State has that ability
under current ability we've given the Secretary of
State.
SEN. WEST: Let me ask this, Senator
Fraser. Okay. All right. You can't give me what your
intent is in that situation. I'll just take that for
granted.
You have made reference to the Carter-
Baker Commission and recommendations. Is that correct?
SEN. FRASER: I want to make an
observation here for Senator Whitmire. If you'll look
up, it is filling up, so there must be someone concerned
about the legislation we're talking about.
What was the question?
SEN. WHITMIRE: Lubbock.
SEN. FRASER: While Senator West gathers
himself, I'll tell you that those are the great people
from West Texas, the City of Lubbock. And they are
great voters and very concerned. And I've seen the
polling data that shows that West Texas was the highest
percentage of people that believe that they should show
their ID whenever they show up to vote. I'm really glad
to have them at my back.
Go ahead.
SEN. WEST: Do I need to ask the Secretary
of State about that, too, or what?
SEN. FRASER: You could. These people
respect the opinion of the Secretary of State, and they
probably have already asked.
SEN. WEST: Okay. Senator Fraser, a
couple of things. As it relates to the Carter-Baker
Commission, you've talked about the recommendations, and
you are following the recommendations that came out of
that commission. Is that correct?
SEN. FRASER: No. I filed a piece of
legislation that I believe will be approved by the U.S.
Supreme Court and will be cleared by the Department of
Justice.
SEN. WEST: Okay. Let me ask you this:
Have you made mention of the Carter-Baker Commission?
SEN. FRASER: I have made references a
couple of times of things that they mentioned in their
SEN. WEST: Of the recommendations that they mentioned, did you incorporate any of those in your bill?

SEN. FRASER: My bill is a bill I believe that will be approved by the U.S. Supreme Court and be approved by the Department of Justice and will --

SEN. WEST: So the answer to the question is what? Did you incorporate any of the recommendations from the Carter-Baker Commission in your bill?

SEN. FRASER: The bill that we're filing is a bill that I believe will be approved by the U.S. Supreme Court and be approved by the Department of Justice.

SEN. WEST: So the answer to the question is?

SEN. FRASER: That we're filing a bill that's going to be approved by the U.S. Supreme Court.

SEN. WEST: Well, that wasn't the question asked. The question asked, did you incorporate any of the recommendations in the Carter-Baker Commission in your bill? That was the question I asked.

SEN. FRASER: I read the Carter-Baker report. And you know, obviously, I'm aware of the things they're recommending. But the bill that I've drafted is based on the fact that whenever you walk in to vote, I want you to show an ID proving you are who you say you are, and I believe that bill will be approved by the U.S. Supreme Court.

SEN. WEST: So you don't know whether you did or not. Is that the answer to my question?

SEN. FRASER: My answer is, the bill that we filed, that we brought forward, is a bill that clearly says that whenever you vote, you need to show your ID, and I believe that bill will be approved by the U.S. Supreme Court.

SEN. WEST: Was that one of the recommendations of the commission?

SEN. FRASER: I'm not advised.

SEN. WEST: But you made reference to it as a predicate for why this particular bill --

SEN. FRASER: No. I made a reference to comments that were made by the Carter-Baker Commission.

SEN. WEST: What were those comments that you made?

SEN. FRASER: If you want to go over it again, I can do my opening statement again if you would like.

SEN. WEST: No, just the comments from the Carter-Baker Commission.

SEN. FRASER: Carter-Baker Commission, bipartisan -- Carter-Baker Commission affirms the
danger. Elections are at the heart of the democracy.

"Americans are losing confidence in the fairness of
elections, and while we do not face a crisis today, we
need to address the problems of our electoral system."

The Carter-Baker Commission concluded at
the end of the day, there's considerable national
evidence of in-person voter fraud. And regardless of
whether one believes that voter impersonation is
widespread or relatively rare, there can be no serious
dispute that it is a real effect, can be substantial
because, in a close election, even a small amount of
fraud could make a margin of difference.

SEN. WEST: Okay.

SEN. FRASER: That was my reference to the
commission.

SEN. WEST: Okay. Did they also
recommend, though, that we should use some sort of
mobile strategy, mobile strategy in order to get
vehicles out to different locations to --

SEN. FRASER: I didn't reference that.

SEN. WEST: No. I said did they also
recommend that, though?

SEN. FRASER: I'm sorry. I'm not advised.

I didn't reference that.

SEN. WEST: Okay. But if they did make a
recommendation that we should do everything we can to
make certain people are registered to vote, you would
support that, wouldn't you?

SEN. FRASER: The bill I'm filing, that
I'm filing today --

SEN. WEST: No. That's not --

SEN. FRASER: -- very clearly says that I
think it will be approved by the U.S. Supreme Court and
approved by the Department of Justice.

SEN. WEST: And we need to ask the
Secretary of State. Okay. I understand that. But what
I'm asking is, you would agree that if we are trying to,
quote unquote, purify our election process, that we
should do everything we can in order to make certain
people are registered to vote. Wouldn't you agree with
that?

SEN. FRASER: I think probably when the --
SEN. WEST: Well, you would not agree with
that?

SEN. FRASER: If you'll allow me to make a
statement.

SEN. WEST: Sure.

SEN. FRASER: I think when DPS comes up, I
think there's going to be a lot of discussion about what
can they do in the form of either making it easy for
people to sign up and/or even, maybe even a temporary
van for an area that Senator Uresti had talked about in
far West Texas. Those people that are, you know, 100 miles from the nearest location, maybe there's a way to accommodate that. So I think the answer to your question is, I'm anxious to hear the response of the Department of Safety of what they're either able and/or willing to do.

SEN. WEST: And let's assume that they are able and willing to do more than your bill permits. Would you support an amendment that would enable them to do what they're able to do in order to —

SEN. FRASER: Have you prefiled that amendment and have I had a chance to look at it?

SEN. WEST: No. I'm asking you a question right now.

SEN. FRASER: And I'm asking you, have you filed your amendment?

SEN. WEST: Well, you basically said, sir, that you have to wait -- we have to wait until you hear their testimony before we can make a determination as to whether or not they're able and willing to do more than your bill currently allows them to do, would you support an amendment that would give them the resources or give them the rulemaking authority to be able to do the outreach?

SEN. FRASER: I'm probably not going to work in hypotheticals right now. Let's wait until we hear from them. Then we'll determine that.

SEN. WEST: Okay. Well, I'm going to make sure and I'll put that down. I want to talk about seniors just for one second. How did you come up with 70 years old? Well,
hold on. Let me ask you this: Is there a definition, a
federal definition under any of our laws, U.S. laws or
either state laws, that defines a senior citizen?

SEN. FRASER: It was really actually a
very complicated system that we came up with this. It
actually was recommended by a democratic member that
said, "If you'll put that in the bill, that would help
five or six of us vote for the bill." So that was
recommended originally to be put in the bill. But the
answer to your question is, I'm 61 years old, and I
think you're just about as old as I am.

SEN. WEST: No, I'm younger, I'm younger
than you are. I'm younger.

SEN. FRASER: Oh, you're 60 -- 59?

SEN. WEST: I'm younger than you are.

SEN. FRASER: How old are you, sir?

SEN. WEST: I'm 58 years old.

SEN. FRASER: Okay. Of the people

(laughter) --

SEN. WEST: Ask the Secretary. We're not
going to --

SEN. FRASER: I want to see your photo ID.

SEN. WEST: Ask the Secretary.

SEN. FRASER: I need a photo ID.

SEN. WEST: Got to ask the Secretary.

SEN. FRASER: And here, this is a good
observation. I live in an area, a retirement community,
and I know a lot of the people in that area. And the
people that are my age, that are 61 up to 65 up to 70, I
think are still very, very capable. It is not an
inconvenience on them. There's a lot of people that are
70 --

SEN. WEST: And what community?

SEN. FRASER: You want me to answer the
question?

SEN. WEST: I just didn't hear. You said
you lived in a retirement --

SEN. FRASER: I live in an area where
there's a lot of retired people.

SEN. WEST: People. Okay.

SEN. FRASER: Yes, like myself.

SEN. WEST: Yes.

SEN. FRASER: Those people that I know,
people that are up to that age, it would not be an
inconvenience for them, and they're still very, very
active. Actually, I've got numerous people that I play
golf with often that are above 70 and up to 80. So,
actually, the number probably could have been higher,
but that number we thought was a fair number and
represented a number that we could offer up as a very
fair number for an exception to this bill.

SEN. WEST: Let me make sure I understand
your answer to that question. You're saying that the
age 70 is predicated on people that you know that live
in your community?
SEN. FRASER: It is predicated by a
democrat member offering me that up as a number, that if
we would put that in the bill, there would be five or
six Democrats that would vote for the bill. That's the
answer to my question.
SEN. WEST: Okay. But you added a lot of
other stuff after that. What was all that other stuff?
SEN. FRASER: The other stuff was the
people that I know that are capable of that. Now, if
someone is not capable, we are not changing the mail-out
ballot procedures. And that anyone for some reason that
could not vote in person would be allowed to vote like
ey today.
SEN. WEST: Don't you think that a better
definition would be 65? Why wouldn't you use 65? And
let me give an example.
In the Human Resource Code, elderly person
means a person 65 years of age or older. Why wouldn't
we use that as an age? Our Penal Code uses elderly
individual means a person 65 years of age or older. Our
Utility Code means an individual who is 60 years or
older. Our Human Resource Code means an elderly person,
means a person who 60 years or older. And now we're
going to have our election code basically saying a
person of 70 years or older. Don't you think -- I'm not
going to vote for your bill anyway, but just in case.
SEN. FRASER: You actually were one of the
ones that was asking if I would put it in the bill.
SEN. WEST: No, no, no, no, no, no, no,
no. Let's get it straight. I didn't ask you that --
okay? -- for the record. Okay? I didn't ask you that.
SEN. FRASER: Okay.
SEN. WEST: But if you're going to put it
in there, it seems as though you should have one of a
consistent definition with some of the other statutes.
You're making an elderly individual for voting purpose
more onerous than it is under these other statutes, like
in our Penal Code where it says an individual -- elderly
person is 65 years old.
SEN. FRASER: I actually believe that the
number probably could easily be higher, because --
SEN. WEST: So you would make it 80 years
old?
SEN. FRASER: I'm sorry?
SEN. WEST: You would make it 80 years old
for election purposes?
SEN. FRASER: I'm saying when I'm 80, I
still believe I'll be able to get in the car, go down
and get my ID and be able to vote.
SEN. WEST: But see, you're assuming that all elderly people have cars.

SEN. FRASER: If they don't, they can vote by mail.

SEN. WEST: But you're assuming that they all have cars and that they'll be able to do everything that you'll be able to do at the age of 80. And I'm pretty certain you will be able to do it given, you know, the things that you do to keep yourself in shape and everything.

But I don't think we should be building that definition based on how you perceive yourself and people in your neighborhood. The fact of the matter is, you're more affluent than most other people in the State of Texas. And if you're going to build a definition, I think what you need to look at is what the average elderly person in the State of Texas, you know, is and the means that they have.

SEN. FRASER: And, Senator, I think, you know, if you're going to consider that, you've got to think about how things have changed. When my parents were 65, they were old. Things have changed a lot with diet and exercise, and people are changing what they can do.

People that are 70 or 75 or 80 are still very, very active today, and I think it's a very fair number. Now, I feel very comfortable that you're probably going to offer an amendment, raising or changing that number. And I think probably, if the members of the body, you know, could help us decide that, I think -- myself, I believe that 70 is a very fair number --

SEN. WEST: Let me --

SEN. FRASER: -- exception.

CHAIRMAN DUNCAN: Senator West --

SEN. WEST: Yes.

CHAIRMAN DUNCAN: -- if I might interrupt -- and I don't want to -- we can continue with your line of questions when we reconvene as a Committee of the Whole. It's 20 till. We've gone 10 minutes over what we previously announced. Would you have any objection if we could continue the dialogue after session?

SEN. WEST: No objection.

CHAIRMAN DUNCAN: Okay. Very good. Why don't we go ahead and do that. Before we do that, let me ask the body if you would, please, if you have amendments that you would wish to -- we're not putting a deadline on amendments, but it will help us if you can deliver your amendments as soon as possible to Jennifer Fagan who is the State Affairs Committee Director, and we will try to collate them and make sure that there are...
not conflicting amendments. And if you'll do that as soon as possible, that will be helpful.

There are a number of people that are on queue to be recognized, and I will recognize them in order that they're on queue. Now we'll record that and then start. Senator Lucio will be first, Senator Van de Putte, Senator Ellis, Senator Seliger, unless you're just -- you're just on for the motion, so we'll take you off center -- Wentworth. He's just for the motion, so we'll take him off. And then, Senator Zaffirini, you would be in queue at that point in time. And then we'll just start the queue. Whenever we come back in, you can go ahead and hit your button and we'll have the queue.

Exhibits, too. If you have exhibits that you want to enter into the record so that we can make sure we have an orderly transition of those exhibits, would you go ahead and bring those forward, at least during the interim time, so we can go ahead and number them and have them available. It's not absolutely necessary that we introduce them in their chronological order, but it does help have a cleaner record.

Finally, I want to remind you, we did have a little talking over, so we've got to make sure we have a clear record. So please, in the future, remember to speak one at a time.

Senator Zaffirini is recognized for an announcement.

(Announcement by Senator Zaffirini)

CHAIRMAN DUNCAN: Thank you, Senator. The Chair recognizes Senator Seliger for a motion.

SEN. SELIGER: Mr. President, I move that the Committee of the Whole Senate rise and report progress.

CHAIRMAN DUNCAN: Members, you've heard the motion. Is there objection?

Chair hears none. It's so ordered.

(RECESS: 10:43 a.m. to 12:38 p.m.)

AFTERNOON SESSION
TUESDAY, JANUARY 25, 2011
(12:38 p.m.)

CHAIRMAN DUNCAN: The Committee of the Whole Senate will come to order. The Secretary will call the roll.

ROLL CALL

SECRETARY SPAW: Birdwell?

SEN. BIRDWELL: (Indicated presence)

SECRETARY SPAW: Carona?

SEN. CARONA: (Indicated presence)

SECRETARY SPAW: Davis?

SEN. DAVIS: (Indicated presence)

SECRETARY SPAW: Deuell?
QUESTIONS FROM THE SENATE FLOOR (CONTINUED)

CHAIRMAN DUNCAN: Senator Fraser, are you ready?

SEN. FRASER: I am ready.

CHAIRMAN DUNCAN: Senator West, you're recognized to continue your questioning with Senator Fraser.

SEN. WEST: Yes, sir. Thank you very much.

SEN. FRASER: And we're going to try it without earphones. See how that works. I think I'm good with you.

CHAIRMAN DUNCAN: And if I could advise both of you, I had some -- we had some concerns about you were both talking at the same time on your last dialogue. So if each of you could remember that, and I'll try to help you --

SEN. WEST: Okay.

CHAIRMAN DUNCAN: -- if you forget.

SEN. WEST: All right. Thank you.

Senator Fraser, I think, then, when we were looking -- can I ask that the last question be read back?

CHAIRMAN DUNCAN: The -- probably not because we have switched court reporter shifts and so --

SEN. WEST: I was just trying not to be redundant on it.

And, Senator Fraser, if -- if I am being redundant, we talked about --

SEN. FRASER: You are being redundant.

SEN. WEST: Okay. I need to ask the Secretary of State about that.

(Laughter)

SEN. WEST: Wait a minute. Hold on. I'm being redundant?

Senator Fraser, I think I was asking you about the $2 million; and you had indicated that those funds may very well come from the federal funds, but we're not certain at this point. And if they don't come from federal funds, they will have to come from general revenue, and we're at least -- the minimum amount is about $2 million. And I think that I mentioned to you that the average teacher in the state of Texas makes...
If we have to appropriate state funds in order to fund this voter ID bill, it will cost a minimum of $2 million, and that's the equivalent of about 40,000 teachers. You do understand and appreciate that. Is that correct?

SEN. FRASER: And I very much appreciate how valuable our schoolteachers are to the state of Texas. Without a doubt, I'm very, very aware of that.

And, again, the discussion we had prior to us breaking, we believe very, very strongly that there is sufficient funds in the Secretary of State's budget from HAVA funds that would -- that the letter says they have enough funds to cover this. They are going to request of the federal government. It is not unprecedented. They have allowed that to be used before, so we have every reason to believe it will be done. And so the discussion of whether that money would deprive some -- the rest of the budget is speculative us not knowing because we believe very strongly that -- that that money is going to be available.

SEN. WEST: And this may very well be a technical question for the Secretary of State.

SEN. FRASER: I would never refer anything to --

SEN. WEST: If for some reason the bill is not precleared by Justice, will those HAVA funds be made available?

SEN. FRASER: I'm sorry. That one I, for sure, do not know the answer to that. That would be a great question for the Secretary of State.

SEN. WEST: For sure.

SEN. FRASER: For sure.

SEN. WEST: Okay.

SEN. FRASER: I do not know the answer to that question.

SEN. WEST: Okay. And we need to make certain we do. If -- would you support an amendment, though, that basically says that if general revenue, state revenue, had to be used in order to fund this particular bill, that you would then delay the -- the implementation of it?

And the reason I'm asking that is, surely you don't want to take general revenue from our coffers to fund voter ID when we may end up having to lay off thousands of teachers. I would assume that you would want teachers -- us to appropriate money to make certain that we can fund our education system over funding a voter ID system.

SEN. FRASER: Senator, could I remind you that there was a motion in writing that was entered by

SEN. FRASER: And I very much appreciate how valuable our schoolteachers are to the state of Texas. Without a doubt, I'm very, very aware of that.

And, again, the discussion we had prior to us breaking, we believe very, very strongly that there is sufficient funds in the Secretary of State's budget from HAVA funds that would -- that the letter says they have enough funds to cover this. They are going to request of the federal government. It is not unprecedented. They have allowed that to be used before, so we have every reason to believe it will be done. And so the discussion of whether that money would deprive some -- the rest of the budget is speculative us not knowing because we believe very strongly that -- that that money is going to be available.

SEN. WEST: And this may very well be a technical question for the Secretary of State.

SEN. FRASER: I would never refer anything to --

SEN. WEST: If for some reason the bill is not precleared by Justice, will those HAVA funds be made available?

SEN. FRASER: I'm sorry. That one I, for sure, do not know the answer to that. That would be a great question for the Secretary of State.

SEN. WEST: For sure.

SEN. FRASER: For sure.

SEN. WEST: Okay.

SEN. FRASER: I do not know the answer to that question.

SEN. WEST: Okay. And we need to make certain we do. If -- would you support an amendment, though, that basically says that if general revenue, state revenue, had to be used in order to fund this particular bill, that you would then delay the -- the implementation of it?

And the reason I'm asking that is, surely you don't want to take general revenue from our coffers to fund voter ID when we may end up having to lay off thousands of teachers. I would assume that you would want teachers -- us to appropriate money to make certain that we can fund our education system over funding a voter ID system.

SEN. FRASER: Senator, could I remind you that there was a motion in writing that was entered by

SEN. FRASER: And I very much appreciate how valuable our schoolteachers are to the state of Texas. Without a doubt, I'm very, very aware of that.

And, again, the discussion we had prior to us breaking, we believe very, very strongly that there is sufficient funds in the Secretary of State's budget from HAVA funds that would -- that the letter says they have enough funds to cover this. They are going to request of the federal government. It is not unprecedented. They have allowed that to be used before, so we have every reason to believe it will be done. And so the discussion of whether that money would deprive some -- the rest of the budget is speculative us not knowing because we believe very strongly that -- that that money is going to be available.

SEN. WEST: And this may very well be a technical question for the Secretary of State.

SEN. FRASER: I would never refer anything to --

SEN. WEST: If for some reason the bill is not precleared by Justice, will those HAVA funds be made available?

SEN. FRASER: I'm sorry. That one I, for sure, do not know the answer to that. That would be a great question for the Secretary of State.

SEN. WEST: For sure.

SEN. FRASER: For sure.

SEN. WEST: Okay.

SEN. FRASER: I do not know the answer to that question.

SEN. WEST: Okay. And we need to make certain we do. If -- would you support an amendment, though, that basically says that if general revenue, state revenue, had to be used in order to fund this particular bill, that you would then delay the -- the implementation of it?

And the reason I'm asking that is, surely you don't want to take general revenue from our coffers to fund voter ID when we may end up having to lay off thousands of teachers. I would assume that you would want teachers -- us to appropriate money to make certain that we can fund our education system over funding a voter ID system.

SEN. FRASER: Senator, could I remind you that there was a motion in writing that was entered by

SEN. FRASER: And I very much appreciate how valuable our schoolteachers are to the state of Texas. Without a doubt, I'm very, very aware of that.

And, again, the discussion we had prior to us breaking, we believe very, very strongly that there is sufficient funds in the Secretary of State's budget from HAVA funds that would -- that the letter says they have enough funds to cover this. They are going to request of the federal government. It is not unprecedented. They have allowed that to be used before, so we have every reason to believe it will be done. And so the discussion of whether that money would deprive some -- the rest of the budget is speculative us not knowing because we believe very strongly that -- that that money is going to be available.

SEN. WEST: And this may very well be a technical question for the Secretary of State.

SEN. FRASER: I would never refer anything to --

SEN. WEST: If for some reason the bill is not precleared by Justice, will those HAVA funds be made available?

SEN. FRASER: I'm sorry. That one I, for sure, do not know the answer to that. That would be a great question for the Secretary of State.

SEN. WEST: For sure.

SEN. FRASER: For sure.

SEN. WEST: Okay.

SEN. FRASER: I do not know the answer to that question.

SEN. WEST: Okay. And we need to make certain we do. If -- would you support an amendment, though, that basically says that if general revenue, state revenue, had to be used in order to fund this particular bill, that you would then delay the -- the implementation of it?

And the reason I'm asking that is, surely you don't want to take general revenue from our coffers to fund voter ID when we may end up having to lay off thousands of teachers. I would assume that you would want teachers -- us to appropriate money to make certain that we can fund our education system over funding a voter ID system.

SEN. FRASER: Senator, could I remind you that there was a motion in writing that was entered by

SEN. FRASER: And I very much appreciate how valuable our schoolteachers are to the state of Texas. Without a doubt, I'm very, very aware of that.

And, again, the discussion we had prior to us breaking, we believe very, very strongly that there is sufficient funds in the Secretary of State's budget from HAVA funds that would -- that the letter says they have enough funds to cover this. They are going to request of the federal government. It is not unprecedented. They have allowed that to be used before, so we have every reason to believe it will be done. And so the discussion of whether that money would deprive some -- the rest of the budget is speculative us not knowing because we believe very strongly that -- that that money is going to be available.

SEN. WEST: And this may very well be a technical question for the Secretary of State.

SEN. FRASER: I would never refer anything to --

SEN. WEST: If for some reason the bill is not precleared by Justice, will those HAVA funds be made available?

SEN. FRASER: I'm sorry. That one I, for sure, do not know the answer to that. That would be a great question for the Secretary of State.

SEN. WEST: For sure.

SEN. FRASER: For sure.

SEN. WEST: Okay.

SEN. FRASER: I do not know the answer to that question.

SEN. WEST: Okay. And we need to make certain we do. If -- would you support an amendment, though, that basically says that if general revenue, state revenue, had to be used in order to fund this particular bill, that you would then delay the -- the implementation of it?

And the reason I'm asking that is, surely you don't want to take general revenue from our coffers to fund voter ID when we may end up having to lay off thousands of teachers. I would assume that you would want teachers -- us to appropriate money to make certain that we can fund our education system over funding a voter ID system.

SEN. FRASER: Senator, could I remind you that there was a motion in writing that was entered by
Senator Huffman of the -- the testimony of two years ago. And I think if you'll go back and read that testimony, yourself and several others, one of the big arguments you had was making sure that there was sufficient money that went forward for the education of voters, making sure voters understood and that no one would misunderstand this process. So it's difficult for me when you're arguing both sides of the issue.

I think the answer to your question is, I'm not going to take a position today about whether we should or should not. We are requesting that the Secretary of State do sufficient education so that no one misunderstands the -- the implementation of this bill.

SEN. WEST: Regard --

SEN. FRASER: We're going to give -- we're going to give them that power. And that without a doubt, I would hate for us to be using money that could be used for a schoolteacher, and I'm not going to get into that debate because I'm a great supporter of schoolteachers.

But I still stand by the letter from the Secretary of State. The Secretary of State believes very clearly that they have sufficient funds, the money is available, and it will be made available.

SEN. WEST: So the answer to my question is, is that if there are no federal funds available, you would support an amendment that basically says that we should not use general revenue in order to fund this bill?

SEN. FRASER: And my position is, is that you've taken both sides of that issue. You argued in favor of funds last time. You're -- now you're asking for amendment saying we're not going to use funds. If we don't use funds to educate voters, obviously that's a problem.

And the answer is, no, I believe the instruction to the Secretary of State is that we do need to educate the voters.

SEN. WEST: So you'd be -- you'd be in favor of cutting schoolteachers using -- and, I mean, you agree with me that based on the budget that was introduced by the House and the budget that was introduced by the Senate, that school districts will be under pressure to terminate some of the teachers that would otherwise be in the classroom?

SEN. FRASER: I -- I don't agree with anything other than the fact --

SEN. WEST: Okay. All right.

SEN. FRASER: -- that your own finance, you're going to have to make those decisions; and we've got to make sure that we educate voters, making sure
SEN. WEST: All right. Let me ask the question this way, then: Would you agree with me that both the House and the Senate have introduced bills that put pressure on school districts to reduce their budgets that would impact the number of teachers that would be in classrooms?

SEN. FRASER: You're a member of the Finance Committee that implemented a draft budget. I am not. I have not advised. And the answer is, I'm sorry, I don't -- I -- I'm not advised on that issue.

SEN. WEST: If you were so advised -- if you were so advised that both the House and the Senate by -- if you were so advised by me, the Chairman of Finance, the Chairman of Appropriation, that both the House and the Senate have introduced bills that would require us cutting our commitment to our public schools and our teachers, if you were so advised that both houses introduced the budget that did that, would your position still be the same as it relates to the question I asked you concerning whether or not we should be using general revenue in order to fund voter ID implementation over funding our public schools?

SEN. FRASER: I am so advised that you're a member of finance, a very respected member, and you're very capable of making those hard decisions; and I'm sure you'll move forward and make the right decision for our wonderful schoolteachers across the state.

SEN. WEST: What decision would you make?

SEN. FRASER: I'm sorry?

SEN. WEST: What decision would you make?

SEN. FRASER: I made a decision to support you, as a member of finance, to keep you on the committee.

SEN. WEST: So if you had -- if you had to make a decision, though, if you were on finance and had to make a decision, what decision would you make?

SEN. FRASER: I'm sorry. I'm not sitting on finance. I'm not subject to being able to listen to the debates, so it would be -- wouldn't be right for me to take a position on that.

SEN. WEST: But if you had to make -- take a position on funding voter ID over schoolteachers, which one would you fund?

SEN. FRASER: I'm -- I think the position -- because this bill is before us, it is extremely important that -- that we deter and detect fraud and restore the public confidence in the election system.

SEN. WEST: So that's your answer in terms of -- is that what you're telling the teachers, that
you'd rather do that than -- to the extent it's there,

(Simultaneous speaking)

SEN. FRASER: Well, unfortunately, since I'm not a member of finance, I don't get to make a choice of what I would rather do. I'm laying -- bringing forward a bill today that would restore the confidence of the public in the election system and today, because I'm sponsoring that bill, that I'm going to ask that we -- you know, we restore that confidence.

SEN. WEST: So, I'm trying to -- so let me make certain I understand your answer to my question.

SEN. FRASER: I know you're trying to --

SEN. WEST: Let me -- let me -- hold up.

Now, I'm listening, because if you remember, both of us can't talk at the same time because the stenographer's taking it down, and I'm trying to make certain that I am reminded of that fact.

So your answer to that question is that you would prefer to fund the voter ID bill, if need be, with state funds than to put extra money -- take that $2 million, if we need to, and put it back in the budget for our school districts?

SEN. FRASER: You know, the -- you know, the important thing -- or the good thing with the Legislature is you don't get to make -- answer questions for me and the I did not say that at all. Today I'm laying -- bringing forward a bill that would deter and detect fraud and restore the public confidence in the election system.

SEN. WEST: How does your bill detect fraud?

SEN. FRASER: Come back? I'm sorry. I didn't hear you. What did you say?

SEN. WEST: How does your bill detect fraud?

SEN. FRASER: The -- the bill is designed to deter and detect fraud and restore --

SEN. WEST: No. I asked you: How does your bill detect fraud?

SEN. FRASER: The -- I think the easy answer to that would be, is that when you walk into the -- into your election booth and you show your driver's license, they know for sure that you're Royce West and if you're on the precinct list, registered, you're entitled to vote.

SEN. WEST: And so that's -- that's the fraud detection provision in it? And so you'd rather fund --

SEN. FRASER: That's the way the bill works.
SEN. WEST: Now, let me ask you this: If there's empirical evidence that -- in Texas, at least, because, you know, we are -- we are Texas. We are the Lone Star State. The rest of America can go this way, and we'll go that -- the other way. Right? Right.

Okay. You're good with that. Right?

SEN. FRASER: I'm sitting here listening.

SEN. WEST: You don't agree with that?

SEN. FRASER: No, I'm listening to you.

You're --

SEN. WEST: We are Texans.

SEN. FRASER: You're still answering my questions for me.

SEN. WEST: We're Texans.

SEN. FRASER: Keep going.

SEN. WEST: I'm just asking you whether you agree with it. And so the question I'm asking you is: Is there any indication that we have prosecuted any fraud associated with identification in the state of Texas? Is there any empirical evidence whatsoever?

SEN. FRASER: The bill that I'm bringing forward today will clearly say that when you walk in the voting booth, you identify yourself as who you say you are, and the bill that we're bringing forward we believe will pass the Supreme Court of the United States and be approved by Department of Justice.

SEN. WEST: I notice you keep on saying that in terms of you believe that the bill is going to pass muster at the Department of Justice and also the United -- the Supreme Court of the United States. Are you anticipating any -- let me -- let me ask this: If the Department of Justice decides not to preclear this legislation, are you anticipating any type of court challenge by the state of Texas?

SEN. FRASER: Senator, I'm starting to have trouble hearing you. Hold on a second. Let me put my earphones on.

(Pause)

SEN. FRASER: Are you there?

SEN. WEST: Yes.

SEN. FRASER: Would you say something?

SEN. WEST: Testing, testing, testing.

SEN. FRASER: Okay. I got you.

SEN. WEST: One, two, three.

SEN. FRASER: Okay. Will you ask your question again?

SEN. WEST: You have consistently indicated that this particular bill will pass the Department of Justice and also the Supreme Court. I'm asking you: Do you anticipate that if the Department of Justice decides not to preclear this particular legislation, any litigation concerning it?
SEN. FRASER: You're -- you're being subjective about me assuming what's going to happen. I believe the bill that we had -- that we're offering will be precleared.

SEN. WEST: But I'm asking if it's not precleared. Do you want to see us go into litigation with the federal government concerning your bill if it's not precleared?

SEN. FRASER: I don't -- I don't think that's, you know, my choice. I think we -- we will present the bill forward and try to present our best case that it should.

SEN. WEST: Okay. So does your bill anticipate any litigation at all?

SEN. FRASER: The bill in no way addresses or thinks about any litigation. It is clearly just a bill saying this is what we're asking you to do, to present a photo ID when you vote, and that's the extent of the bill.

SEN. WEST: I know because -- and the reason I ask that question, you continue to make reference to the Department of Justice and the U.S. Supreme Court or --

SEN. FRASER: Only because the -- the bills that have been brought forward by other states, which Indiana was cleared by the -- you know, made it all the way to the U.S. Supreme Court, and then in Georgia, they were precleared from the Department of Justice because a bill -- you know, since we're a Section 5 state, they were precleared.

SEN. WEST: Okay. In Georgia, not Indiana. Indiana's not a Section 5 state?

SEN. FRASER: No, they are not.

SEN. WEST: Okay. Has the Legislature or have you conducted any research on how burdens of the photo ID requirements may fall disproportionately upon racial minorities?

SEN. FRASER: Come back again. I'm sorry. My sound went off.

SEN. WEST: Okay. In drafting your bill, was there any research conducted on how burdens of -- burdens of photo identification requirements may fall disproportionately on racial minorities?

SEN. FRASER: Probably the best evidence that I could bring forward, that the latest poll that was conducted of Texans, including the people in your area. Of the -- there were 86 percent of the public that in favor of that. Of that, 82 percent were black, 83 percent were Hispanic.

So I would say the answer to your question is: If you ask someone that is either African American...
or Hispanic, do they believe that -- "Do you favor/oppose requiring a valid photo ID before a person is allowed to vote?" and you have 82 percent of the public that says that --

SEN. WEST: Right.

SEN. FRASER: -- pretty -- pretty straightforward.

SEN. WEST: You keep referring to that poll. What poll is that, sir, and who was it conducted by?

SEN. FRASER: It was conducted -- this is one of many we had. I've got a whole series of polls. This just happened to be the latest one that was conducted January the 10th, 2011. This one was by the Lighthouse Opinion Polling & Research, LLC.

SEN. WEST: Lighthouse Opinion.

SEN. FRASER: Lighthouse Opinion Polling, LLC.

SEN. WEST: Okay. And --

SEN. FRASER: One that was -- (Simultaneous discussion)

0164

SEN. WEST: Were you finished?

SEN. FRASER: Yeah.

SEN. WEST: Okay. Now, the question, though, that I asked, not -- and I agree with you that most people will say that some form of photo ID is okay.

SEN. FRASER: But what --

SEN. WEST: Let me -- let me finish. Let me finish, though. Hold on for a second.

I would agree with you that, but my question wasn't about their opinion. My question was: Have you conducted any research on how burdens of photo ID requirements may fall disproportionately on racial minorities?

SEN. FRASER: And I think the answer to that, if you look at what happened in Indiana and Georgia is a good example because it is a Section 5 state. In those states, to our -- to my knowledge, there has not been a single person that has came forward to identify themself that they were in any way you know, in -- you know, kept from voting or inconvenienced by voting.

So the answer to your question is, that I look at the data that has been collected from the states that have implemented, and they're coming forward. That is the case. Plus the fact that if you ask African Americans or Hispanics in Texas, it's a very straightforward question. When you have 82 percent of the public, the people that you represent, saying, you know, "I think that's a good ideal," I'm having a lot of trouble understanding how -- why you don't understand
that.

SEN. WEST: Okay. So the answer to my question is, is that you did not conduct any type of research on it other than looked at opinion polls and referenced what went on in other states?

SEN. FRASER: No, we've done all -- there's been a lot of research done.

SEN. WEST: And that's what I was asking.

What research have you done --

SEN. FRASER: I just explained --

SEN. WEST: -- to make that determination?

SEN. FRASER: -- to you what we did. We have looked at the experience of other states. And you're going to have witnesses come from some of the other affected states, and you're going to be able to ask that question: Who has came forward in your state and said it's a problem?

SEN. WEST: Okay. So you're saying, then, that as a result of experiences in other states and an opinion poll, that that is the sum total of the research that's been done by you in preparation of this bill?

SEN. FRASER: Senator, I think the people in your district understand very clearly. If you ask them a direct question, someone you represent, and said, "Do you favor or oppose requiring a valid photo ID before you're allowed to vote," this is -- that's not rocket science.

SEN. WEST: Well, the --

SEN. FRASER: "Should you be required to show your picture ID when you go into vote?" That's -- that's -- to me, that's -- that's, you know, pretty telling.

SEN. WEST: Well, the great thing about it is, we're going to have an opportunity to do just that. Because guess what? I've got a few people from my district down here to testify, so you'll have an opportunity to ask them that. Okay?

SEN. FRASER: Good.

SEN. WEST: But, again, that's the sum total of your research, though. Right?

SEN. FRASER: I didn't say that was the sum total of my research.

SEN. WEST: Now, would you agree that Texas has a larger proportion of minorities than Indiana?

SEN. FRASER: Not advised.

SEN. WEST: So if -- if the demographic information that we have from the U.S. Department of Census indicated that, you would not disagree with that.

Correct?

SEN. FRASER: Well, I mean, every state has a different demographic of the makeup of people.
SEN. WEST: Sure. I know that, yeah.
SEN. FRASER: Georgia is a -- you know, they're -- they're a Section 5 voter rights state, but their makeup is not exactly like Texas.
SEN. WEST: That's the point. That's what I'm asking you. You said you weren't advised, so I was just trying to point to you some set of facts that all of us commonly know that we get from the Department of Census, U.S. Department of Census. And if they give different demographic information for the states, then that would probably be controlling, and you would agree that that's the best evidence that we have of what the population is in those various states. That's all I'm asking. Now, let me ask this.
SEN. FRASER: But you're trying to answer my question and I did not say that.
SEN. WEST: No, I'm not. But are the forms of identification listed in your bill the least restrictive options in order to achieve the goal of avoiding what you call voter identification fraud?
SEN. FRASER: Okay. You're going to have to ask that again.
SEN. WEST: Are the forms of identification that you've listed in the bill the least restrictive options in order to achieve the goal of avoiding what you have said is voter identification fraud?
SEN. FRASER: And I think what you're asking which is going to be the easiest to use. And the data, if you look back at 2006, the number of people that have registered to vote, about -- I think the number now is 91 percent actually use their driver's license when they registered to vote. So the assumption is at least 91 percent of the people that voted -- or that registered since 2006 had a driver's license. So I'd say that's the -- if it's the -- the easiest thing, I'd say a driver's license.
SEN. WEST: So this -- the list of identifications that you use as the -- is the least restrictive options that you could come up with?
SEN. FRASER: Well, I don't -- I'm not sure. Your verbiage you're using, I don't know that that's the intent.
SEN. WEST: Well --
SEN. FRASER: I'm saying that the thing that the -- the type of identification that is most readily available appears to be a driver's license.
SEN. WEST: Okay. Now, since there are studies that show that African Americans and Hispanics are more affected by poverty and --
We're trying to figure out if this is a filibuster.

SEN. WEST: Is it a what?

SEN. FRASER: A filibuster?

SEN. WEST: Oh, no, this is serious business. This is serious business.

SEN. FRASER: I guess I would remind you that the information that was put into the record this morning by Senator Huffman, the questions you've gone over, I believe we put these --

SEN. WEST: Well, at any -- at any point, you can defer to whomever you want to answer the question.

SEN. FRASER: No, no, I'm saying --

SEN. WEST: You've been referring to the Secretary of State.

SEN. FRASER: -- these -- the questions -- the questions you're asking, the question and the answer are already in the record from two years ago; that you're asking the exact same question, and I'm answering the exact same answer. It's already in the --

SEN. WEST: And it may very well be. I just don't remember. I haven't gone back and read that entire record. It was like 26 hours. So if I'm being a little bit redundant, please give me -- give me a little space on that.

Let me go back to the questions I'm asking. Studies have shown that African Americans and Hispanics are more affected by poverty and, therefore, are more likely to participate in government benefit programs. Will the elimination of the government documents as a form of ID disproportionately affect African Americans and Hispanics?

SEN. FRASER: I'm not advised.

SEN. WEST: Okay. If in fact -- well, let me back up and ask you this question.

Do you agree that African Americans and Hispanics are disproportionately affected by poverty in the state of Texas?

SEN. FRASER: Not advised.

SEN. WEST: Okay. Do you --

SEN. FRASER: I grew up in a pretty poor family, so --

SEN. WEST: Well, that's what I know, and correct me if I'm wrong because we've had our conversations. Your father was a minister, too. Right?

SEN. FRASER: Minster and --

SEN. WEST: Okay. He went to a lot of African American churches?

SEN. FRASER: Yes, he did.

SEN. WEST: Did a little singing and stuff.
SEN. FRASER: Yes.
SEN. WEST: Okay. And do you represent a district that has a high poverty level -- or excuse me -- a high ethnic minority population?
SEN. FRASER: Interestingly -- well, and what you call high, it is not one of the highest percentage wise of ethnic minority. But the last figure I was shown, my district is the third poorest district in the state, right behind Senator Uresti's. That that -- that number is a couple of year's old, but I'm -- you know, the --
SEN. WEST: Okay.

SEN. FRASER: -- people in my district are -- are the working poor.
SEN. WEST: Okay. The -- the protected classes, that would be an African American and Hispanics, do you have a high concentration of African Americans and Hispanics in your district?
SEN. FRASER: Well, I don't know what you'll call a high percentage. I've got --
SEN. WEST: Okay. Comparatively speaking.
SEN. FRASER: There -- there are a lot of my voters in my district that, you know, I'm -- I love to say "my constituents" -- that are African American or Hispanic.
SEN. WEST: Are they in poverty or what?
SEN. FRASER: Well, Senator, if --
SEN. WEST: Oh.
SEN. FRASER: If I have the third poorest district in the state, that implies that we have some people that are working poor.
SEN. WEST: Let me just ask you this question.
Do you know whether or not the elimination of the government documents that have hereto before been utilized by voters for identification purposes at the polls --
SEN. FRASER: Issued before?
SEN. WEST: Yeah, I mean, under current law. Let me back up, then.
Based on current law and the various government identifications that can be used for purposes of voting, by eliminating those, whether they have an adverse impact on ethic minorities in the state?
SEN. FRASER: Let me -- let me tell you that the people in my district voted -- or they're polling that they -- 92 percent of them say that they're in favor of this -- this requirement.
SEN. WEST: Okay. So you don't -- and that's your response to my question?
SEN. FRASER: My response is, is that I think the people of the state of Texas, which makes up -- I think it was 83 percent of -- African Americans and 85 percent of Hispanics, said that they're in favor of it. I'm sorry. It's 82 percent Hispanic -- I'm sorry -- Hispanic, 80 -- 83 percent Hispanic, the African American, which is -- it's listed as a black vote, is 82 percent say they are in favor of asking for a photo ID.

So it's -- it's -- this is a pretty easy question for them, "Should you have to show your -- your photo ID, your driver's license, when you come in to vote?" And they said, "Sure. That's" -- you know, "That's fair."

SEN. WEST: And that's your response to my question?

SEN. FRASER: Yes.

SEN. WEST: Okay. No more questions at this time.

SEN. FRASER: Thank you, Senator.

CHAIRMAN DUNCAN: Chair recognizes Senator Lucio for questions.

SEN. LUCIO: Thank you, Mr. Chairman.

Senator Fraser, under this legislation, there are no exceptions at all if you do not have a driver's license -- and correct me if I'm wrong -- military ID, citizenship certificates, or passports. Now, not even Senate IDs are appropriate for the purposes of voting. That means the state employee working in the building wishing to cast a ballot during early voting at the Sam Houston Building couldn't use a combination of their voter registration card and their Senate ID. Further, this bill's requirements for identification are stronger than what's used for new employees in obtaining driver's license, the way we understand it.

Now, I know many people don't think it's all that difficult to get a driver's license and that everyone has one, but that's just not the case. Eleven percent of Americans surveyed by the Brennan Center for Justice do not have government-issued photo ID. Forty percent of those without voter ID are disproportionately the -- the elderly, the -- the students, women, people with disabilities, low-income people, and people of color.

According to disability advocates, nearly 10 percent of the 40 million Americans with disabilities do not have any state-issued photo ID. So I do not see how this legislation is going to ensure that they are not kept from exercising their right to vote. Again, it's a right. It's not a privilege. Plus, according to that same survey, one of every five senior women does...
not have a license.

What troubles me even more about the legislation is that it could mean for so many, under this legislation, election workers will be responsible for determining identity; and that has never been part of their job as election clerks.

Now, I got a question.

SEN. FRASER: Is there a question coming?

I'm looking for the question.

SEN. LUCIO: Yeah, it's coming up. I had to --

SEN. FRASER: You've got about five or six thoughts. I -- well, I'm going to -- (Simultaneous speaking)

SEN. FRASER: -- one of them. But you're getting so many thoughts, I'll have trouble responding to them.

SEN. LUCIO: What are -- what are they going to do, Senator Fraser, when someone has conflicting last names, conflicting last names on IDs, on their voter rolls, and how many professional ballots will be cast? Are counties ready to resolve all those issues?

That might have been asked, I missed it, and I apologize for that because we've been busy, as we always are. But let me -- let me just ask this question, as a follow-up.

(Simultaneous speaking)

SEN. FRASER: You've asked me 12 --

SEN. LUCIO: Go ahead and address --

SEN. FRASER: -- so far.

SEN. LUCIO: Go ahead and address that one.

SEN. FRASER: Huh?

SEN. LUCIO: Okay. Well --

CHAIRMAN DUNCAN: Wait, wait, wait, wait, wait. Y'all are really crossing over to where you're not making a good record, so one at a time. I think Senator Fraser was answering a question; and if he could answer it and, Senator Lucio, you could follow with another question.

SEN. FRASER: And, Senator, if -- if you really do want an answer to questions, I would love to do one at a time because I actually --

SEN. LUCIO: Okay.

SEN. FRASER: -- you've asked so many questions, I can't remember --

SEN. LUCIO: Okay.

SEN. FRASER: -- the first one.

CHAIRMAN DUNCAN: All right.

SEN. FRASER: But --

CHAIRMAN DUNCAN: Wait. You're doing it
again, Senator. If we could -- I'm going to stay on this because we do want a good record.

SEN. FRASER: If you'll just allow me to just answer a couple of them, and then we'll get them out of the way.

SEN. LUCIO: I'll take one at a time. What are you going to do when someone has conflicting last names on their ID on the voter rolls?

SEN. FRASER: Okay. I'm going to start even further back than that. I -- the -- the first observation you made is that we're making it harder than getting a driver's license. That is totally incorrect. Driver's license is one of the things we're offering, so whatever difficulty it is to get a driver's license, once they get it, that is their identification. So this is not in any way harder than getting a driver's license.

No. 2, you made an observation about the elderly. We have two different observations that -- that come into play here. First one is that at -- if they're 70 years old on January 1st, 2012, they are not subject to this bill, so they are -- they are operating under current law. And then, also, we are not in any way impacting the mail-in ballot system that is in place today. Any elderly person that wants to vote by mail would -- would have the ability to do it.

So, you know, those things, I think, are -- the question you're asking, the third question, about if the name does not match on the -- the ballot, that's the same question that's been asked probably five times already today. My answer continues to be the same, as I've told everyone. We have the Secretary of State coming. I don't -- I don't know the -- the exact ruling of what they -- the Secretary of State, slash, the election administrator is how they determine that; and I would like that question to be asked to the Secretary of State, if possible.

SEN. LUCIO: Okay. That's fine, Senator.

To obtain a driver's license, you could use nonphoto options. Correct?

SEN. FRASER: Senator, you can ask that of the DPS.

SEN. LUCIO: I'm sorry?

SEN. FRASER: If you would -- DPS is going to be here. I would ask you that you could ask the DPS their procedures for -- for getting...

SEN. LUCIO: Okay. Well, I have information to that effect, but it's all right. I'll wait for DPS.

Let me ask a question on -- on where we have been in this country and this state, and we don't want to go.
But do you know what the 24th Amendment did?

SEN. FRASER: I'm sorry. I do not.

SEN. LUCIO: It ended -- it amended the Constitution to allow -- outlaw poll taxes; and it did so, and it ended in 1964. I was a freshman in college at the time, and you must have been junior high.

SEN. FRASER: I was four or five, then, Eddie, I guess. '64, I was 17 years old.

SEN. LUCIO: All right. I did a little research, Senator, on the poll tax in --

SEN. FRASER: 15 years old.

SEN. LUCIO: -- Texas history. It's something that personally hurts me. After all, my dad had to pay a poll tax which wasn't that long ago. I went to some of those elections with him because he wanted to show me and make sure that I got involved in the political process. I remember those elections, and my -- my mother voted, too. But it was -- it was a sacrifice, quite frankly.

Now, Texas adopted a poll tax in 1902. It required that otherwise eligible voters pay between $1.50 and $1.75 to register to vote. Now, $1.75 may not sound like a lot, but for a lot of families living on the breadline, it made voting a privilege instead of a right. Well, $1.75 -- $1.75 adjusted for inflation today is about 40 to $45. That means, Senator, that's a mean instrument -- excuse me -- using several ways of calculating, including the consumer price index. Now, 40 bucks is a symbolic figure. A driver's license or ID today costs $25, even for a renewal. And going to the DMV, which is Department of Motor Vehicles, can take time. You're going to get there, wait in line, return home, take off from work, pay for the gas. Now, let's say it takes two hours. Minimum wage in Texas is 7.25 an hour. So if you took off two hours and paid for gas, you're looking at $40, the same amount of the old poll tax would cost today. Don't -- don't you find that kind of ironic? I do.

Under this bill, voters will effectively have to pay the same amount to vote that minorities and the poor had to pay in poll tax in 1902. I'm serious, though. Forty dollars is a lot of money for a lot of people in my district living paycheck to paycheck. You can buy a week's shopping for 40 bucks. You're either going to eat or you're going to -- you're going to vote. That is the choice many will think about making.

The poll tax was outlawed in -- in the 1960s by the 24th Amendment. It was outlawed because the nation understood that poll tax -- taxes served as one purpose, to -- (Simultaneous speaking)
SEN. LUCIO: -- disenfranchise minorities
and the vulnerable.
I'm leading to another question, if I may.

Texas has a history, unfortunately, in my
opinion of voter suppression. Texas used the poll tax
to suppress voters. In fact, Texas only ratified the

So what is to stop future legislators
making a driver's license or an ID cost more than $25?
We've talked openly over the last few months about
raising fees to cover the back -- the budget hole. So,
you know, it's -- it's happened with passports.
Passports keep going up and up in price. What if in the
future, driver's license cost $125 or $300? Would it be
a poll tax then? And would it be a poll tax then,

SEN. FRASER: Senator, this bill in no way
envisions a poll tax. It has nothing to do with the fee
that is charged. You're on finance. You're the one
that has control over that. The bill we have before us
today -- there's nothing you've talked about the last
five minutes that has anything to do with this bill --
is that this bill is nothing more than showing your
driver's license or a ID that we will give them free of
charge that they can pick up after work that -- you
know, when I was picking cucumbers and -- you know, in
the afternoon, when I got off work, I could -- I still
had time before seven o'clock to go down and -- to the
driver's license place to get the driver's license. So
this has -- this bill in no way has anything to do with
a poll tax.

SEN. LUCIO: Well, and I -- I appreciate,
you know, what you're saying. However, I just want to
make sure that it doesn't get out of hand. And I would
ask you, possibly, if you would vote, you would be
prepared to work with me and others to -- in order to
draft a constitutional amendment that would make any
raise in fees associated with driver's license or state
ID only possible by a two-thirds vote of each chamber.
You think that we could work to that end?

SEN. FRASER: Senator, I'm -- I'm not
going to commit on anything. You're on finance. Y'all
are going to have to work through the issues of
balancing the budget.

The bill that I'm laying out today, I
think, is a very fair way for people to identify
themselves, that they can prove they are who they say
they are when they go to vote. The -- the thing that I
would let you know that, you know, I want to make sure
that every -- we've -- we've talked to senator -- you
know, the -- Davis has asked about women. I want to
make sure that women, men, Hispanics, African Americans,
Anglos everyone in the state has the same opportunity to go in and make sure that their vote is counted. And I don't -- the things you're talking about really are not part or subject to this bill.

SEN. LUCIO: Well, a driver's license is part of it, I believe, and I'll be --

SEN. FRASER: But -- but the cost of a driver's license is determined by the Finance Committee.

SEN. LUCIO: When -- when -- when does a driver's license expire? I was going to ask you that question.

SEN. FRASER: When does it expire?

SEN. LUCIO: Yes, sir.

SEN. FRASER: You know, interestingly, I was in -- looking at mine just then, in my office. I got a new one this year, and it's good for six years. So every six years, evidently. I'm -- I'm going to ask DPS that, but my assumption is that a driver's license is renewed to last for six years.

SEN. LUCIO: Well, we talked about senior citizens. There are senior citizens, 60, 70 years old, who used an expired driver's license as a form of ID. That's where I'm going with my questions and my remarks. Are they no longer -- they no longer drive, but they still vote. Now, under this bill, they will have to renew their license in order to vote. Is that correct?

SEN. FRASER: You -- you've given a hypothetical, and I guess it's one of the things -- actually, we were in the back discussing a question that was brought up by Senator Davis about an expired driver's license and at what point should it be -- how long should it be used. I think someone used it for an extended period, like the example you're giving for several years. Unfortunately, that's not a valid -- that would be considered a valid license.

SEN. LUCIO: I was under that impression or to renew their passport or -- which are seldom used by seniors.

SEN. FRASER: I disagree with that. I travel with a lot of seniors. I think there's a lot, you know.

SEN. LUCIO: Well, the ID. They use this ID for passports.

Well, I obviously have a bunch of other questions, but in the -- in the interest of time, I will address these to you in writing because I'm very, very concerned about, you know, some of the things that are going to be transpiring. I think Senator Davis touched on marriage -- the marriage -- marriage issues. Or I'll give you one scenario, if I may.
Two citizens that are getting married. The woman getting married has decided to change her name. They get the marriage certificate. They get married and so on. But when the newlywed wife tries to vote, there is a problem. The name on her voter ID does not match the name on her voter registration. So maybe she did the right thing and changed her name on the voter ID, but before that, when she registered to vote, she had used her maiden name. Maybe she registered to vote with her new married surname but had not had yet changed her voter ID to reflect a change of name. Maybe there is no time to address it because she gets married in October.

SEN. FRASER: Senator, these are just scenarios that are coming up.

SEN. LUCIO: Others that I'm concerned with are the 18 year olds that are turning 18 thirty days inside of -- you know, between a primary and a general election. Many of them will not be able to register to vote. There are so many different scenarios, Senator, and I'm very concerned about whether or not they will be disenfranchised. That's all. Thank you very much for your time.

CHAIRMAN DUNCAN: Senator Van de Putte?

SEN. VAN de PUTTE: Thank you.

Mr. Chairman.

Would author of the bill yield for some clarification?

SEN. FRASER: I would yield.

SEN. VAN de PUTTE: Thank you very much,

Senator Fraser. I wanted to have a moment to clarify some of the conversation and the points that we had on our discussion earlier.

I thought that I had heard you say that the bill that we had in the 81st Legislature was actually modeled after Georgia. When after comparison, I think that it was actually modeled more closely after the Arizona bill, which is a Section 5 voting rights state as well. And so I wanted to clarify that, but I thought we had talked so much about the Georgia legislation. So the -- the bill, Senate Bill 362, was actually modeled more after Arizona's law.

SEN. FRASER: Senator --

SEN. VAN de PUTTE: And I --

SEN. FRASER: I am -- I don't want to disagree with you, but I don't think Arizona's ever came out of my mouth on this floor of the legislature about last year's bill or this bill.

SEN. VAN de PUTTE: No.

SEN. FRASER: I'm -- the -- the bill that we modeled last year was a Texas model that we were moving forward, and whenever earlier you were addressing
the Georgia bill -- you're a past president of NCSL, and
I have the NCSL analysis here. And that's the reason I
was confused because you were referencing Georgia, and
I've got --
SEN. VAN de PUTTE: That's correct.
SEN. FRASER: The document that came from
the organization that you chaired and that was the
reason I was confused about what you were representing.
SEN. VAN de PUTTE: Well, Senator, you
were confused, and I was confused. However, both -- I
think we can both agree that your bill, Senate Bill 14,
is more restrictive than current Georgia and Arizona
law; that this is based after an Indiana model, but it
is even more restrictive. I mean, you have a pretty
tight vote --
SEN. FRASER: I -- I --
SEN. VAN de PUTTE: -- of the bill.
SEN. FRASER: I disagree with you on that,
that there are -- are small things that we're different
on, which basically is the number of things that you can
use for identification. But there are a list. I think
they have six in Indiana. We have four in Texas. We're
under discussion about that four, should it be expanded.
So saying that they're very different is
not a correct observation. There is very small
differences between the -- the Indiana, Georgia, or
Texas. They're actually very, very much alike, and that
also gives us the reason we believe it will be approved
by the Supreme Court and DOJ.
SEN. VAN de PUTTE: Well, I wanted the
opportunity to correct myself because Georgia only
allows for an alternate two forms in a provisional
ballot for first-time voters only, and so they do not
allow -- and I stand corrected. You are correct that
they don't have two forms of alternate that are not a
photo ID. The only time in the Georgia law that they
make reference to two forms -- and that's what I was
looking at and they have other things that they can use,
a bank statement, a current utility bill, a paycheck --
is when they are casting a ballot for the first time and
they have -- they are new registrants and they don't
have a photo ID.
So I stand corrected. You are correct in
that for a provisional ballot, they do not allow two.
The only time they do -- and I'm looking at their
Senate -- their -- their bill -- is on a -- and I stand
corrected. So I wanted to let you know that I misspoke.
That is not correct. It's only the two alternate forms
when they're doing for first-time registrants.
SEN. FRASER: Thank you for that
correction, and that -- that is -- the documentation I
show does show that they require a photo ID.
SEN. VAN de PUTTE: And so I just want to thank you for the ability to clarify this and know that this is your -- this is a Texas bill, and it'll probably be known as the Texas bill. And -- and -- and to your credit, for every -- all the work that you've done, I believe it is very stringent in small ways in the wording. But for the groups of people that I think will have a burden, they -- they have no alternate means. So thank you very much for the opportunity to clarify. And, Mr. Chairman, I don't have any other questions of the author.

CHAIRMAN DUNCAN: Senator Ellis?

SEN. ELLIS: Just a couple questions,

Senator. I know you're tired. You've been up a long time.

From your opening statement, the primary reason for this bill is because of your concern about voter fraud. Right? Voter fraud, that's the primary reason --

SEN. FRASER: The integrity --

SEN. ELLIS: -- for the --

SEN. FRASER: -- of the ballot, making sure that the person that is trying to vote is who they represent to be.

SEN. ELLIS: And if that's the case, why wouldn't you apply a voter -- photo voter identification requirement to mail-in ballots? Don't you think there's probably room for more fraud for the mail-in ballots?

SEN. FRASER: I will support you a hundred percent. You file that bill, you come forward with it, and we'll talk about it. But this bill does not in any way address mail-in ballots. This is only in-person voter --

SEN. ELLIS: But you -- but you will concede that there's probably room, just from a layperson's perspective? Neither you nor I are experts on it, and I'm just asking you to make the point. Will you concede that there's room -- there's potential for more fraud with a mail-in ballot than with somebody showing up?

SEN. FRASER: I'm going to concede that the bill that I'm laying out today will help a lot with the in-person, you know, potential of fraud, and it will make sure the person there is -- is who they say they are.

SEN. ELLIS: If you just had to guess, would you think people who are more apt to do a mail-in ballot would be people in the red jersey or the blue jersey?

SEN. FRASER: I wouldn't be apt to guess.

SEN. ELLIS: Do you care?

SEN. FRASER: Oh, I care a lot, but I'm
not going to guess.

SEN. ELLIS: Okay. You heard the
discussion earlier about the concern -- I think even in
your district, some of those DPS offices, I think, on
that map may be closing a few days a week. So you --
you did say that you have some concern about access for
people to go and get --

SEN. FRASER: It -- it is a discussion
going on, and it's -- you know, there -- I actually was
grinning as they were talking about the -- the -- you
know, the offices, is that I have the same challenge
sometime; and, you know, you've got to work to make sure
that they're open.

But that's a discussion we're having
with -- with Senator Williams. He's having a discussion
with DPS, and we're -- we're trying to look at, through
his committee, the Finance Committee and communiqué with
DPS, the -- the easiest way to make sure that everyone
can -- can comply.

SEN. ELLIS: But you'll agree, it's a
problem? There's some concerns about it?

SEN. FRASER: I don't know that I'll agree
that it's a problem. Problem implies that, you know,
there are -- everyone works through it. I've got a
driver's license. You've got a driver's license.
Probably, I would love for them to come in my office and
take my picture, but it doesn't work that way. I have
to go and put out the effort to go and get it. And
that's the system we have, and we just need to make it
as easy as possible.

SEN. ELLIS: Well, what prompted you,
Senator, to carry this bill? I mean, was it
something -- just laying up at night? Did somebody come
to you? What -- you're such a handsome fellow, but why
you?

SEN. FRASER: The -- and actually, I'll go
back to -- you asked me the same question two years ago,
and it's in the record. We just, you know, entered it.

Actually, this is over a number of years,
just watching and looking at articles of things that
happened. Obviously, there's a lot of press about
the -- the Carter-Baker Commission of concern, and I
watched the issue. And it was being asked a lot, as I
was speaking out in the district, is that when are we
going to, you know, address it. And I thought -- I
thought the issue had matured, and I decided to file it.
If you -- if you remember, this is the third session I
filed this bill.

SEN. ELLIS: Well, I've always known you
to be a member, Senator, who digs into an issue. You --
you read a lot.

Why would you say a new photo ID? Why
wouldn't you just make a -- have a bill that has a
requirement that we put a photo on the voter
registration card? I mean, wouldn't you agree?

Probably more people have a voter registration card in
Texas than have a driver's license.

SEN. FRASER: That -- well, I don't --
SEN. ELLIS: Okay. All right.
SEN. FRASER: I don't --
SEN. ELLIS: You think more people in
Texas --

SEN. FRASER: -- think that's true.
SEN. ELLIS: -- have a driver's license?
SEN. FRASER: I don't -- I'm having the
chairman of the committee that is over it --

interestingly, I want you to think about what you just
suggested, is that driver's license is going to be the
easy form of identification. We -- we know that 90-plus

percent of the people -- and I think the number is
probably higher than that -- have a driver's license in
Texas.

But if you're going to put a picture on a
voter registration, that means that every single person
that's registered to vote has to go back in, have a
picture made, have the cost of putting it on there. So
it's not only the cost --

SEN. ELLIS: Let me try it a different
way. Do you think that more people who are registered
to vote -- you think that more people who are registered
to vote would have the voter registration card than a
driver's license?

SEN. FRASER: Say it again. Do it one
more time.

SEN. ELLIS: Do you -- would you agree
that more people --

CHAIRMAN DUNCAN: Senator? Senator Ellis,
y'all are talking over each other. If you --
SEN. ELLIS: Oh, are we? Should I back
up?

CHAIRMAN DUNCAN: Yeah -- no. No.

Just --
SEN. ELLIS: I'll talk slower.
CHAIRMAN DUNCAN: -- when he starts to
answer the question, let him answer it and then ask
another question so only one person is speaking at a
time.

SEN. ELLIS: Okay.
CHAIRMAN DUNCAN: Thank you.
SEN. ELLIS: Are you through?
SEN. FRASER: I'm not even sure what the
question was.
SEN. ELLIS: The question is, would you
agree that more people who vote have a voter
registration card than a driver's license? They'd have
to because you've got to -- you're supposed to go get a
voter registration to be able to vote.

SEN. FRASER: Can I answer your question?
SEN. ELLIS: Yeah.
SEN. FRASER: I'm -- I'm sure everyone at
some point were mailed one, but it has been years since
I walked in with a voter registration card. I show my
driver's license when I vote, and I would say probably
that is -- do you show yours, or do you show your
driver's license?
SEN. ELLIS: I show my driver's license.
SEN. FRASER: Well, there's -- but you
have -- you probably were mailed a voter registration.
SEN. ELLIS: I have both.

SEN. FRASER: Okay.
SEN. ELLIS: Let me ask you this: There's
an article in today's paper. It says nearly 650,000
Texans who refuse to pay surcharge penalties for drunken
driving, no insurance, and other violations are being
offered a one-time amnesty by the state. Those offered
amnesty represent just over half of the estimated
1.2 million Texans in default. It talks about what they
owe the state. But all of these folks who are in
default, because we balanced the budget in '03 with
surcharges for people who have a license, all have had
their licenses suspended for not paying. So would that
concern you any that, at least, according to folks who
go get amnesty, that's 1.2 million. That would be more
than that. There's 1.2 million owes the state X amount.
That's what this article is about.

But would you concede it ought to be a
problem because we've got a lot of people who had a
driver's license, I assume the one's who owe the
surcharges are -- you know, maybe a disproportionate
number of them are folks who didn't have the money to
pay the surcharges. Maybe some of them were just civil
libertarians, didn't like the bill and wouldn't pay it
period. But a lot of them are probably working-class
people who can't pay it. So at least over 1.2 million

Texans since 2003 have gotten their licenses suspended,
so they will no longer have a valid driver's license
that they could use to go and vote like you and I do.
Does that concern you?
SEN. FRASER: Well, first of all, if -- if
some reason it's a felony, that -- of the crime that
they're not paying for, I'm not sure that they -- I
guess I'd question whether they're eligible. I don't
know the answer. We'd ask the Secretary of State that.
SEN. ELLIS: I don't think --
SEN. FRASER: But the easy answer to your
question is, we're going to give them an ID free. So if
they've lost their driver's license, all they got to do is go back down and get a free ID. We'll hand them a new one.

SEN. ELLIS: So you think the over 1.2 million people who had their licenses suspended because of the surcharges this legislature put on them in 2003 is not -- they haven't been convicted of a -- of a felony. That's not on their record, but their license has been suspended. They're being offered amnesty, according to the article in today's paper. You think that those folks would go and get this new ID? You don't think they'd be worried about showing up and somebody saying, "Hey, by the way, now that I know where you are, I want my money. I want some of this $1.1 billion that you owe to the state"?

SEN. FRASER: I'm not advised.

SEN. ELLIS: Okay. One distinction, obviously, is these people still have a constitutional right to be able to vote.

One last point. On the exemption for the elderly, I don't know if I'm reading this right or not, but in your mind, is that a one-time exemption or would people over -- I think you and Senator West were going through the age deal earlier, and we have to find out from the Secretary of State which one of you hits 70 first. But if you have -- the way I read your bill, if you don't hit 70 before that date in January, I believe, of 2012, then it wouldn't apply. So anybody on this floor who will be over 70 at some point or any of your constituents who will hit 70 after that date in January of 2012, would not have that exemption. Is that correct?

SEN. FRASER: Yes.

SEN. ELLIS: So your intent is that one time.

SEN. FRASER: No, it's not a one-time at all.

SEN. ELLIS: Continuous for people who are already 70 after January of 2012?

SEN. FRASER: If you're 70 on January 1, 2012, you will be subject to current law the rest of your life.

SEN. ELLIS: Okay. I want to make sure that's clear, because some folks have --

SEN. FRASER: If you're 70 on that --

SEN. ELLIS: -- called my office from AARP --

SEN. FRASER: Yes.

SEN. ELLIS: Okay.

SEN. FRASER: Yes.

SEN. ELLIS: So it's not for all people over 70. Just those who will hit 70 by January of 2012.
SEN. FRASER: If you're 70 on January 1, 2012, you will be subject to the -- the -- not be subject to these provisions. You basically will be operating under current law for the rest of your life.

SEN. ELLIS: Are you confident, Senator, that your bill would not have a disparate impact on the elderly, on women, on those that are physically challenged, on racial ethnic minorities?

SEN. FRASER: I am --

SEN. ELLIS: Are you confident?

SEN. FRASER: -- absolutely sure. I would not have filed the bill if I had thought it -- I want to make sure that every person in the state has a right to vote. The -- not -- you know, the right that we extend them, they should have that, and I do not believe that in any way we're impacting that and that -- that -- you know, I want to make sure that the groups you're talking about, you know, women, minority, elderly, that they all have the right to vote, and I believe my bill does that.

SEN. ELLIS: Okay. And I know that's your intent.

SEN. FRASER: Yes.

SEN. ELLIS: But you're confident that it will have no impact?

SEN. FRASER: I'm very confident.

SEN. ELLIS: Okay. To that end, would you have a problem with putting a provision in this bill so that the Secretary of State would do an annual report on whether or not this bill has had a disparate impact?

SEN. FRASER: I think we're going to get our report back from the -- assuming it gets to the Supreme Court and Department of Justice, I believe we'll get our report card from that. And then through time, if there are -- and I'm going to go back to the examples of Indiana and Georgia. To my knowledge, there has never been a person that has reported that had a problem came forward because they had a problem with the laws they've, you know, implemented. We're doing exactly the same thing.

So I think you and I, as legislators, if there's a problem, will hear about it. And I would not want to put the burden on an agency. You know, if we hear about it, then we can do that in the future.

SEN. ELLIS: Maybe I'm just at a loss. If you -- I know your intent, and you are confident your bill will not have a disproportionate impact on certain groups. I mean, were the concern be the methodology, you could design that. But what would be wrong with the Secretary of State doing an annual report on whether or not this bill has a disproportionate impact on any groups of people so that we know? What -- I mean, you know, we -- oftentimes we pass -- I think we even have
a -- I think it might have been Shapleigh who put it in
some time ago, when we do a tax bill as a requirement,
that we have LBB do a disparate impact statement just so
we know because as you know, I mean, we're tinkering
with a constitutional right.
And, Senator, I might add, we're in a
state -- well, you know the history. I mean, initially,
you had to be a property owner to vote or you had to be
a male to vote, had to be a certain color to vote. Now,
over time, that has gotten better; but in our southern
states, in particular, it has not been an easy journey
to get to where we are. So what -- what would be wrong
with just simply coming up with some simple methodology
and let the Secretary of State do that?
SEN. FRASER: We have a simple
methodology. It's called going into a session on the
second Tuesday of every -- you know, every odd year.
And you, as my desk mate, sitting beside me, I feel very
comfortable that we'll -- we'll get that -- you know,
we'll look at it every couple of years. So I -- I think
the fact that we come back in, we're going to be given
the opportunity every two years to -- to re-examine.
And there will be discussion about this, of whether it's
working or not.
SEN. ELLIS: To implement your bill,
you're going to use federal money to be able to do it.
Where would that money be used if it was not going to be
used to implement this new system?
SEN. FRASER: Well, obviously -- and,
again, I don't want to speak for the Secretary of
State's office. When they're here, they can give you an
ideal. But if there's a pretty good sized pot of money
that's sitting there that we haven't spent yet and
we're -- you know, we're pretty good about being
creative about, you know, where you spend money. So I'm
assuming that money is restrictive about where they can
spend it, and I think probably this is a -- an
application where it fits.
And I guess to answer to your question, I
don't know. You can ask them, but I think this is a
good place to spend it.
SEN. ELLIS: Would a new change go into
effect in the next cycle?
SEN. FRASER: I'm sorry. Do that again.
SEN. ELLIS: With a new election change, a
major requirement going into place for the next cycle
with new districts, you and I have new districts, do you
think it would make sense to give people the ability to
register on that day with the photo ID you're requiring?
SEN. FRASER: No.
SEN. ELLIS: So could you go in and
register on that day because some people are just maybe
confused about this new requirement we're putting in place?

SEN. FRASER: We're going to spend a lot of time and hopefully dollars educating both the public and the -- the workers, and I think the system will work very well like it is.

SEN. ELLIS: Your bill looks -- I mean,

it's obviously a bit more stringent, bit more onerous than the bill you had last session. And based on the questions with you and, I think, Senator Van de Putte earlier, it looks like this bill is also more stringent than the Indiana bill that you modeled it after.

SEN. FRASER: That -- you missed the conversation we just had with -- with Senator Van de Putte. That is not the case. It actually is -- is a very, very small change between --

SEN. ELLIS: They take student --

SEN. FRASER: Huh?

SEN. ELLIS: They take student IDs --

SEN. FRASER: Well, I --

SEN. ELLIS: -- in Indiana?

SEN. FRASER: We -- we have four forms of IDs in this bill that we're accepting, but we're also listening to the debate. Indiana has six forms.

Georgia I think expands it to about eight. So it's the number -- the type of, but they're all photo -- government-issued photo IDs.

SEN. ELLIS: Okay. So I guess when I say it's more onerous, there are more people in Texas who would have a student ID than a passport.

SEN. FRASER: Not advised.

SEN. ELLIS: Okay. Do you know how many Americans have a passport?

SEN. FRASER: Not advised.

SEN. ELLIS: Well, I know from the press counts, you and I have one. But -- but I'll just tell you --

SEN. FRASER: We don't -- we don't talk about that.

(Laughter)

SEN. ELLIS: We've gone to a few places together.

Six percent of the people, I think, in America have passports. I think about the lowest percentage for most nations in the top 20, 6 percent of the people in America have passports. So I guess I'm saying, why would you choose that as one of your forms of ID as opposed to a student ID when you know we have problems getting young people sometimes to focus for more than a week? But folks who have a passport, you've got to be fairly worldly, shall we say, to go get a passport. And if the number is 6 percent in America,
I'm just guessing less than 6 percent of the people in Texas have a passport.

SEN. FRASER: We know the people that are issuing the passports. We don't know where all the student IDs are coming from because not all student IDs are issued with our input. So the easy answer to that is that we want to make sure that we have something that is easily recognizable to the poll worker, and we can verify that it is -- it is valid.

SEN. ELLIS: What if we tried to put in a student ID from a state institution so at least we did that.

SEN. FRASER: Senator, if you want to offer amendments, as I told Senator Gallegos, I draw them up, get it to you where I can look at it and get plenty of time to look at it. There's -- you know, we're going to look at every amendment. If you -- you know, you can throw anything out. We'll discuss it.

But, I mean, the thing we're trying to do is we're trying to make it easy as possible on the Secretary of State and the poll worker as we implement, making sure that it's easily identifiable but also, you know, is good public policy.

SEN. ELLIS: Well, I'm just asking -- now, I hate to take your time, but, I mean, you -- you put it on the fast track. I mean, I -- I'd like to be working on the budget or something else, but --

SEN. FRASER: I didn't put it on the fast track. I'm -- you know, I did not put it on the fast track. I think the -- the person in the center office put it on a -- as an emergency bill and --

SEN. ELLIS: So you really don't want to do this, do you?

SEN. FRASER: I am standing here explaining it to you because I think it's good public policy.

SEN. ELLIS: I'll leave you alone after this one.

But based on the election results of the last cycle, what fraud will your side of the aisle be worried about? Senator Whitmire raised that with me the other day. I'm saying this: As well as your side did, seems like my side ought to be a little bit more worried about if there was some fraud.

SEN. FRASER: I think if you look at the polling in your district, your district is worried because they're telling you you need to vote for it; and I'm telling you, you're on the wrong side of this issue.

SEN. ELLIS: I respectfully would say you
ought to be a little careful with that notion of what polling data says. I'm willing to bet you, Troy, when our predecessors stood on this floor and sat in these seats and passed most of the restrictions, that at some point were in state law, the polling data indicated they were on the right side of history; but you and I know they were on the wrong side of it.

SEN. FRASER: All I can tell you is the question's pretty straightforward. It said -- they asked the people in your area, "Should you have to show a photo ID when you vote?" And the number across, Republican, Democrat, Hispanic, African American, others, were overwhelming.

SEN. ELLIS: Well, let me ask you this: If I come up with some polling data that says they would support same-day registration, recognizing student ID, exempting people over 70 forever, not just for those who hit 70 before the next election cycle, to what extent would you be voting based on what the polling says?

SEN. FRASER: Well, come -- come forward with your data. But I can tell you the things you've mentioned, the only one that is applicable to this bill is the -- the elderly because the same-day voting, those other things, that's another issue for another day. Doesn't fit on this bill.

SEN. ELLIS: Thank you.

CHAIRMAN DUNCAN: Chair recognizes Senator Zaffirini.

SEN. ZAFFIRINI: Thank you, Mr. President -- or Mr. Chairman.

Senator Fraser, my first questions will focus on the criminal justice impact, if you have a copy of that.

SEN. FRASER: Well, excuse me, before you -- what your first question should be, do I still have my thick book that you were impressed with last time. My --

SEN. ZAFFIRINI: Yes. I was --

SEN. FRASER: I reread the data last night that you were going to instruct your staff asking them why you didn't have one.

SEN. ZAFFIRINI: Well, good. I wish you had it again.

SEN. FRASER: I do have it.

SEN. ZAFFIRINI: Good.

SEN. FRASER: Right here.

SEN. ZAFFIRINI: Good.

SEN. FRASER: I was -- oh, go ahead, please.

SEN. ZAFFIRINI: But do you have a copy of your criminal justice impact statement?

SEN. FRASER: I do now.
SEN. ZAFFIRINI: My first questions will focus on that.

In the first paragraph, you'll see that it states very clearly that the punishment for attempting to vote illegally would be enhanced from a Class A misdemeanor to a state jail felony, and the punishment for illegal voting would be enhanced from a third degree felony to a second degree felony. What would be the impact on our state budget of increasing those penalties?

SEN. FRASER: I'm sorry. I'm not advised as the impact on the budget, as you know. You're on finance, I'm not. You would know that. The second question I'm assuming you're asking is, why would we consider doing this? Actually, these suggestions were brought forward by Democratic members of your delegation that said, "Why don't we go ahead and increase it?" So we increased the penalties for fraud. So the recommendations on doing this, it actually was across the board. We had people on both sides, but there was recommendations that we increase these penalties.

The impact of the cost to the budget, I'm sorry, I'm not advised. My job is to make sure the public is well served and if someone commits fraud by -- by voter impersonation, that the penalties are strict.

SEN. ZAFFIRINI: But I am concerned about this, Senator, and I don't know what Democrat or what Republican asked you to make those changes. I was not privy to that conversation.

But if you look at the last paragraph, it says: Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the state due to longer terms of probation, of longer terms of confinement and county jails or prison. And then it also states: When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement of convicted offenders from the counties to the state.

So earlier there was senators who talked about unfunded mandates for the counties, but in this case, we are -- we seem to be relieving the county of some of its burden but then increasing the burden to the state. And my question remains: At what cost?

Now, this bill, were it before the Finance Committee, we would have a fiscal note; but because it's not, it's because it's before the Committee of the Whole. We are restricted to the fiscal note that we have here, and it's strange that we don't have a
connection between the cost of the criminal justice
impact and the fiscal note. It seems that there's two
independent documents, as they should be, but it seems
to me, that the fiscal note should reflect the cost that
is defined or, at least, specified in the criminal
justice impact statement.

SEN. FRASER: Well, and I think the easy
answer to that -- I'll -- if someone else, if -- we may
defer to Senator Williams, if he wanted to comment, or
another member.

But I think the easy answer to this is
that if we implement the photo ID, it's pretty
straightforward, that someone -- if they're going in, if
they have a driver's license and they're -- you're
attempting to vote, that there's a good assumption that
the driver's license is valid, that they are who they
say they are. So I'm -- we're hoping that the deterrent
will be that people will not try to vote fraudulently,
that the ones that are voting will be valid voters, and
we don't have a lot of people going to prison because
hopefully, they won't try to vote illegally. I --
that's the hope.

SEN. ZAFFIRINI: Well, actually, Senator,
that is why some of us are opposed to this bill because
we don't understand the problem that has been defined.

For example, in that same paragraph, it says: In fiscal
year 2010, less than five people were under parole or
supervision for illegal voting. In fiscal year 2010,
five offenders were placed on community supervision, and
less than five offenders were released from community
supervision for illegal voting or attempting to vote
illegally, and then more important, in fiscal year 2010,
less than five people were arrested for illegal voting
or attempting to vote illegally.

So it seems to me that this criminal
justice impact statement makes the point that there
isn't a problem, especially if you look at the last
sentence: It is assumed the number of offenders
convicted under this statute would not result in a
significant impact on the programs and workload of state
corrections agencies or on the demand for resources and
services of those agencies. So if they don't see an
increased demand in this area because they don't see
people being arrested, then where's the problem?

SEN. FRASER: Well, and I guess I just
disagree with your analysis of this, is that voter
fraud, under current law, that our laws are so weak,
it's virtually impossible to -- to catch one and
convict, and that's the problem we're trying to address.

SEN. ZAFFIRINI: Well, okay, Senator.
Do you have a copy of the fiscal note?

SEN. FRASER: I do. Somewhere.

SEN. ZAFFIRINI: I'll wait till you get it.

SEN. FRASER: Yes.

SEN. ZAFFIRINI: You have it?

SEN. FRASER: I have.

SEN. ZAFFIRINI: So the fiscal note shows $2 million but all in fiscal year 2012. Why aren't there recurring costs? Is that because the photo ID card is issued in perpetuity or it doesn't have to be renewed?

SEN. FRASER: Senator, again, you're -- you're a member of finance who would know. You know, this comes from LBB which did consultation with the affected parties, which are Secretary of State, DPS.

We're going to have expert witnesses who will come up in a minute --

SEN. ZAFFIRINI: Okay.

SEN. FRASER: -- and they will explain how they delivered that data. I think probably what you're going to hear from them is that a lot of the initial cost would be in the education of the -- the -- the Secretary of State educating both voters and poll workers and any initial -- the free cards that we're giving out, there will be more, probably, the first year than other years. I'm -- I'm assuming that's it, but I think I'd ask that question of the Secretary of State and DPS.

SEN. ZAFFIRINI: Well, but, again, the fiscal note is submitted to the chair of the committee that hears the bill. You'll notice at the top of Page 1, it is directed to Robert Duncan, chair of the Senate Committee of the Whole, not to Senator Ogden, chair of Finance. And so it is not for the Finance Committee to consider the costs and the implications of these policy changes, but it's up to the Committee of the Whole; and we are the ones who have this fiscal note.

And I challenged the fiscal note last time. Remember it was zero, and I couldn't believe it? And I asked you questions about that, and I just couldn't believe it. And so now, all of a sudden, it's a fairly similar bill. Many would say more restrictive, but now it has a fiscal note of $2 million.

And did you say earlier, Senator, that this cost would be covered by HAVA funds?

SEN. FRASER: And -- and the difference between this year and two years ago, I think the assumption last year -- two years ago is that they would just be able to use the HAVA funds. And, again, I think you probably should ask the Secretary of State.
I believe since then, they have made a request of HAVA requesting that, and HAVA's response, I believe, is that they will wait until the bill is passed. And when the bill is passed, then they will make a determination on whether you could use the -- the money. But we're also looking at history of other states. They have been allowed to use HAVA money. But, again, I think I'd ask the Secretary of State that question.

SEN. ZAFFIRINI: Well, as the author of this bill, would you prefer that the state pay this $2 million in costs, or would you prefer that we use federal funds?

SEN. FRASER: I would prefer the money that's sitting over here in a pot at the Secretary of State -- that has not been spent; obviously, I'd much rather use that.

SEN. ZAFFIRINI: Do you know, Senator, what the HAVA funds are used for?

SEN. FRASER: For educating -- it's the help America vote. It's to encourage voting.

SEN. ZAFFIRINI: So basically, if we use the HAVA funds for this purpose, we are repurposing the HAVA funds that are already there and intended for things like new equipment and ongoing training programs?

SEN. FRASER: Senator, I don't think -- I think the decision will be made by the federal agency that sent us the money, the HAVA people, and if they've already authorized other states to use this for voter education and this would fall in the area of voter education, I would assume.

SEN. ZAFFIRINI: Well, it's my understanding, Senator, that it is for the state to submit a plan. The federal government doesn't tell us what to do in that area, not that it doesn't tell us in other areas.

SEN. FRASER: And, Senator, I hate -- it's the same answer I've given multiple people before, is that the Secretary of State will be coming up. I think that's the person to address this.

SEN. ZAFFIRINI: Do you have any suggestions regarding the training that is referred to on Page 2 of the fiscal note, local government impact?

SEN. FRASER: I do not. That, again, will -- it is the job of the Secretary of State to administer that, recommend the training, and I believe they have the authority under current law.

SEN. ZAFFIRINI: And you have no information, then, about any recurring costs that we should worry about?

SEN. FRASER: I have none.

SEN. ZAFFIRINI: And to whom would you recommend the training?
refer us on that issue?
SEN. FRASER: On recurring costs?
SEN. ZAFFIRINI: Uh-huh.
SEN. FRASER: Could you give me an example? I don't -- I don't think I --
SEN. ZAFFIRINI: Well, the fiscal note shows all the expense in fiscal year 2012, and then it doesn't show any other expenses --
SEN. FRASER: I --
SEN. ZAFFIRINI: -- beyond that.
SEN. FRASER: I would ask the Secretary of State or DPS.
SEN. ZAFFIRINI: It just seems to me, Senator, that there will be recurring costs because one example would be the State's responsibility to provide free photo ID cards on a recurring basis to the significant portion of our population that moves regularly. They move from one part of the state to another, and they might need a different card in that area. And that would be a recurring cost, would it not?
SEN. FRASER: Senator, since 2006, there have only been 37,000 people that registered to vote that did not have a current driver's license. That -- that's in the last five years. So the assumption is, the number that is coming into the system that would not have a card, the number is very low. The cost of that card is not a huge number. So actually, the amount that it would cost to take care of them is a -- not a large number.
SEN. ZAFFIRINI: What I'm worried about, Senator, as a member of the Finance Committee, is unintended consequences and unexpected costs. Not unexpected because we don't foresee them and can't identify them, but because of the criminal justice impact statement and because of the fiscal note that we have that simply don't address these issues. For example, Line 12, Page 12 of the bill, you refer to the cost of the get-out-the-vote efforts; and basically, the fiscal note states: The analysis is incomplete because, quote, it is not known how many voter registration drives or other activities designed to expand voter registration would occur. So we don't even have an estimated cost of one voter registration drive. And if it is our intent to ensure that we have more, we're not considering the cost, it seems to me that we are being irresponsible in terms of identifying the exact cost or the best estimated cost of this bill.
SEN. FRASER: And we are -- have the benefit of not being the first one to implement this. We don't have to reinvent the wheel. We can look at the history of states that have implemented, like Indiana, Georgia, and others, look at common things that have...
happened there. We're going to have a person from Indiana here. I think it -- that would probably be a question you might ask, is the reoccurring cost, because they've had this in effect. I believe they passed it in 2006.

SEN. ZAFFIRINI: But, of course, when we talk about other states, including Indiana, we -- Texas is much bigger and much more diverse; and so our problems will be very different, our challenges will be very different, and I believe our costs will be significantly higher. But, again, I'm concerned as a member of the Finance Committee.

But speaking of costs related to other states, are you aware, Senator, that in many if not all, of the states that have implemented photo ID bills, including those with less restrictive laws than the one that you propose, they have been challenged in court.

What costs are we anticipating regarding being challenged in court because of this bill?

SEN. FRASER: I'm -- I'm not advised, that you're making an assumption we'll be challenged, and I'm -- I do not -- I'm not advised.

SEN. ZAFFIRINI: I think it's a pretty safe assumption. Indiana was challenged, and as I said, many, if not all, of the states that have implemented these bills have been challenged.

So I think, again, as members of the Finance Committee, as members of the Senate, even those who are not members of the Finance Committee, should look at that as a possibility and certainly should consider the costs. Is this where we want to spend our money? Even the $2 million. What if HAVA funds are not used for this purpose? Is this where we want to spend the $2 million and significantly more in defending the bill instead of addressing the other issues that we are facing right now because of economic crisis in Texas?

SEN. FRASER: Was that a question?

SEN. ZAFFIRINI: Yes. Is it?

SEN. FRASER: Is what? Should --

SEN. ZAFFIRINI: Is this where we want to spend our money?

SEN. FRASER: It's -- the decision on that, you know, I'm not on Finance, you are. You're -- you're -- you're asked to make those hard decisions. So that, I would -- you know, that'll go back to the Finance Committee.

SEN. ZAFFIRINI: Okay.

SEN. FRASER: But you're also making an assumption that there's going to be an expense, which I don't think there will be one because I think we'll be able to spend the HAVA funds.

SEN. ZAFFIRINI: All right. Well, we
disagree on those. I think those assumptions are fairly safe.

Senator Fraser, Senator Van de Putte distributed this map earlier. Have you seen this map?

SEN. FRASER: I have not.

SEN. ZAFFIRINI: Basically, it shows her -- if my -- Mr. Chairman?

CHAIRMAN DUNCAN: Senator Zaffirini?

SEN. ZAFFIRINI: If I may direct a question to Senator Van de Putte?

CHAIRMAN DUNCAN: Pardon?

SEN. ZAFFIRINI: If I may direct a question to Senator Van de Putte?

CHAIRMAN DUNCAN: Senator Van de Putte doesn't have the floor.

SEN. ZAFFIRINI: That's why I'm asking.

SEN. FRASER: And -- and I won't yield.

SEN. ZAFFIRINI: You won't yield?

SEN. FRASER: No, I will not yield.

SEN. ZAFFIRINI: All right.

SEN. FRASER: You -- I'll be glad to answer the question.

SEN. ZAFFIRINI: All right. I simply wanted to ask if she planned to distribute this, and if so, I wasn't going to address it.

CHAIRMAN DUNCAN: If you want to introduce the exhibit, you're welcome to do so. We've marked it, I think.

SEN. ZAFFIRINI: All right. Then I would like --

SEN. FRASER: Senator, I'm sorry. I have a map in front of me. I had not seen it, so --

SEN. ZAFFIRINI: All right. Well, Senator Van de Putte has indicated that I can request permission to introduce this as an exhibit.

CHAIRMAN DUNCAN: Okay. I think it's been marked, and would you -- would you bring it down, please?

SEN. ZAFFIRINI: I believe Senator Van de Putte has a clean copy. And this is a map that Senator Van de Putte had developed, and it's titled, "Counties With Department of Public Safety Driver's License Office Closures."

My question, Senator Fraser, would focus on my district. For example, in my district, which comprises 16 counties and part of Bexar, Northeast Bexar, there is one county that has wheelchair accessibility barriers; there are two counties that have absolutely no driver's license offices; there are four that have offices that are temporarily closed; and there is one that has an office that is open three days or fewer each week. And so you can see the accessibility...
issues that we're dealing with, and you can -- when you
get the map -- oh, you do have a copy of the map. You
can see the difference throughout the state. There are
some states that you can see have a lot of pink, a lot
of blue, a lot of green, and then -- counties, rather --
and there are others that are just white, that have
absolutely no barriers.

So, Senator Fraser, looking at this map,
are you concerned that this bill would impact certain
counties that have a problem related to the
accessibility to driver's license offices?

CHAIRMAN DUNCAN: Senator Zaffirini, if I
could -- before you get an answer to that question,

let's get it in the record so everybody knows what we're
talking about.

SEN. ZAFFIRINI: All right.

CHAIRMAN DUNCAN: It's Exhibit --

SEN. ZAFFIRINI: Mr. Chairman?

CHAIRMAN DUNCAN: It's Exhibit 6, I
believe. Is that correct? It's not the two that you've
previously submitted.

SEN. ZAFFIRINI: No.

CHAIRMAN DUNCAN: Is that correct?

SEN. ZAFFIRINI: It's Exhibit 6, then,

according to --

CHAIRMAN DUNCAN: Okay.

SEN. NELSON: Mr. Chairman?

CHAIRMAN DUNCAN: And for what purpose?

SEN. NELSON: It's me, and to ask Senator
Zaffirini a question or to point out that some of us do
not have a copy of this map.

CHAIRMAN DUNCAN: Okay. Well, that would
be a parliamentary inquiry and --

SEN. NELSON: Then I would like to make

that.

CHAIRMAN DUNCAN: That's what I'm trying
to clear up, is I'm trying to get the exhibit in so that
we can distribute it so that everyone can understand

what the questions are.

Would you identify it, please? What's the
title of it?

SEN. ZAFFIRINI: Yes. It is titled,
" Counties with Department of Public Safety Driver's
License Office Closures." It is a map of Texas showing
this -- these issues, and it was developed by Senator
Van de Putte. I had assumed that she had introduced it
into the record or had planned to, but I'm happy to do
it.

CHAIRMAN DUNCAN: Okay. Do we have
copies?

SEN. NELSON: We don't. Only the
Democrats do.
CHAIRMAN DUNCAN: Okay. Well, here's what I would suggest so that other members have an opportunity to follow your questions and the answers, that we at least get copies of that exhibit and distribute it, if we could do that. And then, so if we could defer on that until we get that done, Senator --

SEN. ZAFFIRINI: Certainly.

CHAIRMAN DUNCAN: -- that would be helpful.

SEN. ZAFFIRINI: Absolutely. No problem, Mr. Chairman.

Moving right along. I do have exhibit --

CHAIRMAN DUNCAN: We do have --

SEN. ZAFFIRINI: -- and Exhibit No. 5 that I'd like to enter into the record --

CHAIRMAN DUNCAN: Okay.

SEN. ZAFFIRINI: -- at this time. And I'll wait until they're distributed, if you -- if I may be permitted.

CHAIRMAN DUNCAN: Would you identify Exhibit 4 please?

SEN ZAFFIRINI: Certainly Exhibit 4 is a copy of a driver's license with personal information obliterated.

CHAIRMAN DUNCAN: Thank you. And Exhibit 5?

SEN. ZAFFIRINI: Exhibit 5 is a letter directed to me, which I received today, from Spencer Overton, professor of law at the George Washington University Law School and a member of the Carter-Baker Commission on federal election reform.

CHAIRMAN DUNCAN: All right. Those exhibits will be received in the record and distributed to the members.

(Exhibit Nos. 4 and 5 marked and admitted)

CHAIRMAN DUNCAN: Senator, you're -- you can --

SEN. ZAFFIRINI: Thank you.

CHAIRMAN DUNCAN: -- continue on those exhibits.

SEN. ZAFFIRINI: Senator Fraser, thank you for your courtesy and for your patience and your stamina. I'm impressed, as always.

On Page 4 of your bill, Senator Fraser, Line 8, it states that "and the voter's identity can be verified from the documentation presented under Subsection (b), the voter shall be accepted for voting."

Can you describe what training the poll workers would receive to ensure that they are trained in identification verification?

SEN. FRASER: Senator, you're moving...
SEN. ZAFFIRINI: Line 8 of the bill.
Well, basically, that's all it says, that if the voter's -- that "If the voter's identity can be verified from the documentation presented, the voter shall be accepted for voting." That's the only part that I'm quoting, and then I'm asking what kind of training the poll workers would undergo in identification verification.

SEN. FRASER: Great question to the Secretary of State.
SEN. ZAFFIRINI: To the Secretary of State.
Do you worry at all, Senator, and I know -- I believe it was Senator Davis who asked this question earlier: Do you worry at all about people who don't look like their driver's licenses at all?
SEN. FRASER: I'm sorry. I -- there's so many things to worry about in life, that's -- you know, the -- the question you're asking, I think, is covered by the Secretary of State; and I believe they would make a determination.
SEN. ZAFFIRINI: Well, Senator Fraser, I have distributed Exhibit 4. Would you take a good look at that, please?
And, Members, I ask you to please look at my Exhibit 4 and look at the photograph of this driver's license. Has anyone of you ever seen this person before? He looks familiar?
SEN. FRASER: Yes.
SEN. ZAFFIRINI: Can you identify this person? I'd like to ask this person to stand.
(Unidentified person stands)
SEN. ZAFFIRINI: Take a good look. Look at that picture. Look at him. That's right. That -- and this picture was taken in 2006. Now, if I didn't know Ray, who is my chief of staff, and I were to look at this picture, I would say, "You're not verified. You can't vote. You're an imposter." Look at the difference. Total difference, and yet this photograph was taken in 2006, and so it's current, it's valid. And you can see if we who know him and have seen him, see him every day, don't recognize his picture, imagine what a poll worker would do with a driver's license like this.

UNIDENTIFIED SPEAKER: (Mic off)
SEN. ZAFFIRINI: He's not a Laredoan, so don't worry about it.
(Laughter)
SEN. ZAFFIRINI: Senator Fraser, do you understand why we worry?
SEN. ZAFFIRINI: Well, it's a very good point to make, Senator Shapiro, that we should look at our composite photos, and most of us don't look like them, and yet they have the dates like 2008.

SEN. WEST: We keep using those pictures.

SEN. ZAFFIRINI: 2009. We sure keep using those pictures, so what would happen?

My next question, Senator Fraser, focuses on Exhibit 5.

And, Members, you have a copy of Exhibit 5.

And it is a letter directed to me from Spencer Overton, professor of law from George Washington University. And basically, I received this letter from Professor Overton today, and it directly addresses Senate Bill 14's inconsistency with the Carter-Baker Commission.

Specifically, the letter states that Professor Overton wrote this letter to quote Refute claims that Senate Bill 14 is consistent with the recommendations of the Carter-Baker Commission. And according to Professor Overton, quote The Commissioner recommended requiring photo ID of voters only if state's assumed the responsibility to seek out citizens and provide them with an ID free of charge, if states assume the responsibility to seek out unregistered citizens and register them and automatically update the registration of citizens when they move, and if states allow citizens without a photo ID to vote by signing an affidavit under penalty of perjury for the first two federal elections following adoption of the photo ID.

Now, Senator Fraser, this bill does not meet any of these criteria. Is that correct? Under your bill, the state would not assume any of these responsibilities?

SEN. FRASER: Not advised.

SEN. ZAFFIRINI: Well, I assure you, Senator, that it does not. But Professor --

SEN. FRASER: I disagree.

SEN. ZAFFIRINI: Could you show me it does where in your bill it would allow this?

SEN. FRASER: I'm not advised. This there's been no representation made that we are modeling this bill after the -- the Carter-Baker recommendations. This bill is moving forward as a bill that when someone votes, they will present an ID to show they are who they say they are. The bill that I'm passing we think will be approved by the Supreme Court and will be approved by Department of Justice.

SEN. ZAFFIRINI: Well, then, let me ask you a question. Where in your bill does it specify that...
SEN. ZAFFIRINI: So you can't tell me if your bill does that?

SEN. FRASER: The bill speaks for itself. The language of the bill is very clear as to what the issues we're addressing.

SEN. ZAFFIRINI: Okay. Do you know, Senator Fraser, if this -- under your bill, the state would assume the responsibility to seek out unregistered citizens and to register them and automatically update the registration of citizens when they move?

SEN. FRASER: I don't believe that is covered in my bill.

SEN. ZAFFIRINI: It is not. And do you know, Senator Fraser, if your bill -- under your bill, the state would allow citizens without a photo ID to vote by signing an affidavit under penalty of perjury for the first two federal elections following adoption of the photo ID bill?

SEN. FRASER: Every person that votes will be required to have a photo ID.

SEN. ZAFFIRINI: Well, basically, it seems to me, my analysis is that Senate Bill 14, as introduced, does not meet these specifications of the Carter-Baker Commission. And what's more, in this letter that you have, Members, Professor Overton states that, quote, Even President Carter and Secretary Baker rejected the strict photo ID requirement initially adopted in Georgia after concluding it was discriminatory because it was costly or difficult for poor Georgians to obtain the identification for voting, unquote. But according to Professor Overton, quote, It devotes insufficient resources to address the burdens it would impose on Texas voters who lack photo ID.

SEN. FRASER: That is absolutely incorrect. The original observation -- the bill that was filed in Georgia was changed, and the bill that originally -- that is in law now, that was not their observation. And that was written in 2005. The bill was replaced 2008. That was not their observation.

SEN. ZAFFIRINI: Well --

SEN. FRASER: That it was -- I saw that comment made in a 2005 comment, but you're also making sure you don't take it out of context. And the -- the law that had been passed by Georgia was revisited. They passed a different law, and then that law was -- that bill was precleared by Department of Justice.
SEN. ZAFFIRINI: But it still required --
SEN. FRASER: So the bill he's --
SEN. ZAFFIRINI: -- photo ID.

SEN. FRASER: -- addressing is not law --
current law in Georgia.
SEN. ZAFFIRINI: But the Georgia law still
requires a photo ID.
SEN. FRASER: Yes, it does.
SEN. ZAFFIRINI: It does.
And finally, Professor Overton closes with
his statement that the current proposal for a photo ID
law in Texas is inconsistent with the recommendations of
the Carter-Baker Commission.
SEN. FRASER: I disagree with that.
SEN. ZAFFIRINI: Why, Senator?
SEN. FRASER: I just disagree with that.
SEN. ZAFFIRINI: Are there any specific
points that you disagree with that he made or that I
quoted in his letter?
SEN. FRASER: I'm -- you know, the letter
that you're laying out is -- the first time I've seen it
is just then. We're -- our bill is not -- we're not
trying to model it after that, but the Carter-Baker
Commission very clearly recommended a photo ID.
SEN. ZAFFIRINI: Well, Senator, the reason
that we asked for this letter, we followed up on your
early statement when you laid out the bill. And you
referred to the Carter-Baker Commission, and it was
based on your statement that we followed up and did this
immediate research and got this letter written to us.
SEN. FRASER: Will you show me where I
referred to it in my opening statement?
SEN. ZAFFIRINI: Well, I don't have the
transcript yet, but as I recall, you referred to it in
your opening statement.
SEN. FRASER: Do you want me to read what
I said again from the opening statement?
SEN. ZAFFIRINI: Yes, would you?
SEN. FRASER: I read two --
SEN. ZAFFIRINI: Your copy to the -- your
reference to the Carter-Baker Commission report.
SEN. FRASER: I said, "The Carter-Baker
Commission reaffirms the dangers. Elections are at the
hard democracy. Americans are losing confidence in the
fairness of elections, and while we do not face a crisis
today, we need to address the problems of our electoral
system. At the end of the day, there's considerable
national evidence of in-person fraud; and regardless of
whether one believes that voter impersonation is
widespread or relatively rare, there can be no serious
dispute that -- that real effect can be substantial
because in a close election, even a small amount of
SEN. ZAFFIRINI: Well, sir.
SEN. FRASER: That was a quote that was made. It was -- it was used not only there, but it is also used later in the Supreme Court decision.
SEN. ZAFFIRINI: Right. And, Senator Fraser, it is because I was surprised at that statement that we followed up, and it seems that that is in the report. But there is other information in addition to that, so I could turn around and say, "Well, are you taking it out of context?" I won't raise that question as a courtesy, but I could raise it.

But on the other hand, what I want to make very clear is that the reason we followed up was that you made this opening statement.
SEN. FRASER: Your letter is dated January the 24th. I made the statement this morning. Was -- did I make the statement, and then he -- he wrote the letter and sent it to you today?
SEN. ZAFFIRINI: Well, I requested it today, so that's perhaps a typo because we received it today. Let me check. We received it -- we received it this morning.
SEN. FRASER: Before I made the statement?
SEN. ZAFFIRINI: It should be January 25th.
SEN. FRASER: But you -- you said that you responded -- that you requested it after I made the statement in my --
SEN. ZAFFIRINI: I requested --
SEN. FRASER: -- opening comments.
SEN. ZAFFIRINI: I requested this information based on your opening statement, and I received this letter today. That's correct. Okay?

Thank you very much, Senator. I appreciate, as I said, your courtesy and your patience.
SEN. FRASER: Thank you.
CHAIRMAN DUNCAN: Members, we've been going for a while, and I think it would be -- we're kind of at a -- maybe getting close to a breaking point. Why don't we go ahead and take a ten-minute break and then reconvene, give the court reporter and staff a minute or two to rest. So a time certain, we'll stand at ease until 2:30.
(Recess: 2:21 p.m. to 2:34 p.m.)
CHAIRMAN DUNCAN: Senate Committee of the Whole will come back to order. Senator Hinojosa?
SEN. HINOJOSA: Thank you, Mr. Chairman.
Senator Fraser?
SEN. FRASER: These are actually pretty good.
SEN. HINOJOSA: Can you hear me?

SEN. FRASER: Yes, this is -- these are much better. Yes, I do. I can hear you.

SEN. HINOJOSA: I just have a few questions that I'd like to follow up on.

Do you know how many people are registered to vote here in the state of Texas?

SEN. FRASER: Oh, I do -- I'm sorry, I do not know.

SEN. HINOJOSA: Approximately, 13 million.

SEN. FRASER: Okay. 13, yeah. Okay.

SEN. HINOJOSA: Yeah. And do you know how many voted in the last election?

SEN. FRASER: No, I'm not advised on that either. I'm sorry.

SEN. HINOJOSA: Close to 5 million voters voted this last election. And do you know how many people were arrested or prosecuted or indicted for trying to use somebody else's voter registration card?

SEN. FRASER: I'm sorry, not -- no, I do not have that number.

SEN. HINOJOSA: None?

SEN. FRASER: I don't -- I don't have the number. I'm sorry. I'm not advised.

SEN. HINOJOSA: Well, do you have any evidence?

SEN. FRASER: I'm sorry?

SEN. HINOJOSA: Do you have any evidence?

SEN. FRASER: Evidence?

SEN. HINOJOSA: Yeah, evidence to support your bill about voter fraud when they go to vote?

SEN. FRASER: Senator, you know the thing that we're trying to address here is that, as you know, it's virtually impossible to detect voter fraud because our current law makes it impossible not only to -- to verify that they're voting illegally, but even if you catch them, we don't have the ability to stop them from voting. So the -- the ability to stop someone today voting illegally is almost impossible in Texas. That's the thing that I'm trying to address with my bill, is that we believe if we make them show a voter ID, then we will know that they are who they represent themselves to be.

SEN. HINOJOSA: Actually, Senator Fraser, back home, most of the election judges know who the voters are in their precincts.

SEN. FRASER: Well, that's interesting.

Back home, in the area you're from, most of the -- or a lot of the stories that I've seen reported to the media -- and actually, you've got two voter registrars through your area that have endorsed this concept because they are -- they are having a problem with voter
fraud, and I -- that actually -- I'm -- I'm responding
to things I've read they've said in the media. But I
believe there are numerous registrars that believe this
is a -- a large problem.

SEN. HINOJOSA: Well, I hear what you're
saying, but I don't see any evidence. There's a lot of
anecdote, a lot of rumors and guessing and speculation,
which I don't think it's a way to make good public
policy.

Are you familiar with the Carter-Baker
Commission on federal election reform?

SEN. FRASER: Senator, what are you -- I'm
sorry. What --

SEN. HINOJOSA: Are you familiar with the
Carter-Baker Commission on federal election reform?

SEN. FRASER: Yes, I am.

SEN. HINOJOSA: Okay. Are you aware that
by putting a requirement of having a photo ID to be able
to vote, that there are approximately 3 million
registered voters in the state of Texas that do not have
voter ID?

SEN. FRASER: I don't know where you get
that number.

SEN. HINOJOSA: Well, if you look at
3 million people who are going -- who will be kept from
voting as compared to you cannot show anybody getting
prosecuted -- getting prosecuted and convicted voter
fraud, that's one big difference, one big price to pay
for a bill that you don't have any evidence to support
there's voter fraud.

SEN. FRASER: One second, Senator. My --
my iPhone is interfering with my microphone.
The 3 million number, where do you get
that?

SEN. HINOJOSA: That's the estimate by the
Carter-Baker Commission on federal election reform that
here in Texas --

SEN. FRASER: Can you -- can you show me
where it says in that Commission report? I don't
remember.

SEN. HINOJOSA: Yes, sir, it's a letter
dated January 24th, 2011, from Professor Spencer Overton
addressed to Senator Judy Zaffirini where he states that
approximately 3 million Texas voters do not have photo
ID.

SEN. FRASER: Senator, that is --
(Simultaneous speaking)
SEN. FRASER: -- pure speculation by that
gentleman. He has nothing to base that on, and that is
not in reference to the Carter-Baker report. That is a
estimation by some, you know, political hack that --
that y'all have asked to write a letter.
SEN. HINOJOSA: Well, actually, I thought it was the opposite. I thought your side was pure speculation. Thank you.

CHAIRMAN DUNCAN: The chair recognizes Senator Williams.

SEN. WILLIAMS: Thank you, Mr. Chairman.

SEN. WILLIAMS: Would Senator Fraser yield for some questions?

SEN. FRASER: I will yield.

SEN. WILLIAMS: Senator Fraser, there's several things that I wanted to clear up for the record. The first, I'd like to make a reference back to the Secretary of State has recently sent this letter -- she sent it over today -- that indicated that there would be probably $2 million of the HAVA funds that would be available for voter education, to help fund the voter education efforts that we would have in connection with this bill. And it would be -- normally, it would be the Secretary of State's office who would develop what those problem programs are with taking into account our legislative intent about what we're trying to accomplish. Is that right?

SEN. FRASER: Yes.

SEN. WILLIAMS: The other thing that I wanted to correct, for the record, Senator Watson opined earlier that a lot of this funding for these items had been struck in the budget, and actually, I went back and pulled a copy of the budget. I had not looked at this part, and so there were some budget riders that had expired and that were no longer relevant in the current budget. Those were struck. And under Strategy B.1.4, under elections improvement, administer Federal Help America Vote Act, we actually have, it looks like, a total of about $43 million over the next biennium that's been appropriated in the budget that Senator Ogden laid out for us earlier. So I just wanted to clear that up for the record because that's kind of been a moving target.

Another question that I had for you was the -- I wanted to go back, if I could, and -- and just touch on what my understanding after hearing all this questioning that's gone on, what your -- the purpose of your bill is -- really is to deter and detect fraud in-person voter fraud at the polls. Is that correct?

SEN. FRASER: That is correct.

SEN. WILLIAMS: Okay. And has the United States Supreme Court -- I believe they've stated that it's been documented throughout our nation's history by respected historians and journalists, and they demonstrate not only that the risk of voter fraud is very real, but they could affect the outcome in a close election. Does Senate Bill 14 provide the kind of
safeguard against that fraud that might be crucial in an
election?

SEN. FRASER: Yes, it does, Senator.

SEN. WILLIAMS: Now, we've had some close
elections, even in the Texas Legislature. I know over
in the House right now, there is an election contest
that's been -- for Senate, State House District 48.
It's being contested. The last numbers that I saw from
the Secretary of State showed that Donna Howard had won
her seat by 12 votes, which amounts to .02 percent of
all the votes cast in that race. And, of course, back
in 2008, Linda Harper Brown up in Dallas County defeated
her opponent by 19 votes, or .05 percent of the total
votes cast in that race.

Are those the kind of close elections you
think that the Supreme Court might have been referencing
when they said in Crawford 533 U.S. at 11-12 that
it's -- the threat's not only real, but it's actually --
you know, it demonstrates it's not real, but it could
affect the outcome of a close election?

SEN. FRASER: The answer is absolutely,
yes, and it actually the -- it's even closer to home.
Senator Jackson, when he was elected to the Texas House,
ended up winning by seven votes.

SEN. WILLIAMS: Landslide Jackson --
SEN. FRASER: Landslide Jackson.
SEN. WILLIAMS: -- I think they called
him.

SEN. FRASER: So if -- fraud, in an
election like that, could have changed history.
SEN. WILLIAMS: Senator Fraser, Senate
Bill 14 provides safeguards to protect the reliability
and integrity of our voting system, especially those in
close elections like we've just talked about?
SEN. FRASER: Yes.
SEN. WILLIAMS: Okay. I believe in this
Crawford v. Marion, on Page 10, the Supreme Court brief,
they quoted -- the United States Supreme Court quoted
the Carter-Baker report that has been referenced here.
And in that report, their quote was, "There's no
evidence of extensive fraud in the U.S. elections or of
multiple voting, but both occur, and it could affect the
outcome of a close election. The electoral system
cannot inspire public confidence if no safeguards exist
to deter or detect fraud or to confirm the identity of
voters. Photo identification cards currently are needed
to board a plane, enter federal buildings, and cash a
check. Voting is equally important."

Is that your understanding? Is Senate
Bill 14 designed to inspire that public confidence in
close elections like --
SEN. FRASER: Yes, it is.
SEN. WILLIAMS: -- we talked about?

Senator Fraser, do you recall the testimony and exhibits that we provided in 2009 -- now it's been admitted earlier today as Exhibit 1 -- that detail the extensive voter fraud in Harris County and other areas of the state?

SEN. FRASER: Yes, I'm very familiar with it.

SEN. WILLIAMS: Okay. Senator, having listened to what I heard and just read a minute ago from the Carter-Baker Commission and the language that was adopted from them in the Supreme Court brief, are you aware of how difficult it is to not only to discover but to prosecute voter fraud?

SEN. FRASER: Yes, it is very difficult.

SEN. WILLIAMS: And having said that, do -- do you think that that's one of the reasons we don't see many of these cases that are prosecuted because if someone is voting deceptively as someone else, it's going to be very difficult to discover that if they're successful?

SEN. FRASER: And that was recognized by the U.S. Supreme Court in their decision.

SEN. WILLIAMS: So are you offering Senate Bill 14 as a tool for the state of Texas to detect and deter this type of voter fraud and further inspire confidence in our voters and the voting system, to make sure that all Texans and all of our elections are conducted with the upmost integrity and equity to all Texans?

SEN. FRASER: Absolutely. That would be my reasoning.

SEN. WILLIAMS: Okay. Couple of things that I just think that it was important to get back into the record again about what the Supreme Court actually said in Crawford v. Marion; and all of this, of course, was included in the record last time.

I thought it was interesting that Justice Stevens comments about this. He said first, the state has an interest in deterring and detecting voter fraud. They have a valid interest in participating in a nationwide effort to improve and modernize the election procedures that have been criticized as antiquated and inefficient, and the state, in that case, also argues that it has a particular interest in preventing voter fraud in response to a problem that is, in part, the product of its own maladministration; namely, that in the case -- in this case, Indiana's voter registration roles included a large number of people who were either deceased or no longer live in Indiana.

Now, Senator Fraser, when I look back at the record that we had introduced as Exhibit 1 today,
didn't that record include many, many instances where we
had people who were registered at fictitious addresses
who had been voting or people who were deceased? I
think my own brother came and testified that our
grandfather had voted for 62 years after his death, and
my grandmother had a very difficult time trying to get
him taken off the voter roles and, in fact, had not been
able to do so.

SEN. FRASER: Yes, I’m -- I’m -- remember
that very well.

SEN. WILLIAMS: Okay. And so, you know,
there's been a lot of talk about the burden on people,
and Senator Davis made some very compelling and
interesting remarks in her comments. But I would say
that, you know, wouldn't you think that especially for
the elderly, which we've had a big focus on here today,
of the inconvenience on elderly voters, people who are
age 65, don't they have an opportunity to use a mail-in
ballot and they completely bypass any restrictions that
your bill or inconveniences that it might cause them?

SEN. FRASER: I'm actually surprised at
the percentage now of people that do mail in ballots.
That percentage continues to increase, and so someone
that did have a problem getting to the polls -- and, you
know, I gave the example last year of my -- my mother in
the retirement center, that she couldn't get to the --
it was too much -- it's too hard for her to get to the
polls, but she voted by mail. And there's -- there are
people in that category, and we have that safeguard in
Texas.

SEN. WILLIAMS: Well, and -- and I think
we all care about everyone being able to exercise their
constitutional right to vote, and along with the
provisions that you have for people that are 70 and over
plus the mail-in ballots and the fact that provisional
ballots can be cast and allow people with expired
licenses and that sort of thing the opportunity to prove
up who they are, don't you think that addresses many of
the concerns that have been raised here today?

SEN. FRASER: Absolutely. They -- and
that was our intent, is that obviously, we want to make
sure everyone is afforded the -- the ability to vote,
and we think we have those provisions in place so that
all Texans, every Texan, will be allowed to vote.

SEN. WILLIAMS: Well, I -- I think it's
also interesting, and you've noted several times today,
that so far as we could determine from our research,
there isn't a single voter in Indiana or Georgia who's
raised the issue that they've been disenfranchised since
those laws have been enacted. Is that true, to the best
of your knowledge?

SEN. FRASER: To the best of my knowledge.
And we have asked that question repeatedly, and to the
best of our knowledge, we have not a single person
has come forward in either state.

SEN. WILLIAMS: And I think it's -- you
know, when I look at the syllabus of the Crawford v.
Marion County election board case that went to the Texas
Supreme Court, they note in the syllabus that there's no
question about the legitimacy or importance of the
State's interest in counting only eligible votes. And I
think they go on to say that -- that requiring that and
the fact that the cards in the Indiana case, as we're
doing, they make those cards free. The inconvenience of
going -- of gathering the required documents, posing for
a photograph, does not qualify as a substantial burden
on most voters' right to vote or represent a significant
increase over the usual burdens of voting. And I think
that's interesting that that was noted.

And those provisions that we have are
essentially -- in your bill, there are very similar
provisions with respect to those matters. Correct?

SEN. FRASER: They -- yes, and I want to
clarify. The Crawford case went to the U.S. Supreme
Court, and those observations were made in the -- the
majority opinion.

SEN. WILLIAMS: Now, they go on to say
that it's generally applicable, nondiscriminatory voting
regulation, it's universally applicable, it's imminently
reasonable because the burden of acquiring, possessing,
and showing a free photo identification is not a
significant increase over the usual voting burdens, and
the State's interest are sufficient to sustain whatever
those minimal burdens are.

So we know there's some inconvenience, but
we've done everything we can to make that inconvenience
as insignificant as possible. Is that --

SEN. FRASER: I will actually go with that
in the -- the Crawford/Indiana case.

SEN. WILLIAMS: Just in closing, in my
final comments as -- before we go to take testimony, I
just think that it's noteworthy to look back at what the
opponents of this legislation have said on the floor
thus far today, and what I've heard is very little
debate about the actual content of your legislation.
And I think that speaks to the fact that it's
unequivocally a good idea that people ought to be able
to be positively identified as who they say they are
when they come to vote.

What I've heard today is a lot of talk
about procedures, even though what we're doing is very
normal for a Committee of the Whole, and it's the same
procedure that we used the last session when we
considered this. Is that correct, Senator Fraser?
SEN. FRASER: It is, and I think it's very difficult for a member to argue the merits of the bill when it's so straightforward when you ask someone in their district do they think that someone should -- should have -- be required to show a photo ID when they vote, that you've got near 90 percent of the population across the state of Texas. Again, every one of these members, it's hard to argue the merits -- argue the merits of the bill.

SEN. WILLIAMS: Yeah, the other thing that I've heard that I think is interesting is fiscal notes.

A lot of talk about fiscal notes, even though we have a letter from the Secretary of State that states that there are going to be HAVA funds that will be available to help with the voter education, and I think we're going to have testimony in a few moments. And I tried to clarify that early on that the cost of issuing for the state these free ID cards is less than $2. It's a very minimal cost, and with almost 16 million people that we have who have a driver's license or -- or an ID card now, it seems unlikely that there's going to be a whole lot of people out of that 13 million that actually don't already have a driver's license or a state ID card.

In fact, Senator Fraser, I spoke last night with the Department of Public Safety and today with the Secretary of State and just asked them if it would be possible for us to target those voters who are below age 65 and have -- don't have an ID card, a driver's license or an ID card issued by the state; and they said, yes, it would be possible for us to direct our voter education to those people specifically so that we could step it up and let them know before your bill takes effect -- not till, when, in January? Is that correct? Am I remembering that correctly?


SEN. WILLIAMS: So a year from now. So we've got a lot of time to let these people know what's coming.

And then the other thing I've heard a lot about is current law, and, you know, there's been a lot of discussion. In fact, a lot of what we've talked about is what's actually on the books right now, and your bill is not touching any of that top side or bottom. Really, most of what you do is very limited by changing what the requirements are when you come to the polls. Is that correct? There's not any other real substantive change to election law here.

SEN. FRASER: We're only addressing the -- the actual in-person voting and the identification required when somebody votes in person. We're not addressing mail-in ballots or any of the other...
provisions. It's just that one section.

SEN. WILLIAMS: Well, thank you for allowing me to question you about this and I appreciate you bringing this issue before us and I especially appreciate the fortitude that you've shown during this long debate. Thank you.

SEN. FRASER: Thank you, Senator.

CHAIRMAN DUNCAN: Chair recognizes Senator Shapiro.

SEN. SHAPIRO: Thank you, Mr. Chairman.

I would just like to ask one question because we're getting mixed signals, and I just want to make sure. It's just going to take a yes-or-no answer, and I think that will be the easiest.

In Section 7 of your bill, which is actually on Page 5, the requirements for identification prescribed for people who do not have to have a vote -- a photo ID, where it references their age, does the bill require that people 70 or older present a voter registration card and that they be at least 70 years of age on January 1st, 2012?

SEN. FRASER: My understanding and this is again something probably the Secretary of State will address, but I believe your age is -- is on the card. So if someone is 70 on January 1, 2012, they will not be asked to show a photo ID.

SEN. SHAPIRO: Okay. And this is something that the Secretary of State has put into this bill?

SEN. FRASER: No. No, I --

SEN. SHAPIRO: This is something that you have --

SEN. FRASER: -- inserted it into the bill. It'd be your interpretation --

SEN. SHAPIRO: I got you.

SEN. FRASER: -- to -- to make sure --

SEN. SHAPIRO: Identify whether it's at hand?

SEN. FRASER: -- that they can identify themselves --

SEN. SHAPIRO: Okay.

SEN. FRASER: -- but it's not intended that they would -- I believe they're --

SEN. SHAPIRO: Separate.

SEN. FRASER: Yes.

SEN. SHAPIRO: It's not intended to be separate. It's intended --

SEN. FRASER: No.

SEN. SHAPIRO: -- to be the same document.

SEN. FRASER: Yes, as long as they're --

SEN. SHAPIRO: Okay.

SEN. FRASER: -- you know, 70 on
SEN. SHAPIRO: And the date of birth is on our current voter registration card?

SEN. FRASER: You need to ask that of the Secretary of State.

SEN. SHAPIRO: Okay. And my recollection is it is. Thank you.

SEN. FRASER: Okay.

CHAIRMAN DUNCAN: Chair recognizes Senator Huffman.

SEN. HUFFMAN: Thank you, Mr. Chairman.

Senator Fraser, will you yield for a couple of questions?

SEN. FRASER: I would love to yield.

SEN. HUFFMAN: Thank you, sir. I'd like to commend you too, for a long day of answering a lot of tough questions.

SEN. FRASER: Thank you.

SEN. HUFFMAN: But I think it's important, as we kind of wrap this part of the procedures up today, that we kind of circle back to the idea and the concept that we got here today. But there is a line of Supreme Court cases that have brought us here. Would you agree with that?

SEN. FRASER: Yes.

SEN. HUFFMAN: And certainly, the Crawford v. Marion case gives us guidance on how to do what we're doing here today properly. Would you agree--

SEN. FRASER: I think that's the one--

SEN. HUFFMAN: -- with that?

SEN. FRASER: -- was referenced, I think, in the Indiana case, I believe.

SEN. HUFFMAN: Okay.

SEN. FRASER: And that's yes.

SEN. HUFFMAN: And did you, as you sat down with your staff and so forth in, you know, pre-session, in the interim, and you started thinking about this bill and so forth, did you and your staff take into consideration Crawford v. Marion and try to follow the law and the rules the Supreme Court has laid out for us?

SEN. FRASER: Yes, without a doubt.

That's already been approved by the Supreme Court, and obviously, we wanted to make sure we stayed within those parameters.

SEN. HUFFMAN: All right. Now, you know, the Supreme Court, I think -- we know that the Supreme Court has told us that there is a balancing test, and we understand that the right to vote is sacred. And so we know that the law tells us that if there is a burden placed upon a voter, that they're going to look very carefully at that, and it's going to have weight, but
it's going to be balanced against legitimate state
interest. And so I think what we need to explore, just
briefly, is that, in fact, we -- we have legitimate
state interest. The state of Texas has an interest to
make sure that our elections are done with -- well, as
perfect as we can get them but with integrity, right,
and with voter confidence.

So as you prepared the bill and as you
look at the bill -- and the Supreme Court has told us
that there are legitimate interests, and they define
those for us. So as you prepared the bill and you look
at Senate Bill 14 today, do you think that it addresses
the relevant and legitimate concerns of deterring and
detecting voter fraud? And I know you've been asked
this question a lot.

SEN. FRASER: Absolutely.
SEN. HUFFMAN: Right. Do you think that
it -- that it's important in that the bill will help to
improve and modernize the election procedures of Texas?
SEN. FRASER: Yes.
SEN. HUFFMAN: Do you think that there's a
larger scheme nationwide through the Help America Vote
Act and the National Voter Registration -- Registration
Act to do just that, to make elections come up to modern
times?
SEN. FRASER: Absolutely.
SEN. HUFFMAN: Do you think that Senate
Bill 14 will help to prevent voter fraud and actually
help to ensure that only the votes of eligible Texas
voters are counted in these crucial elections that
happen in the state of Texas?
SEN. FRASER: That is our intent, and we
believe the bill does that.
SEN. HUFFMAN: And do you believe that
once we have established these safeguards, that the
voters will feel more confident about their vote being
counted and only the votes of registered Texans who can
vote to be counted?
SEN. FRASER: Yes, that is our belief.
SEN. HUFFMAN: Do you think that once
that's established, that it will actually encourage the
democratic process and that it will encourage more
voters to go to the polls?
SEN. FRASER: The thing we've seen in
other states that have implemented photo ID, the -- the
voter turnout actually increased. And so, yes, we
believe the confidence in the voters will increase, and
we believe it will actually increase the voting
percentages.
SEN. HUFFMAN: Now, we've heard comments
today from many senators, Senator Whitmire, Senator
Davis, Senator Uresti, about hypothetical burdens that
may be placed on some hypothetical voter. But taking that into account and looking at and trying to balance it, do you feel like we have a bill here that -- that presents and moves forward our legitimate interest in Texas as it regards voting?

SEN. FRASER: Without a doubt.

SEN. HUFFMAN: All right.

SEN. FRASER: We believe it does.

SEN. HUFFMAN: Thank you very much, Senator Fraser.

SEN. FRASER: Thank you, Senator.

SEN. HUFFMAN: Thank you.

CHAIRMAN DUNCAN: Chair recognizes Senator Wentworth.

SEN. WENTWORTH: Thank you, Mr. Chairman.

Will the gentleman yield?

SEN. FRASER: I will yield.

SEN. WENTWORTH: Senator, I want to compliment you on your long hours of being on your feet in responding to these questions. I just wanted to touch on a couple of things.

One is we had -- we had some testimony here two years ago on a very similar bill, and I just wanted -- since it's been raised earlier today, the issue about whether or not maybe passage of this bill would reduce voter participation. There are only a couple of other states, Indiana and Georgia, where these sorts of bills have been passed. One of the witnesses in March of '09 said to us: Not only does voter ID help prevent fraudulent voting, but where it has been implemented, it has not reduced turnout. There is no evidence that voter ID decreases the turnout of voters or has a disparate impact on minority voters, the poor, or the elderly. The overwhelming majority of Americans have photo ID or can easily obtain one.

Now, this is in the record from the 2009 hearing, which we've already adopted, but I just wanted to recall some of the testimony that we had.

Another quote was: Recent election results in Georgia and Indiana also confirmed that the suppositions that voter ID will hurt minority turnout are incorrect.

In addition -- and I'm not sure whether this was part of the record in '09, but there is a study of Indiana's photo ID law that was conducted by a University of Missouri professor. He found that requiring identification doesn't have much impact on voter turnout rates. His name is Jeffery Milyo. He's professor of economics and public affairs at the University of Missouri, a part of the Institute of Public Policy of the Harry S. Truman School of Public Affairs.
And his conclusion is -- if I can find it quickly it's a many-page study, and his conclusion is that the findings that emerge from his analysis are that photo ID is associated with an overall county level turnout increase of almost 2 percentage points -- and this is just in Indiana. This isn't Georgia as well -- an insignificant increase in relative turnout for counties with a greater percentage of minority and poor population, no consistent or significant impact on relative turnout in counties with a greater percentage of less educated or elderly voters; and finally, a significant relative increase in turnout for counties with a higher percentage of Democrat voters.

I was just wondering if you remembered those things that were testified to two years ago or whether you were familiar with this university professor's study.

SEN. FRASER: Thank you for bringing that forward. It -- yes, I -- now, as you mention it, I do remember it. The other thing that comes to mind that was through the testimony two years ago is in the '09 -- I'm sorry -- the '08 president election for '09, that even though the president was from Illinois, the adjoining state, Indiana, had doubled the increase of voting next door in the state -- in Indiana where they had put in photo ID. Illinois did not have it, but the increase was double the amount of increase next door. So it certainly didn't show that they were hurt by the implementation of the --

SEN. WENTWORTH: Where Indiana has a photo ID law --

SEN. FRASER: Illinois does not.

SEN. WENTWORTH: Thank you very much, Senator.

SEN. FRASER: Thank you, Senator.

CHAIRMAN DUNCAN: Okay. Members, we have -- that completes all of the Members who want to ask questions of the author. You can sit down for a second, Senator, if you want to. Take a rest.

We have a little bit of housecleaning. There's a few witnesses that -- or a few exhibits that may want to go in that we have now made copies of. I think, Senator Van de Putte, you had -- Senator Zaffirini had Exhibit 6 which was a map of the DPS, and we've now had that copied and available to distribute. Do you want to go ahead and offer it into the record?

SEN. VAN de PUTTE: Yes, I will.

CHAIRMAN DUNCAN: Okay. It'll be received.

(Exhibit No. 6 marked and admitted)

CHAIRMAN DUNCAN: And then I believe we
had -- Senator Davis had a chart that -- excuse me.

SEN. VAN de PUTTE: Mr. Chairman, do -- I move to add to Exhibit 6 the counties with Department of Public Safety Driver's License Office Closures prepared by legislative counsel.

CHAIRMAN DUNCAN: Okay. Thank you. That will be received in the record.

Senator Davis, you had an exhibit that you wanted to offer.

SEN. DAVIS: Yes, Mr. Chair. I'd like to add that as -- I guess it would be Exhibit No. 7 to the record.

CHAIRMAN DUNCAN: And I think we have copies to distribute to the Members? Would you describe it, please?

SEN. DAVIS: Yes, I'm sorry. It's the chart that I displayed and talked about earlier in my questions of Senator Fraser. It's exact -- an exact replica of the chart that was displayed on the Senate floor.

CHAIRMAN DUNCAN: It has a -- it's a graphic that has a -- at the top, a title that says, "DL/State ID." Okay. Exhibit 7 will be received in the record.

SEN. DAVIS: Thank you.

(Exhibit No. 7 marked and admitted)

CHAIRMAN DUNCAN: Are there any other exhibits that --

SEN. FRASER: Mr. President?

CHAIRMAN DUNCAN: -- were discussed that we'd like to include? Senator Fraser?

SEN. FRASER: And I had one that I mentioned that I was going to enter in that I have not yet. It is the Lighthouse Opinion Poll. This is the most current poll that is taken and has a very good breakout of not only across the state, the regions, but also has a breakout, Republican, Democrat, and it breaks out for the African American, Hispanic, and --

CHAIRMAN DUNCAN: Do you have copies of that to distribute?

SEN. FRASER: I have one copy.

CHAIRMAN DUNCAN: Okay. Well, Exhibit 8 will be received, but if you'll go ahead and get copies so that we can distribute those at this time.

(Exhibit No. 8 marked and admitted)

SEN. GALLEGOS: Mr. President?

CHAIRMAN DUNCAN: Senator Gallegos, for what purpose?

SEN. GALLEGOS: I have also some diagrams, but I wasn't going to present them until the time of my amendments. I mean, do they need to be entered now or at the time of the amendment?
CHAIRMAN DUNCAN: I don't see any problem with entering them at the time when it's relevant to what you're trying to do.

SEN. GALLEGOS: Yeah.

CHAIRMAN DUNCAN: You can put them in the record at that time --

SEN. GALLEGOS: Okay.

CHAIRMAN DUNCAN: -- when we're --

SEN. GALLEGOS: Then I'll wait till -- till the time of the amendment. Thank you, Mr. President.

CHAIRMAN DUNCAN: All right. Members, the next phase is the invited testimony. And Senator Van de Putte and Senator Fraser, if you could come up to the -- make sure we've got everybody in the right order. And while they're coming up, I want to announce that it's my intention to -- we have about 17 -- last check, 17 registered witnesses for public testimony, and I would like to accommodate those witnesses, if we could. So remember that when you're questioning and -- that we have some folks that would like to testify here later on.

All right. Members, let's go ahead and move into the invited testimony. The first witness will be Jerry Bonnett, general counsel, Indiana Secretary of State. Mr. Bonnett? Mr. Bonnett, you'll have ten minutes the timer is right before you. You'll get a yellow light at 30 seconds, I think. And then we'll strictly hold you to the time, and then open it to questions at that time. You'll not be interrupted during your testimony.

INVITED TESTIMONY

TESTIMONY BY JERRY BONNETT

MR. BONNETT: All right. Thank you, Chairman Duncan. I want to thank Senator Fraser and supporters of Senate Bill 14 for inviting me to be here today.

CHAIRMAN DUNCAN: Would you state your name and --

MR. BONNETT: Yes. My name is Jerry Bonnett. I've served as general counsel for the Indiana Secretary of State Todd Rokita from 2005 to the end of 2010 when he completed his second term in office. I am currently serving as general counsel to Indiana's next Secretary of State and chief election officer, the Honorable Charles White. Since 2005, my duties as general counsel have involved assisting with the implementation of Indiana's photo ID law, including working with multiple players in Indiana's election process, which is included the Bureau of Motor Vehicles, county election boards,
poll workers, our Help America Vote Act, and support
agencies in coming up with the procedures and rules to
administer our photo ID law.
I've also been responsible for statewide
monitoring of election day activity in elections in our
statewide and primary -- primary general elections in
complaint from the -- regarding voting submitted to the
Secretary of State, the Indiana Election Division, the
Indiana Election Commission, the Department of Justice,
our Help America Vote Act, and other county election
boards.

I've also assisted the Indiana Attorney
General and the Indiana Solicitor General with the
discovery trials appeals and ultimately Supreme Court
review in the state courts and in the U.S. Supreme Court
of Indiana's photo ID law.

Prior to the first statewide election in
Indiana under the photo ID law, there was no shortage of
organizations claiming that we smell a rat of some sort
and that the law has some illegal discriminatory effect

Despite the intense scrutiny of the law
that has been locally -- local, state, national, and
even international, in my impression, Indiana has
been -- and our courts who have been very open to giving
a fair and complete hearing to anyone feeling agreed or
disenfranchised by our voter ID laws. In the five years
and eight statewide primary general elections I've been
involved with, there's been scant evidence of
disenfranchisement or discrimination in Indiana. If the
naysayers and conspiracy theorists and armchair social
scientists were correct in their prognostications,
Indiana would have experienced hundreds of thousands of
disenfranchised voters after the laws passed in 2005,
but hardly any group or individual or circumstance has
been found that has genuinely disenfranchised or
inconvenienced a voter beyond what the Supreme Court has
held to be the reasonable, orderly regulation of
elections.

Did Indiana fix something that wasn't
broke? Was it a law in search of a crime? Admittedly,
there's been little evidence of in-person voter fraud in
Indiana, but that's been of little consolation to
citizens who have come to Secretary of State's office
with concerns about the confidence in our elections.

What Indiana has experienced were
manipulation of voter registrations with thousands of
voter registrations submitted just prior to the closing
of registration which have confounded the orderly
registration of voters. Indiana has experienced issues with voter list maintenance where -- where partisan activists have refused to update voter registration lists, insisting the U.S. Department of Justice to intervene and require voter list maintenance in Indiana. Indiana has seen inconsistent agency-to-agency cooperation in the sharing of information. There have been times when the Social Security office was unable to provide verifications of voter registrations, times when other state agencies were not able to exchange information that would assist in verifying voter registrations.

There have been reports of people in urban areas being bussed around from poll location to poll location. There is evidence, after the fact, of dead voters having registered or of dead voters having voted. There was also a report of a well-intentioned high school civics teacher who was intent on having every 17 year old that came into her class register to vote and every 18 year old vote even though there were some students of hers who are not students -- who are not U.S. citizens, but they were shamed into going through the registration process and that resulted in illegal -- an illegal vote being cast and also confounded those students eventual efforts to become naturalized U.S. citizens.

In my position, I am in a position to say that the law has not been applied -- has been applied in the strict and unbending manner that the dissenters have suggested.

After the 2005 photo ID law was enacted but before the first election was held, the Secretary of State and the election division and interested groups developed procedures to deal with the issue of the conformity of names on an ID to voter registration lists. Rules were developed that would allow for a voter named Mary Ellen Smith to -- who might appear on the voter registration in as many as ten different ways to -- to proceed to vote.

Also, Indiana -- rules were adopted by the Election Division in Indiana so that if a voter had married between the time of the voter registration, at the polls on election day, they could update their voter registration by signing the poll book and proceed to vote. In Indiana, voters can conform their voter registration up through election day to the IDs that they have.

Other state agencies have reached out to anyone identified who has been experiencing problems of obtaining photo IDs. In Indiana, it's not a money issue. And an ID is reviewed by social service agencies in Indiana as key to other social services and other
benefits of citizenship, and there's been an interest in working with individuals who had difficulty obtaining photo ID. Also, in the Indiana Election Day Handbook, in bold print, it says, on -- in several locations, that lack of ID or problems with an ID is not a cause for someone -- for a voter to be turned away.

After five busy years of monitoring primary general elections in Indiana, working with deputies, reviewing complaints, I can say that Indiana's photo ID law is not only constitutional as it is written but as it has been applied in routine use -- is applied and become routinely used in good faith and in -- and in an accommodating matter in the state.

Now, keeping to its principal and intent, Indiana's law, subject to all matter of partisan, nonpartisan, state, national scrutiny, has not been applied with the rigid inflexibility and consequences predicted by detractors. After exhaustive review in the state and federal courts involving the application of the law as applied -- instance of the law and in -- and in Indiana's informed public opinion, Indiana photo ID has earned broad acceptance, even from skeptics, as become -- as having become integral component of voter confidence and law that honors the privilege and the dignity of American's right to free and equal participation in elections.

So I honor you for the difficult work you're doing here today. I assure you that the work won't be done if and when you pass Senate Bill 14. I can certainly tell you that the sun came up in Indiana after Indiana's photo ID was passed. It continued to come up and continues to come up after each election that we have. So I'm ready to address your questions, please.

CHAIRMAN DUNCAN: Thank you, Mr. Bonnett.

So we'll have our first questions.

Senator Van de Putte, you're recognized.

QUESTIONS FROM SENATE FLOOR

SEN. VAN de PUTTE: Thank you very much,

Mr. Chairman.

And thank you very much, Mr. Bonnett, for traveling from Indiana. I know on such short notice.

We appreciate you being here to help us with your expert testimony as we deliberate this very, very important issue.

I had a few questions that -- that I wanted to ask because here in Texas, we looked at the Indiana law, and we're looking toward -- this is -- as our bill author has said, it's kind of a Texas bill, which we think is more restrictive than yours. And we have heard from testimony that there is increased turnout and you haven't found any instances in where...
the burden of the new Indiana law was placed upon anybody. And -- and I think in your testimony and in -- said that it is working and even in your Supreme Court case, no party or amicus cited -- well, of course, there were no cases of impersonation at the polls in Indiana. So I have some confusion because in the bill that you passed, we had reports in Marion County in 2007 that 32 vote -- voters cast ballots that could not be counted because of the voter ID law, and I want to ask you about them because just a couple of them really bring to mind some difficulties, and yet you cited that there were no problems.

In South Bend, Indiana, ten retired nuns were barred from voting in the 2008 Indiana democratic primary. Some of them were in their 80s and 90s. They no longer had driver's license. They lived at the convent, and the convent actually had the polling place in their convent. The irony was that I believe in that case, the election judges were actually other nuns who lived with these nuns, but they were barred from casting a ballot even though they had previously voted in at least ten elections in Indiana but that these nuns were not able to because they did not have an ID, even though the election judges live with them. And so can you comment? This was in the newspapers, but it was also in Catholic Digest magazine and so wanted to know because we heard --

MR. BONNETT: I can't --

SEN. VAN de PUTTE: -- that there were no instances, yet we had these reports. And so could you tell us? I mean, what happened to these nuns?

MR. BONNETT: I can't speak to the -- the Marion County voters that you referenced to, although I think that was covered in the Indiana League of Women Voters v. Rokita case that was heard by the Indiana Supreme Court.

In the case of the -- the -- the nuns, in Northern Indiana, the -- it's my understanding and that -- that situation was also discussed in -- in the Crawford case -- the -- the nuns did have passports.

They did have a form of ID that was acceptable, but they refused to present that. They were eligible for other exceptions under the law, absentee voting exception, and it was really a media event because the media had been brought to the scene before. And they also refused to go provisionally. I did not -- I believe they were brought in a van to a polling location that was not -- not, I understand, any time that they were voting at the place that they lived.

SEN. VAN de PUTTE: So --

MR. BONNETT: That incident was -- seemed to be discredited as a -- as a legitimate case of
SEN. VAN de PUTTE: So you're saying these nuns organized in a -- in a fraudulent matter, that these nuns all got together? But even though they're -- from the report what was reported, they lived at the convent, and they were all in their 80s and 90s. So I don't know. You know, maybe they had passports, maybe they didn't. But you're saying that this was orchestrated by these devious nuns to actually prove up Indiana law, and really, they intended to mess you up purposefully or --

MR. BONNETT: Yes, Your Honor.

SEN. VAN de PUTTE: Oh, thank you.

(Laughter)

SEN. VAN de PUTTE: Well, let me ask you about another case. One of them was Lauren McCallick who was an 18-year-old freshman at Saint Mary's College in South Bend and who was not able to cast her ballot that was due because of the law, and so that was one of the cases that was there. And can you tell me about her? Was she devious as well, or was it orchestrated? I mean, from the reports and from what was happened, she was crying and she -- it was the first time that she was going to be able to vote, and she tried to -- she did do a provisional ballot. But since she couldn't get the documentation that she needed within the time requirement, she didn't have a chance to vote because she was in class and she couldn't go back to her -- so can you tell me what happened to Ms. Lauren McCalllick in this case?

MR. BONNETT: Unfortunately, I'm not familiar with with that case.

SEN. VAN de PUTTE: Oh.

MR. BONNETT: So --

SEN. VAN de PUTTE: Well, then what happened in -- again, in Marion County, when we had some senior citizens that weren't able to? Now, they weren't devious nuns. These were seniors who were living in a -- some sort of a -- it wasn't a senior assisted, but it was some sort of a temporary, like rehab, where people go after strokes or after a motor vehicle accident, and that they weren't allowed. I mean, I can understand your story about the nuns because, you know, I'm a Catholic and sometimes they get really organized, and they make their point. But what --

MR. BONNETT: I am too.

SEN. VAN de PUTTE: What -- what about the people who were living in the -- again, in Marion County, in a -- not their full residence --

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: -- but for a certain period of time because they had a disability, they had
had a stroke and they were living in this. What
happened to those folks?

MR. BONNETT: Well, and I don't know the
specifics without more information, but every -- every
reported case has been investigated and reviewed. The
state election division, the state social service
agencies, and Bureau of Motor Vehicles Division have
been quite willing to assist voters who have -- have had
difficulties obtaining an ID.

The largest group of voters in Indiana had
some form of ID, a -- a -- of what was left over, the

exceptions covered many of those voters, and the --
ultimately, you know, anyone registered to vote who
didn't have the ID, that group was small and has not
been identifiable in such a way that the state has been
able to even identify them, and certainly efforts have
been made in litigation to try and identify a group.

But I -- I believe the state would develop
administrative procedures to assist anyone having
trouble with an ID faster than the litigation would
proceed through the courts to try and validate the law.

SEN. VAN de PUTTE: Well, I appreciate
your answer, but you can understand my concern.
Particularly in the district that I represent, we have,
that I know of, six convents, the Sisters of Divine
Providence with their mother house with over 120 retired
nuns living there from orders all over; the Society of
Mary, which they're Marianist priests, and after they
finish at the University of Dayton and other Marianist
schools, they come to San Antonio and live right there
at Saint Mary's University. We have over 56 nuns from
Incarnate Word and that community, and they're, you
know, in their 80s, 90s. In fact, we even have a couple
that are over a hundred, and while on and on, you see my
problem.

And when I read things about Indiana and

having the religious who don't live outside in homes but
who all have the same residences and who come back to
that convent or retirement home run by the nuns or run
by the priests, it's -- it's very difficult, and so I
have some concerns because I have so many voters that
are retired religious, and that's why I wanted to clear
that up.

But let me ask you about something else.

MR. BONNETT: If I may, before you change
the subject, I will note that Indiana, for example, has
a Mennonite population that objects to being
photographed, and our law provided an exception for
individuals for religious reasons who objected to being
photographed, and there is an exception for disabled
individuals who live within a state licensed
convalescent or care center. So Indiana has developed
exceptions for identifiable groups.

SEN. VAN de PUTTE: Oh, well, I think that's wonderful that Indiana did that, but you may not know that that's in our Texas bill.

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: And so why this is more restrictive than Indiana is we don't have the protections that you do in Indiana under this bill, for those who live in religious communities, for those who are disabled.

And that's the other thing I wanted to talk to you about because I understand that, you know, this is about the other thing that you said about increased turnout. But I really wanted to talk to you about -- because, I mean, let's face it, isn't the turnout from 2008 November election because we had a highly contested primary season, but it was because we had this wonderful, wonderful, very, very active electorate in electing between now President Obama and John McCain. I mean, it was fabulous. I mean, so you really can't compare turnouts to turnouts because the turnout was wonderful in November, and we're all very excited about that. So I wonder a little bit because, I mean, everybody's turnout went up.

MR. BONNETT: May I respond to that?

SEN. VAN de PUTTE: Absolutely, please.

MR. BONNETT: If you compare the turnout in the 2006 election, which was a nonpresidential off-election year but -- for statewide primary and general elections to the 2010 election last year, there was also an increase between 2006 and 2010 in -- in voter turnout in Indiana, which would be more comparing the apples -- apples to oranges.

And you're right, in 2008, Indiana voted it's electoral votes for a Democratic presidential candidate for the first time in over 30 years. Also, in the 2006 state Congressional races after the photo ID was enacted, three of Indiana's nine Congressional seats switched from Democrat -- or from Republican to Democrat, which tended to dispute the theory of the political subtext of the law.

SEN. VAN de PUTTE: Thank you. There -- there are a couple of other questions that I wanted to -- to --

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: -- check on Indiana law. Can you tell me -- your law has a free voter ID card issued by the state or the county. Are there restrictions or affidavits or a means test for access to a free voter identification card from Indiana?

MR. BONNETT: I don't want to misstate --
Regulations. I believe that the person applied for that ID needs to sign an affidavit that they don't have -- have another ID with the state. But beyond that, I'm not -- I can't say about the issue of the means --

SEN. VAN de PUTTE: Well --

MR. BONNETT: -- test.

SEN. VAN de PUTTE: Well, I looked at it, and I didn't think so. It just says that they have to state that they don't have a driver's license and they don't have another.

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: But there is no affidavit of indigency or anything required, at least from what I looked at your law. But I'm not sure. That's why I wanted to ask.

MR. BONNETT: That's my understanding.

Now, a related issue is when a provisional ballot is verified, if a voter who has voted provisionally within the ten days after the election signs an affidavit that they don't have an ID and cannot get one without expense and possibly can't afford one -- I'm not sure of the exact language on the affidavit -- then they're entitled to have their vote counted.

SEN. VAN de PUTTE: Well, one of the things that I wanted to look at, and I have the Indiana law and I -- because ours is a little bit more restrictive. But under your section of the -- of the Indiana bill, it has something in here because -- that has me a little troubled because we don't, and I'm going to read it.

But the voter prescribed by -- and it has

Indiana code that has not complied with -- and I think that Indiana code 3-7-33-4.5 -- on election day must present one of the following documents to the -- and it says, "A current and valid photo ID," or it says, "current utility bill, bank statement, government check, paycheck, government document that shows the name and address of the voter." And yet we've been told that Indiana only has a photo.

So what -- what is this section referring to? Is it a provisional ballot or is it a first-time voter or -- or does Indiana allow for the photo ID, but if they don't have the photo ID, can they use other forms?

MR. BONNETT: I'm not aware that Indiana accepts any alternative than a photo ID. That might -- I'd have to look at the law carefully on that. Might refer to the verification of address or the residency with respect to voters who have moved, but I do not believe that Indiana has any requirement other than -- than that of a -- of a government-issued photo ID with
SEN. VAN de PUTTE: Well, I think that
is -- it was very hard to follow, but I think it's under
a provisional ballot that has a state's licensed care
facility or something. But there is at least that
protection for those who are at a temporary facility:
that even if they don't have a photo ID, the exception
is not that they're just exempted but I think that they
can utilize other forms of ID, which our Texas bill
doesn't have.
To your knowledge, was -- since this was from the Indiana Legislature, do you remember any
discussions on why they -- they put that in? Was this put in at the same time as the original voter ID
legislation, or was this only done after the mess up
with, you know, the nuns and the -- the other folks who
were at this temporary facility?
MR. BONNETT: I didn't live in Indiana
during the time that this legislation was -- was discussed and deliberated, but it's my understanding
that the -- the exceptions to the provisions for individuals who live in state-licensed assisted living
facilities has always been part of the -- of the scheme -- or the bill, and I think the -- the utility
bills and the other documents you refer to might go to the issue of establishing their residency in the
state-licensed facility, which is then an exception if the polling place is located in that facility.
SEN. VAN de PUTTE: Thank you. I really appreciate your candid answer; and, again, we thank you
very much for your travel here to help us on this important deliberation. Thank you.
MR. BONNETT: Thank you.
SEN. VAN de PUTTE: I don't have any other questions, Mr. Chairman.
CHAIRMAN DUNCAN: Chair recognizes Senator Davis.
SEN. DAVIS: Thank you, Mr. Chair.
Mr. Secretary, thank you so much for traveling to be with us today and to help inform us about the work that you've done in Indiana on this issue. I just want to make sure that I clearly understand because today there's been a great deal of discussion about your bill, as you can imagine, as the reason why the bill that's being proposed in the Texas Senate today would be able to withstand constitutional scrutiny. So I want to make sure that we have a clear record in terms of how the bill that Indiana has introduced, or the law that you've introduced, mirrors or does not mirror what we are -- are discussing on the Senate floor today.
So I think I heard you say that you do

TX_00001028
JA_001027
allow women who have been married or divorced to come in to vote and to provide some affidavit that they -- their name has changed and is different than is on the ID that they have because of marriage or divorce. Is that correct?

MR. BONNETT: That's correct. That's by administrative directive. It's not part of the statute. And I'll say that when the -- when the Indiana courts and the -- the federal courts reviewed the law, it was reviewed in the context not just of the statutory language but other administrative procedures that were developed after the law was passed, after the framework of the law was passed, for the -- the view of -- as applied, how the law was applied.

SEN. DAVIS: Absolutely. And I think that's terribly important, and I'd like to invite you to -- to please inform us as much as possible both statutorily what was reviewed in terms of what you've done to try to preserve the integrity of someone's right to vote and administratively what's been done.

So you said on that particular one, that was a rule that was instituted administratively, but it was part of what was reviewed by the court system in terms of the implementation of that law?

MR. BONNETT: Yes. That -- that directive clarified procedures for poll workers in -- in viewing IDs for conforming names.

SEN. DAVIS: And then I believe you said that in the -- the language that's presented to a voter in terms of their right to vote in Indiana, in bold language, you have clarified for voters there that not having a photo ID will not in and of itself be sufficient cause for them not to be able to vote. Is that correct?

MR. BONNETT: Yes. I'll -- I'll just look up the exact -- the exact bold language, one example's referred to on Page 10 of the Indiana Election Day Handbook. This is the 2008 copy. In bold, "No voter should be turned away from the polls for failing to provide photo ID." That's -- that's instruction to all poll workers.

SEN. DAVIS: And does that wording go to instances where, for example, as you -- as you talked about earlier, if a person comes to the poll and they do not have a photo ID, they can vote a provisional balance -- or ballot -- excuse me -- on the condition that they attest that they do not have a photo ID because there would be a cost to receiving that ID either through having to get the underlying documentation that would qualify them to receive the ID or some other cost that would be associated with receiving the ID?
MR. BONNETT: Yes, there are several alternatives to means to -- to verifying a provisional ID to allow --

SEN. DAVIS: And can you discuss what those several alternatives are, please?

MR. BONNETT: Well, generally, providing the -- the ID or providing the -- the -- the voter registration correction or an affidavit that there is a religious exception to being photographed, that an ID cannot be obtained without -- without cost. There may be another. That's provided for in the Voter Bill of Rights which is posted at each poll site, and then voters who vote provisionally are given a paper receipt, so to speak, with the instructions on how to verify their provisional ballot and have it cast, how and where.

SEN. DAVIS: Thank you. That's very helpful.

And I believe you also have a provision in Indiana, do you not, that allows for the use of an expired driver's license for a certain period of time. Is that correct?

MR. BONNETT: Yes. And I believe if it -- if it goes back to the beginning of the -- the opening of registration for the election which is generally 30 days from the prior election. So it's generally about a year, year past.

SEN. DAVIS: Okay. Have you done any work in Indiana to track or to attempt to track the percentage of persons based on categories, whether it be senior status, whether it be minority status, whether it be indigent status, where people have claimed that somehow their right to vote has been interfered with as a result of this particular law?

MR. BONNETT: I'm not familiar with the state doing that research. Certainly the -- there are interest groups that have -- have made a concerted effort to identify individuals, groups, or characteristics, identify them and locate beyond the theoretical basis, and generally, it's not been something that's been accomplished. There's been a tremendous separation between the theoretical concerns and what's actually been experienced in our elections over the last five years.

SEN. DAVIS: When you started your comments this afternoon, you began by saying that there had been scant evidence of disenfranchisement, and scant to me means that there must have been some. So can you talk a little bit with us about what that's looked like for Indiana?

MR. BONNETT: There -- there was a single
media report prior to the 2010 election, a few days
prior to the election. It was not officially reported
to the state, but the media account was a gentleman
of -- in a particular county of 40-something years, due
to some unusual circumstances did not have a birth
certificate. I think it involved him having been
discharged to foster care through state programs,
et cetera. But it also was evident that the Bureau of
Motor Vehicles Division has a special group -- team that
works with individuals who have particular problems to
address those needs. And the -- the report did not
result in -- in a complaint, and there was no indication
the state got that the person wasn't able to vote
under -- under one of the exceptions.

There have been some reports, also, that
generally upon investigation, the individuals were able
to vote under -- under some provision.

SEN. DAVIS: And you mentioned that -- a
moment ago, that through both administrative rule and
through the statute itself, in the state of Indiana,
you've tried to be cognizant of this disenfranchisement
issue through some of the -- the rules that you've
enacted along with it. We talked about the fact that
you have a religious exception for -- for people who
cannot be photographed or refused to be photographed for

religious purposes. We talked about the fact that if a
person comes to the polling location without an ID, they
can vote a provisional ballot so long as they attest as
one of the -- the reasons for voting that provisional
ballot, that they had to pay a fee in order to -- to get
a photo ID and they were unable to pay that fee. You
talked about the special rule that's been created to
handle the situation where women have been married or
divorced and their -- their name would be different than
what is on their ID.

Are there other -- and excuse me -- you
also talked about the expiration of a driver's license
not being a reason to immediately turn that -- that
voter away so long as it's within that --

MR. BONNETT: Uh-huh.
SEN. DAVIS: -- period of time that you
described earlier.

Are there any other conditions that were
implemented, either through the statute or through
administrative rule, that you feel we should know about
in terms of reflecting a sensitivity to trying to
preserve the enfranchisement of your voters as much as
possible?

MR. BONNETT: Yes. College -- college
students at some state universities have -- it came
about, they have IDs that don't have an expiration date,
and through arrangements with -- with state colleges,
the universities provided through some type -- I believe it was a secure online facility -- a way for the polling locations to -- to verify the expiration date independent of the actual ID. And so arrangements were made, then, for students with -- with a university ID that did not have the expiration date but where the college was able to provide that information independently to go ahead and vote on election day.

SEN. DAVIS: Very good. Are there any other?

MR. BONNETT: Not that come to mind.

SEN. DAVIS: Okay. Thank you, Mr. Secretary. I appreciate it.

MR. BONNETT: Uh-huh.

CHAIRMAN DUNCAN: There being no further questions, Mr. Bonnett. Thank you for your testimony today and for traveling here.

SEN. WEST: Mr. Chairman?

CHAIRMAN DUNCAN: Senator West, you're a little late on the light there.

SEN. WEST: I thought it was on. I apologize. And I just have a couple of questions, anyway.

And it may have already -- you may have already addressed this, and I just may not have heard it. As it relates to the provisional ballots in your state --

MR. BONNETT: Uh-huh.

SEN. WEST: -- an individual can in fact, cast a provisional ballot. Is that correct?

MR. BONNETT: Yes.

SEN. WEST: Okay. And they have to -- what's the process? Once they cast the ballot, in order for the ballot to count, they have to come back within a certain number of days?

MR. BONNETT: Within ten days.

SEN. WEST: And what do they have to do?

MR. BONNETT: They can correct any -- any issue with -- with voter registration. For example, if a person appears at a poll and they're simply not registered at all, they can still cast a provisional ballot. You know, there may be some administrative issue in the -- with kind of registration board about why they didn't show up in the precinct where they believe they needed to vote. That -- that can be corrected, and the Election Board is free to correct that through and beyond the election. They can bring in the identification, and they can certainly seek assistance with obtaining the identification that's required. They can also come and execute an affidavit that -- obviously, we talked about the exception to being photographed for religious reasons. They can
execute an affidavit that says they -- they don't have
the ID. They cannot get one without cost, and then
they're eligible to have that vote counted.

SEN. WEST: Okay. So there's a process in
place.

Does the state keep any tally or report on
the number of provisional ballots that are cast in the
state of Indiana?

MR. BONNETT: Yes. The county election
boards submit that information with their -- with their
poll results data to the Election Division, and it's --
it's published online for every election. The -- the
number of provisional ballots and the disposition and
the counties actually are also required to send copies
of the affidavits to the Secretary of State's office,
which then can be examined for the reason. For example,
how many didn't show up on a poll book or there was a
challenge raised of some sort so that we can -- we've
been able to investigate the status and disposition of
provisional ballots.

SEN. WEST: Is that information
disaggregated by ethnicity?

MR. BONNETT: No. I'm not -- I do not
believe that there's an indication on the provisional
ballot affidavit.

SEN. WEST: So you really don't -- I mean,
in terms of the provisional ballots, the tallies, in
terms of provisional ballots, is it disaggregated by
ethnicity; that is, the number of Hispanics, African
Americans that are voting?

MR. BONNETT: It's not, although the
copies of the affidavits are -- are -- are public
information, and there have been some social scientists
who have been studying and attempting to write about
provisional ballots and determine if there's any -- any
meeting or conclusions that can be gathered --

SEN. WEST: Has there been any -- any such
studies done in Indiana?

MR. BONNETT: I have looked at one study
from an adjunct law professor. It did not appear to
provide any -- any academic or statistically sound
conclusions. It was more a discourse on the issue of
photo ID, in general, but it made some reference to some
statistics that were, you know, tallies of the number of
provisional ballots.

The provisional balloting started at the
same time as the photo ID, so we don't have a calculus
of the provisional balloting before Indiana's photo ID.

SEN. WEST: Do you happen to have the cite
for that particular professor's study or article?

MR. BONNETT: I'll be most happy to --

SEN. WEST: Okay.
MR. BONNETT: -- to get it to you or get it to the committee.

SEN. WEST: To the chairman and the staff?

I'd appreciate that.

As it relates to provisional ballots, is there any type of report on the number of individuals or the percentage of individuals that come back and go through the process to make certain their vote count?

Is it less than 10 percent of those individuals that cast?

MR. BONNETT: I'm not aware of an aggregated report. The data exists, and it's -- it's online. I'm not aware of an aggregated analysis of how many.

Some provisional ballots, you know, there are some instances where a person would go to a precinct and not be registered to vote a provisional ballot and then be directed to, and the poll workers are advised to have someone go ahead and vote that provisional ballot. But then they may later in the day be directed to the right precinct, and then the -- you know, so there can be more than one provisional ballot.

There's also some of the scholarship related to the issue that if the outcomes of elections have been determined by substantial margins, then individuals may not feel a need to go back and verify the provisional ballots if the election were not so close that --

SEN. WEST: Right.

MR. BONNETT: -- that the votes were meaningful. So it's not really what -- what -- clear what the meaning of the numbers of provisional ballots and the ones that are verified means, as far as I'm aware.

SEN. WEST: But there's no statewide study or report that's done on an annual basis that looks at the percentage of individuals that cast provisional ballots that actually go back and verify their ability to --

MR. BONNETT: That data is reported in -- but I'm not aware of analysis of it. The number by county of provisional ballots, probably by precinct, that were cast and their ultimate disposition is -- is reported in -- in election return statistics. Analysis of it is not something that I'm aware of; though.

SEN. WEST: Okay. You indicated that the affidavit was -- is public. Is it a --

MR. BONNETT: Yes.

SEN. WEST: -- public record?

And that's the -- when you say "the affidavit," what do you mean by that?

MR. BONNETT: That's a document that is
SEN. WEST: Okay.

MR. BONNETT: -- and then later, handled by the Election Board within that ten days to determine whether or not that vote -- the vote is sealed. The vote is sealed in an envelope.

SEN. WEST: All right. I just wanted to make certain we were on the same page.

Okay. Thank you very much, Mr. Chairman.

MR. BONNETT: You're welcome.

SEN. WEST: I would like to get that cite for the study, though.

CHAIRMAN DUNCAN: Senator Gallegos?

SEN. GALLEGOS: Mr. Secretary, let me ask you one question. Is your Indiana driver's license, is it a valid form of ID under Indiana law?

MR. BONNETT: Yes, it is a state-issue ID.

SEN. GALLEGOS: It is valid?

MR. BONNETT: Uh-huh.

SEN. GALLEGOS: And any supplements of that Indiana license, is that also a form of ID? What I mean supplements is, if it -- if a driver's license is confiscated and you get a temporary, is that also a valid -- a valid form of ID?

MR. BONNETT: If the -- I don't believe that the state driver's license is specified in the legislation. It's specified more generically, a state-issued ID with photograph with an expiration date or government-issued ID.

It's my understanding when a driver's license is confiscated that the Bureau of Motor Vehicles will immediately issue another form of ID that is a -- for example, driving is restricted.

SEN. GALLEGOS: And that is a valid form of ID?

MR. BONNETT: Yeah.

SEN. GALLEGOS: Okay.

MR. BONNETT: I don't believe the -- I remember when I lived in Texas and in Louisiana sometimes the police would take away your ID and give you a piece of paper that was sort of -- to cover for you, and that type of document would not be.

SEN. GALLEGOS: Yeah. But that is a valid form of ID in Indiana?

MR. BONNETT: It would be required to have -- the ID would be required to have a picture and have the expiration date. And so something other than that would not be allowed for voting. It would still be required to have a picture.

SEN. GALLEGOS: Thank you.

MR. BONNETT: Does that answer your
SEN. GALLEGOS: Yeah.

CHAIRMAN DUNCAN: Thank you, Mr. Bonnett.

We appreciate your appearance here today.

TESTIMONY BY LUIS FIGUEROA

CHAIRMAN DUNCAN: The Chair calls Luis Figueroa, Mexican American Legal Defense Education Fund, or MALDEF. Would you state your name, please, and who you represent?

MR. FIGUEROA: Absolutely. My name is Luis Figueroa. I'm the legislative staff attorney with the Mexican American Legal Defense and Educational Fund, MALDEF. Thank you very much for this opportunity to testify before the Senate on this important legislation.

MALDEF works to promote and protect the rights of Latinos, including voting rights and in the state of Texas and across the nation. We have an extensive history in the Voting Rights Act and in protecting voting rights across the nation and, of course, here in Texas, going back to the case of White v. Register and most recently in LULAC v. Perry challenging the redistricting implementation from the last decade for last -- from the last session.

We stand here opposed to SB 14 because it lacks the safeguards to ensure that eligible voters will not be disenfranchised at the polls. If SB 14 was enacted, it would be the most restrictive photo ID requirement in the nation, more restrictive than Indiana, more restrictive than Georgia, more restrictive than Arizona. They would allow for voter identity documents, less time to cure for provisional ballots, and it would be even more difficult to cure than any of the other states.

Studies after studies have shown that voter ID and additional identification requirements at the polls do have an impact on minority voters and on other protected classes. The study from voter ID requirement and disenfranchisement of Latino, black and Asian voters by Barreto, Nino & Sanchez states "Controlling for age, income and education, we find the naturalized citizens and minority voters are significantly less likely to be able to provide multiple forms of identification such as a copy of their original birth certificate or recent bank statements. Respondents were asked about their ability to provide approximately six unique forms of identification, and naturalized citizens and minority voters were consistently less likely to have each form of identification. Data reflects identification trends of actual voters, not just adult citizens, the findings go far to suggest that photo -- that voter identification laws could immediately disenfranchise many Latino,
Asian, African-American citizens."

From the Rutgers study, protecting the
enfranchised or restricting it, the effects of voter
identification requirements and turnout, by Vercellotti
and Anderson, states that "The predicted probability
that Hispanics would vote in states that required
nonphoto identification was about 10 percent points
lower than in states where Hispanic voters gave their
names."

In the Wisconsin study, the driver's
license status of the voting age population was counted
by John Pawasarat. It stated that "Minorities in poor
populations are the most likely -- are the most likely
to have driver's license problems. Less than half,
40 percent, of Milwaukee County African-American adults
and 43 percent of Hispanic adults have a valid driver's
license compared to 85 percent of white adults in the
balance of the state."

The Brennan Center, in their report
Citizens Without Proof, A Survey of Americans'
Possession of Documentary Proof of Citizenship and Photo
Identification, stated, "Citizens with comparatively low
incomes are less likely to possess documentation proving
they are citizens. As many as 11 percent of United
States Citizens, more than 21 individuals, do not have
government-issued photo identification." It goes on to
state that "25 percent of African-American voting-aged
citizens have no current government-issued photo ID
compared to 8 percent of white voting-aged citizens."

Study after study has shown that Latinos,
African-Americans, elderly, the poor, students are less
likely -- the disabled community are less likely to have
the photo identification requirements required under
SB 14.

It's important to note that Texas under
current law has a voter ID requirements. It has an ID
requirement that -- it requires that you bring a voter
registration certificate or additional forms of
identification. The question is, how much stricter can
we make the voter identification requirement? The
question is not whether to have a voter identification
or not have it. The question is, how restrictive do we
want to make it?

The current legislation presented before
us does not provide for any alternative photo
identification. It does not allow for student ID cards,
for Medicaid, Medicaid cards, for expired driver's
license, for expired military cards or for state-issued
employer identifications.

We know that in our other states that have
implemented strict voter identification laws that the
ability to cure and to come back day to day and fix
their provisional ballot, it does not happen with much
frequency. Voters do not return within the allotted
time period to fix their voter identification.

It's also worth noting that in SB 14 it
actually lowers the amount of time from what Indiana
requires, from ten days to six days -- six days to
return and fix their voter identification. In Arizona,
739 ballots were not counted where -- conditional
provisional ballots were not counted, and only 158 were
counted after voters cured their identification
requirements.

What we found in Arizona when we litigated
was that the most common problem was a driver's license
that did not match an address, that did not match a
voter registration certificate. We know that Latinos,
African-Americans and low income are the most mobile
populations often moving from a rental apartment, moving
from home to home, and as a result are most likely to
have matching -- most likely have identification that
doesn't match their voter registration certificate.

We know that providing a free personal
identification certificate does not solve the problem if
the documents needed to get a personal identification
certificate are the same ones that the study show the
minorities don't have. And we know that if people are
required to bring birth certificates and other
documentation that they are unable to get a current
driver's license, that they are not likely to get the
free personal identification if they lack those same
documents.

We believe that there are ways to
create -- there are ways to ensure that people who are
voting are who they say they are. There are ways to do
it without disenfranchising voters. What we need are
appropriate safeguards in a photo identification law.

We need to expand the current list of documents that are
provided in SB 14, and most importantly we should
incorporate a signature affidavit similar to Michigan
and Florida to ensure that people who lack the
identification requirements are still able to cast a
ballot and have their vote count. It's about finding
the right balance between security and access.

SB 14 only focuses on voter impersonation
fraud while ignoring voter intimidation, deceptive
practices and poll worker error. There are ways to
to ensure that voters who say they are -- are who they say
without disenfranchising voters. Finding that right
balance includes including two forms of nonphoto
identification, requiring signature affidavit attesting
to name, address and eligibility, including voter
integrity task force, allowing for same-day election
voter registration with an ID requirement, free ID that
is not limited to the current requirements that require
the same documents that are required to get a driver's
license right now, training for poll workers and voter
education.

When we find the right balance between
access and security, we will ensure that we have the
voter confidence in our system, a system that is not
predicated on trying to disenfranchise voters, a system
that is not so unsecure that we don't have faith in our
electoral system, but a system that provides for access
and security to ensure that all votes are counted, and
that is what we are aiming for.
With that, I'm open for questions, and I
thank you again for this opportunity.

SEN. ELTIFE: Members any questions?
(No response)

SEN. ELTIFE: Thank you, sir, for being
here today. Hold on one second.

QUESTIONS FROM SENATE FLOOR

SEN. ELTIFE: Senator Rodriguez?

SEN. RODRIGUEZ: Thank you, Mr. Chairman.

Mr. Figueroa, first of all, thank you for coming here to
testify this afternoon, particularly on such short
notice. I am familiar with MALDEF's work. In fact, I
serve on its board. So I know the great work that the
organization does to protect the rights of citizens,
particularly in the area of voting rights.

I want to ask you just a few questions and
mainly for clarification. I believe you started out by
comparing the legislation in Senate Bill 14 with the
Arizona -- the Indiana law, and I believe you even
mentioned the Arizona law. Could you give us
specifically in which ways SB 14 is more restrictive
than these other laws?

MR. FIGUEROA: Absolutely. Senate Bill 14
has a very limited scope of identification requirements.
It only allows for a driver's license, a passport,
citizen certification and a military identification.

Arizona, which at the time was considered a pretty
restrictive identification requirement, allows for photo
ID, but also allows for two alternative nonphoto
identification. It was most similar to the proposal
that was introduced last session.

In Indiana where they do have a photo ID
requirement, they do allow for -- when you cast a
provisional ballot, you can come back within ten days
and you can attest to being indigent or you can attest
that you were unable to get the identification, and
they'll allow you an opportunity to have your vote
counted.

This law in SB 14 does not have any such
assertion to ensure the voters are counted. In fact, it
lowers the amount of time for you to cure that provisional ballot. We're going from ten days to six days. And in Georgia, again, there are also other forms of identification that were allowed that are not allowed under Texas. Even in Indiana, the expiration date, you are allowed to have an expiration date if you're within the last election. If your driver's license was expired within the last election, they'd still allow you to vote. This would be by far the most restrictive ID requirements in the nation.

SEN. RODRIGUEZ: So given that, is it your opinion that this law, this bill that we're considering would be much more likely to disenfranchise voters than these other states' laws?

MR. FIGUEROA: I do think the more requirements you put, the more limits on identification, the more likely you are to have an impact on the working poor and Latinos and African-Americans and other voters.

SEN. RODRIGUEZ: Could you go over some of the implementation challenges or issues that were confronted when the Arizona law was being implemented to give us a sense of what we might expect? And particularly you might -- if you could focus on how it may have impacted the Latino voters in Arizona.

MR. FIGUEROA: Absolutely. Our studies did find an disparate impact in Arizona on Latino voters and I grant you this was even with more broader identification requirements than this bill. So this bill would even have a stronger impact than Arizona. What we found in Arizona was -- the most significant impact were poll workers who tried -- who claimed that the address had to match the voter registration certificate to the driver's license. Poll worker training has got to be a key component of this. It's not clear from SB 14 about what to do if a driver's license doesn't match the voter registration certificate, whether that's because a recently married woman has a different last name, because there's a misspelling on the voter registration certificate, because the address doesn't match or the date of birth doesn't match. There's any numerous possibilities of a mismatch between the voter registration and the licenses that are going to be required. Are poll workers going to use that to disenfranchise voters? Well, we would hope not, but we -- in our experience, it has had that impact.

SEN. RODRIGUEZ: All right. Thank you. You stated the Latino voters are less likely to have the identification required by the bill. Can you tell us...
why?

MR. FIGUEROA: Yeah. I mean, a lot of this has to do with the difficulty in obtaining a driver's license right now. So we know that getting a driver's license has become increasingly more difficult by DPS under the current rules. Obtaining the -- having the birth certificate, the documentation that you need to get a driver's license is sometimes difficult to get. The cost involved is also somewhat of a problem. It's also a lot of people live in these rural counties or don't live near a DPS station and don't have a driver's license. Also, students who live with their -- with their parents and don't have a driver's license or they only have a student ID card may not have a driver's license or the funds or the time necessary to go get a driver's license.

SEN. RODRIGUEZ: I see. Finally, let me ask you just for the record here -- I think we know the answer -- but have Latino voters generally experienced, in the history of this state, disenfranchisement when it comes to exercising their right to vote?

MR. FIGUEROA: Yes. Texas has a long history of voter discrimination in Texas, which is why we're a Section 5 state under the Voting Rights Act. It is precisely because of our history and the all-white primaries, poll tax, disenfranchising voters through cracking and splitting and redistricting that we are a Section 5 state. And I believe that there's going to be a witness here today that's going to talk about that.

SEN. RODRIGUEZ: Do you feel that this long standing history has engendered mistrust on the part of the Latino voters as far as coming out and voting?

MR. FIGUEROA: Yes. And ironically the voter ID or the photo ID legislation has been touted as a way to install voter confidence in our electoral system, but it's only confidence on the security side. It's not confidence on the access side. And from the Latino community, there needs to be stronger confidence on the access side. There's a long history of discrimination on the voting side of Latinos, and there is this feeling among many Latinos that there is a continual effort to prevent our ability to elect our candidates of choice and our ability to vote. So we need to work on our confidence on the access side, particularly with the Latino community.

SEN. RODRIGUEZ: Could you tell us whether on this last point even those Latinos with the required ID feel a distrust in participating?

MR. FIGUEROA: Yes. I mean --

SEN. RODRIGUEZ: And if so why?

MR. FIGUEROA: Texas has one of the lowest
voter turnouts in the nation. I believe it may actually be the lowest in the nation. Latino voter turnout is dismal in comparison to other states. And those are people who are eligible -- who are eligible to vote, have registered to vote and in many cases may have the identification. But there is this feeling that there's going to be a systematic way for their vote not to count, that their vote won't make a difference. And so we need to make efforts in this state to encourage voting, not discourage it.

SEN. RODRIGUEZ: Thank you. Thank you, Mr. Chairman.
CHAIRMAN DUNCAN: I think there's another -- Senator Huffman was wishing to ask questions, and I don't know that she's on the floor. Can you hold on just a minute?

(Brief pause)
SEN. ELLIS: Mr. President?

Mr. President, parliamentary inquiry.
CHAIRMAN DUNCAN: State your inquiry.
SEN. ELLIS: You know the time of the State of the Union Address tonight?
CHAIRMAN DUNCAN: It's this evening.
SEN. ELLIS: This evening? I was hoping I could hold hands with some of my Republican colleagues and watch it. So I'm wondering how long are we going to be here tonight?
CHAIRMAN DUNCAN: We have two televisions in the lounge, Senator.
SEN. ELLIS: Well, if I really want to feel the love, I'd like to be -- I'd like to be at home.
(Laughter)
CHAIRMAN DUNCAN: Senator Huffman -- have you finished your inquiry, Senator Ellis?
SEN. ELLIS: (No audible response)
CHAIRMAN DUNCAN: Senator Huffman, you are recognized.
SEN. HUFFMAN: Yes, sir. Thank you. Just a couple of questions.
Sir, you said that this legislation conveniently disenfranchises minority voters. Is that correct?
MR. FIGUEROA: I don't think I used the word "conveniently," but disenfranchises voter -- could potentially disenfranchise voters.
 SEN. HUFFMAN: Didn't MALDEF also claim in the Crawford litigation that the Indiana photo ID law disenfranchises minority voters?
MR. FIGUEROA: We actually didn't litigate the Crawford litigation. We did submit an amicus brief related to our Arizona litigation, and we were concerned about the impact of Crawford as well as the Arizona...
SEN. HUFFMAN: And didn't the Supreme Court of the United States reject your assertions that voter photo ID laws unduly burden the right to vote?

MR. FIGUEROA: What the Crawford decision said was it was, one, not a voting rights case. It wasn't a Section 5 case or a Section 2 Voting Rights case. It was a 14th Amendment undue burdens case. And what they essentially held was the burdens that it imposes on voters was not significant enough to cause a violation of the 14th Amendment.

SEN. HUFFMAN: Thank you.

MR. FIGUEROA: I would state that this bill is more restrictive than the Indiana bill, though.

CHAIRMAN DUNCAN: Thank you, Mr. Figueroa.

There's no other questions -- oh, I'm sorry.

SEN. GALLEGOS: Thank you, Mr. Chairman.

Mr. Figueroa, I don't know if you remember my testimony two years ago, and I showed the maps. If we're going to mandate voter ID in Texas, that we should allow the folks that we're mandating access to DPS centers where they get this photo ID. And if you saw inside the 610 Loop in Houston, there are no DPS centers.

MR. FIGUEROA: That's right.

SEN. GALLEGOS: And also or inside the 820 Loop in Fort Worth there's no DPS centers, and there's only one inside the city of Dallas that would, in fact, make getting, number one, a photo ID costly, and time-consuming. I'm concerned that especially in inner-city Houston and Fort Worth and some there in Dallas that don't have vehicles or use mass transit as a means of transportation that there's no bus lines to the DPS centers --

MR. FIGUEROA: That's right.

SEN. GALLEGOS: -- that provide the photo ID that we are fixing to mandate them. I wanted to ask your -- you know, whether MALDEF -- you know, would that be subject to any type of retrogression as far as allowing somebody poor or doesn't have a vehicle or can't afford the transportation to the outskirts to try to get a photo ID, that there would be subject to any Section 5 violations in the civil rights code?

MR. FIGUEROA: Yeah. Ironic -- the Indiana case did make the one reference that we've been talking about, and the Supreme Court did make significant references to the fact of the free ID provided by Indiana, how to eliminate some of these burdens. However, Indiana, like I mentioned, wasn't a Section 5 state.

And that was a larger issue in Georgia.
where similarly the DPS departments were not in the inner city. So I do think it is a factor that they will consider in preclearance about how accessible is it to obtain that free identification. And in the rural counties of Texas, the inner cities, if it shows that it does have extreme difficulties for minorities to access those free IDs because of the inability to get to a DPS office, the amount of time it takes, the money it takes, the documents it requires to get that free identification, I think that does play an important part of it.

SEN. GALLEGOS: So what you're saying is -- your testimony is that it definitely is a factor. And then like -- other than the areas that I mentioned in my district and Fort Worth and Dallas, let's say an area like Senator Uresti's area where in some cases they've got to go 200 miles, you'll have to catch -- you'll have to either rent a helicopter or get a Southwest Airlines flight to go, and even though we're offering free ID, you know, the issue is how to get there.

MR. FIGUEROA: Yeah.

SEN. GALLEGOS: And what I described to you on these instances where, you know, these people cannot provide themselves with -- especially the elderly in these areas, you know, with transportation or don't have the money to provide it, I mean, we can tell them that we have free voter ID available to them if they can get there.

MR. FIGUEROA: Right.

SEN. GALLEGOS: Is that -- is that what your testimony is here?

MR. FIGUEROA: Yes. If they can get there, if they have the means to get there, if they have the documents to get the documentation, absolutely. Free isn't necessarily free.

SEN. GALLEGOS: All right. Thank you.

CHAIRMAN DUNCAN: Are there any other questions of the witness?

(No response)

CHAIRMAN DUNCAN: All right. The Chair hears none. Thank you for your testimony, Mr. Figueroa.

TESTIMONY BY CHRISTIAN WARD

CHRISTIAN WARD: The Chair calls Christian Ward. Mr. Ward, state your name and who you represent, please. You have ten minutes with a --

MR. WARD: Thank you, Mr. Chairman.

CHAIRMAN DUNCAN: I think it's either a one-minute warning or 30 seconds. I can't remember.

SECRETARY SPAW: One.

CHAIRMAN DUNCAN: One-minute warning.
name is Chris Ward. I'm essential here representing
myself. I'm an attorney. I'm a partner with the firm
of Yetter Coleman. I practice primarily in complex
appeals, including regarding constitutional issues and
have some expertise and experience in particular in
voting rights law, including the 2009 Supreme Court case
Northwest Austin MUD v. Holder.
I'm here primarily to testify regarding
the general constitutional standard as explained by the
Supreme Court for analyzing a facial challenge to the
validity of a voter ID bill. Before I go into that, I
do want to say, because it's come up, that in my reading
of the Texas bill, it has an exemption for elderly nuns
and any other Texan over 70 whether or not they reside
in a nursing home. So that's something that's come up,
and I wanted to bring that out.
With regard to the legal constitutional
standard, the Supreme Court in the case Crawford v.
Marion County Election Board examined the Indiana voter
ID law, and it went through a very careful analysis of
that law, and the essential holding of that law is that
a voter ID act is not, in general, constitutionally
invalid on its face. And the Indiana law that the court
was considering at the time it issued the Crawford
opinion was at that time considered the most restrictive
voter ID law on the books of any state. And so the fact
that the Supreme Court found that law constitutional
says that there is a lot of room for imposing voter ID
laws under the Court's interpretation of the
Constitution.
There were two primary opinions in the
Crawford case. The first one that I'll talk about is
considered the main or controlling opinion of the case.
It was a case decided by a plurality, which means there
were three Justices signed onto one opinion that's
regarded as the controlling opinion by Justice Stevens,
who was one of the most liberal members of the
Court. And the other opinion by Justice Scalia also
garnered three votes. Justice Stevens' opinion is
regarded as the controlling opinion because it -- it
puts a little more stricter review, but essentially
those two opinions get to the same result by slightly
different analysis, which actually on further
examination turned out to be somewhat the same.
In Justice Stevens' controlling opinion,
he first looked -- he first described what the
appropriate test would be for a constitutional challenge
to an election regulation like a voter ID law, and the
test that the Court will apply, he says, is you weigh
the asserted injury to the right to vote against the
precise interests put forward by the state. So you look
at the alleged injury or impairment of the right to
vote, the alleged burden imposed by the voter ID
requirement, and you compare that with the severity of
the harm that the state is trying to avoid.

That opinion identifies at least three
valid state interests that the state of Indiana was
attacking with its voter ID legislation. Number one,
deterring and detecting voter fraud. Justice Stevens
dsays that you can't -- nobody can question the
importance of detecting and deterring voter fraud.

Now, he noted that in that case there was
nothing in the record of that case that in-person voting
fraud, showing up and impersonating another person, had
actually occurred or was a big problem in Indiana, but
it was enough that this is a possibility.

He tells a story of an associate,
Boss Tweed, in New York back during the 1860s, and this
associate would send his repeaters. He would recruit
two men who had whiskers and send them to vote once with a
full beard and then send them to a barber and get the
chin shaved off and send them back with mutton chops and
a mustache and then send them back with just a mustache.

And then if you needed another vote, send them back skin
face, it said, plain face, and that makes each one good
for four votes.

Now, I mention that both because I thought
it was a little amusing story, but the more serious
point is that the Court looked at this. This is an
anecdote from history. This is not saying that a state
has to have any showing that this a current modern
problem. The Court cites this anecdote as an example of
this is a potential problem that a legislature is within
its rights to attempt to address by this type of law.

Other valid state interests that the Court
identified with regard to a voter ID legislation is the
improvement and modernization of election procedures.
The Court noted that Congress has shown that it believes
that photo ID is an effective method of establishing
voters' qualifications to vote. The National Voter
Registration Act of 1993, also known as the Motor Voter
Act, is the act that says when you go to apply for your
driver's license, you have to be offered the chance to
register to vote. It's also the act -- it also has
requirements that limit the states' abilities to purge
their voter rolls. So that's one reason why voter rolls
tend to have more voters than actually continue to
reside in a particular state or a particular
jurisdiction.

The Court also noted the Carter-Baker
report, which has also been mentioned in earlier
testimony today by Former President Carter and Former
Secretary of State James Baker. In that report, they
identified photo identification as an appropriate step.
to take to deter voter fraud.

The Court also mentioned safeguarding
voter confidence in the system as another valid state
interest that is served by a voter ID requirement.

Justice Stevens' opinion then looked to
the alleged burdens on the right to vote, and he noted
that the photo ID requirement imposes some burdens that
other identification methods do not. For example, you
might lose your driver's license or lose your wallet on
the way to the polls and then you'd have a problem. But
he noted that these are not serious or frequent enough
to cause a constitutional infirmity.

And he noted that the relevant burden to
be considered here is the burden that is on persons who
are eligible to vote but who do not happen to possess a
valid photo ID. So you look at the fact that that
affects, for one thing, a -- probably a small minority
of voters -- of eligible voters in the state already.

The Court noted that if you had to pay a
tax or a fee to get the ID, that would be the equivalent
of a poll tax, and that would be unconstitutional. So
one important provision which the Indiana legislation
had and which the Texas bill has is the fact that free
voter ID cards are available.

The Court noted that some people will have
heavier burdens and -- but the fact that some people may
have heavier burdens does not make the statute itself
facially invalid and unconstitutional. It means that
perhaps in an individual case an individual might be
able to show that the burden -- the specific burden on
that individual is so high that it would be
unconstitutional to apply the statute to that
individual, but that's not the same thing as saying that
the statute is facially invalid and unconstitutional as
a whole. And that's what we usually think of when we
think of the Court striking down a law as
unconstitutional. That strikes down the whole law as
invalid.

So that was the ultimate conclusion.

Justice Scalia, in his opinion concurring, would go a
little bit further than Justice Stevens, but he
essentially reaches the same result. Justice Scalia
says that the voter ID law is a generally applicable,
nondiscriminatory voting regulation, and thus individual
SEN. ELTIFE: Members, any questions of the witness?

(No response)

SEN. ELTIFE: No questions.

Mr. Ward, thank you for being here.

MR. WARD: Thank you very much.

TESTIMONY BY GARY BLEDSOE

SEN. ELTIFE: At this time, we'll call Gary Bledsoe forward.

MR. BLED SOE: Good evening. My name is Gary Bledsoe. I represent the Texas State Conference of NAACP branches, and I am proud to stand before you as a fellow Texan, and indeed I want to emphasize the term "fellow Texans."

You know, the Texas that we have today is very different from the Texas that I grew up in, and indeed I've seen many things occur that have been extremely positive for me. I grew up in a segregated Texas when voting was really a luxury, something that was not to be expected in my community. It was something very much that people cherished and desired, desired to occur. And many of you might even remember back in 1974 when Frank Robinson, an African-American who was registering individuals to vote out in Palestine, was actually killed at his home because of his attempts to register people to vote. Now, I happened to be a freshman in law school at that time. So it's not all that long ago that that actually occurred. And, you know, when I -- when I look at the ways that we have had to struggle to get the opportunity to vote, I want you to know that we cherish that and know that's extremely important. And in many ways, our state had become exemplary. When I go around the country and you -- we understand how we've enabled people that have been on paper with felony convictions to vote and things of that nature, that's a good thing. And, you know, the fact that -- we don't really have a problem with voter fraud in elections. I think that all the testimony seems to indicate that, that indeed people who go to vote are indeed people who actually are registered to vote. So there's really not a problem in that regard from what we've seen.

However, I'm aware that what we're discussing now is whether or not we will have a bill. So I would reach out to each and every one of you and say that if we are going to discuss voter identification, then let's do so in a way to be constructive and to be enabling so that we can try and empower all the people within our state to presume that all people who would be eligible to vote ought to be allowed to vote. And so we should reduce impediments.
and not present additional impediments that would prevent people from voting.

Now, frequently we have come before you and talked about this issue. I know that the last time I came before you we talked about a number of instances of serious irregularities that have occurred in our state, and I don't want to go back and go over all those, but I want to point some of those out to you because I think if we're talking about voter problems that really and truly we ought to be talking about some of the issues that prevent access because we think that's a much more significant problem than the problem with people voting who are not the people who were -- who were actually registered to vote.

In just this past year, we had a situation with elderly citizens up in Bowie County who were harassed by individuals after they had voted absentee, and people were demanding to know how they voted, terrorizing the elderly people who made contact with us because they were very concerned, but it was very obvious it was because of politics, from our observation.

We know that we had so many problems or complaints directed to us out of Harris County this last session where people were intimidated by other individuals who hovered over them, who stared at them and gave very hateful looks towards them, intimidating some people from going forward with actually voting.

So we know these things continue and occur, and it's not just the kinds of things that we've seen in the recent past, such as when an African-American candidate for sheriff in a county outside Houston had -- one of his white supporters had their home catch fire. And so instead of investigating what might have occurred, they ended up investigating the African-American candidate for sheriff.

We know that where they've used off-duty police along with improper uses of mailboxes in Tarrant County to intimidate African-Americans from being able to vote. So it goes on and on, and all these things have occurred within the last decade and some within the past six months. So we know that indeed we have not arrived to where we have eliminated problems with preventing our having access to be able to vote.

And, you know, I was able to be an election observer for an election down in Venezuela, and that was really quite illuminating to me in that the individuals had to give a fingerprint whenever they voted, and an untrained person had to look at the fingerprint and determine whether or not it was the right person. And we know that the photograph came up on the screen and you had to look and see if this was
the right person.
And, you know, they had armed guards
around, and I actually had the misfortune of having a
gun directed at me by a guard. When I was asked by an
official in the Secretary of State's Office to actually
go and observe them vote, I actually had to back off
when a gun was directed right at my face for -- five or
six feet away.
So I think we look at those things, we
don't need to move in that direction. We need to be
going out and telling people that what we have is really
good. What we have is actually working, where we have a
democracy, we have people that are engaged that are from
different backgrounds, different races, different
ethnicities, and we get there and we debate and we
discuss issues.
You know, when they had the birth of a
nation years ago and they talked about what would occur
in our country with enfranchising African-Americans, we
found out just the opposite was true, and that indeed
we're moving toward something that's very special, but
there are people that are competing against what we've
been trying to accomplish.
But, Senators, I really want to say to you
that we have a system that I feel is actually a good
system.
Now, besides all the other matters that I
can talk about, I wanted to visit with you about some of
the problems that we see with where we're proceeding
with SB 14. You know, I don't understand why, but in
many ways I look at SB 14 and SB 14 is much more
problematic than the Indiana law and much more
problematic than the Georgia law that have been
utilized. When we look at the Indiana law, the Indiana
law -- we can see where individuals can actually come in
and if they are indigent, they can give an affidavit and
be allowed to vote by saying that they can't afford to
have a voter ID.
We know that under the Texas law in
comparison with the Indiana law you've got to come back
in a stated period of days, and these six days. And the
way that six days is worded and the time that's
involved, it's going to require people to come during
their workdays from 8 to 5, which is a real problematic
thing for individuals to do. And we know that when you
have to come in from 8 to 5 and you're a working person,
that's going to be something that's difficult for you to
do.
We have a law that says if you're voting
in an election, that on election day you can go and have
time off from your work. There's not a law that says
you can come and have that taken care of.
Now, the -- we know, too, that the other thing about an Indiana law -- and I would note that Indiana is not a covered jurisdiction. So Indiana and the Indiana case involved constitutional issues and not the Voting Rights Act.

But, now, Indiana allows you the one free bite. So when you go in and you have an expired identification, you can still use that identification for one election. The idea is that then the person will be put on notice that their identification is expired, and they will go and have that identification come up to date. So I think that's another distinction.

Now, in Georgia and in Indiana, they did some things that we have not done here. They did diligent inquiries, and they determined that prior to adoption of their laws, they determined that indeed almost every one in those states had DMV identifications. So everyone in Georgia had a DMV identification, and only 43,000 people in Indiana did not have a DMV identification. So that's much different from what we have here.

Also, those states are much smaller. And in Texas with the location of driver's license offices, et cetera, some people have to travel over 100 miles. So even with an indigent's provision, that's not going to allow people who are poor, indigent, impaired, have difficult access to these places to be able to actually register. And I don't know what the implications are for obligations under the NVRA, but we have not complied with our obligations under the law. And that has been a problem in Indiana as well.

And I'd just say, finally, it's very clear that the Texas law will impair and have a clearly disparate disadvantage on people of color. The forms of ID selected are problematic. There would have been something better. The forms of ID selected in Indiana and Georgia were both superior. The criminal prosecution will discourage. We know that this might impair compliance with the NVRA. We know that there have been so many problems with election officials that this will empower them more so to disadvantage individuals. And we know that because of the time to vote, the problem with identification and especially cross-racial identifications, the issue of the expired and the types of the IDs selected, those things are going to further reduce the minority vote. So we think this is a covered jurisdiction, and you can look at this in a different way. Thank you.

SEN. ELTIFE: Mr. Bledsoe, thank you. And some members do have questions for you.

Senator West?

QUESTIONS FROM SENATE FLOOR
SEN. WEST: Thank you very much, Mr. Chairman.
Mr. Bledsoe, thank you also. Now, you've been the President of the NAACP Conference -- state conference for how many years now?
MR. BLEDSOE: Twenty years.
SEN. WEST: Twenty years. Is there a well-documented history of voter suppression that is specifically related to race and ethnicity in this state? And how would this voter ID law fit into that particular history?
MR. BLEDSOE: Well, I think it's consistent with the history, and that's sad. You know, I think that we've seen Texas really evolve in a lot of ways. And, you know, Texas has had a history where in recent years I had a lot of bipartisan cooperation. And I know that when we've done report cards in the past, we had people in both parties that were doing exceptionally well on our report card.
But we haven't extricated ourselves from the past. And indeed when we look at the past and we look at all the disenfranchisement that's taking place, this is a direct extension of that because indeed if one wanted a voter ID law, there would be a way of having a voter ID law that would be more enabling, that would not suppress the vote. Because what we want people to do is to go out and to compete and to actually say that we will compete for the minority vote and not have a law that we think will have a clear disadvantage in terms of suppressing the minority vote.
SEN. WEST: Would you -- so do you believe that this voter ID law will, in fact, discriminate against people of color?
MR. BLEDSOE: There's no question, again, the types of IDs that are selected, the time period with the nature of the jobs that African-Americans have and the requirement for African-Americans to come in and actually produce their proof within a certain period of time. We've had enormous problems in this state with the cross-racial identifications, and I can just see enormous problems with that. Especially with the kinds of things that we've seen in Bell County and some other places here recently, we know that's going to be a problem.
And we know, too, that in terms of the issue of expirations, that's going to be a problem. And if you look at state data on like voter -- excuse me -- motor vehicle ownership, our access to vehicles, you'll find there's a big disparity among racial groups. And so we're talking about the poorest of minority groups not truly having access to be able to go and access the identification. So I think it's clearly going to have a
SEN. WEST: So is it your testimony that this particular voter ID bill will discourage as opposed to encourage people to participate in the electoral system?

MR. BLEDSOE: It will; it clearly will. And, you know, one of the big things obviously is the disparate impact.

criminal prosecution, but then there are the other provisions as well where you make it so difficult for people. You know, we've had, in numerous instances, Fort Bend, Harris, Bowie Counties, where individuals have been turned away, who weren't even allowed to cast a provisional ballot. And so that's a problem. You know, it's kind of like the thing in Indiana when the 12 nuns were attempting to vote, and they did not allow 12 nuns to vote because they didn't bring their voter identification with them.

SEN. WEST: It was 12 of them?

MR. BLEDSOE: Twelve; 12 nuns, yes.


Now, let me ask this question, sir: You've had an occasion to speak with many African-American elected officials concerning voter identification laws over the last few years. Is that correct?

MR. BLEDSOE: That's correct.

SEN. WEST: Have you found any African-American legislators -- any African-American elected officials in the state of Texas that are in favor of the voter identification laws that are being considered by the Texas Legislature?

MR. BLEDSOE: We've seen none. And, you know, our group is unanimously opposed to it. And, you know, we've got Republicans and Democrats in our leadership. And let me say that one of our folks that I think you even know, Senator -- I don't know that you know this -- but Obie Greenleaf, who is a city councilman now up in Sherman, he just went and tried to renew his registration, and he was pulled out of line, told he had to go home and get -- and get his birth certificate.

SEN. WEST: And he's a city councilman?

MR. BLEDSOE: He's a city councilman. And another African/American male, who is 80 years old, was told to do the same thing. Now, all the whites in line were not pulled out.

And, you know, we've done some surveys around the state, and we're not complying with NVRA. So there is a real problem with our people being registered to vote by our agencies.

SEN. WEST: Well, there have, in fact,
been some campaigns that have been launched lately—or back in 2005, 2006, campaigns against voter fraud. Do you remember those campaigns by the Attorney General?

MR. BLEDSOE: I'm aware.

SEN. WEST: And some of the images that were used within the content of those campaigns?

MR. BLEDSOE: I think those things became part of litigation, if I'm not --

SEN. WEST: All right. So, frankly, the passage of this particular bill will encourage additional litigation in the civil rights area. Is that correct?

MR. BLEDSOE: There's no question. Let's look at the PV 19, for example --

SEN. WEST: Right.

MR. BLEDSOE: -- and the 19 children who bore the names of their fathers, and they were wrongfully prosecuted because they voted in Waller County. And that county still has enormous problems. You know, we had a couple years ago where the county registration officials declined to follow through and tender legitimately completed voter registration cards to be registered, and that was right before an election, and that continues to be a problem. And if it wasn't for the AG's Office telling them ultimately to register those voters, I don't know if they ever would have been registered, but they were not registered before the election. So there was an impact in them not following through and registering those voters.

SEN. WEST: Well, sir, I appreciate your advocacy, and needless to say you're steadfast as it relates to protecting the rights and civil rights of people in this state. Thank you.

MR. BLEDSOE: Thank you.

CHAIRMAN DUNCAN: The Chair recognizes Senator Hinojosa.

SEN. HINOJOSA: Thank you, Mr. Chairman.

Mr. Bledsoe, thank you for your testimony. And I was very interested as you described the history in where minorities for a long time were being kept from voting and exercising their right to vote. You talk about many problems from intimidation, I guess, to the poll tax. Can you name some of those situations, for example, where laws have been passed for the sole purpose of trying to suppress the vote of minorities?

MR. BLEDSOE: Obviously there were -- there were a number of those that occurred. One of the things that we had in our state was the grandfather clause. You know, we had had poll taxes in this state, and ultimately in this state they ended up passing the rule that was used in the Democratic Primary, which at that time there were -- the two parties were the
And that had to go -- the NAACP litigated that case, and we first defeated that system back in, I think, ’28 or ’29 before the Supreme Court, but they finessed the rule. And so the NAACP had to litigate it again, go to the Supreme Court again in 1944 where it was finally invalidated. So there have been quite a few instances. But if you happened to be African-American or Latino and your grandfather had not been able to vote in 1910, the teens or the ’20s, ’30s, you couldn’t vote either.

SEN. HINOJOSA: And as you well know, Texas right now is under a Voting Rights Act.

MR. BLEDSOE: That is correct.

SEN. HINOJOSA: And they have an actual burden to prove that whatever laws they pass in terms of voting doesn’t discriminate or suppress the vote against minorities.

MR. BLEDSOE: And that’s one thing they didn’t have in Indiana. That’s an additional obstacle that they’ll have to encounter with the law in this state.

SEN. HINOJOSA: And as you recite history, it seems to me that many times different laws, different methods are used to try to suppress the vote of minorities, and they use different euphemisms and different names. And it seems to me that the purpose of the voter ID legislation is, again, to suppress the vote. Are you familiar with the Carter-Baker Commission and Federal Election Reform?

MR. BLEDSOE: Yes, I am.

SEN. HINOJOSA: Yeah. Well, one of the studies they made would show that here in Texas where we have approximately 13 million registered voters, that if we pass voter ID, it would disenfranchise approximately 3 million voters, mostly minorities. Are you surprised at that?

MR. BLEDSOE: I’m not, because I think this will have enormous implications. And again, if we wanted to look at Indiana or Georgia, I would have problems, but those laws -- they are so much less restrictive than what’s being proposed here. This law would have enormous implications because of the way that it is written. So it seems like instead of seeking the least restrictive means, we’re seeking the most restrictive means.

SEN. HINOJOSA: And as you describe the different problems that exist in terms of sometimes intimidation, sometimes in placing obstacles to minorities to vote, have you come across a lot of
instances where there's voter fraud where a person tried
0346
to impersonate a registered voter?
0347
MR. BLEDSOE: I have not seen of such a
0348 situation, Senator. I think there are very few
0349 situations because you are putting yourself in harm's
0350 way when you do that, even under the current laws. So I
0351 think there are fail-safes under the current law that
0352 would prevent you from doing that. But be that as it
0353 is, I think that it's pretty much widely acknowledged
0354 today that that's really -- really not a problem.
0355
SEN. HINOJOSA: And, for example, the last
0356 ten years, do you know how many prosecutions have taken
0357 place in terms of indicting a person for trying to
0358 impersonate a registered voter?
0359
MR. BLEDSOE: I think I saw something on
0360 the Internet maybe about one in South Texas recently and
0361 one person, and there might have been something in
0362 Harris County. But in all those years, maybe one or
0363 two, and I don't know if they were successful or not.
0364
SEN. HINOJOSA: Well, if you compare the
0365 number of people who have been indicted, maybe three or
0366 four or five in the last five or six years that try to
0367 impersonate a voter, to the negative impact that this
0368 piece of legislation would have on minorities by
0369 disenfranchising approximately 3 million who do not
0370 carry photo ID, don't you think it's a little bit out of
0371 balance and a steep price to pay?
0372
MR. BLEDSOE: It is. Again, if we wanted
0373 to have the integrity, there are things we could do to
0374 ensure integrity more so than what we're actually doing
0375 here. You know, there have been good and great
0376 suggestions that have been put forth. And again, the
0377 distinctions between Indiana and Georgia is the DMV had
0378 IDs on almost all those folks. So when we went to the
0379 Department of Justice in Georgia to get preclearance,
0380 Georgia could tell DOJ that 100 percent of our people we
0381 have IDs on already, and that's something we don't have.
0382
SEN. HINOJOSA: Thank you for your
0383 testimony.
0384
MR. BLEDSOE: Thank you, sir. Thank you,
0385 Mr. Chair.
0386
CHAIRMAN DUNCAN: Hold on just a minute.
0387
Senator Ellis?
0388
SEN. ELLIS: Yeah, briefly, Mr. President.
0389
I just wanted to thank Mr. Bledsoe. I called him last
0390 night and asked him to come. I know he had client
0391 business and court matters today, and you've been
0392 waiting all day to testify. I think my colleagues asked
0393 the questions I would have asked, but I just wanted to
0394 publicly thank you for staying here all day today.
0395
MR. BLEDSOE: Thank you, Senator. I
appreciate it. Thank you.

CHAIRMAN DUNCAN: Are there any other questions of the witness?

(No response)

CHAIRMAN DUNCAN: Thank you, Mr. Bledsoe.

We appreciate your appearance here today.

TESTIMONY BY ANDRES TIJERINA

CHAIRMAN DUNCAN: Dr. Andres Tijerina.

Dr. Tijerina, state your name and who you represent.

MR. TIJERINA: My name is Andres Tijerina representing myself.

CHAIRMAN DUNCAN: You may begin.

MR. TIJERINA: I'm a citizen of Austin, a citizen of Texas, born in Texas, and I'd like to provide some useful information to give a historical perspective to voting laws and specifically those that have been discriminatory against Mexican-Americans and minorities in Texas.

As I said, I am from Texas. I'm from West Texas. I have a BA from A&M, a masters from Tech, a Ph.D. from The University of Texas at Austin, and I also worked as the liaison officer for the United States Air Force Academy in Colorado Springs. I'm a retired Air Force officer. I'm a member of the Texas State Historical Association among other associations. I'm also a Fellow of the TSHA, and I've conducted research here at the State Archives, the National Archives, University of Texas and other places in order to write numerous books and publications that I've published through Texas A&M University press and other refereed publications, primarily on Texas history and Mexican-American history that's given me this -- a perspective that I'd like to share with you all this afternoon.

Texas, I think, has a legacy and a history of voter discrimination that is very clearly directed and explicitly directed at Mexican-Americans to specifically and effectively keep them from voting that goes way back to the establishment of Texas right after it was annexed to the United States and goes right on up to the present.

It has a record of establishing and writing laws to create legal devices and to take actions specifically intended to intimidate Mexican-Americans and minorities from voting, to drive them away from the polls, actions to divide and to redistrict their population base, their counties, specifically directed to keep them from voting or to weaken their voting effect in Texas; devices and actions to literally terrorize them through the years, through the decades.

The effect has been to effectively reduce the number of Mexican-Americans who have voted through...
the years, through the history of Texas, and at the same
time to leave an impact or a legacy among their
community of distrust of the state government and even a
fear of state government and state law enforcement
officials. This has been done in many ways that
appeared beneficial or that were presented as beneficial
even innocuous laws. Many of the people who effected
this were people who approached Mexican-Americans
innocuously or supposedly to help them.

Political bosses, Texas has some of the
most powerful political bosses, or had through history,
Jim Wells, Robert Kleberg, George Parr, who used very
explicit and physical methods, literally corralling
hundreds of Mexican-American voters, thousands of
Mexican-American voters, primarily in the years from
around 1870 until around 1940, 1950, where they would
literally corral hundreds or thousands and direct those
to votes, either through assistance to them by hiring them
to work on the county at election time or literally
through intimidation or specific assassinations. In any
case, taking hundreds or thousands of Mexican-Americans
and then directing them to vote for people who became
great Texans, Lyndon B. Johnson, John Nance Garner,
Edward M. House, who benefited from corralling of
Mexican-American voters, either through assistance to
those voters or intimidation and threats of those
voters.

The Terrell Election Law, which was
presented as a beneficial law, actually created a poll
tax specifically directed at Mexican-American voters to
keep them from voting, a 1918 law to explicitly
eliminate interpreters; other devices like the white
man's primary that required that people take an oath
that said that they were a white man and a Democrat; but
also violence, violence that is almost unbelievable
today, even considering the violence that we see in
today's newspapers, even considering the violence you
see in Mexico; Texas Rangers, law enforcement officials
or vigilante groups in Harlingen, Edinburg, across Texas
all the way out to El Paso, riots in which the
Anglo-American, 4,000 Anglo-American riders in 1916 in
Harlingen chanting, "Keep the Mexicans from voting."
literally rioted and lynched several Mexican-American
U.S. citizens to keep them from voting; Texas Rangers
literally ethnic-cleansing hundreds and thousands of
U.S. citizens, shooting them in the back of the head
under sworn testimony that we have here in the Texas
State library, all of them explicitly to keep them from
voting at election time; going through the barrios in
Corpus Christi and Harlingen at election time, riding
through and telling them, "Any Mexican-American citizen
caught voting would be either killed or sent to prison."
That's the heritage of Texas, and it goes all the way on up to the lynchings in the 1930s, 1940s of Mexican-Americans. And then later all the way up through the 1960s and 1970s, Mexican-American organizations, LULAC, GI forum and voter right -- Southwest Voter Education Project of Woody Velasquez, having to literally engage in lawsuits to try to enforce the 1965 Voter Rights Act that has continued up until last -- well, 2008, in this very county, a group tried to, in effect, limit the extension of the Voter Rights Act and actually had to go up to an appeals court of the U.S. Supreme Court.

So the record of Texas has been specifically directed against Mexican-Americans and minority voters, and it's been very effective, not only in limiting and reducing their votes, but also in creating a legacy among their community of distrust of our state government, distrust of our voting process, distrust of the democratic process and even fear. Thank you.

CHAIRMAN DUNCAN: Thank you, Dr. Tijerina.

Are there any questions?

(No response)

CHAIRMAN DUNCAN: All right. The Chair hears none. We appreciate your testimony.

MR. TIJERINA: Thank you.

QUESTIONS FROM SENATE FLOOR

CHAIRMAN DUNCAN: Oh, I'm sorry. Excuse me. We do have Senator Gallegos.

Excuse me, Senator.

SEN. GALLEGOS: Professor, let me ask you -- I mean, I just heard your testimony and the history, and you've said all that discrimination has been targeted mainly to Mexican-Americans here in the state of Texas. Is that correct?

MR. TIJERINA: Yes, sir, very explicitly to Mexican-Americans.

SEN. GALLEGOS: So let me ask you, in your expertise on history discrimination except as compared to voting rights, how would you compare the present bill that is before us as to some of the intimidation and discrimination factors that you had just described to us in the past and some of the bills that were for like the no interpreters? That was in 1918?

MR. TIJERINA: Yes, sir.

SEN. GALLEGOS: And some of the other issues that you brought up. How would you compare this Senate Bill to the past history that you described to this chamber?

MR. TIJERINA: That those in history also were presented in a very positive good light. The people who presented these laws and the people who took
the action, the rioters who lynched Mexican-Americans called themselves the Good Government League. They had good names. The people who killed and assassinated hundreds, even thousands of Mexican-American/U.S. citizens, called themselves Progressives. The laws that were passed by Terrell himself in the Terrell Election Law of 1903, he explicitly stated that he wanted to "kill the Mexican vote." The candidates during that time period who campaigned for the U.S. Senate -- it's in the Senate record -- campaigned that their intent -- that their intent was to kill the Mexican vote. And yet the way the poll tax was written, the way the Terrell Election Law was written, it was innocuous. It was beneficial. It was written specifically to assure that only those legal voters could vote and to clean up the elections. So to read the Terrell Election Law itself was very innocuous or beneficial, and yet to hear Terrell himself speak, he was very explicit. He wanted to "kill the Mexican vote," and that's how I would compare them.

Many of these devices through the years are written to sound beneficial or innocuous, and yet they have just the opposite effect.

SEN. GALLEGOS: Professor Tijerina, what you're describing to me and what I just heard is what I've seen on television recounts of what happened in Mississippi and in Alabama and those southern states that prevented African-Americans from either registering or voting. Is that what you're comparing this to?

MR. TIJERINA: I think it would -- it would have a parallel, yes, sir.

SEN. GALLEGOS: Let me ask you, is there any evidence that old historical discriminatory actions are relevant or applicable today?

MR. TIJERINA: Yes, sir, in the sense that there has been and there is a legacy today in Texas of voter discrimination, voter intimidation and a legacy of fear and distrust; yes, sir.

SEN. GALLEGOS: Professor, let me ask you also, is there any evidence -- well, I think you just answered this -- of innocuous or beneficial election laws that may have actually had the intent to disenfranchise Mexican-Americans -- Mexican-American voters?

MR. TIJERINA: Yes, sir, those that I just cited.

SEN. GALLEGOS: Okay. I just -- I just wanted to be clear on that fact. Thank you very much, Professor.

MR. TIJERINA: Thank you.

CHAIRMAN DUNCAN: Are there any other...
questions of the witness?

(No response)

CHAIRMAN DUNCAN: All right. The Chair hears none. The witness will be excused. Thank you.

TESTIMONY BY CHASE BEARDEN

CHAIRMAN DUNCAN: The Chair calls

Chase Bearden. Please state your name and who you represent.

MR. BEARDEN: My name is Chase Bearden. I'm with the Coalition of Texans with Disabilities. Good afternoon. Thank you for a chance to speak to all of you.

We have spent some time looking at voter ID, and we feel that there is a portion that will disenfranchise a large number of Texans with disabilities. We've looked at just the logistics of trying to reach a place to get this free ID that everyone has talked about.

There's a large cost associated for a person with a disability who lives in a rural area or place that's farther out to try and reach a DPS office to try and get these IDs. The majority of people with disabilities, especially that have had one for their entire life, may not have ever gotten a driver's license. They may not have a Texas license. They more than likely don't have a passport. So when you look at trying to get the IDs that you need to go and vote, you're starting off at a large cost.

The majority of people with disabilities that are wanting to get these IDs will have to probably go and get their birth certificate. To find someone who can actually pick them up, drive them there, find an accessible vehicle, if they don't have one, or find a bus line that actually goes to where they can get a birth certificate is going to be very difficult. A lot of people said, "Well, maybe they can go online. They could access and get their birth certificate sent to them online." There's a large number of Texans with disabilities who are living on a very small amount of money each month. They more than likely don't have a computer to even access the Internet much less a provider or a credit card that they could use to access the birth certificate they need. It also takes quite a while to get that birth certificate if you were to access that online unless you were to expedite it.

Then after getting that, you would have to find a way to get to the DPS office. If you do live in a very rural area and you have a significant disability, maybe you're using a power chair and your family doesn't have an accessible van to be able to get you somewhere, you have to look at how are you going to be able to make it to where that person can access these IDs easily.
One of the other areas that we looked at was people living in nursing homes, state-supported living centers who might not be able to access the IDs they need to go and get identification. Do we have something in place that's going to allow them to be able to go and more than likely not be able to catch a ride or hop in their car and drive down to the DPS office. They are living in a state-supported living center, but they still have the right to vote. So looking at how they would get their identifications, we feel like they would still more than likely be put in a place where they are not going to be able to get the identification they need.

One of the other areas that we looked at was that there's an exemption for a person that's over 70. And when we thought about that, isn't that similar to the same issues that a person with a disability might be facing, a harder time getting transportation to get in to go get that ID, maybe the cost, living on a fixed income? So we have an inconsistency that kind of keeps the same person from getting the ID they need, that free ID, but we're giving an exemption to someone else.

When we started looking at a person who is traveling to go and actually vote and they get there and they don't have the correct ID or they are missing something, so they have to cast a provisional ballot, trying to get back there within six days can sometimes be logistically impossible for a person. They might have had to get public transportation to go and get there. So they had to set up a ride through one of the kind of disability bus systems, but they might not be able to get a ride again or to get to the place to get the documentation they need to get back and cure their ballots.

Currently right now there are being bills filed that would reduce the accessibility at some of the polling places on nonfederal elections. They wouldn't have to use all the accessible voting machines. We feel like if you end up passing a law like that and then you add voter ID to that and you're kind of putting a burden on someone trying to force them to get an ID that they might not be able to get to, and then they get to the polling place and they don't even have the accessibility they need to cast a private ballot. It's just recently in 2001 that we've been able to get the technology we need to cast that private ballot without someone else doing it for us. And now we're looking at having that removed and then being forced to try and find an ID that's acceptable that might not be obtainable by everyone.

So we ask that y'all take the time to really investigate how these IDs will really affect
someone who might not be able to obtain what it is y'all are asking for. Thank you.

CHAIRMAN DUNCAN: Thank you, Mr. Bearden.

QUESTIONS FROM SENATE FLOOR

CHAIRMAN DUNCAN: Senator Zaffirini?

SEN. ZAFFIRINI: Thank you for being with us this afternoon, Mr. Bearden. Excellent testimony. I have several questions for you that will focus on the needs of persons with disabilities and how they will be impacted if Senate Bill 14 were to pass.

First, are persons with disabilities less likely to have a current driver's license, military ID or passport than the general population of voters?

MR. BEARDEN: I think there's probably a large number of people with disabilities who don't have a current driver's license or who don't have a driver's license. Many depend on the bus system, and they live in areas where they can access buses. Not all the bus systems will access DPS. Not all people with disabilities are going to have a passport. Many of them are living on a fixed income and more than likely are not traveling abroad. They more than likely have not been in the military or are carrying any other type of ID.

SEN. ZAFFIRINI: And what is the reason for this? Why is it that persons with disabilities -- and I'm trying to enter it into the record. Why is it that persons with disabilities are less likely than other voters to have these documents?

MR. BEARDEN: People with disabilities tend to be of the lowest demographics when it comes to having jobs, having income. They are having a harder time trying to get the services they need. So being able to have a driver's license or a passport is a lot of times unobtainable.

SEN. ZAFFIRINI: Thank you. What additional barriers do persons with disabilities have in obtaining the forms of ID requested or required by Senate Bill 14?

MR. BEARDEN: I think many of the barriers would be -- I think it was brought up that one of the DPS offices was inaccessible. There's still accessibility issues in Texas. We've had accessibility issues in polling places.

When you look at trying to get $22 put together to buy a birth certificate, have to take the time to get that birth certificate, then go to get
another ID, I think when you look at the amount of money that that is -- and I know everyone doesn't feel it's a large amount of money -- but someone living on a fixed income, on SSI, that is a large portion of their funds, and a lot of them won't be able to obtain it.

SEN. ZAFFIRINI: Would the voter identification required in this bill be sufficient to ensure access to accurate information about the new ID requirement information for the full range of persons with disabilities in our state?

MR. BEARDEN: We don't feel it will. The majority of people who have disabilities are living on a fixed income. They don't have access to a computer. They don't have access to the Internet and more than likely not to have a newspaper to receive the information. So we don't feel that they will be able to get all the information.

SEN. ZAFFIRINI: Thank you. What effect do you believe that Senate Bill 14 would have on the turnout of voters with disabilities?

MR. BEARDEN: The turnout of voters with disabilities has increased up to -- we feel like it will decrease. The majority of people will show up. They'll try and cast their vote. They will have to do a provisional ballot, and I think when they start to look at having to come back, they will have a harder time making it. The journey getting there sometimes is incredibly difficult, trying to find a way to get there, trying to get everything in order to be able to get there. So we do think it will decrease the turnout.

SEN. ZAFFIRINI: Thank you. Now, thinking specifically of persons with disabilities who are registered voters and who do have a photo ID, is there any way that they would be impacted negatively by Senate Bill 14?

MR. BEARDEN: I think they could be if they do not bring their ID. The majority of people with disabilities, if they had a photo ID and were to show up without it or to have one that has expired, may not have the time to actually go afterwards, get an ID redone or to get a current ID to be able to make it back and have their ballot cured in time.

SEN. ZAFFIRINI: Would part of the problem be that they might have a photo ID that is very old?

MR. BEARDEN: I think that's very possible. There's a lot of people who might have received an injury who were driving before who are not driving anymore, who have held onto an ID that has expired. That's all they've needed. So more than likely if they are not driving and their ID is expired, they probably won't have a current ID.

SEN. ZAFFIRINI: And they might have a...
driver's license that has expired, too --

MR. BEARDEN: Uh-huh, yes.

SEN. ZAFFIRINI: -- that would have a

photo?

What affect do you believe Senate Bill 14
would have on the number of provisional ballots cast by
voters with disabilities?

MR. BEARDEN: I think we'll have a lot --
a larger amount of provisional ballots casted, and I

don't think we will be able to -- in the next few
elections be able to educate people fast enough to be
able to lower that level. We've spent since 2001
educating people, that they have the technologies now to
make an independent, private vote themselves. And it
took time to get people to understand that if they were
visually impaired, they didn't have to rely on someone
else anymore. They went before, they had a bad
experience, weren't able to cast their own ballot, and
then once we passed HAVA and they had the technology to
cast their own ballot, it took us time to get people
educated to know that they can still do that and how to
do that. So I think we would be kind of taking steps
backwards by doing this.

SEN. ZAFFIRINI: To your knowledge, have
HAVA funds been used specifically to increase the access
of persons with disabilities to polling places.

MR. BEARDEN: Yes, they have. We've
specifically worked with HAVA and the Secretary of
State's Office to increase Texans with disabilities
voter outreach. We've also worked with them on finding
access issues. So I think these funds would be greatly
hampered, and the ability for Texans to be able to vote
would have problems.

SEN. ZAFFIRINI: Do you have any concerns
about the plan or the possibility of diverting
$2 million in HAVA funds to pay for this Senate Bill 14
instead?

MR. BEARDEN: Yes. Because right now I
believe that's about what they are spending to do all
the outreach and to work on accessibility and to
maintain some of the voting machines. Right now what
they've said, the reason -- I believe one of the House
bills that's been filed to not have to have the
accessible voting machines is that it's a higher cost
during nonfederal elections. If that's the case and the
counties are not able to afford to make -- have an
accessible machine, the funds that could have helped
them are probably now going to be taken away to let
people know that they're going to need an ID.

SEN. ZAFFIRINI: So it is your testimony
that if $2 million in HAVA funds are diverted for the
purpose of Senate Bill 14, that there could be a
negative impact on the accessibility of persons with
disabilities to the polling places?

MR. BEARDEN: Yes.

SEN. ZAFFIRINI: Thank you. Now,
Mr. Bearden, you represent the Coalition of Texans with
Disabilities?

MR. BEARDEN: Yes, I do.

SEN. ZAFFIRINI: And that comprises
different member organizations?

MR. BEARDEN: Yes, it does.

SEN. ZAFFIRINI: Who are some of those
member organizations?

MR. BEARDEN: We have organizations that
are not disability related. We have a majority of
disability groups that are out there. I think we
have --

SEN. ZAFFIRINI: Do you have veterans, for
example --

MR. BEARDEN: We do; we do.

SEN. ZAFFIRINI: -- with disabilities?

MR. BEARDEN: We have veterans'
associations. We have organizations that are more
specific to single disabilities. We've worked with
groups of older Texans.

SEN. ZAFFIRINI: And is your testimony
today personal, or are you representing this Coalition
of Texans with Disabilities?

MR. BEARDEN: I'm representing the
Coalition of Texans with Disabilities.

SEN. ZAFFIRINI: Have they discussed this
bill thoroughly?

MR. BEARDEN: Yes.

SEN. ZAFFIRINI: And what is their
consensus about this bill?

MR. BEARDEN: We feel it will
disenfranchise a portion of Texans with disabilities.

SEN. ZAFFIRINI: And you are speaking for
this coalition --

MR. BEARDEN: -- yes.

SEN. ZAFFIRINI: -- when you stand in
opposition to this bill?

MR. BEARDEN: Yes.

SEN. ZAFFIRINI: Thank you. Now, you're
familiar with the bill, of course, and you've seen
different versions of it through the years?

MR. BEARDEN: Yes.

SEN. ZAFFIRINI: Can you think of any
amendments that we could propose that would help address
the issues that are of concern to persons with
disabilities?

MR. BEARDEN: I think an amendment that
might be similar to a person who is 70 years old who
would be able to say that they have a disability and
that maybe they have the registrar -- they have written
earlier to the voter registrar and stated they have a
disability that would affect them from being able to get
the ID to be able to just present their voter registration card.

SEN. ZAFFIRINI: Are there any other amendments that could cure this bill for you?
MR. BEARDEN: I can't think of any right now, but I could ask more of our groups.
SEN. ZAFFIRINI: Well, I offer you the opportunity to work with my staff today, and we will address those concerns, and we will try to craft some amendments that would suit your issues --
MR. BEARDEN: Sounds good.
SEN. ZAFFIRINI: -- and try to cure them.
MR. BEARDEN: Thank you.
SEN. ZAFFIRINI: Thank you very much,
Mr. Bearden.
Thank you, Mr. Chairman.
CHAIRMAN DUNCAN: Thank you, Senator. Are there any other questions of Mr. Bearden?
(No response)
CHAIRMAN DUNCAN: All right. Thank you, Mr. Bearden. I appreciate your testimony.
Members, that concludes the invited testimony for the day. We have been going now for a little over three hours, and so it's time for a short break. We'll take a 15-minute break, and then we'll begin testimony with regard to our resource witnesses.

My plan is just to call them up in the order that I've previously announced, and you can ask any questions, and then we'll go into public testimony after that. So the Senate Committee of the Whole will stand at ease until 5:45.
(Recess: 5:30 p.m. to 5:45 p.m.)
CHAIRMAN DUNCAN: Senate Committee of the Whole will come back to order.

RESOURCES TESTIMONY
TESTIMONY BY REBECCA DAVIO
CHAIRMAN DUNCAN: We have -- Members, the next portion of this hearing will be our resource witnesses. The first resource witness we announced earlier will be Rebecca David (sic) with the Texas Department of Public Safety.
Ms. David, why don't you come on up, state your name and who you represent, and then we'll open the floor to questions.
MS. DAVIO: My name is Rebecca Davio. I am the Assistant Director for Driver Licenses at DPS.
You have a light on. Are you -- would you like to ask any questions?

SEN. ZAFFIRINI: (Nodded)

CHAIRMAN DUNCAN: All right. Any other member have a question? Senator Watson, you're recognized.

SEN. WATSON: Yes. Thank you, Mr. Chairman. Ma'am, you may not be the right person to ask this, but I was deferred earlier, and so I thought I would ask a couple of questions and see if you are the right person.

Right now when someone goes in to get an identification, is it your office that provides that identification card?

MS. DAVIO: Yes, sir.

SEN. WATSON: And how much is charged for that identification card?

MS. DAVIO: That card is $15.

SEN. WATSON: All right. So how much does it cost you to produce the card?

MS. DAVIO: $1.67 to produce and mail it.

SEN. WATSON: All right. So if we're looking at it from a budgetary standpoint for the state of Texas, it costs you $1.60, but currently the state collects $15?

MS. DAVIO: Yes, sir. $1.67 is what our costs are.

SEN. WATSON: I'm sorry. $1.67. I rounded that down, didn't I? So now you've made the math completely hard for me and probably impossible.

MS. DAVIO: I'm sorry.

SEN. WATSON: But the bottom line to it is there's a net -- 15 minus $1.67 gives the state of Texas a net return?

MS. DAVIO: Yes, sir.

SEN. WATSON: Now, under this legislation, have you seen that there is no means test for someone that comes in to get an ID card?

MS. DAVIO: No, sir.

SEN. WATSON: You've not seen that, or am I saying that right?

MS. DAVIO: By "means test," do you mean do they qualify? Do they have to show economic disadvantage?

SEN. WATSON: That's right.

MS. DAVIO: No, sir.

SEN. WATSON: There's not a means test, is there?

MS. DAVIO: No, sir. I didn't see one.

SEN. WATSON: And, in fact, it forbids your department from collecting a fee if an eligible voter -- if a person is an eligible voter or submits a...
registration application. Is that right?

MS. DAVIO: Yes, sir. That's the way that
I understand it.

SEN. WATSON: And have you had a chance to
look at the fiscal note for this legislation?

MS. DAVIO: Yes, sir.

SEN. WATSON: Have you seen anywhere in
that fiscal note where it looks to try to determine what
the cost to the state of Texas would be for the state
losing the fees if people were able to get these
identification cards for free?

MS. DAVIO: No, sir. I don't believe
that's covered in the fiscal note. We were unable to
estimate that because we didn't know how many people
would take advantage of the card -- of the free ID card.

SEN. WATSON: But you would anticipate
some would, otherwise it wouldn't be in the bill. Is
that right?

MS. DAVIO: I'm sorry. I don't understand
that question.

SEN. WATSON: You would anticipate that
some people would attempt to get the card for free?

MS. DAVIO: Yes, sir. That would make
sense.

SEN. WATSON: Are you familiar with the
legislation or the fiscal note that was attached to
House Bill 218 in the 2007 session?

MS. DAVIO: I'm sorry, sir. I am not. I
just started this job in June of this year.

SEN. WATSON: Well, I don't -- that's one
of the better answers I've heard today. So thank you.

Are you familiar with the fiscal note that
was attached to House Bill 2335 in the last session of
the legislature?

MS. DAVIO: Again, no, sir.

SEN. WATSON: Okay. Thank you very much.

MS. DAVIO: Thank you.

CHAIRMAN DUNCAN: Senator Williams, you
are recognized.

SEN. WILLIAMS: Thank you. I appreciate
you being here tonight and staying with us all day. I
have several questions that I wanted to ask just to
clarify some things that I think have been brought up as
we went along here. For the record, can you tell us
what the requirements are for someone to receive
either -- well, to receive an official identification
card from the state of Texas?

MS. DAVIO: Yes, sir. Basically, those
requirements are quite simple. You can say that you
have to verify that you qualify, and currently that is
proving that you are a U.S. citizen or you have lawful
residence here. And the second thing is to demonstrate
who you are, to prove who you are by providing various
different types of identification.

SEN. WILLIAMS: Okay. Anything else? Do
you have to be photographed or fingerprinted or anything
like that?

MS. DAVIO: Yes, sir, you do have to be
photographed and fingerprinted and provide your
signature.

SEN. WILLIAMS: Okay. Can someone have
both a Texas driver's license and an ID?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: And if someone had a
driver's license and they wanted to come back and get a
free ID, if they wanted to stand in line to do that,
they could do that. Is that correct?

MS. DAVIO: Yes, sir, as I understand it.

SEN. WILLIAMS: Okay. How long does it
take once an applicant has submitted all of their
materials to DPS to actually mail out the physical ID?

MS. DAVIO: We issue a temporary receipt
that's good for 45 days. The time that it takes varies.
We are currently, I believe, running about 35 days
production and mailing time. There are times -- we're
having some equipment problems right now. There are
times when it's shorter than that.

SEN. WILLIAMS: Okay. And the temporary
ID is valid for how long?

MS. DAVIO: Forty-five days.

SEN. WILLIAMS: Okay. About the same
amount of time that it takes to get the physical
license. Okay.

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: What security features
does a temporary ID have?

MS. DAVIO: The temporary ID has a picture
of the ID or driver license applicant and also has their
basic demographic information that's shown on the
license.

SEN. WILLIAMS: Okay. There's been a lot
said about how many licenses -- how many license
offices -- driver's license offices we have around the
state.

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: Can you tell me what the
total number of driver's license offices are?

MS. DAVIO: Yes, sir. There are 307
locations. Currently 226 of those are operating. That
includes 174 full-time offices, 34 part-time offices and
18 mobile offices that are open.

SEN. WILLIAMS: Okay. And how many
counties do not have a driver's license office?
MS. DAVIO: There are 77.

SEN. WILLIAMS: Seventy-seven. Okay.

MS. DAVIO: Yes, sir. And I do have a map that shows the driver license offices if you'd like to have that passed out.

SEN. WILLIAMS: Okay. I think we've had one submitted earlier and -- no, we haven't? Okay. Well, let's -- why don't we go ahead and submit that into evidence.

MS. DAVIO: This map, when you get it, will show the full-time, the part-time and mobile offices that are open and the offices that are temporarily closed.

SEN. WILLIAMS: Okay.

CHAIRMAN DUNCAN: Okay. Ms. Davio, let us first -- this will be Exhibit 9.

(Exhibit No. 9 marked)

CHAIRMAN DUNCAN: And you've just described Exhibit 9 as a map. Driver's License Offices in Texas is what the label is, and that will be distributed. Exhibit 9, is there any objection to receiving that?

(No response)

CHAIRMAN DUNCAN: Exhibit 9 is received. (Exhibit No. 9 admitted)

SEN. WILLIAMS: Okay. So we have 77 counties that don't have a license office. Is that correct?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: Okay. And could you describe for me briefly -- you mentioned that some offices are temporarily closed. Why are those offices temporarily closed, and what is the department doing to remedy that situation?

MS. DAVIO: Yes, sir. The DPS just implemented our new driver license system, fully implemented in May. Our mobile offices are functioning on equipment from our Legacy system, and that equipment is very, very old. And as it breaks, we are unable to replace it. We simply can't get parts. We can't get replacement pieces even trying to go out and buy things on eBay, and so we have no other choice other than to temporarily close that office.

We have tried to get new equipment -- equipment for our new system to work in these mobile locations. And the way that we've changed -- the way that we have changed the way we do driver license, we're pushing much more data through, and so we find it very difficult, impossible really, to get the new equipment to work.

SEN. WILLIAMS: So when you say Legacy equipment and the new equipment, you're talking about...