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

**ATTACHMENT 9**
speak against the bill.

LUCIO : Thank you, Mr. President. (Clearing of throat) Mr. President and Members, I guess, I'll be very brief. We, we had a chance in this process to craft a bipartisan bill, I truly believe we passed up on that opportunity. I just don't know how an election bill can have any credibility without bipartisan support, especially, in this final outcome. The bigger picture is that we need to professionalize the entire way we administer elections in Texas. The fact that we don't have the technological infrastructure in place to allow people to register and vote on polling day, in my humble opinion, is unfortunate, shameful. The fact that we don't have the political will to invest in that infrastructure is again, unfortunately, just as shameful. Electoral reform should be paid for with revenue, not rights. I wanna speak briefly in closing about the Senate rules. This body decided last week to amend the rules and bypass the two-thirds rule regarding voter ID, some of us are very disappointed by that. But we only changed the rules re--regarding voter ID. In other words, I'm going to take a leap of faith and assume that the rules, as they stand, still reflect the desire of this Chamber to produce a bipartisan budget. To take a bipartisan approach to the huge fiscal problems we are facing in Texas. That's the approach that I started with when I came to this Chamber in 1991, and I look forward to moving on in that direction. Thank you.

PRESIDENT : Thank you, Senator Lucio. The Chair recognizes Senator Zaffirini to, to speak against the bill.

ZAFFIRINI : Thank you, Mr. President. Mr. President and Members, I rise to join my Democratic colleagues in voting against Senate Bill 14, which was supported unanimously by our Republican colleagues. And, basically, Members, what I worry about is the future. We who are the political minority in this body do not want to simply be heard, we want to be at the table, we want to participate, and we want to have impact. And starting my 25th year in the Texas Senate, what I worry about in looking back on what happened today, is what does this say for the rest of the Session. I hope that once voter ID is off the table and dealt with that we can come back on a bipartisan basis and address the real issue, the most important issue facing the Senate, and that is the budget that we must adopt. And I hope that in that process all of us, all 31 of us, will have an opportunity to have an impact, not simply to be heard. There are many reasons to oppose this bill. One, is the unknown cost. Look at the fiscal note. How can you possibly take that fiscal note seriously? It simply does not address the unknown costs that we are worried about. And I won't belabor the point and repeat them, because I identified them for you yesterday. Look at the unfunded mandates. They're incredible, they're incredible unfunded mandates, and yet it's so easy to rise and say, we will not pass any bill that calls for an unfunded mandate. How can anyone say that with a straight face. This bill also causes problems in terms of lack of accessibility, and I won't repeat what we pointed out earlier. You saw the map that shows that
there are 77 counties without DPS offices. You heard the testimony about the negative impact on certain categories of women, on low-income persons, on minorities, on persons with disabilities. There were good amendments offered to cure those problems and, yet, they were rejected on partisan lines. I know that there were people in this Chamber who wanted to vote for some of those amendments and simply did not. That's very difficult for me to understand. Remember what the sh--letter that I shared with you from the Carter-Baker Commission and, specifically, they said very clearly, that one commissioner said very, very clearly, in black and white, that this bill is inconsistent with the recommendations of the Carter-Baker Commission. What else do we need? What else do we need to realize that this bill certainly is not satisfactory? And equally important, Members, what does today say about the importance of the two-thirds rule? This bill will go, will pass along partisan lines, because there is no two-thirds rule. Were there a two-thirds rule in effect, we would've had to achieve consensus. The Lieutenant Governor could've been at his best, the way he has been on so many bills, and brought us together and said, reach a consensus, and we didn't. I will be voting against this bill for many reasons, some of which I repeated today. And I hope that more of you could join us in voting no, but I understand the outcome, I see it clearly, it makes me sad. Thank you, Mr. President and Members.

PRESIDENT: The Chair recognizes Senator Whitmire to speak against the bill.

WHITMIRE: Thank you, Mr. President and Members. The hour is late, but if you'll allow me to speak, the good news is, we've conducted ourself (sic) in a very civil, respectful manner, which, which I'm sure we're all proud. The bad news is, some of you are about to pass a bill that in my judgment, based on the testimony, has unlimited, unintentional consequences. As recently as two days ago, I was thinkin', what would I say if I really had an opportunity to speak to my colleagues. I would say, well, I would probably say to Senator Rodriguez and Senator Birdwell, welcome to the State Senate, this is your first major piece of legislation. And from my experience, gentlemen, two days ago, I would've called this bill pretty typical of what you'll witness, if you'll bear with me. You're gonna find as we go through legislation that the proponents are gonna make somethin' sound like they just, the State has to have it, and the opponents are gonna talk about the negative consequences. The truth of the matter is, from my years of experience is, normally, the proponents are stating a situation that's not nearly as good as they would state, which I certainly think this bill fits. Oftentimes in the debate, the opponents, things aren't nearly as bad as they say they're going to be. It's normally somewhere in between. But I can't say that tonight after having the testimony given. I have to honestly say this bill is worse than the opponents have stated. All you have to do, Members, is remember the testimony of the DPS. It was so unfair, in my judgment, to have that lady there. I work very close with the DPS. I knew she'd taken
Michael Kelley's position only last June. She was not equipped to answer the questions, 'cause quite honestly, no one with DPS was probably prepared, 'cause it's all based on (specum--gation) (sic). The implementation of Senate Bill 14 has not been thought through. Senator Fraser, we have not put ourself in other people's shoes. The surcharge example, itself, shows how flawed this bill is. Some Senators might say, well, they're, they're lawbreakers in the first place. Le' me (sic) give ya an example of someone that came to my office. Woman comes to my office, a waitress, goin' back with her husband says, Senator Whitmire, I need help. We're driving without a license, 'cause my husband, because he was broke and unemployed, could not pay the surcharge. We're driving without a license. Senator Ogden, the unintended consequences this bill is, you're gonna force that person to go to the DPS office, where they owe six thousand dollars, and be concerned about can they go and leave without bein' apprehended. It has unintended consequences that none of us can anticipate until it's passed and placed in law. Now let me tell you a real concern that each and every one of you oughta have. We have given the DPS an assignment, one, that they didn't want. They don't want, in my judgment. They wanna be securing the Border. They wanna be patrollin' our highways. Do you know the DPS, tonight, is 300 positions short of troopers from authorized levels. They can't compete with the cities for what the cities pay their police officers. I know DPS officers and their staff wanna be enforcin' the laws, they want to take DWI drivers off the road, they wanna secure the Border. Some of you are goin' to the Border (tomorra) (sic) to meet with the DPS and see what we can do more to secure our Border usin' our best police force, our Texas Rangers have swat teams down there. And what we've done, an underfunded agency that can't recruit people, 'cause they can't pay 'em competitive salaries, we've given them the voter registration police assignment. Now they've got to go into DPS offices in Houston, where I routinely get call (sic) because people wait two and three hours. They call me to see if I can get them in line at the front to go back to work. But now, they're gonna be in charge of handling voter registration, for all practical purposes. There are unintended (consiousquinces) (sic) to this bill that no one knows about. But I promise you it's not worse, Senator Rodriguez, than what the opponents claim, it's not as bad as what the opponents claim, it's worse. And it's too bad that we find ourself about to implement something, in my judgment, for political purposes, that's gonna, in my judgment, harm the State of Texas. You talk about polls, it's all about how you ask the questions. And, quite frankly, I don't think we oughta govern by polls, Senator Fraser, or you'd probably have casino gambling and no tellin' what else that you'd probably not agree with the poll on. I think we've not put ourself in other people's shoes. I think, unfortunately, some of us have only looked at how it would affect the communities in which you live. Let me close by saying, we need to remember this, this experience. I'm of the opinion that without the two-thirds, with the two-thirds rule, without the special order provision, we
wouldn't be about to pass this bill. You need to remember it, the amendments on the Floor, how they were handled, and some of you may like it, some of you may like it and say it was fine. But I know, for a fact, before we had the special order, as recently, or goin' back as far as two years ago, there was great dialogue about what our voter ID bill ought to have in it. We almost, I thought, made the progress. Of course, same day registration was one of the considerations that the Democrats wanted. It was a deal killer from other side of the aisle. That's fine the bill wouldn't've been in it. But I promise you, with the two-thirds rule, some of the amendments that were turned down today, in my judgment, would've been included. If you watched the process today, Senator Patrick, the votes were very predictable. In fact, people were not workin' the Floor, Members, as we normally do to try to acquire support for your amendments. A reporter asked me the other day, said well can you can you tell us what the outcome's gonna be. I can tell you exactly what the outcome's gonna be. Nineteen people are gonna pass it, twelve are gonna be opposed to it, as we've witnessed. So, as we go forward, I hope we'll remember, maybe you like it, maybe you don't. Today, I actually saw, Senator Duncan, I thought that one side of the aisle, or the nineteen that had the majority, were so in control and not needing to converse with others, that one of the minority Member's amendment was actually used by the other side. It certainly appeared that way. I don't think the best bill that we could have passed, if we wanted voter ID, and, and, Senator Fraser, we're very familiar with the issue. I know how concerned the public is. We share that, we're against fraud, we share the concern about the integrity of the ballot box, as, as professional politicians we share that concern. You know, I don't know what kind of knock-down-drag-out campaigns you've been in, I've been in several. I've been in 'em with a Hispanic opponent in a Hispanic neighborhood. And people come to me and say, you oughta be concerned about the registration process across your district. Fraud, as Senator West points out, does not happen on election day, it happens in the early voting. If we had the time, if you wanted to hear about it, I can tell you how I've witnessed that. We haven't addressed that. But the thing that disturbs me the most, as we go forward, is the lack of give and take, the amendment process, the fact that we didn't spend hours tryin' to define what the best bill that a majority of folks, certainly, two-thirds plus could support. Now, let me just close by sayin', if you like it because 19 folks got to run this place today, with little consideration for the other points of view, the next time it may not be a partisan fight, Senator Birdwell. It could very easily be 12 Democrats and 7 Republicans, or it could be an urban coalition of 19, or it could be any philosophical group of people. And they won't have to slow down and take one of these green sheets and painfully walk around (sometime), and go desk to desk to make sure on each and every amendment that they've got their vote. And they sure won't have to go get a two-thirds count before they bring it up. In closing, the only thing I can say good about the point we are right now, before we vote, is the good news is, this thing is out of our way, this bill
is outta the way for the time bein'. And now we can go to work on, Troy, what I think the public would poll as the number one concern, the shortfall. All you gotta read is any paper in this State about what the school districts are facin'. They're scared, they're (at) a crisis, they consider that an emergency. And it's interesting, the Governor didn't make the budget an emergency, we did, Senator Ogden. We essentially decided that four-fifths of us were gonna make that an emergency. The school districts are scared. I got calls today from Goose ki--Creek in Baytown, they don't know what to do. That's what they wanna talk about and the good news is voter ID is out of our way and now we can go to what the public believes is a true emergency. You know, what I perceive is an emergency, that you labeled the voter ID an emergency is to me somethin' you feel like you need to call 9-1-1 on, that you're really in an urgent state. I made reference the other day how many people are followin' this debate, darn few, based on the participation tonight. But I do wanna close by sayin', it's been a great, civil debate, we oughta be proud of that. At the time that Washington, last night, was makin' headlines and news just 'cause they sat with one another, we routinely share each other's company, concern for each other, and we oughta go forward in that environment and deal with the public's business. Thank you.

PRESIDENT : (Inaudible, background conversation)
FRASER : The Chair recognizes Senator Fraser for a motion to move Senate Bill 14 to engrossment.
FRASER : Mr. President, I would now move passage to engrossment of Senate Bill 14.
PRESIDENT : Members, you've heard the motion by Senator Fraser, the Secretary will call the roll.
PRESIDENT : (Gavel) Members, there being 19 ayes and 11 nays, Senate Bill 14 passes to engrossment. (Gavel)
SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTH DAY

(Wednesday, January 26, 2011)

The Senate met at 8:45 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Uresti.

The President announced that a quorum of the Senate was present.

Senator Estes offered the invocation as follows:

Almighty God, please look kindly upon those who exercise governing power over Your people, especially those of us here in the Texas Senate. I pray that we might always be people of honesty and integrity. May we be kept in good health with the support and cooperation of those we serve. Give us, the men and women who help govern this state, wisdom so we might always know right from wrong, good from evil, and the difference between service to others and service to ourselves. May we always exercise our authority with complete fairness and for the common good of all. May we always have the ability to see a vision of a better, more just, and a more equitable tomorrow. May all those who govern this state be men and women of deep faith, enduring hope, and abiding love. Almighty God, when the human family is confronted with a serious difficulty or an unexpected crisis, please raise from our midst leaders who can solve our problems and help deliver us from all those elements which rob peoples of their peace of mind and inner sense of security. In Your holy name. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of the previous day be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Uresti was granted leave of absence for today on account of important business.
CONCLUSION OF MORNING CALL

The President at 8:51 p.m. announced the conclusion of morning call.

SENATE BILL 14 ON THIRD READING

The President laid before the Senate SB 14 by Senator Fraser at this time on its third reading and final passage (Set as special order) (Submitted by Governor as an emergency matter):

SB 14, Relating to requirements to vote, including presenting proof of identification; providing criminal penalties.

The bill was read third time and was passed by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.


Absent-excused: Uresti.

LETTER FROM THE OFFICE OF
THE SECRETARY OF STATE

Senator Gallegos submitted the following letter relating to SB 14:

Ann McGeehan
Director of Elections
State of Texas

January 26, 2011

The Honorable Mario Gallegos, Jr.
Texas Senate
P.O. Box 12068 – Capitol Station
Austin, Texas 78711

Dear Senator Gallegos:

This letter is to follow up on the question you asked about the voter education funding during the meeting of the Committee of the Whole yesterday. Specifically, you asked about the state funding for the Missouri voter identification law and why the State of Missouri funded the voter identification law for $6 million dollars for the first year of implementation and for $4 million dollars for the second year of implementation.

This morning, I spoke to Waylene Hiles, Interim Deputy Secretary of State for Elections in Missouri. Ms. Hiles explained that the voter identification law enacted by the Missouri was struck down by a state supreme court case several years ago. She stated that several bills are currently pending before their state legislature, but nothing has passed so far. Ms. Hiles did not have immediate access to the fiscal note on the bill that was enacted several years ago and struck down, but she recalled that the funding included two components. One component was for voter education and the
other component was for providing free identification cards to voters. Ms. Hiles is researching the issue and promised to get back to our office with details. As soon as I obtain additional information, I will forward it to your office.

I hope this information is helpful, and please let me know if you have any additional questions.

Sincerely,
/s/Ann McGeehan
Director of Elections

LETTERS FROM THE OFFICE OF THE SECRETARY OF STATE

Senator Davis submitted the following letters relating to SB 14:

Ann McGeehan
Director of Elections
State of Texas

January 26, 2011

The Honorable Wendy Davis
Texas Senate
P.O. Box 12068 – Capitol Station
Austin, Texas 78711

Dear Senator Davis:

This letter is to follow up on several questions that you asked during my testimony before the Committee of Whole as the Committee took up Senate Bill 14.

First, you asked about the number of voters who provided drivers license/personal identification card numbers, social security numbers or who stated that they had neither number when they applied to register to vote. Here is the break down of those numbers since an identification number first became required in January 2006:

- Total number of new voters from 1/01/2006 through 12/31/2010: 3,975,567
  - 2,334,281 provided TDL/ID (59%)
  - 294,142 provided SSN (7%)
  - 1,312,638 provided both identification numbers (33%)
  - 34,506 provided neither (1.0%)

Second, you asked about the federal Help America Vote Act Funds. Specifically, you asked about how the HAVA funds are budgeted and requested documentation of the budget. Enclosed are the Texas State Plan and subsequent HAVA funding certifications approved by the federal Election Assistance Commission. Lastly, you asked how much of the HAVA funds had been spent on the online poll worker training program and that amount is $845,723.

I hope this information is helpful, and please let me know if you have any additional questions.

Sincerely,
/s/Ann McGeehan
Director of Elections
Ginecn Bresso Beach, Chair
US Election Assistance Commission
1225 New York Avenue, Suite 1100
Washington, DC 20005

Dear Chairman Beach:

Texas respectfully requests the disbursement to the Texas Comptroller the fiscal year 2008 and 2009 requirements payments for which Texas is eligible pursuant to the Help America Vote Act (HAVA) of 2002. As such, I would like to provide the following information regarding our HAVA state plan followed by the necessary certifications to access the funds.

Addendum to the 2005 Texas State Plan

In accordance with Section 25412 of the Help America Vote Act, the Texas Secretary of State proposes the following clarifications to the Texas State Plan filed in 2005. The state has made no material changes but will modify the budget described in Element 6 of the 2005 State Plan to take into consideration additional Congressional appropriations authorized in federal fiscal years 2008 and 2009 as well as future appropriations. Because no material changes are being proposed, the state is not required to publish a public notice as required in Section 256 of HAVA nor does it need to be published in the Federal Register. However, the state plan, including the information provided in this correspondence, will be made available to the public on the Texas Secretary of State’s website.

Element 6: Proposed Budget - HAVA Sec. 254(a)(6)

The state will update the existing state plan budget to accommodate the following:

- Consolidate the state plan purpose areas (budget categories) into the following four main categories:
  1. State Plan Administration: Overall administration of HAVA-funded activities, including staffing costs, technical support, training, and other costs associated with overseeing HAVA implementation.
  2. TEAM (statewide VR system): Activities pertaining to the ongoing development, maintenance, and operation of the HAVA-compliant voter registration system.
3. Grant to Counties:

Includes sub-grants to counties to continue compliance with Title III of HAVA, including ongoing maintenance and upgrades to HAVA-compliant voting systems. Other sub-grants to counties allow election officials and their staffs to attend election-related conferences, seminars, and training events.

4. Election Worker Training and Voter Education:

Covers election official and election worker training programs – both printed material and online training tools. Voter education is intended to inform all Texas voters of their voting rights under the law, including the mandates imposed by HAVA. Methods to reach the voters include media spots, printed materials, and online tools.

- Maintain funding percentage ranges rather than fixed budget amounts, which allows for the allocation of future appropriations and earned interest.
- Increase funding for TEAM, county compliance with HAVA, Election Worker Training and Voter Education and decrease funding for State Plan Administration as described below.

The revised budget listed below maintains the same allocations as the Texas State Plan of 2005, but accounts for the increased funding made available by Congress in 2008 and 2009. In addition, the revised budget accounts for approximately $15.2MM in interest accrued on existing funds and include all Title I funding. Although the state proposes to consolidate the Texas State Plan into four main categories, the Secretary of State's accounting system and financial controls track each source of funding separately as well as the details on specific expenditures.

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<thead>
<tr>
<th>Purpose Area</th>
<th>Proposed Allocation</th>
<th>Proposed Percentage</th>
<th>Proposed Suggested Allocation (in millions)</th>
<th>Suggested Allocations</th>
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<tr>
<td>SOS Administrative Expenses</td>
<td>2% - 5%</td>
<td>2% - 5%</td>
<td>$2.2 - $11.1</td>
<td>$8,000,000</td>
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<tr>
<td>TEAM (statewide VR system)</td>
<td>10% - 20%</td>
<td>10% - 20%</td>
<td>$22.2 - $44.5</td>
<td>$34,000,000</td>
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<td>Grants to Counties</td>
<td>65% - 75%</td>
<td>65% - 75%</td>
<td>$144.7 - $167</td>
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<td>Voter Ed., Election Official and Poll Worker Training</td>
<td>5% - 10%</td>
<td>5% - 10%</td>
<td>$11.1 - $22.2</td>
<td>$16,000,000</td>
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<table>
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<th>Purpose Area</th>
<th>Allocation Percentage</th>
<th>Proposed Percentage</th>
<th>Proposed Allocation</th>
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<tr>
<td>Current State Plan State Plan</td>
<td>Plan</td>
<td>Amended</td>
<td></td>
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<tr>
<td>SOS Administrative Expenses</td>
<td>4.40%</td>
<td>3.60%</td>
<td></td>
</tr>
<tr>
<td>TEAM (statewide VR system)</td>
<td>15.50%</td>
<td>15.30%</td>
<td></td>
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</table>
Grants to Counties 73.80% 73.90%
Voter Ed., Election Official and Poll Worker Training 6.40% 7.20%

Certifications

Texas hereby certifies to the following and is eligible to receive payments under Title II, Section 251 of the Help America Vote Act (HAVA):

- Complied with the requirements referred to in section 253(b) of the Help America Vote Act of 2002.
- Filed and implemented a plan for uniform, nondiscriminatory administrative complaint procedures required by HAVA Section 402.
- Appropriated matching funds equal to five percent of the total amount of the HAVA requirements payment budget.
- Complied with the six laws listed in Section 906 of HAVA.
- Filed a state plan that complies with the requirements listed in Sections 254, 255, and 256 of HAVA.
- Certifies under Section 251(b)(2) of HAVA that it has implemented the requirements of HAVA Title III and may use requirements payments for other activities to improve the administration of elections for federal office.

Sincerely,

Hope Andrade
Texas Secretary of State
Texas respectfully requests the disbursement to the Texas Comptroller the fiscal year 2010 Requirements Payments for which Texas is eligible pursuant to the Help America Vote Act (HAVA) of 2002. The Texas Secretary of State does not propose material changes to the Texas State Plan filed in 2005. As outlined in the Texas certification to drawdown the 2008 and 2009 Requirements Payments, the state will continue to allocate the funding in four main categories based on percentages:

<table>
<thead>
<tr>
<th>Purpose Area</th>
<th>Description</th>
<th>% of Funding</th>
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<tbody>
<tr>
<td>1. State Plan Administration:</td>
<td>Overall administration of HAVA-funded activities, including staffing costs, technical support, training, and other costs associated with overseeing HAVA implementation.</td>
<td>2% - 5%</td>
</tr>
<tr>
<td>2. TEAM (statewide VR system):</td>
<td>Activities pertaining to the ongoing development, maintenance, and operation of the HAVA-compliant voter registration system, TEAM, developed in response to HAVA. Costs may also cover activities associated with county compatibility with TEAM.</td>
<td>10% - 20%</td>
</tr>
<tr>
<td>3. Grant to Counties:</td>
<td>Includes sub-grants to counties to continue compliance with Title III of HAVA, including ongoing maintenance and upgrades to HAVA-compliant voting systems. Other sub-grants to counties allow election officials and their staffs to attend election-related conferences, seminars, and training events.</td>
<td>65% - 75%</td>
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<tr>
<td>4. Election Worker Training and Voter Education:</td>
<td>Covers election official and election worker training programs – both printed material and online training tools. Voter education is intended to inform all Texas voters of their voting rights under the law, including the mandates imposed by HAVA. Methods to reach the voters include media spots, printed materials, and online tools.</td>
<td>5% - 10%</td>
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Certifications

Texas hereby certifies to the following and is eligible to receive payments under Title II, Section 251 of the Help American Vote Act (HAVA):

- Complied with the requirements referred to in section 253(b) of the Help America Vote Act of 2002.
- Filed and implemented a plan for uniform, nondiscriminatory administrative complaint procedures required by HAVA Section 402.
- Appropriated matching funds equal to five percent of the total amount of the HAVA requirements payment budget.
- Complied with the six laws listed in Section 906 of HAVA.
- Filed a state plan that complies with the requirements listed in Sections 254, 255, and 256 of HAVA.
- Certifies under Section 251(b)(2) of HAVA that it has implemented the requirements of HAVA Title III and may use requirements payments for other activities to improve the administration of elections for federal office.

Sincerely,

[Signature]

[Name]
Texas Secretary of State
Amended Texas State Plan
Pursuant to the Help America Vote Act of 2002
(HAVA)
January, 2005

Geoffrey S. Connor
Secretary of State
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us
(800) 252-VOTE(8683)
Help America Vote Act 2002
Texas State Plan

Amended Texas State Plan

1. How the requirements payments (i.e., Title II funds) will be used to meet the mandates in Title III (new federal requirements)

Brief Overview of State Elections Structure

The Secretary of State ("SOS") is the chief election officer of the state and is required to maintain uniformity in elections held in the state and to advise and assist local officials who actually conduct elections. The Secretary of State also has authority to adopt administrative rules to gain uniformity in interpretation of state election laws and procedures.

The conduct of elections in Texas is decentralized. The statutory requirements for elections are set out in the Texas Election Code. The county clerk or county election administrator, in those counties that have created the office, is generally the official charged with conducting county elections. County voter registrars maintain the official list of registered voters; the voter registrar is generally either the county tax assessor-collector, or again the election administrator. The county political parties conduct primary elections in Texas, with the county chair as the chief elections official. Early voting in the primary is conducted by the county elections official.

Other elections are conducted by the political subdivision. City elections are held by the city, school district elections by the school, and so on. These political subdivisions often contract with the county to conduct their election or hold joint elections with one another, but they are not required to do so. They utilize the county list of registered voters appropriate for their locality.

The Secretary of State maintains an unofficial state list of registered voters. The Secretary of State's office houses and maintains a state master file of all registered voters. The Secretary of State also maintains the Texas Voter Registration Online System ("TVRS"), which is a voluntary online voter registration system currently used by 164 of 254 counties. For those counties utilizing the TVRS system, the state database reflects their "official" voter file. The master file has approximately 12.1 million active voters and also stores approximately 2.5 million cancelled voters at any given time. The state master file maintains two separate tables defined for either "offline" or "online" counties. An offline county updates the masterfile through a web browser application, on a weekly basis in a pre-specified standard record layout. TVRS counties update in real time with all transactions validated and updated per session. At present, voter registration systems are reviewed by the Secretary of State's office to ensure that they are capable of submitting reports in a standard format as required by the state.

Texas is a state covered under Section 5 of the federal Voting Rights Act, which requires changes in election processes to be submitted to the Voting Section of the U.S. Department of Justice ("DOJ") for review prior to enforcing the change. At the state level, the Secretary of State submits changes in state election procedures. At the local level, each county must submit its changes to DOJ. These include polling place changes, change in the method of election, and adoption of new voting systems, among others.
Help America Vote Act 2002
Texas State Plan

According to the 2000 decennial census, the voting age population of Texas was 14,965,061. The state had 12,365,235 registered voters for the 2000 general election. In the 2002 November general election, the number of registered voters was 12,563,459.

Turnout in the 2000 November general election for state and county officers was 6,407,637, which constituted 51.8% of the registered voters and 42.8% of the voting age population. Turnout in the 2002 general election for state and county officers was 4,553,979, which constituted 36.2% of registered voters and 30.4% of the voting age population, using the 2000 census numbers.

In November 2000, the breakdown of election systems used by counties was:

- Paper Ballot: 90
- Optical Scan: 150
- Punch Card: 14
- Lever Machine: 3
- DRE: 4

Attached as Table 2 (page 22) is a list of the county by county breakdown of voting systems. The Secretary of State is the authority charged with certifying voting systems for use in the state.

How the state will meet the Title III requirements is described in Table 1 below. The charts have been updated to reflect the current status and action planned as of January 2005.

Table 1

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Meets the requirement</th>
<th>No action needed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>All voting systems shall permit a voter to verify/review selections before casting the vote.</td>
<td>Meets the requirement. Texas Election Code (TEC) Sections 64.007 and 129.001(b).</td>
<td>No action needed.</td>
</tr>
<tr>
<td>Allow voter to change or correct any error on the ballot before casting the vote.</td>
<td>Meets the requirement. TEC Section 64.007.</td>
<td>No action needed.</td>
</tr>
<tr>
<td>Prevent or alert voter if he/she overvotes on the ballot.</td>
<td>Partially meets the requirement. DRE systems and precinct count optical scan systems alert the voter of an overvote. Manually counted paper ballots, centrally counted optical scan ballots, and punch card ballots do not alert the voter of overvotes. Current process on mail-in paper absentee ballots would not meet the requirement.</td>
<td>A voter education campaign will be implemented in all centrally counted optical scan and paper ballot precincts no later than January 1, 2006, to educate voters on the effect of an overvote on these systems.</td>
</tr>
</tbody>
</table>
### Help America Vote Act 2002

**Texas State Plan**

<table>
<thead>
<tr>
<th>Voting System Requirement</th>
<th>State Law Current Status</th>
<th>Action Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>All voting systems must be able to produce a paper audit trail of all votes cast.</td>
<td>Meets the requirement; state law currently requires real time audit of all election activity. TEC Section 122.001(a)</td>
<td>No action needed.</td>
</tr>
<tr>
<td>Voting systems must be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for privacy and independence as other voters. This requirement may be met by having at least one DRE or other system equipped for individuals with disabilities at each polling site.</td>
<td>Partially meets the requirement. 13 counties have adopted an accessible DRE voting system. Most counties do not meet this requirement.</td>
<td>Upgrade existing voting systems or purchase new systems. All polling places will be required to be equipped with at least one DRE no later than January 1, 2006 pursuant to House Bill 1549.</td>
</tr>
<tr>
<td>Voting systems shall provide alternative language accessibility pursuant to the requirements of Section 203 of the Voting Rights Act of 1965.</td>
<td>All certified voting systems meet this requirement for Spanish language, and one voting system has been certified for the Vietnamese language.</td>
<td>No action needed.</td>
</tr>
<tr>
<td>All voting systems shall have error rates (machine errors only) that do not exceed the Federal Election Commission standards.</td>
<td>Meets the requirement. This requirement was added to state law in HB 1549.</td>
<td>No action needed.</td>
</tr>
<tr>
<td>A uniform definition of what constitutes a vote for each voting system in use in the state.</td>
<td>Meets this requirement. State law was passed to provide a uniform definition for what constitutes a vote. House Bill 1549 (2003)</td>
<td>No further action required.</td>
</tr>
</tbody>
</table>

### Provisional Voter

A provisional voter is to be allowed to vote a paper ballot or an electronic ballot upon the completion of an affidavit. The ballot will be sealed in an envelope or electronically stored separately from the regular votes. The provisional ballot is to be transported to the appropriate election officials for determination of eligibility and counted if voter.

State law was amended to provide procedures to meet this requirement effective January 1, 2004 pursuant to House Bill 1549. The Secretary of State has adopted administrative rules to provide specific procedures and has adopted forms to assist in the implementation of this new process. No further action needed.
Help America Vote Act 2002
Texas State Plan

<table>
<thead>
<tr>
<th>Provisional Voting and Voter Information Requirement</th>
<th>State of Texas Current Status</th>
<th>Action Needed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Each voter who casts a provisional vote shall be given written information on how he or she can ascertain whether his or her vote was counted, and if not why.</td>
<td>State has developed administrative rules and has adopted forms to implement this requirement.</td>
<td>No further action needed.</td>
</tr>
<tr>
<td>Establish a free access system, such as toll-free phone number or Internet website, allowing provisional voters to ascertain whether their vote was counted, and if not why.</td>
<td>State rules require the provisional voter to be notified via mail whether the voter's ballot was counted, and if the ballot was not counted, the reason why it was not counted.</td>
<td>No further action needed.</td>
</tr>
<tr>
<td>Post in each polling place a sample version of the ballot that will be used on election day.</td>
<td>State law passed to make it mandatory to post a sample ballot at each polling location.</td>
<td>No further action needed.</td>
</tr>
<tr>
<td>Post information regarding the day of the election and polling hours.</td>
<td>State law passed to require this posting.</td>
<td>No further action needed.</td>
</tr>
<tr>
<td>Post general information on state and federal voting rights and the right to a provisional vote if the requirements to vote are met.</td>
<td>State has prescribed language on the voter information poster required to be posted at each polling place beginning January 1, 2004.</td>
<td>No further action needed.</td>
</tr>
<tr>
<td>Post general information on federal and state laws prohibiting acts of fraud and misrepresentation.</td>
<td>State has prescribed language on the voter information poster required to be posted at each polling place beginning January 1, 2004.</td>
<td>No further action needed.</td>
</tr>
<tr>
<td>Any voter who casts a vote as the result of a federal or state court order extending polling hours, shall do so on a provisional ballot, and it shall be kept separate from other provisional ballots.</td>
<td>State law amended to provide for this occurrence and law became effective January 1, 2004. Precinct election forms were designed to accommodate this occurrence.</td>
<td>No further action needed.</td>
</tr>
<tr>
<td>State shall implement a uniform, official, centralized, interactive computerized statewide voter registration list.</td>
<td>Does not meet the requirement.</td>
<td></td>
</tr>
<tr>
<td>Currently, 164 counties use the Secretary of State voter registration program to register and maintain their lists of voters. The data is held at the Secretary of State’s Office.</td>
<td>State law was amended to require a statewide official list maintained at the Secretary of State’s office.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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Help America Vote Act 2002  
Texas State Plan

<table>
<thead>
<tr>
<th>Section of Texas Election Code</th>
<th>Action Taken</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 i. q. completed the procurement process and signed a contract for the development of a complaint statewide system on November 8, 2004. Development of the system is underway.</td>
<td></td>
</tr>
<tr>
<td>State law requires the state to maintain a copy of the list of registered voters, and counties have to update to the state database once a week. The state database is not considered the official list of voters.</td>
<td></td>
</tr>
<tr>
<td>Perform list maintenance to ensure only qualified voters appear on the list, including felons and deaths of registrants. Ensure that only voters who are not registered or who are not eligible are removed from the computerized list.</td>
<td>State maintains this requirement. State receives information from other state agencies regarding deaths and felons and provides this information to county voter registrars on a weekly basis. State meets this requirement. State law prescribes narrow guidelines regarding canceling a voter's registration. Only with a positive name and identification number match can a voter be canceled. The local county voter registrar, not the state, cancels voters. Voter registrars may not cancel based on information provided by a vendor unless that information is verified by the voter registrar by a public record. TEC, Chapter 16 and Section 18.0121. No action needed. No action needed.</td>
</tr>
<tr>
<td>Ensure that voter registration records are accurate and updated regularly.</td>
<td>Does not meet the requirement.</td>
</tr>
<tr>
<td>State to verify applicant's driver's license or social security number prior to approval of applicant.</td>
<td>Does not meet the requirement. State law was amended to require a statewide official list maintained at the Secretary of State's office. The state completed the procurement process and signed a contract for the development of a complaint statewide system on November 8, 2004. Development of the system is underway.</td>
</tr>
</tbody>
</table>
Help America Vote Act 2002
Texas State Plan

<table>
<thead>
<tr>
<th>HAVA Act Requirement</th>
<th>State of Texas Current Status</th>
<th>Action Planned</th>
</tr>
</thead>
<tbody>
<tr>
<td>State to assign unique identifier if applicant does not have driver's license or social security number.</td>
<td>Does not meet this requirement.</td>
<td>State law was amended to require a statewide official list maintained at the Secretary of State's office. The state completed the procurement process and signed a contract for the development of a complaint statewide system on November 8, 2004. Development of the system is underway.</td>
</tr>
<tr>
<td>Require appropriate identification for first time voters if a computerized list has not been implemented.</td>
<td>State law was amended to require identification at time of registration for first time voters registering to vote by mail effective January 1, 2004.</td>
<td>No further action required.</td>
</tr>
<tr>
<td>Voter registration application is required to have additional information printed on it.</td>
<td>State has prescribed new form, and has distributed to all counties.</td>
<td>No further action required.</td>
</tr>
</tbody>
</table>

2. How Title II requirement payments will be monitored and distributed for the purpose of meeting the mandates in Title III, including determining the eligibility for receipt of payments and our methods for monitoring the performance of the local entities' continued eligibility.

The SOS has developed an online grant application and management system. This system is essential for the SOS to establish an infrastructure and the necessary controls to effectively manage the HAVA funds and to accurately report the necessary programmatic and financial information to the federal government. Figure 1 (page 15) outlines the currently approved
Help America Vote Act 2002
Texas State Plan

requirements payments budget for the 2003 fiscal year appropriation and the proposed budget for the 2004 fiscal year appropriation. The following is a description of how the funding has and will be distributed to funding recipients as well as a description of the funding allotments to each county.

Grant Award Process

In September 2004, an award agreement was sent to each Texas county judge. As the chief executive officer of the county, the judge is required to sign the award agreement. To secure the funding, there are three basic steps:

1. The award agreement must be signed and returned to the Office of the Secretary of State.
2. A resolution from the county's governing body (i.e., county commissioners court) must be submitted as well. Required language for the resolution is included in the award agreement.
3. The online forms located on the Texas HAVA online grant system must be satisfactorily completed. The forms require information such as the official county address as well as the county's Employer Identification Number, State Vendor ID (VIN), and 3-digit Mail Code. The State Vendor ID is assigned by the State Comptrollers Office when an entity receives funds from the state and is comprised of the federal ID number plus a few other digits. The mail code determines which account the funds will be direct deposited into or whether a state warrant will be mailed. The county financial officer (i.e., county auditor or treasurer) will have this information. The county is also required to enter a detailed budget for each funding allocation. Guidelines regarding eligible uses for each funding allocation are included in the award agreement as well as the online forms. Grant activities must also be entered into the grant system where applicable.

DEADLINE TO APPLY FOR FUNDING - The FY 2003 funds will be available through August 31, 2006. Because not all counties will develop their funding priorities at the same rate, there are no deadlines currently imposed by the SOS for the counties to complete the online forms. However, all counties are encouraged to submit the signed grant award agreement that was sent to the county judge along with the required resolution from the commissioners court as soon as possible. The SOS may impose deadlines if an excessive amount of time elapses and the county has taken no action to secure the funding.

RESOLUTION - In addition to the parties that typically sign a resolution for the county (e.g., the county judge and the commissioners), the county election official(s) and the county financial officer must also sign the resolution.

GRANT AWARD APPROVAL AND REQUESTING REIMBURSEMENT - After the SOS has received the signed agreement that was sent to the county judge, the required resolution from the commissioners court as outlined in the award agreement, and the online forms have been submitted via this system, the SOS will review the documents and online forms for accuracy and completeness. Upon SOS approval, an email notification will be sent to the county judge, the election official(s), and the financial officer (Note: an email notification will only be sent if the
Help America Vote Act 2002
Texas State Plan

user provides one when entering his or her contact information). At that time, the county financial officer will have access to submit reimbursement requests via the grant system.

Funding Allocations - Fiscal Year 2003 Appropriation

Accessible Voting System in Each Polling Place

These funds are to be used for reimbursement of county costs incurred as a result of obtaining a HAVA-compliant accessible voting system in each polling location. This requirement may be met by having at least one accessible direct recording electronic voting system ("DRE") or other system equipped for individuals with disabilities at each polling site. The reimbursable amount each county is eligible for is calculated based on the number of precincts (polling places) used during the 2000 federal election multiplied by $3,000.

General HAVA Compliance

These funds may be used by the county for voter education, election worker education, upgrading voting systems to comply with new federal standards -- including compatibility with the new statewide voter registration system, and acquiring an accessible voting system in each polling place. Priority will be given to acquiring an accessible voting system in each polling place because of the January 1, 2006 compliance mandate.

The reimbursable amount each county is eligible for is calculated based on the county's voting age population during the 2000 federal election as a percentage of the state's total voting age population and the total budgeted amount for general HAVA compliance. However, each county that would receive less than $5,000 based on the formula will receive $5,000.

Funding Allocations - Fiscal Year 2004 Appropriation

Because the FY 2003 allotment of funding will not cover all of the county costs to purchase an accessible voting system in each polling location, Texas has proposed to increase the Requirements Payments to the counties by 200 percent. By fully funding the costs associated with acquiring at least one accessible voting system for each polling location, counties will be less likely to object to the HAVA mandate. Additionally, the counties may seize the opportunity afforded by the available federal dollars to fully update their outdated voting systems, rather than simply purchasing the HAVA-required minimum of one accessible system per polling location. The SOS will likely amend the current award agreement between the state and the counties or draft a new agreement to accommodate the additional funding.

Grant Regulations and Grant Oversight

The Secretary of State will develop a monitoring plan in 2005. The monitoring function may be outsourced or may be handled internally or a combination of the two may be employed. This grant program falls under the general requirements of the Uniform Grant Management Standards ("UGMS") prescribed by the Texas Office of the Governor. UGMS prescribes a standard set of...
financial management procedures and definitions and ensures accountability for expenditure of public funds. UGMS also incorporates the following federal regulations:

- OMB Circular A-87
- OMB Circular A-102
- "Common Rule", Administrative Requirements, 53 FR 8087, March 11, 1988
- OMB Circular A-133

Per the terms and conditions of the award agreement, any funding received by the county, regardless of the purpose, is contingent on each polling place within the county must have a voting system that is SOS-certified as accessible for individuals with disabilities, including non-visual accessibility for the blind and visually-impaired, in a manner that provides the same opportunity for privacy and independence as other voters no later than January 1, 2006.


a. Voter Education Plan Goal

The state will develop a comprehensive voter education plan to educate voters on certified voting systems and the proper use of those voting systems, with special emphasis on accessibility issues as it relates to the use of voting systems. Components of the education plan will include the statewide voter registration system, and how to vote a provisional ballot. The state has a responsibility to ensure that the voting process and our systems of voting are accurate, secure, and accountable. Our voter outreach efforts will need to be designed to reflect and incorporate the diverse populations of Texas through a well-executed, adaptable program, delivered in an easy-to-use format, and in alternative formats for individuals with disabilities. The mediums for delivery of this voter education program will need to be equally diverse.

b. Educating the Voter

- The state surveyed the 254 counties, compiled a list of best practices, and developed resources to supplement existing training materials for the voter. The Secretary of State will release an RFP in 2005 for the HAVA Education piece that will be consistent with applicable state and federal laws and regulations, including the Texas Government Code and the Texas Building and Procurement Commission. HAVA funding will be used for education as it relates to Title II of HAVA which includes educating the voter on: 1) How to verify/review selections before casting the vote. 2) How to change or correct any error on the ballot before casting the vote. 3) How to avoid over voting. 4) How individuals with disabilities, including non-visual accessibility for the blind and visually impaired, can access the voting system in a matter that provides the same opportunity for privacy and independence as other voters. 5) How the county’s voting system provides alternative language accessibility pursuant to the requirements of Section 203 of the Voting Rights Act of 1965. 6) What constitutes the uniform definition of the voting
Help America Vote Act 2002
Texas State Plan

system(s) in use in the county? And 7) How to vote a provisional ballot, including written information on how the voter can ascertain whether his or her vote was counted, and if not, why.

Although HAVA funds were not spent on education prior to the 2004 elections we, at the state level:

- Revised all of our brochures, including Services Available to Voters with Special Needs, Texas Voting, Early Voting in Texas, and Volunteer Deputy Registrar Guide. Those brochures are on our web site and also available in hard copy.
- The following brochures have been developed, and are available via our web: Young Texas Voters; When Your Home is Your Polling Place; and Conducting a Successful Voter Registration Campaign.
- The following new items/brochures were developed and disseminated statewide to election officials and upon request to voters: What Every Texan Needs to Know About Elections in Texas (targeting First Time Voters); Voter Rights Poster and Overvote/Undervote Poster.
- We developed and disseminated the Project V.O.T.E. (Voters of Tomorrow through Education) Student Mock Election Curriculum for teachers regarding the conduct of a mock election, for Texas students, kindergarten through 12th grades. Over a half million students participated in the 2004 Texas Student mock election.
- A PowerPoint Presentation was developed titled "Voter Education-A General Overview." This presentation was/is designed for civic groups, charitable and non-profit organizations for conducting voter registration drives.
- The Secretary of State appointed a virtual voter education advisory committee composed of voter advocacy groups and other interested stakeholders to advise the Secretary of State on HAVA-related voter education materials and programs.

c. Election Officials Education and Training

- The state developed a comprehensive training component for Election Officials that included videos; pamphlets; updated handbooks; and an election-based training module prior to January 2004. The new training program and educational resources explain all the components of HAVA, including: overvote and undervote; provisional voting; DRE's; voters rights; the administrative hearing process; new voting system requirements; statewide voter registration system requirements; methods of poll worker training; accessibility for people with disabilities; and alternative language requirements.
- The state will look into the possibility of developing an outreach program working with the Department of Public Safety (DPS) to provide resources and materials to improve the voter registration process no later than July 2006.
Help America Vote Act 2002
Texas State Plan

- The state will continue to work proactively with election officials to assist and advise in the recruitment of college and university students as poll workers.
- The state will investigate the possible creation of an on-line training module for election officials, with a possible certification component no later than January 2006.

d. Training of Poll Workers

- The State has developed and disseminated statewide a new curriculum for Election Judges and Clerks, complete with a training video for preparing the polling place, qualifying voters, closing the polling place and discussing new law and HAVA. The curriculum for Election Judges and Clerks also has a testing component. We were successful in training over 49,000 poll workers before our 2004 Primary Elections.
- Regional schools for the training of election judges and clerks for the 2004 Election were conducted prior to the Primary and General Elections. Secretary of State staff traveled the state, educating election officials about Texas law, HAVA, and in some locations, we partnered with the Coalition of Texans with Disabilities, who presented a unit on voters with disabilities and educating election officials on the rights of disabled voters.

4. How the state will adopt voting system guidelines consistent with Sec. 301 (Sec. 254, a, 4).

Voting System Standards

The state of Texas' voting systems standards contained at Section 122.001 of the Texas Election Code are already in substantial compliance with the requirements set out in Section 301(a)(1) of HAVA. Pursuant to an administrative rule adopted by the Secretary of State, Rule 81.61, before any voting system may be certified for use in a Texas election, the voting system must meet the voluntary voting systems standards promulgated by the Federal Election Commission. Texas Administrative Code § 81.61 (Tex. Sec. of State).

Overvote and Opportunity to Correct Ballot

All systems used in Texas allow a voter to change his or her vote. In a paper or optical scan ballot system, a voter may receive up to two replacement ballots if he or she makes an error marking the original ballot. Texas currently posts voting instructions that inform the voter of his or her right to replace a spoiled ballot.

Precinct-level optical scan voting systems inform the voter of an overvote in a particular race and give the voter an opportunity to correct the ballot. Texas Administrative Code § 81.52 (Tex. Sec. of State). Direct Recording Electronic voting systems ("DRE's") currently certified for use in Texas and mechanical lever machines do not allow for overvoting. In those entities using hand-counted paper ballot, central count optical scan, mechanical lever machines or punch card voting systems, the voter is not informed when he or she overvotes in a race. However, language will be added to voter instructions to inform voters of the
Help America Vote Act 2002
Texas State Plan

definition and consequences of an overvote, and Texas will establish a voter education program to explain the effect of overvoting. Punch card and lever voting systems will be phased out of use. The Texas Legislature passed legislation this year to prohibit their use after January 1, 2006.

All of the systems used in Texas allow voters to view their choices before they cast their ballot. DRE voting systems are already required under current state law to present voters with a summary screen of the entire ballot to allow voters to review and change their choices prior to the final cast of the ballot.

Manual Audit

Electronic voting systems are required under state law to provide records from which the operation of the voting system may be audited. In addition, the Secretary of State has adopted an administrative rule, Section 81.61, which requires a real time audit log that records all significant election events and records the date and time of each event. Also, due to the fundamental inability of lever machines to produce a manual audit of its records, Texas has recently passed a law that prohibits the use of these systems in elections after January 1, 2006.

Accessibility

Under HAVA, the voting system must be accessible to individuals with disabilities in a manner that provides the same opportunity for access and participation as for other voters. HAVA provides that this requirement may be met by placing a DRE or other accessible voting unit in each polling place.

Texas law currently requires voting systems acquired on or after September 1, 1999 to comply with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments and Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments; and to provide a practical and effective means for voters with physical disabilities to cast a secret ballot. Detailed guidelines as to what constitutes an accessible voting system have been adopted by administrative rule which is enclosed. In all the remaining polling places throughout the state which use voting systems that do not meet the accessibility guidelines, counties will purchase at least 1 DRE per polling place in order to satisfy the requirements.

The state legislation implementing HAVA repeals the current voting system accessibility law and replaces it with language which tracks the federal law for accessibility. Until the Election Assistance Commission issues HAVA-compliant accessibility standards, Texas will continue to evaluate accessibility based on the state rule and FEC accessibility standards.

Language Accessibility

Because Texas is a state covered by Section 1973aa-1a and Section 1973b(f)(4) of the federal Voting Rights Act, voting systems are already required to provide alternative language
Help America Vote Act 2002
Texas State Plan

Accessibility to the ballot. Statewide, Spanish has been required since 1975 and ballots have been required to be in English and Spanish since that time. As a result of the 2000 census, in some areas of the state, Vietnamese, Kickapoo, and Pueblo languages are required. Review of whether a voting system provides alternative languages is already an element of voting system certification in Texas.

Error rates

HAVA requires that the counting error rate of voting systems must comply with the standards established under the Federal Election Commission. Secretary of State Administrative Rule 81.61 requires that before a voting system may be certified for use in Texas, the voting system must meet the voluntary voting system standards promulgated by the Federal Election Commission. In addition, the state legislation adopted to implement HAVA amends the Texas Election Code to require that all voting systems comply with the error rate standards adopted by the Federal Election Commission.

Definition of “Vote”

Current state law contains a detailed definition of a punch card vote. Texas has recently passed legislation that fully defines what constitutes a vote cast under hand-counted paper ballot, optical scan, and lever machine systems. See Exhibit D.

5. How the Election Fund will be established and managed (Sec. 254, a, 5).

The Texas Legislature created an “Election Improvement Fund” as a dedicated account in the general revenue fund and consists of federal funds designated for election improvement, matching funds from the state or a political subdivision, and depository interest earned on the assets of the fund. The state has appropriated funds to satisfy the five percent match requirement of Section 253 of HAVA in House Bill 1549, 78th Regular Session, 2003. The fund will be managed according to the Uniform Grant Management Standards prescribed by the Texas Office of the Governor and the terms and conditions of the federal grant award(s). The SOS has also hired a grant manager as well as an accountant to oversee and administer the grant program.

6. The state’s proposed budget for activities under this part, based on the state’s best estimates of the costs of such activities and the amount of funds to be made available.

The budget below is based on the state’s best estimate. The SOS anticipates some adjustments will be necessary; however, the Secretary of State will reconvene the HAVA Advisory Committee for advice on how to reallocate the funds if the change is substantive. It should be noted that the “free access system for provisional voters has been adjusted to $0 because the state is already in compliance with that requirement.
Help America Vote Act 2002
Texas State Plan

Figure 1

<table>
<thead>
<tr>
<th>Title I Federal Award</th>
<th>FY03 Appro</th>
<th>FY04 Appro</th>
</tr>
</thead>
<tbody>
<tr>
<td>Punch Card and Lever Replacement</td>
<td>$6,269,521</td>
<td>$6,269,521</td>
</tr>
<tr>
<td>Preliminary Planning For Statewide Voter Registration System</td>
<td>$500,000</td>
<td>$485,836</td>
</tr>
<tr>
<td>State Plan Administration</td>
<td>$2 - 4 million</td>
<td>$3,796,609</td>
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<td>$2 - 4 million</td>
<td>$2,795,017</td>
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</tr>
<tr>
<td>$2 - 4 million</td>
<td>$2,795,017</td>
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</tr>
<tr>
<td>$1 - 2 million</td>
<td>$1,834,000</td>
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</tr>
<tr>
<td>Total:</td>
<td>$19,77 - 24.77 million</td>
<td>$23,476,116</td>
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</table>

<table>
<thead>
<tr>
<th>Title II Federal Award</th>
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<td>$5.5 - 61.5 million</td>
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7. Statement that the state will, in using the requirements payments, provide for maintaining the funding for activities funded by the payments at a level not less than the fiscal year ending before November 2000 (Sec. 254, a, 7).

The Secretary of State has determined that the activities funded by the requirements payments as outlined in this state plan will not reduce the level of expenditures maintained by the state for the fiscal year ending prior to November 2000. Additionally, since the initial state plan was filed, the SOS has determined that the requirements payments activities as outlined in this plan have never been funded by the state to the counties prior to the fiscal year ending before November 2000. Consequently, the counties need not certify they are in compliance with the maintenance of effort requirement as originally proposed as it is not applicable.

8. How the state will adopt performance goals and measures to determine success in carrying out the plan (Sec. 254, a, 8).

The Secretary of State and county election officials are responsible for ensuring the success in meeting each performance goal. Each county's voter registration and elections office also have a substantial responsibility in meeting performance goals in that the counties will monitor performance measures and will report to the state on a regular basis.

The performance goals include:

ELIMINATION OF PUNCH CARD VOTING AND LEVER EQUIPMENT

a. Timetable: January 1, 2006
b. Criteria: Replacement of punch card voting equipment and lever machines in 17 counties that used voting equipment in 2000.
Help America Vote Act 2002
Texas State Plan

c. How criteria is measured: Assess 17 counties after January 1, 2006 to determine if any punch card or lever machines are being used in federal elections.
d. The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.

VOTING SYSTEM STANDARDS

a. VOTING SYSTEMS
   (1) Timetable: January 1, 2006
   (2) Criteria: All voting precincts in the state will have a voting system that provides voters an opportunity to check for and correct ballot errors in a private and independent manner, notifies the voter of any overvotes cast and the effect of casting an overvote, allows the voter to correct the overvote before the ballot is cast, has a manual audit capacity, and an error rate that does not exceed the existing rate established by the FEC or Office of Election Administration. For the precincts that do not have such a system in place, an extensive voter education program will be developed and used in each county. A program will be developed for each type of voting system and paper ballot to educate the voter on what constitutes a legal vote for each type of voting machine and how to correctly cast a ballot for each type of voting system.
   (3) How the criteria is judged: Assess all counties to ensure 100% participation in using voting systems that meet the HAVA requirements or using the education program developed by the Secretary of State.
   (4) The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.

b. ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES
   (1) Timetable: January 1, 2006
   (2) Criteria: Provide at least one direct recording voting device in each polling place in the state that will allow voters with disabilities the opportunity to cast a ballot without assistance.
   (3) How criteria is judged: Assess each county to ensure 100% of the polling places have implemented a direct recording voting device that allows voters with disabilities the opportunity to cast a ballot without assistance.
   (4) The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.

c. ALTERNATE LANGUAGE ACCESSIBILITY
   (1) Timetable: Currently
   (2) Criteria: Provide alternative language accessibility pursuant to the federal Voting Rights Act.
Help America Vote Act 2002
Texas State Plan

(3) How criteria are judged: Texas has provided alternative language for all voting systems, voting materials and forms used in the polling place since 1975. Before a voting system is certified by the Secretary of State, the voting system must demonstrate alternate language accessibility.

(4) The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.

PROVISIONAL VOTING

a. PROVISIONAL BALLOTS PROVIDED
   (1) Timetable: January 1, 2004
   (2) Criteria: Provide provisional ballots to ensure no individual is turned away at the polls.
   (3) How criteria is judged: Assess all counties to ensure the new procedures for provisional voting are in place and that all election workers have been trained on the new procedures.
   (4) The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.

b. FREE ACCESS SYSTEM
   (1) Timetable: January 1, 2004
   (2) Criteria: Implement a free access system in each county so that the voters can determine if their provisional ballot was counted.
   (3) How criteria is judged: Success of meeting this performance goal is based on the establishment of a free access system in each county so that voters can determine if their provisional ballot was counted.
   (4) The county election officials are responsible for meeting this measure with the advice and assistance of the Secretary of State.

c. INFORMATIONAL VOTING POSTER
   (1) Timetable: January 1, 2004
   (2) Criteria: Voter information must be posted at each polling place, to include: sample ballots; dates and hours of voting; instructions for voters registering by mail and for first time voters; voter rights (including the right to vote a provisional ballot); and legal notice prohibiting voter fraud and misrepresentation.
   (3) How criteria is judged: Survey all counties to ensure that the voting poster is included with election supplies and that all election workers have been instructed to post such information in the polling place.
   (4) The Secretary of State will prescribe and distribute informational posters to all counties prior to January 1, 2004. The county election officials are responsible for ensuring the poster is properly posted in each precinct.
Help America Vote Act 2002
Texas State Plan

STATEWIDE VOTER REGISTRATION SYSTEM

a. COMPUTERIZED STATEWIDE VOTER LIST
   (1) Timetable: January 1, 2006
   (2) Criteria: Implementation of a single, uniform, official, centralized, interactive, computerized statewide voter registration list that is defined, maintained, and administered at the state level.
   (3) How criteria is judged: Success of meeting this performance goal is based on the implementation of a statewide voter registration system that meets the requirements of HAVA.
   (4) The Secretary of State in conjunction with the county election officials is responsible for meeting this measure.

b. NEW VOTER REGISTRATION APPLICATION
   (1) Timetable: January 1, 2004
   (2) Criteria: Prescribe, print and distribute new voter registration applications that meet the requirements of HAVA.
   (3) How criteria is judged: The Secretary of State will prescribe, print and distribute a new voter registration application to all counties prior to January 1, 2004.
   (4) The Secretary of State in conjunction with the county election officials is responsible for meeting this measure.

The Secretary of State will collect specific data to identify the successes of each county as it relates to the implementation of the Help America Vote Act of 2002 (HAVA). The Secretary of State will compile the data in report(s) for tracking purposes and to share with interested parties such as the EAC. The report will include an indication of whether each county met the performance goals. If the Election Assistance Commission or any other federal agency should prescribe such a report or survey, the state will use the federal form in lieu of the state form.

9. Description of state based administrative complaint procedures (Sec. 254, a, 9):

The Secretary of State has adopted an administrative complaint procedure through its rulemaking authority. Complaints are limited to those arising from violations of Title III of HAVA. As required under Section 402(2) of HAVA, complaints shall be required to be in writing, signed by the complainant, and notarized. The Secretary of State will have authority to consolidate complaints for efficiency and to resolve any complaints through an informal process, if warranted.

Review of the complaint will be held pursuant to the right of notice, hearing, and adjudication as set out in the administrative rule.
10. A description of how payments for punch card replacement and early out money affects the activities under the plan, including the amount of funds available (Sec. 254, a, 10).

Punch card and lever voting system replacement award agreements were sent to all eligible counties in April 2004. The Title I funds will be distributed, administered, and monitored using the same standards as the requirements payments that are distributed to the counties.

11. Description of how the state will conduct ongoing management of the plan (Sec. 254, a, 11):

The Secretary of State has hired a HAVA grant manager, a HAVA grant accountant, a project manager to oversee the development and implementation of the HAVA-compliant statewide voter registration system, and will hire monitoring staff or outsource that function. All procurement with HAVA funds will be consistent with applicable state and federal laws and regulations, including the Texas Government Code and the Texas Building and Procurement Commission. All sub-awarded grants will include an award agreement with the terms and conditions governing the use of the funds and will adopt by reference the State of Texas Uniform Grant Management Standards, OMB Circular A-87, OMB Circular A-102, “Common Rule”, Administrative Requirements, 53 FR 8087, March 11, 1988, and OMB Circular A-133.

If material changes to the state plan are necessary, the Secretary of State will propose the change in the Texas Administrative Register. In addition, the Secretary of State intends to continue working with the HAVA Advisory Committee as the plan is implemented. The State Plan provides a general framework of HAVA implementation in Texas, but the Secretary of State will continue, as needed, to adopt administrative rules to define specific procedures for provisional voting and other HAVA-related issues as well as modify and design forms as the implementation of HAVA continues to evolve. As rules are proposed and as new voter forms are drafted, the Secretary of State will distribute the drafts to the HAVA Advisory Committee for comments and suggestions.

12. Description of how the plan reflects changes from the state plan for the previous fiscal year.

Each section has been updated accordingly and reflects the current state plan.

13. A description of the committee that participated in the development of the plan (Sec. 254, a, 13).

An advisory committee was appointed by the Secretary of State to help develop the State Plan. We enlisted professional associations, voter advocacy groups and other relevant associations, and requested that each association appoint a representative to serve on the advisory committee. The Committee conducted public meetings on the following dates: April 3, 2003, May 1, 2003, June 27, 2003, February 20, 2004, and November 12, 2004. Minutes of all Committee meetings are posted on the Secretary of State website at http://www.sos.state.tx.us/elections/hava/index.shtml. The Preliminary Texas State Plan was

JA_001399
Help America Vote Act 2002
Texas State Plan

posted on the web on July 25, 2003 and also published in the Texas Register on August 1, 2003. Public comment was accepted through September 2, 2003.

The proposed amended budget was posted on the Secretary of State agency website on November 5, 2004 and was discussed at the November 12, 2004 meeting of the HAVA Advisory Committee. In addition, notice of the proposed amended budget was published in the Texas Register on November 5, 2004.
Help America Vote Act 2002
Texas State Plan

Advisory Committee Members:

Teresa Aguirre
Texas Association of Counties

Phil Barrett
Texas Department of Information Resources

Paul Bettencourt
Harris County Tax Assessor-Collector

Paulette Burke
Texas County & District Clerks Association
Rockwall County Clerk

Brett Carr
Senate State Affairs

The Honorable Mary Denny
Texas State Representative
Chair, House Elections Committee

Judge Robert Eckels
County Judges and Commissioners Association

Frank Elder
Assistant Chief
Texas Department of Public Safety

Claude Foster
ACL of Texas, Inc.

Barbara Hankins
Texas League of Women Voters

David Hanna
Texas Legislative Council

Beverly Kaufman
Harris County Clerk

Bob Lydia
President
NAACP

Molly Beth Malcolm
Chairwoman
Texas Democratic Party

Germaine Martinez
Program Specialist
Texas Department of Public Safety

The Honorable Jane Nelson
Texas State Senator

Jodi Park
Coalition of Texans with Disabilities

Nina Perales
MALDEF

Bruce Sherbet
Dallas County Elections Administrator

Sandra Vice
State Auditor's Office

Bea Westbrook
President
Texas Association of Tax Assessor-Collectors
Newton County Tax Assessor Collector

Chad Wilbanks
Texas Republican Party

Don Willett
Deputy Attorney General, General Counsel
Office of the Texas Attorney General

Sharon Rowe
President Texas Association of Elections Administrators
Collin County Elections Administrator

Rudy Sandoval
Chief of Staff
LULAC

Michael Scholfield
Assistant General Counsel
Governor's Policy Office of the Governor

Jonas Schwartz
Program Services Manager
Advocacy, Inc.
### FUNDING ALLOCATIONS TO TEXAS COUNTIES

#### Table 2

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<th>COUNTY</th>
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**Notes:**
- \( 200\% \) FY03 Other Access Comp.:\( \times 2 \)\% FY03 Allocation
- All Minimum $5,000 Funding

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**COUNTY**

- **Kinney**
- **Kleberg**
- **Kemah**
- ** Lamar**
- ** Lasalle**
- **Lavaca**
- **Keech**
- ** Limeston**
- ** Lippin**
- ** Livingston**
- **Lynch**
- ** Marshall**
- **Mason**
- **Maurice**
- **Maverick**
- **Mccullough**
- **Mcmullen**
- ** McNiel**
- **McNab**
- **Military**
- **Mills**
- **Mitchell**
- **Montague**

**VOTING SYSTEM**

- **Paper Scan**
- **Optical Scan**

**FUNDING**

- \( 200\% \) FY03 Other Access Comp.:\( \times 2 \)\% FY03 Allocation
- All Minimum $5,000 Funding

**FY04 APPROVED**

- **Funding:**
  - \( 200\% \) FY03 Other Access Comp.
  - Total FY03 Total
  - FY04 Total

**Notes:**

- All Funding amounts are in thousands of dollars.
- \( 200\% \) FY03 Other Access Comp.:\( \times 2 \)\% FY03 Allocation
- All Minimum $5,000 Funding
## FUNDING ALLOCATIONS TO TEXAS COUNTIES

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FUNDING ALLOCATIONS TO TEXAS COUNTIES

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Total: $1,834,000 $25,758,000 $20,000,000 $91,618,074
## Chart D-Definitions of “Vote”

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<td>(d) Subject to Subsection (e), in any manual count conducted under this code, a vote on a ballot on which a voter indicates a vote by punching a hole in the ballot may not be counted unless:</td>
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<tr>
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<td>(1) at least two corners of the chad are detached;</td>
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<td>(2) light is visible through the hole;</td>
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<td>(3) an indentation on the chad from the stylus or other object is present and indicates a clearly ascertainable intent of the voter to vote; or</td>
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<td>(4) the chad reflects by other means a clearly ascertainable intent of the voter to vote.</td>
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<td>(e) Subsection (d) does not supersede any clearly ascertainable intent of the voter.</td>
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<td>The intent of the voter in marking a ballot may be determined by: (1) a distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition; (2) an oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition; (3) a line drawn through: (A) the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office; (B) the name of each political party except one in a manner that clearly indicates a preference for the political party not marked; or (C) a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or (4) any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.</td>
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</tbody>
</table>
LETTER FROM TEXAS DEPARTMENT OF PUBLIC SAFETY

Senator Van de Putte submitted the following letter relating to SB 14:

T Exas Department of Public Safety
5805 N. Lamar Blvd. • Box 4087 • Austin, Texas 78773-0001
512/424-2000
www.txdps.state.tx.us

January 26, 2011

Dear Texas State Senators,

Please find attached the responses to Senate questions regarding the Department of Public Safety's administration of the Texas Driver License and Identification Card programs.

Thank you for the opportunity to serve as a resource witness to the Senate Committee of the Whole on January 25, 2011. The Department currently has 307 driver license offices that serve the over 15 million Texas driver license holders and over 750,000 identification card holders in Texas.

If you have any additional questions, please contact Rebecca Davio, Assistant Director for Driver Licenses at 512-424-5232 or Rebecca.davio@txdps.state.tx.us.

Sincerely,

Steven C. McCraw
Director
Texas Department of Public Safety
Response to Questions from Senate Committee of the Whole

Please validate the map provided by Legislative Council.

The Driver License Division has reviewed the map and determined that it is correct.

Please comment on the Department’s 5% reduction and 10% proposed reduction in the Legislative Appropriations Request.

The Department lost $14.6 million due to the 5% cut in General Revenue that we faced. This includes five Department offices that might have to close. These are not necessarily Driver License offices. The Department’s 10% proposed reduction schedule identified that 11 DPS offices might have to close. These are not necessarily Driver License offices. They are offices with various Department services. The Business Intelligence Analysis project will identify the optimum placement of Driver License offices throughout the state. The Department also is not able to determine at this time how a reduction in funds will affect operating hours of Driver License offices.

Are there any anticipated closures of Driver License offices?

The Driver License Division is conducting a Business Intelligence Analysis to determine the most efficient ways to allocate scarce resources and to best serve Texas residents, statewide. At present, there are no anticipated closures. In the event there is an equipment failure in the future, we may consider temporarily closing a mobile office in the near term.

Does the Department have a comment on the Criminal Justice impact statement for SB 14?

The Department has no comment on the criminal justice impact statement as we are not the appropriate entity to comment on the potential overcrowding of jails.

Are there Driver License offices within the 610 loop?

No. The closest office to 610 is Dacoma. It is at 290 @ 610 North.

Driver License Offices and Hours in the Houston area

- Dacoma – 8-5 except Tuesday 8-7
- Gessner – 8-6 Tuesday and Thursday, 8-5 M, W, F
- Grant Road – 8-5 except Wednesday 8-7
- Townhurst – 8-5 except Thursday 8-7
- Winkler – 8-5 except Thursday 8-7
- Tidwell – 8-5 except Thursday 8-7
- Vantage Parkway – 8-5 except Tuesday 8-7
- We also have offices in Baytown, Humble, Pasadena, and Webster – all within Harris County

Driver License Offices and Hours in the DFW metro area

Dallas

- Downtown – 8-5 – no exams, duplicates and renewals only (this office is in a City of Dallas building)
- East (Northwest Highway) – 8-5 except Wednesday 8-7
What is the protocol for confiscated licenses?

Texas Transportation Code §§ 524.011(b)(2) and (3), and 724.032(2) and (3) provide the requirements for a peace officer to confiscate a driver license where a driver is arrested for an alcohol related offense under the Administrative License Revocation program (ALR) in accordance to Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08 of that code involving the operation of a motor vehicle or watercraft. These statutes provide that the peace officer shall take possession of any driver license issued by this state and held by the person arrested, and issue a temporary driving permit to the person unless department records show or the officer otherwise determines that the person does not hold a driver's license to operate a motor vehicle in this state.

This permit (form DIC-25), handwritten by the peace officer, is part of the arrest documentation provided to the driver and contains the driver's name, driver license number, date of birth, address, physician description including race, sex, height, weight, eyes, and hair color. This temporary driving permit does not contain a photograph of the driver. A temporary driving provision issued under these sections of the Transportation Code expires on the 41st day after the date of issuance, which coincides with the effective date of the driver license suspension. Commercial drivers are issued a similar temporary permit (form DIC-57) however, the permit becomes effective beginning 24 hours from the time of arrest. The peace officer is required to forward the appropriate ALR paperwork with the confiscated license to the Department for processing. Upon completion of the suspension period, the driver license is returned to the driver. During the suspension period, the driver is eligible to make application for an identification card with a photograph during this suspension period.

How does the temporary driving permit that you receive when your license is confiscated differ from a "temporary driving permit" that you get when you apply for a Driver License?

A temporary driving permit issued by the Texas Highway Patrol is issued to drivers arrested for an alcohol related offense. This permit (form DIC-25) is part of the arrest documentation provided to the driver and contains the driver's name, driver license number, date of birth, address, physician description including race, sex, height, weight, eyes, and hair color. This temporary driving permit does not contain a photograph of the driver. This permit allows the driver to operate a motor vehicle in the interim period before the driver license suspension takes effect on the 41st day. This is in accordance to Texas Transportation Code Chapters 524 and 724.

A temporary driving permit issued by driver license personnel at a driver license office contains the same information that appears on a driver license including the driver license photograph of the applicant. This temporary driving permit is computer generated from the driver license system and expires within 45 days of issuance.
What will the DPS' policy be when a person enters a Driver License office seeking an ID for the purpose of voting, but they have outstanding Driver Responsibility surcharges on their Driver License?

A person's driver license status or surcharge status does not prohibit the ability of the person to obtain a Texas identification card, provided the person presents the appropriate identification documentation for the issuance of an identification card.

What is the current policy when a person with Driver Responsibility surcharges enters a Driver License office for a different transaction?

Each driver license office has an information desk which allows the customer to request specific services at that location. If a customer requests surcharge information while applying for a Texas identification card, the customer will be provided with contact information to customer service for additional assistance. The customer will be issued a Texas identification card provided the customer presents the appropriate identification documentation for the issuance of an identification card. Surcharges and request of an ID are two separate issues and will be treated as such.

What types of birth certificates does Driver License office recognize for the purpose of identification?

Every original applicant must present one piece of primary identification, or one piece of secondary identification plus two pieces of support identification; or two pieces of secondary identification. 37 Texas Administrative Code § 15.24 provides that the Department may accept secondary identification in the form of an original or certified original or certified copy of a birth certificate issued by the appropriate State Bureau of Vital Statistics or equivalent agency; an original or certified copy of United States Department of State Certification of Birth issued to United States citizens born abroad; or an original or certified copy of court order with name and date of birth (DOB) indicating an official change of name and/or gender.

How many homebound IDs do we issue?

0.15% of ID applicants receive homebound service.

Only ID cards are issued through this process and we screen very closely to ensure there is not a practical way to serve the customer in the office as it requires taking an employee away from their regular duties serving customers in the driver license offices.

The need for a homebound visit is determined by the supervisor of the local driver license office. The Driver License Division has digital cameras that can capture the required image for the identification card. The applicant fills out a form LI-50, which includes a signature block along with the appropriate application for an original or renewed ID. Any necessary identification documents such as birth certificates are copied and returned to the applicant. All materials – photo, signature, and applications – are sent to the DL headquarters in Austin for processing.

Provide an analysis on wait time in all Driver License offices:

Prior to November 2010, the Driver License Division conducted a study of all of its Driver License offices to determine wait time, process time and the average amount of time customers spend in Driver License offices. Please see the attachment “DL Wait Times”.

Since November 2010, automated queuing systems are being installed our 50 busiest Driver License offices across the state. It is a priority for the Department to reduce wait time to no more than 40 minutes. The queuing system and its report function are important tools we will use to measure performance.
Wait Time Survey (in minutes)
February 2010 - May 2010

Wait time begins when a customer enters a DL facility and ends when the customer reaches the counter.
Process time begins when a customer reaches the counter and ends when the transaction is complete.
Statewide Wait Time & Process Time Survey
February 2010 - May 2010

- WAIT TIME (in minutes)
- PROCESS TIME (in minutes)

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Combined Avg = 40.57
Combined Avg = 40.14
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## DL Offices Closed

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Page 2 of 3
### DL Offices Closed

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### Counties with no DL offices

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Total Offices: 307
Full Time Office Open: 174
Part Time Office Open: 34
Mobile Office Open: 18
Full Time Office Closed: 1
Part Time Office Closed: 2
Mobile Office Closed: 78
Counties w/ No Offices: 65 + 12 = 77

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Counties with no DL offices
Duplicates
SENATE CONCURRENT RESOLUTION 8

The President laid before the Senate the following resolution:

WHEREAS, Section 17, Article III, Texas Constitution, provides that neither house of the legislature may adjourn for more than three days without the consent of the other house; now, therefore, be it

RESOLVED by the 82nd Legislature of the State of Texas, That each house grant the other permission to adjourn for more than three days during the period beginning on Wednesday, January 26, 2011, and ending on Monday, January 31, 2011.

WHITMIRE

SCR 8 was read.

On motion of Senator Whitmire, the resolution was considered immediately and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Uresti.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 8:53 p.m. adjourned until 1:30 p.m. Monday, January 31, 2011.
By: Fraser, et al.  S.B. No. 14

A BILL TO BE ENTITLED

AN ACT

relating to requirements to vote, including presenting proof of identification; providing criminal penalties.

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

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

(i) An applicant who wishes to receive an exemption on the basis of disability from the requirements of Section 63.001(b) must include a certification from a physician that the person has a disability as defined by Section 21.002, Labor Code, with the person's application.

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

(c) A certificate issued to a voter who meets the certification requirements of Section 13.002(i) must contain an indication that the voter is exempt from the requirement to present identification other than the registration certificate before being accepted for voting.

SECTION 3. Subchapter A, Chapter 15, Election Code, is amended by adding Section 15.005 to read as follows:

Sec. 15.005. NOTICE OF IDENTIFICATION REQUIREMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. Subchapter A, Chapter 31, Election Code, is
S.B. No. 14

amended by adding Section 31.012 to read as follows:

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

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

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

SECTION 6. Section 32.111, Election Code, is amended by adding Subsection (c) to read as follows:

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

SECTION 7. Subsection (a), Section 32.114, Election Code, is amended to read as follows:

(a) The county clerk shall provide one or more sessions of training using the standardized training program and materials developed and provided by the secretary of state under Section 32.111 for the election judges and clerks appointed to serve in
S.B. No. 14

elections ordered by the governor or a county authority. Each election judge shall complete the training program. Each election clerk shall complete the part of the training program relating to the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001.

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

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

SECTION 9. Section 63.001, Election Code, is amended by amending Subsections (b), (c), (d), and (f) and adding Subsections (g) and (h) to read as follows:

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

(c) On presentation of the documentation required by Subsection (b) [a registration certificate], an election officer shall determine whether the voter's name on the documentation [registration certificate] is on the list of registered voters for the precinct. If in determining whether a voter's name is on the
list of registered voters the election officer determines that the voter's name on the documentation is substantially similar but does not match exactly the name on the list, the voter shall be accepted for voting as otherwise required by this section if the voter submits an affidavit stating that the voter is the person on the list of registered voters.

(d) 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.

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

(g) If the requirements for identification prescribed by Subsection (b) are not met, the voter may be accepted for provisional voting only under Section 63.011. For a voter who is not accepted for voting under this section, an election officer shall:

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

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

(A) lists the requirements for identification;

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

(C) includes a map showing the location where identification must be presented; and
(D) includes notice that even if all procedures are followed, there is no guarantee that a provisional ballot will be accepted.

(h) The requirements for identification prescribed by Subsection (b) do not apply to a voter who presents the voter's voter registration certificate on offering to vote and:

(1) was 70 years of age or older on January 1, 2012, as indicated by the date of birth on the voter's voter registration certificate; or

(2) is disabled and the voter's voter registration certificate contains the indication described by Section 15.001(c).

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

(a) Before a voter may be accepted for voting, an election officer shall ask the voter if the voter's residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county. 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 identification presented by the voter under Section 63.001(b) [the voter's voter registration certificate] is current and whether the voter has changed residence within the county.

SECTION 11. Chapter 63, Election Code, is amended by adding Section 63.0012 to read as follows:

Sec. 63.0012. NOTICE OF IDENTIFICATION REQUIREMENTS TO CERTAIN VOTERS. (a) An election officer shall distribute written
notice of the identification that will be required to vote in
elections held after January 1, 2012, and information on obtaining
identification without a fee under Section 521.422, Transportation
Code, to each voter who, when offering to vote, presents a form of
identification that will not be sufficient for acceptance as a
voter under this chapter beginning with those elections.

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

(c) This section expires September 1, 2017.

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

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

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

(2) in a different precinct from the one in which the
voter is offering to vote and the voter executes an affidavit
stating that the voter:

(A)(i) is a resident of the precinct in which the
voter is offering to vote or is otherwise entitled by law to vote in

7
that precinct; or

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

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

(C) is voting only once in the election.

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

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

(2) if applicable, enter on the registration omissions list the precinct of the voter's registration as indicated by the voter's registration certificate.

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

Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST. A [(a) Except as provided by Subsection (b), a] voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for provisional voting if the voter executes an affidavit in accordance with Section 63.011.

[(b) If an election officer can determine from the voter registrar that the person is a registered voter of the county and the person presents proof of identification, the affidavits required by Sections 63.007 and 63.008 are substituted for the]
S.B. No. 14

affidavit required by Section 63.011 in complying with that
section. After the voter is accepted under this subsection, an
election officer shall also indicate beside the voter's name on the
poll list that the voter was accepted under this section.)

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

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION.
The following documentation is an acceptable form of
photo identification under this chapter:

(1) a driver's license or personal identification card
issued to the person by the Department of Public Safety that has not
expired or that expired no earlier than 60 days before the date of
presentation;

(2) a United States military identification card that
contains the person's photograph that has not expired or that
expired no earlier than 60 days before the date of presentation
[form of identification containing the person's photograph that
establishes the person's identity];

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

[4[+]] United States citizenship certificate [papers]
issued to the person that contains the person's photograph;

[4[+]] a United States passport issued to the
person that has not expired or that expired no earlier than 60 days
before the date of presentation; or

(5) a license to carry a concealed handgun issued to
the person by the Department of Public Safety

(6) official mail addressed to the person by name
from a governmental entity;

(7) a copy of a current utility bill, bank statement,
government check, paycheck, or other government document that shows
the name and address of the voter; or

(8) any other form of identification prescribed by
the secretary of state).

SECTION 15. Subsections (a) and (b), Section 63.011,
Election Code, are amended to read as follows:

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

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

(2) is eligible to vote in the election.

(b) A form for an affidavit required by this section shall
be printed on an envelope in which the provisional ballot voted by
the person may be placed and must include a space for entering the
identification number of the provisional ballot voted by the person
and a space for an election officer to indicate whether the person
presented a form of identification described by Section 63.0101.
The affidavit form may include space for disclosure of any
necessary information to enable the person to register to vote
under Chapter 13. The secretary of state shall prescribe the form
of the affidavit under this section.

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

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

SECTION 17. Section 65.054, Election Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

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

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

(2) the person:

(A) meets the identification requirements of Section 63.001(b) in the period prescribed under Section 65.0541; or

(B) executes an affidavit under penalty of perjury stating that:

(i) the voter:

(a) is indigent and is unable to obtain proof of identification without the payment of a fee; or

(b) has a religious objection to being photographed; and

(ii) the voter has not been challenged or required to vote a provisional ballot for any other reason.
In this section, "indigent" has the meaning assigned by Section 51.941(e), Government Code.

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

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

(1) present proof of identification described by Section 63.0101 to the voter registrar for examination; or

(2) execute an affidavit described by Section 65.054(b)(2)(B) in the presence of the voter registrar.

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

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

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

(1) the precinct list of registered voters;
(2) the registration correction list;
(3) the registration omissions list;
(4) any statements of residence executed under Section 63.0011; and
(5) any affidavits executed under Section 63.006 [63.007] or 63.011.

SECTION 20. Section 521.422, Transportation Code, is
amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), the fee for a personal identification certificate is:

(1) $15 for a person under 60 years of age;
(2) $5 for a person 60 years of age or older; and
(3) $20 for a person subject to the registration requirements under Chapter 62, Code of Criminal Procedure.

(d) The department may not collect a fee for a personal identification certificate issued to a person who states that the person is obtaining the personal identification certificate for the purpose of satisfying Section 63.001(b), Election Code, and:

(1) who is a registered voter in this state and presents a valid voter registration certificate; or
(2) who is eligible for registration under Section 13.001, Election Code, and submits a registration application to the department.

SECTION 21. Effective January 1, 2012, Sections 63.007 and 63.008, Election Code, are repealed.

SECTION 22. As soon as practicable after the effective date of this section:

(1) the secretary of state shall adopt the training standards and develop the training materials required to implement the change in law made by this Act to Section 32.111, Election Code; and
(2) the county clerk of each county shall provide a session of training under Section 32.114, Election Code, using the
standards adopted and materials developed to implement the change
in law made by this Act to Section 32.111, Election Code. 

SECTION 23. The change in law made by this Act applies only
to an offense committed on or after January 1, 2012. An offense
committed before January 1, 2012, is covered by the law in effect
when the offense was committed, and the former law is continued in
effect for that purpose. For purposes of this section, an offense
is committed before January 1, 2012, if any element of the offense
occurs before that date.

SECTION 24. State funds disbursed under Chapter 19,
Election Code, for the purpose of defraying expenses of the voter
registrar’s office in connection with voter registration may also
be used for additional expenses related to coordinating voter
registration drives or other activities designed to expand voter
registration. This section expires January 1, 2013.

SECTION 25. This Act does not make an appropriation. This
Act takes effect only if a specific appropriation for the
implementation of the Act is provided in a general appropriations
act of the 82nd Legislature.

SECTION 26. (a) Except as provided by Subsection (b) of
this section, this Act takes effect January 1, 2012.

(b) The changes in law made by Sections 3, 5, 6, 7, 11, 22,
and 24 of this Act take effect September 1, 2011.
TO: Honorable Dennis Bonnen, Chair, House Committee on Voter Identification & Voter Fraud, Select

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: SB14 by Fraser (Relating to requirements to vote, including presenting proof of identification; providing criminal penalties.), As Engrossed

Estimated Two-year Net Impact to General Revenue Related Funds for SB14, As Engrossed: a negative impact of ($2,024,000) through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</th>
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<tbody>
<tr>
<td>2012</td>
<td>($2,024,000)</td>
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<tr>
<td>2013</td>
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All Funds, Five-Year Impact:

<table>
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<tr>
<th>Fiscal Year</th>
<th>Probable Savings/(Cost) from General Revenue Fund 1</th>
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</thead>
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<tr>
<td>2012</td>
<td>($2,024,000)</td>
</tr>
<tr>
<td>2013</td>
<td>$0</td>
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<td>2014</td>
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<tr>
<td>2015</td>
<td>$0</td>
</tr>
<tr>
<td>2016</td>
<td>$0</td>
</tr>
</tbody>
</table>

Fiscal Analysis

The bill would exempt certain disabled voters from presenting additional identification for voting, other than the voter registration certificate, if the voter submits to the voter registrar proper certification from a physician of the disability. The bill would also require voter registration certificates to contain an indication that the disabled voter is exempted from presenting additional identification, other than the voter registration certificate, before being accepted for voting.

The bill would require the voter registrar of each county to provide a notice of identification requirements for voting with each initial voter registration certificate or renewal registration certificate issued. The Secretary of State (SOS) and the voter registrar of each county that maintains a website would be required to post on their websites, in each language in which voter registration materials are available, a notice of the identification...
requirements, and county clerks would be required to post a physical copy in each language voter registration materials are available. SOS would be required to prescribe the wording of these notices. SOS would also be required to establish a statewide effort to educate voters regarding the identification requirements for voting.

The bill would require training standards to include instructions on the acceptance and handling of the identification presented by a voter to an election officer and each election clerk would be required to complete this training.

The presiding judge at each polling place would be required to post in a prominent location outside of the location a list of the acceptable forms of identification and the list would have to be separate from all other notices. The Secretary of State would be required to prescribe the wording for written notifications of the identification requirements to vote in elections after January 1, 2012 and election officers would be required to provide this written notification of voting identification requirements to voters who do not meet identification requirements.

The Department of Public Safety (DPS) would be prohibited from collecting a fee for a personal identification certificate issued to a person who states that they are obtaining the personal identification certificate to meet voting identification requirements and that person meets certain other voter registration criteria.

The bill would change an offense under this section after January 1, 2012 to a second degree felony from a third degree felony unless the person is convicted of an attempt, in which case, the offense would be a state jail felony instead of a Class A misdemeanor.

The Secretary of State (SOS) would be required to adopt the training standards and to develop training materials as soon as practicable after September 1, 2011. Each county clerk would be required to provide a session of training using the standards adopted by and the materials developed by SOS as soon as practicable as well.

The bill would expand the uses of state funds disbursed under Chapter 19 of the Election Code to include additional expenses related to coordinating voter registration drives or other activities designed to expand voter registration. This section would expire January 1, 2013.

Sections 1, 3, 4, 5, 9, 20, and 22 pertaining to providing notice of voter identification requirements, providing voter identification training, providing voter education to the public, and expanding the uses of voter registration funds would be effective September 1, 2011. The remainder of the bill would be effective January 1, 2012.

**Methodology**

The fiscal impact of the bill excluding technology costs is estimated to be $2,000,000 million for fiscal year 2012 out of the General Revenue Fund. The estimate includes $0.5 million to research and develop ways to inform the public of the new identification requirements. Additional costs are estimated to be $1.5 million for media advertisements: television ($750,000), radio ($300,000), print ($300,000), and internet ($150,000). The Secretary of State indicates that federal funds associated with the Help America Vote Act (HAVA) may be available for use but the agency would first need to verify this with the federal government.

The Secretary of State would also be required to prescribe the wording for voter identification requirement notifications in each language voter registration materials are available and develop training materials on voter identification requirements. It is assumed that any fiscal implication associated with these responsibilities could be absorbed within existing resources.

The fiscal impact of expanding the uses of funds disbursed under Chapter 19 of the Election Code to include coordinating voter registration drives or other activities designed to expand voter registration is unknown because it is not known how many voter registration drives or other activities designed to expand voter registration would occur.

The fiscal impact of the revenue loss from the prohibition of DPS to collect a fee for a personal identification
certificate issued to a person seeking the certificate for the purpose of voting is unknown because it is not known how many people would make a request for a personal identification certificate for voting.

**Technology**

The technology fiscal impact of the bill is estimated to be $24,000 for programming costs associated with creating an indicator on voter registration certificates for voters with certain disabilities. The notification would inform election officers at polling places that voters with certain disabilities are exempted from presenting additional identification other than the voter registration certificate. The Secretary of State indicates that federal funds associated with the Help America Vote Act (HAVA) may be available for use but the agency would first need to verify this with the federal government.

**Local Government Impact**

The bill would require counties to notify registered voters of changes online if the county maintains a website, at polling locations, and included with voter registration certificates. Election clerks would be required to undergo training regarding accepted forms of voter identification.

According to Texas Association of Counties (TAC), Tarrant County anticipated a one-time cost to reprint provisional balloting materials and provide new notices ($8,000); Bexar County stated that due to limited space on current registration certificates, larger cards would be necessary resulting in additional costs for cards, printing and postage ($381,256); however, Comal County reported the costs associated with the provisions of the bill could be absorbed within existing resources.

**Source Agencies:** 307 Secretary of State, 405 Department of Public Safety

**LBB Staff:** JOB, JT, MS, BTA, SD, KKR
HOUSE OF REPRESENTATIVES
NOTICE OF PUBLIC HEARING

COMMITTEE: Voter Identification & Voter Fraud, Select
TIME & DATE: 8:00 AM, Tuesday, March 01, 2011
PLACE: JHR 140
CHAIR: Rep. Dennis Bonnen

SB 14 Fraser et al.
Relating to requirements to vote, including presenting proof of identification; providing criminal penalties.
The House Committee on Voter Identification & Voter Fraud, Select
82nd Legislature
March 1, 2011
8:00 a.m.
JHR 140

CORRECTED MINUTES

On March 15, 2011, the House Committee on Voter Identification & Voter Fraud, Select authorized the correction of the minutes for the meeting of the House Committee on Voter Identification & Voter Fraud, Select held on March 1, 2011. The following are the corrected minutes for that meeting:

Pursuant to a notice posted on February 22, 2011, the House Committee on Voter Identification & Voter Fraud, Select met in a public hearing and was called to order by the chair, Representative Bonnen, at 8:00 a.m.

The initial quorum call was answered as follows: Representatives Bonnen; Aliseda; Harless; Hochberg; and Pena.

A quorum was present.

The chair made opening remarks.

The chair directed an additional quorum call which was answered as follows: Representatives Bonnen; Aliseda; Harless; Hochberg; and Pena.

A quorum was present.
The chair laid out SB 14.

Representative Harless offered a complete committee substitute.

The chair recognized Representative Harless to explain CSSB 14.

Testimony taken/registration recorded. (See attached witness list.)

(Representative Taylor, Larry now present.)

(Representative Hilderbran now present.)

(Representative Gutierrez now present.)

(Representative Veasey now present.)

Testimony taken/registration recorded. (See attached witness list.)

The committee substitute was withdrawn without objection.

SB 14 was left pending without objection.

At 9:53 a.m., on the motion of the chair and without objection, the meeting was recessed until upon final adjourn/recess.

The committee reconvened at 12:30 p.m. and was called to order by the chair, Representative Bonnen.

The quorum call was answered as follows: Representatives Bonnen; Aliseda; Gutierrez; Harless; Hochberg; and Pena.

A quorum was present.

The chair laid out SB 14 as pending business.

Representative Harless offered a complete committee substitute.

Testimony taken/registration recorded. (See attached witness list.)

(Representative Taylor, Larry now present.)

(Representative Hilderbran now present.)
House Committee on Voter Identification & Voter Fraud, Select
3/1/2011

(Representative Veasey now present.)

Testimony taken/registration recorded. (See attached witness list.)

The chair recognized Representative Harless to close on CSSB 14.

The committee substitute was withdrawn without objection.

SB 14 was left pending without objection.

At 5:48 p.m., on the motion of the chair and without objection, the meeting was adjourned subject to the call of the chair.

Rep. Bonnen, Chair

________________________________________

Steven Schar, Clerk
WITNESS LIST

Voter Identification & Voter Fraud, Select Committee
March 1, 2011 - 8:00 AM

SB 14 - Committee Substitute (Harless)

For:

Barnes, Elizabeth (Self)
Bradford, Rebecca (Texas Federation of Republican Women)
Bueltel, Kenneth (Goliad County Republican Party)
Carter, David (Self)
Collins, Mary Ann (Self)
Duerstine, Russ (Tom Green County G.O.P. and Election Support Association of T. G. County)
Gorman, Diane (Self)
Green, Robert (Self)
Kitson, Carol (Self)
Le Pori, Cynthia (Self)
Marsalis, William (Butch) (Self, Panola County Conservatives)
Mclaugherty, Fern (Self)
Smith, Tonja "Michelle" (Concerned Women for America)
Thornton, Verona (Self)
Townsend, Virginia (Self)
Vera, Alan (Self)
Vera, Colleen (Self)
Wallace, B. R. (Skipper) (Texas Republican County Chairman's Association)
Whitlock, Bea (Self)
Williamson, Mark (Self)

Against:

Bledsoe, Gary (Texas NAACP)
DasGupta, Sumit (Network of Asian American Organizations)
Figueroa, Luis (Mexican American Legal Defense & Educational Fund (MALDEF))
Joseph, Andrew (Self)
Ko, Ramey (Self)
Levitt, Justin (Self)
Privett, Anita (LWV - TX (League of Women Voters of Texas))
Santana, Sonia (ACLU-TX)
Wang, Tova (DEMOS)

On:

Davio, Rebecca (Department of Public Safety)
Gomez, Jessica (Disability Rights Texas, formerly Advocacy, Inc.)
Kemp, Brian (Self)
Maxwell, David (Texas OAG (Office of the Attorney General))
Mc Geehan, Ann (Elections Division - Office of Secretary of State)
Moore, Toby (Self)
O'Brien, John (Legislative Budget Board)

1
WITNESS LIST

On:
Ward, Chris (Self)
Wheeler, Thomas (Self)
Woods, John (Self; Graduate School, Student Government of the University of Texas at Austin)

Registering, but not testifying:

For:
Anderson, Erin (Self)
Ayers, Pam (Self)
Blakemore, Allen (Conservative Republicans of Texas)
Burgess, Judith (Self)
Burgess, Wayne (Self)
Cassady, Bill (Self)
Cassady, Leila (Self)
Curry, Carol (Self)
Dashiell, Toni Anne (Self)
Dickerson, Gerald (Self)
Doyle, William R. (Self)
Edwards, Rosemary (Self)
Engelbrecht, Catherine (King Street Patriots)
Giacomazza, Robert (Self)
Griffin, Travis (Republican Party of Texas)
Hindelang, Paul (Self)
Hotze, Steven (Conservative Republicans of Texas)
Johnson, Cheryl (Gal Co. Tax Office)
Landis, Donald (Self)
Lindsey, Mack (Self)
Lockhoof, Michelle (Self)
Marler, John (Williamson County Liberty Alliance)
Marsalis, Karen (Self; Panola County Republican Women)
McCaig, Mark (Self)
Moore, Bill (Organizing for Liberty, Inc. Sugarland, TX.)
Rogers, Linda (Texas Republican Co. Chairmen's Assn.)
Rousselot, Reid (Self)
Saenz, Jonathan (Liberty Institute)
Stair, Margy (Self)
Stockbauer, Catherine (Self)
Swift, Sheryl (Galveston County Tax Office)
Tarver, Maudie (Self)
Van der Pol, Kathryn (Self)
Van der Pol, Sybren (Self)
Vest, Linda (Self)
Walker, Jim (Self)
Ward, Jerri Lynn (Self)
Ward, Robert (Self)
WITNESS LIST

For:

Wright, Maggie (Self)

Against:

Arabie, Joseph (Texas AFL-CIO)
Brown, Mary (Self)
Ekstrand, Tracy (Self)
Fischer, Huey (Self)
Flores, Juan (La Fe Policy Research and Education Center)
Gutierrez, Anthony (Boyd Richie Texas Democratic Party)
Haenschen, Katherine (Self)
Hill, Kathleen (Self)
Kaplan, Austin (Self; The Liberal Austin Democrats)
Lara, Rene (Texas AFL-CIO)
Meredith, Katrina (Self)
Van Cleve, Genevieve (Capital Area Democratic Women)
Weinberg, David (Texas League of Conservation Voters)
TEXAS HOUSE OF REPRESENTATIVES
82ND LEGISLATURE
SELECT COMMITTEE ON VOTER IDENTIFICATION
AND VOTER FRAUD HEARING
MARCH 1, 2011
(VOLUME I of II)

Transcribed by Amy C. Kofron CSR
April 11, 2011
<table>
<thead>
<tr>
<th>WITNESS NAME</th>
<th>PAGE TESTIMONY BEGINS</th>
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<tr>
<td>CHRIS WARD</td>
<td>5</td>
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<tr>
<td>B.R. SKIPPER WALLCE</td>
<td>19</td>
</tr>
<tr>
<td>DAVID CARTER</td>
<td>42</td>
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<tr>
<td>WILLIAM BUTCH MARAIS</td>
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<tr>
<td>CYNTHIA LE PORTI</td>
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<td>ROBERT GREEN</td>
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<td>GARY BLEDSOE</td>
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<td>COLLEEN VERA</td>
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<td>LUIS FIGUEROA</td>
<td>123</td>
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<tr>
<td>THOMAS WHEELER</td>
<td>141</td>
</tr>
</tbody>
</table>
CHAIRMAN BONNEN: Okay. We have a quorum, so we'll begin. I'd like to welcome everyone here to the hearing today. The committee will use the following procedures today to insure an effective and productive hearing that respects the time and efforts of those wishing to testify. Invited witnesses, which I believe there are ten of, five from each side of the issue, will be allowed to provide an opening presentation and will be limited to ten minutes and then stand before the committee to answer any questions that committee members may have.

Citizens wishing to testify in the public portion of the hearing will be limited to three minutes of testimony, with additional time, of course, for the members of the committee to question these witnesses. The committee has invited three witnesses to participate through Skype, which is a software application that allows audio and video between two parties. This is an interesting way that the three expert witnesses, at the request of Vice Chairman Veasey, to allow them to testify if they get their witness affirmations and things in.

We will now lay out Senate Bill 14. Then we'll have Representative Harless lay out and explain her substitutes. So Representative Harless' office has made copies available to the public in the back of the room. There should be copies of the committee substitute by Representative Harless on Senate Bill 14. All testimony before the committee will be on Toll Free: 800.211.DEPO Facsimile: 512.328.8139 Suite 220 3101 Bee Caves Road Austin, TX 78746 www.esquiresolutions.com
Representative Harless' committee substitute to Senate Bill 14.

Okay. We left a member off on the roll call, so the clerk would like to re-call the roll.

THE CLERK: Bonnen?

MR. BONNEN: Here.

THE CLERK: Veasey? Hilderbran? Hochberg?

MR. HOCHBERG: Here.

THE CLERK: Pena?

MR. PENA: Here.

THE CLERK: Taylor? Gutierrez? Harless?

MS. HARLESS: Here.

THE CLERK: Aliseda?

MR. ALISEDA: Here.

CHAIRMAN BONNEN: Okay. Thank you. There is still a quorum. Okay. So the Chair lays out Senate Bill 14 by Senator Fraser. Representative Harless offers up a committee substitute to Senate Bill 14, and the chair recognizes her to explain her substitute.

MS. HARLESS: Would you prefer me to do it here?

CHAIRMAN BONNEN: It's wherever you're most comfortable.

MS. HARLESS: Okay. I'll just do it here.

Senate Bill 14 House Committee Substitute
Highlights: This bill requires voters to show a photo ID. It has exceptions of people 70 and older as of January 1st, 2012,
and they may continue to vote with their voter's registration card, indigent voters, voters with religious objections to being photographed, and voters who show proof of Social Security disability or 50 percent disabled vets. The acceptable photo IDs include cards issued by the DPS, most will be driver's license or ID cards no more than 60 days expired, military IDs that are no more than 60 days expired, a passport that is no more than 60 days expired, citizen certificate with photograph, concealed handgun license that are no more than 60 days expired.

The changes in the Committee Substitute, the disability exemption has been tightened. The CHL expiration language is made consistent with other forms of ID. It must not have another form of ID to get a free ID, one must not. And it removes the Senate Floor amendment rendering this bill ineffective if the bill is determined to make an appropriation, and legislative council technical changes.

CHAIRMAN BONNEN: Thank you. Are there any questions of Representative Harless, members? Thank you.

Chair calls Chris Ward, an attorney, as invited testimony. And obviously, for all witnesses, we ask that you state your name and who you're representing for the record and then go ahead and begin your testimony.

Mr. Ward, you'll have ten minutes.

MR. WARD: Thank you, Mr. Chairman. My name is Chris Ward. I represent myself here. I am a partner with the
law firm of Yetter, Coleman. I've been asked to come testify regarding the constitutionality of Senate Bill 14 under the standard laid out by the Supreme Court. I practice --

CHAIRMAN BONNEN: Mr. Ward, I would assume you're speaking to the substitute, and you've seen the substitute?

MR. WARD: Yes, Mr. Chairman.

CHAIRMAN BONNEN: Thank you.

MR. WARD: And I -- and I -- and I -- you know, and I don't think there is any -- have been any changes of constitutional significance in the bill and certainly the -- that the bill before the committee today would satisfy the Court's constitutional standard as I will walk through with you.

Just a little by way of background. I primarily practice appellate litigation, including constitutional and Supreme Court litigation. I have some experience in the particular field of voting rights, including being one of the lead attorneys in the 2009 Supreme Court case, Northwest Austin MUD v. Holder, which was one of the -- the Court's leading Voting Rights Act decisions in recent years.

The Supreme Court has spoken pretty plainly to the particular issue that is before the committee with regard to constitutionality. There is a 2008 Supreme Court case, Crawford v. Marion County Election Board in which the Supreme Court upheld Indiana's voter identification law. And what -- the main
thing I want to do is kind of walk through a little bit of what the Crawford case holds and how that relates to Senate Bill 14.

The Indiana voter identification law, at the time it was considered by the Supreme Court, was considered to be the most stringent voter identification law in the country. So the fact that the Supreme Court upheld the Indiana voter ID law gave a lot of -- a lot of constitutional validity to the entire concept of requiring voter identification as a means of combatting voter fraud. The opinion in the Crawford case was authored by Justice Stevens, who of course is now off the court, but at the time and for a long time he had been considered one of the most liberal members of the Supreme Court. So there -- there is some -- some weight to the fact that Justice Stevens is the one who wrote the opinion upholding it. He was joined by the chief justice and also by Justice Kennedy who was and still is considered the main swing vote on the Court.

Just a few -- a few things to note about the Crawford case. The Indiana voter law that was being considered by the Supreme Court in Crawford, like Senate Bill 14, would apply to in-person voting and required citizens to show a photo ID in order to vote in person. In the controlling opinion, Justice Stevens laid out the test for a constitutional challenge to an election regulation. He explained that the -- what you do is you weigh the asserted injury to the right to vote against the precise interest put forward by the State. And the Court
identified several valid State interests in the context of a voter identification law. The primary State interest, which the Supreme Court said is clearly valid, is the -- the State, of course, has a strong interest in deterring and detecting voter fraud.

Interesting to note, in the Crawford case, the Court noted there was -- there was nothing in the record of that case that reflected that in-person voting fraud had actually been occurring or had been a real problem in Indiana. But there were a few flagrant examples from around the country, and the Court made the observation that this is a -- this is a problem a legislature can reasonably expect and can reasonably take steps to prevent.

Justice Stevens recounted an anecdote regarding a 19th century New York ward boss of politics who said, you know, all his voters that he wanted to get out, he always wanted men with whiskers because he could -- he could send them in once to vote with a full set of whiskers. Then he can take them to the barber, have the mustache shaved, send them in, send them back to the barber, they could come back with just their mutton chops. And then if you need more votes, you can send them back clean shaven, and each one was good for four votes.

Now, I bring that -- I mention that part of the opinion for two reasons: One, I just find it a little amusing. But the important legal and constitutional point is this was
something that happened more than 100 years ago, and the Court
looked at it and said here's an example of where in-person voter
fraud could occur. And the point of including that anecdote in
the opinion is to say this is a problem a state can address. It
doesn't necessary have to be based on current evidence of a
contemporary problem. This is something you can anticipate
could be a problem, and we know it's been a problem
historically, and a state can take reasonable pleasures to
prevent it.

The Court also identified other valid state
interests, interests in improving and modernizing election
procedures. The Court noted that in the Help America Vote Act,
Congress identified photo identification as one effective method
of establishing a voter's qualification to vote. So Congress
has also -- has recognized photo ID as a valid way of validating
a voter's identity. The Commission on Federal Election Reform,
which was a commission chaired by former President Jimmy Carter
and Secretary of State Robert Baker -- Jim Baker, issued a
report in which they also identified photo ID as a valid method
of modernizing and making elections -- election procedures more
modern and effective.

Safeguarding voter confidence is another valid
state interest that the Court identified as served by photo ID
laws. Not only does it make the system more fraud proof, but it
gives voters more confidence that their system is fraud proof
and that their own validly-cast vote will count and will not be
diluted by the casting of fraudulent ballots.

The Court looked at the burden that a photo ID
law imposes on the right to vote, and the Court weighed that
against these important state interests. The Court made an
important distinction between a particular burden that an
individual might face. For some individuals, it might be a
particular burden to get a photo ID. But in the context -- in
the question of what's called facial validity and a
constitutional challenge that seeks to strike down an entire law
as unconstitutional is known as a facial challenge. On its
face, you look at the burden overall, not in a particular case
in which a person, an individual, might be able to make out a
case of a particularized as-applied constitutional problem.

The Court identified the relevant burden as the
burden on those persons who are eligible to vote but who do not
currently possess a valid photo ID. The Court noted that if you
had to pay some fee to get the photo ID, then that would be an
unconstitutional poll tax. But the fact that Indiana's law
provided for free photo IDs for those who did not already have
them in order to vote kept that from being a problem. Senate
Bill 14 has the same provision. A voter can get a free photo ID
card from the State if the voter does not already have a card.

You know, the Court did recognize that there is a somewhat --
expired.

MR. WARD: Thank you, Mr. Chairman.

CHAIRMAN BONNEN: Thank you. Let the record reflect Representative Taylor is present. He had an issue with traffic. And also, members, let's welcome Representative Anchia who is not a member of the committee. But once the members of the committee have asked the questions they desire, we will respect Representative Anchia and other members who are not on this committee to ask questions of the witnesses.

Are there any questions of Mr. Ward of the committee members? Representative Hochberg?

MR. HOCHBERG: Thank you, Mr. Chairman.

And I realize that you were citing a legal argument, but I just want to make sure that I understand how it fits. I guess this was a -- when you were talking about the gentlemen with mutton chops, I guess what you were saying was if fraud ever existed, then any solution that is reasonably attached to eliminating a fraud that's similar, even if it's not that fraud, makes this constitutional. Is that what your point was?

MR. WARD: I think the -- the Court's point is that voter fraud is something that historically, and just the experience of legislatures, can tell you that it could be a problem, and that photo ID is a way of combatting it.

MR. HOCHBERG: So any solution -- so any
action -- it's your position that any action that is arguably to
combat voter fraud is legal if there has been any other kind of
voter fraud, regardless of whether the action that's taken meets
that requirement.

I guess the reason I'm asking this is I assume
that this bill -- and I have not read the entirety of the
substitute, but I assume that this bill doesn't require somebody
to reject a voter because they've shaved their whiskers since
the time the picture was taken. But the example that you sort
of sent up here was that, my goodness, this guy could
have shaved, you know, and be able to come in four different
times. And I don't see how that's really connected to the bill.
So what point is it that you're making about that?

MR. WARD: Well, respectfully, Representative, I
think the first part of your question was too broad. It's not
my position, and I don't think it's the Supreme Court's position
that anything, just because it has the intent of combatting
voter fraud is necessarily constitutional.

But specifically, the Court has looked at photo
identification and said that is a constitutionally valid and
reasonable method of attempting to combat voter fraud, improve
and modernize elections and encourage voter confidence in the
system.

MR. HOCHBERG: But your position is that whether
or not the method to combat voter fraud is connected to the
fraud that has been documented to occur at some point in the -- in the history of the state or the United States, I guess, that that's sufficient to give the State constitutional grounds to oppose it.

MR. WARD: Well, I'm saying --

MR. HOCHBERG: I'm not an attorney, so I'm really kind of asking you to explain what that example had to do with anything, because not being an attorney, I can't make all those stretches.

MR. WARD: Well, the question was raised in the Crawford case, is there evidence or is there enough evidence that this type of in-person voting fraud is a present problem in Indiana.

MR. HOCHBERG: What type of in-person voting fraud?

MR. WARD: Somebody walking in, and maybe they have a voter registration card or they're on the rolls, but they don't -- they're not asked, and they -- they don't have to show, and they don't have a photo ID, and it's not the person who's actually on the registration roll. Maybe the person on the registration rolls is dead. You know, I think there was some evidence in the Indiana case that they had problems with purging their voter rolls, and there were a lot of people who did not meet the constitutional condition of being a person living in the state in order to --
MR. HOCHBERG: Who were on the rolls.

MR. WARD: Who were on the rolls.

MR. HOCHBERG: Right. We're not assuming that any of those dead people were actually voting.

MR. WARD: That's correct. The --

MR. HOCHBERG: It would be okay as long as they had the proper ID.

MR. WARD: If they had the proper ID and they could get to the polls, I know nothing in the constitution --

MR. HOCHBERG: I grew up in Chicago, so dead voters -- I understand the dead voters, but --

MR. WARD: The Court has not yet decided whether zombies are protected under the 14th amendment. But the point the Court was making is to uphold this as a facially constitutional method of combatting voter fraud you do not need to have specific evidence that this is a current widespread problem in the state.

MR. HOCHBERG: Or apparently, a previous problem that you're actually solving, because you would agree with me that voter ID wouldn't take care of the person who has -- who shaves his mutton chops because there's no requirement that a person have the same facial hair --

MR. WARD: Well, not --

MR. HOCHBERG: -- as they do on the picture.

MR. WARD: Not necessarily. That -- that may
MR. HOCHBERG: Or hopefully, the hair on the top of one's head that they do in the picture.

MR. WARD: But just by way of example, you know, I -- they used to take DPS driver's license photos with your glasses on. And last time I got my picture made for my driver's license, they made me take my glasses off. And, you know, there were once or twice in my life when I've had to show my ID, and I had different glasses and they -- or I had contacts for a brief period of time, and somebody would say, Is this you? Well, yes, it's me. And I think you could -- if you're looking at a photo ID, you could probably make the same distinction with the whiskers.

MR. HOCHBERG: Right. So the --

MR. WARD: But the --

MR. HOCHBERG: So the photo ID wouldn't have prevented you from voting four times. So the -- the example doesn't have to be connected to the case then, I guess.

MR. WARD: Well, I think in most cases you could probably say I see you're clean shaven; in this you have a beard. Yeah, I can see.

MR. HOCHBERG: Right.

MR. WARD: But, you know, I think that gets a little bit into the weeds. The main --

MR. HOCHBERG: Well, just because you brought it
up. So, I -- just --

MR. WARD: Well, the legal reason I pointed to that example is when the Court and Justice Stevens was able to say, I'm going to pull up this 100-year-old example and say that's enough to support using photo ID to combat voter fraud.

CHAIRMAN BONNEN: Okay. Thank you.

MR. WARD: So --

CHAIRMAN BONNEN: Thank you, Representative Hochberg. Let the record indicate Representative Hilderbrand is present.

Members, any other questions of this witness? Representative Anchia.

MR. ANCHIA: Just one. I just want to underscore a distinct, an important distinction that you made earlier, which was the distinction between an as-applied challenge and a facial challenge. Now, the Supreme Court in the Indiana case only dealt with the facial challenge, correct?

MR. WARD: That's correct.

MR. ANCHIA: There's been no case related to the Indiana law with respect to an as-applied challenge; is that correct?

MR. WARD: That's correct to the best of my knowledge.

MR. ANCHIA: Okay. But you could imagine an as-applied challenge that would be successful if the photo ID
regime was onerous and disenfranchised persons; is that correct?

MR. WARD: You could imagine an as-applied challenge that would be successful with regard to almost any law, affecting anything. And that's --

MR. ANCHIA: And in the Indiana case, there was no -- there was no as-applied challenge, simply a facial challenge; is that correct?

MR. WARD: That's correct.

MR. ANCHIA: Okay.

MR. WARD: And -- and if I may -- you know, and that's the difference between a facial challenge and an as-applied challenge is in a facial challenge, you're saying this whole law -- this law is invalid, it's unconstitutional, please strike it down.

And with regard to an as-applied challenge, you can bring an as-applied challenge as to almost any law, whether it's about voting rights or whether it's about a traffic violation or whatever and say, as applied to me, this violates some constitutional right.

MR. ANCHIA: And just to follow up on your -- on your analysis. And if there was a photo identification regime that disenfranchised a significant amount of voters, you could envision an as-applied challenge that would be successful, correct?

MR. WARD: I could envision a challenge by a
particular individual that might be successful, that you could --

MR. ANCHIA: But if it was -- in scope of magnitude, if you had a lot of people who were disenfranchised, you could imagine an as-applied challenge that would be successful.

MR. WARD: Well -- well, I couldn't imagine --

MR. HOCHBERG: Just using that assumption.

MR. WARD: Yeah. I could imagine an individual saying the constitution requires me to have an exception made in my case for this law. I --

MR. ANCHIA: I'll take that as -- as your agreement. Thank you.

CHAIRMAN BONNEN: Let the record reflect Representative Gutierrez and Vice Chairman Veasey are present. Representative Aliseda has a question.

MR. ALISEDA: Is it not true that with respect to the Supreme Court case you cited, that there were efforts to find plaintiffs that would be able to claim that the statute was unconstitutional as applied to them?

MR. WARD: I don't know the full litigation history of the case. I don't know.

MR. ALISEDA: I thought the particular case cited efforts by groups to come up with voters that were disenfranchised by the Indiana statute that, in fact, the case
was pending several years prior to the actual hearing.

MR. WARD: There likely were. And that's frequently the case in this kind of a challenge. And when you're unsuccessful in being able to dig up a plaintiff who has a good as-applied claim, that can be part of the evidence that the law is not facially unconstitutional because it's not constitutionally significant in terms of the burden it imposes on very many people.

MR. ALISEDA: Thank you.

CHAIRMAN BONNEN: Thank you, members. Any other questions of Mr. Ward?

Thank you, Mr. Ward. Appreciate your time this morning.

MR. WARD: Thank you, Mr. Chairman and members.

CHAIRMAN BONNEN: Okay. Members, we -- at the moment, we don't have any more of the expert witnesses present with us. I guess we started too early. So we will begin with the public testimony, and then as expert witnesses arrive, we will bring them forward and allow them their opportunity.

So the chair calls Mr. B.R. Skipper Wallace, legislative chair of the Texas Republican County Chairman's Association to testify for Committee Substitute Senate Bill 14.

MR. WALLACE: Mr. Chairman, committee members, I'm pleased to be here this morning. My name is B.R. Skipper Wallace. I'm the legislative chairman for the Texas Republican
County Chairman's Association. I've been an election judge and a county chairman for 20 years. I've testified on this -- not this particular bill, but variations of this bill for the last three sessions of the legislature.

One statement that's always made is that there are very few documented cases of voter impersonation. That's true. Voter impersonation is probably the most difficult type of voter fraud to prove. Unless the election judge where this person goes to vote knows the person voting or the registration card that they present, there is no way to prove voter impersonation. If you -- Mr. Veasey, if you present Mr. Pena's card and you come up there and present it, I have no way to dispute that as an election judge under the present law.

One concern about the bill is it is difficult for seniors, the poor and handicap to get photo IDs. We've -- we have agreed in the bill to provide a significant effort to educate, register anyone who does not have a photo ID at no cost to them. The intent of the bill is not to disenfranchise anyone, but to improve the integrity of the voting process.

Secretary of State's office reports that there are 13 million registered voters in Texas as of March 2010 primary, 18.7 million voting age population. DPS reports that there are more than 14 million valid Texas drivers licenses and another 4 million valid Texas ID cards and 400,000 concealed handgun licenses issued to Texans over 18 years old. Currently,
there are more government issued IDs possessed by the voting age population than there are registered voters. So I'm having a real hard time of figuring out who doesn't have an ID already. You can do the math on those numbers, and you tell me who doesn't have one.

I beg you to stop perpetuating voter fraud and pass a good voter photo ID bill. Hopefully, the goal of everyone on this committee and in the legislature is to improve the election process in Texas. I'll be glad to answer any questions.

CHAIRMAN BONNEN: Thank you, Mr. Wallace. Any questions, members?

Representative Vice Chair Veasey.

VICE CHAIRMAN VEASEY: It's been awhile since I've been in this room, so pardon me.

MR. WALLACE: You were here last time I was here.

VICE CHAIRMAN VEASEY: Yeah, that's right. That is right.

So what -- I know that you -- that you're concerned about the point that you made about Aaron. If I have -- if I show you Aaron's voter registration card, that you have to let me vote under the current law.

MR. WALLACE: Right.

VICE CHAIRMAN VEASEY: But why are you so convinced that there is voter fraud? Like what makes you -- is
there -- is -- I know that -- I understand exactly what the
point that you're trying to make, that it's easy for anyone to
just say, Well, here, here's my card, you know, and that that
may be going on throughout the state. But what makes -- why are
you -- why are you certain that that's going on throughout the
state?

MR. WALLACE: Well, there -- there is no way that
you can prove that there's not voter fraud, and there's no way
that I can prove that there is voter fraud because the
difficulty of proving voter impersonation. It --

VICE CHAIRMAN VEASEY: Right. But I think the
last statement that you made was that we need to stop
perpetuating voter fraud. But you just said that neither one of
us can prove that voter fraud is or is not taking place.

MR. WALLACE: Well, it is our opinion --

VICE CHAIRMAN VEASEY: Uh-huh.

MR. WALLACE: -- that there is voter fraud in the
state of Texas --

VICE CHAIRMAN VEASEY: Based on?

MR. WALLACE: -- in various and sundry ways.

VICE CHAIRMAN VEASEY: Based on?

MR. WALLACE: Based on different reports from
different areas that -- of election judges that talk to me that
say that they have witnessed. They have not pursued the case
and gone ahead and filed charges because they're not sure
sometimes. But one election judge told me that they know or
they felt pretty sure that they saw the same guy come vote three
different times with three different cards, but there's not a
case on that. So, you know, why don't we take an ounce of
prevention instead of a pound of cure and solve this problem. I
mean, 90 percent of the voters that come to vote now, at least
in the polls that I work in, present a photo ID as it is,
without it being a requirement of the law.

VICE CHAIRMAN VEASEY: How many expired IDs do
you see when people --

MR. WALLACE: Not very many.

VICE CHAIRMAN VEASEY: Okay.

MR. WALLACE: No. In fact, nobody -- everybody
thinks that an expired ID is not any good, which, you know,
there's some question as to whether an expired ID is any good.
But --

VICE CHAIRMAN VEASEY: How many student --

MR. WALLACE: -- I don't ever recall seeing an
expired ID presented at a voting place as a way to identify
themselves.

VICE CHAIRMAN VEASEY: How many -- how many
students, student IDs?

MR. WALLACE: How many students?

VICE CHAIRMAN VEASEY: Yeah.

MR. WALLACE: Well, being that we don't have a
college in the area where I'm from, we don't get --

VICE CHAIRMAN VEASEY: Okay. Where --

MR. WALLACE: -- hardly any.

VICE CHAIRMAN VEASEY: And where are you from again?

MR. WALLACE: Lampasas, Texas.

VICE CHAIRMAN VEASEY: Lampasas. Okay.

MR. WALLACE: Uh-huh. Small rural county.


CHAIRMAN BONNEN: Representative Hochberg.

MR. HOCHBERG: Thank you, chairman.

Gosh, I thought everybody in Lampasas knew each other.

MR. WALLACE: Well, you'd think so. But even in a small county like that, you know, we've got new people moving in all the time, all these folks moving out of Austin, moving to the hill country. I don't blame them.

MR. HOCHBERG: Yeah. Well, that -- that would be -- I'd be worried about that too. I don't know what it's going to do to your property taxes. It's probably making a mess.

MR. WALLACE: Well, that's probably -- you're right.

MR. HOCHBERG: So what do you -- what are you
going to do? How are you -- how are you going to stop this dude who shows up three times who's obviously gone through the effort of coming up with three different voter registration cards or three different sets of identification?

MR. WALLACE: Well, right now --

MR. HOCHBERG: I hadn't been -- I hadn't been -- let me -- I hadn't been 18 for a long time, but I remember that it used to be pretty easy to fake an ID or something to be able to engage in certain activities that weren't allowed to people who were under the age of 21.

MR. WALLACE: I know exactly what you're talking about.

MR. HOCHBERG: And so if this dude who came in three times went to the effort of I guess getting some kind of fake identification, because they have to present either a voter registration card or something --

MR. WALLACE: Voter registration cards was my understanding what they --

MR. HOCHBERG: Or something.

MR. WALLACE: -- presented.

MR. HOCHBERG: Then --

MR. WALLACE: This was not in Lampasas County that this happened.

MR. HOCHBERG: And I know -- I know on your watch, you wouldn't let it happen in Lampasas County because you
1 would have reported it.

MR. WALLACE: Well, I would probably question --

MR. HOCHBERG: Sure.

MR. WALLACE: You know, let me -- well, see, under law, I can't make them produce an ID.

MR. HOCHBERG: So when I produce a -- so if that guy was going through that effort, don't you think under this law, he'd have himself a fake ID too?

MR. WALLACE: Well, he'd have to have three fake IDs.

MR. HOCHBERG: Has three fake voter registration cards.

MR. WALLACE: Well, those aren't necessarily fake. You know, there's a business in Texas where they steal voter registration cards and then pass them out --

MR. HOCHBERG: I think there's --

MR. WALLACE: -- for people to vote. Or it's my understanding.

MR. HOCHBERG: I don't --

MR. WALLACE: I've never seen that personally.

MR. HOCHBERG: I don't know if that's true, but there's -- there's a business -- I'm sure there are -- I know there are businesses that create fake drivers licenses.

MR. WALLACE: I'm sure there are. We -- and we've tried --
MR. HOCHBERG: But were they easy to find.

MR. WALLACE: -- to eliminate the number of IDs that are available to use as a photo ID because we feel like these are the most secure types --

MR. HOCHBERG: But you would --

MR. WALLACE: -- rather than the utility bills and all this other stuff that we used to have.

MR. HOCHBERG: Sure. And but I know when I go to the airport and try to get on an airplane that they don't just look at my ID, but they've got all kinds of gadgets with the little, you know, magnifying --

MR. WALLACE: That's true.

MR. HOCHBERG: -- glass and something, because apparently, it's easy to fake unless you've been specially trained to figure out how not to fake it.

MR. WALLACE: Right.

MR. HOCHBERG: So I'm just wondering if that -- I say if that guy was going to go through the effort of either doing that or cutting his mutton chops or whatever --

MR. WALLACE: Don't know anything about mutton chops.

MR. HOCHBERG: Would he -- it doesn't take too much of a stretch to think that he would go ahead and have the appropriate kind of ID if he was --

MR. WALLACE: I think eventually the situation
VOTER FRAUD HEARING VOL 1 MARCH 1 2012

will evolve to you'll have a little -- a little zip thing like they run credit cards through. They have those for drivers licenses also. In fact, there are --

MR. HOCHBERG: What would you do with that?

MR. WALLACE: It gives you all the information off the driver's license and actually puts it into the electronic poll book right now. There is a system available to counties that does that, takes --

CHAIRMAN BONNEN: Mr. Wallace?

MR. WALLACE: Yes, sir.

CHAIRMAN BONNEN: And Representative Hochberg, I don't want to cut you off in any way --

MR. HOCHBERG: I understand.

CHAIRMAN BONNEN: -- but with all due respect --

MR. HOCHBERG: We've got a long day.

CHAIRMAN BONNEN: Well, no, I'm not even worried about that, but we will have an expert witness from DPS who can discuss --

MR. HOCHBERG: Great.

CHAIRMAN BONNEN: -- these driver's license. No disrespect to you, Mr. Wallace, but I don't think you're --

MR. WALLACE: I'm just trying to answer the question.

CHAIRMAN BONNEN: I don't think. No. I know. No, no. I'm just -- I don't think that you're probably the
expert to answer those.

MR. HOCHBERG: That's okay.

CHAIRMAN BONNEN: Go ahead, Mr. Hochberg.

MR. HOCHBERG: Let me ask you the other side of the --

MR. WALLACE: Okay.

MR. HOCHBERG: -- of the deal. I know that you're -- I know that you are a partisan elected official, but I'm sure you are very fair in the way you administer your elections.

MR. WALLACE: I certainly try to be.

MR. HOCHBERG: Have you ever heard of a situation where a person administering an election in a precinct, be they republican or democrat, has done anything to discourage people that he -- who he believes to be or she believes to be of the other party, done anything to discourage them from voting? Have you ever heard of that happening?

MR. WALLACE: Well, I've not had a case filed with me to --

MR. HOCHBERG: But you've heard of it?

MR. WALLACE: I've heard of it, sure.

MR. HOCHBERG: You've heard of it as much --

MR. WALLACE: Yeah.

MR. HOCHBERG: You've hear of it just like you have --
MR. WALLACE: On both sides.

MR. HOCHBERG: That's right.

MR. WALLACE: Yeah.

MR. HOCHBERG: And just like you've kind of heard of folks maybe walking in --

MR. WALLACE: Yes, sir.

MR. HOCHBERG: -- more than once?

MR. WALLACE: Yes, sir.

MR. HOCHBERG: The one thing that I --

MR. WALLACE: We want to get that out of our elections.

MR. HOCHBERG: I absolutely agree with that.

MR. WALLACE: We want elections fair and aboveboard so everybody can vote that's supposed to.

MR. HOCHBERG: What I -- what I -- what I don't understand is and what I don't see in the bill, and maybe you can -- if you answer this question, I won't ask it again today, but I've asked it --

MR. WALLACE: Okay.

MR. HOCHBERG: -- for a number of years on this. You pick up my driver's license and take a look at it, and you look at me, and you know that I'm a registered democrat. I know we don't have registration, but you know I voted in the primary. You know who I am.

MR. WALLACE: Yes, sir.
MR. HOCHBERG: And you know it's not me personally because you know I wouldn't let you do this, but -- but you know it's someone who's likely to vote, and it's not -- not you, but one of these other folks who have a history of doing this kind of stuff, and they look at the license and they say, I'm sorry, sir, this isn't you.

Now, I see references to training in here. And maybe I -- and maybe I'm missing it and --

MS. HARLESS: May I help you with that?

MR. HOCHBERG: If the chair -- if the chair would allow.

CHAIRMAN BONNEN: Well, are you asking her or Mr. Wallace?

MR. HOCHBERG: Well, I'm -- well, I'm asking him what he would do, but if -- but if the chair would like Ms. Harless to answer, that's up to the chair.

CHAIRMAN BONNEN: Sure.

MS. HARLESS: We do have an expert here from the Secretary of State to talk about that in the discretions they use --

MR. HOCHBERG: Great.

MS. HARLESS: -- and exactly what --

CHAIRMAN BONNEN: Well, they're not here currently.

MR. HOCHBERG: But I'll defer until -- if
somebody -- if --

CHAIRMAN BONNEN: Okay.

MS. HARLESS: Yeah. We have.

MR. HOCHBERG: -- secretary of state wants to
talk about it, I'd love to hear it.

MS. HARLESS: On some questions, we do have
experts here from DPS, from the AG's office --

CHAIRMAN BONNEN: And I think we stated that.

MS. HARLESS: -- and also from the Secretary of
State.

CHAIRMAN BONNEN: Yeah. We'll get to that.

MR. HOCHBERG: Okay. Well, thank you, sir.

Thank you, sir.

CHAIRMAN BONNEN: Any other questions of this
witness, members?

MS. HARLESS: I have one.

CHAIRMAN BONNEN: Representative Harless.

MS. HARLESS: Thank you.

CHAIRMAN BONNEN: Yes, ma'am.

MS. HARLESS: I know that there's a lot of talk
about fraud. And you and I personally may disagree on whether
that takes place or it doesn't take place in in-voter fraud.
But tell me, in your mind, what happens if one fraudulent vote
is cast? Does that steal from a legitimate voter?

MR. WALLACE: Well, as you can see in a recent
election contest, it doesn't take very many fraudulent votes to
change the election results. And I --

MS. HARLESS: You --

MR. WALLACE: I don't want any fraudulent -- if
there's any way I can prevent it, I would like to have everybody
have their opportunity to vote. I don't care -- I mean, I do
care who they vote for, but, you know, with their right to vote,
they can vote for whoever they want to, and however the results
come out, they come out. But they need to be legitimate votes.

MS. HARLESS: Have you noticed the confidence in
the public when they come into your precinct to vote on
questioning if their vote really counts and the integrity of the
election process?

MR. WALLACE: On questioning of --

MS. HARLESS: If there's true integrity in the
election process.

MR. WALLACE: We don't question them as to
whether they --

MS. HARLESS: No, not them.

MR. WALLACE: Maybe I misunderstood the question.

MS. HARLESS: Do you have people coming in
saying, I'm not sure my vote really counts or --


MS. HARLESS: Because they're questioning the
integrity of the election process?
MR. WALLACE: Well, you know, you hear all kinds of horror stories, and the press is real good about playing up the if, whens and maybes. And yeah, people are real apprehensive as to whether our elections are really credible or not. And when you get one horror story, then everybody is suspect. They lose confidence in the process. And I think presenting the ID will help reinstall it. 85 percent of the people in Texas are in support. Even the democrats, Mr. Hochberg.

CHAIRMAN BONNEN: Thank you. Representative Gutierrez.

MR. GUTIERREZ: Thank you, Mr. Chairman. And I apologize. I was in a LAP committee meeting that we had earlier, and it's still going on at this time.

MR. WALLACE: Wallace.

MR. GUTIERREZ: Mr. Wallace, you suggest that the voter fraud is difficult to ascertain and define. But we had an attorney general's investigation on this issue, did we not?

MR. WALLACE: We have perpetual attorney general investigation --

MR. GUTIERREZ: And they certainly are the --

MR. WALLACE: -- pertaining to voter fraud.

MR. GUTIERREZ: And they are certainly the entity that has the resources -- you would agree with me that they have
more resources than you do by way of --

MR. WALLACE: For sure.

MR. GUTIERREZ: -- law enforcement and investigators to go out and find this very problematic problem, as you suggest. I mean, they have the resources to be able to ascertain whether it's going on or not, do they not?

MR. WALLACE: The problem with that is, sir, is that it is almost impossible to prove voter impersonation unless you as an election judge say Mr. Aliseda is not Mr. Gutierrez.

MR. GUTIERREZ: But the State of Texas spent $1.4 million to investigate this so-called problem.

MR. WALLACE: Well, I can't help that.

MR. GUTIERREZ: And your ounce of prevention as we so far have it is going to cost the taxpayers $2 million, which I don't believe. It's going to cost my county over half a million dollars, which I don't believe. And yet at a time when we have a budget crisis, we're asking people to go after a problem that doesn't exist.

MR. WALLACE: Well, how much are legitimate elections worth to you, sir?

MR. GUTIERREZ: Really? You really think that we don't have credible elections in the United States of America?

MR. WALLACE: I think we have pretty good elections, but I want to make them better.

MR. GUTIERREZ: Right. Thank you.
CHAIRMAN BONNEN: Vice chair Veasey.

VICE CHAIRMAN VEASEY: Mr. Wallace, I just --

MR. WALLACE: Yes, Mr. Veasey.

VICE CHAIRMAN VEASEY: -- had one other thing

for you.

MR. WALLACE: Sure.

VICE CHAIRMAN VEASEY: Now, you -- you said that

you have heard certain things.

MR. WALLACE: Yes, sir.

VICE CHAIRMAN VEASEY: And that's one of the

concerns that I have about this bill and some of the allegations

that have been made since I've been in the legislature is that

there's a lot of innuendo, a lot of rumors, a lot of stories,

but no one can pinpoint, you know, one thing. It's just stories

that have circulated. How long have you been involved with the

election process?

MR. WALLACE: 20 years.

VICE CHAIRMAN VEASEY: 20 years?

And when did the voter impersonation become a

problem? Do you -- right --

MR. WALLACE: Probably within the last ten years.

VICE CHAIRMAN VEASEY: In the last ten years?

MR. WALLACE: Uh-huh.

VICE CHAIRMAN VEASEY: Okay.

MR. WALLACE: Or at least that's when people
started, you know, telling me they thought that there was voter fraud. And you -- like I said, we all -- you always have to go back.

VICE CHAIRMAN VEASEY: Right.

MR. WALLACE: You can't prove it unless you know the one presenting the fake ID or the -- or the fake voter registration card.

VICE CHAIRMAN VEASEY: Here -- I -- the one thing that interests me about, you know, the stories that you were telling about, well, you know, this person, you know, you heard that in this other county that someone else voted or used a fake ID and one guy voted three times, but no one really knew what to do, no one --

MR. WALLACE: That's right.

VICE CHAIRMAN VEASEY: The red universe -- you know, take off your -- your unbiased, you know, election judge hat and think about the red universe, you know, the -- the republican universe. There are so many, you know, web blogs and so many, you know, different, you know --

MR. WALLACE: I don't read all that mess.

VICE CHAIRMAN VEASEY: -- conservative web sites and things like that that sort of -- and things, you know, get around on those web sites.

MR. WALLACE: Sure.

VICE CHAIRMAN VEASEY: Why aren't there more
specific stories that are being investigated by DPS and by the attorney general's office through this network of conservative blogs and conservative activists if there are so many specific allegations of voter fraud and voter impersonation that are taking place? I mean, you would think that, you know, with this vast network, that we would already, you know, be knowing about this and that the attorney general's office would be conducting an investigation right now.

MR. WALLACE: Well, voter impersonation is what we're talking about today. There's lots of different kinds of voter fraud, but voter impersonation is the one particularly working on in this deal.

VICE CHAIRMAN VEASEY: Right. But if there are stories of voter impersonation that you've heard of from other republicans around the state, surely I could go on -- I could, you know, get my iPad right now and go on one of these conservative blogs or one of these conservative web sites and hear about specific stories and specific allegations of voter fraud that have taken place. And undoubtedly, you know, Attorney General Abbott would be investigating those claims right now. But I know of no claims that have been investigated. I know of no serious or credible stories that I've heard of on any of these blogs or any of these sites. But if it's so widespread and it's taking place and you -- and we know that there are specific stories out there and not just innuendo and
not just things that people have heard about certain areas or
certain neighborhoods, why are they not being investigated?

MR. WALLACE: Well, you've got to understand the

nature of the beast that you're dealing with in an election
judge. These are all volunteers. They do it once every two
years or maybe twice every two years. They are very hesitant to
call somebody to taw, so to speak, when they think there may be
voter impersonation because they're not sure. And unless
they -- unless I know you and you come in with Mr. Pena's card
and try to present that you're Aaron Pena, then I can call you
that. Well, under the law, I can't even do that. So
it -- election judges are very hesitant to bring these things
forward.

We need to provide a way for them to say,
you're -- you are not Aaron Pena. I don't know who you are, but
you're not Aaron Pena, and you've got Aaron Pena's card. I --
you know --

MS. HARLESS: Mr. Chairman, may I?

CHAIRMAN BONNEN: Well, I don't know if Vice
Chair Veasey is finished.

VICE CHAIRMAN VEASEY: I'm done. Yes. I'm
finished. Thank you.

CHAIRMAN BONNEN: Representative Harless.

MR. WALLACE: Yes, sir. Thank you.

MS. HARLESS: Representative Veasey, we will have
someone here from the AG's office to talk about any specific cases that have been prosecuted.

VICE CHAIRMAN VEASEY: Thank you.

MS. HARLESS: Thank you.

CHAIRMAN BONNEN: Thank you. Any other questions of Mr. Wallace?

MR. TAYLOR: If I could just make a comment.

CHAIRMAN BONNEN: Sure. Representative Taylor.

MR. TAYLOR: I think Mr. Wallace had done a pretty good job of laying out the fact that it's very difficult to prove, unless you absolutely know the people. And the idea that we have a loophole out there that people are aware of that could be driven through with a truck and we just allow that to continue without closing that loophole, basically, we can't prove a case, it's almost unproveable at this point is a little bit of a stretch. And I think Mr. Wallace has done a good job of presenting his view. Thank you.

CHAIRMAN BONNEN: Representative Aliseda. We have a lot more witnesses than just him. So --

MR. WALLACE: I'm not the only one.

CHAIRMAN BONNEN: Well, we're -- we're not -- believe me, we're not waiting for any expert.

MR. WALLACE: I'm one of these volunteer experts.

MR. ALISEDA: There's two purposes served by this statute.
MR. WALLACE: Yes, sir.

MR. ALISEDA: Is that not correct?

One is to stop actual voter fraud, and the other

is to --

MR. WALLACE: Whatever voter fraud there is.

MR. ALISEDA: Voter impersonation. And the other

is to build confidence in the system among the citizens --

MR. WALLACE: Yes, sir.

MR. ALISEDA: -- is that not correct?

MR. WALLACE: I would say that, yes.

MR. ALISEDA: And there is a perception by the

public that there is voter fraud or voter impersonation

occurring; is that not right?

MR. WALLACE: I believe so.

MR. ALISEDA: And it's not because it's a

republican or democrat issue. You've cited that even democrats

believe voter ID is a requirement, should be a requirement?

MR. WALLACE: Yes, sir.

MR. ALISEDA: Part of this perception comes out

from newscasts, for example, of voter registration drives where

Mickey Mouse was registered; is that not correct?

MR. WALLACE: That, and even illegal aliens

registering people in the Houston area.

MR. ALISEDA: All right.

MR. WALLACE: I know there's some documented
cases on that.

MR. ALISEDA: And you believe that this statute would help instill voter confidence --

MR. WALLACE: I do.

MR. ALISEDA: -- in the system; is that right?

MR. WALLACE: I've been very much supportive of this for the last eight years.

MR. ALISEDA: I have no further questions.

CHAIRMAN BONNEN: Any other questions, members? Thank you very much.

MR. WALLACE: Thank you, sir.

CHAIRMAN BONNEN: Thank you.

MR. WALLACE: Thank you.

CHAIRMAN BONNEN: Chair calls David Carter. He is here to represent himself as a private individual. He is testifying for the committee substitute to House Bill 14. Thank you.

MR. CARTER: David Carter, Temple, Texas. I've been an election judge. I retired from the Air Force in 1993 and have been functioning as a judge, a clerk, since that time. I've been searching for the logical connection, someplace where I could prove voter fraud. And until about three weeks ago or four weeks ago, I could not find it. I had to just back off and say I really don't have that much concern about voter fraud.

But I sat at the desk of Karen Richards, about 30
years' experience in the Secretary of State Elections Division, and I inquired -- I was -- I was asking about what happens when you register to vote and you take that form and you check, "I have not been issued a Texas driver's license/personal identification number or Social Security number"? I said, What happens when you do that? She says, As that -- as that comes from the county up to the statewide voter registration database that she maintains, they automatically send that back to the county registrar, saying put this person on the registration list with an S, with a suspense.

Now, suspense normally refers to a voter ID card that's been returned in the mail because they've moved, you know, a couple of blocks over. But it also -- the S also pertains to people who say, I have no ID at all. At that point, all that person has to do to vote under the current Texas election code is wait till the next election, show up with a utility bill that has his name, his or her name, and that address that's on the voter registration list, and they're allowed to vote.

In Houston, ACORN and various other advocacy groups are going out in the neighborhoods, going to the homes where there are not registered voters, and they're suggesting to them that they check the one you don't have ID whether -- whether or not they have a driver's license or not. And this checkmark is in the database. Karen Richards can give you a report like
she gave Senator Williams while I was sitting at the desk. He
was on the phone with her, asking how many people -- and I'm not
sure what geographic area he was looking for, probably
Houston -- how many people checked that.

There isn't anybody -- you talk about resources.
Nobody has the resources to go and check out all these things.
There's nobody doing it because they don't have the resources.
They don't have the mandate to do it. So my four points for my
testimony in the last 15 seconds is this bill is really about
proof of citizenship. It's not about fraudulent voters or just
ID. The danger of voter fraud is the illegals that come into
this country, fraudulently commit perjury, commit -- say they're
citizens, and they get automatically on the voter list. That's
a problem. And the photo ID kills that problem. It solves it
with no changes to registration or anything else. Voter ID is
the only thing that can fix the problem.

CHAIRMAN BONNEN: Thank you, Mr. Carter.

MR. CARTER: Proof of citizenship.

CHAIRMAN BONNEN: Representative Hochberg has a
question. Mr. Carter, Representative Hochberg --

MR. HOCHBERG: Mr. Carter, thank you. You know,
I -- since, as you know, DPS is the only one who checks
citizenship, not the voter registrar, then I imagine -- let me
ask you about a proposal and see -- just get your reaction to
it. If ultimately what we're doing here is attempting to, I
guess, overlay the DPS database on top of the voter registration database or essentially make sure that they match, make sure that you can find somebody in DPS, make sure they've been issued a driver's license?

MR. CARTER: The Secretary of State Elections Division looks at when the -- if a person should properly fill this form out and say they have a driver's license number, they do check that to make sure the name and the license number match. If they don't match, they send it back and say don't -- don't register this person.

MR. HOCHBERG: I understand that. And they -- and they send back --

MR. CARTER: Okay. What was your question then?

MR. HOCHBERG: So my question is why do we need a voter registration system at all?

MR. CARTER: Well, because the --

MR. HOCHBERG: Why don't we --

MR. CARTER: Because in the --

MR. HOCHBERG: Why don't we just --

MR. CARTER: The --

MR. HOCHBERG: Let me make sure you understand what I'm asking before I answer --

MR. CARTER: I understand perfectly the question.

MR. HOCHBERG: -- before you answer the question.

Why don't we just chuck this whole system --
MR. CARTER: Swipe the ID card, swipe the

driver's license.

MR. HOCHBERG: Why don't we just chuck this whole

system where we don't have -- we don't have registration at all.
And if you've got a driver's license, that's the voter
registration for you --

MR. CARTER: That's a good --

MR. HOCHBERG: -- or you have a state ID.

MR. CARTER: It's a good concept because when you

early vote, they just swipe your driver's license. You don't

show your voter ID card or anything else, and it --

MR. HOCHBERG: That's not true, at least where I
do it.

MR. CARTER: Well -- well, they -- they looked
at -- as they swipe your driver's license, it brings up your
name and address. It does do that.

CHAIRMAN BONNEN: I early vote continually. I've

never had my driver's license swiped.

MR. CARTER: If you don't have your registration

card, they'll take your driver's license. And it will bring
up --

MR. HOCHBERG: But they don't swipe it.

MR. CARTER: Yeah. They do. In Bell County they
do.

MR. HOCHBERG: Okay. Well, they don't in
Brazoria County.

MR. CARTER: Okay. So -- but where they swipe it --

MR. HOCHBERG: I want to be clear it's not a statewide --

MR. CARTER: Or if they look at it, they see that the name and the address are the same.

MR. HOCHBERG: But I guess just back to my question.

MR. CARTER: Well, to answer -- to answer your question --

CHAIRMAN BONNEN: Well, real -- Representative Hochberg, I want -- I want to be clear. That occurs in some counties, but is not a statewide technology that is being implemented.

MR. CARTER: Right. And -- it's either --

CHAIRMAN BONNEN: So that's fine. That's --

MR. CARTER: Either you swipe it or you look at it.

CHAIRMAN BONNEN: No, no. We understand that. I just want to make clear that the ability to swipe is not being done on a statewide basis.

Representative Hochberg.

MR. CARTER: But they can present the ID and driver's licence.
CHAIRMAN BONNEN: We understand that. We understand that.

MR. CARTER: Okay. So the answer to your question is, is down in where I served for 15 years, I went over the precinct maps for all the precincts in Justin County, 100 and -- about 101 precincts. Some of them had six people, some of them had 3,500. But those precincts are drawn based on the Port of Beaumont -- excuse me -- the Port of Port Arthur taxable authority. There's all kind of different entities. And these maps are drawn for very specific purposes of the county court and the various taxing and legal agencies. So precinct lines are important. Your address --

MR. HOCHBERG: I don't doubt that.

MR. CARTER: To simply bring in a driver's license and say I live at this address, I want to vote because the --

MR. HOCHBERG: No, no. You'd have to vote in the right precinct.

MR. CARTER: You have to give --

MR. HOCHBERG: I'm asking if you're concerned that ACORN and other volunteer groups and volunteers from either party are out inexperienced, doing wrong things, then couldn't we solve all the problems that this bill attempts to solve and then a whole lot of others by replacing the existing voter registration system and just letting DPS do that?
MR. CARTER: Well, I'm trying to answer your question. I understand your question --

MR. HOCHBERG: Okay.

MR. CARTER: -- Mr. Hochberg.

The answer to the question is, is that the counties and the various taxing entities have a very big interest in the lines of those maps and the fact that a person is properly pegged in this precinct, not in this precinct.

MR. HOCHBERG: Well --

MR. CARTER: The -- their driver's license, the encoding on that, or whatever else it is you're asking that they present wouldn't be able to delineate what tax -- the ballot you get. The automated ballot machine, the last time I served as a clerk down in deep west Port Arthur, we had -- on the machine, they have to select, you know -- the ballot that comes up on the screen depends on how they're registered. Registration is a big deal. It's not just to be a citizen of Texas.

MR. HOCHBERG: At times it doesn't appear -- it doesn't --

MR. CARTER: Beg your pardon?

MR. HOCHBERG: It depend -- that -- well, I don't want to -- thank you for your answer. I don't want to--

MR. CARTER: Okay. I think that's -- that's a pretty good answer that it's important to be registered properly.
CHAIRMAN BONNEN: Right. Thank you.

Representative Veasey has a question.

MR. CARTER: Yes, sir, Mr. Veasey.

VICE CHAIRMAN VEASEY: One of the things that President Bush tried to accomplish but he was not able to, 43, not 41, was that he talked about bringing people out of the shadows and trying to pass the immigration reform bill so people could assimilate into society and work, become citizens. And I specifically remember the term, you know, bringing people out of the shadows. Why would people that are in the shadows, why would they want to risk a jail sentence by casting a vote as an illegal alien?

MR. CARTER: That's a very good question. The question, if I understand it, is why would somebody risk going to jail? But down here it says I --

VICE CHAIRMAN VEASEY: Especially someone that likes to live in -- live in the shadows.

MR. CARTER: -- I am a resident. I have not been, da, da, da, and I sign this. And it says: I understand giving false information to procure voter registration is perjury and a crime under state and federal law. Jail up to 180 days. That would make it a misdemeanor, I believe, less than a year. Fine up to $2,000.

So why would a person risk this? It's because there is no enforcement activity. There's no history in the
secretary -- in the attorney general's office or any of the county offices. There isn't anybody with the resources or the time to go out and do this, to verify these things. They can input what they want, and they are, in fact, doing it. And if I were -- if I were a representative, I would introduce a bill to put everyone in the state on suspense, and they would have to show proof of citizenship because that's the first question: Are you a United States citizen? People are lying about that. They're fraudulently registering, and they're fraudulently voting, and they'll continue to do so.

CHAIRMAN BONNEN: Thank you.

Representative Gutierrez.

MR. CARTER: Yes, sir.

MR. GUTIERREZ: I'm sorry. He made me laugh.

I appreciate your testimony.

MR. CARTER: Thank you.

MR. GUTIERREZ: Let me ask you this: So it's your contention that there's hoards of illegal immigrants coming to vote in Texas?

MR. CARTER: Yes.

CHAIRMAN BONNEN: Really?

MR. CARTER: I'm on the border. I watch them come across. I'm in Bell -- Bell County.

CHAIRMAN BONNEN: Well, Mr. Carter, you're not representing that they're coming here for the pure purpose
of voting. You're suggesting that there are a number --

MR. CARTER: No. I just answered the question.

He said there's a lot of them that are voting, yes.

CHAIRMAN BONNEN: I'm not questioning you on that. His comment was that they are coming here for that purpose.

MR. CARTER: Oh, I didn't --

CHAIRMAN BONNEN: Correct.

MR. CARTER: I didn't hear that part of the question. Is that what you said? You asked if they're coming here for -- for voting?

MR. GUTIERREZ: Let me rephrase.

It's your contention that there's hoards of illegal immigrants that come to the United States for whatever reason and just choose to go to the ballot box to go cast their vote and commit voter impersonation?

MR. CARTER: Well, that's an important thing. They -- I think it's important for this -- all the members of this committee to have a clear distinction between voter impersonation and being a non-citizen. I think the problem of voter impersonation is a minuscule problem, and it's very hard to do, and I think that having -- getting three fake IDs would be a real problem. I don't worry about that. I worry about a 20 percent increase in the state population of illegal aliens coming across in McAllen and Mission and points further west,
Laredo, and not being caught by Border Patrol and not being
detected in the interior --

CHAIRMAN BONNEN: We -- Mr. Carter --

MR. CARTER: -- and they're registering to vote.

They are being registered.

CHAIRMAN BONNEN: Mr. Carter. Mr. Carter, with

all due respect, this is about voter ID --

MR. CARTER: I answered the question.

CHAIRMAN BONNEN: Well, I understand. It is not

an issue about whether our borders are secured and those type of

things or --

MR. CARTER: Excuse me. I didn't mean to imply

that.

CHAIRMAN BONNEN: I understand. But let's stay

on the issue of voter ID.

MR. CARTER. Okay. Okay. His question, though,

is about if they're coming across.

CHAIRMAN BONNEN: I understand his question.

MR. CARTER: And the photo ID, this -- this

bill -- this bill will stop that practice.

MR. GUTIERREZ: His response, Mr. Chairman,

brings about the next question.

CHAIRMAN BONNEN: I figured it would.

MR. GUTIERREZ: So they're out there voting --

MR. CARTER: Uh-huh.
MR. GUTIERREZ: -- and you stated that this is not voter impersonation. Are they voting as Juan Valdez or, you know --

MR. CARTER: No. They're voting under the name that they pay their utilities at, where they've been housed and illegally harbored --

MR. GUTIERREZ: Yeah.

MR. CARTER: -- in violation of federal law. And they check I'm a U.S. citizen, and they get to vote.

MR. GUTIERREZ: So hoards of illegal immigrants are voting?

MR. CARTER: Okay.

MR. GUTIERREZ: All right.

MR. CARTER: Yes. Absolutely.

MR. GUTIERREZ: Very good.

MR. CARTER: That's my concern.

MR. GUTIERREZ: And yet no district attorney has found it --

MR. CARTER: No.

MR. GUTIERREZ: -- no law enforcement's found it.

MR. CARTER: Nobody has the task to verify this.

MR. GUTIERREZ: So they're like a ghost?

MR. CARTER: You might want to appropriate some money and give them some money to do it, let them go do it.

CHAIRMAN BONNEN: Representative Pena has a
question.

MR. GUTIERREZ: Very good. Thank you, sir.

MR. CARTER: Yes, sir.

MR. PENA: I live down in McAllen, Edinburg area.

MR. CARTER: Great.

MR. PENA: And I support the voter ID bill.

MR. CARTER: Thank you.

MR. PENA: But I want -- I just want to make the record clear. There really aren't hoards of illegal immigrants voting. I observe elections quite closely, and I do have a lot of complaints about areas of voter fraud that need to be addressed, but this is really not something the general public should get riled up about.

In my experience, and I've -- you know, I've been involved in politics for a long time. I've simply not seen large numbers of illegal immigrants voting. So I think we need to move on to things that --

CHAIRMAN BONNEN: Right.

MR. PENA: -- that are probably -- that we can address. Because I don't see that problem. And I'm there, and I support the bill. And you'll see other people here from the audience from South Texas who will probably tell you the same thing.

MR. CARTER: Okay. Well, I support the bill because it would fix the problem whether it exists or not.
CHAIRMAN BONNEN: That really wasn't the question, though. Thank you.

MR. CARTER: Okay. All right.

CHAIRMAN BONNEN: Thank you, Representative Pena. Any other questions of Mr. Carter? Thank you very much for being here, Mr. Carter.

MR. CARTER: Thank you.


MR. MARSALIS: Marsalis.

CHAIRMAN BONNEN: Marsalis.

MR. MARSALIS: Yes, sir.

CHAIRMAN BONNEN: Thank you, sir. Okay. If you'd let me finish introducing you, I'd appreciate that.

MR. MARSALIS: Okay.

CHAIRMAN BONNEN: He's president of the Panola County Conservatives, Panola County Conservatives. He is here to testify for the committee substitute to House Bill 14. Thank you.

MR. MARSALIS: Thank you, sir. And I apologize. Lady and gentlemen, my wife, Karen L. Marsalis, and I, William R. Marsalis, from Panola County, Texas. We strongly support passing without amendment and without exception Texas Senate Bill 14 to require a photo ID to be allowed to vote. We are both 65. And when we applied for Social Security, we were required to show a photo ID and our Social Security...
Our bank requires a photo ID in order to cash checks, particularly above a certain dollar amount. The other day at Wal-Mart, I was required to show a photo ID in order to use my credit card --

CHAIRMAN BONNEN: Sir.

MR. MARSALIS: -- to make purchases.

CHAIRMAN BONNEN: Are you supporting the substitute to the bill or --

MR. MARSALIS: No, sir. I'm -- I'm supporting --

CHAIRMAN BONNEN: So you're not here to testify on this --

MR. MARSALIS: -- without -- in support. I'm supporting without amendment.

CHAIRMAN BONNEN: Are you testifying on the substitute?

MR. MARSALIS: I read the substitute, and I -- I support the bill without those amendments and --

CHAIRMAN BONNEN: Without --

MR. MARSALIS: -- without the exceptions. No exceptions.

CHAIRMAN BONNEN: Okay.

MR. MARSALIS: No exemptions, I should say. I think the wording was exemptions.

CHAIRMAN BONNEN: Okay. So then you oppose the substitute. Because the bill, as passed through the Senate, and
the substitute both have exemptions.

MR. MAR ALIS: I would really rather see it without exemptions, but I support --

CHAIRMAN BONNEN: I understand.

MR. MAR ALIS: -- having a photo ID required to vote.

CHAIRMAN BONNEN: Okay. So are you testifying for the substitute, because that's what's before us?

MR. MAR ALIS: I am supporting a photo ID with --

CHAIRMAN BONNEN: I understand that.

MR. MAR ALIS: Yes, sir.

CHAIRMAN BONNEN: Are you --

MR. MAR ALIS: Yes, sir.

CHAIRMAN BONNEN: -- testifying on the substitute?

Thank you.

MR. MAR ALIS: Yes, sir.

CHAIRMAN BONNEN: That's what I needed to hear.

MR. MAR ALIS: All right. Also, when I entered Fort Belvoir Army post to visit our son, we was required to show a photo ID in order to get on the post. In 2009, at the Marshall Lowe's, I was required to show a photo ID to buy a lawn mower battery. We understand and agree totally with having photo ID to prove who we are to our bank, to the Social Security Administration, to Wal-Mart, to anyone else. We do not
understand showing a photo ID to buy a lawn mower battery;
however, we did without complaint.

We do not require to show a photo ID to vote. With
the ease of registering to vote, the system is ripe for abuse.
The only logical explanation or reason that I can see and my
wife can see and the Panola County Conservatives can see with
opposing the requirement to have a photo ID to vote is to keep
the situation ripe for abuse and to ease -- easier for people to
vote multiple times or to vote for someone else's voter card.
Please pass this Senate Bill 14 to require a photo ID to be
required to vote. Thank you.

CHAIRMAN BONNEN: Thank you very much for being
here.

Any questions, members?
Thank you. Appreciate having you here today.

Cynthia Le Pori -- I hope I got that
right -- representing yourself, is here to testify for committee
substitute to Senate Bill 14.

MS. LE PORI: Yes. Hi. I'm not representing any
large group of people. I'm just representing myself as a U.S.
and Texas citizen. I do not understand why --

CHAIRMAN BONNEN: Would you -- I -- ma'am --

MS. LE PORI: Excuse me?

CHAIRMAN BONNEN: -- and for everybody, when you
come up to testify, I know it's peculiar because I've just said
your name and called you up, but please, when you come up, for
the record, we need you to state your name.

MS. LE P OR I: Oh, I'm so sorry.

CHAIRMAN BONNEN: For the -- no, no, no. No, no.

It's okay.

So just for everybody, please state your name and
that you're testifying for the committee substitute or against
the committee substitute, and then you can go from there. Thank
you.

MS. LE P OR I: Okay. Sorry about that.

CHAIRMAN BONNEN: No, no, no. You're okay.

Thank you.

MS. LE P OR I: Here's my question. If we do
have --

CHAIRMAN BONNEN: All right. Well, would --

would you go ahead and do that, though?

MS. LE P OR I: Cynthia Le Pori. I'm sorry.

CHAIRMAN BONNEN: Thank you. There you go.

MS. LE P OR I: I'm Cynthia Le Pori.

CHAIRMAN BONNEN: And you're for the committee
substitute --

MS. LE P OR I: And I am -- yes, sir, I am.

CHAIRMAN BONNEN: -- for Senate Bill 14.

Thank you. Could you say that for us?

UNKNOWN SPEAKER: Start her time over.
CHAIRMAN BONNEN: Yeah. We'll handle the time, sir. We --

MS. LE PORI: Well, actually, I don't need you to start my time over --

CHAIRMAN BONNEN: Okay.

MS. LE PORI: -- because I don't really have a whole lot to say.

CHAIRMAN BONNEN: Okay. Would you say that you're testifying for the committee substitute Senate Bill 14?

MS. LE PORI: Yes, I am.

CHAIRMAN BONNEN: Thank you.

MS. LE PORI: Uh-huh.

Here's my question: If we do have to show an ID, a picture ID, for something as simple as cashing a check, which is completely understandable, why would it make sense for anyone not to have to show a picture ID for someone to do something as serious as vote? It just doesn't make any sense to me. I think it's ridiculous. I think we have to prove as citizens -- we have to prove our ID for some of the simplest things, so it's just common sense to me. Let's bring some validity and some honesty to our voter process. And that's my only comment.

CHAIRMAN BONNEN: Great. Thank you very much.

Any questions, members?

Thank you. Appreciate your being here.

Robert Green, a -- representing himself, a
retired state employer -- or a state employee for 30 years is here to testify for Senate Bill -- committee substitute Senate Bill 14.

MR. GREEN: Mr. Chairman, members of the committee, my name is Bob Green, and I am a 30-year state employee, still active. I still have a couple in college, so I owe, I owe, so it's off to work I go.

But yes, I am here today to testify in favor of the committee substitute for Senate Bill 14. I have submitted a little -- very small, one-page bit of testimony, and I -- most of the other people who have come up here before I have spoken have talked about many of the points that are pertinent to this situation. And I'd like to just say that it all boils down to a very simple situation. I am a deputy voter registrar also here in Travis County. And if I'm sitting behind the desk and someone presents them self in front of me, one basic principle I think is important to everybody, that one identifiable individual who is not otherwise disqualified from casting a ballot in the election being held and at the polling place where he or she appears in person to do so equals one eligible voter. That's what this whole thing boils down to.

It's not like we're trying to reinvent the wheel or anything else. People have mentioned the fact that just virtually every business transaction that we carry out in person requires the presentation of a voter ID, a picture ID, so that
that individual knows that the person that's presenting the
credit card or is signing the piece of paper or what, that they
are the person that is there, that they can be identified. And
that's really all I have to present to this committee. It's as
simple as that, is that we need to maintain the integrity of
our -- of our vote, of our election. It's all about integrity,
and it's all about the reputation of our country, and so that
people can feel confident in our election process.

CHAIRMAN BONNEN: Thank you very much.

MR. GREEN: Thank you.

CHAIRMAN BONNEN: Any questions, members?

Thank you, Mr. Green.

MR. GREEN: Thank you.

CHAIRMAN BONNEN: Appreciate your being here.

Mr. Bledsoe, have you filled out your witness
affirmation?

MR. BLED SOE: Yes, sir. Let me grab it.

CHAIRMAN BONNEN: Would you please bring it
forward. We'd like to call you up at this time as one of our
expert witnesses. Sorry to do that to you, but we want to get
these experts up early. Mr. Char will take that affirmation.

MR. BLED SOE: Okay. Sure. I think he -- yeah --
has already handed it in. So we already have that.

CHAIRMAN BONNEN: Oh, very good.

This is Mr. Gary Bledsoe representing the NAACP,
and I imagine you're here to testify against the committee substitute Senate Bill 14?

MR. BLEDSOE: That's correct. That's correct.

CHAIRMAN BONNEN: Very good. Thank you, Mr. Bledsoe. Go ahead and state your name for the record and begin. You have ten minutes --

MR. BLEDSOE: Okay.

CHAIRMAN BONNEN: -- and then the committee will be able to ask you questions.

MR. BLEDSOE: Okay. Thank you very much.

CHAIRMAN BONNEN: Thank you, Mr. Bledsoe.

MR. BLEDSOE: I want to thank all of you for giving me the opportunity to appear before you. And I appear here --

CHAIRMAN BONNEN: Mr. Bledsoe, don't forget to state your name and -- and who you're with for the record.

MR. BLEDSOE: Okay. My name is Gary Bledsoe. I'm the president of the Texas State Conference of NAACP branches. And I'm here as a fellow Texan to discuss with you what I feel is a proper direction for us to move in if we're going to be fair and right.

Now, we've observed that many activities have occurred within our state that have been somewhat problematic, that have caused individuals to feel as though it's appropriate to intimidate minorities from voting. And indeed, each election
cycle we have election teams. And our election teams around the
state are required to submit information to us and work with us
from what's called an election central to work on issues of
election intimidation, election irregularities.

And we have found numerous problems in many
places around the state, whether it's Harris and Fort Bend not
allowing individuals to exercise challenged ballots, whether
it's individuals who are intimidating persons within the voting
site, whether it's individuals in Bell County who are being
accosted and interrogated by individuals. But the election
officials are not stepping in to assist the voters. So we've
seen problems recently, whether it's Texarkana or Fort Worth or
Wharton County or Harris County. The election irregularities
are everywhere.

And so the fundamental point we want to make is
that the Voting Rights Act would suggest to us that we should do
what we can to ensure minority participation in voting. And
we've seen a much larger problem with the issue of voter
intimidation and voter irregularities than we've seen with the
issue of the need for an identification. The evidence just is
not there to say that we need a voter identification
requirement. However, I understand that other people have
different points of view.

Our point of view is that if you do desire to go
ahead and address the issue of voter identification, that you do
that in a way that is measured, that is intended to ensure minority participation in the election system so that we can comply with the Voting Rights Act and so that all people will have an opportunity to participate in the process. What we feel, what our position has always been is that we want both parties competing for the minority vote and not to have any individual saying that we want you -- we want to cut you out because you vote a certain way; so therefore, we're going to stop you from being able to vote.

We think what the Voting Rights Act suggests is that if you empower minorities with the power to vote, that parties should go out and compete with ideas and not with activities that will undermine the ability of African-Americans to be able to vote.

You know, in Texas, we have a sordid history in reference to African Americans not being able to vote. You know, back in 1974, in Palestine, Texas, Frank Robinson, who had -- was a legendary civil rights advocate who was working to get African-Americans registered when that was somewhat new in our state, was actually killed at his home. And 1974 is not that long ago, my friends. And so -- and we still continue to have the problems that we had.

Now, as far as the -- I know much has been made of the laws in other states. And I would say that if we took a look at the Indiana law and took a look at the Georgia law,
those laws are better than the law that's actually put forth before you. And indeed, Georgia is a covered jurisdiction. But there's one thing that's very different about Georgia that we don't have in this state. In Georgia, they -- they had a law that mandated that every citizen in the State of Georgia had to have -- had to have a state issued identification card, whether it's a driver's license or some other identification. This is the -- and I get this from the source of the United States Department of Justice. And so when they implemented the requirement, everyone in Georgia had the voter identification card. And so here we know that number is -- that we have a significant number of people who don't have the proper identification. And I know last time when there was a lot of discussion about compromise and there was some compromises that were reached in reference to a proposed voter identification bill, that there were many other ways, more, many more than what are provided in this bill, that would enable someone to actually prove that they are who they say they are.

You know, we have a great concern with the hostility that we've observed from election officials around the state that -- we have a great concern that they will be fair, that those election officials will exercise their authority in an even-handed way. When you're not allowing people to cast challenged ballots, that's a problem. And so what we want is to suggest that let's provide other means and measures, and the law
should provide guidelines, because when you allow too much discretion without direction to an election official then we understand that they will probably be exercised in a way that is not fair across the board. And so when you arm them with so much information or so much authority, we think that's problematic.

Now, the -- some of the activities that we have identified, I've laid out to you, but I want to talk specifically about the laws. You know, I think that, indeed, when you allow an individual -- we need to have more time to allow an individual to go in and to prove who they are if we're going to have a voter ID requirement. Because let's stand back. We have a law that says you should allow someone to have two hours off if you're going to go and vote. But we don't have the same opportunity for an individual to come in and to prove that they are who they say they are, to go ahead and consummate what needs to be consummated with their challenged ballot.

Now, the people who are likely to be challenged are, by and large, people who have jobs, who have got to work. They're individuals who won't have the latitude. And let's say we live in some other county and outside the county, and you've got to drive 50 miles to the county seat or what have you to be able to do this. And so that's problem.

Now, the other problem too is when we look at the number of people who don't have the requisite kinds of
identification cards that -- what will be in place to really
enable those individuals to be able to register and vote. I
think the one thing that's clear is that there are a number of
locations within our state such as down in Presidio County where
people who may be of limited means, who don't have a ready
availability of transportation, are not going to be able to
easily afford or afford at all to go and -- to go to the nearest
driver's license office 50, 75 miles away and to get a driver's
license. So those individuals are going to be in a very
difficult position because the logistics just aren't there for
them. So I think that it needs to be a lot friendlier in terms
of the ability to get an identification requirement.

You know, the law -- and I think that the criminal
provision in the law, where you've stepped up the penalty in the
proposal to a second degree felony, is somewhat draconian. I
think current law allows for felony prosecution. I think
stepping this up to a second degree will have a chilling effect
on individuals. We know the case about the Prairie View 19 in
Waller County where that county continues to have problems. You
know, that was the county a few years back that had numbers of
votes that were registered or applications for voter
registrations for African-Americans that were not processed
before the election. And it was only after the attorney
general's office was there and observed those that they were
required to go ahead and process those applications. But those
voters were not allowed to vote. And I'm talking about things in current days. These are not things from yesteryear. These are not things from 10, 20 years ago. So we have a lot of problems there we're seeing. So in a wholistic way, we don't think we need a law, but if we do, let's get a law that's fair where minorities can continue to compete and to be part of the process.

CHAIRMAN BONNEN: Thank you, Mr. Bledsoe.

MR. BLED SOE: Thank you, sir.

CHAIRMAN BONNEN: Appreciate your time today.

Representative Taylor has a question.

REPRESENTATIVE TAYLOR: Did I had hear you say that the Georgia and Indiana laws are better than what is being proposed here?

MR. BLED SOE: Yes, they are.

REPRESENTATIVE TAYLOR: The only thing you referred to different was the time to provide proving who you are, correct? After the -- you don't have photo ID so you have two days, six days, ten days to present proof?

MR. BLED SOE: That's one item.

REPRESENTATIVE TAYLOR: And I'm just --

MR. BLED SOE: Their laws are not the same.

REPRESENTATIVE TAYLOR: Because Georgia only allows two days and this bill as proposed allows six days. So I'm just curious what other areas do you think the Indiana and
Georgia laws are better than what's being proposed here?

MR. BLEDSOE: Okay. The -- one thing is Georgia allows a valid employee ID card containing a photograph from any branch, department, agency or entity of U.S. government or Georgia or any county, municipality, board, authority or other entity of the state. I think that's large. It allows valid tribal identification cards. The -- it also does provide -- and I think this committee substitute may have addressed this part, but I remember the idea about the part of the expired driver's license, that you could have an expired driver's license and actually have that work as well. I know in Indiana the -- any state, federal, local government employee identification was permitted there. The -- let's see here.

In Indiana and Georgia the hard data that existed -- there was hard data that both Indiana had and that Georgia had that did show that almost every eligible voter had the identification. I don't think we've generated the hard data here to do that. And I do think that there were student identifications that were permitted in one or both of those states. So I think there were a number of areas of the types of identification. And, indeed, I think Indiana had a longer period that allowed you to come in and to prove. So I think there were other --

MR. TAYLOR: Your main concerns would be on what types of photo ID are required, is the main difficulty you have
between the Indiana/Georgia versus the SB-14 as proposed?

MR. BLEDSOE: That's one of the reasons, yes. And that's really kind of very important. And I think that there was an exception I think in Indiana that allowed for various substitutes outside the process or what was identified, and I don't think that was provided for in Georgia because everyone in Georgia already had the photo ID.

CHAIRMAN BONNEN: Thank you. Any other questions, Representative Veasey?

REPRESENTATIVE VEASEY: Gary, thank you for coming to testify this morning. And I want to thank you for your service to NAACP for so long. The NAACP has never out -- the NAACP has never been a popular organization because of the stances that y'all have taken on civil rights issues. I went to the Civil Rights Museum at Troy State in Montgomery, Alabama and was reading about some of the bus boycotts with Rosa Parks and some of the other activities to register people to vote. And if you were a member of the NAACP back then, you could actually lose your job. So a lot of the maids and servants and people that worked at country clubs and worked in doctors' offices and things of that nature, they would actually try to keep it a secret that they worked at the NAACP because they risked not being able to earn a living or yet maybe even have their life threatened. And you fast forward to today, and, you know, we know what happened at the NAACP banquet last year with the
doctor tapes and with Dr. Laura ranting and raving about the NAACP, amongst other things. And y'all are still going strong, and thank you very much.

MR. BLEDSOE: Thank you.

REPRESENTATIVE VEASEY: I wanted to ask you about Voting Rights Act. And I think the thing that concerns me about this bill was that the Voting Rights Act, one of the things that it sought to dismantle were some of the barriers that were placed in front of voters who were trying to register to vote or cast a ballot, particularly African-American voters. So there were literacy tests. There were poll taxes. There were quizzes, how many bubbles in a bar of soap? Who was a better president, Abraham Lincoln or George Washington, different things like that. And those serve as sort of a barrier, or you're putting something in front of someone that's making it very difficult for them to exercise their suffrage. Have you seen any bills that have been passed on the Texas legislature since the implementation of the Voting Rights Act that has been as burdensome to voters as this bill? Because and I was trying to think. You know, I've been here four sessions now and have worked in politics a little bit longer than that, but I cannot recall, myself, any other sorts of laws that have been advanced or even attempted to be advanced that would place such a burden back onto the voters pre the Voting Rights Act.

MR. BLEDSOE: Clearly, Represent Veasey, it's
very true that this is one of the most burdensome bills that has been proposed because, obviously, the upshot, you can almost take it to the bank to say that when the bill is passed, when the bill goes into effect -- I guess the relevant question is if you look at the numbers of voters that we have today.

REPRESENTATIVE ANCHIA: Mr. Chairman, just really quickly. I apologize, Mr. Bledsoe. I'm very distracted. Mr. Green in the front row keeps mouthing the words "bullshit" over and over again. I find it extremely offensive as he is -- Mr. Bledsoe is trying to testify here. I saw it once and I let it go. You've done it twice. So I'd ask that you admonish members of the audience not to be disrespectful to the people who are testifying.

CHAIRMAN BONNEN: Appreciate that, Representative Anchia. We would ask that any reactions to the witnesses and their comments be kept to yourself. And thank you, Mr. Bledsoe. You may continue.

MR. BLEDSOE: Sure. This would be the requisite question. If you take a look at the voters now, there is a circle of voters and these are the voters that are eligible to vote. The question is once this law is passed, what will the new circle of voters look like who are eligible? And as a secondary question, what is provided in the statute if there is a difference to make up the difference to make sure that there is not a diminution or a suppressed or lower minority vote?
And so I think if we take a look at that, and when you look at the specific IDs that are selected here and you then you look at the availability of how you can come and to prove that you are the person that you are, and with the wide discretion that is allowed to someone if there is a one letter wrong in a name, they've got the wrong middle initial, issues like that, with that kind of discretion, if you look at that the number of voters is going to be significantly lower in the new circle.

And the law is not going to enable people in the new circle to -- or people outside the new circle to come in and make it look like the current circumstance. So I think that's problem number one on the Voting Rights Act. I think clearly you are going to be disenfranchising minority voters. There's no question about that in terms of who has the IDs, who doesn't have the IDs and who is going to be victimized by election officials. Training is good, but I think training is really up to the individual. I think things really need to be in a statute that really lay it out.

There are also other concerns that we have. You know, the -- if you allow individuals to engage in intimidation within a voting site, that's a serious problem. And no one's really talked about that issue. But we had a huge problem in Harris County with that this last time. We do know that minority voters in Bell County and in Bowie County were
intimidated and interrogated by individuals who had no right to
do that about how they might have voted. And people were
allowed to be around voting sites with intimidating signs and
accost voters. We think that's a problem because that continues
to exist and will suppress the vote. We're saying is let
everybody vote and vote the way that whatever their conscious
might be.

When we look at the history of our state,
Representative Veasey, and we talk about the issues with the
NAACP, those things have lasted for many, many years. You know,
back in 1919 there was an attempt by the State to get NAACP
rolls and shut down the NAACP, and then it happened again in the
1950s. The head of the NAACP, back in 1919, John Shillady, a
white male, was beaten near death near where we are right now.
And when the governor was asked about it by the New York Times,
he said there was only one culprit and that that culprit has
already been punished. So we've had that kind of history that
truly continues. But we always reach out to try to be
bipartisan. We're happy to have, like, for example, our number
members, secretary, Rob Page. He's always been somebody we work
with on some of the standards issues. So we try to reach out to
both parties to say that we are bipartisan. So when we come
before you, you know we're not saying things for one reason or
another that's partisan interest. We're saying it because
really and truly this bill will have a negative impact on the
minority vote, and you can take that to the bank. It's a
different -- we're a covered jurisdiction. Those other
jurisdictions, at least Indiana, is not covered. Georgia had
the law where everybody had the ID. That's a big difference
from what we have right now.

REPRESENTATIVE VEASEY: Gary, does the NAACP have
any opinions on why maybe Texas would want to pass a more
stringent law than Georgia or Indiana?

MR. BLEDSOE: Well, I mean, I think that one
thing that seems to be occurring, and that is, you know, we have
a large Hispanic population. And what I'm concerned about is
that there is a great concern, in other words, to make sure that
the Hispanic population does not vote at certain levels. And so
if there was some -- if you could show me evidence where in this
county somebody had an identification or they voted and they
weren't who they said they were, but it just is not a problem.
I don't think many people -- let's think about this. You're
going to go out there in public, currently, and you're going to
walk up to a polling site with people looking at you and you're
going to say that you're someone other than who you are. And
you're going to -- and it's already a felony for you to do that.
I think the current law discourages people from doing that.
That's why we haven't seen prosecutions around the state. There
may have been one or two over the years. It's really not a
problem.
Voter intimidation, the lack of fairness by election officials, those are much larger problems than people voting who aren't who they say they were. That's a fiction. Someone looks at the law and they believe that this is a potential problem. But it hasn't been shown, because I do think you put yourself at risk if you go and vote and you're not who you say you are. So there's not really a need for that. So this bill will have a great impact on African-Americans. I think it will have an even more enormous impact on the Latino community.

REPRESENTATIVE VEASEY: If some of the folks got up and testified earlier, said they were concerned about the integrity of the voting process in Texas; they don't have confidence in the voting process in Texas, how would, you know, folks that are different from them feel about the voting process in Texas if barriers and burdens were placed in front of them and they were not able to go and vote? Because I understand their sentiments and what they're saying, but my biggest concern is that, okay, you pass a very stringent law and you make it hard for people to vote, and in particular make it hard for people that let's say that live in my district or districts like mine around the state, you make it hard for them to vote. Well, then, also they would, in turn, end up not having, you know, confidence in the voting system. And already there are issues with other forms of voting that I think the people in my
district have issues with. And just wanted you to kind of
address that too, that you want to have a fair system and a fair
process because you don't want anyone to feel like that the
system is not one that is of integrity.

MR. BLEDSOE: Well, you know, I think in many
ways Texas has an exemplary system because I think we have
evolved. And I think that you -- by allowing people to -- we
have -- we allow people who have been on paper, who have had
felony convictions, once they're off paper to vote. That's
somewhat progressive.

REPRESENTATIVE VEASEY: In the South, that's very
progressive, absolutely.

MR. BLEDSOE: So Texas has kind of evolved. And
when we've come over here in years past and we've put out our
report card, you have numbers of both parties that get A's or do
well on the NAACP report card. But I see that there is a
movement in this country to really push back. There's a lot of
anti minority sentiment for various reasons that seems to be
occurring. And I feel that that anti minority sentiment is at a
root of some of these issues relating to voter identification
because there's no -- unless you can show me the facts, and I
defy anyone in the room to come forward and show me the facts
where you've had a problem with people misrepresenting who they
are. You may have one or two instances of that over all these
years. So that's not a problem.
So we're here, and this is going to put an additional obstacle on people to prevent them from being able to vote. And I don't think that -- and I think this would impact any community if something was put up in place to undermine them from their ability to be able to exercise their right to vote.

You know, if someone -- if someone has mail that shows that they work at a certain address, like in the bill that we worked on last time and Representative Anchia kind of led some efforts to compromise, why does that not have integrity? Why is it that you have to have the identification? And then we go again back to the PV19 where those young students were all wrongfully prosecuted, and they were who they said they were. So there's been more of a problem on the other side than there is for voters doing that. But this is again on minority voters.

So we think that this is going to be a bill that's going to have a real problem with pre-clearance and that you can't just look at Georgia and say Georgia is pre-cleared because Georgia could show straight up that this is not going to have a disadvantage. We can't show that. That's not true here.

And the numbers of people who are not in that new circle, I think those numbers are going to be disproportionately in the minority.

REPRESENTATIVE VEASEY: Yeah. And I want to applaud you for coming up with specific examples of how people were intimidated in Waller County and Bell County and Bowie.
County recently, not something like you said from yesteryear, 
but something recently, and not just innuendo and rumor. 

I have an e-mail right here that was sent to me 
last election cycle that had gone out to Republican voters and 
ette party types from the executive director of the Tarrant 
County Republican party saying, "If you think voter fraud 
doesn't happen in our area, think again. We need poll watchers 
in Democratic precincts. Some of these locations are not very 
safe areas. So this is not for the timid." And once again, 
those types of things are rumor. That's innuendo. There's 
nothing concrete, like what you pointed to today, and I just 
think that, as far as bringing Texans together, that sort of 
rumor and innuendo, those are the types of things and sort of 
generalizations that people have been making about minorities 
and voting since reconstruction. And I just think that passing 
law based on that sort of -- of these sorts of stories is just 
bad.

MR. BLEDSOE: That actually sounds somewhat 
inciteful to me, but I didn't hear the whole e-mail, but just 
the whole tenor of that, "This is not a safe area," that is 
stereotypical and that is trying to get people charged up in a 
certain way to go into a minority community. So it's a 
prescription for disaster. So I think that is indeed 
problematic to do that that way.

CHAIRMAN BONNEN: Were there problems in Tarrant
County this election cycle?

MR. BLED SOE: We did. We had some previous election cycles but not this one reported --

CHAIRMAN BONNEN: There weren't any this time?

Thank you. Represent Aliseda.

REPRESENTATIVE ALISEDA: I'm not ready to concede that our statute is any more stringent than Indiana or Georgia's statute. But you make a point that this particular requirement will affect minority communities more than other groups. Do you have any data as to what members of the black community or the Hispanic community do not have one of the prescribed forms of identification or could not get one of the prescribed forms of identification?

MR. BLED SOE: No, I don't have specific data to show that. I will say this, a couple things. Several years ago we presented a study to this body in reference to racial profiling. We submitted several. And one of the things we did is we looked at driver's licenses. We looked at car ownership and things of that nature. And we were able to show that there were disparities in the certain counties that we looked at out in East Texas. And, again, when I mentioned the point about Presidio County, that's just one example. That will negatively impact minorities in that area because of the placement of driver's license sites for you to go and actually obtain a driver's license.
In other words, to say in the statute that you can get a driver's license for free is one thing. But if you're poor, if you're unable to travel, you don't have the ready means of transportation, your life is your immediate environment, that's going to be tough and difficult. But I think that what happened in Indiana and Georgia is they went out and got that data. So they didn't have to get interest groups or others to come and get the data. They had the data to show what the current circle was and what the new circle would become.

REPRESENTATIVE ALISEDA: This particular or something very similar requirement for voter identification has been something pending before the legislature for several years now. And, you know, I'm surprised that here we are in 2011, and we do not have individuals coming forward and saying, "I do not have an identification. I cannot get an identification." I live in Bee County. Do you know where Bee County is, sir?

MR. BLEDSOE: I've been there. Tried cases there.

REPRESENTATIVE ALISEDA: It's South Texas, 90 miles from San Antonio, 56 miles from Corpus Christi. If we did not have a driver's license facility in our county, in our small county seed of 13,000, we have available free or almost free of charge, rural transportation to take you to Corpus Christy to get whatever it is you need, to take you to San Antonio, whatever you need. And that's available to anyone, regardless
of their financial status. It costs them a dollar to ride the rural transportation system to Corpus Christi. All they have to do it call and make an appointment. They'll come and pick them up, even if they have a handicap. They have accessibility that way.

So I'm having a hard time understanding how it is that we can make these representations that these identifications are going to impact the minority community more than any other community when we have things available to remedy that. And we've had this thing pending for years and years and I have yet to see a witness -- I assume we may have one later, I don't know -- that is going to come forward and say, "I am not going to get an ID and I can't get an ID."

MR. BLEDSOE: And I think the point -- and let me say here, I think number one is as you've challenged us, I would encourage you to challenge other people to produce people who have misrepresented who they were and to produce instances of examples of people who were not -- who manipulated the system and voted fraudulently because that doesn't exist. So just like the point of challenging us to produce someone. But now what we're saying is, we're saying people -- we're saying most of the people that are going to be impacted have limited means. And when you say that Bee County has certain kinds of transportation, that doesn't mean that the other 253 counties in the state have the same kind of transportation. And we're not
saying that people would not be eligible to get identification. We're saying that it's difficult. And, you know, one man's dollar is another man's thousand dollars. So when you have people on fixed incomes, budgets, limited circumstances, we can't begin to preach and to say how easy it would be for them to be able to get transportation and to go to where they need to be.

Plus, it needs to be education, because we need to be able to reach out to identify people and let those people know that you're no longer going to be able to vote. So there's going to have to be tentacles that reach into the community to get those people to know that they should go and affirmatively take steps to go and get the identification. That's going to be another requirement.

REPRESENTATIVE ALISEDÁ: Well, does not the statute provide for substantial education?

CHAIRMAN BONNEN: Correct, it does. Thank you. I think Represent Harless has a question.

REPRESENTATIVE HARLESS: Thank you for being here today, Mr. Bledsoe. You have such a smoothing voice that even when I disagree with you, I can't help but smile. I wanted to ask you, did you have an opportunity to read the committee substitute?

MR. BLEDSOE: I have not. I have been briefed on the committee substitute, but I haven't actually sat down and
read it, but I have been briefed on it.

REPRESENTATIVE HARLESS: Okay. You mentioned
earlier about a problem with a name, like an initial or a
different last name. There was provisions made in the Senate
bill and also in the substitute that would allow that. So I
want to rest your mind that if somebody shows up and their name
is very similar and they sign an affidavit, they will be able to
vote.

The other thing is did you have an opportunity to
listen to the testimony in the senate hearing on SB14?

MR. BLEDSOE: I was there for most of the day.

REPRESENTATIVE HARLESS: Did you testify on that?

MR. BLEDSOE: Yes, I did.

REPRESENTATIVE HARLESS: There was
representatives from Indiana and Georgia, and we have some here
today as well. And they testified that the percentage of voter
turnout increased after the passage of this law. And I wanted
to mention, when you talk about this bill being different from
Georgia and Indiana, this bill is tailored along the Indiana
law, and in upholding the Indiana's photo ID, 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 in government. Voters
who fear their legitimate votes will be outweighed by fraudulent
ones will feel disenfranchised." Do you know of what percentage of the registered voters actually turned out to vote in the general election in 2010?

MR. BLEDSOE: I do know that the numbers of overall minority vote was lower. I can't stand here and cite for you the actual number, but I do know it was lower than in the past in terms of the percentage of the vote that was minority. I do know, like in Harris County, I think the Latino vote was extremely low in that county.

And I know that when you say that in Indiana or Georgia that the numbers went up, you have an apparition. You have the candidacy of Barack Obama that throws off and skews all the figures. So you have to take other elections to look at to have an appropriate --

REPRESENTATIVE HARLESS: Even though neighboring states like Mississippi did not have an increase in turnout in 2008, even though Georgia did and Mississippi does not have a photo ID?

MR. BLEDSOE: And I haven't looked at the Mississippi figures, and I don't know that you can say that there is a one 100 percent correlation. But I think you can clearly say that it's very clear that there is a dominant theme, and that is that minority turnout was much higher in 2008 than it was in other places. And it may be that one can cherry pick and find, well, this state didn't have a higher turnout. That
could be an apparition to other reasons. I think we need to
look at what the minority voter turnout was in Mississippi and
see if that was higher than in 2004. And I would suggest it
probably would be.

And I know we look at -- I was at a seminar the
other day, and they said that in Obama's Candace /SEU 1 out of
11 whites voted for him in Alabama, 1 out of 10 in Mississippi,
1 out of 7 in Louisiana, but in Texas he received 35 percent of
the white vote. But you can see the disaffection in some of
those communities, like when you mentioned Mississippi. There
may be other reasons why there was not a greater voter turnout.

REPRESENTATIVE HARLESS: I want to mention that
I'm very confident that this bill will meet the test of the U.S.
Supreme Court and also for pre-clearance because there are
certain standards that they've asked that be upheld, and that is
that the bill deters and detects fraud, that it protects public
confidence in the election, that it counts only eligible voters' votes, and also provides access for free ID, allows for
provisional ballots and in ballot absentee ballots and ensures
obtaining a photo ID is no more burdensome or inconvenient than
the actual act of voting. And we also provided exemptions for
elderly, disabled and indigent. So I'm very confident that our
bill meets these standards. And thank you so much for being
here today.

MR. BLEDSOE: You're quite welcome.
CHAIRMAN BONNEN: We're down to only a few minutes here before we need to break for session.
Representative Gutierrez, do you have -- you don't have to but -- Representative, Veasey.

Thank you, Mr. Bledsoe. We appreciate your testimony here today.

MR. BLEDSOE: Chairman, thank you very much.

CHAIRMAN BONNEN: Thank you. Give me a public witness. We're going to do one more public witness. They have three minutes, and that way we'll keep moving. Chair calls Colleen Vera, retired teacher, here to testify for the committee substitute Senate Bill 14. You have three minutes.

MS. VERA: My name is Colleen Vera. I represent myself, and I am for the committee substitute. I am a native Texan and retired Texas teacher. I volunteered to work as a poll watcher during the early voting in 2010. In that one day I witnessed two situations that I would like to share with you.
First, I observed a voter who showed the election clerk two voter registration cards, and she said, "They had me down with two names." Both cards had the same address, but the first card had the voter's legal name and the second had her nickname. Because the voter was an honest citizen, she showed both cards to the clerk and the clerk used one with the voter's legal name. Had the voter been dishonest, it would have been very simple for her to vote twice.
Second, I observed a voter who spread out multiple voter registration cards like a deck of cards. She said, "Which one do I use here? They always send me extras." The clerk told the voter she would have to decide. So the voter handed the clerk one, the clerk confirmed the registration and she proceeded to vote. Again, had she not been an honest citizen, it would have been very easy for her to vote more than one time.

It is remarkable to me that in the year 2011, with the growth of technology, that we are even questioning the need for photo ID for something as important as voting. We all know how prevalent identity theft is, and the State of Texas should be doing everything in its power to prevent identity theft in voting.

In my opinion, the easiest way to prevent fraud is to provide photo ID from a government issued source. I have read the arguments that requiring a photo ID to vote discriminates against the elderly, the disabled, and the poor. So just like I taught my students to do, I went online and did a little research of my own.

Did you know that if you go to Medicare.gov you'll find a document No. 11343 that states the first time you use your new Medicare prescription drug plan you need to bring to the pharmacy your Medicare card and a photo ID such as a state driver's license or a passport? Then I searched the Texas
Health and Human Services Commission to find Form M5017 which lists the documents you need to send with applications for food stamps, temporary assistance for needy families, medical assistance or Medicaid for elderly and people with disabilities. They all require a valid driver's license or Department of Public Safety ID card to even apply.

This shows that the State of Texas already requires photo ID to apply for social services for the elderly and people with disabilities. So I do not see how anyone could reasonably argue that the same photo could not be used to insure proper ID for voting. Thank you for your time.

CHAIRMAN BONNEN: Thank you for your time. Any questions, members? Thank you. Appreciate your being here.

Members, at this time the chair would like to withdraw the committee substitute to Senate Bill 14, and I will leave Senate Bill 14 pending before the Committee. And it's the Chair's intention to, as reasonably quickly after session ends, reconvene the Committee and begin hearing the witnesses again, when session is in recess. So the Committee stands in recess. Thank you, members.

(Recess)

CHAIRMAN BONNEN: Voter identification and voter fraud is now called to order, and the clerk will please call the role.

CLERK: Bonnen?
CHAIRMAN BONNEN: Here.

CLERK: Veasey? Hilderbran? Hochberg?

REPRESENTATIVE HOCHBERG: Here.

THE CLERK: Pena?

REPRESENTATIVE PENA: Here.

THE CLERK: Taylor? Gutierrez? Harless?

REPRESENTATIVE HARLESS: Here.

THE CLERK: Aliseda?

REPRESENTATIVE ALISEDA: Here.

CHAIRMAN BONNEN: And Mr. Gutierrez is present.

THE CLERK: Gutierrez?

CHAIRMAN BONNEN: Perfect. He's present. Good.

Quorum is present. And just for those of you in the audience who are watching, we're at a particularly busy time of session. And so this is a very important issue to all the members, but I know like Representative Hochberg is doing appropriations and public ed, and I know Representative Harless, I don't know if y'all have redistricting today. But you will see the members coming and going. It's not due to a lack of interest or concern for the issue. But we at this point in session we're usually scheduled to be, if we're lucky, at least three places at one time. So that's where you'll see members coming and going. And we appreciate your understanding.

The Chair lays out Senate Bill 14 by Senator Fraser as pending business. Representative Harless offers up a
committee substitute that will be laid before the Committee to Senate Bill, and we will now resume taking testimony on the Committee substitute to Senate Bill 14. And we will begin back with our expert witnesses.

Brian Kemp, the Georgia Secretary of State, is here representing himself as an individual and he is testifying neutral on the committee substitute to Senate Bill 14. Welcome from Georgia. We appreciate having you here.

MR. KEMP: Thank you, Mr. Chairman and Members of the Committee. It's great to be back in Texas. I appreciate you having me here today. As the Chairman said, I am Brian Kemp, the Georgia Secretary of State.

I wanted to quickly just give you some background information on myself so you'll know where I'm coming from on this issue.

CHAIRMAN BONNEN: Mr. Secretary, I apologize for the interruption. Just so you know, the expert witnesses are being given ten minutes.

MR. KEMP: Okay. Very good. I am a proponent of photo ID legislation; however, I do not come to Texas to try to tell you—all how to legislate. I simply am coming to provide information about what we have with done in Georgia, our process and how our law has been implemented. And I hope this will help you as you consider this legislation.

I was in the Georgia Senate back in 2006, when
our photo ID bill passed. So I have the experience of going
through some of the same type of experiences that you are all
going through now. And with that I'll give you a little bit of
background information on our legislation.

In 2006 we did enact Senate Bill 84 which
requires voters who cast their ballot in person to present one
of six forms of acceptable photo identification. They are a
Georgia driver's license, even if expired, a valid state or
federal government issued ID including a free voter ID card
issued by the voter's county registrar or the Department of
Driver Services, valid U.S. Passport, a valid employee photo ID
of any branch, department, agency or entity of the U.S.
Government, Georgia or any county, municipality, board,
authority or other entity of the State, a valid U.S. military
photo ID or a valid tribal photo ID.

If a voter does not have photo ID or forgets to
bring their photo ID to the polls, they still can cast a
provisional ballot. The voter then has until the Friday after
election day to obtain acceptable form of photo ID and return to
their county elections office to have their vote counted. No
voter is ever turned away from the polls because they do not
have acceptable photo ID.

The Secretary of State's office implemented a web
site, GeorgiaPhotoID.com, to educate Georgia voters about the
photoed ID requirement for in-person voting, the free voter ID
card for voters who do not have a voter ID, the free photo ID card available at the Department of Driver Services. The web site also contains flyers, posters, and brochures about Georgia's photo ID requirement that users can print and distribute.

I want to talk a little bit about our outreach and education. We conducted a statewide multimedia outreach and education campaign to inform Georgia voters about all facets of the photo ID requirement. The campaign was conducted prior to six elections between September of 2007 and November of 2008 general election. We mailed out over -- or we did direct mail and utility bill inserts over five million pieces. We had packages of photo ID materials to nongovernment agencies, like chamber of commerces, churches and libraries. There were 633 packages, over 57,000 pieces. We did 83,000 automated phone calls, 1,200 video PSAs, over 60,000 radio PSAs, and the office issued over 70 press releases.

The highlights of the campaign were the radio ads with Then-Secretary of State Karen Handler and Atlanta Falcons players. The PSAs increased awareness of the requirement, voter registration deadlines and early voting option. Also we advertised at the Atlanta Falcons' home games on their LED banners. We did radio ads that were purchased statewide on Clear Channel. And there were 400 ads that were placed inside Atlanta's Marta busses to remind riders of the photo ID
registration.

The free identification cards that we offered, I wanted to just go through the numbers real quick on those. In 2006 we issued about 2,200 free ID cards, 4,200 in 2007. 2008, the presidential year, we issued over 12,000. We had about 2,500 in 2009, 2,700 in 2010. And then when you count the thousand or so that the Department of Driver Services issued, the grand total was about 25,000 free photo IDs in a state of bumping ten million people that were issued. And 51 percent of those were issued in 2008, on the presidential year.

To obtain the free photo voter ID card, there's four things that you have to do. You've got to provide a photo identity document or prove non-photo identity document that includes full legal name and date of birth, and you must document the voter's date of birth and evidence that the applicant is a registered voter and documentation showing the applicant's name and the residential address.

I've actually got three pages of details about this process that I will submit to the Committee, and I will be glad to answer questions at the end of the remarks, if there are any, regarding this process. It's just a lot of information that you could probably get more from just looking at yourself.

I wanted to -- I thought it would be important to give you an analysis of the votes that were cast in Georgia elections. More than 14,630,000 votes have been cast in 35
state and federal elections in Georgia since 2007, when the
photo ID was first required for in-person voting. These figures
do not include municipal and county elections, which are
administered locally in Georgia.

Additionally, the 2008 elections were the largest in
Georgia's history, featuring record turnout among minority
dolters with the photo ID requirement in place. The following
figures represent voter turnout statistics among Hispanic
Latino, African-American and white voters from the 2004 and 2008
elections.

In 2004 there was 18,000 Hispanic Latino votes cast.
In 2008 there was 43,000, a 140 percent increase. The
African-American vote in 2004 was 834,000. In 2008 it was 1.2
million, a 42 percent increase. The white vote in 2004 was 2.3
million and in 2008 it was 2.5 million, an 8 percent increase.

Also, I wanted to give you some statistics on
provisional ballots that have been cast when the voter lacked
photo ID and how many voters returned with photo ID to have
their ballots counted. Voters who had voted provisionally
because they lacked photo ID in the November 4th general
election, there was about 1,200 out of almost 4 million votes
cast. The voters who returned, of those 1,200 and provided the
photo ID was 308. And there was 873 voters who did not return
to clear up their provisional ballot.

In the December 2nd runoff for that general
election there was 271 provisional ballots because they lacked photo ID out of 2.1 million votes cast. 82 of the 271 returned. So there was 189 that did not clear the provisional ballot up.

In the November 2nd, 2010 general election there were 381 provisional ballots because of lack of photo ID out of 2.5 million cast. Of the 381, 108 returned to clear those up and there was 272 that did not. In that runoff, November 30th, 2010 there was 35 provisional ballots out of about 265 that were cast. 6 of those 35 returned. 29 did not.

We can't know for sure why those that, you know, don't come back to clear it up -- some of the thoughts on that is the outcome of the election was not in doubt in those elections. So they just didn't bother to come back because they knew their vote, while it would count, it wouldn't matter in the end results. Obviously, they could have been attempting voter fraud or they simply didn't realize that they had to have a photo ID to vote, and even though they could have come back and gotten a photo ID in the three days after the election, they elected not to do that. And we are still very vigilant about making sure voters are aware of the photo ID requirement before all of our state and federal elections, and we do that through our office.

The total votes cast in person versus by mail in the past two general elections, in 2008, the November general election, we had about 3.6 million voters in Georgia and 91.2
percent voted in person. We had about 350,000 mail-in ballots, and then for a total of just under 4 million votes.

The run off on December the 2nd, there was almost two million votes cast in person. That was about 90 percent of the vote. There were 216,000 mail-in ballots for a total vote of just over 2.1 million total.

CHAIRMAN BONNEN: Mr. Secretary, I apologize, but your ten minutes are up. I'd like to begin asking you a couple questions, but I'd like to hear the rest of those numbers.

MR. KEMP: Okay. The November 2nd, 2010 general election, we had 2 -- well, almost 2.5 million votes. 93.4 percent of those were in person. And then the November 30th runoff there was 265,000 votes cast and about 81 percent of those were in person.

CHAIRMAN BONNEN: Also, I want to make sure I understand. On the numbers of the provisional ballots -- and the numbers are somewhat unimportant in this question. You said there were 308 that came back the one time and 108 that came back and were cleared. I guess my question is of those that came back are you saying all were cleared?

MR. KEMP: No, sir. In the 2008 general election there were about 1,200 provisional ballots that were cast because of lack of photo ID. 308 of those 1,200 came back and showed their photo ID and had their vote counted. And then --

CHAIRMAN BONNEN: I guess that's what I'm trying
to understand. Did more than 308 return, but they did not
return with proper ID?

MR. KEMP: No. The rest of them just did not
return at all.

CHAIRMAN BONNEN: So 308 people actually
returned, and every one of the ones who returned had their vote
counted?

MR. KEMP: Yes.

CHAIRMAN BONNEN: So there wasn't a single person
who showed back up and didn't have their vote counted?

MR. KEMP: As long as you show up back up by
close of business on the Friday following election and show your
photo ID, your vote will be counted.

CHAIRMAN BONNEN: So again, to be clear, no one
showed back up and, in turn, didn't have their vote counted? If
they came up, they showed their ID, their vote counted. And
those who chose not to return, you don't know why they didn't or
what they didn't, but had they shown up with an ID, their vote
would have counted?

MR. KEMP: That's correct.

CHAIRMAN BONNEN: And that was the same thing in
2010. You had 108 showed back up. Each one of the people who
showed back up had a proper ID, and you, in turn, counted them?

MR. KEMP: That's correct.

CHAIRMAN BONNEN: You had talked about the very
positive educational opportunities y'all created using Atlanta Falcons football team and things. How much did the State of Georgia spend, do you know, on the educational programs?

MR. KEMP: Yes, sir. I just didn't quite get to that.

CHAIRMAN BONNEN: That's okay. You had a limited amount of time.

MR. KEMP: On the cost -- give me just a second here. In 2006 our initial contract was $589,000. That contract included one photo ID system per county where people could go get their free photo I D. The installation and training of personnel, the production quantity updates, encryption service, a one-year system warranty, and the production of 10,000 permanent voter ID cards.

The annual cost and training from 2008 to 2010 was about $170,000. The elections personnel online training was about $15,000. So that grand total comes to about $773,000.

And then we also did the outreach and education campaign, which was, you know, the advertising and those type things. We spent about 842,000 on that.

CHAIRMAN BONNEN: Did that include -- I apologize. Sorry to interrupt you.

MR. KEMP: And that brought the total cost from all of this to about $1.6 million.

CHAIRMAN BONNEN: Did the $842,000, did that --
I'm assuming y'all had to pay to have it included in the electric bills or did the electric companies do that --

MR. KEMP: I'm not exactly sure what the -- how -- the exact number for those costs. I think the utility probably just let us put that copy in their -- without charging us postage costs. I can verify that for you, Mr. Chairman.

CHAIRMAN BONNEN: Okay. So you spent 770 -- the State of Georgia spent $773,000 on education, outreach, and free IDs, correct?

MR. KEMP: Well, the 773 was on the system to produce the free photo ID, that initial contract and the training.

CHAIRMAN BONNEN: Then 842 was, in essence, the marketing campaign?

MR. KEMP: That's right, outreach and education.

CHAIRMAN BONNEN: Representative Hochberg has questions.

REPRESENTATIVE HOCHBERG: Can I just follow up on a couple more details on that specific question. The 842,000 was over what period of time? Is that this four-year period that you mentioned?

MR. KEMP: Let me see. I think that was through 2010.

REPRESENTATIVE HOCHBERG: 2006 through 2010. So that's a total number?
MR. KEMP: Yes.

REPRESENTATIVE HOCHBERG: And do you anticipate continuing that before other elections or is this a one-time? What's your plan?

MR. KEMP: I think that was pretty much -- actually, I think we did that from 2007 through the 2010 elections, I believe. So we're really not -- we've had a pretty aggressive campaign. We still have the web site. We still have the information on our web site. We do press releases before all the elections, reminding people. But we're really not doing much outreach now. And I think the reason why is because we've only issued 25,000 free IDs, and a lot of the naysayers of the legislation said there would be 60,000 or 80,000 or some big number. We just didn't see the demand there.

REPRESENTATIVE HOCHBERG: Parts of the advertising is about bringing your ID to the polls, or was it just for the free ID outreach?

MR. KEMP: It was both. It was to make people aware that they had to have a free photo ID to vote in person, but also if they didn't have one, we can get you one.

REPRESENTATIVE HOCHBERG: Excuse me for asking the question I should know the range on: How many people in your state, or how many voters?

MR. KEMP: We've got about 10 million people in the state now and about half of those, a little over 5 million,
are registered voters.

REPRESENTATIVE HOCHBERG: About 10 million total people. That's not voting age?

MR. KEMP: Right.

REPRESENTATIVE HOCHBERG: How many eligible do you know?

MR. KEMP: I'm not sure about the eligible.

REPRESENTATIVE HOCHBERG: You've got about 5 million registered?

MR. KEMP: We can get that number for you too.

REPRESENTATIVE HOCHBERG: I'm just trying to make sure that I know what the numbers are that I'm writing down. And just from the standpoint of your media campaign, you've got basically one large media market, and then where do you go other than Atlanta?

MR. KEMP: Well, Atlanta is the major TV market, but there's also a TV market in Augusta, which is on the east side of the state, Columbus, Macon and Savannah. And there's a little bit of one in Albany, which is southwest Georgia, but those are really very minor compared to the Atlanta market.

CHAIRMAN BONNEN: Representative Harless has questions, and then after Harless, Representative Gutierrez and then Representative Watson.

Representative Harless.

REPRESENTATIVE HARLESS: I know you had some
delays, and we appreciate you making it here today. When you
 talked about your elections from September 2007 until 2009, you
 said six elections.

 MR. KEMP: No. We've -- well, that was -- I
 think the outreach that we did during that time was before those
 six elections. But total since the bill has been implemented, I
 think we've had 35 elections.

 REPRESENTATIVE HARLESS: Y'all have a lot of
 elections.

 MR. KEMP: We do, and that number probably pales
 in comparison if you count municipal elections and county
 elections because there's a lot of those that go -- a lot of the
 municipal elections are in off years from the state and federal
 elections. And then there's special elections. There's special
 local office elections. But we do have a lot of elections.

 REPRESENTATIVE HARLESS: When you talked, you
 serve as the Secretary of State now, but you served in the
 Senate when your voter photo ID passed. What was the specific
 reason that the Georgia legislature felt like this was important
to pass?

 MR. KEMP: Well, I think just securing our
 elections, continuing to make them more secure. And, you know,
 when I was in the senate I was in a very tough district. It was
 kind of a 50/50 district. And, you know, quite honestly, this
 was an issue. I knew I'd have a lot of people in my district
that were for it and a lot were against it. And there was, you
know, obviously heated and mostly partisan debate in the
legislature. But I'll tell you that since it was passed, when I
got back home, when I was in the Senate and having campaigned
over the last two years statewide, you know, the wide majority
of Georgians support showing a photo ID when you go vote. And
the reason we did it was just to continue to keep our elections
secure.

REPRESENTATIVE HARLESS: Can y'all tell me why
y'all chose the two-day cure because our legislation has the
six-day cure in there for the provisional ballot. Why did you
choose a two-day cure?

MR. KEMP: I can't remember the specifics of that
debate. I think it was mainly like we felt that three days was
reasonable for the people to solve the problem if they left
their ID at home or they didn't have one, where they could go to
their county registrar and get it. And I think it all -- in
today's technology, people get mad if we don't have election
results 30 minutes after the polls close from somewhere. So,
you know, people are wanting -- and then as soon as it's over
they're wanting us to certify before we get military ballots
back. But that's the requirement we have for our military
ballots and our provisional ballots is close of business on
Friday.

REPRESENTATIVE HARLESS: You'll see this is a
first for me as well. We're going to have Skype testimony here today. So electronic age has met the Texas legislature as well. Can you tell me about your pre-clearance process.

MR. KEMP: Yes. We -- that was another section I didn't quite get to. We had pre-clearance on the original legislation after it was signed in about two months. The rules and regulations, forms, applications, et cetera that implemented the legislation was pre-cleared in about eight days. And then, of course, we had numerous lawsuits that we have won every one of them. So it really didn't take us too long to get pre-cleared.

REPRESENTATIVE HARLESS: So how long did you spend in litigation?

MR. KEMP: Well, we're still in litigation. And, you know, our photo ID law has withstood scrutiny in the Georgia Supreme Court and the 11th Circuit Court of Appeals in the Lake Purdue case which was decided in 2007.

There was another case, Common Cause versus Phillips that was decided in 2009. The 11th circuit found that the burden imposed by the requirement of photo ID is outweighed by Georgia's interest in safeguarding its right to vote. Also, there has not been one single person that has been found that could not vote because they did not have a photo ID or because of the law.

And then right now the democratic party of
Georgia in Georgia versus the Democratic Party of Georgia versus Purdue is currently pending in the Georgia Supreme Court. In April of 2010 the lower court dismissed the lawsuit of the Democratic Party of Georgia on the grounds that the Georgia photo ID law did not violate the Georgia Constitution.

We are hopeful that this will be the last court case for our photo ID legislation.

REPRESENTATIVE HARLESS: And the U.S. Supreme Court refused to hear the case?

MR. KEMP: That's correct.

REPRESENTATIVE HARLESS: Can you tell me, we were talking about the money you spent, the PR and the media and the training, the $1.6 million. Did you have the availability of HAVA funds, Help America Vote funds, to help offset some of those costs?

MR. KEMP: I'm not exactly sure where we were on the time at our HAVA funds. We used State funds for this outreach. However, I will say that if we were in today's economy, we would probably be looking at using HAVA funds.

REPRESENTATIVE HARLESS: Thank you so much.

MR. KEMP: You're welcome.

CHAIRMAN BONNEN: Represent Gutierrez has questions.

REPRESENTATIVE GUTIERREZ: Thank you, Mr. Chairman. Well, I have a number of questions, and I don't want
to belabor the point on the whole curing elections, but did you find that there was a tremendous amount of voter fraud or voter impersonation, I should say, going on?

MR. KEMP: I don't know that there's any real way you can tell.

REPRESENTATIVE GUTIERREZ: Did you have hoards of Mexicans going over there to vote?

MR. KEMP: I'm sorry?

REPRESENTATIVE GUTIERREZ: Did you have hoards of Mexicans? We had heard earlier that we had hoards of Mexicans voting. Did you have hoards of Mexicans voting?

MR. KEMP: Well, I didn't see that.

REPRESENTATIVE GUTIERREZ: So was there any investigation by the government, your attorney general or anything prior?

MR. KEMP: Well, I serve as Chairman of the State Elections Board, and we have had non-citizens voting in Georgia. We've got non-citizens on our voter registration rolls now. We've been fighting the Justice Department for the last couple of years about that and have won our first case with them and we're in another one with them right now. But WSB, a big Atlanta TV station, did a big investigation that highlighted hundreds of non-citizens that are on our rolls. And we have had non-citizens voting in our elections.

REPRESENTATIVE GUTIERREZ: And you say there's
some lawsuit out there that suggests that?

MR. KEMP: No. We have a lawsuit to check -- we passed a state law in 2009 to check citizenship before we register someone to vote, and we're actually suing to get pre-clearance.

REPRESENTATIVE GUTIERREZ: And what's the name of that lawsuit?

MR. KEMP: I guess it could be Kemp versus Holder. We can get you the information on that if you'd like it, Representative.

REPRESENTATIVE GUTIERREZ: I appreciate it. But you haven't witnessed hoards of Mexicans voting in Georgia; is that your testimony?

MR. KEMP: No, I haven't.

REPRESENTATIVE GUTIERREZ: I do want to commend you. You allow a few more ways of allowing people to vote. You've got an expired driver's license is sufficient, right?

MR. KEMP: That's correct in Georgia.

REPRESENTATIVE GUTIERREZ: So if someone's not a very good driver, gets their license suspended, and they still have it, that still passes?

MR. KEMP: Yes. And just like my stepfather, who can't see very well now and doesn't drive, his driver's license expired. He can still use that when he goes to vote.

REPRESENTATIVE GUTIERREZ: That's a good point
because sometimes what happens to some of our senior citizens is
that they get their privileges revoked or they just choose to
make the right decision and they can't see as well, like my dad
can't see as well anymore. So we have myself or other members
of my family drive him around at times or he just simply doesn't
drive. So we have a lot of seniors that simply choose not to go
out and renew it for whatever, convenience, and they keep their
old driver's license. So an expired driver's license is okay in
Georgia.

MR. KEMP: It is okay in Georgia. Now, we would
also, if they did not have that, would give them a free ID.

REPRESENTATIVE GUTIERREZ: Very good. And you
mentioned six things. So I've got the driver's license, expired
driver's license, the military ID, the tribal ID, any valid
government ID that would show that I'm an employee of the State
of Texas, if I were an employee of the State of Georgia. I
guess that would work, right.

MR. KEMP: That's correct.

REPRESENTATIVE GUTIERREZ: A U.S. passport or a
valid U.S. passport?

MR. KEMP: Yes, sir.

REPRESENTATIVE GUTIERREZ: And you mentioned
something about a county registrar. Would that be my --

MR. KEMP: Any county, municipality, board or
authority or other entity of this state.
REPRESENTATIVE GUTIERREZ: Okay. And what is that, just an ID from any county --

MR. KEMP: Like if you were a county manager for the Clark County and you had a photo ID, that would work.

REPRESENTATIVE GUTIERREZ: So you allow for more options. I like the expired piece. That's good.

MR. KEMP: I will tell you this, that when our legislation passed, everybody thought it was draconian and way over the top. And now we have a lot of folks that point to our legislation because some other states are trying to pass things that are much tougher than what we did.

REPRESENTATIVE GUTIERREZ: Do y'all exempt people over 70 years of age from having to have an ID at all?

MR. KEMP: I'm not sure about that. I'd have to check.

REPRESENTATIVE GUTIERREZ: This legislation, we do actually. So anyone over 70 is not required to have the ID. So that's a nice difference. And I think I read, maybe it was a prior senate bill, it was April prior to 2012. So that may not be the case and that remains to be seen in some point for seniors that are going to be 70, let's say ten years from now.

And so you spent all this money, about 1.6 million. And that last comment actually brings to mind something else. I mean, you would agree with me that there's kind of a continual education that needs to happen for election
after election.

MR. KEMP: Well, there's continual education about a lot of the laws that we pass and I'm sure that are still getting passed today.

REPRESENTATIVE GUTIERREZ: But certainly not to the extent that you spent $842,000 in an ad campaign in the beginning, correct?

MR. KEMP: I would agree with that.

REPRESENTATIVE GUTIERREZ: You're not spending that kind of money now, are you?

MR. KEMP: No, sir. We're actually saving some money now because of the photo ID requirement. We've put a barcode scanner in at least one in all of our precincts in Georgia. So now when people come to the polls they can actually scan the driver's license and will be able to on the photo ID, pulls their name up on the express poll which speeds the process up for our voters, plus makes it quicker which allows the counties to have less people in there. And counties are also using other equipment that actually prints the forms outs for early in-person voting, which is speeding the time up. So, you know, now, because we've done this, we're starting to see some savings, mostly at the county level.

REPRESENTATIVE GUTIERREZ: You mention something about an annual cost of $70,000 in that contract. Is that continuing beyond the four or five-year period in $589,000 cost?
MR. KEMP: The annual cost in training was from 2008 to 2010, was 170. But we do annual training regardless. I'm sure, you know, most states or counties do that. I mean, we have two different sessions every year with our registrars and our elections officials where we do training. We've got an E-learn electronic web site type training system. So that continually goes on in Georgia.

REPRESENTATIVE GUTIERREZ: And I'm wrapping this up, Mr. Chairman.

CHAIRMAN BONNEN: Sure.

REPRESENTATIVE GUTIERREZ: One of the big questions that I had was I was concerned. You gave us some '04 numbers and '08 numbers to show an increase in Latino and African-American voting and they were certainly very substantial. But you would agree with me that was in large part because of a monumental election in our country with President Obama being elected. Wouldn't you agree with that statement?

MR. KEMP: I probably would agree with that.

REPRESENTATIVE GUTIERREZ: So I didn't hear numbers from '08 to 2010 as far as Latino and African-American voters.

MR. KEMP: We were trying to be consistent in the election that we were trying to compare presidential to a presidential election.

REPRESENTATIVE GUTIERREZ: All right.
MR. KEMP: We can get you those other numbers, if you'd like.

REPRESENTATIVE GUTIERREZ: But you had some other 2010 numbers, but we don't have the African-American, Latino turnout for --

MR. KEMP: Right. Those elections we're talking about the provisional ballots.

REPRESENTATIVE GUTIERREZ: Is it safe to argue that those numbers would be substantially less than certainly the 2008?

MR. KEMP: Well, I mean, I would hate to commit to that answer, not seeing the figures. I mean, obviously 2008 was a historic day for African-Americans and --

REPRESENTATIVE GUTIERREZ: For the country?

MR. KEMP: Yeah, absolutely, and in Georgia. And we had huge turnout, which was great. But I think, you know, in 2010, even though our vote total is down, which it always is for gubernatorial races, in my belief we had a pretty strong African-American turnout as well.

CHAIRMAN BONNEN: Mr. Secretary, I would appreciate it -- Representative Gutierrez, if you would agree, I think what would be valuable is if you would show us the vote totals from '06 comparative to '10 because I think it is reasonable to compare presidential to presidential and gubernatorial to gubernatorial. Not to send you back to Georgia.
with homework from Texas, but we would appreciate it.

MR. KEMP: Can we bill you for that? No, I'm just kidding.

CHAIRMAN BONNEN: Don't send the collectors over.

MR. KEMP: All right. You want general election?

CHAIRMAN BONNEN: If we could see the comparisons of '06 to '10, the gubernatorial '06 election to the gubernatorial 2010 election.

REPRESENTATIVE GUTIERREZ: Thank you for that recommendation. I think that that would be some good numbers.

CHAIRMAN BONNEN: And we've got all the time you need. I didn't want to cut you off. You keep asking the questions you have.

REPRESENTATIVE GUTIERREZ: My last question. Are you enjoying your brief stay in Austin?

MR. KEMP: Well, I tell you, Representative, I wish it had been a little bit longer. It was going to be brief regardless. But I would have loved to have come in last night and stay in Downtown Austin and bought a meal here. But unfortunately we had a bad storm that came through. So I got to fly here today and I'm leaving this afternoon. My wife and I were actually here before Christmas with some other Secretary of States and had a good conference and certainly a great stay in a great state and a beautiful city.

REPRESENTATIVE GUTIERREZ: Well, come to San
Antonio. We have the best basketball team in the nation.
You're invited.

CHAIRMAN BONNEN: Real quick, little
housekeeping. Let the record show Represent Taylor is present.
Representative Hilderbran is present. Vice Chair Veasey is
present. And now Representative Aliseda has some questions and
then we'll come to Vice Chairman Veasey for his questions.

REPRESENTATIVE ALISEDA: Mr. Kemp, what I took
from your testimony is that you, like we, were experienced
naysayers, that this was going to be something that would affect
minorities well into the future; is that correct?

MR. KEMP: Well, I wasn't a naysayer. I felt
like the legislation made good common sense to me. But in the
district that I was in, there was a lot of naysayers in my
district that voiced their concerns.

REPRESENTATIVE ALISEDA: And you were able to
show statistically, though, that those dire predictions did not
come as was said; is that correct?

MR. KEMP: Well, and I think when I looked at
these numbers as we were preparing them, I was very encouraged
by them. I thought the numbers speak for themselves, that we've
had minority -- increase in minority in-person voting. And
we've had -- I mean, even with our photo ID legislation, we
have, on average, over 90 percent of our population that votes
in person, and that's pretty amazing to me.
REPRESENTATIVE ALISEDA: Have you seen a report prepared by the Heritage Foundation regarding data analysis and voter ID laws?

MR. KEMP: I think I have read that report.

REPRESENTATIVE ALISEDA: Do we have that as part of the record, Chairman Bonnen?

CHAIRMAN BONNEN: I have a copy. There is no official record.

REPRESENTATIVE ALISEDA: There is no official record. Okay. I have no further questions.

CHAIRMAN BONNEN: This is not a legal proceeding so there is not an official record. We're not the Senate. They don't like us to pretend that we are.

Vice Chairman Veasey has questions, Mr. Secretary.

VICE CHAIRMAN VEASEY: And one of tings that I remember when the whole voter ID controversy started in Georgia I know that one of the columns that Cynthia Tucker wrote, who was a columnist for Atlanta Journal, the African-American columnist that is one of the liberal columnists, she had mentioned that, you know, that if there was a slow implementation of the bill that then you could -- and I think that even in the Carter Baker report they even talk about that, instead of trying to immediately, you know, put something on someone's back, just giving them a chance to understand the law.
And it looks like from the questions that Representative Gutierrez was asking you a second ago that y'all -- sound like y'all kind of made some changes that would allow people to understand what was going on and give people more opportunities to exercise their suffrage.

MR. KEMP: Well, I will tell you this. Ms. Tucker and I don't agree a whole lot politically. And I think the way Georgia implemented the law was very reasonable from the timeframe. And I think just when you take the politics out of this, I think it's a very simple argument for our citizens. Most of them already have a photo ID. We can't get in government buildings without a photo ID. We can't write a check. I can't get on the airplane to go home without a photo ID. That doesn't mean that there aren't folks out there that don't have them and need our assistance to get a photo ID.

VICE CHAIRMAN VEASEY: There are other ways that people can -- there are exceptions to everything, even getting on a plane. You need to have a photo ID to get on a plane, but there are other ways that you can -- it may be more burdensome, but there are other ways you can get on a plane without having a photo ID.

MR. KEMP: And we have other ways that people can vote in Georgia. You can vote absentee without a photo ID. And I will submit a copy of these remarks for you that talk about how you can get a photo ID in Georgia. And it is very, quote,
liberal in the ways that you can get a photo ID. I mean, there's just a multitude of documents that you can show that will allow you to get a photo ID so that you can be able to vote in Georgia.

VICE CHAIRMAN VEASEY: Have you heard -- one other thing that I thought was interesting that you talked about, the 2010 election results because you thought that perhaps that the African-American numbers might have gone up during the 2010 election. Have you heard that maybe other states want to -- including our state, maybe want to pass other more stringent laws because they still think that people are still casting these illegal ballots and that the Georgia law did not go far enough so other states need to be tougher than the Georgia law? Have you heard that in political circles?

MR. KEMP: Not in political circles. In reading media regards, press clips, there's certainly a lot of other states around the country who are trying to implement photo ID legislation to I think further secure their elections. I don't think the reasoning behind that is to try to keep any certain group from voting. That certainly was not our intent in Georgia. And I think you can see from numbers in in-person voting that that hasn't proved to be true.

VICE CHAIRMAN VEASEY: So are you happy with your law? Are you happy with the bill that was passed?

MR. KEMP: Yes. I'm happy with the legislation
that we passed in Georgia. I'm happy with the implementation that we've had. And we continue to work hard, you know, every year at making citizens aware that they need a photo ID. If they don't have one, we'll give them a free one. And we'll continue to do that as long as this is in place.

And to just address your one point about the African-American vote in 2010, I don't believe I said that the turnout had increased. I believe I said I think that there was still a very strong African-American turnout.

VICE CHAIRMAN VEASEY: It will be interesting to analyze the numbers, but that was sort of a concern for me when I saw the Senate debating the bill and I saw this was going to be a much more stringent bill than that one that Mary Denny had carried. That was a representative that's no longer here, and the one that Betty Brown had carried before. I was concerned about that because what I don't want to get into is, okay, we didn't disenfranchise enough African-Americans in Georgia so we need to come up with a more strict law here.

MR. KEMP: I don't think we disenfranchised anyone.

VICE CHAIRMAN VEASEY: We didn't disenfranchise enough people that ride the bus or we didn't disenfranchise enough people that carry Medicaid cards or whatever. So we need to come up with even something more stringent so we can get that 1 to 3 percent and, you know, skim that off the top so that we
can win close elections. I don't want that to happen.

MR. KEMP: Well, Representative, let me just make
sure that this committee is clear that we have not
disenfranchised anyone in Georgia.

VICE CHAIRMAN VEASEY: Sounds like you're giving
people a chance to --

MR. KEMP: And I'll say we have not tried to
disenfranchise especially any minority group. Up until this
year we actually had two African-Americans that had continually
won statewide races in Georgia.

VICE CHAIRMAN VEASEY: Thank you.

MR. KEMP: Yes, sir.

CHAIRMAN BONNEN: Any other questions, members?

Appreciate you taking the time to come to Texas and give us your
testimony today. It's very helpful. And I think, for the
record, I don't think anyone in Texas has come out and said they
want to disenfranchise more or greater numbers of voters. So
thank you for being here.

MR. KEMP: Well, thank you, Mr. Chairman. If you
don't mind, I'll give you a copy of my remarks as well just so
you'll have the numbers then we'll get you the numbers on the
other you requested.

CHAIRMAN BONNEN: Thank you very much for your
help. The Chair will now call another expert witness, Luis
Figueroa, Mexican American Defense Education Fund MALDEF, here
to testify against committee substitute to Senate Bill 14. And he will be testifying. Thank you, Luis.

MR. FIGUEROA: Thank you, Chairman. My name is Luis Figueroa.

CHAIRMAN BONNEN: And you have ten minutes, remember.

MR. FIGUEROA: Yes. My name is Luis Figueroa. I'm the legislative staff attorney with the Mexican American Legal Defense and Educational Fund. I thank you for this opportunity to provide invited testimony. The one message that I would like to get out is the idea of voter ID is oftentimes described as a clear yes and no question of either you have an ID or you don't have an ID. And actually, most of these bills, whether you go from Georgia, Indiana, Texas, Michigan, it's on a continuum of what documents you need and what safeguards are in place to implement the identification requirements.

And so the key is not so much, is there a voter ID requirement or not. The key is finding the right balance of security versus access. And we believe that SB14 unbalances that spectrum to the point that we are too focused on preventing one single type of fraud and potentially taking away access on the other side of the pendulum.

There have been numerous studies talking about concerns about additional ID requirements, and it's difficult to evaluate one election from the next when you look at voter
turnout, but some experts have tried to do their best. And one of them was Barreto Nuno Sanchez in a report called Voter ID Requirements and the Disenfranchisement of Latino, Black and Asian Voters. And they found that naturalized citizens and minority voters are significantly less likely to provide multiple forms of identification.

They also found that minority voters were consistently less likely to have each form of identification and that the data reflects identification trends of actual voters, not just adult citizens. The findings go farther to suggest that voter identification laws could immediately disenfranchise many Latino, Asian and African-American citizens.

The Rutgers study, which was produced by Vilsadian Anderson stated that the predicted probability that Hispanics would vote in a state that required non-voter identification was about 10 percent lower than in states where Hispanic voters gave their names.

The Wisconsin study, which was a study of how many people had the documents, found that less than half, 40 percent of Milwaukee County African-American adults and 43 percent of Hispanic adults had valid driver's licenses compared to 85 percent of white adults in the balance of the state.

The Brandon Center came back with a report and said that citizens with comparative low incomes are less likely to possess documentation proving their citizenship and as many
as 11 percent of United States citizens, more than 21 million
individuals, do not have government issued photo identification.

They went on to state that 25 percent of
African-American voting age citizens have no current government
issued photo ID compared to 8 percent of white voting age
citizens. And 10 percent of voting age citizens who have a
current ID do not have a photo ID with both their current
address and their current legal name.

So obviously, there's numerous studies and
there's different ways of evaluating turnout and impact and how
many identification. But we believe that the data that we've
seen has had an impact on Latino and African-Americans.

The one thing we point out is that Texas does
have a voter ID requirement on books now. You are required to
bring either a voter registration certificate, a picture ID, or
a non-picture ID from a contained list of documents.

So the question is not whether we're going to
implement a voter ID, but what the new documentation requirement
and how restrictive we're going to make it and how many
safeguards we're going to put in place. We know that there are
294,000 people who registered from 2006 to 2010, who registered
with a Social Security number and not a driver's license, and
that there are 34,506 who registered without a Social Security
number or a driver's license. We also know that there are 2.1
million Texas registered voters who only are listed by their
Social Security number and that there are 690,000 voters on the roles who have neither a Social Security number or a driver's license in the voter database.

So we have the potential for disenfranchisement. Those are just based on the numbers of people who are currently registered. We also know that what isn't tracked by any studies or tracked by the current number of registered voters are the people who are low income, who use public transportation and move in and out and don't have a correct address on their driver's license.

We know that there will be potential victims of identity theft who don't have their identifications on them at the time, natural disaster victims, recent arrivals to Texas, and, of course, our Native American population.

In fact, in Arizona, which was the case that MALDEF litigated on identification requirements, Maricopa County, 2 percent of voters were unaware of the new requirements on election day. In Texas that would amount to about 161,000 potential ballots cast in the presidential election in '08.

What we also found in Maricopa, which was also confirmed by what we heard in Georgia, is that when you offer conditional provisional ballots or an opportunity for people to come back and bring that identification or cure their ballots, people by in large do not come back. And we heard the numbers from Georgia in the previous testimony. In Maricopa County 739
were not counted of the conditional provisional ballots, and 144 of those were Hispanic.

We found in Maricopa County, we have found it in Georgia, we found it in pretty much across the state, that people don't come back to cure provisional ballots, regardless the number of days. But certainly if you make it a small number of days and you don't include a weekend in there, there aren't a lot of opportunities for people to come back.

And so what we wanted to state is since we are having a very restrictive requirement in front of us in SB14, more restrictive than SB362 last session, more restrictive than the Indiana voter ID law, more restrictive that the Georgia ID law, more restrictive than the Arizona ID law, that we are potentially risking violations of -- potential litigation and violations of the law.

The laws that potentially come into play including the 14th amendment, undue burdens. This was the challenge that Indiana was challenged under. It wasn't a Voting Rights claim. It was a 14th Amendment undue burdens claim. And the thing that the Courts looks at was the balancing test. They looked at the security concerns versus the access concerns. And they looked at whether or not there were provisions to provide exceptions for people like the elderly. For instance, the elderly were allowed to bring a Medicaid card to cure ballots. They looked at the rural nature of the state. And so in Texas
we might have more concerns or bigger problems since we have a more restrictive list than Indiana. We only allow for four documents. We have a shorter cure period. We have a bigger state, more rural areas and a lot more minorities.

The other laws that come into play are the Voting Rights Act, Section 5 and Section 2. So Texas is a Section 5 state so we'll have to submit it for pre-clearance. We know that Latinos are very mobile in Texas with not a lot of home ownership. We know that Latinos also -- we have many citizens in Texas that are derivative citizens, meaning that they are citizens because their parents were citizens. They might have been born abroad. They may not have a birth certificate. They may not have the documents that are necessary under the DPS rules to get a driver's license.

And then we also know we have Section 2, which is the dilutive potential on African-Americans and Latinos. That's a similar analysis to Section 5 except we look at the dilutive effect rather than the retrogressive effect.

And then the one that I would say has been the least successful in challenges, and that's the poll tax, which is the cost of obtaining the ID. It costs hundreds of dollars to get a naturalization certificate. It costs over $30 to get a birth certificate. It costs money to get a passport. And, of course, it costs time and money to get these documents.

At the end of the day we're talking about trying
to find the right balance. We believe the right balance includes one form of picture identification or two forms of non-photo identification, a signature affidavit attesting to name, address and eligibility, similar to the way Michigan and Florida are doing it. Those have worked very well in conservative states as well as in states with a lot of minorities. And if you wanted to improve access, you could add same-day election voter registration with an ID requirement. You could do more training and provide for more funds for education. And, of course, you could offer free IDs, which this bill does provide. Those are some of the options you could look at so you could protect against the fraud, but also protect against the access.

We know there's a lot of different types of fraud in Texas. In fact, we have received the flyer from Tarrant County where a voter was submitted flyers and there were flyers all over the community where voters were told to vote on the wrong day. This is the type of fraud that isn't addressed by this bill. We know there are other types of fraud that aren't addressed by this bill. So we believe in looking at the problems wholistically, addressing the fraud and the access, finding the right balance and insuring that we don't go too far in that pendulum that's going to lead to litigation, higher costs, and potential disenfranchisement of many voters, including Latinos and African-Americans. And I thank you for
this opportunity and I hope that we can have further conversations about this.

CHAIRMAN BONNEN: Okay. Thank you. Vice Chair Veasey has questions.

VICE CHAIRMAN VEASEY: And that's the -- what I was trying to point out earlier when I was talking about the Secretary of State from Georgia, what I don't want to see here, because no one -- even if someone is for disenfranchising people, no one is going to admit that. I mean, people have definitely learned from mistakes in the past. And I don't want to think that anyone -- I think that that's horrible. I don't want to think that anyone wants to disenfranchise anybody. I hope that that's a chapter of our history that we have left behind 40 year ago.

MR. FIGUEROA: That's right.

VICE CHAIRMAN VEASEY: I don't want our country to ever have to revisit that. I don't want us to ever have to, you know, go and march on the streets or, you know, do any of those things that people had to do 40 years ago.

MR. FIGUEROA: All the reasons why we are a Section 5 state.

VICE CHAIRMAN VEASEY: I think that would be absolutely horrible. But I mean, you talked about the same-day voter registration. And, you know, whatever that comes up, I can't understand -- and I don't know if you have an opinion on
I can't understand why people immediately say no, absolutely not, no way. So when I hear that and, you know, when MALDEF or NAACP or anyone hears that, you know, I have concerns because it almost seems like that instead of trying to reach some sort of compromise or instead of that -- no, that's not the result that we're trying to yield here and same-day voter registration is completely off the table. Of course, no one would ever admit that. No one would ever admit that. People have learned from the past.

So help me out and let me know, does MALDEF have any concerns about the resistance to cooperate or try to reach middle ground, because I don't think that any of us are, you know, completely opposed to making changes --

MR. FIGUEROA: Right.

VICE CHAIRMAN VEASEY: -- to the way that we vote in the state. I want -- just like all of the Republicans or people that are here that are concerned about the integrity of the election process, I want there to be a fair election process also.

MR. FIGUEROA: Absolutely. And we've had some great conversations with political operatives that work on the Republican side and on the Democrat side, and they all talk about different types of fraud that occurs, whether it's mail-in fraud or intimidation. And there are ways that we can address that as well. But this bill is only focused on that one single
type of voter impersonation fraud which we've seen the least amount of evidence for. Now -- and when we have seen it, it's been a lot of times with people using a photo ID as opposed to using a voter registration certificate, which this bill wouldn't address this either.

So we believe is, like I said, that finding that right balance. And there are ways you can protect against fraud. Even if you just want to do a voter impersonation fraud without a potential disenfranchisement impact. And there are models out there. We got real close last session. We were working with Chairman Smith and other members from both parties and we were looking at the Florida model. We were looking at the Michigan model. We got real close to something that I think both sides could agree on. And it was shut down. And, unfortunately, we've come back to this bill. And instead of going back towards that comprising models of Florida and Michigan, this bill is actually taking us the opposite direction and making it more stringent than Indiana, Georgia or any other state. And I'm not really sure that there's a need for that here in Texas.

The other thing I point out that with the same-day voter registration, there are ways that we can do that provisionally and we can double check and triple check and quadruple check that the information is accurate and that that person isn't a fraudulent voter. There are safeguard provisions
that's worked in North Carolina, obviously a somewhat conservative state. So there are ways to do it but unfortunately those conversations aren't happening right now, and I hope they will.

VICE CHAIRMAN VEASEY: They do same-day voter registration in Minnesota, and for the first time in quite some time I believe they have a Republican majority in their Senate, and they do same-day voter registration there.

MR. FIGUEROA: It's workable.

VICE CHAIRMAN VEASEY: And I think that that's -- you know, you don't want this to turn into a partisan deal because I remember that the first time we were debating this bill someone came up to me on the house floor. They said, Mark, you don't have to worry about this. You're not going to lose your district. Enough voters in your district won't be affected to where you'll lose. So, of course, what I heard was -- you know, the conclusion that I reached was, yeah, you're saying it won't hurt me, but you're also implying that by saying that it maybe will hurt someone else in a more marginal district. That was the implication and the comments that were made to me on the House floor. We don't want to get into that. We don't want anyone to lose the right to vote --

MR. FIGUEROA: From our perspective --

VICE CHAIRMAN VEASEY: -- just so someone else can win an election. And we don't want anyone to cast a fraudulent