STATE OF TEXAS,

Plaintiff

vs.

ERIC H. HOLDER, JR.,
in His Official Capacity as Attorney General of the United States,

Defendant.

STATE OF TEXAS’ JOINT APPENDIX

ATTACHMENT 18
Williams, Janice (Self), Austin, TX
Williams, Robert Wayne (Self), Austin, TX
Wilson, Andy (Public Citizen, Common Cause), Austin, TX
Windberg, Thomas J. (Self), Spicewood, TX
Wisdom, Barbara R. (Self), Austin, TX
Wittie, David (ADAPT of Texas), Austin, TX
Woods, Traci (Tarrant County Democratic Party), Fort Worth, TX
Wygal, Shondra E. (Texas Young Democrats), Houston, TX
Yarber, John (Self), Austin, TX
Yarbrough, Christianna (South Denton County Democrats and TX Precinct 307), Flower Mound, TX
Yeaman, John F. (Self), Austin, TX
Young, Deana (Private Citizen), Houston, TX

On:
Banks, Annie M. (Texas Alliance for Retired Americans), Houston
Curry, Susan (Self), Alpine, TX

Harris, R.D. (Cover Texas NOW/Dallas ACORN), Dallas, TX
Higgins, Carlos (Texas Silver-Haired Legislature), Austin, TX
Mays Sr., Kenneth W. (Self), Dallas, TX
Sepehri, John (Secretary of State), Austin, TX

Providing written testimony:
For:
Alvarez, Rosario (Granada Homes, Laborer, LU1095), San Antonio, TX
Gebolys, Paul J. (PCT 4, Montgomery County), The Woodlands, TX
Harding, James C. (Presiding Judge (Harris County - Rep.), Kingwood, TX
Lannon, Robert "Grant" (Texas Borders Volunteers), Austin, TX
Lindsey, Shirley (Self), League City, TX
McDonald, Tony (Young Conservatives of Texas), Austin, TX
Mikus, Jr., Jerry J. (Self), Pflugerville, TX
Opiela, Eric (Republican Party of Texas), Austin, TX
Wallace, Skipper (Texas Republican County Chairs Association), Lampasas, TX

Against:
Bell, Doug (Travis County Democrats), Austin, TX
Burke, Terri (ACLU of Texas), Austin, TX
Dickinson, Glenda  (Self),  Sealy, TX  
Dodd, Daniel  (Democratic Party of Collin County),  McKinney, TX  
Flores, Jr., Enrique  (UAW and Labor Council for Latin American  
Advancement),  Arlington, TX  
Ford, Rachel Baker  (Self),  Garland, TX  
Gauthier, Lloyd  (Self),  Houston, TX  
Glasscock, Nancy  (Self),  Temple, TX  
Henderson, Elaine  (Self),  Lago Vista, TX  
Hinojosa, Gilberto  (Cameron County Democratic Party - Committee Member,  
Democratic National Committee),  Brownsville, TX  
Korbel, George  (Self, LULAC),  San Antonio, TX  
Leeder, Jennie Lou  (Llano County),  Llano, TX  
Mainard, Marcia  (TDW),  Greenville, TX  
Resa, Arthur  (Bell County Democratic Party),  Belton, TX  
Sanders-Castro, Judith  (LULAC and Rosa Rosales, Nat'l Pres.),  San Antonio, TX  
Spoon, Harley  (Self),  Austin, TX  
Vera, Jr., Luis  (League of United Latin American Citizens),  Washington, DC  
Whichard, Steve  (Self),  Austin, TX  

On:

Dean, Sheila  (Self),  Austin, TX
TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-FIRST LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE:

CONSIDERATION OF
SENATE BILL 362

COMMITTEE OF THE WHOLE SENATE

TUESDAY, MARCH 10, 2009

BE IT REMEMBERED THAT AT 12:38 p.m., on
Tuesday, the 10th day of March 2009, the above-
entitled matter was heard at the Texas State Capitol
Senate Chamber, Austin, Texas, before the Committee of
the Whole Senate; and the following proceedings were
reported by Aloma J. Kennedy, a Certified Shorthand
Reporter of:

VOLUME 1A  PAGES 1 - 208

KENNEDY
REPORTING SERVICE

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ORIGINAL

TX 0003857
JA_003280
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2. 3/22/07 letter from various members of Congress
3. 3/13/07 letter from William H. Jordan
4. 2/08/07 letter from Gary J. Smith
5. 2/26/07 letter from P. K. Brunelli
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20. Brennan Center For Justice letter dated October 3, 2007, by Executive Director Michael Waldman, with attachments
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P R O C E E D I N G S

TUESDAY, MARCH 10, 2009

(12:38 p.m.)

PRESIDENT DEWHURST: Members, the Senate will come to order. Pursuant to a resolution previously adopted, the Senate resolves itself into the Committee of the Whole for the consideration of Senate Bill 362. The senator from Lubbock, Sen. Duncan, will please take the chair for the duration of the proceedings in the Committee of the Whole.

(Off the record: 12:38 p.m. to 12:42 p.m.)

SEN. DUNCAN: The Committee of the Whole Senate will come to order. The secretary will call the roll.

ROLL CALL NO. 1

SECRETARY SPAW: Averitt?
SEN. AVERITT: (Indicated presence)
SECRETARY SPAW: Carona?
SEN. CARONA: (Indicated presence)
SECRETARY SPAW: Davis?
SEN. DAVIS: (Indicated presence)
SECRETARY SPAW: Deuell?
SEN. DEUELL: (Indicated presence)
SECRETARY SPAW: Duncan?

SEN. DUNCAN: (Indicated presence)

SECRETARY SPAW: Ellis?

SEN. ELLIS: (Indicated presence)

SECRETARY SPAW: Eltife?

SEN. ELTIFE: (Indicated presence)

SECRETARY SPAW: Estes?

SEN. ESTES: (Indicated presence)

SECRETARY SPAW: Fraser?

SEN. FRASER: Here.

SECRETARY SPAW: Gallegos?

SEN. GALLEGOS: (Indicated presence)

SECRETARY SPAW: Harris?

SEN. HARRIS: (Indicated presence)

SECRETARY SPAW: Hegar?

SEN. HEGAR: (Indicated presence)

SECRETARY SPAW: Hinojosa?

SEN. HINOJOSA: (Indicated presence)

SECRETARY SPAW: Huffman?

SEN. HUFFMAN: (Indicated presence)

SECRETARY SPAW: Jackson?

SEN. JACKSON: (Indicated presence)

SECRETARY SPAW: Lucio?

SEN. LUCIO: (Indicated presence)

SECRETARY SPAW: Nelson?
SEN. NELSON: (Indicated presence)
SECRETARY SPAW: Nichols?
SEN. NICHOLS: (Indicated presence)
SECRETARY SPAW: Ogden?
SEN. OGDEN: (Indicated presence)
SECRETARY SPAW: Patrick?
SEN. PATRICK: (Indicated presence)
SECRETARY SPAW: Seliger?
SEN. SELIGER: Here.
SECRETARY SPAW: Shapiro?
SEN. SHAPIRO: (Indicated presence)
SECRETARY SPAW: Shapleigh?
SEN. SHAPLEIGH: (Indicated presence)
SECRETARY SPAW: Uresti?
SEN. URESTI: (Indicated presence)
SECRETARY SPAW: Van de Putte?
SEN. VAN de PUTTE: (Indicated presence)
SECRETARY SPAW: Watson?
SEN. WATSON: (Indicated presence)
SECRETARY SPAW: Wentworth?
SEN. WENTWORTH: Here.
SECRETARY SPAW: West?
SEN. WEST: (Indicated presence)
SECRETARY SPAW: Whitmire?
SEN. WHITMIRE: (Indicated presence)
SECRETARY SPAW: Williams?

SEN. WILLIAMS: (Indicated presence)

SECRETARY SPAW: Zaffirini?

SEN. ZAFFIRINI: (Indicated presence)

SEN. DUNCAN: The Chair present.

SECRETARY SPAW: Mr. President?

PRESIDENT DEWHURST: (Indicated presence)

SEN. DUNCAN: A quorum is present.

OPENING INSTRUCTIONS BY SEN. DUNCAN

SEN. DUNCAN: Members, before we get started, I wanted to kind of briefly discuss how we will proceed here. And I think you all know the resolution gives the Chair the power to allow time limits. Many of you have wanted to bring and begin with invited testimony, and those would be persons with expertise that can help the body understand the issues involved in the legislation that we are about to consider, and that will be honored. Each side has submitted a list of witnesses, and I assume the order of those witnesses is available to us at this time.

After the author of the bill is recognized to lay out the bill, then I will recognize the proponents' first witness, their expert in support of their bill. And then after that, we will go in
alternating order so that then those who are in opposition to the bill, if they want to bring witness expert or invited witness in, then we would go in that order.

So, in other words, we'll have one for and one against, one for and one against as we go through. There are several of those witnesses. I believe there are eight witnesses that have been identified by those in opposition to the bill, and there are about seven that have been identified for those in favor of the bill. So we will move that on.

The Chair will impose on each one of those witnesses a 10-minute time limit. However, Sen. Van de Putte indicates that they have one witness that may take longer than that. And if you'll approach the bench before, or the dais before that person comes on, Sen. Van de Putte, we will adjust that time limit to accommodate the concerns that you raised.

Members, I'm going to refrain from recognizing any member to interrupt a witness during their initial time limit. In other words, we will allow the witnesses to complete their testimony, and then you can ask questions after that. You will be recognized in order of your pressing your call button on your desk.
And I will remind each and every one of you, we have a number of guests who are here today, or members of the public who wish to testify as well, and they have been here since about 8 o'clock in the morning and they would like to testify on this bill. And so what we are trying to do is accommodate their interest as well.

I know that you all have important questions to ask of the invited witnesses, but I would ask you to keep in mind that we have members of the public who have also traveled here from other cities and other areas of the state that would like to have their voices heard today as well. So if we could respect that as well.

Once we conclude with the invited testimony, then we will start the process for public testimony. The Chair intends to impose a three-minute time limit on public testimony. As with invited witnesses, the Chair will not entertain any questions of the witness until they have completed their three-minute testimony or concluded prior to the three minutes.

As the persons have enrolled to testify, the resolution requires -- and I think our rules have always required -- that before a witness can testify,
they sign an affirmation that is more or less an oath, or is an oath before they testify. Persons who have been filling out their cards have been doing that all day long, and we have a procedure in there for them to sign up to testify.

It's my understanding that the Secretary of the Senate has done a nice job of preparing instructions for them on how the process will work. And they have been given written instructions on how they will be called. It is the Chair's intention to call the witnesses in the order in which they arrived and registered to be witnesses today. Each one of those cards was given a number, and those witnesses will be called in order.

And there is always a problem with witnesses who are not available at the time they're called. We will have witnesses hopefully in the gallery. The gallery is not full. So if you know you're going to testify and your number is fairly close, you should be in the gallery. We also have an overflow room in the auditorium. Everybody has been instructed as to that. It's the Chair's intention to call witnesses in advance of their being on the floor, and they are to report in the back hallway. And then there is a process for security and a process for
admitting them to the floor.

We will have them come through here and give us testimony in an orderly fashion. And if someone does not arrive at the time their name is called or within 30 minutes of their name -- let me repeat that and be clear. If a witness does not arrive within 30 minutes of the time their name will be called, then they will lose their opportunity to testify. So we're going to try to be very flexible in trying to allow people time to get here. But we need to be able to stay on schedule and move -- and respect every other witness' right to be heard.

Time limits are -- I think all of our committees observe time limits. At least the ones that I serve on do. And time limits are not designed to limit the testimony that witnesses have to say; it's designed to allow everyone who has presented to testify, if possible. And so what I'm concerned about, in putting a time limit in, is that people understand that your time limit is based on the fact that there are many people that want to testify, and so we need to allow them to have their opportunity as well.

Finally, we had a little discussion about this in the discussion on the resolution when we
were in session. The rules of decorum of the Senate will be enforced. And that means for those in the gallery, that we -- the rules of the Texas Senate do not permit clapping or applause, when we're in a deliberative session like this, do not permit clapping, applause or demonstrations. There may be times when you wish to be excited about something you agree with or disagree with, but it is inappropriate in the Senate chamber to express that. There will be no placards or billboards or things dropped over the rail. Any of that will subject the person doing it to being expelled from the Senate gallery.

And I'm sure it won't come do this, but if it comes to this, it comes to a point in time to where, after warning, the gallery generally is not observing the rules of the Senate with regard to decorum, well, then, the Chair would entertain a motion at that time or may, on sua sponte, request that the gallery be cleared. The only reason I say that is, is that the decorum and the ability to hear witnesses and to deliberate in a professional way on this is very important. And those rules were designed to allow us to do that, and they will be enforced.

So those in the gallery and those watching on TV, please understand that. I would hate
to have to make a ruling or to have anyone removed
from the gallery, but we will need to do that if it
gets out of hand.

I need to clarify that the witnesses
should report to the front of the chambers. And I
always am confused about east, west, south, north or
front or back. But the front of the Senate chambers,
that would be the west doors next to the witness
registration desk, and that would be the door that's
closest to the rotunda in our Texas Senate.

Members, I want to introduce to you
today our court reporter, Aloma J. Kennedy of Kennedy
Reporting Service. She is an independent certified
shorthand court reporter, and she will be taking down
the testimony today. So it will be necessary for
either me or you to identify yourself in the record
whenever you speak or rise to testify or rise to ask a
question.

I'll probably just recognize you by
name, and the court reporter will get that. Because
the court reporter is a human being, we will need to
take a rest every now and then for her to rest her
fingers and arms, because she has a hard job.
Normally with a court reporter, every hour and a half
to two hours, and I'll let her kind of give me a
signal whenever she is ready to take a five-minute
break.

Members, that's more or less the --

those are the issues and those are kind of the way
we're going to run things. So having explained that,
the Chair lays out Senate Bill 362 and recognizes
Sen. Fraser to explain the bill.

OBJECTION TO FURTHER CONSIDERATION OF SB 362

SEN. WEST: Mr. Chairman?

SEN. DUNCAN: Sen. West, for what

purpose?

SEN. WEST: Objection on further

consideration -- any consideration of Senate Bill 362

in that it violates Rule 11.18 and also would raise

Rule 11.10. Rule 11.18 is, "No bill may be reported
to the Senate before it has been the subject of an
open public hearing before a committee or

subcommittee."

My specific objection deals with the

notice. "Notice of the hearing on the bill must be

posted in a public place at least 24 hours before the

hearing is to begin." The posting of notice on this

particular bill was at 6:22 p.m. on March the 9th;

therefore, any consideration before that would be in

violation of that rule.
SEN. DUNCAN: Sen. West, bring your point of order forward.

(Off the record: 12:55 p.m. to 12:58 p.m.)

SEN. WEST: Mr. Chairman?

SEN. DUNCAN: Sen. West, for what purpose?

SEN. WEST: Mr. Chairman, for further clarification on my point of order for further consideration of this bill at this time, I would raise Rule 13.04. 13.04 governs the procedure in a committee of the whole: "The rules of the Senate, as far as applicable, shall be observed in Committee of the Whole Senate."

And then I would raise our Rule No. 11.18 as relates to the posting of the bill being at least 24 hours before the hearing is to begin. And specifically the notice of the hearing must be posted in a public place.

And then also I would raise Rule 11.10 in terms of the, "No committee or subcommittee, except a conference committee, shall meet at least without 24 hours public notice."

(Off the record: 12:58 p.m. to 1:14 p.m.)
SEN. DUNCAN: Members, a point of order has been raised. Rules 11.10 and 11.18 do not control meetings of the Committee of the Whole and are inapplicable. 13.01 reflects the Senate's manifest right to resolve itself into committee of the whole at any time after the morning call. The Senate has resolved into the Committee of the Whole by Senate resolution. The Chair may neither call a meeting of the Committee of the Whole or schedule a bill for hearing.

Article XI, standing and special committees operate without direct day-to-day supervision of the Senate. Standing and special committees have the ability to meet, subject to the call of the chair so long as the Senate is not meeting.

Committee of the Whole presents the obverse situation to standing and special committees. The tag rule is intended to give each member 48-hour written notice of the time and place of a public hearing of standing and special committees. The rules directly conflict with Rule 13.01 and the Senate's right to resolve into the committee of the Whole at a moment's notice if the Senate so desires. Every member of the Senate is a member of the Committee of
the Whole, having equal rights of notice and participation.

Your point of order is respectfully overruled.

SEN. WEST: Mr. Chairman?

SEN. DUNCAN: Sen. West, for what --

SEN. WEST: Parliamentary inquiry. So that I can understand this, under Rule 13.04, it says that, "The rules of the Senate, as far as applicable, shall be observed in the Committee of the Whole . . ." So by your very ruling, you're saying that the posting notice to the public is a rule that the Committee of the Whole does not have to abide by?

SEN. DUNCAN: Senator, that would conflict with the ability in the rules of the Senate to resolve into a committee of the whole at any time it desires. So in its conflict, it would be inapplicable.

SEN. WEST: So public notice does not apply to the Committee of the Whole, even though we are taking substantive testimony on this issue?

SEN. DUNCAN: Public notice laid out by the rules that you have cited does not.

SEN. WEST: Okay. So for future generations of legislators, specifically the Senate,
posting notice does not apply to the Committee of the Whole? That's essentially the ruling? Let me ask this question: Once . . .

SEN. DUNCAN: Go ahead, Senator.

SEN. WEST: You have cited Rule 13.01 that talks about resolving. Is resolving synonymous with hearing a bill?

SEN. DUNCAN: Senator, the Senate can resolve for whatever purpose it desires.

SEN. WEST: Right. And the question is, you cited in your ruling that 13.01 provides the basis for your ruling. And as I understand it, resolving is coming into the Committee of the Whole, hearing a bill that's separate from resolving. It's a separate act than just resolving.

SEN. DUNCAN: Well, Senator, we can resolve for any purpose, and the purpose was to hear the bill. Moreover -- and I will remind you that a courtesy posting on the date, time and location of the hearing was performed over a week ago, which is well in advance of any public notice that would be required of a standing committee. And so the only change that you have referred to was a courtesy posting that was done yesterday with regard to the change of time that occurred whenever there was a motion to adjourn until
10:00 instead of 9:00, and so we're talking about an hour's difference here. So, again, I think that we have resolved by resolution of the Senate to deal with this. The Senate certainly was in session pursuant to the constitution and the rules of the Senate.

SEN. WEST: Yes, sir, Mr. Chairman. But the broader question, though, is one of resolving and hearing the bills and whether or not public notice of bills that are to be considered by the Committee of the Whole are required by the Senate rules.

I mean, essentially you're saying that the Committee of the Whole, by your ruling, that we don't have to provide the public notice, there is no -- we don't have to deal with transparency as relates to considering bills in this committee, we can just do it at our own whim, and that's inconsistent with everything we've been doing in this body in terms of transparency. If I'm wrong about it -- I just want to make sure the record is clear.

And historically, Mr. Chairman, when we have had bills in the Committee of the Whole, we have provided notice to the public so that the public could be here like they are now. And what I'm hearing today is, is that that notice provision is not applicable anymore as a result of the ruling of the Chair. I
mean, correct me if I'm wrong.

SEN. DUNCAN: Senator, we are resolved into a Committee of the Whole by the resolution we adopted which laid out the bill that was to be considered. As a result, we thought we were following the rules by resolving into a Committee of the Whole which would apply at any time we so desire; therefore, the rules that you're citing to would conflict with the ability of the Senate to freely resolve into a Committee of the Whole to more informally discuss and debate witnesses -- or the issues, including the invitation of witnesses to come in and testify, as we have done here.

SEN. WEST: Does it also conflict with Rule 13.04?

SEN. DUNCAN: Senator, 13.04 provides the -- it provides for the conflicts that may occur with the concept of committee of the whole and other rules, by saying that the rules of the Senate apply, if applicable. And if they conflict -- where they conflict, those rules wouldn't apply.

SEN. WEST: And this is my last question. So you're saying that the notice provision, the notice to the public concerning legislation at the Committee of the Whole will take up conflicts, with
the Committee of the Whole's right to resolve?

SEN. DUNCAN: Senator, the way the Committee of the Whole operates and the design of that from time immemorial would -- giving the Senate the ability to resolve into itself as a Committee of the Whole to informally debate an issue at any time it desires would conflict with those posting rules.

SEN. WEST: Thank you, Mr. Chairman.

SEN. SHAPLEIGH: Mr. Chairman?

SEN. DUNCAN: Sen. Shapleigh, for what purpose?

SEN. SHAPLEIGH: During the Senate portion of this, before we got into committee, we had a discussion there about some housekeeping matters that I think we need to make very clear for this record. This portion is being kept for the official record by a stenographer hired by the Senate. Is that correct?

SEN. DUNCAN: That's correct.

SEN. SHAPLEIGH: And for the purposes of the official record, should it be transmitted to any third party, we have agreed that the stenographer's record may be utilized?

SEN. DUNCAN: I'm not sure I understand your question. Would you repeat it?
SEN. SHAPLEIGH: If we have to establish the official proceedings of what's happened here today for, for example, the Department of Justice in Washington, D.C., the record that is being made by the stenographer whose equipment is there and who sits in Patsy Spaw's office can be used to establish that record?

SEN. DUNCAN: Senator, it's my understanding that this will be a record that can be used to establish the record of the testimony that is given to the Senate, and the debate.

SEN. SHAPLEIGH: Now, for the purposes of making sure that we have the record to send, I would like to talk a little bit about the procedure for the Secretary of the Senate to take documents and keep them to append to the record. We've had discussions already about several documents, the letters to and from Sen. Van de Putte and yourself, the letter to AG Abbott, the notice of the posting that Sen. West was talking about, and this green Texas Senate agenda. Am I to understand that if we want these made a part of the record, we can deposit them with the Secretary of the Senate?

SEN. DUNCAN: I would suggest that you do that, but I would also suggest that you identify
and just move to put them into the record so that you have a clear marker of where they are and at what time they came in so that whoever is reading the record will have an opportunity to relate the documents to the testimony.

SEN. SHAPLEIGH: Well, at this time I would like to, with your permission, mark and deliver to her Exhibits 1A and B, Sen. Van de Putte's letter to you and your response to her; as Exhibit 2, her letter to AG Abbott; as Exhibit 3, the notice of the posting time that Sen. West has talked about; as Exhibit 4, the Senate agenda that was distributed today; and Exhibit 5, the signed tag that brought this point of order to the Chair.

SEN. DUNCAN: Your evidence is received.

(Exhibit Nos. 1 through 5 marked and admitted)

SEN. DUNCAN: And it may be that what we would do is just keep a numerical order of those exhibits when they come in. But I put the challenge on you to make sure that you get them marked and submitted to the Secretary so they get into the record appropriately.

SEN. SHAPLEIGH: Thank you.

SEN. DUNCAN: Sen. Gallegos, for what
SEN. GALLEGOS: Parliamentary inquiry.

Mr. Chairman, in lieu -- on the ruling on
Sen. West's -- what he asked for, I want to appeal the
ruling of the Chair on this issue.

SEN. WILLIAMS: Mr. President?

SEN. DUNCAN: Sen. Williams of Harris --
or Montgomery, rather.

SEN. WILLIAMS: I would move to table
the motion that Sen. Gallegos just made.

SEN. DUNCAN: Sen. Williams,

Sen. Gallegos.

(Off-the-record discussion at the bench)

SEN. WILLIAMS: Mr. Chairman -- or
Mr. President -- or Mr. Chairman, I guess I should say.

SEN. DUNCAN: Sen. Williams.

SEN. WILLIAMS: Mr. Chairman, I
respectfully will withdraw my motion to table. As I understand, it's not appropriate to have a motion to table an appeal to the ruling of the chair in committee. However, I also believe that the rules provide that that motion would be in order were we on the floor. So it's my mistake. I withdraw my motion.

SEN. DUNCAN: Sen. Williams withdraws
his motion to table. Sen. Gallegos sends up an appeal to the ruling of the Chair.

Sen. West, for what purpose?

SEN. WEST: Out of all due respect, Mr. Chairman, I'm trying to figure out what rules apply and what rules don't. And if we could just get some idea of what Senate rules are going to apply and then, you know, all of us will know exactly what the rules are.

So I just need to know what rules apply. I thought the Senate rules applied. But again, there's some wiggle room in there, and I just want to know how to proceed. As an example, the Attorney General -- well, I'll come back to that. But again, I just need to know what rules apply as it relates to -- you know, we can do anything we want to do, we can resolve and pretty much do what we want to do. I'm trying to figure out why his motion wouldn't be honored.

SEN. DUNCAN: Senator, currently we are in the motion of -- Sen. Gallegos has a motion to appeal before the body. You have a parliamentary inquiry. Why don't we handle that as those issues come up. Let's go ahead and deal with the appeal of the ruling of the Chair that has been raised by
Sen. Gallegos.

Sen. Gallegos, you're recognized to speak on that.

(Brief pause)

SEN. WENTWORTH: Sen. Gallegos, you're recognized to argue in favor of your motion.

SEN. GALLEGOS: Mr. Chairman, the reason for my appeal is that evidently the rules are unclear on what rules that we're going by on major legislation, I think and I believe that the Senate rule should be applicable to major legislation, such as the bill that is trying to be laid out before us, that any major piece of legislation under the Senate rules, the ones that Sen. Royce West said. And I've got another tag on similar rules, that I believe that the Senate rules are applicable to major legislation that's heard on this floor, whether it be Committee of the Whole or regular Senate committee hearings.

And that is why, you know, until we find out what rules that we're working on, I believe that the rules of the Senate should be applicable to this bill here, and that's why I'm appealing the ruling of the Chair.

SEN. WENTWORTH: Okay. Members, a motion -- I'm sorry. The Chair recognizes Sen.
Williams.

SEN. WILLIAMS: Mr. Chairman, I would like to speak on Sen. Gallegos' motion that's before us.

SEN. WENTWORTH: You're recognized.

SEN. WILLIAMS: Thank you.

Respectfully, Sen. Gallegos, I would encourage you to read the rules that we have on the Committee of the Whole. And before I made this rule change at the beginning of the session, I very carefully looked at the rules of the Committee of the Whole. And we also considered how that has worked, because I wasn't familiar with it, quite frankly.

And it's clear to me, after reading this and other documents that relate to parliamentary law, that a ruling other than what the Chair has made would put the body in conflict with itself. The purpose of the Committee of the Whole is to allow the body to dissolve into that committee and consider important matters before the entire body.

And to require that the posting rule apply before we could do that would be to restrict the body's inherent ability to dissolve into the Committee of the Whole. And so the standing committee rules, as I understand it, don't apply universally to this
proceeding that we're in.

    And I think it would be a grave mistake for this body to try to impose upon ourselves a posting rule so that if there's some important matter that we need to consider in an informal basis like a committee hearing, is not as we hear it on the floor, it would unnecessarily restrict our ability to do so.

    And there are many examples in our history as a Senate where we have resolved into the body of the whole and considered bills and legislation without posting those things. So respectfully I just wanted to point that out to the body, Mr. Chairman.

    SEN. WEST: Will Sen. Williams yield?

    SEN. WILLIAMS: I yield.

    SEN. WENTWORTH: Sen. West, for what purpose?


    SEN. WENTWORTH: Do you yield to Sen. West?

    SEN. WILLIAMS: I yield.

    SEN. WENTWORTH: He yields.

    SEN. WEST: Sen. Williams, I recognize that oftentimes we resolve and we don't post to take up -- we resolve into the Committee of the Whole to take up issues. But in this instance, we decided to
post, follow the Senate rules and post. And then we decided to repost. And now we're hearing that posting is not applicable to the Committee of the Whole. And that's why I'm taking so much time on this, given the issues of transparency that the public demands and I know that you support.

The issue in my mind is, is that once we set up and make this ruling, we're now telling the public, we're now telling the State of Texas that this committee can take up legislation without giving the public notice. That's what we're saying.

SEN. WILLIAMS: Well, Sen. West, respectfully, I think you turn the intent of the posting rule on its head with your logic. And if the purpose of the posting rule is so that the public can have adequate notice, there is no argument that can be made. This has been widely disseminated over the Internet, in the popular media.

And, in fact, the posting here was merely a courtesy. The purpose of the posting rule is not primarily to notify the public. The primary purpose of the posting rule is to make sure that the other members of the body know what's going on when you have a standing committee that comes together and it's subject to the call of the chair.
It is an important secondary thing that we also give notice to the public. But I don't think you can reasonably argue that the public wasn't aware of what proceedings were going to be taking place. We have over 100 witnesses that have testified. And surely you don't think, because it wasn't posted in the back hall, that somebody didn't show up for this meeting.

SEN. WEST: Sen. Williams, I understand your logic. And, frankly, I'm kind of baffled by it. The reality is, is that the decision that y'all are going to make today is that the posting notice does not apply to the Committee of the Whole. That's this argument. And the reality is, is that when you decide to post, there is a certain amount of things that we have to do according to our rules. There are certain rights and privileges and all of that that are tied to that posting. When you repost, it resets the clock; it resets the clock.

Here is the way I look at it: The reality is this -- and you and I had this debate, you and I had this debate when we were going through the rules change -- you guys -- the majority of the body decided to change the rules. Okay. And you have the votes, you have the gavel, you change the rules. And
that's fine. I can deal with that. But those are the rules.

    I'm just saying, let's make certain that, given the rules that we now have, that all of us can apply those rules to this situation. And when we sit up and say that the Senate of the whole -- the Senate can resolve itself into the whole committee and these rules, posting is not applicable, I think we need to think about it.

    I understand that we're dealing with issues, you know, voting issues that was always something that was very divisive in this body. But what I'm saying to you, as my desk mate and as a colleague, we're got to really think about the decision that we're making today saying that when we take up these types of issues, that posting should not be applicable.

SEN. WILLIAMS: Sen. West, I appreciate the courtesy that you've shown me in explaining your side of this. And what I would politely try to point out to you is that I don't believe that we are today deciding that the posting rule doesn't apply to the Committee of the Whole. That has been decided a long time ago.

SEN. WEST: When was it decided?
SEN. WILLIAMS: That is a part of the body of parliamentary law that exists already. And it is in the spirit of what's in the rules that relate to the Committee of the Whole and the purpose. So, yes, we're reaffirming that that doesn't apply today. And the mere act of giving public notice does not then subject you to a rule that didn't apply before. And I think that's the ruling that the Chair has made, and I think correctly so.

Thank you, Sen. West.

SEN. WEST: Look forward to the vote.

SEN. WENTWORTH: The Chair recognizes Sen. Lucio of Cameron County.

SEN. LUCIO: Will Sen. Williams please yield for a question?

SEN. WENTWORTH: Sen. Williams, you yield?

SEN. WILLIAMS: I yield.

SEN. WENTWORTH: Sen. Williams yields.

SEN. LUCIO: Thank you, Sen. Williams. I think all of us will agree that rules are important to this process and if we're not to follow them, then as a point of clarification, maybe you could tell me what other rules do not apply to this extraordinary piece of legislation?
SEN. WILLIAMS: Well, Sen. Lucio, it wouldn't be appropriate for me -- I'm not presiding over this -- it wouldn't be appropriate for me to presume the role of the chair of this Committee of the Whole. I think it's up to his discretion on that. And I think that my -- I'll leave it to -- rather than say "to his discretion," I think I'll leave that to the Chair to make those rulings as the issues come forward.

My response was really centered at -- since the issues that Sen. Gallegos raised when he explained his appeal to the ruling of the Chair. And I would reiterate again that it's not my belief that all of the standing committee rules apply to the Committee of the Whole, that we should not restrict ourselves on the ability to resolve into the body of the whole. It is designed for the Senate to be able to rapidly take up an issue with everyone involved. It is a unique situation, much different than a standing committee is.

And so there is a long history, as I said, of this body resolving into the Committee of the Whole to consider matters, resolutions and legislation where no posting was done whatsoever. And to say that the mere act of giving public notice then subjects you
to that rule is to turn the Senate rules on their head, in my opinion.

SEN. LUCIO: Well, but, you know, they shouldn't have been posted, then if that would have been the case, in my opinion, as well. You're a very good student of the rules, and that's why I asked this question. I think we need to revisit the rules, and we need to rewrite the rules so it can be very clear and not have to waste the public's time next time we have a proceeding as such.

SEN. WILLIAMS: Thank you, Sen. Lucio.

SEN. WENTWORTH: Sen. Van de Putte.

SEN. VAN de PUTTE: Thank you, Mr. President. I would like to speak -- appeal -- and not maybe particularly at Sen. Williams, but he brings up some very interesting comments. According to our Senate rules on 13.04, "The rules of the Senate, as far as applicable, shall be observed in the Committee of the Whole Senate."

So as far as applicable. And although this question on this appeal is about posting, we don't post when we go into Committee of the Whole. And probably, as Sen. Williams has said, because we don't know when we're going into the Committee of the Whole. We don't know when we're going to go back into
the Committee of the Whole and resolve to talk about
the Easter vacation schedule and whether we should be
off on Holy Thursday and Good Friday. And although
that is important, it is about the logistics and the
work schedule.

This is very different. When the rules
of the Senate were changed on the first week of the
session, it was done so to circumvent our normal
two-thirds rule on one particular issue, voter ID.
And because there is a bill -- this is a legislative
bill -- it is not the Senate resolving to talk about a
holiday schedule; it is not the Senate that is
resolving to talk about should we go and attend
someone on the Senate, their parent's funeral and the
logistics for that; it is not the Senate resolving to
plan the retirement party for our former secretary of
the Senate, Betty King.

Those are the things that we do because
it is the business of the Senate. This is the
business of the people. And we are going to add
another barrier to the basic right to vote; and, yet,
by the ruling, we are going to say the people have no
business knowing that we're going to take up a
legislative bill.

And so maybe for the purposes of this
appeal -- this is special. You made it special. You
said this was more important than anything else. And
so we are taking up -- and maybe the posting is not --
Sen. Williams, I vehemently disagree with you. The
posting is not for our convenience. We're here; we
have staff. We know when we're going to meet. It is
for the public. It is because we are going to add
barriers to their basic right to vote, but they ought
to have the posting if the Senate is going resolve
into the Committee of the Whole to change the way and
the possess that they vote. It is their business.

And so this is very different from the
Committee of the Whole resolving to discuss a work
schedule or to plan a party or to make funeral
arrangements. This is the people's business. And I
would ask you to think on this appeal. What we are
saying is that when there is legislation before the
Committee of the Whole, that we don't have to give
notice.

Although notice was given -- and it is
very much appreciative -- to have this ruling set in
our Senate rules for the senators that may not even be
born yet, is a terrible precedent. It shuts the
public out. So because of the special order and
because we're meeting in the Committee of the Whole
for one bill that was deemed so important that it
couldn't go by regular Senate rules, didn't go to the
Committee of Jurisdiction, we changed that.

But we ought to at least afford the
public the opportunity to know, in future generations
when they're about to be asked, to change how they
vote and what processes are used. And so when I ask
you to think about the appeal, don't think about us,
think about all the wonderful Texans here who always
exercise their right to vote.

SEN. WENTWORTH: The Chair recognizes
Sen. Williams.

SEN. WILLIAMS: Thank you.

Well, Sen. Van de Putte, respectfully, I
would say they're here. People from both sides of the
issue are here. And I think the effect of Sen.
Gallegos's appeal would be to send them home so that
they couldn't participate in this process today.

SEN. WENTWORTH: Members, Sen. Gallegos
has appealed the ruling of the Chair. The Secretary
will call the roll. A vote of "Aye" --

SEN. GALLEGOS: Mr. Chairman?


SEN. GALLEGOS: May I -- I want to reply
to Sen. Williams, if I may.
SEN. WENTWORTH: The Chair recognizes Sen. Gallegos.

SEN. GALLEGOS: Sen. Williams, you know, I respect your remarks. And let me just say what my colleagues have already told you in their remarks. You said it's a unique situation. It is. And you said that there was Internet postings, the media that has posted so, you know, everybody is supposed to know.

Well, I beg to differ with you. This is an issue that is unique because you made it unique when we passed that resolution that completely did away with the two-thirds rule. So when you said it's a unique situation, it is, because only -- and only on this issue do we do away with the two-thirds rule that has always been a tradition of the Texas Senate.

And let me remind you, Senator, that we got elected here, everybody on this floor, to notify and at least let our constituents know what's going on here. And I will be the last one to say to them that I'm going to depend on Internet postings and the media to post, you know, this unique bill that you have made unique by the resolutions that we passed earlier this session and doing away with the two-thirds rule on this issue.
So I would really tell you,
Sen. Williams, that the only really way to tell the
people that elected you and me about this unique
situation that we have on this floor today is by
public posting, something that we were elected to do,
to tell them -- not the Internet, not the media or
anybody else, or the grapevine or whatever else you
want to call it.

It's a public posting; that's what it
is. And I will refer in my appeal to the rules that
Sen. Van de Putte did, 13.04. And it says, "The rules
of the Senate, as far as applicable, shall be observed
in Committee of the Whole Senate." And also on Rule
20.02, it says, "The President's ruling is subject to
appeal to the entire Senate."

And that's what I'm doing right now,
Mr. Chairman and Sen. Williams. With all due respect,
I do appeal the ruling of the Chair.

SEN. WENTWORTH: All right. Members,
Sen. Gallegos has appealed the ruling of the Chair. A
vote of "aye" will sustain the Chair; a vote of "nay"
will overturn the Chair.

The Secretary will call the roll.
ROLL CALL NO. 2

SECRETARY SPAW: Averitt?

SEN. AVERITT: I confirm.

SECRETARY SPAW: Carona?

SEN. CARONA: (Indicated "aye" vote)

SECRETARY SPAW: Davis?

SEN. DAVIS: Nay.

SECRETARY SPAW: Deuell?

SEN. DEUELL: (Indicated "aye" vote)

SECRETARY SPAW: Duncan?

SEN. DUNCAN: (Present, not voting)

SECRETARY SPAW: Ellis?

SEN. ELLIS: (Indicated "nay" vote)

SECRETARY SPAW: Eltife?

SEN. ELTIFE: (Indicated "aye" vote)

SECRETARY SPAW: Estes?

SEN. ESTES: (Indicated "aye" vote)

SECRETARY SPAW: Fraser?

SEN. FRASER: Aye.

SECRETARY SPAW: Gallegos?

SEN. GALLEGOS: (Indicated "nay" vote)

SECRETARY SPAW: Harris?

SEN. HARRIS: (Indicated "aye" vote)

SECRETARY SPAW: Hegar?

SEN. HEGAR: (Indicated "aye" vote)
SECRETARY SPAW: Hinojosa?
SEN. HINOJOSA: (Indicated "nay vote")
SECRETARY SPAW: Huffman?
SEN. HUFFMAN: (Indicated "aye" vote)
SECRETARY SPAW: Jackson?
SEN. JACKSON: (Indicated "aye" vote)
SECRETARY SPAW: Lucio?
SEN. LUCIO: (Indicated "nay" vote)
SECRETARY SPAW: Nelson?
SEN. NELSON: (Indicated "aye" vote)
SECRETARY SPAW: Nichols?
SEN. NICHOLS: (Indicated "aye" vote)
SECRETARY SPAW: Ogden?
SEN. OGDEN: (Indicated "aye" vote)
SECRETARY SPAW: Patrick?
SEN. PATRICK: (Indicated "aye" vote)
SECRETARY SPAW: Seliger?
SEN. SELIGER: (Indicated "aye" vote)
SECRETARY SPAW: Shapiro?
SEN. SHAPIRO: (Indicated "aye" vote)
SECRETARY SPAW: Shapleigh?
SEN. SHAPLEIGH: (Indicated "nay" vote)
SECRETARY SPAW: Uresti?
SEN. URESTI: (Indicated "nay" vote)
SECRETARY SPAW: Van de Putte?
SEN. VAN de PUTTE: (Indicated "nay" vote)

SECRETARY SPAW: Watson?

SEN. WATSON: (Indicated "nay" vote)

SECRETARY SPAW: Wentworth?

SEN. WENTWORTH: (Indicated "aye" vote)

SECRETARY SPAW: West?

SEN. WEST: (Indicated "nay" vote)

SECRETARY SPAW: Whitmire?

SEN. WHITMIRE: No.

SECRETARY SPAW: Williams?

SEN. WILLIAMS: (Indicated "aye" vote)

SECRETARY SPAW: Zaffirini?

SEN. ZAFFIRINI: (Indicated "nay" vote)

SECRETARY SPAW: Mr. President?

PRESIDENT DEWHURST: (Indicated "aye" vote)

SEN. WENTWORTH: There being 19 ayes, 12 nays and one present, not voting, the ruling of the Chair is sustained.

SEN. SHAPLEIGH: Mr. Chair?

SEN. DUNCAN: Sen. Shapleigh?

SEN. SHAPLEIGH: Welcome back.

SEN. DUNCAN: Thank you.

SEN. SHAPLEIGH: Can we make that vote,
since we don't have electronically recorded votes, an

Exhibit 6?

SEN. DUNCAN: Yes, Senator. I think all

votes should be made part of the record, and they are

part of the record.

Sen. Fraser. The Chair recognizes

Sen. Fraser to lay out Senate Bill 362.

SEN. GALLEGOS: Mr. President?

SEN. DUNCAN: Sen. Gallegos, for what

purpose?

SEN. GALLEGOS: Mr. Chairman, I want to
tag this Senate Bill on Ruling 11.19 on 48-hour notice
to all Senate members, and I believe that's 11.19.

SEN. DUNCAN: Senator, bring your point

of order forward.

SEN. GALLEGOS: My tag is already up

there.

(Brief pause)

SEN. GALLEGOS: Mr. President, I would
move to tag the bill and request a 48-hour notice to

all Senate members pursuant to Rule 11.19.

SEN. DUNCAN: Senator, are you rising on

a point of order?

SEN. GALLEGOS: I'm tagging the bill.

SEN. DUNCAN: Let me rephrase the
question. I think you would have to raise a point of order on further consideration of the bill, based on the tag.

SEN. GALLEGOS: Well, I raise the point of order to disallow any further consideration of Senate Bill 362.

SEN. DUNCAN: Okay.

SEN. GALLEGOS: And I have done that in reference by submitting a tag to the Secretary of the Senate.

SEN. DUNCAN: Thank you, Sen. Gallegos. For the reasons previously stated in the prior point of order raised by Sen. West, your point of order is respectfully overruled.

SEN. GALLEGOS: Thank you, Mr. President.

SEN. DUNCAN: Thank you, Senator.

SEN. WEST: To make sure the record is clear --

SEN. DUNCAN: Sen. West.

SEN. WEST: Parliamentary inquiry.

Sen. Gallegos, as well as some other members of the Senate, filed a motion to tag for further consideration of Senate Bill 362. Your ruling would be the same as it relates to that motion, to tag also?
There were two motions to tag filed.

SEN. DUNCAN: Senator, the interpretation and the basis for the overruling of Sen. Gallegos' motion and your motion and a motion with regard to the tag rule would be that the rules do not apply -- are not applicable, and I've made that ruling. And that would be -- the ruling would be consistent with the earlier ruling I made on your motion.

SEN. WEST: Okay. And I just wanted to make certain that we're basically dealing with all the tagged motions that were up there. So tagged rules don't apply to a committee whole either when we're taking up substantive legislation? And that's, in essence, the ruling?

SEN. DUNCAN: Senator, for the reasons that we explained earlier and I think for the reasons that were abated by the Senate and prevailed in the appeal, that the tag would not apply, the tag rule would not apply to the Committee of the Whole.

SEN. WEST: Thank you.

SEN. DUNCAN: Sen. Fraser, you are once again recognized. You have the floor with regard to laying out Senate Bill 362.
LAYING OUT OF SENATE BILL 362

SEN. FRASER: Thank you, members. The three-minute rule is in effect.

I've been sitting here for four hours waiting to lay this out. And, actually, we have a lot of discussion about how I should lay this out, discussion on it. And I think the bill speaks for itself. And I am going to be very brief, probably three or four minutes, and allow the witnesses to move forward, because I think we've wasted enough of the public's time and that we should move forward with hearing from the witnesses.

Members, this bill, I think probably most of you are going to be very familiar with it. It's something we've talked about a lot. Someone back a while ago when we were having lunch asked me the question, said, "How did the talk about this bill get started"?

And I actually came back and sat down, and I've got probably, interestingly, more research and more reading and debate on this bill maybe than one I've ever done, because I'm very interested in the concept. But I think probably if you track it back in our nation's history, is that we look at the ongoing threat of voter fraud that this country has addressed
really since the start, it goes all the way back.

And we've got many places where we look. One of them would be Tammany Hall, possibly the Kansas City Pendergast machine. Here in Texas, we probably should look no further to the 1948 Senate race when the Duke of Duval delivered 201 of the 203 registered voters in Box 13 in Jim Wells County in the race between LBJ and Coke Stevenson. Maybe we refer back to Mayor Richard Daley's Chicago machine in the 1960 presidential election where it was alleged that at least one in every 10 votes potentially was a fraudulent or illegal vote, and including multiple votes by the dead that continues throughout our Texas history, even looking at the activity over the indictments and the convictions over the last several years, clarifying that voter fraud not only is alive and well in the United States, it's very alive and well in Texas.

And I think that brings us forward to why we're here today. I believe the danger of the voter fraud has threatened the integrity of the entire electoral process for the entire history of the United States.

In 2005, I think a lot of you are familiar with the fact that the Federal Election
Commission asked a bipartisan commission, and they went out and they tried to get someone to head that up from what I'll call the left, the former President of the United States, Jimmy Carter, a Democrat president that had been the governor of a state, Georgia, that was a Section 5 Voter Rights Act state. They asked him to be one of the co-chairs of a bipartisan commission. Secretary of State James Baker was the other side. That Commission was put in place to look at voter fraud in the United States and come back with a recommendation of how we address that.

That commission in, you know, their reaffirming the danger said, "The elections are at the heart of democracy. Americans are losing confidence in the fairness of elections. And while we do not have a crisis today, we need to address the problems of our electoral system."

During that same time, the Supreme Court made a ruling in Purcell and Gonzalez stating the "Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic process and breeds distrust of our government. Voters who fear" -- and I emphasize the word "fear" -- "Voters who fear their
legitimate votes will be outweighed by fraudulent ones will feel disenfranchised. "[T]he right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise."

It hit very close to home in 2003 when we had a member of our body that I served with. My chairman when I was in the House of Representatives, Steve Wolens, a Democratic House of Representative member and a chairman from the Dallas area, in 2003, he laid out a bill and made a passionate plea to the Legislature because he believed that through voter fraud, that there had been an effort not only for him but also his wife that was the mayor of Dallas.

And he says in the bill that he laid out in his appeal, "Rigged elections in Dallas with people harvesting votes have destroyed our" -- he said, "The ability to cast a vote and have our vote counted is the bedrock of our democracy. We must do everything possible to ensure the sanctity of the vote in our state. And as a society, we must not tolerate the disenfranchisement of our citizens any longer in accusing a group in a Democratic primary of rigging the election and harvesting votes."
That same Baker Commission, the Carter-Baker Commission, in an editorial that President Carter and Baker co-wrote, said, "At the end of the day, there is considerable national evidence of in-person voter fraud. And regardless of whether one believed that voter impersonation is widespread or relatively rare, there can be no serious dispute that it is a real effect that can be substantial, because in a close election, even a small amount of fraud could make the margin of difference."

In 2005 that bipartisan commission that was created by the election reform, recommended that a fair, a free and fair election requires both ballot security and access to voting. "We as a commission have offered to bridge" or "a proposal to bridge the partisan divide by suggesting a uniform voter ID."

That recommendation came from a former President of the United States, had been put on a commission by the Federal Election Commission. The recommendation came because of a concern about voter fraud. And he recommended in 2005 that we develop a program for a uniform voter photo ID. The bill that I lay out today is in response to that.

Senate Bill 362 is really pretty straightforward. It's nothing more than when I walk
in to vote and I lay out my voter registration, that
that person across from me can recognize that I am who
I represent to be, that I am that person on the roll.
And I feel I have an obligation to represent that I am
a legal living person that has the right to vote and I
am that person on that roll.

Under Texas law today, we do not have
that ability. We're going to have witnesses come
forward today, and they're going to tell you about
cases. I have questions that I'm going to ask, and
one of the ones is going to be to the Secretary of
State. We're going to ask about if, when we go into a
voting booth, if someone could impersonate me and
steal my vote and what they could do about it.

And I think a lot of you are going to be
shocked at what our current law in Texas is today.
Without a doubt, there is the ability in Texas from a
lot of different directions or a different way for
someone to steal your identity, your right by your
voter registration and can vote, identify themselves
as you.

The Baker Commission -- and I'm sorry.
Let me back up a second and say one of the other
things that you're going to hear today is that we have
representatives from Indiana and Georgia. After the
Baker Commission recommended that the photo ID be implemented, one of the first states to do a strict photo ID was the State of Indiana. Theirs is very straightforward. It says that the citizens, when they vote, will show a photo ID. If someone doesn't have a photo ID, the state will pay for it.

That law that was put in place actually was in place during the 2006 election, and then again in the 2008 election. It has withstood the challenges through the court system. And this last year, the U.S. Supreme Court confirmed a decision on the Indiana bill in a majority opinion that was giver by John Paul Stevens, which is generally considered a moderate to left-leaning justice. He issued the majority opinion, and the opinion was six to three confirming the voter ID bill for Indiana.

Since then, there have been two election cycles. I'm not going to go into the results of that, because we have someone from Indiana that is going to testify to that. But I think it's going to clearly show that instead of somehow discouraging someone to vote, it did just the opposite, that the vote total -- in fact, I'm going to go ahead you give you those, because I think they're very important.

In Indiana over the last two election
cycles, Indiana had the fifth largest increase of voter increase in the United States in the 2008 election. In the Democratic votes that were cast, they were No. 1 in the nation. They were the largest increase of Democrat votes in the nation, even though next door in Illinois, where the presidential candidate was from, had no photo ID registration. Indiana had a strict photo ID registration. Indiana doubled the increase of Illinois. It clearly showed that there was not a suppression there.

Georgia, a Section 5 voter rights state, they also implemented a strict voter photo ID bill. This last election cycle, Georgia was the largest increase in vote totals in the nation. Of all the states, of the other states that did not have it, Georgia, after they implemented their photo ID legislation, had the largest increase in vote totals in the nation. And we have people from Georgia here.

I think probably a brief description of my bill, and we'll get into that. And if someone has questions about 362 and what my bill does, but it's really pretty straightforward. It just says that when someone goes in to vote, they have not only the choice of showing their photo ID, driver's license, but we're also giving them secondary choices, and those
secondary choices are a lot of secondary choices. They could show their library card. They could show any government piece of mail that was mailed to them. Basically anything that would show their identification as a secondary source of identification is going to be allowed under my bill. And when we start discussing that, I'll be glad to go over the list that is listed of things. But in Texas, the bill that we are laying out actually has a secondary choice. Then if someone doesn't have a photo ID, there is a secondary choice to identify themselves.

I should also clarify that we are only addressing the in-person voting; we are not addressing mail-in ballots, early voting, any of the other things in the election cycle.

I think I'm going to go ahead and close so we can start either the questions and/or bring in the witnesses. But I think it's important to note that in upholding Indiana's photo ID law, in the decision that was given by John Paul Stevens in his majority opinion, he stated, "Confidence in the integrity of our election process is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic
process and breeds distrust of our government. Voters who fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised."

We believe Senate Bill 362 goes a long way for correcting that concern.

QUESTIONS FROM SENATE FLOOR

SEN. DUNCAN: Thank you.

Sen. Lucio of Cameron.

SEN. LUCIO: Thank you, Mr. President.

For a question.

SEN. DUNCAN: Sen. Lucio.

SEN. LUCIO: The request was made earlier today to see if we could have the Attorney General here to answer any legal questions we might have on this legislation. As I look around the chamber, I don't see the Secretary of State, my good friend Hope Andrade who I can -- well, who is the Chief Elections Officer of the state, as you well know. And I'm wondering if she will be present maybe to respond to any questions that the members might have, or the Department of Public Safety or any other agency that might come into play with this piece of legislation. Will that be the case?

SEN. FRASER: I'll address the first question first. The Secretary of State, I share your
interest in that. And, actually, when that person comes up, I have a lot of questions that I would like to ask also. Unfortunately, the Secretary of State, Hope Andrade, is on an airplane as we speak, out of the country. But the No. 2, the Assistant Secretary is here. Coby Shorter is over on the side right now and will be available for any questions that would come up.

Actually, that is one of my invited persons for questions. I have him scheduled in the mix. But I think any member that has a question of the Secretary of State's office would be free at any time for a resource.

The DPS, I have not personally asked them to be here to testify, but I believe probably they're monitoring this as we speak. And I would suspect if we wanted somebody from the DPS to answer questions about motor voter or any of those issue, I feel sure that we could get them over. I have not invited them.

SEN. LUCIO: Thank you.

Mr. Chairman, you also mentioned that voter ID proposal for bipartisan and serve the public interest by protecting the integrity of the ballot, and you also mentioned the Commission on Federal
Election reform that was co-chaired by former President Jimmy Carter and former Secretary of State Jim Baker supported laws that required voters to show a voter ID before voting.

I just want to ask you that, that in the days after the release of the commission's report, I'm informed that President Carter and former Secretary Baker stated in an op ed in the New York times that their intent had been misconstrued and clarified that until we have universal registration, we cannot make having such an ID be a condition of voting. Are you aware of that op ed?

SEN. FRASER: Tell me, where was that?
SEN. LUCIO: That op ed?
SEN. FRASER: What was the date on that? Tell me the date on that, please.

SEN. FRASER: And I guess I would defer -- I obviously can't get in the minds -- and, by the way, we do have someone from that commission here that we can question, will be the second person that I will call up. And so you'll have the right to ask
them, because they're from that commission. All I can go by is a newer -- you know, everyone has a right to, you know, their developing thoughts. But the newest thing I have on record was February 3, 2008. It was an op ed contribution, "A Clearer Picture on Voter ID" by Jimmy Carter and James A. Baker III, which I'm assuming -- February 3, 2008 is after September 23, 2005. So this would be their more current thoughts.

And in that current editorial that I have here in my hand, it said, "In 2005, we led a bipartisan Commission . . ." And I'm not going to read the whole thing, but it says: "We bridged a partisan divide by suggesting a uniform voter photo ID." And this is February 8 (sic), 2008.

SEN. LUCIO: 2008?

SEN. FRASER: 2008. Yours is 2005. So I don't know what to say, other than my story is three years newer than yours.

SEN. LUCIO: Well, I guess they changed their minds after two thousand --

SEN. FRASER: Everybody gets to change their mind. All I know is that this is the most current thing that I have on file. But that was a op ed contribution to the New York Times February 3,
2008, you know. I'm --

SEN. LUCIO: Thank you very much, Senator.

SEN. FRASER: Thank you.

SEN. WATSON: Mr. President?

SEN. DUNCAN: Sen. Watson of Travis.

SEN. WATSON: Thank you, Mr. Chairman. I just want to ask a couple of questions.

And first, let me say that I think you and I probably agree that there is not a senator in this room that doesn't want to protect the sanctity of the ballot box, regardless of how they might feel about 362.

SEN. FRASER: I would share we, without a doubt -- we've had this conversation -- is that I think we both have the same intent, is that neither one of us want voter fraud and we would do anything we could to stop voter fraud in Texas. And I think that's --

SEN. WATSON: Nobody wants --

SEN. FRASER: I think we agree with that.

SEN. WATSON: Nobody wants voter fraud. And there may be some disagreements about how we go about that. Let me ask a couple of questions about
the bill. And first let me mention something about the Carter-Baker Commission. I'm not sure there was a change in opinion. But what they said in that February 2008 is, they were looking for a universal voter identification. Is that correct?

SEN. FRASER: I believe the term was "uniform" --

SEN. WATSON: Uniform.

SEN. FRASER: -- "voter ID." And, actually, what they suggested --

SEN. WATSON: Was REAL ID.

SEN. FRASER: -- is that the federal government would issue a photo ID to every person in the United States.

SEN. WATSON: And what they've actually indicated is that in order to be in favor of a uniform voter ID, they believe that what needs to happen is, the government would be in a position to give everyone an identification so that you wouldn't run into situations where there might be discrimination. Is that correct?

Well, for example, they're affirmatively said --

SEN. FRASER: They have affirmatively said that somebody should pay for it, the federal
government or the states, but they would issue a photo ID.

SEN. WATSON: So that everybody would have a uniform identification?

SEN. FRASER: Exactly what I'm laying out in this bill.

SEN. WATSON: And I don't disagree.

SEN. FRASER: I --

SEN. DUNCAN: Senators, senators --

SEN. FRASER: I can answer you. Just a second.

SEN. DUNCAN: May I interrupt?

SEN. FRASER: Sure.

SEN. DUNCAN: You've got a court --

SEN. WATSON: Well, we're both interrupting. Why don't you?

SEN. DUNCAN: Well, no. I'm just trying to help you out. The court reporter can only type down one person talking at a time, and so you have a tendency --

SEN. WATSON: Fair enough.

SEN. DUNCAN: -- to talk over each other. So if you could observe that rule, it will help the record.

SEN. WATSON: And we do that even in
private conversations, I might add.

SEN. FRASER: Unfortunately, we are on the committee together, and this is a common occurrence, so we will have to try to control ourselves.

SEN. WATSON: I think you were the last one talking.

SEN. FRASER: The final statement, I think they say -- let me read this. Actually, it's interesting that the last -- this was in -- they were writing this in response, urging the Supreme Court to validate the Indiana law. And it says that -- they are suggesting that states should move to implement photo IDs gradually, that a free ID should be available. But they're also saying that the Supreme Court can lead the way on the voter ID issue by validating the Indiana ruling, which is the photo ID.

And, again, it's the thing I just read. It will move "... our national leaders and the entire country to bridge the partisan divide on a matter that is important to our democracy." The Supreme Court should "... support voter ID laws that make it easy to vote but tough to cheat," from their editorial.

SEN. WATSON: And they had indicated --
I'm sure we'll hear some other testimony about this. But the Carter-Baker Commission had indicated that they believed the way Georgia had set theirs up was discriminatory in part because the government wasn't, as you just indicated, making it easy for people to be -- all people to be able to get a uniform identification.

SEN. FRASER: They want it to be easy to -- their suggestion was have a photo ID, have someone pay for it, make it easy for them to get it. But they say, "Here is what we want to do. We want a voter ID law that makes it easy to vote but tough to cheat."

SEN. WATSON: Well, let's talk about what the current situation is so that we can be clear on what it is that we would be doing if Senate Bill 362 were to pass. Currently we have a form of voter identification in Texas. And what it is, is we have an identifying document that we call a voter registration certificate. Isn't that right? The state provides a voter registration certificate to those who register to vote?

SEN. FRASER: The answer to that probably is "Yes" and "No," is that the way we currently identify ourself when we go in is a voter
registration certificate. The problem with current law is, there is no way that that person that is behind the voting booth knows, "Are you really that person?" because -- hold on a second -- you know, there is nothing to say that I couldn't pick up my brother Steve's voter ID and walk in and lay it on the table and the -- we're going to ask the Secretary of State this -- but I think the procedure in law says identify:

Are you on the list? Yes.
Is this your correct address? Yes.
Are you in this precinct? Yes.
Here is your ballot -- even though I'm voting with my brother's card.

SEN. WATSON: I ought to give you a flag so I know when you're done. But, Senator, the point is, I want to try to set what the benchmark is for what is required now when someone goes in to vote. And when someone goes in to vote right now, as you just indicated, all they have to do is show that certificate. The election officer sees their name and sees that their name is on a list of registered voters, and then they're able to vote. Is that correct?

SEN. FRASER: Well, let me ask you --
the Secretary of State will clarify this. But if you're look in Section -- is 63.001?

SEN. WATSON: It is.

SEN. FRASER: -- of the election -- and if you've got it in front of you, you can read along. It says bring your card, registration card, hand it to them. They verify: Is the name on the card on the list? Is Kirk Watson on the card? Are they also listed as registered? Yes, it is. They say,

"Is this your current address?"

"Yes, it is."

"This is the proper precinct you're going to be voting in?"

"Yes, it is."

"Here is your ID (sic)."

SEN. WATSON: And then you get to vote.

SEN. FRASER: I mean, "Here is your" -- can I keep going, though? The interesting thing on this, though, is, Senator, that -- let me give you a hypothetical -- and we'll ask the Secretary of State to verify this -- is that let's assume that they mailed you your voter registration to your mailbox, but your next door neighbor saw them dropping it off and he walked over and picked it up out of box. And he beat you to the polling place. And he walked in
where someone didn't know who Kirk Watson was and he laid it on the table, and he said, "I'm Kirk Watson," and they went through all those scenarios, that person would be given a ballot and would vote for you, that put it in the pile. And they would walk out the door, and that vote would count in the selection. Now, we'll verify with the Secretary of State that that's correct, but I believe that's the way it happens right now.

SEN. WATSON: And that really wasn't my questions. So let me ask my --

SEN. FRASER: I'm practiced with a lawyer where you don't answer the question that was asked.

SEN. WATSON: I notice you've been trying to do that. Let's just walk through what the process is and the change in the law. Currently all that is required is to show the certificate, walk through the way you just did, and then you can vote. Senate Bill 362 changes that.

And it says that while you would still submit the voter registration certificate and that part is the same, it then adds the requirement that in addition to the current standard practice or procedure of presenting that voter registration certificate, you
must also submit either a picture identification or two types of other identification that's listed in Senate Bill 362.

SEN. FRASER: Senator, I guess I would ask you -- I'm assuming -- you travel a lot. You've flown since 911?

SEN. WATSON: I'm not sure how that is answering my question. Is that what your bill does or doesn't do?

SEN. FRASER: I'm saying that this is going to be a whole lot like -- even if you were getting a library card, they're going to say, "We need a form of photo identification, and they're going to do -- like they do at the airport, they're going to look at the card, they're going to look at you, they're going to look back at the card and say, "Yes, you are the person that you are pretending," or "you say you are. You" -- Kirk Watson is the person on the photo; kirk Watson is the person on the registration files. And the answer is yes, that would be the way this would work.

SEN. WATSON: So the answer is yes, that there is an additional requirement so that people who could vote under the current voting standard practice and procedure will be precluded from voting if they
don't meet these new requirements. Is that correct?

SEN. FRASER: I'm sorry. I was talking to staff. Ask that again, please.

SEN. WATSON: People who could vote under the current voting standard practice and procedure will be precluded from voting, if Senate Bill 362 passes, if they don't meet those new requirements?

SEN. FRASER: No one is going to be precluded from voting. Everyone that walks in under 362, every person that walks in to vote will be allowed to vote.

SEN. WATSON: If they meet the new requirements?

SEN. FRASER: Every person that --

SEN. WATSON: That's provisional balloting.

SEN. FRASER: -- walks in --

SEN. WATSON: Is that what you're talking about?

SEN. FRASER: Every person that walks into the registration to vote can vote. No one will leave the voting place without being able to vote.

SEN. WATSON: Let me ask my question differently. If they don't -- if someone walks in
today, under 362 -- let's say 362 passes -- and they
don't have the new requirements that are set forth in
362, they will not be able to vote a regular ballot
the same way people today, with just a voter
registration certificate, are allowed to vote a
regular ballot?

SEN. FRASER: Okay. If someone walks in
and -- I think right now the data is showing the last
year of the people that signed up, 98.5 percent of the
people that registered to vote had a driver's license
and they registered that way. So if they didn't have
that, if they're one of that one or two percent that
did not have a driver's license, they have a long
laundry list of things that they could use to identify
themselves to show that they are, in fact, who they
say they are. If for some reason they didn't have any
of that, they will be given a ballot. The ballot will
be marked a provisional ballot, and then we will have
the ability then to identify: Are they who they say
they are? So the answer is no, they're not going to
leave without being able to vote.

SEN. WATSON: And maybe I didn't ask my
question well and so you didn't understand it. My
question is, under 362, if they don't meet the new
requirements, there will be people that otherwise
today would be able to vote by just showing a voter registration certificate that will not be able to vote a regular ballot. Is that correct?

SEN. FRASER: Everyone leaving the polling place will be able to vote.

SEN. WATSON: But it may be a provisional ballot. Is that right?

SEN. FRASER: Provisional ballot, though, once they verify their identification and they show that they are who they say they are, the vote counts. So the answer is, everyone that leaves will be able to vote.

SEN. WATSON: Let me ask you a question about the statistics you just mentioned. Do you have any data regarding the racial composition of those people who are currently in Texas that are without a driver's license or other photo ID?

SEN. FRASER: Unfortunately, no, that data is not, I don't think, readily available. If it is, no one has given it to me. All I can go by is the number -- they gave me the raw numbers of who had a photo ID that was registered in, you know, the last year. 2006 is the latest number. And of those, you know, you had 1.5 percent of the population that registered to vote that it appeared didn't have or
didn't offer their driver's license up as a deal. So it's a very small segment, and I don't believe they broke down the racial composition of that.

SEN. WATSON: Where did that data come from?

SEN. FRASER: DPS, motor voter.

SEN. WATSON: DPS. And how many people would that be?

SEN. FRASER: I may need to correct that. I stand corrected. That came from the Secretary of State's office. It was the total number of people registered with a Texas driver's license. I'm sorry. I stand corrected.

SEN. WATSON: Let me make sure I understand the number that you're indicating. What you're indicating is that of the total population that's registered to vote, the Secretary of State's office is providing data that says 98.5 percent of those have a driver's license?

SEN. FRASER: I don't think I said that.

SEN. WATSON: Okay. Well, that's what I'm trying to find out. I want to be clear what you said.

SEN. FRASER: Okay. Well, let's do it again. Last year, in 2006, the number of people that
registered to vote in 2006, that registered to vote that year, of those totals, there were 2,419,188 that registered with a driver's license. There were 37,490 that didn't use their driver's license to register.

SEN. WATSON: So that would not --

SEN. FRASER: So that --

SEN. WATSON: That wouldn't be taking into account any long-time voters who might no longer have driver's licenses or have allowed their driver's license to be expired for more than two years or that nature. Is that correct?

SEN. FRASER: I actually have that data, too.

SEN. WATSON: Good. Why don't you give that to me.

SEN. FRASER: Total number of people on their staff -- now, have to keep in mind that some of these people that have been on the rolls for 30, 40, 50, 60 years, some of this has changed. And so some of them that signed up, once they were okayed and identified, they stayed on the roll and they didn't have to add it.

My mother would be a good example, but she didn't get her driver's license until well into her married life. On her registration form, she is
not registered as showing to have a photo ID; but, in fact, I do know that she has one. The ones in the records that show that, they show that there were 5,601,000 that have a license. The ones that neither numbers show up, either social security number or voter ID, 809,000. So in their records, it's about 88 percent of the people, in their records, give the driver's license as their identification source. There's 12 percent they don't know about. But in that, the assumption is, a great many of those now have a photo ID, people like my mother.

SEN. WATSON: But we don't know what that number is?

SEN. FRASER: We don't know for sure.

SEN. WATSON: And how many people are we talking about when we talk about 12 percent?

SEN. FRASER: Well, in the records, they have 809,041 that they don't have in their records a number registered, but they also readily will admit that those records are very outdated because what happens when someone is registered, as soon as they're approved as a registered voter, they don't ever have to go through this again. So --

SEN. WATSON: Right.

SEN. FRASER: You can't automatically
make the assumption that there's 809,000 people that
don't have it. I think the belief -- probably one of
the things that we may be having a lot of these
questions you're asking that could be answered by
other states. Georgia has a very close makeup of the
way our population is made up. Indiana is a little
different. But in those cases -- I think the
registrar of both of those states are going to be
here, and they're going to tell you they went through
the cycle and identified the ones that didn't have it.
And I believe they're going to tell you they were
shocked at how few people didn't have a photo ID.

SEN. WATSON: Well, one of the things
that I think we need to be concerned about before we
vote on this floor is whether or not, when the changes
that you propose get made, whether or not that's going
to have a negative impact on certain populations. And
the 12 percent that you're talking about there, the
800,000 to a --

SEN. FRASER: The unknown category.

SEN. WATSON: The 800,000 to a million
people, do we know what the racial breakdown is of
that? Do you know how many African-Americans, how
many Hispanics, those that speak only Spanish?

SEN. FRASER: I'm not advised, because I
don't -- at least I don't remember on the -- I can't remember on either the driver's license and/or the voter that it had a place in there to click, you know, Anglos.

SEN. WATSON: Are you familiar, Senator, with any statistical analysis that's been done regarding the potential effect of Senate Bill 362's new requirements on African-Americans?

SEN. FRASER: A lot of what I'm at least observing, you will hear today from Indiana and Georgia, two states that implemented it. And they're going to talk about the people that voted in the racial breakdown before they implemented it and after they implemented it and what happened in --

SEN. WATSON: Again, I would --

SEN. FRASER: So I think -- what I'm hoping to do is have facts speak for themselves.

SEN. WATSON: Well, and I'm looking forward to that. I'm saying you, though, with regard to your bill, Senate Bill 362, are you familiar with any data or study that's been done with regard to some sort of statistical analysis concerning the effect of the new requirements of Senate Bill 362 on -- and I'll just mention a couple of populations -- African-American population, Hispanic, people making less than
$35,000 a year, people who speak only Spanish, any
statistical analysis of the effect of these new
requirements on those people?

SEN. FRASER: Well, I guess the
assumption would be, the people in Texas, even though
we're independent, we're also a whole lot like the
people in the rest the nation. Those statistics are
available nationwide, because we already have this
being implemented other places. We're going to have
witnesses that are going to testify to that. And I
think you're asking a subjective question that we have
objective data that is available that the witnesses
are going to lay out. You're asking have I done that?
The answer is no, but I am pulling data from the
academics that have done that and have delivered back.

SEN. WATSON: As it applies to Texas?

SEN. FRASER: Well, you assume it would
apply to Texas, if they're citizens of the United
States. And, you know, I don't know why it wouldn't
apply.

SEN. WATSON: Well, so that I'm clear,
what we can expect to hear is data related to states
other than Texas. But you're not familiar with any
statistical analysis that's been done regarding the
impacts or effects of the new requirements of Senate
Bill 362 on minority populations in the State of Texas?

SEN. FRASER: Actually, Senator, you're going to hear some testimony from some people from the major cities in Texas and things that have happened and what, you know, possibly they believe. But I don't know that I can answer your question.

SEN. WATSON: All right. Fair enough. Let me ask a quick question about funding under this. Can you point me in this bill, Senate Bill 362, where there is any provision to educate voters about this change requirement for more identification?

SEN. FRASER: Do you see the section that says "Education" --

SEN. WATSON: Yes, I do.

SEN. FRASER: -- "Voted Education"?

SEN. WATSON: And tell me -- what that says is that the Secretary of State and voter registrars are going to put it on their website. Is that correct?

SEN. FRASER: Yes.

SEN. WATSON: Is that the only education that's identified in this bill?

SEN. FRASER: We are anticipating a -- you know, we're going to have to educate not only the
registrars, the poll workers, we're going to have posting outside of the voting place of the requirements of this. I would assume one of the things that you're going to ask is, in Ohio and Georgia, both that they had mailers to the voters talking about these changes. Obviously, the specifics of that are not included in this bill. But as a member of the Senate and assuming this bill passes, that I think I am assuming everyone in this body would be sympathetic, that we should include some funding to make sure that voters are educated.

SEN. WATSON: So you anticipate that there would be some fiscal note to this bill?

SEN. FRASER: Well, no. This bill only has -- it has no fiscal implications.

SEN. WATSON: And that's because there's no money put into it for any of the things you just talked about in terms of educating voters?

SEN. FRASER: And again, if there was education, obviously, the education, depending on how much education it was, there could either be no fiscal impact or it could be some. Again, you're being subjective.

SEN. WATSON: All right. I'm not sure that's the case, but let me make sure I'm clear.
Under the current bill, there's not any ability to educate the voters about these new requirements, other than that it would be posted on the Secretary of State's or a county voter registrar's website?

SEN. FRASER: We would -- actually -- let me ask a question of staff.

(Brief pause)

I think the question you're asking is that every time a registration card is sent out, there will be an explanation with that registration card, which I'm assuming you're calling the education part of that. So the answer is yes, there will be an education go out when the registration cards are sent out. So a person's --

SEN. WATSON: So if somebody registers newly, they'll get that information?

SEN. FRASER: I get a registration card every two years.

SEN. WATSON: So every time that -- what you're suggesting is, that's going to be -- the substance and sum of the education will be on new registration cards?

SEN. FRASER: And, quite frankly, you're getting into an area of the technical part of the way this would be administered by the election division.
In the bill we do specify that when a registration card is sent out. All I know is, I get one every two years, I get a new registration card. It couldn't be real difficult in that to include an explanation of this bill, what will be included, and make sure that they understand that whenever they show up at the polls, you need to do this.

So the answer of -- the language of the bill says that is anticipated. Now, the actual agency itself that administers, the Secretary of State's office, I think probably would be the one to answer that question.

SEN. WATSON: And we don't know -- you don't know, as we stand here today, how much that costs?

SEN. FRASER: What it will cost? Well, right now we have given them funds to send out that registration card. And if all they're doing is putting another piece of paper in that registration card, I just can't imagine that they can't take care of it out of their regular budget.

So I think where you're trying to go -- will there be an appropriation for that? -- I don't anticipate that that's necessary. But you're a member of this body. And if you want to recommend that,
after this bill passes, that if you want to offer up
to the Appropriation Committee and talk to Chairman
Ogden, I think you have every right to do that. I
can't speak for the Secretary of State the way this
will be administered.

SEN. WATSON: Well, I'm just accustomed
to when bills come into committee, we tend to know or
are supposed to know what the fiscal note is at that
time so that we don't vote on something, only to later
have a new fiscal note come in.

SEN. FRASER: Did you get a copy of the
fiscal note?

SEN. WATSON: Yes, and it said zero.

SEN. FRASER: There is your answer.

SEN. WATSON: Well, and what that means
is, there's going to be little education, and we'll
talk about -- Chairman Duncan has made a good point,
that the court reporter has now been going -- and
while you and I may be enjoying our repartee, she
probably needs a break.

So with the Chair's permission and with
Sen. Fraser's permission, I'll be more than happy to
yield the floor for the time being so that we can take
a break for the court reporter.

SEN. DUNCAN: Thank you, Sen. Watson.
And, members, we'll stand at ease for 10 minutes. We'll go back in at exactly 2:50.

(Recess: 2:42 p.m. to 2:56 p.m.)

SEN. DUNCAN: The Committee of the Whole will come back to order.

Sen. Watson.

SEN. WATSON: Mr. Chairman, I'll yield for other staff's questions, so we can move forward.

SEN. DUNCAN: All right.

Sen. Shapleigh.

SEN. SHAPLEIGH: Thank you, Mr. Chair. If I may, some questions of the author.

SEN. FRASER: I would love to answer questions.

SEN. SHAPLEIGH: Senator, you, in laying out your basis for filing this bill, talked extensively about the Carter and Baker Commission. Do you remember the year that commission -- when they issued their report?

SEN. FRASER: Senator, there is a reference in the forward to the report that I believe says 2005. And I'm assuming the Commission was formed that year, and I'm assuming they also issued the report. But I'm also going to punt on that one, because we have someone from the Carter-Baker
Commission that is here, that if we can get past these questions and get to our witnesses, I've got people that can answer that question a lot better.

SEN. SHAPLEIGH: Okay. You quoted from their words in an op ed article. And what I would like to do is give you a copy of an op ed article that they put in The New York Times one week after issuing the report, so that we can talk about what their intent or what they thought about this report. You have their -- what we just pulled off what Sen. McCain would call the Google, an editorial from Jimmy Carter and James Baker themselves dated September 23, 2005, which was the week after they produced this report. And I would like you to, if you would, see if I'm reading this correctly.

"This week, we issued a report that bridges the gap between the two parties' perspectives and offers a comprehensive approach that can help end the sterile debate between ballot access ballot integrity. Unfortunately, some have misrepresented one of our 87 recommendations. As a result, they have deflected attention from the need for comprehensive reform."

"Since we presented our work to the president and Congress, some have overlooked almost
all of the report to focus on a single proposal - a
requirement that voters have driver's licenses or
government-issued photo IDs. Worse, they have
unfairly described our recommendation.

"Here's the problem we were addressing:
24 states already require that voters prove their
identity at the poll - some states request driver's
licenses, others accept utility bills, affidavits or
other documents - and 12 others are considering it.
This includes Georgia, which just started demanding
that voters have a state-issued photo ID, even though
obtaining one can be too costly or difficult for poor
Georgians. We consider Georgia's law discriminatory."

Are these the same guys that issued the
report that you're relying on?

SEN. FRASER: And I guess I would remind
you that the Georgia law, they're a Section 5 voter
rights state, and they were approved. As of
February 8, 2008 of this year, I believe they were --
that final appeal was -- you know, they ruled with
Georgia. And Georgia's act -- both was approved
through DOJ, approved through Section 5 and was
approved through the courts.

Again, I don't -- all the things that
you're asking, you address several different issues
that we have witnesses here that actually know the
details of this. You're asking me, from 2005, to get
in either President Carter or James Baker or staff or
the other 21 members on the commission, what was in
their head then and what was in their head in 2008
when they released the article to The New York Times,
the guest editorial. I think those would be better
answered by our witness that is here that is sitting
in the back waiting to testify. We also have Indiana,
and we've got those Georgia people. There's two from
Georgia that will tell you how this impacted their
voters, including minorities.

SEN. SHAPLEIGH: Let's go if we can --
do you have the fiscal note on this bill, the one that
came with our packet? I'm looking at the last
paragraph that describes the costs in this bill and
what the anticipated fiscal note might be.

SEN. FRASER: I've got it. What are you
referring to?

SEN. SHAPLEIGH: Well, when you look at
the top, it says "No fiscal impact implication to the
state is anticipated." Is that correct?

SEN. FRASER: That is correct.

SEN. SHAPLEIGH: And when we look at the
bottom, after it describes putting up a website which
would be part of the state's obligation, then at the bottom it says, "Based on responses from a sampling of election authorities and county clerks, fiscal impact from implementing provisions of the bill would vary by county. Costs would include at a minimum those for printing signs to post at each polling place, which would not be significant. Other potential costs would be associated with additional training and posting information to the county website. Again, those costs are not expected to be significant. One smaller county response anticipates that the new provisions regarding casting a provisional ballot would require hiring additional staff, resulting in a moderate to significant cost."

Now, my question is, where is the training going to be done? Who will do the training with respect to those that will administer and enforce the rules that you propose to pass today?

SEN. FRASER: And I will tell you again that we have an expert resource witness that can answer that question, that if we can get on with the testimony, that the persons we have here I think are prepared to answer that question.

SEN. SHAPLEIGH: But as the author of the bill -- and your intent is important in
establishing this -- in this fiscal note, there is no money for training at the state level, that in this fiscal note it's contemplated that locals in a broad verify of the polling places around the state would be responsible for the training under this bill. Is that correct?

SEN. FRASER: My intent of this bill is to establish a system of voter identification to try to eliminate fraudulent voting and would be implemented by the Secretary of State. The fiscal note to the bill is like we always do on every piece of legislation. It is sent back in. And the fiscal note, as delivered back to the members of the Legislature, it says there is -- no significant fiscal implication to the state is anticipated.

SEN. SHAPLEIGH: Okay. Well, let's get down, if we may, to a "Yes" or "No" answer. The fiscal note on your bill says, "Each county clerk would be required to provide a session of training using the standards adopted by and the materials developed by the Secretary of State as soon as practicable as well." Is that your intent under the bill that you drafted?

SEN. FRASER: I guess I would refer you back to the bill itself. We've got the training
section, the wording of the bill. If you would
like -- I'll read it to you if you would like for me
to. But the wording of the bill is the instruction to
the Secretary of the State and the counties. And then
the Secretary of State would be -- I think it's their
job to implement. But, again, the expert witness can
answer that.

SEN. SHAPLEIGH: In your opening, in
talking about the need for this bill, you referred to
Cooke County, you referred to LBJ and Duval County.
Are you aware of and do you personally know Royal
Masset?

SEN. FRASER: And I guess I would ask
what Royal Masset has to do with Cooke County?

SEN. SHAPLEIGH: Well, nothing. But
your examples came from other places to lay the basis
for the need for this bill. And my question is, do
you know, were you aware that Royal Masset was the
political director of the Republican Party for 15
years?

SEN. FRASER: Well, I guess the fact
that I recognize that his name is Royal "Ma-say"
rather than Royal "Mas-et" would give some indication
that I know Royal "Ma-say."

SEN. SHAPLEIGH: So if Royal "Mas-et" in
something that was posted on line last time this bill came up, who was the political director of the Republican Party, if he were to say, "Anyone who says all legal voters under this bill can vote," doesn't know what he was talking about and, "Anyone who says that a lack of IDs won't discriminate against otherwise legal minority votes" is lying, do you have any way -- do you have any way of determining why he would say that?

SEN. FRASER: I have no input.

SEN. SHAPLEIGH: If Royal Masset were quoted in this account as saying, "In my involvement with over 5,000 Republican candidates, I have never seen one case of Republicans committing voter fraud," do you have any idea why he would say that?

SEN. FRASER: I am not advised.

SEN. SHAPLEIGH: If Royal Masset said in his quote, "When voting in America is only allowed to healthy and wealthy people than (sic) the America I know is far sicker than my mother. House Bill 218" -- which is the bill that came up last session, identical I believe to the bill that you're carrying -- "is a direct descendent of poll taxes, and of allowing only white male property owners to vote. In its effect it is racist, barbaric, antidemocratic and contrary to
everything that made America great."

Do you have any idea why a former
political director of the Republican Party would make
that statement?

SEN. FRASER: No other advice other than
to say that the three sources that I quoted in my
opening remarks, two were Democrats and one was a
left-leaning Supreme Court Justice that all make, you
know, comments the other direction. And, actually,
Rep. Steve Wolens commented about the fraud and the
voter harvesting that happened in a Democratic
primary. So I'm assuming people on both sides of this
issue have opinions.

SEN. SHAPLEIGH: Now, I think -- I
thought I heard you mention the name Karl Rove as
one --

SEN. FRASER: I don't think I mentioned
Karl Rove.

SEN. SHAPLEIGH: Okay. Let me ask, are
you personally, other than the hearsay statements from
Steve Wolens and others, are you personally
acquainted, do you know of any voter fraud, you
yourself?

SEN. FRASER: Well, the hearsay
statements, those were actually statements by Steve
Wolens he made -- I think he made those on the House
Floor in laying out his bill, so I don't think those
are hearsay. He represented them as facts.

SEN. SHAPLEIGH: In connection with your
investigation and your desire to pass this bill, did
you talk to the Attorney General of the State of
Texas?

SEN. FRASER: Ask that question again.

SEN. SHAPLEIGH: In your investigation
of this bill as you worked it up, did you consult with
the Attorney General of the State of Texas?

SEN. FRASER: I guess I need a clear
question. You know, what -- "consult" is a very broad
lawyer term.

SEN. SHAPLEIGH: Did you talk to him?
Did you ask him about voter fraud?

SEN. FRASER: I talk to the Attorney
General quite often on a full range of issues.

SEN. SHAPLEIGH: Did you talk to him
about this issue?

SEN. FRASER: I have talked to the
Attorney General about a wide range of issues.

SEN. SHAPLEIGH: Did you talk to him
about voter fraud and the nature, scope and extent of
it here in Texas?
SEN. FRASER: No.

SEN. SHAPLEIGH: Okay. Were you aware that he did a rather extensive investigation searching for voter fraud in Texas and spent approximately $1.4 million on that investigation?

SEN. FRASER: I guess I would dispute the statement that you just made, is that the Secretary of State was giving an appropriation of $1.4 million that they used in the special investigation, unit investigation. Within that $1.4 million, it came from federal funds that were spent on election fraud. The issues they used that on was the Eldorado YZF Ranch case, the Texas Youth Commission, the hurricane-related rapid response efforts, the market manipulation and penny stock fraud case, the ERCOT case, the cyber case, (inaudible) unit, identity theft, public corruption, money laundering and election fraud.

SEN. SHAPLEIGH: Okay. So I'm looking at Attorney General Greg Abbott's press release from March of 2006 where he announces, "In Texas, an epidemic of voter fraud is harming the electoral process and it's time we rooted it out." Do you recall when he launched that investigation?

SEN. FRASER: I do.
SEN. SHAPLEIGH: And reading further in his press release, "At first glance, these might seem to be like isolated events in far-flung towns. Step back and the picture looks just as sinister as it did 60 years ago. For example, Texas has long been a haven for paid political operatives who target seniors and the disabled to handle their mail-in ballots for them. Many of the cases referred to my office by the Secretary of State fall into this category."

Do you remember that press release?

SEN. FRASER: And I think you're going back and addressing the case of the Steve Wolens' bill that he filed on the mail-in ballots, and I don't think that particular issue has anything to do with Senate Bill 362. My bill relates to the voter identification issue when we're investigating --

SEN. SHAPLEIGH: Well, I --

SEN. FRASER: I make reference to the Wolens bill because it is part of the fraud history and voter fraud. But the investigation you're talking about has nothing to do with the bill we're laying out right now.

SEN. SHAPLEIGH: Well, here is his press release. Here is the title of it: "Helping Stamp Out Voter Fraud in Texas." That's exactly what you're
bringing forward today. Right? Is that what you're trying to address in your bill?

SEN. FRASER: Could we get a copy of that? You're referencing something. We're looking through. And for some reason -- is all the information we have. For some reason I can't find that one. We thought we had them all. But I'm sorry. I don't have that one.

SEN. SHAPLEIGH: Okay. This is his press release off of the website when he launched his investigation in March of 2006.

SEN. FRASER: And, Senator, out of fairness, I don't regularly go to the Attorney General's website to read every press release that comes out. So I'm sorry, I don't --

SEN. SHAPLEIGH: I understand. But you're bringing a bill and you led this Senate to believe and you're laying out the case for widespread voter fraud in the State of Texas. And we've had, to my knowledge in the last two years, one major investigation by the Attorney General of the State of Texas. And I want to get into exactly what that widespread voter fraud looks like after that investigation. That's where I'm going. That's what I want to find out.
So in this press release, he's laying out the basis for widespread voter fraud, and he launched -- his investigation spans, as you say, among other things -- investigating other issues, $1.4 million. And by my account here, that investigation produced exactly 13 indictments. Twelve of the 13 were minorities; nine, Hispanics; three, African-Americans. Thirteen of 13 of the indictments were Democrats. Now, do you have any reason to dispute those numbers with us here today?

SEN. FRASER: Yes, I do. The exact numbers are 30 suspects, 22 that have already been prosecuted.

SEN. SHAPLEIGH: In terms of the indictments, when he brought the indictments --

SEN. FRASER: Indictments on 30 suspects.

SEN. SHAPLEIGH: How many of those were minority?

SEN. FRASER: I'm not advised.

SEN. SHAPLEIGH: How many of those were Democrats?

SEN. FRASER: I'm not advised. I don't know that they asked him what their --

SEN. SHAPLEIGH: Well, do you have any
witness here today who can confirm how many of those
were minorities and how many were Democrats?

SEN. FRASER: I have not called a
witness, you know, for that. It's possible that -- we
have two people from the registrar's office in
Houston, and I know Houston was one of the places that
had a problem. And I would suggest that you ask the
expert witness from the Houston registrar's office. I
suspect they probably would have some information.

SEN. SHAPLEIGH: Well, I think this
issue of that investigation is the proof that we have
of how widespread fraud is in the State of Texas. I
think we have a perfect right to ask those questions.
And I want to know if you as a chairman will
participate with us in getting a live witness that we
can ask about those cases on this floor?

SEN. FRASER: And I'm being advised --

(Brief pause)

I'm being advised that the Attorney
General's office is willing to answer your question,
to clarify the questions you have.

SEN. SHAPLEIGH: And will that Attorney
General bring us, with time to review the file on each
of these 13 indictments so that we can determine for
ourselves and can effectively cross-examine him or her on the real nature of these cases? Will we have that file in time to really do the job we need to do to get at the heart of this massive voter fraud that we have in the State of Texas?

SEN. FRASER: You know, I don't think that the indictments on those -- we're in a case that the ability to game the system by representing yourself as someone else. I've got one area of the voter fraud in this that we're addressing, and it is voter ID, identifying that when you walk in for in-person voting, you are who you say you are.

SEN. SHAPLEIGH: In connection with the indictments brought, even your number, which differs from my number, did a single one, would a single indictment have been resolved by this photo ID or were they all mail-in ballots or other issues?

SEN. FRASER: I am not advised. My goal on this is to look at the law itself, of implementing, people identifying themselves for the ability to vote. We were looking at the Indiana law that is a strict photo ID, the Georgia law that is a strict photo ID that have been in place, Indiana for two election cycles, Georgia for the last. And we're going to hear from expert witnesses of how that not only didn't
suppress voting, it actually increased voting because it increased voter confidence.

SEN. SHAPLEIGH: So are you aware of any other investigations, other than what Attorney General Abbott has done here in Texas, with respect to voter fraud?

SEN. FRASER: I'm not advised.

SEN. SHAPLEIGH: So if we hear from this witness that's going to come here and share with us the nature and extent of voter fraud in the State of Texas, and not a single one relates to photo ID, will that make a difference in the way you prosecute this bill?

SEN. FRASER: Again, we're going to have the expert witnesses come forward. But I think what you're going to hear is the case -- or the example that I used with Sen. Watson of someone stealing his identification, going and voting and, you know, representing themself as Kirk Watson and being able to vote.

I think what you're going to hear -- and I don't want to put words in the mouth of the Secretary of State or the other witnesses -- but I think you're going to find that it is extremely hard to identify and even harder to prosecute those cases,
because we have a huge flaw in Texas law. We have not
given them the ability to even identify that someone
is breaking the law. And if you can't identify
they're breaking the law, then prosecuting that person
becomes even harder. So I think the point that's
going to be made through the testimony on this is that
we have a huge deficiency in current law in
identifying voters when they come for in-person
voting.

SEN. SHAPLEIGH: You had mentioned and
laid out some statistics on those that have photo IDs
in the State of Texas and said that your information
came from the DPS. Is that correct?

SEN. FRASER: I don't think I
represented anything came from DPS. I think the data
we had I represented came from the Secretary of State.

SEN. SHAPLEIGH: Okay. Are you aware of
any other data from Texas with respect to those that
hold photo IDs that are of voting age?

SEN. FRASER: Help me with that. I --

SEN. SHAPLEIGH: Well, for example, are
you aware of, say, the Texas Conservative Research
Institute's finding -- the Texas Conservative
Coalition Research Institute finding that 37 percent
of Texas residents over the age of 80 do not have a
driver's license?

(Brief pause)

SEN. FRASER: I'm not advised. And I don't think, unless they called every one of those people, they could verify that. My mother is over 80 and she still has a driver's license, I believe, but she votes by mail.

SEN. SHAPLEIGH: So which is the number, the number that the Texas Conservative Coalition Research Institute has for us, 37 percent don't have a driver's license, or the number that you're bringing to us?

SEN. FRASER: I don't think I brought anything forward.

SEN. SHAPLEIGH: Okay. Thank you, Senator. I look forward to another --

SEN. FRASER: You're cutting me short. You told me that I would be here till midnight on your questionings.

SEN. SHAPLEIGH: We've still got eight hours.

SEN. FRASER: That's enough time.

SEN. SHAPLEIGH: We're ready.

SEN. FRASER: Thank you.

SEN. SHAPLEIGH: Thank you.

SEN. ZAFFIRINI: Thank you, Mr. President.

SEN. FRASER: Is this a test to see if I really have this information in the books?

SEN. ZAFFIRINI: Yes, it is. I'm going to ask you questions about Page 218, Line 4, and what it's on.

SEN. FRASER: The book that I shared with you --

SEN. ZAFFIRINI: Yes.

SEN. FRASER: -- and showed you all my data.

SEN. ZAFFIRINI: It's a wonderful book, and I congratulate you and your staff for developing such thorough information, very impressive. My staff is not happy to know about it, however.

Sen. Fraser, you were the Senate sponsor of House Bill 218 that never made it to the Senate floor in 2007. Correct?

SEN. FRASER: That is correct. I was the sponsor of the --

SEN. ZAFFIRINI: Do you know the main differences, if any, between the bill that you sponsored in 2007 and the bill that we are considering
today regarding voter ID?

SEN. FRASER: I'm going to clarify with staff. I think I know the answer, but . . .

(Brief pause)

I'm being advised that the bill that we're filing is very, very close. There are very, very small changes in the bill.

SEN. ZAFFIRINI: Well, that's what I thought. I looked at the two bills and I looked at the two bill analyses and I looked at the two fiscal notes. But what surprised me more than anything is that the bill that we considered in 2007 had a fiscal note of $671,000 in each year over a five-year period, but the fiscal note for the bill that we are considering today says "No Fiscal Implications."

Could you explain the difference in the fiscal note?

SEN. FRASER: Good research. And it's exactly the same thing that I -- I looked at the two. I asked the same question. We called about the fiscal note. Evidently in the research of this -- and again, we've got an expert witness that is sitting -- or they were sitting right over here, the Secretary of State. I think they will answer that. And I think the answer is, again, I don't want to put words in their mouth, but I think in doing more research, they found out
that a lot of these things are available for them to
do within their current budget, and it does not create
additional expense.

    SEN. ZAFFIRINI: Well, I certainly do
want to follow up with the LBB to ask them
specifically, since they write the fiscal notes, why
such an enormous difference. It's just amazing. I
would like the name of the person who developed the
new fiscal note. I might want to work with that
person for my bills.

    SEN. FRASER: Well, as thorough as you
are on finance, because I've sat there and watched
you, and you do a wonderful job in looking at these.
And I know exactly the questions you'll be asking in
Finance, and I would encourage you to do that. But I
also, being a former member of Finance, did the same
thing, asked the questions. And my response back was,
is that after further examination, they realized that
this had no fiscal impact.

    SEN. ZAFFIRINI: I'll be asking them to
look at some of mine further and see what they can
come up with.

    SEN. FRASER: Thank you, Senator.

    SEN. ZAFFIRINI: Thank you, Senator, for
that particular answer. But looking at the bill --
and Senators Watson and Shapleigh touched upon these
issues -- there will be some costs to the local
officials, will there not -- the posting of signs, the
training will be provided by the state, but the local
officials will have to engage in a lot of
verification, participate in that training, the
posting of signs and development of material, or will
the state cover that expense?

SEN. FRASER: I expect that is; correct, is that, you know. But that also is not unusual in
that the local elected officials, any time there is
something for notification, they do that. And so it's
not -- I'm being told not unusual, wouldn't be
expected.

SEN. ZAFFIRINI: There was much
discussion yesterday and today and even before that,
including by Sen. Duncan and Sen. Van de Putte,
Sen. West and others regarding the need for each side
to make a record, and then each side, those who
support this legislation and those who oppose it are
making a record for two purposes: No. 1, because a
lawsuit is expected; No. 2, because we will be dealing
with challenges before the Department of Justice.
Would you agree with that?

SEN. FRASER: You know, again, you're
projecting some what-ifs.

SEN. ZAFFIRINI: I thought it --

SEN. FRASER: I would suggest that my intention today is not to make a record. I'm not in any way trying to develop any kind of record, other than trying to inform my fellow other 30 senators that the bill that I'm laying out will increase voter participation rather than the people that believe that their vote is not going to count.

And so the expert witnesses that I have brought today are the Secretary of State to talk about the fact that we've got a problem, the Houston registrar that says that they've had a problem there in voter fraud. We've got people from Indiana to talk about the fact that after we implemented this law, they had the largest increase in Democratic votes in the nation. We've got two people from Georgia that are going to say that they had a huge increase in voter participation, and they're going to talk about the minority increases, because, evidently, Georgia had a huge increase because the Hispanic and the African-American voters were encouraged that their vote was, in fact, going to count.

SEN. ZAFFIRINI: But what years are you comparing, a huge increase from what year to what
year?

SEN. FRASER: You and I have been in politics a long time, and we know that presidential year elections are the comparison. So if you're comparing 2008, you would look at 2004. If you look at 2006, you would look at 2002. In Indiana after the bill was implemented, if you compare 2002 to 2006, after it went into place, there was a two percent increase in the voter participation. All of it came in democratic voters. There were three new congressional people elected in Indiana in 2006.

In 2008, during that same election cycle, the vote total in Indiana was over double the increase of next door Illinois. They had a 6.7 percent increase in all voting. It all came in the Democrat election. They had 6.9 percent in Indiana increase, even though Republican voting actually stayed stable or went down a little bit.

SEN. ZAFFIRINI: Well, we looked at the data, but we would disagree on the interpretation of the data because we, the Democrats, believe that that was the impact of President Obama, and that it was President Obama who brought out the African-Americans and the Hispanics and the minorities and that he was the motivation and the reason that there was such an
increase in turnout.

SEN. FRASER: I'm glad you brought that up, because the good thing is, we got Indiana here to verify that. But I think they're going to tell you that Obama was from Illinois. He was a senator from his home state next door where we had this repressive -- or the alleged oppressive voter ID bill that was put in place. The increase in Indiana was more than double the increase in Illinois, which was the president-elect's home state that he was serving in.

I believe the facts are going to show just the obvious. Not only did they not depress voting, those voters were encouraged that their votes were going to count, and it doubled in Indiana over what it was in Illinois. So I would love for you to make that case, because I think it's going to show that just the opposite happened. I think they were encouraged to vote and they voted in great numbers.

SEN. ZAFFIRINI: And perhaps if the voter ID hadn't been in place, the turnout would have tripled or quadrupled. So we don't know that, but we will look into it and pursue those issues with the expert voters. Thank you, Senator.

SEN. FRASER: All right.
SEN. ZAFFIRINI: Now, going back to the
cost of this particular legislation, have you
considered at all the cost to the State of Texas to
participate in a lawsuit, to defend a lawsuit related
to this particular bill if it passes?

SEN. FRASER: No. And I have -- the
answer is no. As you know, it's part of the
legislative process.

SEN. ZAFFIRINI: Yes.

SEN. FRASER: Any time the State of
Texas is litigated against, we have an obligation to
defend ourselves. And, as you know, since you've been
in the Legislature -- you have been here a long time
and you've seen it multiple times -- and if the
lawsuit is filed, then the state has to defend itself.

SEN. ZAFFIRINI: Have you considered at
all the cost to the State of Texas to dealing with the
challenge that would be issued with the Department of
Justice regarding this particular legislation if it
passes?

SEN. FRASER: I guess the question I
would ask you, if you're asking me if I've looked at
the cost, I would ask you the question, have you
looked at if someone lost an election because someone
cheated, because they misrepresented themself and they
weren't allowed to serve -- and one of the things
we're going to be talking about is, there is somebody
in this room today that won a very narrow election and
would not be here today if someone had cheated on a
very few votes.

So I guess the question I'll ask you,
what is the cost of the State of Texas if someone is
allowed to cheat, that would change history, someone
else to represent them, there is a huge cost to the
state in the fact that you change history by rigging
an election.

SEN. ZAFFIRINI: But basically what
we're focusing on at this point in the debate is the
cost related to this particular bill, not to history
and not to the future but the costs associated with
this particular bill. On a related note, were any of
your expert witnesses brought in at any expense to the
State of Texas or the Senate in particular?

SEN. FRASER: I'm sorry. I've got two
people asking questions. Please ask it again.

SEN. ZAFFIRINI: Were any of your expert
witnesses for today brought in at the expense of the
State of Texas or the Senate in particular?

SEN. FRASER: No.

SEN. ZAFFIRINI: No?
SEN. FRASER: Were any of your expert witnesses brought in at the expense of the state or the expense of the Senate?

SEN. ZAFFIRINI: That is my question.

SEN. FRASER: No. I was asking you that.

SEN. ZAFFIRINI: Oh, I didn't bring in any expert witnesses except one from Austin, who I am --

SEN. FRASER: None of my expert witnesses were at the expense of the state.

SEN. ZAFFIRINI: Good.

SEN. FRASER: Let me clarify that. Not unless Coby Shorter is on expense report for driving his car in to the Capitol this morning. I don't think so.

SEN. ZAFFIRINI: All right. Senator, you talked about vote fraud and you referenced the Duke of Duval and something that happened in 1948. That's a long time ago. You and I discussed other allegations of fraud, including one election in which someone apparently bubbled in. The bubbles were erased on ballots that the respective voters had not bubbled in.

In other words, there were many ballots
that indicated that a voter had not voted in a particular race, and apparently someone else went in and bubbled in and, in effect, impacted the results of the race. In that particular race, there were allegations that there were more votes than ballots counted in a recount. But your bill would not have anything to do with correcting that kind of voter fraud that was alleged at that point, would it?

SEN. FRASER: If you go back and examine my opening comments, I said how did I move toward even starting thinking about this? And I reflected that in the history of the United States, there's been a lot of cases where there was either voter fraud, voter manipulation, stolen election, voter harvesting, that there is a history out there of people attempting to steal elections.

I also made the observation that that has moved people toward losing faith in the system. And if they lose faith in the system and they think their vote is not going to count, they don't go vote. That might have something to do with the fact that we have some elections that there's only eight percent of the people that vote because they have no faith that their vote is going to count.

I'm addressing one small area of the
law, and that is something that I think I can impact; and that is, when Judy Zaffirini walks into your polling place at home and you put your voter registration down there, I want them to know without a doubt that that is Judith Zaffirini that is voting and not Tom Smith that is borrowing her -- or Thomasina Smith borrowing -- it would probably be -- it would be better if it was a woman, I guess, in the example.

SEN. ZAFFIRINI: That's all right. I understand, Senator. Don't worry about it.

SEN. FRASER: If someone else is using your card to vote, then I think you need that assurance that you've got to make sure that when you go to vote, that somebody has not been there, you know, impersonating you, stealing your ability to vote.

SEN. ZAFFIRINI: Quite frankly, Senator, that never ever crossed my mind, except in relation to the point that you're making. But never ever did I feel threatened in any way.

My other question for you is, do you have any examples at all of any Texas election in which the outcome was impacted by voter impersonation?

SEN. FRASER: I'm going to wait until we have all of our expert witnesses. They're going to
answer questions, and we're going to talk about the
election system in Texas and the ability not only to
impact elections but also the extreme difficulty in
identifying that someone cheated, and prosecuting
them.

(Brief pause)

SEN. ZAFFIRINI: You ready?

SEN. FRASER: Yes.

SEN. ZAFFIRINI: Senator, have you
considered at all the questions that many of us have
raised -- we who are Democrats, we who are
minorities -- regarding the impact, the negative
impact of this legislation on the turnout of
minorities, specifically African-Americans and
Mexican-Americans, and specifically in South Texas?
Have you considered those concerns that we have
raised?

SEN. FRASER: Senator, actually I
considered a lot. And I think -- you know, first of
all, I'm going to make a blanket statement: I want a
large turnout of all Texans, and I want a large
turnout of minorities, making sure that they are
encouraged to vote.

And again, I would encourage you to
listen to the testimony of Indiana and Georgia of what
happened when they implemented a fair system where people were comfortable that their vote was going to count and what happened to the minority turnout. And so the answer to your question is, absolutely. I want to make sure that -- I want everyone in Texas to vote in large numbers, and I want the minorities, the African-Americans and the Hispanics, to increase their numbers.

And I really believe in my heart that the bill that I am laying out today will do that, because I think they are frustrated that their vote is not counting, that there are people cheating in the elections and have been cheating for a long time. And if they know that their vote is going to count, I think they'll be encouraged, and I think more will turn out. So the answer to your question is --

SEN. ZAFFIRINI: I certainly have not seen evidence of that cheating that you're referring to, not in terms of voter impersonation. But I certainly will be interested in hearing if there is any. On the other hand, if our experts prove to you that your bill will have a negative impact on Mexican-Americans, on African-Americans, will you consider amendments to alleviate our concerns?

SEN. FRASER: Well, first of all, in
response to it, I have four different papers from academics around the country that address the issue that you're talking about of the fact that actually the minority -- impact is that minorities will turn out more, and it's from actual data of what's happened since these laws have been input.

Mr. Chairman, could I possibly move that these be added or entered into the record?

SEN. DUNCAN: You can do that at this time. I think we'll have -- those will be Exhibits -- what numbers? We'll bring them down to the front and mark them.

SEN. ZAFFIRINI: Thank you, Senator. I've asked you about the negative impact on Mexican-Americans, on Hispanics in general, on African-Americans. Have you considered the negative impact on the elderly, specifically persons over the age of 65, and how they will be able to prove their identification? What about --

SEN. FRASER: Senator, I don't know about you, but I'm getting close to that range. And, obviously, I am concerned about people in that range. I'm concerned about my mother that is in a retirement center and are there, and I spend a lot of hours at the retirement center talking to those people,
asking -- I've asked them -- you can't imagine the
number of questions I've asked about the way they
vote, what they're following -- you know, what the
habits are.

And I think the assurance I can give to
you is that, first of all, the bulk of the people that
are over 65 -- some that have stopped driving -- the
bulk of those and probably a high, high percentage
vote by mail. I am not impacting that in this
legislation. So everything they have done in the past
in the ability to vote to mail stays exactly the same.

SEN. ZAFFIRINI: Have you considered a
possible negative impact on persons with disabilities,
including those who live in institutions such as
nursing homes?

SEN. FRASER: And again, I guess I would
throw my mother in that category. My mother is
wheelchair-bound. I know that just even me trying to
get her into my car to take to the doctor is a huge
problem. She, you know, like most of her friends,
votes by mail, and so she is in that category of the
disabled. And her voting rights will continue, as
will all of her friends in the retirement center.

SEN. ZAFFIRINI: Senator, going back to
your bill, on Page 6, Line 14 of your bill, you
SEN. FRASER: I'm getting heckled over here. People from the other side are moving over to -- he's trying to implement the egg-timer rule of three minutes.

SEN. ZAFFIRINI: I see.

SEN. FRASER: I'm for that.

SEN. ZAFFIRINI: Well, on Page 6, Line 14 of your bill, you list types of documentation that you acceptable as proof of identification under this chapter. In 2007, in House Bill 218 which you sponsored in the Senate, you included a student identification card as proof of identification, as acceptable documentation, but a student ID card is not included in your 2009 bill. Could you explain why?

SEN. FRASER: Senator, could I refer you to Section 6.

SEN. ZAFFIRINI: What line, what page, Senator?

SEN. FRASER: It is -- just a second. The reference you're making is the public institutions of higher learning, the student ID card is still included. The wording changed, but it's covered by No. (6)(A).

SEN. ZAFFIRINI: So you're saying that
on Page 6, beginning at Line 8 where it reads, "a valid identification card that contains the person's photograph and is issued by:

(A) An agency or institution of the federal government; or

(B) An agency, institution, or political subdivision of this state," you're saying that that would include institutions of higher education and that, therefore, student identification cards would be acceptable proof of identification?

SEN. FRASER: Yes.

SEN. ZAFFIRINI: Good.

SEN. FRASER: Isn't that what that says? It says "an agency, institution or political subdivision of this state." The University of Texas is considered a subdivision of the state. It says that an identification card that contains a person's photograph that is issued by. I think the answer to your question is "Yes."

SEN. ZAFFIRINI: All right. In your old bill -- I'm looking at it now -- you have this language -- and in addition to that, you specified the student identification card. But so long as you clarify your legislative intent, that's acceptable to me.
But a related question, Senator: In that section, you list many, many types of acceptable proof of identification, including a certified copy of a birth certificate, United States citizenship papers, an original or certified copy of the person's marriage license or divorce decree. And finally on Page 7, Lines 1 and 2, you include court records of the person's adoption, name change or sex change. Could you explain why you included sex change as an acceptable documentation and proof of identification?

SEN. FRASER: I believe we're going to punt to the House sponsor. This was the language that was passed out of the Texas House last year. We picked up the bill from an amendment that was added in the House. And as our starting point, the legislation that we never voted on last year that we brought over from the House, that language is in there. So I guess I would say I'm not advised.

SEN. ZAFFIRINI: All right. And I'm sure that you can find out why, perhaps, and answer me on the floor --

SEN. FRASER: Some of it was being inclusive.

SEN. ZAFFIRINI: -- through the Senate debate.
I do have a related question. Going back to our student identification card, that references public universities. But what about students in private institutions.

SEN. FRASER: Not included.

SEN. ZAFFIRINI: They're not included.

Was that an oversight? Do you intend to include them at a later date?

SEN. FRASER: The answer to that is that it's not an intentional exclusion. The concern on it is us not knowing every private institution in the state and the way their IDs are administered. A state institution, we have some input and control. And I guess the answer to that is, if you have a mechanism for that, I'm willing to listen. It is not -- the answer is not that we're -- we're not trying to prohibit. It's just that those particular groups, we don't have the ability to at least observe or regulate the IDs they're putting out.

SEN. ZAFFIRINI: But to summarize, then, and to make sure that I understand, a student identification card issued by a public institution would be considered proof of identification that is acceptable under your bill. But a student identification card issued by a private institution of
higher education would not be?

SEN. FRASER: As the bill is currently written.

SEN. ZAFFIRINI: Thank you very much, Senator. I appreciate your courtesy.

SEN. FRASER: Yes.

SEN. DUNCAN: Before we go to the next questioner, let me just kind of clarify the record. I have some -- Sen. Shapleigh -- and I think if you're going to put something in the record, you need to identify it. Sen. Shapleigh had submitted Exhibit 6, which is the vote tally on the Gallegos motion to appeal the ruling of the Chair. Exhibit 7 is a document, "The Effects of Photographic Identification on Voter Turnout in Indiana," submitted by Sen. Fraser. Exhibit 8 is an article or a document entitled "Much-hyped [up] Turnout Record Fails to Materialize, Convenience Voting Fails to Boost Balloting." Exhibit 8. And then Exhibit 9 submitted by Sen. Fraser is "The Empirical Effects of Voter-ID Laws: Present or Absent?"

I think Exhibit No. -- yes, No. -- that's all there are. So those will be in the record.

Exhibit 10 is "A Report of the Heritage Center for Data Analysis" submitted by Sen. Fraser.
(Exhibit Nos. 6 through 10 marked and admitted)


SEN. WHITMIRE: Thank you, Mr. President.

Sen. Fraser, to clarify a few things that you mentioned earlier, you mentioned that Indiana and Georgia voting occurrence. What year was that?

SEN. FRASER: The Indiana voting, the first one was in 2006. The second was in 2008.

SEN. WHITMIRE: I think I --

SEN. FRASER: Excuse me a second. And Georgia was in 2008.

SEN. WHITMIRE: Well, don't you agree that everywhere in the country, every state had a greater participation this year, primarily because of the popularity of our presidential candidates and also the severe economic conditions? Particularly I would focus on Indiana. Why would you use the Indiana increase in voting as an indication of anything, other than they were very energized about the selection of candidates and because of their unemployment rate and their severe economic downturn? Wouldn't that --

SEN. FRASER: Senator, you're making
wonderful subjective argument. We have an objective person that is about to testify before us that will give you very clear answers that the Indiana guy knows --

SEN. WHITMIRE: Sure.

SEN. FRASER: -- what their results were and he knows what the surrounding states were.

SEN. WHITMIRE: Well, I haven't heard from him. I can only go by your trying to compare Indiana to Illinois, and that you said Indiana had such an increase over Illinois. And I think empirical data, would you not agree, would show that Indiana or Illinois always has high voter participation?

What also I would like to ask you, would you not agree that Georgia, it has been well recorded that the African-American vote this year, because of President Obama, was a significant increase in turnout? So I just really don't know if that's an indication that your new mechanism works so well in those two states.

And, in fact, I would ask you: Do you think it's even a reasonable comparison -- Georgia and Indiana with Texas -- when you look at our size, our diversity, our language issues? Why would you use those two to indicate what Texas is going to follow?
SEN. FRASER: You know, the great thing about this, Dean, is that we're allowed to bring in experts from those states.

SEN. WHITMIRE: We're going to listen to them?

SEN. FRASER: We have the person that runs the elections in those states that can answer your question. And I -- you know, I think it's great that they're here today.

SEN. WHITMIRE: Well, I assume they're partisan officials as well. How about elected officials? Did I not read your county clerk said in her long tenure as your county clerk had never seen anyone impersonating a voter in your own district? Did I not read that correctly?

SEN. FRASER: You know, someone reported to me that she had said that she had not identified it. But she also said she was supporting the bill --

SEN. WHITMIRE: She supports the bill.

SEN. FRASER: Just a second. You asked me the question; I get to answer it. She said that she supports the concept --

SEN. WHITMIRE: Sure.

SEN. FRASER: -- of voter identification. The question was asked by the
reporter, "Have you caught someone impersonating someone?" The thing that she didn't add to that, that if the reporter would have asked that, "Does the state and your office have the mechanism to identify if someone is voting illegally?" and here would be the example that I would use, is that if Tom Smith came in with Bill White's identification card and Bill White is on the registration roll --

SEN. WHITMIRE: I've heard it. You said it --

SEN. FRASER: But just a second.

SEN. WHITMIRE: You've done that two or three times. I'm familiar with that. You used it earlier.

SEN. FRASER: Okay.

SEN. WHITMIRE: And that leads me to my question.

SEN. FRASER: You wanted an answer to the question.

SEN. WHITMIRE: No. I understand. You've used about three examples of where someone runs to the mailbox and gets someone else's certificate and then runs and votes. It's the same identical example you're using right now, which leads me to a very specific question:
Do you not know that that is against the law and it's a third degree felony?

SEN. FRASER: Okay. And I would ask you --

SEN. WHITMIRE: What you're trying to address is against the law. And would it make a difference to you and would you still be in favor of your bill if I told you we can enhance that penalty?

SEN. FRASER: Dean, I think if we can get past this portion of this, that y'all are asking me questions that could be asked of an expert witness. We have somebody from the Secretary of State's office that is going to clarify: Is that possible and is it possible to catch them and is it possible to prosecute? And I think you're going to be surprised at the answer.

SEN. WHITMIRE: No, I'm not going to be surprised at the answer, because I've been running for office 36 years. It's not only -- Troy, would you not agree, my duty and your duty as public officials is to prevent fraud, but we have a very special reason -- because on the ballot. I have been in barnburners. I have been in close elections. I have tried to identify voter fraud. And that leads me -- and it's never existed in the tough races that I've been in.
And I would suggest, can any one of the 31 senators document and demonstrate where voter fraud has been an issue in their election? I would suggest to you early on, perhaps in mail-in ballots, we were concerned. But on Election Day, there is safeguard after safeguard.

But I do agree with you -- and each and every one of us I think would agree -- if we could identify fraud, we would want to prosecute. But the interesting thing is, I'm going to ask you before I sit down, give me a recent occurrence of voter fraud.

SEN. FRASER: Johnny --

SEN. WHITMIRE: The cite in Duval County, that was the year I was born. Then you cited dead people voting. Would a voter ID have helped those people, prevented them from voting? Give me an example.

SEN. FRASER: I hate to keep giving you the answer, but you're about to have the registrar from Houston that's about to come up here and testify, and they're going to talk about the dead people that voted. And I'm going to show you --

SEN. WHITMIRE: That --

SEN. FRASER: Just a second. You asked a question. Right here in my records, I've got it
here, but I had rather wait on the expert witness, but this is a dead person that voted in person.

SEN. WHITMIRE: Were they prosecuted?

The person that voted them fraudulently, was that person prosecuted? And if she shows up and she didn't file charges against them, we ought to all be outraged. I'm just curious. What are you trying to --

SEN. FRASER: Ask that question.

SEN. WHITMIRE: What are you trying to --

SEN. FRASER: Ask that question of the witness.

SEN. WHITMIRE: I look forward to it.

This is my concern: What are you trying to fix? Can you point to a recent fraudulent act that would justify us changing the Senate rules, having a special order, not addressing property tax increases, highway funding? What are you trying to address that is such a high priority?

SEN. FRASER: John, this, you know --

SEN. WHITMIRE: No. I'm really serious.

SEN. FRASER: I know. But --

SEN. WHITMIRE: We just went through a historical election --
SEN. FRASER: Do you want me to answer? Would you like for me to answer or do you want to interrupt me?

SEN. WHITMIRE: Yes, yes. What are you fixing that would shove everything else aside and take this up today?

SEN. FRASER: This is not rocket science. What I am fixing is the very real possibility -- of which we're going to show that it is -- that someone could steal your registration card and they could go and vote, representing to be you, and that there is no way to identify when it's happening. And once it happens, it's almost impossible then to prosecute after the fact.

SEN. WHITMIRE: Okay. Let me ask you this -- and I look forward to hearing our witness. Let me ask you this: When you compare Indiana and Georgia, are you familiar at all with how they conduct their elections in terms of their poll workers, their training, their compensation, any qualifications to hold an election? What are the requirements in Georgia, Indiana, relative to our qualifications?

SEN. FRASER: Dean, one of the great things -- the answer I just gave Sen. Zaffirini -- the great thing about this process, we bring in expert
witnesses from those states.

SEN. WHITMIRE: Yes.

SEN. FRASER: They know the answers to those questions. My expert witness is about -- they'll answer that exact question that you have.

SEN. WHITMIRE: Because I think what you're going to find is, in these other states, they compensate them in a greater detail, they have training for them. And we depend on volunteers, often our senior citizens. And often we have precincts in Harris County that we literally cannot find people to serve, and we actually merge and combine precincts because of the lack of individuals available to run these elections. And then you're proposing an elaborate documentation.

SEN. FRASER: Dean, you're my friend. I respect your right to ask this. But the last three persons have all asked the same questions. And my responses have been the same: We have expert witnesses that are about to show up that can answer your questions. And I guess I tell you no matter how many ways you ask it, my response is going to be the same. I think we need to cut this off and start the witnessing.

SEN. WHITMIRE: Well, I look forward to
talking to the person from Harris County. And if someone fraudulently voted for someone who is deceased, I would hope we find out why they weren't prosecuted. And I would also -- as we continue, I wish you would ask your witnesses for the most recent incidence of voter fraud that they're familiar with and the outcome in terms of prosecution.

We've had a senator -- Sen. Williams was rightfully concerned about some allegations he had heard. The same question was to him at that moment a couple of months ago: Were the people prosecuted? I think we've got the toughest Penal Code in the United States, 10 to 20 for fraudulently voting for someone. And I think we ought to actively prosecute them, because none of us want to participate in a campaign or serve in a body that is governed or controlled or influenced by voter fraud.

I don't think it exists. And I think the harm is being done because we're not in Finance this afternoon, we're not dealing with Texas Youth Commissions this afternoon, we're dealing in fighting something that does not exist. And as it is going to be documented by our witnesses, going to create a hardship for thousands of Texans.

SEN. DUNCAN: Sen. Ellis?
SEN. ELLIS: Thank you, Mr. President.

Senator, I know you're tired. I'll try not to take too long. One question I want to ask you is about the provisional ballot. You said when you first began answering questions from Sen. Watson, that everyone would be able to vote, no one would be turned away. Now, how would that process work if someone doesn't have the forms of identification that are laid out in your bill.

SEN. FRASER: I believe Coby Shorter is right over here. He's going to be coming up to visit with you in just a second. He will give you all that data. And I believe our expert witnesses -- and I think I told Sen. Watson that.

SEN. ELLIS: Well, now, here is what I'm getting at: I know you're tired, Senator.

SEN. FRASER: No. I'm doing good.

SEN. ELLIS: The only reason I'm asking you this is because you're carrying the bill, not your resource witnesses, so it's not personal. Here is what I'm getting at: I'm assuming, the way I read your bill, if somebody does not have the forms of ID you lay out, they will be told, "You can cast a provisional ballot." So here is my question: When does that ballot get counted? What does it take for
that provisional ballot to be counted?

SEN. FRASER: And when my witness comes up -- that is the Assistant Secretary of State -- they will tell you the procedure that is used for that.

SEN. ELLIS: Okay. I'm guessing, but I assume that if somebody does that have that ID and they cast a provisional ballot, the burden is on them. The bill doesn't lay it out, but I assume the burden is on them to then go home or go somewhere and prove who they are or that ballot will not be counted. And that's what my question was.

SEN. FRASER: Let me ask you, if you were getting on an airplane and you didn't take your ID, is the burden on the airport to run to your house to get your ID for you?

SEN. ELLIS: Well, here is a minor distinction. I don't have a constitutional right to get on an airplane. That's a big difference. Let me give you, if I might, a few other points, Senator. You used Georgia a number of times as, I guess, a building block for this legislation. Is that a fair assessment? You were saying that they do this in Georgia, Georgia is comparable to Texas?

SEN. FRASER: I don't know that we use it as a building block. I said that they have passed
a near identical bill. It has passed DOJ. It has passed the court system and been put into law. And they've had an election cycle. And we have the voting -- the people that ran the election in Georgia, here. And I guess I would lay it out that I think the facts will speak for themselves. I don't think I'm laying out Georgia as an example; I think Georgia is their own example.

SEN. ELLIS: Well, I want to make sure that you and other members do understand a basic distinction between Georgia and Texas. The State of Texas is the third minority -- majority minority state in the country -- new Mexico, California and then Texas. Georgia's population at best, Hispanic population, may be 7, may be 9 percent. There is a big distinction between Georgia and Texas.

When you came up, Senator, you made reference to -- I guess giving us a history lesson about voter fraud issues, and you mentioned Duval County in particular. And being a proud graduate of the LBJ School and a beneficiary of the great legislation that President Johnson signed into law after an historic march that went on this past weekend across the Edmund Pettis Bridge, I want to give you a little bit of a history lesson.
Do you have any idea in what year the State of Texas enacted the poll tax?

SEN. FRASER: I'm sorry. I'm not advised. I don't have that number.

SEN. ELLIS: The State of Texas enacted the poll tax in 1901. Do you have any idea when the Democratic Party, not just in Texas but in a number of states, enacted the while-only primary system where you have to be white in order to vote in a primary?

SEN. FRASER: Still I'm sorry. I don't have that number.

SEN. ELLIS: 1923. It was not abolished until 1944. The poll tax, of course, was not abolished until 1966. I want to say that to you, Senator, because when this bill didn't open up, 1885 or whenever it opened up, there were people who sat in desks, these desks, in chairs not quite as comfortable as the ones that you and I are sitting in today, or standing on this floor, didn't have this nice carpet, something, didn't have the padding under it. But decisions were made over the history of this state which is why we have to be pre-cleared before making this change or any other one.

Now, Georgia is similar to Texas in one way. It, alone with a number of other southern
states, do have to be pre-cleared because of their legacy of putting hurdles in the path of people to be able to vote.

SEN. FRASER: We recognize they are a Section 5 voting rights state, that the two states are, you know, alike in that way.

SEN. ELLIS: Are you aware -- you mentioned that the Department of Justice pre-cleared Georgia's voter ID plan. You do know Georgia had not one but two voter identification bills. You are aware of that, I assume. The first bill that Georgia had was pre-cleared by the Justice Department by someone who is one of your witnesses today, by the way, a political appointee at the Justice Department. And then the state and federal courts struck it down, and then Georgia went back and redid their voter identification law. Are you aware of how much they spent on informing voters how to comply with their voter identification law in Texas?

SEN. FRASER: And again, same answer I've given the last three, now you're fourth, is that my witness from Georgia is very prepared to go over the details of that rather than you asking me, because I can't be an expert on the Georgia law.

SEN. ELLIS: And only -- as painful as
it is to do it, particularly with you being my desk
mate -- it is your bill -- Georgia spends $500,000.
Now, I'm only making that point because you put
Georgia on our mind, not me. Georgia is probably --

SEN. FRASER: I --

SEN. ELLIS: -- a great state, might be
one-fifth, one-sixth the size of Texas. They spent a
half a million dollars a year to make sure people know
the provisions under that law. Senator, you made
reference to the Carter-Baker Commission when you
initially started. Do you know the genesis of that
commission? Do you know --

SEN. FRASER: We're about to have a lady
come up here in just a minute that is from that
commission that I bet will give us the entire genesis.

SEN. ELLIS: I'm going to ask her a lot
of questions. The only reason I raise it to you is,
sometimes -- not all the time, but sometimes these
senators tend to listen to other senators,
particularly the person who is carrying the bill, as
opposed to somebody who has testified for it.

That bill was created, that commission
was created in part to try and restore confidence in
the American electoral system, not just in our eyes
but in the eyes of people all around the world,
Senator, because of the election of 2000 in which a lot of people think there were serious problems in that election of 2000, and that's why this Commission was established, a very bipartisan commission.

Even if President Jimmy Carter and Secretary Baker were on different sides in their 2000 race, they realized, when developing nations were saying, "Y'all need to have President Carter send a group down here to monitor elections in America," instead of going to developing countries. Do you have any idea who some of the other people were Senator, on the Carter-Baker Commission?

SEN. FRASER: I bet we're going to hear that from my expert witness.

SEN. ELLIS: Raul Yzaguirre. I mention that because he's one of the most noted Hispanic civil rights leaders in the country. I don't mention that to help your side to this argument. Also former Congressman Bob Michel, a very distinguished group of American citizens from both sides of the aisle. Do you have any idea, Senator, how many pages were in the Carter-Baker Commission Report?

SEN. FRASER: I didn't get that quite.

How many what?

SEN. ELLIS: 130. I only read -- 113. I
was going to say, I thought it was 115. If you count
the nice pictures in the back --

SEN. FRASER: Are you --
SEN. ELLIS: 115 pages. Senator, do you
have any idea how many recommendations there were in
the Carter-Baker Commission Report?

SEN. FRASER: I would suspect that the
lady coming up from the Carter-Baker Commission could
possibly have that information if you asked her.

SEN. ELLIS: Do you have any idea what
the real name of that Commission was?

SEN. FRASER: I'm not advised.
SEN. ELLIS: It was the Help America
Vote Act and the Voting Rights Act. That's what the
Commission was created for. Senator --

SEN. FRASER: And I would suspect that
the recommendations was made for vote identification
that increased the voter turnout in Indiana and in
Georgia for record turnout, they were successful that
they encouraged -- "We're going to help people vote,"
and they encouraged people to feel more comfortable
about their voting rights.

SEN. ELLIS: But --
SEN. FRASER: And I suspect my witnesses
that you're going to hear are going to tell you that.
SEN. ELLIS: Good try but not quite. You referenced a New York Times editorial a little earlier. I'm going to try to be a little more balanced than you were, my desk mate, in reading your provision from that editorial, that op ed by President Carter and Secretary Baker. It was titled, "A Clearer Picture on Voter ID," February 3, 2008. Here is just a snippet that I think gives a pretty good --

SEN. FRASER: Is that about a snippet?

SEN. ELLIS: -- of both sides of the issue. It says in the fourth paragraph, "No state has yet accepted our proposal. What's more, when it comes to ID laws, confusion reigns. The laws on the books, mainly backed by Republicans, have not made" -- I don't want to lick my finger here and try to turn this page, so don't give me a hard time -- "have not made it easy for voters to acquire an ID. At the same time, Democrats have tended to try to block voter ID legislation outright -- instead of seeking to revise that legislation to promote accessibility."

Here is the point that they were trying to make, Senator. Out of those 113, or 115 pages if you count the pictures, they had a series of things to help Americans have more confidence in their voting system and also to encourage more people to vote,
things like say their registration, restoration of
ex-offenders' right to vote, states spending
significant amounts of money in educating people on
how to vote. And, Senator, the most important part
was having a uniform, universal form of
identification, HAVA, as we have referred to it a
number of times.

    Sen. Estes, my other desk mate here, may
have forgotten this. But last session you were quoted
in the paper as saying, "It will cost too much money
for the State of Texas to comply with the HAVA
legislation."

    What I'm saying to you, Senator, is I
don't think it's appropriate to pick and choose which
parts of the Carter-Baker recommendation, their
report, you want to implement, because when you do,
you don't do justice to it. Senator, you made
reference to not using this legislation to impact
mail-in ballots. Why?

    SEN. FRASER: Is this a question or were
you --

    SEN. ELLIS: Why is it that your bill
does not touch mail-in ballots?

    SEN. FRASER: Why?

    SEN. ELLIS: Yes.
SEN. FRASER: Well, it's like a lot of legislation we pass. We fix a piece of the puzzle at a time. The mail-in ballot is a huge problem. It is something absolutely that at some point we're going to have to address.

SEN. ELLIS: Senator --

SEN. FRASER: But today I'm addressing the recommendation of -- the Carter-Baker Commission recommended that we put in voter photo ID legislation. And I'm moving toward what other states have done, which is Indiana and Georgia, that I'm taking a baby step today toward that. But I think what I'm doing will encourage all turnout, but more especially minority turnout in Texas.

SEN. ELLIS: You made reference to Steve Wolens' comment earlier. Are you aware that the reference, the comment that you are taking was referring to mail-in ballots?

SEN. FRASER: Absolutely. And I would also remind you, you voted for that bill --

SEN. ELLIS: Oh, I did.

SEN. FRASER: -- because he had been fraud -- his exact statement was, is "They are harvesting" --

SEN. ELLIS: Yes.
SEN. FRASER: -- "votes to steal the
election in a democratic primary in Dallas, Texas,"
and he brought that forward. And you're one of the
persons that voted for that --

SEN. ELLIS: That's correct.

SEN. FRASER: -- bill, as I did --

SEN. ELLIS: Senator, you --

SEN. FRASER: -- to address voter fraud.

SEN. ELLIS: Are you aware of how a
puzzle works?

SEN. FRASER: I'm sorry?

SEN. ELLIS: Are you aware of how a
puzzle works, a puzzle, p-u-z-z-i-e, puzzle?

SEN. FRASER: Puzzle?

SEN. ELLIS: Yes.

SEN. FRASER: Well, if you're asking,
maybe I don't.

SEN. ELLIS: If you take a certain piece
of what someone has said out of context, Senator, what
you're doing is distorting what they intended to say.
So here is my point: Your bill does not touch mail-in
ballots. You used a quote by Steve Wolens to try and
augment your position. Your bill does not touch
mail-in ballots. Most of the cases of fraud that your
witnesses are going to talk about are going to involve
mail-in ballots, but this bill does not do anything to
touch that.

SEN. FRASER: Again, you're being
subjective. Let's wait for the objective testimony of
the witnesses. You're being a good lawyer and
projecting what the witnesses might say. And I would
suggest probably the thing we should do is listen to
the testimony that's given, and you will have the
right to question them. But I think the witnesses are
going to make a very clear case that we've got a huge
problem in Texas. There's a huge gap in Texas law.
There's every possibility for someone to walk in and
vote -- Craig Estes could take your voter ID and
register himself in Houston in a ballot box that they
don't, you know, know him. And he could register as
Rodney Ellis and he could vote for Rodney Ellis. That
could happen if, you know --

SEN. ELLIS: Senator, in your mind, just
based on your best guess, do you think that this bill
would have a more positive impact on one party or the
other in terms of Democrats or Republicans?

SEN. FRASER: I'm not going to project
about who might benefit from the passage of this. But
I wish you would listen to the results in Georgia and
Indiana. And I don't want to put words in their
mouth, but I've seen the numbers. The ones in Georgia and the ones in Indiana, the increase, the greatest increase came in Democratic votes, it came in minorities. And I hope -- in Texas my hope would be, I want African-American votes to increase in Texas. That's my goal. And if I can create something for your voters --

SEN. ELLIS: This bill is going to increase the number of African-Americans and Hispanics that vote in Texas?

SEN. FRASER: Absolutely.

SEN. ELLIS: That's what you believe?

SEN. FRASER: I do believe that; yes, I do.

SEN. ELLIS: You made reference to the last election in terms of the turnout increasing. Do you think that that record increase had anything to do with Barack Obama being the Democratic nominee and Sen. McCain, John McCain being the Republican nominee?

SEN. FRASER: Let me ask you this a different way. Did Barack Obama run in Illinois and Indiana both? Did he run in both states?

SEN. ELLIS: Senator --

SEN. FRASER: Was he from -- since you asked me the question, I get to answer.
SEN. ELLIS: I can --

SEN. FRASER: You said was the --

SEN. ELLIS: I can assure you the people in Illinois knew Barack Obama was going to win the State of Illinois. I can assure you that.

SEN. FRASER: You're saying they didn't feel comfortable voting for him because they knew him?

SEN. ELLIS: No, I'm not saying that at all. Let you ask you this: Do you know what the increase in vote was in Texas?

SEN. FRASER: All the questions you're covering is the same thing that was asked about the last four -- you're the fifth person.

SEN. ELLIS: 600,000 additional votes.

SEN. FRASER: We're going to have witnesses from Indiana and Georgia --

SEN. DUNCAN: Senators, you're taking over each other and the court reporter only has two hands.

SEN. ELLIS: Okay. You all right?

SEN. FRASER: I'm going to vacate the premise so you can talk.

SEN. ELLIS: I think I've completed my questions. I think I've made the point. I would like to ask the author of the bill about a historic bill
that he's carrying that in my judgment would negatively impact minority voters in Texas.

SEN. FRASER: As you know, the way this system works, we have witnesses come in, they tell their story, you get to ask them questions. When that's over, I'll close, we'll have a vote. It will come to the floor. If I'm successful, once we get on the floor and I lay it out, we get to do this again. And I would suspect at some point you and I will have a discussion. But I would like for you to ask the questions of the expert witnesses, because I think you're going to be shocked at what they say about what the impact would be on minority voting in both those states, what happened and how it would be increased.

SEN. ELLIS: All right. Thank you.

SEN. DUNCAN: Sen. Davis?

SEN. DAVIS: Sen. Fraser --

SEN. FRASER: You didn't get the rule about freshmen?

SEN. DAVIS: No. I'm sorry. I didn't get that rule.

(Laughter)

SEN. FRASER: I'll be glad to accept your questions.

SEN. DAVIS: Thank you.
Would you agree that the provisions of
the Carter-Baker comprehensive proposal are proposals
that you are using in support for the legislation that
you have introduced on this issue?

SEN. FRASER: Senator, I took the
information that I read -- I read the report; I read
what they included in print; I read their press
release -- I took my highlighter and highlighted
things that came from either what they had written
down and they put their name on, and I repeated and
read. I didn't project what I thought Jimmy Carter
was thinking or what Jim Baker was thinking. I read
what they put in print in that, and that's what I did
today. There is going to be someone here hopefully,
if we ever get to that point, from that Commission
that you can ask that exact question.

SEN. DAVIS: You made a statement a
moment ago that in this legislation that you have
proposed, you are addressing the recommendations of
the Carter-Baker Report for voter ID, did you not?

SEN. FRASER: Say that again.

SEN. DAVIS: You made a statement
previously, when you were speaking with Sen. Ellis,
that you are addressing the recommendations of the
carter-Baker Report for purposes of proposing your
voter ID bill?

SEN. FRASER: I am proposing a voter ID law and laying it out. I used as a reference a document that is in the public spectrum, something that I've pulled off -- I think off the Internet, of that report. I highlighted a statement that was made, and I read that statement.

SEN. DAVIS: And you mentioned that you highlighted not only that report but you also highlighted the editorial of February 3, 2008, titled "A Clearer Picture on Voter ID." Correct?

SEN. FRASER: What was the last part of that? But what?

SEN. DAVIS: You mentioned a moment ago, when you had your highlighter out, you went through the report, the Baker-Carter Report. You also went through an editorial that was written by both of them in February of 2008, and you also made highlights to that editorial?

SEN. FRASER: I highlighted a lot.

SEN. DAVIS: But you highlighted those?

SEN. FRASER: Well, I can get my book out and I can show you what I highlighted, yes.

SEN. DAVIS: I'm curious as to whether, when you had your highlighter out, you highlighted
this particular statement that was made in their editorial, that the groups least likely to have valid photo IDs are women, African-Americans and Democrats. Did you highlight that statement?

SEN. FRASER: I am not advised. I'm sorry. I don't have that. I did not say that. Did you hear me say that?

SEN. DAVIS: No. I'm asking you whether you highlighted that.

SEN. FRASER: I'm not --

SEN. DAVIS: Do you remember reading that?

SEN. FRASER: I'm sorry?

SEN. DAVIS: Do you recall reading that from their editorial, that the groups least likely to have valid photo IDs are women, African-Americans and Democrats?

SEN. FRASER: The answer is yes. And again, it's the question that Sen. Ellis just asked, is that it was included in the paragraph above and below. But I think I do remember seeing that in that editorial.

SEN. DAVIS: Do you recall also seeing their statement that the current crop of laws, including those that we've been discussing today --
SEN. FRASER: Senator, I'm sorry. You know I have a hearing problem, and I'm only getting about half of what you're saying. So if you can --

SEN. DAVIS: I'm sorry. I will speak up.

SEN. FRASER: I have trouble -- I'm sorry -- sometimes with women's voices, and I'm just not getting it.

SEN. DAVIS: I will speak up.

Do you call reading in that editorial that they also stated that the current crop of laws are not being phased in gradually and in a fair manner that would increase rather than decrease voter participation?

SEN. FRASER: I'm not getting it. I'm sorry.

SEN. ELLIS: I thought I heard my wife's voice. Was she calling me?

SEN. FRASER: My wife says this is a trained response.

SEN. DAVIS: Would you like me to repeat my last question?

SEN. FRASER: Please.

SEN. DAVIS: Do you recall reading in the editorial a statement made by Secretary Baker and
former President Carter that the current crop of laws that are being put in place by states are not being phased in gradually and in a fair manner that would increase not reduce voter participation?

SEN. FRASER: No, I do not remember seeing that.

SEN. DAVIS: You also stated that you read the report and that you highlighted particular provisions of that report in formulating your bill that you have proposed today and your reasons for supporting that bill.

SEN. FRASER: I don't think I said that at all. I didn't read that report in formulating my bill. The bill that I laid out is very, very straightforward. All it says is that when Wendy Davis goes to vote, they want to know -- they want to see your picture ID or other forms of identification to verify that you are who you say you are and that -- it's not rocket science.

SEN. DAVIS: When you began your comments on the floor today in laying out your bill, you quoted from the Carter-Baker Report as well as from the editorial that I read from a moment ago. In answering Sen. Ellis' questions, you said you were addressing the recommendations of the Carter-Baker
Report in implementing your proposal for voter ID.

SEN. FRASER: I don't think I said that.

I said -- I think I referenced things that were said in that report. I referenced the Supreme Court Justice, John Paul Stevens, again a left-leaning Supreme Court Justice that wrote the majority report that validated the Virginia -- or the Indiana law that put in place a strict photo ID. I referenced that that had been done, their comments. I referenced the Commission, things that they had said. I referenced the bill that was proposed by Rep. Steve Wolens, a Democrat in Dallas near your area that was -- or may be in your district, where he suggested that with vote harvesting and voter fraud, those are all stories that were -- that I had data on.

SEN. DAVIS: In referencing the Carter-Baker Report, I wonder if you came across this statement by them: "To prevent the ID from being a barrier to voting, we recommend that states use the registration and ID process to enfranchise more voters than ever." Do you recall that?

SEN. FRASER: Why don't you ask that question of the expert witness that I have informed the last five Senators that are coming up, that I don't have any idea what she is going to say. She is
going to be under oath, and she would love to answer
your questions that you're asking, and I think that is
where we should go from here.

SEN. DAVIS: Well, for purposes of
discussion or furthering our discussion and my
questions for you, let me read some of the
recommendations that Carter-Baker report made.

SEN. FRASER: Are you going to ask me
questions --

SEN. DAVIS: I'm going to ask you
questions.

SEN. FRASER: -- or are you going to --
you have the right at any time to put stuff on the
record. But you --

SEN. DAVIS: I'm going to ask you
questions.

SEN. FRASER: -- had asked the Chairman
if you could ask me questions.

SEN. DAVIS: I'm going to ask you
questions.

SEN. FRASER: Thank you.

SEN. DAVIS: "States should play an
affirmative role in reaching out to non-drivers by
providing more offices . . ." That's one of the
recommendations in this report. Does the bill that
you have placed in front of us today on voter ID have an affirmative role for states in recommending that they reach out to non-drivers by providing more offices?

SEN. FRASER: I'm sorry. I'm not even getting close to following the question you're asking. The bill that I'm laying out today says that when Wendy Davis walks into the voting booth, you've got to prove that you're really Wendy Davis. It's that simple.

SEN. DAVIS: And the bill does not include a request of the state that it open more offices for the purposes of obtaining a photo ID for non-drivers, it does not include that proposal. Correct?

SEN. FRASER: They can use non-photos. I mean, there is no provision right now, there is nothing in the bill that every person in the state could not comply with, because you can use a piece of mail that had been mailed to you, your library card. There's a long, long list of things that you could use. You could even use as your piece of identification the mail that the registrar sent to you for your voter registration. That's a form of identification.
SEN. DAVIS: And I'm going to ask you about that list in a moment. Let me ask you another question about what your bill includes. Does your bill include a proposal that the state should create mobile offices for the purpose of reaching out to persons without photo ID, to create those photo IDs?

SEN. FRASER: Would you ask that question again, please?

SEN. DAVIS: Yes. Does the bill that you're proposing include a request of the state that they create mobile offices that would go out into the communities for purposes of helping voters obtain photo IDs?

SEN. FRASER: Were you here earlier when that question was asked by another senator?

SEN. DAVIS: I do not recall that question being asked. I would appreciate it if you would answer it.

SEN. FRASER: The Secretary of State has been asked to come here. The Secretary of State will implement this transaction. The wording of the bill that is in the bill is very clear of what we would ask them to do. The implementation of that would be, you can ask the Secretary of State, please.

SEN. DAVIS: Okay. But I'm asking you
if your bill includes that proposal?

SEN. FRASER: My bill has language that clarifies that there will be an education program of the people to implement this bill. It lays out the instructions on that, but it will leave it to the Secretary of State to implement.

SEN. DAVIS: Does your bill contain a proposal that would provide the ability for voters to register and to provide photo IDs to those voters free of charge?

SEN. FRASER: Try it again. I didn't get it.

SEN. DAVIS: Does your bill include a proposal that would allow voters to register and be provided photo IDs free of charge?

SEN. FRASER: The photo ID is free of charge.

SEN. DAVIS: It is free of charge?

SEN. FRASER: Yes.

SEN. DAVIS: Who is going to pay for that?

SEN. FRASER: We are advised that -- first of all, that there are very few people that would need that, is that the bulk of the population of Texas already has a driver's license or a photo ID.
And we're advised that, you know, the cost of that
would be implemented through -- I guess it's DPS. So
it is built into the budget.

You know, I know you're new to the
Legislature. But the fiscal impact on the bill, that
is determined if there is a cost to the state. And
they said there is no impact, because it could be
absorbed in current budget.

SEN. DAVIS: Believe it or not, I
understand that fiscal impact is based on whether
there is a cost to the state. What I'm asking you is
if your bill proposes free voter ID cards that could
be made to anyone who requests them and whether there
has been a cost put to that proposal?

SEN. FRASER: I'm sorry. I'm getting
members, people talking to me. Try it again, please.
I can't hear you.

SEN. DAVIS: I'm asking you, in your
bill, the bill that you've authored, the bill that
you've laid out, the bill that you are standing in
front of us defending today, is there a proposal in
your bill that anyone who wishes to register to vote
would be provided a voter ID card free of charge?

SEN. FRASER: The answer is yes, that
anyone that is a registered voter will be given a
photo ID free of charge. So I think the answer to
your question is yes.

SEN. DAVIS: And yet, do you have any
idea how many people might come forward and request a
free voter ID?

SEN. FRASER: I would suggest you ask
the Secretary of State that.

SEN. DAVIS: I will. But I'm asking
you, because it's your bill. I'm asking you. Do you
have any idea?

SEN. FRASER: And I'm responding to you
that I'm going to punt to the Secretary of State
because they're the ones that keep that data.

SEN. DAVIS: Was that question asked of
you by the LBB when they were preparing the fiscal
note for your bill?

SEN. FRASER: We didn't talk to LBB.
That's not the process.

SEN. DAVIS: Okay. Turning to Section
63.0101, Sections (a) and Sections (b) of your bill,
would you agree that this list of proof of
identification that can be provided to a poll worker
includes a multiple of standards that those poll
workers could apply?

SEN. FRASER: Do I agree that there's a
lot of choices?

SEN. DAVIS: Yes, a multiplicity of standards --

SEN. FRASER: A multitude of choices.

That I think is one of the beauties of the bill, is that there's a lot of ways that people could identify themselves.

SEN. DAVIS: Okay. In reading the Carter-Baker proposal, was it your understanding that the proposal they advanced was the creation of a universal voter ID that would, No. 1, provide more offices for people to receive those IDs, including mobile ones; No. 2, that would allow the registration and free federal ID for anyone wishing to seek one; and that there would be much less discrimination against minorities if there were a single uniform ID rather than poll workers applying multiple standards?

SEN. FRASER: I'm not advised. I can't speak for the commission. We have an expert witness who will be here in a minute, and I will be glad for you to ask her.

SEN. DAVIS: Would you agree that if those proposals were put in place, that it would create costs in implementing such a system?

SEN. FRASER: Again, Senator, we have a
system here where they look at the bill, any potential cost to the state. They come back with the fiscal impact on that. And the statement we received back from, you know, on the fiscal impact was no impact.

SEN. DAVIS: Thank you. I'm going to complete my questions for now in order to give the court reporter a break. Thank you, Sen. Fraser.

SEN. FRASER: Thank you.

SEN. SHAPLEIGH: I've got three exhibits.

SEN. DUNCAN: Members, we have several folks who want to talk. And we've been going now for about an hour and 45 minutes, and I want to try to pace the court reporter. Before we go to a short break, though, Sen. Shapleigh had some exhibits he wanted to introduce. So we'll do that and then take a -- we'll be at ease for a few minutes.

Sen. Shapleigh.

SEN. SHAPLEIGH: Thank you, Mr. Chair.

If I could, as Exhibits 11, 12 and 13, respectively, the copy of *The New York Times* op ed by Baker and Carter, '05; copy of Royal Masset's quote; and editorial from the quorum report and *The New York Times'* editorial of '08, all discussed on the floor.

SEN. DUNCAN: Okay. They will be placed
in the record.

Members, have those copies been provided to the Secretary?

They're on their way? Okay. Thank you.

Members, we will take a -- we'll stand at ease for approximately 10 minutes. We'll reconvene at 4:45.

(Exhibit Nos. 11, 12 and 13 marked and admitted)

(RECESS: 4:36 p.m. to 4:51 p.m.)

SEN. DUNCAN: The Senate Committee of the Whole will come to order.

If those in the gallery could be seated and we could have order in the chamber.

Sen. West.

SEN. WEST: Thank you very much,

Mr. Chairman.

Sen. Fraser, I'm going to try not to be repetitious. Can you hear me now?

SEN. FRASER: If you use the Barry White voice, I think we're okay.

SEN. WEST: The Barry White voice.

SEN. FRASER: You know, I've told you that before --

SEN. WEST: All right.
SEN. FRASER: -- that that's your best Barry White voice.

SEN. WEST: Well, I --

SEN. FRASER: I've got your vote. I can hear you well.

SEN. WEST: Barry was able to -- has been very convincing at times. Can I convince you to pull this bill down?

SEN. FRASER: Now yet.

SEN. WEST: Oh, okay. All right. I want to go through the bill with you. On Page 3 of the bill, Line 1 --

SEN. FRASER: If you would hold one second so I can get a copy of it.

SEN. WEST: Sure.

SEN. FRASER: You're reading from what?

SEN. WEST: Page 3, Lines 1 through 4.

SEN. FRASER: I'm not sure ours is going to match up, but we'll try. Page 3 -- where are you referencing? Okay. There we go. Okay. That's what I needed. This is what we're used to.

SEN. WEST: Okay. We talked about the use of identification.

SEN. FRASER: Yes, sir.

SEN. WEST: If you're going under
Subdivision (1), you say, "one form of identification listed in 63.0101(a)," and if you're going to go under No. (2), you say two forms of identification under 63.0101(b). And I'm trying to -- why the difference between the two types of identification in terms of the number that you have to use for purposes of identification?

SEN. FRASER: Well, I think the easy explanation is that I think you know, under the Indiana and the Georgia laws, they have a strict photo ID. Obviously, my preference on this would be a strict photo ID.

In the language that came from the bill that came over from the House, they offered an exception with two other forms of ID. But since they're not a photo, where you could identify someone, I can't speak for the House, but I'm assuming that option was given so you would have two different ways to identify someone to verify for sure that that's who they were.

SEN. WEST: So the only reason the requirement for two different forms is in this bill is because that's the way it came over from the House?

SEN. FRASER: The bill was passed in the House in this form and came over. And because it had
already passed one body in that form, and we had not voted on it, we made the decision to pick up the bill that came over last year from the House.

SEN. WEST: And that's the sole reason. Is that correct?

SEN. FRASER: No.

SEN. WEST: What was the other reason?

SEN. FRASER: The other reason is, is we think this is a very fair -- you know, it's a very fair way, is that -- you know, I would love to see a strict photo ID bill like Indiana and Georgia. But the bill that we're laying out gives a second opportunity for someone to identify themselves, which would be a secondary form of identification.

SEN. WEST: Okay. But again, the reason that it's in there is because it came over from the House that way and some other reasons. And I'm trying to figure out what are all the reasons that you put the requirement for two forms in there, other than it came over from the House that way?

SEN. FRASER: Again, the goal of my bill is that I don't want somebody to go into the polling place saying they're Royce West and use your voter ID. I think if you had a photo ID -- both of us are big people -- and if we came in, it would be easy for
someone to identify our features, that we are who we say we are.

SEN. WEST: Yes.

SEN. FRASER: But if you don't have some form of identification, then there is every ability for someone to steal your voter registration --

SEN. WEST: Okay.

SEN. FRASER: -- and go and vote in person, representing themself to be Royce West.

SEN. WEST: Okay. Let's look at this right here. So your Section (a) specifically deals with, under that -- I'm sorry.

SEN. FRASER: (a)?

SEN. WEST: Section (a) under 63.0101 --

SEN. FRASER: Where are you? What page?

SEN. WEST: I'm actually on Page 5 now.

SEN. FRASER: Okay. Page 5. Which line?

SEN. WEST: Well, this whole section, starting from I guess 9 -- and Section 10 of the bill.

SEN. FRASER: Got it.

SEN. WEST: Everything in there deals with some sort of photo identification. Right?

SEN. FRASER: Yes, that's correct.

SEN. WEST: And everything in Section
(b) deals with some documentary identification?

SEN. FRASER: I do believe you're --

SEN. WEST: Section (b) is on.

SEN. FRASER: All of (a) is photo and
everything else is an alternate form of
identification.

SEN. WEST: Okay. Now, as it relates to
section; I'm still on Page 5 and 6. As it relates to
the forms of identification that you have amended into
the bill, did you make any --

SEN. FRASER: Well, I haven't amended
anything into the bill.

SEN. WEST: Well, I'm sorry. Drafted.

Drafted.

SEN. FRASER: The bill was filed.

SEN. WEST: Okay. As filed in this
bill. Did you make any determination as to how it
would impact ethnic minorities in the State of Texas?
And, if so, what did you do to make a determination as
to the impact?

SEN. FRASER: The answer I'm going to
give you is the same answer I've given now to the last
six witnesses, is that the way we help determine that
was what happened in Indiana and what happened in
Georgia. I have invited one person from Indiana and
two persons from Georgia. The persons from Georgia are a Section 5 voter rights state.

And I think those would be very good questions to ask them, that if we implement a voter identification bill, how did it impact their voters? And I think they're going to tell you that their voter response went up because those people felt very, very good -- just a second. You're about to interrupt me. They felt very good that -- they felt before weren't comfortable because they were afraid their vote was going to be stolen. But after we implement the voter identification, they felt good about it. And voter results for all classes, but more especially for African-Americans and Hispanics, increased. And I believe that's what they're going to tell you. I don't want to speak for them.

SEN. WEST: Okay. And so then we should extrapolate from their testimony that the experiences in a Section 5 state -- Georgia -- and a non-Section 5 state would be applicable to the State of Texas?

SEN. FRASER: Senator, my wishes on this and my goal, if I could project the absolute best thing that could happen, is that the people of Oak Cliff that are in your area representing --

SEN. WEST: By the way, have you talked
with any people in Oak Cliff about this bill?

SEN. FRASER: That we would have record
turnout by the people in Oak Cliff --

SEN. WEST: Have you talked to any of
the minorities -- I'm sorry.

SEN. FRASER: Have I talked to any?

SEN. WEST: Have you talked to any
ethnic minorities about this particular bill? Have
they had input into this bill at all?

SEN. FRASER: And I don't want to get
cute with you, but you are an ethnic minority, and you
and I have had a conversation about it.

SEN. WEST: Oh, no. I'm talking
about --

SEN. FRASER: So the answer to that
would have to be yes.

SEN. WEST: Okay. Well, let me be more
specific then. Have you talked to any ethnic
minorities that support your bill?

SEN. FRASER: The answer is yes.

SEN. WEST: All right. Are they
Hispanics and African-Americans?

SEN. FRASER: Yes.

SEN. WEST: Was it an African-American
that supports your bill?
SEN. FRASER: What did you say?

SEN. WEST: All right. I'm going to be more specific now. Have you talked to an African-American, African-Americans that support your bill?

SEN. FRASER: Yes.

SEN. WEST: Okay. Have you talked to Hispanics that support your bill?

SEN. FRASER: Yes.

SEN. WEST: Are they here to testify in support of your bill?

SEN. FRASER: Let me think about -- the invited testimony --

SEN. WEST: Yes.

SEN. FRASER: -- of the invited testimony, we have an African-American, I think, that is going to testify on this bill.

SEN. WEST: Is that African-American with the Secretary of State's office?

SEN. FRASER: Yes, he is.

SEN. WEST: He is a resource, isn't he?

He's not coming to testify --

SEN. FRASER: Did I say that -- I didn't say he was going to testify. I said he was going to testify on the bill.

SEN. WEST: All right. Now, let me go
back to my question. Maybe it wasn't specific enough.

Have you talked to any African-Americans or Hispanics that are in support of your bill --

SEN. FRASER: Yes.

SEN. WEST: -- support? And will they be here to testify?

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

SEN. WEST: Okay. Have you talked to any African- --

SEN. FRASER: I haven't looked at the list of who is going to testify.

SEN. WEST: Have you talked to any African-Americans or Hispanics about the impact that your bill will have on their right to vote?

Let me tell you what I'm getting to. Have you talked to any African-Americans? Have you done an assessment in terms of whether or not this particular bill and the methods that you are employing will be retrogressive as it relates to the minority voters of the State of Texas?

SEN. FRASER: I think the answer is the same answer I gave you about four questions ago, is that I looked at -- and I've spent a lot of time examining the data of actual voter turnout that happened after the implementation of a photo ID bill.
in Indiana and in Georgia. And I have invited the
election judges from both states to come and share
that with you today, and I feel sure that they will be
glad to answer your questions.

SEN. WEST: And based on your
observation of what occurred in those particular
states, you believe that your bill, if enacted in law,
will not have any retrogressive impact on the minority
voters of the State of Texas?

SEN. FRASER: I think my bill is going
to increase African-American and Hispanic turnout in
Texas. I think those people today feel
disenfranchised because they feel like there is fraud
going on in votes today --

SEN. WEST: Well, have you talked to
any --

SEN. FRASER: Are you interrupting me?
SEN. WEST: Yes. I --
SEN. FRASER: Just a second. I get to
finish.

SEN. WEST: But you say you feel like
those people. My question is, who have you spoken to,
to come to that assertion that those people feel as
though that there's fraud and all that stuff? What
African-Americans and Hispanics -- have you spoken to
some to make that assertion, in the State of Texas?

And I'll listen to you now. I'll listen
to you now respond to my question.

SEN. FRASER: I have laid out a bill and
researched, asked questions about the way people vote.
I believe I have a bill that will encourage people
that their vote will count and their vote is not going
to be diluted by those that cheat. I think that will
encourage voters, as it did in Indiana and in Georgia.

And I believe that this bill is not only
good for the people of the State of Texas, but I'm
pretty familiar with the ethnic makeup of the people
you represent. And I think this bill will be
extremely good for Royce West's senatorial district.

SEN. WEST: Well, and I appreciate your
thoughts. But let me ask you again, you made some
assertions that you believe that it's going to be good
for every one of Royce West's district and ethnic
minorities in the State of Texas. You made assertions
that this will prevent people from cheating and all
that other stuff. And I'm asking you, as relates to
voter impersonation, have you talked to any African-
Americans or Hispanics that said there was a problem
in the state, that this is a problem in the state?
Have you talked to any African-Americans in the state?
SEN. FRASER: Without a doubt, the way -- and I think after we hear the testimony of the witnesses here, and the Secretary of State, it's going to be hard for you to disagree that there is not a problem and the people you represent are not being not served correctly by the current law of Texas. And as a reasonable person -- which I know you are. I know you -- you know, you and I have served together for the last 12 years --

SEN. WEST: Oh, yes.

SEN. FRASER: -- and I respect you a lot, you know. And I think once you listen to the testimony, you're going to have trouble not agreeing that the people you represent will be well-served by this bill, and I believe that.

SEN. WEST: Okay. And, you know, that's fine. But the answer to my question is, have you spoken to anyone?

SEN. FRASER: Yes, I have.

SEN. WEST: African-Americans and Hispanics --

SEN. FRASER: Yes.

SEN. WEST: -- that say that cheating is a problem in the State of Texas, that voter impersonation is a problem in the State of Texas, have
you've spoken with anyone?

SEN. FRASER: I have spoken to --

SEN. WEST: African-Americans and Hispanics?

SEN. FRASER: -- African-Americans and Hispanics --

SEN. WEST: In the State of Texas?

SEN. FRASER: -- in the State of Texas. And, you know, I have spoken to a lot of people in different classes. And the people of this state believe that -- 88 percent of the people polled believe that a photo or a voter ID in Texas should be something we should implement.

SEN. WEST: Sir, but --

SEN. FRASER: And of those -- just a second. Of those -- and the number I saw -- and I believe it was 74 person of the people surveyed were African-American that said they believe that we should implement a voter ID in Texas because they are concerned about the --

SEN. WEST: Do you have a copy of that study?

SEN. FRASER: Yes. I do have -- we have a Rasmussen study, and then there is a secondary study and we will get that -- I will get that for you, yes.
SEN. WEST: Mr. Chairman, I would like to see that.

SEN. FRASER: I will be glad to show it to you.

SEN. WEST: So you've depending upon a survey that was done? You're depending upon a survey that was done in order to make the statement that you're making in terms of talking to African-Americans and Hispanics?

SEN. FRASER: No. I'm relying on actual data of people that voted this election cycle that didn't vote in the election cycles before, because they were encouraged that their vote was going to count.

SEN. WEST: Okay. And going back to -- and let me make sure I understand your response to this question. You've said that in order to get an answer as relates to whether or not any less regressive means were considered by you as the author of this bill would have to talk to the Secretary of State?

SEN. FRASER: I don't think I said that at all. I don't think --

SEN. WEST: Well, and you --

SEN. FRASER: We even talked about less
regressive means. I said the Secretary of State is going to tell you the current state of the law in Texas and tell you we've got a big problem --

SEN. WEST: As it relates to regressive means and an aggressive -- a regressive analysis in terms of the impact that it has on minority voters. Who on your panel would be able to answer that question? What experts would be able to answer that question?

SEN. FRASER: I suspect probably every witness that is --

SEN. WEST: Every witness?

SEN. FRASER: I think so.

SEN. WEST: Okay.

SEN. FRASER: I think so. I suspect that -- we've got two personal -- or three personal examples, because we've got Indiana and Georgia. We've got the registrar from Houston that, you know, you can ask those questions. We've got the Secretary of State's office, and then we've got the Carter-Baker administration -- or the --

SEN. WEST: Does your bill do anything about fraud as it relates to denying people the right to vote?

SEN. FRASER: Say it again.
SEN. WEST: Does your bill do anything about fraud as relates to denying people the right to vote? You know, there may very well be individuals that come into precincts and -- you know, back in Dallas -- because you've talked about it a couple of times. I think it was in 1984, we had a bunch of judges come down to African-American precincts and put up signs basically saying, "You can go to jail." Were you aware of that?

SEN. FRASER: No, I'm not.

SEN. WEST: Okay. This bill does nothing about that type of behavior, though. Right?

SEN. FRASER: This bill --

SEN. WEST: Okay.

SEN. FRASER: -- is really straightforward, Senator. This only addresses one narrow part of the election code, and that is the fact that when you walk into that voting place, you're going to identify that when you vote as Royce West, they are verify you are who you say you are.

SEN. WEST: Those poll workers, how much do we pay poll workers, Senator?

SEN. FRASER: I'm not advised, but I bet the Secretary of State knows.

SEN. WEST: Okay. And so those poll
workers will make that determination -- right? -- as to whether or not a person has the proper identification? Let me ask you this: Let's say that Troy Fraser's name was misspelled on the voter registration list, and you came in with your driver's license and it's correctly spelled. What would happen in that circumstance?

SEN. FRASER: And again, I'm going to punt to the Secretary of State, that they would make the determination. But I think likely the easy answer is, is that there is a system today under current law for a determination of that, that -- and I'll give you this example. I'm not real good about taking my voter registration card. I usually take my driver's license in. And if they had me on the rolls as F-r-a-z-e-r and my driver's license says F-r-a-s-e-r, there is a provision today under current law to manage that. I bet you that the --

SEN. WEST: I do the same thing. I normally just take my driver's license in.

SEN. FRASER: Well, but there's --

SEN. WEST: And some people just take a utility bill in.

SEN. FRASER: And the answer to your question is, I'm not addressing that. That is --
under current law, the Secretary of State has the
ability to address that. And I think the answer is
that if they can't determine your exact -- you know,
who you are, they could provide a provisional ballot,
do their research, find out you are okay and then let
you vote.

SEN. WEST: And I think that's exactly
the way that it plays out. But as it relates to
provisional ballots -- and I think Sen. Ellis raised
this question a few moments ago. What happens in that
circumstances? You have a poll worker make a
determination that Fraser is spelled wrong, you do the
affidavit, you do a provisional ballot. When is that
ballot counted under your bill?

SEN. FRASER: The Secretary of State --
I mean --

SEN. WEST: The Secretary of State's
office?

SEN. FRASER: -- will be glad to answer
that for you.

Thank you very much, Sen. Fraser.

SEN. FRASER: Thank you.

SEN. DUNCAN: I will remind the members
that we still have invited testimony, numerous
witnesses, and then also public testimony, who have
been waiting here today to testify.

So we'll move now -- Sen. Hinojosa,
you're recognized.

SEN. HINOJOSA: Thank you,
Mr. President.

Sen. Fraser?

SEN. FRASER: I'm sorry, Senator, I
didn't hear him introduce you. I'll be glad to answer
your questions.

SEN. HINOJOSA: I only have a few
questions for you.

SEN. FRASER: And, Senator, I'm sorry.
Let me get my head piece. I can already anticipate
I'm going to have trouble hearing you. Just a second.

(Brief pause)

Are you there?

SEN. HINOJOSA: Yes, sir.

 SEN. FRASER: Do a little mike test. It
still is not working.

Can you give me a mike test? One, two,
three, four, five.

SEN. HINOJOSA: Is it working now? Can
you hear me?

SEN. FRASER: No, it's not working.
1 (Brief pause)

2 Senator, let's try that one.

3 SEN. HINOJOSA: Okay. Can you hear me now?

4 SEN. FRASER: I've got you now. Thanks.

5 SEN. HINOJOSA: Okay. Thank you, Senator.

6 SEN. FRASER: I'm --

7 SEN. HINOJOSA: I just have a few questions, and they deal more with the process and trying to identify people who come to vote, with a photo ID identification. What type of training will poll watchers have in order to determine whether or not a photo ID is valid or a fraud?

8 SEN. FRASER: Senator, I don't want to be cute or cut you off, but that's the same question the last seven people have asked. And the Secretary of State has been invited here to answer that question, and they can answer it a lot better than I can.

9 SEN. HINOJOSA: Well, but in your legislation, do you have provisions to provide some type of detection equipment to be able to tell whether or not a photo ID is fake?

10 SEN. FRASER: My bill is very straight-
forward in what will be required to identify. But the implementation of that and the training of the people will be left up to the Secretary of State. And I would bet you the Secretary of State would love to answer your question on that.

SEN. HINOJOSA: Well, let me follow up again. You know, it's very easy to get a fake ID at the flea markets and pay 20 bucks for them. And my question is, if you don't provide any legislation for any type of equipment to be able to detect whether or not that is a fake ID, then it defeats the whole purpose of your legislation.

SEN. FRASER: And, Senator, I think you have just made my case for me. That's the exact reason that we're doing this bill, is that there are people out there, unscrupulous people doing exactly what you just said, that they are taking identification of the people you represent and they are going and fraudulently voting and that we don't have the ability to either recognize that they have done that or to prosecute them after they have. Thank you for bringing that up.

SEN. HINOJOSA: Senator, that's not the question that I asked. That's not what I asked. I said do you have provisions in your legislation to
provide the funding for the local precincts to purchase equipment to be able to detect whether or not a photo ID is a fake?

SEN. FRASER: Senator, I'm sorry. Did you get another head thing?

Senator, let's try it one more time.

Would you ask that question again, please.

SEN. HINOJOSA: Can you hear me?

SEN. FRASER: This receiver is a bad receiver. I'm getting nothing but interference. Can somebody get one of these that works?

Let me try without it.

SEN. HINOJOSA: Okay.

SEN. FRASER: Where is Lucio's?

Go ahead.

SEN. HINOJOSA: I will repeat my question, Sen. Fraser. And what I'm asking is whether or not in your legislation you have provisions to fund the detection equipment that will be able to tell whether or not an ID is a fake one?

SEN. FRASER: Senator, again, I think that would be a question of the Secretary of State, is that -- I think you could ask him how they're going to do it. But we -- as you know, the way this works --
you have been here like I have, a long time -- we lay
this legislation out. They come back with a fiscal
note of the impact to the state. They said there is
no impact to the state, that they have sufficient
money within their budget to handle it. And I would
suggest you ask that question of the Secretary of
State.

SEN. HINOJOSA: Well, I think that it's
very important that you have provisions in your
legislation to deal with this issue. When you travel
by airplane, by air, as you well know, they scan your
driver's license and they can tell whether or not it's
a fake driver's license. And what I'm asking of you
is whether or not you have provisions in your
legislation to deal with fake IDs from the flea
market, for example? I guess not.

SEN. FRASER: I don't want to dodge your
question.

SEN. HINOJOSA: But you are.

SEN. FRASER: But you're asking a
question that is a technical question of the agency.
And again, I don't want to speak for my witnesses.
But the guy that's going to speak from Houston,
Houston is, in fact, using that exact same thing right
now. So in some areas, it's already in place.
SEN. HINOJOSA: Well, think about this: How many precincts do we have here in the State of Texas? And if we are going to check on IDs and whether or not they're fake, you need to have the proper equipment in place. How much are they going to cost and who is going to pay for it?

SEN. FRASER: Senator, you need to ask the Secretary of State. And, you know, that is a technical question that the agency is going to have to answer.

SEN. HINOJOSA: Well, I guess the real answer, it may be an unfunded mandate on the counties.

SEN. FRASER: Well, I don't think there's something in the bill that places a mandate on them to buy equipment for that. You know, I would suspect that there is a system within the DPS to help identify that. And I think -- I don't want to over-project, but I suspect that between the Secretary of State's office and in the counties, that there is a system that if you input a number, that they can tell whether they're a real number or not. And I'm sorry. You're getting into an area that I don't have expertise in.

SEN. HINOJOSA: Well, I think it's very important to have some provisions in your legislation
dealing with this issue because, otherwise, there is no way that you can have a poll worker know whether or not a photo ID is a fake one or not.

Let me also ask another question. Have you considered how much longer it would take for voters to vote, where the lines would be longer and it would discourage people to vote?

SEN. FRASER: Why don't you ask that of the Indiana and the Georgia people. They just went through two election cycles in Indiana, one in Georgia. They have already done this. That would be an excellent question for them.

SEN. HINOJOSA: But, Sen Fraser, you are the one carrying the legislation, not them.

SEN. FRASER: And that's the reason I invited expert witnesses in, of people that have already put this in place. The advantage we've got is that we're not reinventing the wheel on that. We can find out their information of what happened.

SEN. HINOJOSA: Well, I think your bill really needs a lot of work. It has a lot of shortcomings with it in the way it's going to be implemented.

And thank you for answering my questions.
SEN. FRASER: Thank you.
SEN. DUNCAN: Sen. Uresti.
SEN. URESTI: Thank you, Mr. President.
Sen. Fraser, I just have a few questions. I know it's been a long day, but I would like to ask a few questions more specific to my district.

But as a backdrop to my questions, not only to you but to the witnesses that you've been referencing all day, you have probably heard me speak to this session, my senatorial district is the largest geographical district in Texas.

SEN. FRASER: I know your district well. There's a lot of it that I used to represent, so I'm very familiar with it.

SEN. URESTI: And it's actually larger than about 24 states in the country.

SEN. FRASER: It's a great district, good people.

SEN. URESTI: It is a beautiful district. And one of the reasons I stand today to ask you these questions is, I represent the constituents of my district. In addition to being the largest district in Texas, it's also the second poorest district in Texas. The per capita income, the average
per capita for my constituents is $12,484 per year.

SEN. FRASER: Are you aware of the fact that just right below, right above that is the district that I represent? And so we have a lot in common in the people that I represent and the people you represent, because our districts touch. And a lot of the people that you represent now are people that I used to. So we have a very like district.

SEN. URESTI: And even more reason why I think you will appreciate the questions that I have of you, Sen. Fraser. In my district, the poverty rate is approximately 24 percent. So when you couple the poverty rate with the vast area of my district, you see the challenges that my constituents face.

And I tell you that because when we talk about photo ID and the necessity to obtain an ID, whether it be a driver’s license or whether it be an actual Texas photo ID, knowing the area as well as you do, when you look at some of the counties in my district, I think you probably, better than most, fully appreciate the distances that one has to travel in order to get an ID. And I’ll just give you a few examples. In addition to that, though, the fact that many of these DPS offices are only open on very sporadic days and times.
For example, in Bandera County, it's open -- the DPS office is only open on Wednesdays from 9:00 to 4:00. In Culberson County, it's only open -- the DPS office is only open on Thursdays from 9:00 to 5:00.

In Kinney County, which is where Brackettville is located, the DPS office is only open the first and third Tuesday of each month from 9:00 to 4 o'clock. And then one other example of many, Terrell County, which is down where Sanderson is located, the DPS office is only open one Monday a month from 9:30 to 3:30.

So having said that, my concern is the fact that if an individual needs to obtain a photo ID or a Texas driver's license, the challenges that they will face in, one, having to go to those offices; two, the distances that they'll have to travel; and then three, if they're not familiar with the dates or the times that they are open, the fact that they may have to go back.

And if they're not registered or they do not obtain that in a timely manner, which I understand it could take up to 60 days or so to receive your photo ID, there is a very good chance that they will not be able to have that ID when they do go to vote.
Would you agree with me on that, Sen. Fraser?

SEN. FRASER: Well, that was a consideration in looking at the parameters, is that the good news for you is, we still have all the same parameters for mail-in ballots. We haven't changed that. And all these other forms, there is just a multitude of things they can use for a secondary form of identification. So if for some reason they couldn't get to that -- and I would -- you know, you and I know that most of those people out there drive and they do have cars, the bulk of them do, and they would be -- they would really like to go and get that driver's license. But if they couldn't and they were going to vote, there is a multitude of things they can use for identification to make it really, really easy, or they could do a mail-in ballot. We've made it easy for them.

SEN. URESTI: And I appreciate you bringing that up, because that's a good segue into my next question. But again, going back to the poverty rate, I would respectfully disagree with you, Sen. Fraser, that they all have cars, because most of them can't afford cars, at least in my district.

On Page 5 of your bill, Senator, you reference -- Page 5, Line 20, under "Documentation of
Proof of Identification," you reference "a United States military identification card that contains the person's photograph." And I just want to make sure that I clearly understand what you have in your bill, and that for those military individuals, whether they be active duty, reservists, retired, et cetera, if there is no photograph on their military ID, then they would not be able to use that ID under your bill. Is that correct?

SEN. FRASER: I'm sorry, Senator. I think you probably have misread this. You're under the section that lays out the acceptable form of photo ID. But if it doesn't have a photo on it, it could be used as one of the non-photo IDs, plus one other form of identification. So the answer to your question is, yes, they could use it.

SEN. URESTI: Okay. So a military ID that does not have a photo could be used?

SEN. FRASER: Yes. It's a form of government identification.

SEN. URESTI: Okay. That's not the way I read it, but I'm glad you cleared that up for me.

SEN. FRASER: Under the (2), it would be one of their forms of identification. It is a government-issued form of identification. And under
the non-photo area, it would be used.

SEN. URESTI: And just so I'm clear, it reads "a United States military identification card that contains the person's photograph." What my question is, if there is a military ID card that does not have a photograph, then you're saying that those military individuals, whether they be active duty, whether they be reservists, whether they be retired, would not be able to vote with that form of ID. Is that correct?

SEN. FRASER: That is not correct. That would be one of their forms of ID. And if they had one other piece of identification, their utility bill, with that military ID, they're fine.

SEN. URESTI: Whether it has a photograph or no?

SEN. FRASER: Yes.

SEN. URESTI: Okay. Very good. That's good to know.

Going into the alternative forms of documentation, specifically on Page 6, what I'm trying to reconcile and what is confusing to me, and I believe would be very confusing to the voters of Texas, and complicated, on Page 6, Line 14, you list the following documents -- I beg your pardon -- "The
following documentation is acceptable as proof of identification under this chapter."

Then it goes on to read, Subparagraph (1), a copy of a current utility bill; Paragraph (2), official mail; Paragraph (3), a certified copy; Paragraph (4), United States citizenship papers; Paragraph (5), an original or certified copy; and then No. (6,) court records.

And so I'm trying to reconcile those different terms in that you have a copy, you have official document, you are certified document, you have papers, you have original or certified copy, and then you have court records.

And to me, that's confusing as an attorney, much less I think to my constituents. And so specifically -- this is my question, Sen. Fraser -- on No. (16) (sic) under the Paragraph (b) where it reads, "a copy of a current utility bill, bank statement, government check, paycheck, or other government document," that leads me to believe that if they brought the original document, they would not be able to use the original document, it would have to be a copy of that document. Is that correct?

SEN. FRASER: I think you're over-reading the issue, because this is current law. This
is current law that we're operating. If you voted in
this last election, you voted under this. If you will
look at that -- and I believe -- is that not taken
from current law? So if you're confused about it
today, you were confused about it yesterday, because
it was -- that's current law.

SEN. URESTI: Well, let me tell you why
I'm confused, Sen. Fraser, because if you go on into
Paragraph (2) that's not current law, and Paragraph
(3) that's not current law, for specifically Paragraph
(3,) you insert "a certified copy." Paragraph (5),
you put "an original or certified copy." So that's
why it's confusing, Sen. Fraser, and that's why I'm
trying to clarify it, because you use a copy in one
instance, then you use a certified copy in another
instance. But here is my question. I want to go back
to my question.

SEN. FRASER: Wait, wait, wait. Hold on
a second. You've got to answer the one that you just
asked. One of the great things about these
hearings -- and it's the same answer I gave now to the
last eight people I've talked to -- I'm about to have
the Secretary of State come up here. The Secretary of
State's job is to issue the clarification of adopting
rules to clarify the implementation of the law we
passed. And I would -- I don't want to put words in their mouth, but I would assume they're going to say, "We can handle that."

SEN. URESTI: Okay. And I appreciate that. And because you can't speak for the Secretary of State and because you are the author of this bill, I just wanted to ask you, so I could clarify and so I can explain it to the voters of Texas and to my constituents, then -- and I think you understand now what I'm trying to reconcile in that you asked for different documentation. And, one, it can be a copy or it can be the official mail, et cetera. And I will ask the specific questions of the Secretary of State.

SEN. FRASER: I think it would be a good idea to do that.

SEN. URESTI: But because you are the author, I wanted to ask you specifically. And then I think my last question, Sen. Fraser, if you bear with me one second. I beg your pardon.

On Page 4 under Section 8, on Line 20 where it reads "did not deliberately provide false information to secure registration in a precinct in which the voter does not reside," I'm trying to understand what you mean when you put "deliberately provide false information."
SEN. FRASER: Senator, again --

SEN. URESTI: And (2) --

SEN. FRASER: -- I don't want to interrupt you here, but you're quoting current law. That's law right now that we have been living under for some period of time. And if you've got a question about the interpretation of the Secretary of State's rule on that, I bet they would answer it.

SEN. URESTI: And I hope they can. But, Senator, this is part of your bill, though. (1) --

SEN. FRASER: Now, just a second. You know the way this works in legislation is that if it's current law, you reprint current law. And if you're going to make a change, you insert it and underline. And all we're doing there -- we could have left all that out and make you work and go see how it fits together. But, you know, you have been here a long time, and you know that's the way it works is, we go ahead and tell you what current law is so it reads correctly. I didn't make that law up. It's just a law that is there. And I think you could ask the Secretary of State the way it's interpreted.

SEN. URESTI: And I appreciate that. But did you not strike certain language from current law in this bill, Sen. Fraser?
SEN. FRASER: If it was struck -- did we strike -- just a second.

(Brief pause)

I'm not advised as to whether we struck something. I believe the language that you're referring to on Line 20 is current law and above and below it is current law. And I, to my knowledge -- but again, I think you should ask the Secretary of State that.

SEN. URESTI: And I'll do that. Thank you, Sen. Fraser.

SEN. FRASER: You bet. Thank you.

SEN. DUNCAN: Sen. Van de Putte.

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

And, Sen. Fraser, I'm . . .

SEN. FRASER: It was wishful thinking.

SEN. VAN de PUTTE: And I would have hoped that this question would have been asked before, and I've listened and it's not, and I know that we would love to --

SEN. FRASER: I would love to have a new question.

SEN. VAN de PUTTE: Well, thank you.

I'm going to be very, very quick. I am looking at
SEN. FRASER: Just a second. Let me get my glasses, Senator. Hold on. I'm deaf and blind.

SEN. VAN de PUTTE: Section 10 of the bill.

SEN. FRASER: Section 10. What page?

SEN. VAN de PUTTE: Page 5, Line 27.

SEN. FRASER: Got it.

SEN. VAN de PUTTE: In that section, there is a change from the United States citizenship papers -- and you strike that -- to certificate. Tell me, what is the difference between a certificate and the papers?

SEN. FRASER: Senator, again, you and I have served together a long time. And you know when these bills come from Leg. Council, that if there is clean-up legislation, they need to clarify something that is either case law. The answer is, I don't know why they struck that.

SEN. VAN de PUTTE: Well, it --

SEN. FRASER: It was not our recommendation. This came from Leg. Council this way. I can find out the answer to that --

SEN. VAN de PUTTE: Okay.

SEN. FRASER: -- but I can honestly say
I don't know.

SEN. VAN de PUTTE: Okay. Well, I think there is different terminology. It is my understanding, since I represent a Hispanic district -- and many of the senators here have a number of Hispanics -- this is especially important for naturalized citizen. It is my understanding that the certificate means the 8-by-11 certificate with a photo that is given at the time of naturalization. So it does have a photo, and it's under your section that it would be okay for a photo. My question is that the government also issues a wallet-sized card that is listed as a paper. That could be part of the paper, but it has no ID.

On the section of the bill that you talk about non-photo, which would be Page 6, Line 24, it says "United States citizenship papers." Papers I think are the card. But the papers, are they the certificate? And the reason I ask is, because at the time of naturalization -- and many of us have Hispanics in our district that as young children were naturalized. That picture is of a child and doesn't match up. So how --

SEN. FRASER: Senator -- and again, I don't want to dodge your question. I think probably
this is a legitimate question to ask the Secretary of State.

SEN. VAN de PUTTE: Okay.

SEN. FRASER: I'm not sure they can answer that one. But I will tell you my intent on this is not to deny any legal voter that should have the right to vote, and that if someone is using this as a source of documentation and it is a legal documentation that proved they are who they say they are, I want them to be able to use it. I want all Hispanics that you represent --

SEN. VAN de PUTTE: Yes.

SEN. FRASER: -- to have the ability to vote under this bill, and my intent is to increase their right to do that. So if there is a tweak needed there, I can tell you I'm open to it. I don't know the answer to the question you're asking.

SEN. VAN de PUTTE: Well, thank you. In researching that, there is a difference between "certificate" and "paper." On one, the certificate does have a photo ID; the paper does not. And I think that's probably why Leg. Council did that.

SEN. FRASER: You and I could probably sit down with a Leg. Council lawyer, ask them what happened, the meaning of that. And it is certainly
not my intent in any way to deny someone the right to vote. My intentions are exactly the opposite. I want them to be able to identify themselves and vote.

SEN. VAN de PUTTE: Well, thank you, Senator, because the picture photo for many of my constituents who have been naturalized and are now adults or maybe even elderly does not match up, because that was taken at the time of naturalization.

And my fear was that an election clerk, having to know the difference between certificates and paper and then maybe the name not matching up, particularly for women who then would be -- the naturalization paper certificate would never match up with your married name if you were naturalized as a child, and that would be extremely discriminatory toward Hispanic citizens and particularly to this state, which may not have been a problem in Georgia or Indiana but is definitely a problem here, and I appreciate that.

SEN. FRASER: Not a -- absolutely, we want -- if someone is a legal citizen and has identification and they're registered to vote, then I want them to have the ability to do that.

One of the questions you just asked about the picture not matching up, I would also advise
you to ask the Secretary of State that, is that I think there's methodology, that it's even addressed -- it was anticipated -- in some of the things I read, that if I grew a beard and I don't look like I used to, a methodology to make sure that we could verify who you say you are.

SEN. VAN de PUTTE: Thank you, Senator. And I have one follow-up question. You and I have the luxury and the blessing of representing many now Texas residents who are voting in the state who happen to be military families and military members. And I know you are well aware of Fort Hood and Sen. Shapleigh at Fort Bliss. My question is a follow-up to Sen. Uresti's questions on military ID.

Many times the identification of record doesn't have the address of the voting. So if they were voting here but their address of record is at -- how would, under your bill, a clerk treat that inconsistency of a nonmatch-up for our military members?

SEN. FRASER: Again, Senator -- and I thank you for acknowledging my district being impacted. I believe that I have the largest number of ex-military in the state living in my senate district, you know, former military. I want to make sure that
they have the right to vote.

Yes, they do change addresses, but this is something that we have been coping with for years, even under our current system. Again, I think the Secretary of State is capable of not only answering that question but also making sure we have a seamless transition to this, because it's extremely important to me, and I know it is to you, is that I want to make sure that our brave men and women that have served this country preserve that very basic right in making sure they get to vote in elections.

SEN. VAN de PUTTE: Thank you, Senator. I appreciate that. And I want to clarify, just for the last time, so that I understand. With the changes that you are proposing, every Texan who wishes to cast a ballot would have to bring both their certificate, voter certificate that's issued by the jurisdiction that they've registered in, and some sort of photo identification. Is that correct?

SEN. FRASER: Well, that's not exactly, the way you phrased that. Actually, for someone to vote, all they've got to do is show up. So that the -- I need to ask a question. I just thought of something.

(Brief pause)
Okay. I'm sitting here having a discussion with my staff, clarifying that that is the case. And I can tell you, my intent on this would be that it's -- here would be the example I would give you. I go to Marble Falls or Horseshoe Bay to vote. I never have my voter ID. I always just pull out my driver's license. Let's just say for some reason I forgot my driver's license. My intent would be, if I have two other pieces of identification listed here and they match up with the voter roll and it says, "Troy Fraser, 103 Lighthouse," a particular precinct, it would be my intention you should vote.

SEN. VAN de PUTTE: Well, that's --

SEN. FRASER: I'm not clear -- I want to make sure, as you do -- and I think what you're raising is making sure that the bill absolutely says that, and that is the intent.

SEN. VAN de PUTTE: Well, thank you, Sen. Fraser, because the way I looked at this, I thought that every Texan who wants to cast a ballot now will have to present with both the voter certificate and a photo ID or the certificate and two alternate forms. So you either have a two-fer or a three-fer. And I'm just wondering if that's correct or if someone shows up and they do not have their
certificate, do they just need a photo ID? And if they show up and they don't have their certificate or a photo, what other two --

SEN. FRASER: I don't have the answer for you today. I'll be honest with you, that I've got to look at that. I wish I could give you an answer on that, but I don't have an answer right now. And I've got to look at the bill, talk to the Secretary of State's office, see how that flows together, look at the election official and determine how we blend that together.

My intention is that I want everyone to vote. I'll give you that as a blanket answer. My intention is that if someone can prove who they say they are, I want them to vote.

SEN. VAN de PUTTE: Thank you, Sen. Fraser.

SEN. FRASER: Thank you.

SEN. DUNCAN: Nobody else?

All right, members. Sen. Gallegos -- I thought I had lost count.

SEN. GALLEGOS: A question of the author.

SEN. FRASER: This is the three-minute rule. Are we using the egg timer rule?
SEN. GALLEGOS: Well, you already surpassed that, so I thought I would --

SEN. FRASER: No. I'm still just answering your questions.

SEN. GALLEGOS: Well, Senator, let me ask you, have you thought about the state of our economy and the steadily rising number of foreclosures taking place? And I'm talking about this bill. Just last week, the Dallas Morning News reported that the Carrollton-Farmers Branch School District has seen 185 percent increase in the 2008-2009 school year of homeless students.

SEN. FRASER: Senator, can you help me here? I'm having trouble. I'm looking at the bill, and I'm having trouble finding the place that has to do with foreclosures.

SEN. GALLEGOS: Well, no, no, no. I'm getting to my question, if you allow me.

SEN. FRASER: I will.

SEN. GALLEGOS: These are people in the State of Texas whose entire families are affected. And the homeless, as you know, well know, they move around a lot. They're U.S. citizens, and they move around a lot and stay in cars, in shelters and sometimes relatives' houses. But the important thing
is that they do not have a permanent residence, even though they're U.S. citizens.

And I guess -- and they don't have utility bills, they aren't on a current regular schedule. And to show, if that is asked for when they go to a precinct to vote, I guess my question is, under your bill, under this scenario, is there a limit on how many times they can get an official DPS ID to vote every couple of weeks?

SEN. FRASER: Well, first of all, I'm confused in your description of this, because for someone to register to vote and be legal to vote, they have to specify the precinct that they're in. And that's one -- I think one of the requirements that the Secretary of State looked for, is that you have to be a resident voting in a specific precinct, and they had to mail that to somewhere. But the answer to your question that you were getting to is, is there a limit on the number of IDs they can get? And, no, there is no limit.

SEN. GALLEGOS: There is no limit under your bill?

SEN. FRASER: No limit.

SEN. GALLEGOS: Okay. All right. Thank you.
SEN. FRASER: Unlimited IDs.

SEN. GALLEGOS: There's unlimited ID.

Okay. All right. Thank you.

SEN. FRASER: Thank you.

SEN. DUNCAN: Okay, members. If there are no other questions, we are now ready to move into the invited testimony phase of the hearing. So at this point in time, I think I have been submitted -- actually, we had the Secretary of State collect the list from the author and those who might be opposed to the bill.

And, as stated earlier, I will first invite -- we'll have Hans von Spakovsky to testify first. He is proposed by Sen. Fraser. And then followed by that, we'll have Tova Andrea Wang, who is proposed by Sen. Van de Putte. If we could bring them into the chamber. And we will have a timer that will be 10 minutes.

Sen. Van de Putte, I believe you had a witness that you needed a little bit longer time. Is this the witness?

Okay. And, members, again I'll state again, we will not recognize anybody for a question during the 10-minute period of time for layout. Thereafter, we will allow questions. I'll remind you
that we have the public testimony that will follow
after the invited testimony, so be efficient. But,
you know, you're entitled to ask your questions.

So is Mr. von Spakovsky in the chamber?

And for the sake of time, if we could go
ahead and bring Tova Andrea Wang into the chamber.

Is this -- who is this?

(Off-the-record discussion)

SEN. DUNCAN: Mr. von Spakovsky.

Okay. She will go second.

Okay, Mr. von Spakovsky, you're
recognized. You need to state your name and who you
represent. I believe you have turned in a witness
affirmation card. You have 10 minutes. That will be
strictly enforced. And you have a timer there in
front of you. You can begin.

(Proceedings continued in Volume 1B)
TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-FIRST LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE:

CONSIDERATION OF
SENATE BILL 362

COMMITTEE OF THE WHOLE SENATE

TUESDAY, MARCH 10, 2009

BE IT REMEMBERED THAT AT 5:50 p.m., on Tuesday, the 10th day of March 2009, the above-entitled matter continued at the Texas State Capitol Senate Chamber, Austin, Texas, before the Committee of the Whole Senate; and the following proceedings were reported by Aloma J. Kennedy, a Certified Shorthand Reporter of:

VOLUME 1B
PAGES 209 - 480

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MR. von SPAKOVSKY: Thank you, Mr. Chairman, senators. I appreciate the invitation to testify here today. My name is Hans von Spakovsky. I'm a legal scholar at the Heritage Foundation, although the opinions here today are my own.

Just by background, I've got extensive experience in voting and election issues. I spent four years at the Department of Justice as a voting counsel. I spent two years on the Federal Election Commission. I also spent five years as a member of a county election board in Atlanta, Georgia, in Fulton County, which is the largest county in the state, and it's a county that's about half African-American.

Guaranteeing the integrity of elections requires having security throughout the entire election process, from the voter registration to voting in the polls on Election Day to counting the ballots. I doubt any of you here would think it would be a good idea to give worldwide Internet access to the computers that are in a county election department.
that tabulate the vote.

Requiring someone to authenticate their identity in the polling place is part and parcel of the same kind of security. Every illegal vote steals a vote from a legitimate voter. And voter ID doesn't just prevent impersonation fraud at the polls, it also can prevent people from voting under fictitious voter registrations and also double voting by individuals who are registered in more than one state.

Voter fraud does exist, and criminal penalties imposed after the fact are not sufficient to protect against it. That claim was, in fact, raised in the Indiana case, and the Supreme Court said that despite such criminal penalties, there are flagrant examples of such fraud that have been documented throughout this nation's history by respected historians and journalists. They not only demonstrate the risk of voter fraud is real, but it could affect the outcome of a close election.

You've had some questions about why there not been more prosecutions of voter impersonation. Well, as the Seventh circuit said in the Indiana case, it's hard to prosecute something when you don't have the tool to detect it, voter ID.

However, if you want a good example of
this, I wrote a paper last year for the Heritage
Foundation that detailed a publicly released state
grand jury report in New York City, 1984, which
detailed a successful and undetected 14-year
conspiracy in which impersonation fraud was carried on
at the poll and thousands of fraudulent ballots were
cast in not just state legislative primary elections
but also in congressional elections.

Crews of from five to eight people were
recruited and sent from polling place to polling place
where they voted in the names of legitimate voters,
people who were dead but still on the registration
lists, individuals who had moved and also under the
names of fictitious voter registration names that had
been successfully registered.

According to the grand jury, the advent
of mail-in registration was a key factor in this
fraud. It could have been easily stopped if New York
had had voter ID. In recent elections, as you know,
thousands of fraudulent voter registration forms were
detected by election officials. But given the minimal
screening efforts in many election jurisdictions,
there is no way to know how many others slipped
through. In states with ID, election officials --
without ID, election officials have no way to prevent
bogus votes from being cast.

The problem of double voting -- well, I'll give you an example of that. In the Indiana Supreme Court case, the League of Women Voters filed an amicus brief against the law. And in it they illustrated an Indiana voter, an elderly woman who they said had had problems voting. The local paper went and interviewed her.

The reason she had had problems voting, she tried to use a Florida driver's license when she went to her polling place in Indiana. Not only did she have a Florida driver's license, she was registered to vote in Florida. In fact, she owned a home in Florida and had claimed a homestead exemption which, as you know, you can only do if you are a resident of the state. So the law actually worked to prevent someone who could have voted twice without detection.

I don't mean to single out Texas. But just like Indiana, New York and Illinois, Texas has a long and unfortunate history of voter fraud. In the late 1800's, for example, Harrison County was so infamous that the phrase "Harrison County methods" became synonymous with election fraud. Box 13 has already been mentioned. The point is that there are
individuals who are willing to break the law to try to steal an election.

I don't claim that there is massive voter fraud in Texas or elsewhere. In fact, I'm a former election official, and I think most of our elections are run pretty well. But the potential for abuse exists, and there are many close elections that could turn on just a handful of votes. And there are enough incidents of voter fraud to make it very clear we should take steps to stop that.

Now, the biggest thing I've heard today is that voter ID will suppress the votes of voters, particularly the poor or the elderly. That is untrue. Social science research shows that that's not the case. And the actual election results in the two states with the strictest voter ID in the country show that is not true.

The Heritage Foundation released a study in September 2007 that looked at voter turnout in every state in the country in the 2004 election, comparing those states who had voter ID to those states who do not. They found that voter ID laws do not reduce the turnout of voters, including African-Americans and Hispanics, that those voters were just as likely to vote in states with ID as in states where
just their name was asked.

A study by professors at the University of Delaware and Nebraska-Lincoln examined data from the 2000, 2002, 2004 and 2006 elections. The study found that voter ID laws do not affect turnout, including across racial lines, ethnic lines and socioeconomic lines. The study concluded -- and I'll give you their quote -- the "concerns about voter ID laws affecting turnout are much ado about nothing."

A professor at MIT, as part of the CalTech Voting Project, did a survey of 36,000 individuals to see what their Election Day experience was like. Overwhelming support for voter ID. Only 23 individuals who had a problem voting because of voter ID. And there was no indication in the survey if they were actually eligible voters.

A lot of talk has been here about election results in Georgia and Indiana. In Georgia, there was record turnout in the 2008 presidential primary after the voter ID law went into effect, a million more voters than in 2004, when there was no voter ID law in effect.

The number of African-Americans voting in the 2008 presidential primary doubled from 2004 when there was no voter ID law in effect. In fact,
there were 100,000 more votes in the Democratic Primary in Georgia than in the Republican Primary. The general election in Georgia, one of the strictest voter ID laws in the country, largest turnout in its history. Democratic turnout was up 6.1 percentage points from the 2004 election when there was no voter ID. Overall turnout in Georgia was 6.7 percentage points higher than in 2004, the second highest increase of any state in the country.

The Georgia law has been upheld in every federal and state court. And, in fact, the Georgia judge, who is a former Democratic legislator appointed by Jimmy Carter, pointed out that in two years of litigation, none of the organizations who sued, including the NAACP, could come up with a single witness, a single individual who could not vote because of the voter ID requirement.

In Indiana, Democratic presidential preference primary last year, Democratic turnout quadrupled from the 2004 election. In fact, it was up 8.32 percentage points from 2004, the largest increase in Democratic turnout of any state in the country. And the Supreme Court said, "Indiana has the strictest voter ID law in the country."

We are only one of about 100 democracies
that do not require photo ID. Our southern neighbor,
Mexico, which has a much larger population in poverty,
requires both a photo ID and a thumb print when people
go to vote. Since they put that provision in, in the
mid-1990s, turnout has increased in their elections.

Requiring voters to authenticate their
identity is a perfectly reasonable and easily met
requirement. It's supported by the vast majority of
voters. All the polling data shows that. And it
protects the integrity and reliability of the
electoral process, as the Supreme Court said, and it
also maintains the confidence of individuals in the
security of their elections.

And I'm done, Mr. Chairman.

SEN. DUNCAN: Thank you, Mr. von
Spakovsky. Before I entertain any questions, you have
written testimony. Do you wish to submit that into
the record?

MR. von SPAKOVSKY: I would like to
submit it. I believe I gave it to the Clerk, Mr.
Chairman.

(Exhibit No. 14 marked and admitted)

SEN. DUNCAN: Okay. We have it marked
as Exhibit 14.

Members, are there any questions for
Sen. West.

SEN. WEST: Will we be asking questions from the chair or standing up?

SEN. DUNCAN: Standing up.

QUESTIONS FROM SENATE FLOOR

SEN. WEST: Okay. Sir, let's talk about your background. We've met before, back in 2003 I think it was. As it relates -- are you coming as a neutral and detached witness or have some sort of bias one way or the other for this particular issue?

MR. von SPAKOVSKY: I'm not quite sure how to answer that question.

SEN. WEST: Well, let me ask the question this way: You are a former Republican chair, are you not?

MR. von SPAKOVSKY: I was a county party Republican chair over 10 years ago.

SEN. WEST: Okay. Have you authored studies or position papers on requiring voter IDs at polling locations?

MR. von SPAKOVSKY: I have. In fact, I wrote an article for a Texas Law Review on it.

SEN. WEST: Have you authored articles on requiring the verification of social security
numbers of voters?

MR. von SPAKOFSKY: I have. And, in fact, that's now a federal requirement under the Help America Vote Act.

SEN. WEST: Have you authored articles on eliminating no-fault absentee voting?

MR. von SPAKOFSKY: I believe I have, yes.

SEN. WEST: And what's the rationale -- what is your rationale for no-fault absentee voting? And let's define it first of all. As I understand no-fault absentee voting, that basically means that a person should not be able to give any reason not to -- any reason in order to cast an absentee ballot. So a person who may very well have business outside of the county on Election Day, if you had your way, they would not be able to vote. Correct?

MR. von SPAKOFSKY: That's incorrect, Senator.

SEN. WEST: Okay. Then what is the elimination of no-fault absentee voting?

MR. von SPAKOFSKY: There are some states -- in most states, you have to have a reason to vote absentee: You're disabled, you're elderly, you're going to be out of town on business. I
1 completely agree with those, plus the fact if you're a
2 military voter. There are some states where you don't
3 have to have any reason to vote absentee.

4 SEN. WEST: Is Texas one of those
5 states?
6 MR. von SPAKOFSKY: I'm not sure what
7 the rule is in Texas.
8 SEN. WEST: If we were, then you would
9 want to eliminate that. Right?
10 MR. von SPAKOFSKY: Well, there are two
11 things there, Senator. The first is that absentee
12 ballot fraud is one of the biggest sources of voter
13 fraud. In fact, I've written a paper about that.
14 And, second, there's more than one study -- in fact,
15 one by the Center For the Study of the American
16 Electorate which indicates that states that have put
17 in no-fault absentee balloting, in fact, it has
18 possibly hurt the turnout of their voters.

19 SEN. WEST: In terms of other articles
20 that you have worked on, the white papers that you
21 have written eliminating motor voter registration --
22 MR. von SPAKOFSKY: That's incorrect.
23 SEN. WEST: Okay. You're not for
24 eliminating motor voter registration?
25 MR. von SPAKOFSKY: I think there are
problems with mail-in voter registration, but I also think that the provisions of motor voter which require you to be able to get registered to vote when you go get your driver's license or when you go to a public assistance office, I think those are very good provisions.

SEN. WEST: What about the requirement of two witnesses on a notary to sign an absentee ballot, are you for? Have you advocated that or what?

MR. von SPAKOVSKY: I believe that because of the problems with absentee ballots and voter fraud, that having either a witness or a notary for an absentee ballot is a good idea.

SEN. WEST: You have indicated that there's numerous studies that show that there has been no impact, negative impact on the minority vote in several states, and you've alluded to some 2008 elections. Let me put a pin in that for a second. Have you been the author of any of the studies that you have mentioned as relates to voter suppression?

MR. von SPAKOVSKY: To voter suppression?

SEN. WEST: Right -- oh, I'm sorry. I should not have said that.

MR. von SPAKOVSKY: I --
SEN. WEST: I should not have said voter suppression. I apologize. Have you been the author of any studies that deal with the impact of voter ID on minority votes?

MR. von SPAKOFSKY: Yes.

SEN. WEST: And which studies have those been?

MR. von SPAKOFSKY: I wrote a paper that looked at the State of Georgia and some other states that had voter ID laws. And I looked at turnout of African-American voters, both before the law went into effect and after the law went into effect.

SEN. WEST: In the State of Georgia?

MR. von SPAKOFSKY: And, yes, I looked at the State of Georgia.

SEN. WEST: For what year -- years?

MR. von SPAKOFSKY: I started with the first voter ID law that went into effect in Georgia in 1999, which was then amended later on, and I looked at the effects of all of those laws.

SEN. WEST: Okay. Did you also look at 2008?

MR. von SPAKOFSKY: The paper was written before the 2008 election.

SEN. WEST: Have you looked at any --
have you been the author of any studies that looked at
the 2008 election?

MR. von SPAKOVSKY: I've written several
articles about that, yes, sir.

SEN. WEST: As relates to those
articles, did you conclude that -- was that in the
State of Indiana or Georgia or what?

MR. von SPAKOVSKY: In some of the
articles I've written, I've mentioned election results
in both Indiana and in Georgia.

SEN. WEST: And so it's your testimony
that voter ID had no negative impact on the minority
vote in either one of those states in 2008?

MR. von SPAKOVSKY: That's what the
facts and figures from the election show.

SEN. WEST: Did you take into
consideration who the candidates were at that time in
Indiana and Georgia. And --

MR. von SPAKOVSKY: Yes, Senator.

SEN. WEST: -- did that have an impact?
Were you able to check out the influence of President
Barack Obama being on the ballot?

MR. von SPAKOVSKY: Senator, turnout was
up all over the country, particularly in the minority
community, because of Sen. Barack Obama. The point,