SEN. ZAFFIRINI: Well, sir.

SEN. FRASER: That was a quote that was made. It was -- it was used not only there, but it is also used later in the Supreme Court decision.

SEN. ZAFFIRINI: Right. And, Senator Fraser, it is because I was surprised at that statement that we followed up, and it seems that that is in the report. But there is other information in addition to that, so I could turn around and say, "Well, are you taking it out of context?" I won't raise that question as a courtesy, but I could raise it.

But on the other hand, what I want to make very clear is that the reason we followed up was that you made this opening statement.

SEN. FRASER: Your letter is dated January the 24th. I made the statement this morning. Was -- did I make the statement, and then he -- he wrote the letter and sent it to you today?

SEN. ZAFFIRINI: Well, I requested it today, so that's perhaps a typo because we received it today. Let me check. We received it -- we received it this morning.

SEN. FRASER: Before I made the statement?

SEN. ZAFFIRINI: It should be January 25th.
SEN. FRASER: But you -- you said that you responded -- that you requested it after I made the statement in my --

SEN. ZAFFIRINI: I requested --

SEN. FRASER: -- opening comments.

SEN. ZAFFIRINI: I requested this information based on your opening statement, and I received this letter today. That's correct. Okay?

Thank you very much, Senator. I appreciate, as I said, your courtesy and your patience.

SEN. FRASER: Thank you.

CHAIRMAN DUNCAN: Members, we've been going for a while, and I think it would be -- we're kind of at a -- maybe getting close to a breaking point. Why don't we go ahead and take a ten-minute break and then reconvene, give the court reporter and staff a minute or two to rest. So a time certain, we'll stand at ease until 2:30.

(Recess: 2:21 p.m. to 2:34 p.m.)

CHAIRMAN DUNCAN: Senate Committee of the Whole will come back to order. Senator Hinojosa?

SEN. HINOJOSA: Thank you, Mr. Chairman.

Senator Fraser?

SEN. FRASER: These are actually pretty good.
SEN. HINOJOSA: Can you hear me?

SEN. FRASER: Yes, this is -- these are much better. Yes, I do. I can hear you.

SEN. HINOJOSA: I just have a few questions that I'd like to follow up on.

Do you know how many people are registered to vote here in the state of Texas?

SEN. FRASER: Oh, I do -- I'm sorry, I do not know.

SEN. HINOJOSA: Approximately, 13 million.

SEN. FRASER: Okay. 13, yeah. Okay.

SEN. HINOJOSA: Yeah. And do you know how many voted in the last election?

SEN. FRASER: No, I'm not advised on that either. I'm sorry.

SEN. HINOJOSA: Close to 5 million voters voted this last election. And do you know how many people were arrested or prosecuted or indicted for trying to use somebody else's voter registration card?

SEN. FRASER: I'm sorry, not -- no, I do not have that number.

SEN. HINOJOSA: None?

SEN. FRASER: I don't -- I don't have the number, I'm sorry. I'm not advised.

SEN. HINOJOSA: Well, do you have any
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SEN. FRASER: I'm sorry?

SEN. HINOJOSA: Do you have any evidence?

SEN. FRASER: Evidence?

SEN. HINOJOSA: Yeah, evidence to support your bill about voter fraud when they go to vote?

SEN. FRASER: Senator, you know the thing that we're trying to address here is that, as you know, it's virtually impossible to defect voter fraud because our current law makes it impossible not only to -- to verify that they're voting illegally, but even if you catch them, we don't have the ability to stop them from voting. So the -- the ability to stop someone today voting illegally is almost impossible in Texas. That's the thing that I'm trying to address with my bill, is that we believe if we make them show a voter ID, then we will know that they are who they represent themselves to be.

SEN. HINOJOSA: Actually, Senator Fraser, back home, most of the election judges know who the voters are in their precincts.

SEN. FRASER: Well, that's interesting. Back home, in the area you're from, most of the -- or a lot of the stories that I've seen reported to the media -- and actually, you've got two voter registrars
through your area that have endorsed this concept because they are -- they are having a problem with voter fraud, and I -- that actually -- I'm -- I'm responding to things I've read they've said in the media. But I believe there are numerous registrars that believe this is a -- a large problem.

SEN. HINOJOSA: Well, I hear what you're saying, but I don't see any evidence. There's a lot of anecdote, a lot of rumors and guessing and speculation, which I don't think it's a way to make good public policy.

Are you familiar with the Carter-Baker Commission on federal election reform?

SEN. FRASER: Senator, what are you -- I'm sorry. What --

SEN. HINOJOSA: Are you familiar with the Carter-Baker Commission on federal election reform?

SEN. FRASER: Yes, I am.

SEN. HINOJOSA: Okay. Are you aware that by putting a requirement of having a photo ID to be able to vote, that there are approximately 3 million registered voters in the state of Texas that do not have voter ID?

SEN. FRASER: I don't know where you get that number.
SEN. HINOJOSA: Well, if you look at 3 million people who are going -- who will be kept from voting as compared to you cannot show anybody getting prosecuted -- getting prosecuted and convicted voter fraud, that's one big difference, one big price to pay for a bill that you don't have any evidence to support there's voter fraud.

SEN. FRASER: One second, Senator. My -- my iPhone is interfering with my microphone.

The 3 million number, where do you get that?

SEN. HINOJOSA: That's the estimate by the Carter-Baker Commission on federal election reform that here in Texas --

SEN. FRASER: Can you -- can you show me where it says in that Commission report? I don't remember.

SEN. HINOJOSA: Yes, sir, it's a letter dated January 24th, 2011, from Professor Spencer Overton addressed to Senator Judy Zaffirini where he states that approximately 3 million Texas voters do not have photo ID.

SEN. FRASER: Senator, that is --

(Simultaneous speaking)

SEN. FRASER: -- pure speculation by that
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gentleman. He has nothing to base that on, and that is not in reference to the Carter-Baker report. That is an estimation by some, you know, political hack that -- that y'all have asked to write a letter.

SEN. HINOJOSA: Well, actually, I thought it was the opposite. I thought your side was pure speculation. Thank you.

CHAIRMAN DUNCAN: The chair recognizes Senator Williams.

SEN. WILLIAMS: Thank you, Mr. Chairman. Would Senator Fraser yield for some questions?

SEN. FRASER: I will yield.

SEN. WILLIAMS: Senator Fraser, there's several things that I wanted to clear up for the record. The first, I'd like to make a reference back to the Secretary of State has recently sent this letter -- she sent it over today -- that indicated that there would be probably $2 million of the HAVA funds that would be available for voter education, to help fund the voter education efforts that we would have in connection with this bill. And it would be -- normally, it would be the Secretary of State's office who would develop what those problem programs are with taking into account our legislative intent about what we're trying
to accomplish. Is that right?

SEN. FRASER: Yes.

SEN. WILLIAMS: The other thing that I wanted to correct, for the record, Senator Watson opined earlier that a lot of this funding for these items had been struck in the budget, and actually, I went back and pulled a copy of the budget. I had not looked at this part, and so there were some budget riders that had expired and that were no longer relevant in the current budget. Those were struck. And under Strategy B.1.4, under elections improvement, administer Federal Help America Vote Act, we actually have, it looks like, a total of about $43 million over the next biennium that's been appropriated in the budget that Senator Ogden laid out for us earlier. So I just wanted to clear that up for the record because that's kind of been a moving target.

Another question that I had for you was the -- I wanted to go back, if I could, and -- and just touch on what my understanding after hearing all this questioning that's gone on, what your -- the purpose of your bill is -- really is to deter and detect fraud in-person voter fraud at the polls. Is that correct?

SEN. FRASER: That is correct.

SEN. WILLIAMS: Okay. And has the United
States Supreme Court -- I believe they've stated that it's been documented throughout our nation's history by respected historians and journalists, and they demonstrate not only that the risk of voter fraud is very real, but they could affect the outcome in a close election. Does Senate Bill 14 provide the kind of safeguard against that fraud that might be crucial in an election?

SEN. FRASER: Yes, it does, Senator.

SEN. WILLIAMS: Now, we've had some close elections, even in the Texas Legislature. I know over in the House right now, there is an election contest that's been -- for Senate, State House District 48. It's being contested. The last numbers that I saw from the Secretary of State showed that Donna Howard had won her seat by 12 votes, which amounts to .02 percent of all the votes cast in that race. And, of course, back in 2008, Linda Harper Brown up in Dallas County defeated her opponent by 19 votes, or .05 percent of the total votes cast in that race.

Are those the kind of close elections you think that the Supreme Court might have been referencing when they said in Crawford 533 U.S. at 11-12 that it's -- the threat's not only real, but it's actually -- you know, it demonstrates it's not real, but it could
affect the outcome of a close election?

SEN. FRASER: The answer is absolutely, yes, and it actually the -- it's even closer to home. Senator Jackson, when he was elected to the Texas House, ended up winning by seven votes.

SEN. WILLIAMS: Landslide Jackson --

SEN. FRASER: Landslide Jackson.

SEN. WILLIAMS: -- I think they called him.

SEN. FRASER: So if -- fraud, in an election like that, could have changed history.

SEN. WILLIAMS: Senator Fraser, Senate Bill 14 provides safeguards to protect the reliability and integrity of our voting system, especially those in close elections like we've just talked about?

SEN. FRASER: Yes.

SEN. WILLIAMS: Okay. I believe in this Crawford v. Marion, on Page 10, the Supreme Court brief, they quoted -- the United States Supreme Court quoted the Carter-Baker report that has been referenced here. And in that report, their quote was, "There's no evidence of extensive fraud in the U.S. elections or of multiple voting, but both occur, and it could affect the outcome of a close election. The electoral system cannot inspire public confidence if no safeguards exist
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to deter or detect fraud or to confirm the identity of
evoters. Photo identification cards currently are needed
to board a plane, enter federal buildings, and cash a
check. Voting is equally important."

Is that your understanding? Is Senate
Bill 14 designed to inspire that public confidence in
close elections like --

SEN. FRASER: Yes, it is.

SEN. WILLIAMS: -- we talked about?

Senator Fraser, do you recall the
testimony and exhibits that we provided in 2009 -- now
it's been admitted earlier today as Exhibit 1 -- that
detail the extensive voter fraud in Harris County and
other areas of the state?

SEN. FRASER: Yes, I'm very familiar with
it.

SEN. WILLIAMS: Okay. Senator, having
listened to what I heard and just read a minute ago from
the Carter-Baker Commission and the language that was
adopted from them in the Supreme Court brief, are you
aware of how difficult it is to not only to discover but
to prosecute voter fraud?

SEN. FRASER: Yes, it is very difficult.

SEN. WILLIAMS: And having said that,
do -- do you think that that's one of the reasons we
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don't see many of these cases that are prosecuted
because if someone is voting deceptively as someone
else, it's going to be very difficult to discover that
if they're successful?

SEN. FRASER: And that was recognized by
the U.S. Supreme Court in their decision.

SEN. WILLIAMS: So are you offering Senate
Bill 14 as a tool for the state of Texas to detect and
deter this type of voter fraud and further inspire
confidence in our voters and the voting system, to make
sure that all Texans and all of our elections are
conducted with the upmost integrity and equity to all
Texans?

SEN. FRASER: Absolutely. That would be
my reasoning.

SEN. WILLIAMS: Okay. Couple of things
that I just think that it was important to get back into
the record again about what the Supreme Court actually
said in Crawford v. Marion; and all of this, of course,
was included in the record last time.

I thought it was interesting that Justice
Stevens comments about this. He said first, the state
has an interest in deterring and detecting voter fraud.
They have a valid interest in participating in a
nationwide effort to improve and modernize the election
procedures that have been criticized as antiquated and inefficient, and the state, in that case, also argues that it has a particular interest in preventing voter fraud in response to a problem that is, in part, the product of its own maladministration; namely, that in the case -- in this case, Indiana's voter registration roles included a large number of people who were either deceased or no longer live in Indiana.

Now, Senator Fraser, when I look back at the record that we had introduced as Exhibit 1 today, didn't that record include many, many instances where we had people who were registered at fictitious addresses who had been voting or people who were deceased? I think my own brother came and testified that our grandfather had voted for 62 years after his death, and my grandmother had a very difficult time trying to get him taken off the voter roles and, in fact, had not been able to do so.

SEN. FRASER: Yes, I'm -- I'm -- remember that very well.

SEN. WILLIAMS: Okay. And so, you know, there's been a lot of talk about the burden on people, and Senator Davis made some very compelling and interesting remarks in her comments. But I would say that, you know, wouldn't you think that especially for
the elderly, which we've had a big focus on here today, of the inconvenience on elderly voters, people who are age 65, don't they have an opportunity to use a mail-in ballot and they completely bypass any restrictions that your bill or inconveniences that it might cause them?

SEN. FRASER: I'm actually surprised at the percentage now of people that do mail in ballots. That percentage continues to increase, and so someone that did have a problem getting to the polls -- and, you know, I gave the example last year of my -- my mother in the retirement center, that she couldn't get to the -- it was too much -- it's too hard for her to get to the polls, but she voted by mail. And there's -- there are people in that category, and we have that safeguard in Texas.

SEN. WILLIAMS: Well, and -- and I think we all care about everyone being able to exercise their constitutional right to vote, and along with the provisions that you have for people that are 70 and over plus the mail-in ballots and the fact that provisional ballots can be cast and allow people with expired licenses and that sort of thing the opportunity to prove up who they are, don't you think that addresses many of the concerns that have been raised here today?

SEN. FRASER: Absolutely. They -- and
that was our intent, is that obviously, we want to make sure everyone is afforded the -- the ability to vote, and we think we have those provisions in place so that all Texans, every Texan, will be allowed to vote.

SEN. WILLIAMS: Well, I -- I think it's also interesting, and you've noted several times today, that so far as we could determine from our research, there isn't a single voter in Indiana or Georgia who's raised the issue that they've been disenfranchised since those laws have been enacted. Is that true, to the best of your knowledge?

SEN. FRASER: To the best of my knowledge. And we have asked that question repeatedly, and to the best of our knowledge, we have -- not a single person has come forward in either state.

SEN. WILLIAMS: And I think it's -- you know, when I look at the syllabus of the Crawford v. Marion County election board case that went to the Texas Supreme Court, they note in the syllabus that there's no question about the legitimacy or importance of the State's interest in counting only eligible votes. And I think they go on to say that -- that requiring that and the fact that the cards in the Indiana case, as we're doing, they make those cards free. The inconvenience of going -- of gathering the required documents, posing for
a photograph, does not qualify as a substantial burden on most voters' right to vote or represent a significant increase over the usual burdens of voting. And I think that's interesting that that was noted.

And those provisions that we have are essentially -- in your bill, there are very similar provisions with respect to those matters. Correct?

SEN. FRASER: They -- yes, and I want to clarify. The Crawford case went to the U.S. Supreme Court, and those observations were made in the -- the majority opinion.

SEN. WILLIAMS: Now, they go on to say that it's generally applicable, nondiscriminatory voting regulation, it's universally applicable, it's imminently reasonable because the burden of acquiring, possessing, and showing a free photo identification is not a significant increase over the usual voting burdens, and the State's interest are sufficient to sustain whatever those minimal burdens are.

So we know there's some inconvenience, but we've done everything we can to make that inconvenience as insignificant as possible. Is that --

SEN. FRASER: I will actually go with that in the -- the Crawford/Indiana case.

SEN. WILLIAMS: Just in closing, in my
final comments as -- before we go to take testimony, I just think that it's noteworthy to look back at what the opponents of this legislation have said on the floor thus far today, and what I've heard is very little debate about the actual content of your legislation. And I think that speaks to the fact that it's unequivocally a good idea that people ought to be able to be positively identified as who they say they are when they come to vote.

What I've heard today is a lot of talk about procedures, even though what we're doing is very normal for a Committee of the Whole, and it's the same procedure that we used the last session when we considered this. Is that correct, Senator Fraser?

SEN. FRASER: It is, and I think it's very difficult for a member to argue the merits of the bill when it's so straightforward when you ask someone in their district do they think that someone should -- should have -- be required to show a photo ID when they vote, that you've got near 90 percent of the population across the state of Texas. Again, every one of these members, it's hard to argue of the merits -- argue the merits of the bill.

SEN. WILLIAMS: Yeah, the other thing that I've heard that I think is interesting is fiscal notes.
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A lot of talk about fiscal notes, even though we have a letter from the Secretary of State that states that there are going to be HAVA funds that will be available to help with the voter education, and I think we're going to have testimony in a few moments.

And I tried to clarify that early on that the cost of issuing for the state these free ID cards is less than $2. It's a very minimal cost, and with almost 16 million people that we have who have a driver's license or -- or an ID card now, it seems unlikely that there's going to be a whole lot of people out of that 13 million that actually don't already have a driver's license or a state ID card.

In fact, Senator Fraser, I spoke last night with the Department of Public Safety and today with the Secretary of State and just asked them if it would be possible for us to target those voters who are below age 65 and have -- don't have an ID card, a driver's license or an ID card issued by the state; and they said, yes, it would be possible for us to direct our voter education to those people specifically so that we could step it up and let them know before your bill takes effect -- not till, when, in January? Is that -- am I remembering that correctly?

SEN. WILLIAMS: So a year from now. So we've got a lot of time to let these people know what's coming.

And then the other thing I've heard a lot about is current law, and, you know, there's been a lot of discussion. In fact, a lot of what we've talked about is what's actually on the books right now, and your bill is not touching any of that top side or bottom. Really, most of what you do is very limited by changing what the requirements are when you come to the polls. Is that correct? There's not any other real substantive change to election law here.

SEN. FRASER: We're only addressing the -- the actual in-person voting and the identification required when somebody votes in person. We're not addressing mail-in ballots or any of the other provisions. It's just that one section.

SEN. WILLIAMS: Well, thank you for allowing me to question you about this and I appreciate you bringing this issue before us and I especially appreciate the fortitude that you've shown during this long debate. Thank you.

SEN. FRASER: Thank you, Senator.

CHAIRMAN DUNCAN: Chair recognizes Senator Shapiro.
SEN. SHAPIRO: Thank you, Mr. Chairman.

I would just like to ask one question because we're getting mixed signals, and I just want to make sure. It's just going to take a yes-or-no answer, and I think that will be the easiest.

In Section 7 of your bill, which is actually on Page 5, the requirements for identification prescribed for people who do not have to have a vote -- a photo ID, where it references their age, does the bill require that people 70 or older present a voter registration card and that they be at least 70 years of age on January 1st, 2012?

SEN. FRASER: My understanding and this is, again, something probably the Secretary of State will address, but I believe your age is -- is on the card. So if someone is 70 on January 1, 2012, they will not be asked to show a photo ID.

SEN. SHAPIRO: Okay. And this is something that the Secretary of State has put into this bill?

SEN. FRASER: No. No, I --

SEN. SHAPIRO: This is something that you have --

SEN. FRASER: -- inserted it into the bill. It'd be your interpretation --
SEN. SHAPIRO: I got you.

SEN. FRASER: -- to -- to make sure --

SEN. SHAPIRO: Identify whether it's at hand?

SEN. FRASER: -- that they can identify themselves --

SEN. SHAPIRO: Okay.

SEN. FRASER: -- but it's not intended that they would -- I believe they're --

SEN. SHAPIRO: Separate.

SEN. FRASER: Yes.

SEN. FRASER: It's not intended to be separate. It's intended --

SEN. FRASER: No.

SEN. SHAPIRO: -- to be the same document.

SEN. FRASER: Yes, as long as they're --

SEN. SHAPIRO: Okay.

SEN. FRASER: -- you know, 70 on January 1, 2012.

SEN. SHAPIRO: And the date of birth is on our current voter registration card?

SEN. FRASER: You need to ask that of the Secretary of State.

SEN. SHAPIRO: Okay. And my recollection is it is. Thank you.
SEN. FRASER: Okay.

CHAIRMAN DUNCAN: Chair recognizes Senator Huffman.

SEN. HUFFMAN: Thank you, Mr. Chairman.

Senator Fraser, will you yield for a couple of questions?

SEN. FRASER: I would love to yield.

SEN. HUFFMAN: Thank you, sir. I'd like to commend you, too, for a long day of answering a lot of tough questions.

SEN. FRASER: Thank you.

SEN. HUFFMAN: But I think it's important, as we kind of wrap this part of the procedures up today, that -- that we circle back to -- to the idea and the concept that -- that we got here today. But there is a line of Supreme Court cases that have brought us here. Would you agree with that?

SEN. FRASER: Yes.

SEN. HUFFMAN: And certainly, the Crawford v. Marion case gives us guidance on how to do what we're doing here today properly. Would you agree --

SEN. FRASER: I think that's the one --

SEN. HUFFMAN: -- with that?

SEN. FRASER: -- was referenced, I think, in the Indiana case, I believe.
SEN. HUFFMAN: Okay.

SEN. FRASER: And that's yes.

SEN. HUFFMAN: And did you, as you sat down with your staff and so forth in, you know, pre-session, in the interim, and you started thinking about this bill and so forth, did you and your staff take into consideration Crawford v. Marion and try to follow the law and the rules the Supreme Court has laid out for us?

SEN. FRASER: Yes, without a doubt.

That's already been approved by the Supreme Court, and obviously, we wanted to make sure we stayed within those parameters.

SEN. HUFFMAN: All right. Now, you know, the Supreme Court, I think -- we know that the Supreme Court has told us that there is a balancing test, and we understand that the right to vote is sacred. And so we know that the law tells us that if there is a burden placed upon a voter, that they're going to look very carefully at that; and it's going to have weight, but it's going to be balanced against legitimate state interest. And so I think what we need to explore, just briefly, is that, in fact, we -- we have legitimate state interest. The state of Texas has an interest to make sure that our elections are done with -- well, as
perfect as we can get them but with integrity, right, and with voter confidence.

So as you prepared the bill and as you look at the bill -- and the Supreme Court has told us that there are legitimate interests, and they define those for us. So as you prepared the bill and you look at Senate Bill 14 today, do you think that it addresses the relevant and legitimate concerns of deterring and detecting voter fraud? And I know you've been asked this question a lot.

SEN. FRASER: Absolutely.

SEN. HUFFMAN: Right. Do you think that it -- that it's important in that the bill will help to improve and modernize the election procedures of Texas?

SEN. FRASER: Yes.

SEN. HUFFMAN: Do you think that there's a larger scheme nationwide through the Help America Vote Act and the National Voter Registration -- Registration Act to do just that, to make elections come up to modern times?

SEN. FRASER: Absolutely.

SEN. HUFFMAN: Do you think that Senate Bill 14 will help to prevent voter fraud and actually help to ensure that only the votes of eligible Texas voters are counted in these crucial elections that
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happen in the state of Texas?

SEN. FRASER: That is our intent, and we believe the bill does that.

SEN. HUFFMAN: And do you believe that once we have established these safeguards, that the voters will feel more confident about their vote being counted and only the votes of registered Texans who can vote to be counted?

SEN. FRASER: Yes, that is our belief.

SEN. HUFFMAN: Do you think that once that's established, that it will actually encourage the democratic process and that it will encourage more voters to go to the polls?

SEN. FRASER: The thing we've seen in other states that have implemented photo ID, the -- the voter turnout actually increased. And so, yes, we believe the confidence in the voters will increase, and we believe it will actually increase the voting percentages.

SEN. HUFFMAN: Now, we've heard comments today from many senators, Senator Whitmire, Senator Davis, Senator Uresti, about hypothetical burdens that may be placed on some hypothetical voter. But taking that into account and looking at and trying to balance it, do you feel like we have a bill here that -- that
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<td>SEN. FRASER: Without a doubt.</td>
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<td>SEN. HUFFMAN: All right.</td>
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<td>SEN. FRASER: We believe it does.</td>
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<td>SEN. HUFFMAN: Thank you very much,</td>
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<td>Senator Fraser.</td>
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<td>SEN. FRASER: Thank you, Senator.</td>
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<td>SEN. HUFFMAN: Thank you.</td>
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<td>CHAIRMAN DUNCAN: Chair recognizes Senator</td>
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<td>SEN. WENTWORTH: Thank you, Mr. Chairman.</td>
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<td>Will the gentleman yield?</td>
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<td>SEN. FRASER: I will yield.</td>
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<td>SEN. WENTWORTH: Senator, I want to</td>
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<td>compliment you on your long hours of being on your feet</td>
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in March of '09 said to us: Not only does voter ID help prevent fraudulent voting, but where it has been implemented, it has not reduced turnout. There is no evidence that voter ID decreases the turnout of voters or has a disparate impact on minority voters, the poor, or the elderly. The overwhelming majority of Americans have photo ID or can easily obtain one.

Now, this is in the record from the 2009 hearing, which we've already adopted, but I just wanted to recall some of the testimony that we had.

Another quote was: Recent election results in Georgia and Indiana also confirmed that the suppositions that voter ID will hurt minority turnout are incorrect.

In addition -- and I'm not sure whether this was part of the record in '09, but there is a study of Indiana's photo ID law that was conducted by a University of Missouri professor. He found that requiring identification doesn't have much impact on voter turnout rates. His name is Jeffery Milyo. He's professor of economics and public affairs at the University of Missouri, a part of the Institute of Public Policy of the Harry S. Truman School of Public Affairs.

And his conclusion is -- if I can find it
quickly -- it's a many-page study, and his conclusion is
that the findings that emerge from his analysis are that
photo ID is associated with an overall county level
turnout increase of almost 2 percentage points -- and
this is just in Indiana. This isn't Georgia as well --
an insignificant increase in relative turnout for
counties with a greater percentage of minority and poor
population; no consistent or significant impact on
relative turnout in counties with a greater percentage
of less educated or elderly voters; and finally, a
significant relative increase in turnout for counties
with a higher percentage of Democrat voters.

I was just wondering if you remembered
those things that were testified to two years ago or
whether you were familiar with this university
professor's study.

SEN. FRASER: Thank you for bringing that
forward. It -- yes, I -- now, as you mention it, I do
remember it. The other thing that comes to mind that
was through the testimony two years ago is in the '09 --
I'm sorry -- the '08 president election for '09, that
even though the president was from Illinois, the
adjoining state, Indiana, had doubled the increase of
voting next door in the state -- in Indiana where they
had put in photo ID. Illinois did not have it, but the
increase was double the amount of increase next door. So it certainly didn't show that they were hurt by the implementation of the --

SEN. WENTWORTH: Where Indiana has a photo ID law --

SEN. FRASER: Illinois does not.

SEN. WENTWORTH: Thank you very much, Senator.

SEN. FRASER: Thank you, Senator.

CHAIRMAN DUNCAN: Okay. Members, we have -- that completes all of the Members who want to ask questions of the author. You can sit down for a second, Senator, if you want to. Take a rest. We have a little bit of housecleaning. There's a few witnesses that -- or a few exhibits that may want to go in that we have now made copies of. I think, Senator Van de Putte, you had -- Senator Zaffirini had Exhibit 6 which was a map of the DPS, and we've now had that copied and available to distribute. Do you want to go ahead and offer it into the record?

SEN. VAN de PUTTE: Yes, I will.

CHAIRMAN DUNCAN: Okay. It'll be received.

(Exhibit No. 6 marked and admitted)

CHAIRMAN DUNCAN: And then I believe we
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SEN. VAN de PUTTE: Mr. Chairman, do -- I move to add to Exhibit 6 the counties with Department of Public Safety Driver's License Office Closures prepared by legislative counsel.

CHAIRMAN DUNCAN: Okay. Thank you. That will be received in the record.

Senator Davis, you had an exhibit that you wanted to offer.

SEN. DAVIS: Yes, Mr. Chair. I'd like to add that as -- I guess it would be Exhibit No. 7 to the record.

CHAIRMAN DUNCAN: And I think we have copies to distribute to the Members? Would you describe it, please?

SEN. DAVIS: Yes, I'm sorry. It's the chart that I displayed and talked about earlier in my questions of Senator Fraser. It's exact -- an exact replica of the chart that was displayed on the Senate floor.

CHAIRMAN DUNCAN: It has a -- it's a graphic that has a -- at the top, a title that says, "DL/State ID." Okay. Exhibit 7 will be received in the record.

SEN. DAVIS: Thank you.
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(Exhibit No. 7 marked and admitted)

CHAIRMAN DUNCAN: Are there any other exhibits that --

SEN. FRASER: Mr. President?

CHAIRMAN DUNCAN: -- were discussed that we'd like to include? Senator Fraser?

SEN. FRASER: And I had one that I mentioned that I was going to enter in that I have not yet. It is the Lighthouse Opinion Poll. This is the most current poll that is taken and has a very good breakout of not only across the state, the regions, but also has a breakout, Republican, Democrat, and it breaks out for the African American, Hispanic, and --

CHAIRMAN DUNCAN: Do you have copies of that to distribute?

SEN. FRASER: I have one copy.

CHAIRMAN DUNCAN: Okay. Well, Exhibit 8 will be received, but if you'll go ahead and get copies so that we can distribute those at this time.

(Exhibit No. 8 marked and admitted)

SEN. GALLEGOS: Mr. President?

CHAIRMAN DUNCAN: Senator Gallegos, for what purpose?

SEN. GALLEGOS: I have also some diagrams, but I wasn't going to present them until the time of my

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amendments. I mean, do they need to be entered now or at the time of the amendment?

CHAIRMAN DUNCAN: I don't see any problem with entering them at the time when it's relevant to what you're trying to do.

SEN. GALLEGOS: Yeah.

CHAIRMAN DUNCAN: You can put them in the record at that time --

SEN. GALLEGOS: Okay.

CHAIRMAN DUNCAN: -- when we're --

SEN. GALLEGOS: Then I'll wait till -- till the time of the amendment. Thank you, Mr. President.

CHAIRMAN DUNCAN: All right. Members, the next phase is the invited testimony.

And Senator Van de Putte and Senator Fraser, if you could come up to the -- make sure we've got everybody in the right order.

And while they're coming up, I want to announce that it's my intention to -- we have about 17 -- last check, 17 registered witnesses for public testimony, and I would like to accommodate those witnesses, if we could. So remember that when you're questioning and -- that we have some folks that would like to testify here later on.

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All right. Members, let's go ahead and move into the invited testimony.

The first witness will be Jerry Bonnett, general counsel, Indiana Secretary of State.

Mr. Bonnett? Mr. Bonnett, you'll have ten minutes the timer is right before you. You'll get a yellow light at 30 seconds, I think. And then we'll strictly hold you to the time, and then open it to questions at that time. You'll not be interrupted during your testimony.

INVITED TESTIMONY

TESTIMONY BY JERRY BONNETT

MR. BONNETT: All right. Thank you, Chairman Duncan. I want to thank Senator Fraser and supporters of Senate Bill 14 for inviting me to be here today.

CHAIRMAN DUNCAN: Would you state your name and --

MR. BONNETT: Yes. My name is Jerry Bonnett. I've served as general counsel for the Indiana Secretary of State Todd Rokita from 2005 to the end of 2010 when he completed his second term in office. I am currently serving as general counsel to Indiana's next Secretary of State and chief election officer, the Honorable Charles White.

Since 2005, my duties as general counsel...
have involved assisting with the implementation of Indiana's photo ID law, including working with multiple players in Indiana's election process, which is included the Bureau of Motor Vehicles, county election boards, poll workers, our Help America Vote Act, and support agencies in coming up with the procedures and rules to administer our photo ID law.

I've also been responsible for statewide monitoring of election day activity in elections in our statewide and primary -- primary general elections in 2006, 2007, 2008, and 2010. I've reviewed every complaint from the -- regarding voting submitted to the Secretary of State, the Indiana Election Division, the Indiana Election Commission, the Department of Justice, our Help America Vote Act, and other county election boards.

I've also assisted the Indiana Attorney General and the Indiana Solicitor General with the discovery trials appeals and ultimately Supreme Court review in the state courts and in the U.S. Supreme Court of Indiana's photo ID law.

Prior to the first statewide election in Indiana under the photo ID law, there was no shortage of organizations claiming that we smell a rat of some sort and that the law has some illegal discriminatory effect
or political subtext. My job has been to look for exactly any application of the law that was illegal or overburdensome.

Despite the intense scrutiny of the law that has been locally -- local, state, national, and even international, in my impression, Indiana has been -- and our courts who have been very open to giving a fair and complete hearing to anyone feeling agreed or disenfranchised by our voter ID laws. In the five years and eight statewide primary general elections I've been involved with, there's been scant evidence of disenfranchisement or discrimination in Indiana. If the naysayers and conspiracy theorists and armchair social scientists were correct in their prognostications, Indiana would have experienced hundreds of thousands of disenfranchised voters after the laws passed in 2005, but hardly any group or individual or circumstance has been found that has genuinely disenfranchised or inconvenienced a voter beyond what the Supreme Court has held to be the reasonable, orderly regulation of elections.

Did Indiana fix something that wasn't broke? Was it a law in search of a crime? Admittedly, there's been little evidence of in-person voter fraud in Indiana, but that's been of little consolation to
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citizens who have come to Secretary of State's office with concerns about the confidence in our elections.

What Indiana has experienced were manipulation of voter registrations with thousands of voter registrations submitted just prior to the closing of registration which have confounded the orderly registration of voters. Indiana has experienced issues with voter list maintenance where -- where partisan activists have refused to update voter registration lists, insisting the U.S. Department of Justice to intervene and require voter list maintenance in Indiana. Indiana has seen inconsistent agency-to-agency cooperation in the sharing of information. There have been times when the Social Security office was unable to provide verifications of voter registrations, times when other state agencies were not able to exchange information that would assist in verifying voter registrations.

There have been reports of people in urban areas being bussed around from poll location to poll location. There is evidence, after the fact, of dead voters having registered or of dead voters having voted. There was also a report of a well-intentioned high school civics teacher who was intent on having every 17 year old that came into her class register to vote and...
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every 18 year old vote even though there were some
students of hers who are not students -- who are not
U.S. citizens, but they were shamed into going through
the registration process and that resulted in illegal --
an illegal vote being cast and also confounded those
students eventual efforts to become naturalized U.S.
citizens.

In my position, I am in a position to say
that the law has not been applied -- has been applied in
the strict and unbending manner that the dissenters have
suggested.

After the 2005 photo ID law was enacted
but before the first election was held, the Secretary of
State and the election division and interested groups
developed procedures to deal with the issue of the
conformity of names on an ID to voter registration
lists. Rules were developed that would allow for a
voter named Mary Ellen Smith to -- who might appear on
the voter registration in as many as ten different ways
to -- to proceed to vote.

Also, Indiana -- rules were adopted by the
Election Division in Indiana so that if a voter had
married between the time of the voter registration, at
the polls on election day, they could update their voter
registration by signing the poll book and proceed to
vote. In Indiana, voters can conform their voter registration up through election day to the IDs that they have.

Other state agencies have reached out to anyone identified who has been experiencing problems of obtaining photo IDs. In Indiana, it's not a money issue. And an ID is reviewed by social service agencies in Indiana as key to other social services and other benefits of citizenship, and there's been an interest in working with individuals who had difficulty obtaining photo ID. Also, in the Indiana Election Day Handbook, in bold print, it says, on -- in several locations, that lack of ID or problems with an ID is not a cause for someone -- for a voter to be turned away.

After five busy years of monitoring primary general elections in Indiana, working with deputies, reviewing complaints, I can say that Indiana's photo ID law is not only constitutional as it is written but as it has been applied in routine use -- is applied and become routinely used in good faith and in -- and in an accommodating matter in the state.

Now, keeping to its principal and intent, Indiana's law, subject to all matter of partisan, nonpartisan, state, national scrutiny, has not been applied with the rigid inflexibility and consequences
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predicted by detractors. After exhaustive review in the state and federal courts involving the application of the law as applied -- instance of the law and in -- and in Indiana's informed public opinion, Indiana photo ID has earned broad acceptance, even from skeptics, as become -- as having become integral component of voter confidence and law that honors the privilege and the dignity of American's right to free and equal participation in elections.

So I honor you for the difficult work you're doing here today. I assure you that the work won't be done if and when you pass Senate Bill 14. I can certainly tell you that the sun came up in Indiana after Indiana's photo ID was passed. It continued to come up and continues to come up after each election that we have. So I'm ready to address your questions, please.

CHAIRMAN DUNCAN: Thank you, Mr. Bonnett. So we'll have our first questions.

Senator Van de Putte, you're recognized.

QUESTIONS FROM SENATE FLOOR

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

And thank you very much, Mr. Bonnett, for traveling from Indiana. I know on such short notice.
We appreciate you being here to help us with your expert testimony as we deliberate this very, very important issue.

I had a few questions that -- that I wanted to ask because here in Texas, we looked at the Indiana law, and we're looking toward -- this is -- as our bill author has said, it's kind of a Texas bill, which we think is more restrictive than yours. And we have heard from testimony that there is increased turnout, and you haven't found any instances in where the burden of the new Indiana law was placed upon anybody. And -- and I think in your testimony and in -- said that it is working and even in your Supreme Court case, no party or amicus cited -- well, of course, there were no cases of impersonation at the polls in Indiana.

So I have some confusion because in the bill that you passed, we had reports in Marion County in 2007 that 32 vote -- voters cast ballots that could not be counted because of the voter ID law, and I want to ask you about them because just a couple of them really bring to mind some difficulties, and yet you cited that there were no problems.

In South Bend, Indiana, ten retired nuns were barred from voting in the 2008 Indiana democratic primary. Some of them were in their 80s and 90s. They
no longer had driver's license. They lived at the convent, and the convent actually had the polling place in their convent. The irony was that I believe in that case, the election judges were actually other nuns who lived with these nuns, but they were barred from casting a ballot even though they had previously voted in at least ten elections in Indiana but that these nuns were not able to because they did not have an ID, even though the election judges live with them. And so can you comment? This was in the newspapers, but it was also in Catholic Digest magazine and so wanted to know because we heard --

    MR. BONNETT: I can't --

    SEN. VAN de PUTTE: -- that there were no instances, yet we had these reports. And so could you tell us? I mean, what happened to these nuns?

    MR. BONNETT: I can't speak to the -- the Marion County voters that you referenced to, although I think that was covered in the Indiana League of Women Voters v. Rokita case that was heard by the Indiana Supreme Court.

    In the case of the -- the -- the nuns, in Northern Indiana, the -- it's my understanding and that -- that situation was also discussed in -- in the Crawford case -- the -- the nuns did have passports.
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They did have a form of ID that was acceptable, but they refused to present that. They were eligible for other exceptions under the law, absentee voting exception, and it was really a media event because the media had been brought to the scene before. And they also refused to go provisionally. I did not -- I believe they were brought in a van to a polling location that was not -- not, I understand, any time that they were voting at the place that they lived.

SEN. VAN de PUTTE: So --

MR. BONNETT: That incident was -- seemed to be discredited as a -- as a legitimate case of disenfranchisement.

SEN. VAN de PUTTE: So you're saying these nuns organized in a -- in a fraudulent matter, that these nuns all got together? But even though they're -- from the report what was reported, they lived at the convent, and they were all in their 80s and 90s. So I don't know. You know, maybe they had passports, maybe they didn't. But you're saying that this was orchestrated by these devious nuns to actually prove up Indiana law, and really, they intended to mess you up purposefully or --

MR. BONNETT: Yes, Your Honor.

SEN. VAN de PUTTE: Oh, thank you.
SEN. VAN de PUTTE: Well, let me ask you about another case. One of them was Lauren McCallick who was an 18-year-old freshman at Saint Mary's College in South Bend and who was not able to cast her ballot that was due because of the law, and so that was one of the cases that was there. And can you tell me about her? Was she devious, as well, or was it orchestrated?

I mean, from the reports and from what was happened, she was crying and she -- it was the first time that she was going to be able to vote, and she tried to -- she did do a provisional ballot. But since she couldn't get the documentation that she needed within the time requirement, she didn't have a chance to vote because she was in class and she couldn't go back to her -- so can you tell me what happened to Ms. Lauren McCallick in this case?

MR. BONNETT: Unfortunately, I'm not familiar with -- with that case.

SEN. VAN de PUTTE: Oh.

MR. BONNETT: So --

SEN. VAN de PUTTE: Well, then what happened in -- again, in Marion County, when we had some senior citizens that weren't able to? Now, they weren't devious nuns. These were seniors who were living in...
a -- some sort of a -- it wasn't a senior assisted, but it was some sort of a temporary, like rehab, where people go after strokes or after a motor vehicle accident, and that they weren't allowed. I mean, I can understand your story about the nuns because, you know, I'm a Catholic and sometimes they get really organized, and they make their point. But what --

MR. BONNETT: I am too.

SEN. VAN de PUTTE: What -- what about the people who were living in the -- again, in Marion County, in a -- not their full residence --

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: -- but for a certain period of time because they had a disability, they had had a stroke, and they were living in this. What happened to those folks?

MR. BONNETT: Well, and I don't know the specifics without more information, but every -- every reported case has been investigated and reviewed. The state election division, the state social service agencies, and Bureau of Motor Vehicles Division have been quite willing to assist voters who have -- have had difficulties obtaining an ID.

The largest group of voters in Indiana had some form of ID, a -- a -- of what was left over, the
exceptions covered many of those voters, and the -- ultimately, you know, anyone registered to vote who didn't have the ID, that group was small and has not been identifiable in such a way that the state has been able to even identify them, and certainly efforts have been made in litigation to try and identify a group. But I -- I believe the state would develop administrative procedures to assist anyone having trouble with an ID faster than the litigation would proceed through the courts to try and validate the law.

SEN. VAN de PUTTE: Well, I appreciate your answer, but you can understand my concern. Particularly in the district that I represent, we have, that I know of, six convents, the Sisters of Divine Providence with their mother house with over 120 retired nuns living there from orders all over; the Society of Mary, which they're Marianist priests, and after they finish at the University of Dayton and other Marianist schools, they come to San Antonio and live right there at Saint Mary's University. We have over 56 nuns from Incarnate Word and that community, and they're, you know, in their 80s, 90s. In fact, we even have a couple that are over a hundred, and while on and on, you see my problem.

And when I read things about Indiana and
having the religious who don't live outside in homes but who all have the same residences and who come back to that convent or retirement home run by the nuns or run by the priests, it's -- it's very difficult, and so I have some concerns because I have so many voters that are retired religious, and that's why I wanted to clear that up.

But let me ask you about something else.

MR. BONNETT: If I may, before you change the subject, I will note that Indiana, for example, has a Mennonite population that objects to being photographed, and our law provided an exception for individuals for religious reasons who objected to being photographed; and there is an exception for disabled individuals who live within a state licensed convalescent or care center. So Indiana has developed exceptions for identifiable groups.

SEN. VAN de PUTTE: Oh, well, I think that's wonderful that Indiana did that, but you may not know that that's in our Texas bill.

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: And so why this is more restrictive than Indiana is we don't have the protections that you do in Indiana under this bill, for those who live in religious communities, for those who
are disabled.

And that's the other thing I wanted to
talk to you about because I understand that, you know,
this is about the other thing that you said about
increased turnout. But I really wanted to talk to you
about -- because, I mean, let's face it, isn't the
turnout from 2008 November election because we had a
highly contested primary season, but it was because we
had this wonderful, wonderful, very, very active
electorate in electing between now President Obama and
John McCain. I mean, it was fabulous. I mean, so you
really can't compare turnouts to turnouts because the
turnout was wonderful in November, and we're all very
excited about that. So I wonder a little bit because, I
mean, everybody's turnout went up.

MR. BONNETT: May I respond to that?

SEN. VAN de PUTTE: Absolutely, please.

MR. BONNETT: If you compare the turnout
in the 2006 election, which was a nonpresidential
off-election year but -- for statewide primary and
general elections to the 2010 election last year, there
was also an increase between 2006 and 2010 in -- in
voter turnout in Indiana, which would be more comparing
the apples -- apples to oranges.

And you're right, in 2008, Indiana voted
it's electoral votes for a Democratic presidential candidate for the first time in over 30 years. Also, in the 2006 state Congressional races after the photo ID was enacted, three of Indiana's nine Congressional seats switched from Democrat -- or from Republican to Democrat, which tended to dispute the theory of the political subtext of the law.

SEN. VAN de PUTTE: Thank you. There -- there are a couple of other questions that I wanted to -- to --

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: -- check on Indiana law. Can you tell me -- your law has a free voter ID card issued by the state or the county. Are there restrictions or affidavits or a means test for access to a free voter identification card from Indiana?

MR. BONNETT: I don't want to misstate -- misspeak that. It's on the Bureau of Motor Vehicle Regulations. I -- I believe that the person applied for that ID needs to sign an affidavit that they don't have -- have another ID with the state. But beyond that, I'm not -- I can't say about the issue of the means --

SEN. VAN de PUTTE: Well --

MR. BONNETT: -- test.
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SEN. VAN de PUTTE: Well, I looked at it, and I didn't think so. It just says that they have to state that they don't have a driver's license and they don't have another.

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: But there is no affidavit of indigency or -- or anything required, at least from what I looked at your law. But I'm not sure. That's why I wanted to ask.

MR. BONNETT: That's my understanding.

Now, a related issue is when a provisional ballot is verified, if a voter who has voted provisionally within the ten days after the election signs an affidavit that they don't have an ID and cannot get one without expense and possibly can't afford one -- I'm not sure of the exact language on the affidavit -- then they're entitled to have their vote counted.

SEN. VAN de PUTTE: Well, one of the things that I wanted to look at, and I have the Indiana law and I -- because ours is a little bit more restrictive. But under your section of the -- of the Indiana bill, it has something in here because -- that has me a little troubled because we don't, and I'm going to read it.

But the voter prescribed by -- and it has

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Indiana code that has not complied with -- and I think that Indiana code 3-7-33-4.5 -- on election day must present one of the following documents to the -- and it says, "A current and valid photo ID," or it says, "current utility bill, bank statement, government check, paycheck, government document that shows the name and address of the voter." And yet we've been told that Indiana only has a photo.

So what -- what is this section referring to? Is it a provisional ballot or is it a first-time voter or -- or does Indiana allow for the photo ID, but if they don't have the photo ID, can they use other forms?

MR. BONNETT: I'm not aware that Indiana accepts any alternative than a photo ID. That might -- I'd have to look at the law carefully on that. Might refer to the verification of address or the residency with respect to voters who have moved, but I do not believe that Indiana has any requirement other than -- than that of a -- of a government-issued photo ID with an expiration date for in-person voting.

SEN. VAN de PUTTE: Well, I think that is -- it was very hard to follow, but I think it's under a provisional ballot that has a state's licensed care facility or something. But there is at least that
protection for those who are at a temporary facility; that even if they don't have a photo ID, the exception is not that they're just exempted but I think that they can utilize other forms of ID, which our Texas bill doesn't have.

To your knowledge, was -- since this was from the Indiana Legislature, do you remember any discussions on why they -- they put that in? Was this put in at the same time as the original voter ID legislation, or was this only done after the mess up with, you know, the nuns and the -- the other folks who were at this temporary facility?

MR. BONNETT: I didn't live in Indiana during the time that this legislation was -- was discussed and deliberated, but it's my understanding that the -- the exceptions to the provisions for individuals who live in state-licensed assisted living facilities has always been part of the -- of the scheme -- or the bill, and I think the -- the utility bills and the other documents you refer to might go to the issue of establishing their residency in the state-licensed facility, which is then an exception if the polling place is located in that facility.

SEN. VAN de PUTTE: Thank you. I really appreciate your candid answer; and, again, we thank you
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very much for your travel here to help us on this important deliberation. Thank you.

MR. BONNETT: Thank you.

SEN. VAN de PUTTE: I don't have any other questions, Mr. Chairman.

CHAIRMAN DUNCAN: Chair recognizes Senator Davis.

SEN. DAVIS: Thank you, Mr. Chair.

Mr. Secretary, thank you so much for traveling to be with us today and to help inform us about the work that you've done in Indiana on this issue. I just want to make sure that I clearly understand because today there's been a great deal of discussion about your bill, as you can imagine, as the reason why the bill that's being proposed in the Texas Senate today would be able to withstand constitutional scrutiny. So I want to make sure that we have a clear record in terms of how the bill that Indiana has introduced, or the law that you've introduced, mirrors or does not mirror what we are -- are discussing on the Senate floor today.

So I think I heard you say that you do allow women who have been married or divorced to come in to vote and to provide some affidavit that they -- their name has changed and is different than is on the ID that
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they have because of marriage or divorce. Is that
correct?

MR. BONNETT: That's correct. That's by
administrative directive. It's not part of the statute.
And I'll say that when the -- when the Indiana courts
and the -- the federal courts reviewed the law, it was
reviewed in the context not just of the statutory
language but other administrative procedures that were
developed after the law was passed, after the framework
of the law was passed, for the -- the view of -- as
applied, how the law was applied.

SEN. DAVIS: Absolutely. And I think
that's terribly important, and I'd like to invite you
to -- to please inform us as much as possible both
statutorily what was reviewed in terms of what you've
done to try to preserve the integrity of someone's right
to vote and administratively what's been done.

So you said on that particular one, that
was a rule that was instituted administratively, but it
was part of what was reviewed by the court system in
terms of the implementation of that law?

MR. BONNETT: Yes. That -- that directive
clarified procedures for poll workers in -- in viewing
IDs for conforming names.

SEN. DAVIS: And then I believe you said
that in the -- the language that's presented to a voter in terms of their right to vote in Indiana, in bold language, you have clarified for voters there that not having a photo ID will not in and of itself be sufficient cause for them not to be able to vote. Is that correct?

MR. BONNETT: Yes. I'll -- I'll just look up the exact -- the exact bold language, one example's are referred to on Page 10 of the Indiana Election Day Handbook. This is the 2008 copy. In bold, "No voter should be turned away from the polls for failing to provide photo ID." That's -- that's instruction to all poll workers.

SEN. DAVIS: And does that wording go to instances where, for example, as you -- as you talked about earlier, if a person comes to the poll and they do not have a photo ID, they can vote a provisional balance -- or ballot -- excuse me -- on the condition that they attest that they do not have a photo ID because there would be a cost to receiving that ID either through having to get the underlying documentation that would qualify them to receive the ID or some other cost that would be associated with receiving the ID?

MR. BONNETT: Yes, there are several
alternatives to means to -- to verifying a provisional
ID to allow --

SEN. DAVIS: And can you discuss what
those several alternatives are, please?

MR. BONNETT: Well, generally, providing
the -- the ID or providing the -- the -- the voter
registration correction or an affidavit that there is a
religious exception to being photographed, that an ID
cannot be obtained without -- without cost. There may
be another. That's provided for in the Voter Bill of
Rights which is posted at each poll site, and then
voters who vote provisionally are given a paper receipt,
so to speak, with the instructions on how to verify
their provisional ballot and have it cast, how and
where.

SEN. DAVIS: Thank you. That's very
helpful.

And I believe you also have a provision in
Indiana, do you not, that allows for the use of an
expired driver's license for a certain period of time.
Is that correct?

MR. BONNETT: Yes. And I believe if it --
if it goes back to the beginning of the -- the opening
of registration for the election which is generally 30
days from the prior election. So it's generally about a
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<td>SEN. DAVIS: Okay. Have you done any work in Indiana to track or to attempt to track the percentage of persons based on categories, whether it be senior status, whether it be minority status, whether it be indigent status, where people have claimed that somehow their right to vote has been interfered with as a result of this particular law?</td>
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<td>MR. BONNETT: I'm not familiar with the state doing that research. Certainly there -- there are interest groups that have -- have made a concerted effort to identify individuals, groups, or characteristics, identify them and locate beyond the theoretical basis; and generally, it's not been something that's been accomplished. There's been a tremendous separation between the theoretical concerns and what's actually been experienced in our elections over the last five years.</td>
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<td>SEN. DAVIS: When you started your comments this afternoon, you began by saying that there had been scant evidence of disenfranchisement, and scant to me means that there must have been some. So can you talk a little bit with us about what that's looked like for Indiana?</td>
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<td>MR. BONNETT: There -- there was a single</td>
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media report prior to the 2010 election, a few days prior to the election. It was not officially reported to the state, but the media account was a gentleman of -- in a particular county of 40-something years, due to some unusual circumstances did not have a birth certificate. I think it involved him having been discharged to foster care through state programs, et cetera. But it also was evident that the Bureau of Motor Vehicles Division has a special group -- team that works with individuals who have particular problems to address those needs. And the -- the report did not result in -- in a complaint, and there was no indication the state got that the person wasn't able to vote under -- under one of the exceptions.

There have been some reports, also, that generally upon investigation, the individuals were able to vote under -- under some provision.

SEN. DAVIS: And you mentioned that -- a moment ago, that through both administrative rule and through the statute itself, in the state of Indiana, you've tried to be cognizant of this disenfranchisement issue through some of the -- the rules that you've enacted along with it. We talked about the fact that you have a religious exception for -- for people who cannot be photographed or refused to be photographed for
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religious purposes. We talked about the fact that if a person comes to the polling location without an ID, they can vote a provisional ballot so long as they attest as one of the -- the reasons for voting that provisional ballot, that they had to pay a fee in order to -- to get a photo ID and they were unable to pay that fee. You talked about the special rule that's been created to handle the situation where women have been married or divorced and their -- their name would be different than what is on their ID.

Are there other -- and excuse me -- you also talked about the expiration of a driver's license not being a reason to immediately turn that -- that voter away so long as it's within that --

MR. BONNETT: Uh-huh.

SEN. DAVIS: -- period of time that you described earlier.

Are there any other conditions that were implemented, either through the statute or through administrative rule, that you feel we should know about in terms of reflecting a sensitivity to trying to preserve the enfranchisement of your voters as much as possible?

MR. BONNETT: Yes. College -- college students at some state universities have -- it came
about, they have IDs that don't have an expiration date, and through arrangements with -- with state colleges, the universities provided through some type -- I believe it was a secure online facility -- a way for the polling locations to -- to verify the expiration date independent of the actual ID. And so arrangements were made, then, for students with -- with a university ID that did not have the expiration date but where the college was able to provide that information independently to go ahead and vote on election day.

SEN. DAVIS: Very good. Are there any other?

MR. BONNETT: Not that come to mind.

SEN. DAVIS: Okay. Thank you, Mr. Secretary. I appreciate it.

MR. BONNETT: Uh-huh.

CHAIRMAN DUNCAN: There being no further questions, Mr. Bonnett. Thank you for your testimony today and for traveling here.

SEN. WEST: Mr. Chairman?

CHAIRMAN DUNCAN: Senator West, you're a little late on the light there.

SEN. WEST: I thought it was on. I apologize. And I just have a couple of questions, anyway.
And it may have already -- you may have already addressed this, and I just may not have heard it. As it relates to the provisional ballots in your state --

MR. BONNETT: Uh-huh.

SEN. WEST: -- an individual can, in fact, cast a provisional ballot. Is that correct?

MR. BONNETT: Yes.

SEN. WEST: Okay. And they have to -- what's the process? Once they cast the ballot, in order for the ballot to count, they have to come back within a certain number of days?

MR. BONNETT: Within ten days.

SEN. WEST: And what do they have to do?

MR. BONNETT: They can correct any -- any issue with -- with voter registration. For example, if a person appears at a poll and they're simply not registered at all, they can still cast a provisional ballot. You know, there may be some administrative issue in the -- with kind of registration board about why they didn't show up in the precinct where they believe they needed to vote. That -- that can be corrected, and the Election Board is free to correct that through and beyond the election. They can bring in the identification, and they can certainly seek
assistance with obtaining the identification that's required. They can also come and execute an affidavit that -- obviously, we talked about the exception to being photographed for religious reasons. They can execute an affidavit that says they -- they don't have the ID. They cannot get one without cost, and then they're eligible to have that vote counted.

SEN. WEST: Okay. So there's a process in place.

Does the state keep any tally or report on the number of provisional ballots that are cast in the state of Indiana?

MR. BONNETT: Yes. The county election boards submit that information with their -- with their poll results data to the Election Division, and it's -- it's published online for every election. The -- the number of provisional ballots and the disposition and the counties actually are also required to send copies of the affidavits to the Secretary of State's office, which then can be examined for the reason. For example, how many didn't show up on a poll book or there was a challenge raised of some sort so that we can -- we've been able to investigate the status and disposition of provisional ballots.

SEN. WEST: Is that information
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disaggregated by ethnicity?

MR. BONNETT: No. I'm not -- I do not believe that there's an indication on the provisional ballot affidavit.

SEN. WEST: So you really don't -- I mean, in terms of the provisional ballots, the tallies, in terms of provisional ballots, is it disaggregated by ethnicity; that is, the number of Hispanics, African Americans that are voting?

MR. BONNETT: It's not, although the copies of the affidavits are -- are -- are public information, and there have been some social scientists who have been studying and attempting to write about provisional ballots and determine if there's any -- any meeting or conclusions that can be gathered --

SEN. WEST: Has there been any -- any such studies done in Indiana?

MR. BONNETT: I have looked at one study from a adjunct law professor. It did not appear to provide any -- any academic or statistically sound conclusions. It was more a discourse on the issue of photo ID, in general, but it made some reference to some statistics that were, you know, tallies of the number of provisional ballots.

The provisional balloting started at the...
same time as the photo ID, so we don't have a calculus
of the provisional balloting before Indiana's photo ID.

SEN. WEST: Do you happen to have the cite
for that particular professor's study or article?

MR. BONNETT: I'll be most happy to --

SEN. WEST: Okay.

MR. BONNETT: -- to get it to you or get
it to the committee.

SEN. WEST: To the chairman and the staff?

I'd appreciate that.

As it relates to provisional ballots, is
there any type of report on the number of individuals or
the percentage of individuals that come back and go
through the process to make certain their vote count?
Is it less than 10 percent of those individuals that
cast?

MR. BONNETT: I'm not aware of an
aggregated report. The data exists, and it's -- it's
online. I'm not aware of an aggregated analysis of how
many.

Some provisional ballots, you know, there
are some instances where a person would go to a precinct
and not be registered to vote a provisional ballot and
then be directed to, and the poll workers are advised to
have someone go ahead and vote that provisional ballot.
But then they may later in the day be directed to the right precinct, and then the -- you know, so there can be more than one provisional ballot.

There's also some of the scholarship related to the issue that if the outcomes of elections have been determined by substantial margins, then individuals may not feel a need to go back and verify the provisional ballots if the election were not so close that --

SEN. WEST: Right.

MR. BONNETT: -- that the votes were meaningful. So it's not really what -- what -- clear what the meaning of the numbers of provisional ballots and the ones that are verified means, as far as I'm aware.

SEN. WEST: But there's no statewide study or report that's done on an annual basis that looks at the percentage of individuals that cast provisional ballots that actually go back and verify their ability to --

MR. BONNETT: That data is reported in -- but I'm not aware of analysis of it. The number by county of provisional ballots, probably by precinct, that were cast and their ultimate disposition is -- is reported in -- in election return statistics. Analysis
of it is not something that I'm aware of, though.

SEN. WEST: Okay. You indicated that the affidavit was -- is public. Is it a --

MR. BONNETT: Yes.

SEN. WEST: -- public record?

And that's the -- when you say "the affidavit," what do you mean by that?

MR. BONNETT: That's a document that is initially executed by the voter at the time of casting the provisional ballot --

SEN. WEST: Okay.

MR. BONNETT: -- and then later, handled by the Election Board within that ten days to determine whether or not that vote -- the vote is sealed. The vote is sealed in an envelope.

SEN. WEST: All right. I just wanted to make certain we were on the same page.

Okay. Thank you very much, Mr. Chairman.

MR. BONNETT: You're welcome.

SEN. WEST: I would like to get that cite for the study, though.

CHAIRMAN DUNCAN: Senator Gallegos?

SEN. GALLEGOS: Mr. Secretary, let me ask you one question. Is your Indiana driver's license, is it a valid form of ID under Indiana law?
MR. BONNETT: Yes, it is a state-issue ID.

SEN. GALLEGOS: It is valid?

MR. BONNETT: Uh-huh.

SEN. GALLEGOS: And any supplements of that Indiana license, is that also a form of ID? What I mean supplements is, if it -- if a driver's license is confiscated and you get a temporary, is that also a valid -- a valid form of ID?

MR. BONNETT: If the -- I don't believe that the state driver's license is specified in the legislation. It's specified more generically, a state-issued ID with photograph with an expiration date or government-issued ID.

It's my understanding when a driver's license is confiscated that the Bureau of Motor Vehicles will immediately issue another form of ID that is a -- for example, driving is restricted.

SEN. GALLEGOS: And that is a valid form of ID?

MR. BONNETT: Yeah.

SEN. GALLEGOS: Okay.

MR. BONNETT: I don't believe the -- I remember when I lived in Texas and in Louisiana sometimes the police would take away your ID and give you a piece of paper that was sort of -- to cover for
you, and that type of document would not be.

SEN. GALLEGOS: Yeah. But that is a valid form of ID in Indiana?

MR. BONNETT: It would be required to have -- the ID would be required to have a picture and have the expiration date. And so something other than that would not be allowed for voting. It would still be required to have a picture.

SEN. GALLEGOS: Thank you.

MR. BONNETT: Does that answer your question?

SEN. GALLEGOS: Yeah.

CHAIRMAN DUNCAN: Thank you, Mr. Bonnett. We appreciate your appearance here today.

TESTIMONY BY LUIS FIGUEROA

CHAIRMAN DUNCAN: The Chair calls Luis Figueroa -- Figueroa, Mexican American Legal Defense Education Fund, or MALDEF. Would you state your name, please, and who you represent?

MR. FIGUEROA: Absolutely. My name is Luis Figueroa. I'm the legislative staff attorney with the Mexican American Legal Defense and Educational Fund, MALDEF. Thank you very much for this opportunity to testify before the Senate on this important legislation.

MALDEF works to promote and protect the
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rights of Latinos, including voting rights and in the
state of Texas and across the nation. We have an
extensive history in the Voting Rights Act and in
protecting voting rights across the nation and, of
course, here in Texas, going back to the case of White
v. Register and most recently in LULAC v. Perry
challenging the redistricting implementation from the
last decade for last -- from the last session.

We stand here opposed to SB 14 because it
lacks the safeguards to ensure that eligible voters will
not be disenfranchised at the polls. If SB 14 was
enacted, it would be the most restrictive photo ID
requirement in the nation, more restrictive than
Indiana, more restrictive than Georgia, more restrictive
than Arizona. They would allow for viewer identity
documents, less time to cure for provisional ballots,
and it would be even more difficult to cure than any of
the other states.

Studies after studies have shown that
voter ID and additional identification requirements at
the polls do have an impact on minority voters and on
other protected classes. The study from voter ID
requirements and disenfranchisement of Latino, black and
Asian voters by Barreto, Nino & Sanchez states
"Controlling for age, income and education, we find the
naturalized citizens and minority voters are significantly less likely to be able to provide multiple forms of identification such as a copy of their original birth certificate or recent bank statements. Respondents were asked about their ability to provide approximately six unique forms of identification, and naturalized citizens and minority voters were consistently less likely to have each form of identification. Data reflects identification trends of actual voters, not just adult citizens, the findings go far to suggest that photo -- that voter identification laws could immediately disenfranchise many Latino, Asian, African-American citizens."

From the Rutgers study, protecting the enfranchised or restricting it, the effects of voter identification requirements and turnout, by Vercellotti and Anderson, states that "The predicted probability that Hispanics would vote in states that required nonphoto identification was about 10 percent points lower than in states where Hispanic voters gave their names."

In the Wisconsin study, the driver's license status of the voting age population was counted by John Pawasarat. It stated that "Minorities in poor populations are the most likely -- are the most likely
to have driver's license problems. Less than half, 40 percent, of Milwaukee County African-American adults and 43 percent of Hispanic adults have a valid driver's license compared to 85 percent of white adults in the balance of the state."

The Brennan Center, in their report Citizens Without Proof, A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification, stated, "Citizens with comparatively low incomes are less likely to possess documentation proving they are citizens. As many as 11 percent of United States Citizens, more than 21 individuals, do not have government-issued photo identification." It goes on to state that "25 percent of African-American voting-aged citizens have no current government-issued photo ID compared to 8 percent of white voting-aged citizens."

Study after study has shown that Latinos, African-Americans, elderly, the poor, students are less likely -- the disabled community are less likely to have the photo identification requirements required under SB 14.

It's important to note that Texas under current law has a voter ID requirements. It has an ID requirement that -- it requires that you bring a voter registration certificate or additional forms of
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identification. The question is, how much stricter can we make the voter identification requirement? The question is not whether to have a voter identification or not have it. The question is, how restrictive do we want to make it?

The current legislation presented before us does not provide for any alternative photo identification. It does not allow for student ID cards, for Medicaid, Medicaid cards, for expired driver's license, for expired military cards or for state-issued employer identifications.

We know that in our other states that have implemented strict voter identification laws that the ability to cure and to come back day to day and fix their provisional ballot, it does not happen with much frequency. Voters do not return within the allotted time period to fix their voter identification.

It's also worth noting that in SB 14 it actually lowers the amount of time from what Indiana requires, from ten days to six days -- six days to return and fix their voter identification. In Arizona, 739 ballots were not counted where -- conditional provisional ballots were not counted, and only 158 were counted after voters cured their identification requirements.
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What we found in Arizona when we litigated was that the most common problem was a driver's license that did not match an address, that did not match a voter registration certificate. We know that Latinos, African-Americans and low income are the most mobile populations often moving from a rental apartment, moving from home to home, and as a result are most likely to have matching -- most likely have identification that doesn't match their voter registration certificate.

We know that providing a free personal identification certificate does not solve the problem if the documents needed to get a personal identification certificate are the same ones that the study show the minorities don't have. And we know that if people are required to bring birth certificates and other documentation that they are unable to get a current driver's license, that they are not likely to get the free personal identification if they lack those same documents.

We believe that there are ways to create -- there are ways to ensure that people who are voting are who they say they are. There are ways to do it without disenfranchising voters. What we need are appropriate safeguards in a photo identification law. We need to expand the current list of documents that are
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provided in SB 14, and most importantly we should incorporate a signature affidavit similar to Michigan and Florida to ensure that people who lack the identification requirements are still able to cast a ballot and have their vote count. It's about finding the right balance between security and access.

SB 14 only focuses on voter impersonation fraud while ignoring voter intimidation, deceptive practices and poll worker error. There are ways to ensure that voters who say they are -- are who they say without disenfranchising voters. Finding that right balance includes including two forms of nonphoto identification, requiring signature affidavit attesting to name, address and eligibility, including voter integrity task force, allowing for same-day election voter registration with an ID requirement, free ID that is not limited to the current requirements that require the same documents that are required to get a driver's license right now, training for poll workers and voter education.

When we find the right balance between access and security, we will ensure that we have the voter confidence in our system, a system that is not predicated on trying to disenfranchise voters, a system that is not so unsecure that we don't have faith in our
electoral system, but a system that provides for access and security to ensure that all votes are counted, and that is what we are aiming for.

With that, I'm open for questions, and I thank you again for this opportunity.

SEN. ELTIFE: Members any questions?

(No response)

SEN. ELTIFE: Thank you, sir, for being here today. Hold on one second.

QUESTIONS FROM SENATE FLOOR

SEN. ELTIFE: Senator Rodriguez?

SEN. RODRIGUEZ: Thank you, Mr. Chairman.

Mr. Figueroa, first of all, thank you for coming here to testify this afternoon, particularly on such short notice. I am familiar with MALDEF's work. In fact, I serve on its board. So I know the great work that the organization does to protect the rights of citizens, particularly in the area of voting rights.

I want to ask you just a few questions and mainly for clarification. I believe you started out by comparing the legislation in Senate Bill 14 with the Arizona -- the Indiana law, and I believe you even mentioned the Arizona law. Could you give us specifically in which ways SB 14 is more restrictive than these other laws?
MR. FIGUEROA: Absolutely. Senate Bill 14 has a very limited scope of identification requirements. It only allows for a driver's license, a passport, citizen certification and a military identification. Arizona, which at the time was considered a pretty restrictive identification requirement, allows for photo ID, but also allows for two alternative nonphoto identification. It was most similar to the proposal that was introduced last session.

In Indiana where they do have a photo ID requirement, they do allow for -- when you cast a provisional ballot, you can come back within ten days and you can attest to being indigent or you can attest that you were unable to get the identification, and they'll allow you an opportunity to have your vote counted.

This law in SB 14 does not have any such assertion to ensure the voters are counted. In fact, it lowers the amount of time for you to cure that provisional ballot. We're going from ten days to six days -- to six days.

And in Georgia, again, there are also other forms of identification that were allowed that are not allowed under Texas. Even in Indiana, the expiration date, you are allowed to have an expiration
date if you're within the last -- within the last
election. If your driver's license was expired within
the last election, they'd still allow you to vote. This
would be by far the most restrictive ID requirements in
the nation.

SEN. RODRIGUEZ: So given that, is it your
opinion that this law, this bill that we're considering,
would be much more likely to disenfranchise voters than
these other states' laws?

MR. FIGUEROA: I do think the more -- the
more requirements you put, the more limits on
identification, the more likely you are to have an
impact on the working poor and Latinos and
African-Americans and other -- and other voters.

SEN. RODRIGUEZ: Could you go over some of
the implementation challenges or issues that were
confronted when the Arizona law was being implemented to
give us a sense of what we might expect? And
particularly you might -- if you could focus on how it
may have impacted the Latino voters in Arizona.

MR. FIGUEROA: Absolutely. Our studies
did find -- our expert did find a disparate impact in
Arizona on Latino voters, and I grant you this was even
with more broader identification requirements than this
bill. So this bill would even have a stronger impact
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than Arizona. What we found in Arizona was -- the most significant impact were poll workers who tried -- who claimed that the address had to match the voter registration certificate to the driver's license.

Poll worker training has got to be a key component of this. It's not clear from SB 14 about what to do if a driver's license doesn't match the voter -- the voter registration certificate, whether that's because a recently married woman has a different last name, because there's a misspelling on the voter registration certificate, because the address doesn't match or the date of birth doesn't match. There's any numerous possibilities of a mismatch between the voter registration and the licenses that are going to be required. Are poll workers going to use that to disenfranchise voters? Well, we would hope not, but we -- in our experience, it has had that impact.

SEN. RODRIGUEZ: All right. Thank you.

You stated the Latino voters are less likely to have the identification required by the bill. Can you tell us why?

MR. FIGUEROA: Yeah. I mean, a lot of this has to do with the difficulty in obtaining a driver's license right now. So we know that getting a driver's license has become increasingly more difficult
by DPS under the current rules. Obtaining the -- having
the birth certificate, the documentation that you need
to get a driver's license is sometimes difficult to get.
The cost involved is also somewhat of a problem.

It's also a lot of people live in these
rural counties or don't live near a DPS station and
don't have a driver's license. Also, students who live
with their -- with their parents and don't have a
driver's license or they only have a student ID card may
not have a driver's license or the funds or the time
necessary to go get a driver's license.

SEN. RODRIGUEZ: I see. Finally, let me
ask you just for the record here -- I think we know the
answer -- but have Latino voters generally experienced,
in the history of this state, disenfranchisement when it
comes to exercising their right to vote?

MR. FIGUEROA: Yes. Texas has a long
history of voter discrimination in Texas, which is why
we're a Section 5 state under the Voting Rights Act. It
is precisely because of our history and the all-white
primaries, poll tax, disenfranchising voters through
cracking and splitting and redistricting that we are a
Section 5 state. And I believe that there's going to be
a witness here today that's going to talk about that.

SEN. RODRIGUEZ: Do you feel that this
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long-standing history has engendered mistrust on the part of the Latino voters as far as coming out and voting?

MR. FIGUEROA: Yes. And ironically the voter ID or the photo ID legislation has been touted as a way to install voter confidence in our electoral system, but it's only confidence on the security side. It's not confidence on the access side. And from the Latino community, there needs to be stronger confidence on the access side. There's a long history of discrimination on the voting side of Latinos, and there is this feeling among many Latinos that there is a continual effort to prevent our ability to elect our candidates of choice and our ability to vote. So we need to work on our confidence on the access side, particularly with the Latino community.

SEN. RODRIGUEZ: Could you tell us whether on this last point even those Latinos with the required ID feel a distrust in participating?

MR. FIGUEROA: Yes. I mean --

SEN. RODRIGUEZ: And if so why?

MR. FIGUEROA: Texas has one of the lowest voter turnouts in the nation. I believe it may actually be the lowest in the nation. Latino voter turnout is dismal in comparison to other states. And those are
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people who are eligible -- who are eligible to vote,
have registered to vote and in many cases may have the
identification. But there is this feeling that there's
going to be a systematic way for their vote not to
count, that their vote won't make a difference. And so
we need to make efforts in this state to encourage
voting, not discourage it.

SEN. RODRIGUEZ: Thank you.

Thank you, Mr. Chairman.

CHAIRMAN DUNCAN: I think there's
another -- Senator Huffman was wishing to ask questions,
and I don't know that she's on the floor. Can you hold
on just a minute?

(Brief pause)

SEN. ELLIS: Mr. President?

Mr. President, parliamentary inquiry.

CHAIRMAN DUNCAN: State your inquiry.

SEN. ELLIS: You know the time of the
State of the Union Address tonight?

CHAIRMAN DUNCAN: It's this evening.

SEN. ELLIS: This evening? I was hoping I
could hold hands with some of my Republican colleagues
and watch it. So I'm wondering how long are we going to
be here tonight?

CHAIRMAN DUNCAN: We have two televisions
in the lounge, Senator.

SEN. ELLIS: Well, if I really want to feel the love, I'd like to be -- I'd like to be at home.

(Laughter)

CHAIRMAN DUNCAN: Senator Huffman -- have you finished your inquiry, Senator Ellis?

SEN. ELLIS: (No audible response)

CHAIRMAN DUNCAN: Senator Huffman, you are recognized.

SEN. HUFFMAN: Yes, sir. Thank you. Just a couple of questions.

Sir, you said that this legislation conveniently disenfranchises minority voters. Is that correct?

MR. FIGUEROA: I don't think I used the word "conveniently," but disenfranchises voter -- could potentially disenfranchise voters.

SEN. HUFFMAN: Didn't MALDEF also claim in the Crawford litigation that the Indiana photo ID law disenfranchises minority voters?

MR. FIGUEROA: We actually didn't litigate the Crawford litigation. We did submit an amicus brief related to our Arizona litigation, and we were concerned about the impact of Crawford as well as the Arizona legislation and the potential disenfranchising impact.
SEN. HUFFMAN: And didn't the Supreme Court of the United States reject your assertions that voter photo ID laws unduly burden the right to vote?

MR. FIGUEROA: What the Crawford decision said was it was, one, not a voting rights case. It wasn't a Section 5 case or a Section 2 Voting Rights case. It was a 14th Amendment undue burdens case. And what they essentially held was the burdens that it imposes on voters was not significant enough to cause a violation of the 14th Amendment.

SEN. HUFFMAN: Thank you.

MR. FIGUEROA: I would state that this bill is more restrictive than the Indiana bill, though.

CHAIRMAN DUNCAN: Thank you, Mr. Figueroa. There's no other questions -- oh, I'm sorry. Senator Gallegos has a question.

SEN. GALLEGOS: Thank you, Mr. Chairman. Mr. Figueroa, I don't know if you remember my testimony two years ago, and I showed the maps. If we're going to mandate voter ID in Texas, that we should allow the folks that we're mandating access to DPS centers where they get this photo ID. And if you saw inside the 610 Loop in Houston, there are no DPS centers.

MR. FIGUEROA: That's right.

SEN. GALLEGOS: And also -- or inside the...
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820 Loop in Fort Worth there's no DPS centers, and there's only one inside the city of Dallas that would, in fact, make getting, number one, a photo ID costly, and time-consuming. I'm concerned that especially in inner-city Houston and Fort Worth and some there in Dallas that don't have vehicles or use mass transit as a means of transportation that there's no bus lines to the DPS centers --

MR. FIGUEROA: That's right.

SEN. GALLEGOS: -- that provide the photo ID that we are fixing to mandate them. I wanted to ask your -- you know, whether MALDEF -- you know, would that be subject to any type of retrogression as far as allowing somebody poor or doesn't have a vehicle or can't afford the transportation to the outskirts to try to get a photo ID, that there would be subject to any Section 5 violations in the civil rights code?

MR. FIGUEROA: Yeah. Ironic -- the Indiana case did make the one reference that we've been talking about, and the Supreme Court did make significant references to the fact of the free ID provided by Indiana, how to eliminate some of these burdens. However, Indiana, like I mentioned, wasn't a Section 5 state.

And that was a larger issue in Georgia
where similarly the DPS departments were not in the inner city. So I do think it is a factor that they will consider in preclearance about how accessible is it to obtain that free identification. And in the rural counties of Texas, the inner cities, if it shows that it does have extreme difficulties for minorities to access those free IDs because of the inability to get to a DPS office, the amount of time it takes, the money it takes, the documents it requires to get that free identification, I think that does play an important part of it.

SEN. GALLEGOS: So what you're saying is -- your testimony is that it definitely is a factor. And then like -- other than the areas that I mentioned in my district and Fort Worth and Dallas, let's say an area like Senator Uresti's area where in some cases they've got to go 200 miles, you'll have to catch -- you'll have to either rent a helicopter or get a Southwest Airlines flight to go, and even though we're offering free ID, you know, the issue is how to get there.

MR. FIGUEROA: Yeah.

SEN. GALLEGOS: And what I described to you on these instances where, you know, these people cannot provide themselves with -- especially the elderly
in these areas, you know, with transportation or don't have the money to provide it, I mean, we can tell them that we have free voter ID available to them if they can get there.

MR. FIGUEROA: Right.

SEN. GALLEGOS: Is that -- is that what your testimony is here?

MR. FIGUEROA: Yes. If they can get there, if they have the means to get there, if they have the documents to get the documentation, absolutely. Free isn't necessarily free.

SEN. GALLEGOS: All right. Thank you.

CHAIRMAN DUNCAN: Are there any other questions of the witness?

(No response)

CHAIRMAN DUNCAN: All right. The Chair hears none. Thank you for your testimony, Mr. Figueroa.

TESTIMONY BY CHRISTIAN WARD

CHAIRMAN DUNCAN: The Chair calls Christian Ward. Mr. Ward, state your name and who you represent, please. You have ten minutes with a --

MR. WARD: Thank you, Mr. Chairman.

CHAIRMAN DUNCAN: I think it's either a one-minute warning or 30 seconds. I can't remember.

SECRETARY SPAW: One.
Chairman Duncan: One-minute warning.

Mr. Ward: Thank you, Mr. Chairman. My name is Chris Ward. I'm essential here representing myself. I'm an attorney. I'm a partner with the firm of Yetter Coleman. I practice primarily in complex appeals, including regarding constitutional issues and have some expertise and experience in particular in voting rights law, including the 2009 Supreme Court case Northwest Austin MUD v. Holder.

I'm here primarily to testify regarding the general constitutional standard as explained by the Supreme Court for analyzing a facial challenge to the validity of a voter ID bill. Before I go into that, I do want to say, because it's come up, that in my reading of the Texas bill, it has an exemption for elderly nuns and any other Texan over 70 whether or not they reside in a nursing home. So that's something that's come up, and I wanted to bring that out.

With regard to the legal constitutional standard, the Supreme Court in the case Crawford v. Marion County Election Board examined the Indiana voter ID law, and it went through a very careful analysis of that law, and the essential holding of that law is that a voter ID act is not, in general, constitutionally invalid on its face. And the Indiana law that the court
was considering at the time it issued the Crawford opinion was at that time considered the most restrictive voter ID law on the books of any state. And so the fact that the Supreme Court found that law constitutional says that there is a lot of room for imposing voter ID laws under the Court's interpretation of the Constitution.

There were two primary opinions in the Crawford case. The first one that I'll talk about is considered the main or controlling opinion of the case. It was a case decided by a plurality, which means there were three Justices signed onto one opinion that's regarded as the controlling opinion by Justice Stevens, of course who was one of the most liberal members of the Court. And the other opinion by Justice Scalia also garnered three votes. Justice Stevens' opinion is regarded as the controlling opinion because it -- it puts a little more stricter review, but essentially those two opinions get to the same result by slightly different analysis, which actually on further examination turned out to be somewhat the same.

In Justice Stevens' controlling opinion, he first looked -- he first described what the appropriate test would be for a constitutional challenge to an election regulation like a voter ID law, and the
test that the Court will apply, he says, is you weigh
the asserted injury to the right to vote against the
precise interests put forward by the state. So you look
at the alleged injury or impairment of the right to
vote, the alleged burden imposed by the voter ID
requirement, and you compare that with the severity of
the harm that the state is trying to avoid.

That opinion identifies at least three
valid state interests that the state of Indiana was
attacking with its voter ID legislation. Number one,
deterring and detecting voter fraud, Justice Stevens
says that you can't -- nobody can question the
importance of detecting and deterring voter fraud.

Now, he noted that in that case there was
nothing in the record of that case that in-person voting
fraud, showing up and impersonating another person, had
actually occurred or was a big problem in Indiana, but
it was enough that this is a possibility.

He tells a story of an associate,
Boss Tweed, in New York back during the 1860s, and this
associate would send his repeaters. He would recruit
men who had whiskers and send them to vote once with a
full beard and then send them to a barber and get the
chin shaved off and send them back with mutton chops and
a mustache and then send them back with just a mustache.
And then if you needed another vote, send them back skin face, it said, plain face, and that makes each one good for four votes.

Now, I mention that both because I thought it was a little amusing story, but the more serious point is that the Court looked at this. This is an anecdote from history. This is not saying that a state has to have any showing that this a current modern problem. The Court cites this anecdote as an example of this is a potential problem that a legislature is within its rights to attempt to address by this type of law.

Other valid state interests that the Court identified with regard to a voter ID legislation is the improvement and modernization of election procedures. The Court noted that Congress has shown that it believes that photo ID is an effective method of establishing voters' qualifications to vote. The National Voter Registration Act of 1993, also known as the Motor Voter Act, is the act that says when you go to apply for your driver's license, you have to be offered the chance to register to vote. It's also the act -- it also has requirements that limit the states' abilities to purge their voter rolls. So that's one reason why voter rolls tend to have more voters than actually continue to reside in a particular state or a particular
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The Court also noted the Carter-Baker report, which has also been mentioned in earlier testimony today by Former President Carter and Former Secretary of State James Baker. In that report, they identified photo identification as an appropriate step to take to deter voter fraud.

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The Court also mentioned safeguarding voter confidence in the system as another valid state interest that is served by a voter ID requirement.

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Justice Stevens' opinion then looked to the alleged burdens on the right to vote, and he noted that the photo ID requirement imposes some burdens that other identification methods do not. For example, you might lose your driver's license or lose your wallet on the way to the polls and then you'd have a problem. But he noted that these are not serious or frequent enough to cause a constitutional infirmity.

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And he noted that the relevant burden to be considered here is the burden that is on persons who are eligible to vote but who do not happen to possess a valid photo ID. So you look at the fact that that affects, for one thing, a -- probably a small minority of voters -- of eligible voters in the state already.

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The Court noted that if you had to pay a
tax or a fee to get the ID, that would be the equivalent of a poll tax, and that would be unconstitutional. So one important provision which the Indiana legislation had and which the Texas bill has is the fact that free voter ID cards are available.

The Court noted that some people will have heavier burdens and -- but the fact that some people may have heavier burdens does not make the statute itself facially invalid and unconstitutional. It means that perhaps in an individual case an individual might be able to show that the burden -- the specific burden on that individual is so high that it would be unconstitutional to apply the statute to that individual, but that's not the same thing as saying that the statute is facially invalid and unconstitutional as a whole. And that's what we usually think of when we think of the Court striking down a law as unconstitutional. That strikes down the whole law as invalid.

So that was the ultimate conclusion. Justice Scalia, in his opinion concurring, would go a little bit further than Justice Stevens, but he essentially reaches the same result. Justice Scalia says that the voter ID law is a generally applicable, nondiscriminatory voting regulation, and thus individual
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impacts on specific voters are irrelevant for
determining the severity of the burden. In Justice
Scalia's analysis, he said you look at the burden is not
severe on anyone. The burden is show a photo ID. That
burden could have some different impacts on particular
individuals, again, who might have a particular hardship
going that ID. But, again, that's not enough to say
that the law, as a whole, is unconstitutional.

SEN. ELTIFE: Members, any questions of
the witness?

(No response)

SEN. ELTIFE: No questions.

Mr. Ward, thank you for being here.

MR. WARD: Thank you very much.

TESTIMONY BY GARY BLEDSOE

SEN. ELTIFE: At this time, we'll call
Gary Bledsoe forward.

MR. BLEDSOE: Good evening. My name is
Gary Bledsoe. I represent the Texas State Conference of
NAACP branches, and I am proud to stand before you as a
fellow Texan, and indeed I want to emphasize the term
"fellow Texans."

You know, the Texas that we have today is
very different from the Texas that I grew up in, and
indeed I've seen many things occur that have been
extremely positive for me. I grew up in a segregated Texas when voting was really a luxury, something that was not to be expected in my community. It was something very much that people cherished and desired, desired to occur.

And many of you might even remember back in 1974 when Frank Robinson, an African-American who was registering individuals to vote out in Palestine, was actually killed at his home because of his attempts to register people to vote. Now, I happened to be a freshman in law school at that time. So it's not all that long ago that that actually occurred.

And, you know, when I -- when I look at the ways that we have had to struggle to get the opportunity to vote, I want you to know that we cherish that and know that's extremely important. And in many ways, our state had become exemplary. When I go around the country and you -- we understand how we've enabled people that have been on paper with felony convictions to vote and things of that nature, that's a good thing.

And, you know, the fact that -- we don't really have a problem with voter fraud in elections. I think that all the testimony seems to indicate that, that indeed people who go to vote are indeed people who actually are registered to vote. So there's really not
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1 a problem in that regard from what we've seen.

   However, I'm aware that what we're
2 discussing now is whether or not we will have a bill.
3 So I would reach out to each and every one of you and
4 say that if we are going to discuss voter
5 identification, then let's do so in a way to be
6 constructive and to be enabling so that we can try and
7 empower all the people within our state to presume that
8 all people who would be eligible to vote ought to be
9 allowed to vote. And so we should reduce impediments
10 and not present additional impediments that would
11 prevent people from voting.
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13   Now, frequently we have come before you
14 and talked about this issue. I know that the last time
15 I came before you we talked about a number of instances
16 of serious irregularities that have occurred in our
17 state, and I don't want to go back and go over all
18 those, but I want to point some of those out to you
19 because I think if we're talking about voter problems
20 that really and truly we ought to be talking about some
21 of the issues that prevent access because we think
22 that's a much more significant problem than the problem
23 with people voting who are not the people who were --
24 who were actually registered to vote.
25
26   In just this past year, we had a situation
with elderly citizens up in Bowie County who were
harassed by individuals after they had voted absentee,
and people were demanding to know how they voted,
terrorizing the elderly people who made contact with us
because they were very concerned, but it was very
obvious it was because of politics, from our
observation.

We know that we had so many problems or
complaints directed to us out of Harris County this last
session where people were intimidated by other
individuals who hovered over them, who stared at them
and gave very hateful looks towards them, intimidating
some people from going forward with actually voting.

So we know these things continue and
occur, and it's not just the kinds of things that we've
seen in the recent past, such as when an
African-American candidate for sheriff in a county
outside Houston had -- one of his white supporters had
their home catch fire. And so instead of investigating
what might have occurred, they ended up investigating
the African-American candidate for sheriff.

We know that where they've used off-duty
police along with improper uses of mailboxes in Tarrant
County to intimidate African-Americans from being able
to vote. So it goes on and on, and all these things
have occurred within the last decade and some within the past six months. So we know that indeed we have not arrived to where we have eliminated problems with preventing our having access to be able to vote.

And, you know, I was able to be an election observer for an election down in Venezuela, and that was really quite illuminating to me in that the individuals had to give a fingerprint whenever they voted, and an untrained person had to look at the fingerprint and determine whether or not it was the right person. And we know that the photograph came up on the screen and you had to look and see if this was the right person.

And, you know, they had armed guards around, and I actually had the misfortune of having a gun directed at me by a guard. When I was asked by an official in the Secretary of State's Office to actually go and observe them vote, I actually had to back off when a gun was directed right at my face for -- five or six feet away.

So I think we look at those things, we don't need to move in that direction. We need to be going out and telling people that what we have is really good. What we have is actually working, where we have a democracy, we have people that are engaged that are from
different backgrounds, different races, different ethnicities, and we get there and we debate and we discuss issues.

You know, when they had the birth of a nation years ago and they talked about what would occur in our country with enfranchising African-Americans, we found out just the opposite was true, and that indeed we're moving toward something that's very special, but there are people that are competing against what we've been trying to accomplish.

But, Senators, I really want to say to you that we have a system that I feel is actually a good system.

Now, besides all the other matters that I can talk about, I wanted to visit with you about some of the problems that we see with where we're proceeding with SB 14. You know, I don't understand why, but in many ways I look at SB 14 and SB 14 is much more problematic than the Indiana law and much more problematic than the Georgia law that have been utilized. When we look at the Indiana law, the Indiana law -- we can see where individuals can actually come in and if they are indigent, they can give an affidavit and be allowed to vote by saying that they can't afford to have a voter ID.
We know that under the Texas law in comparison with the Indiana law you've got to come back in a stated period of days, and these six days. And the way that six days is worded and the time that's involved, it's going to require people to come during their workdays from 8 to 5, which is a real problematic thing for individuals to do. And we know that when you have to come in from 8 to 5 and you're a working person, that's going to be something that's difficult for you to do.

We have a law that says if you're voting in an election, that on election day you can go and have time off from your work. There's not a law that says you can come and have that taken care of.

Now, the -- we know, too, that the other thing about an Indiana law -- and I would note that Indiana is not a covered jurisdiction. So Indiana and the Indiana case involved constitutional issues and not the Voting Rights Act.

But, now, Indiana allows you the one free bite. So when you go in and you have an expired identification, you can still use that identification for one election. The idea is that then the person will be put on notice that their identification is expired, and they will go and have that identification come up to
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date. So I think that's another distinction.

Now, in Georgia and in Indiana, they did some things that we have not done here. They did diligent inquiries, and they determined that prior to adoption of their laws, they determined that indeed almost every one in those states had DMV identifications. So everyone in Georgia had a DMV identification, and only 43,000 people in Indiana did not have a DMV identification. So that's much different from what we have here.

Also, those states are much smaller. And in Texas with the location of driver's license offices, et cetera, some people have to travel over 100 miles. So even with an indigent's provision, that's not going to allow people who are poor, indigent, impaired, have difficult access to these places to be able to actually register. And I don't know what the implications are for obligations under the NVRA, but we have not complied with our obligations under the law. And that has been a problem in Indiana as well.

And I'd just say, finally, it's very clear that the Texas law will impair and have a clearly disparate disadvantage on people of color. The forms of ID selected are problematic. There would have been something better. The forms of ID selected in Indiana

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and Georgia were both superior. The criminal
prosecution will discourage. We know that this might
impair compliance with the NVRA. We know that there
have been so many problems with election officials that
this will empower them more so to disadvantage
individuals. And we know that because of the time to
vote, the problem with identification and especially
cross-racial identifications, the issue of the
expiration and the types of the IDs selected, those
things are going to further reduce the minority vote.
So we think this is a covered jurisdiction, and you can
look at this in a different way. Thank you.

SEN. ELTIFE: Mr. Bledsoe, thank you. And
some members do have questions for you.

Senator West?

QUESTIONS FROM SENATE FLOOR

SEN. WEST: Thank you very much,

Mr. Chairman.

Mr. Bledsoe, thank you also. Now, you've
been the President of the NAACP Conference -- state
conference for how many years now?

MR. BLEDSOE: Twenty years.

SEN. WEST: Twenty years. Is there a
well-documented history of voter suppression that is
specifically related to race and ethnicity in this
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state? And how would this voter ID law fit into that particular history?

MR. BLEDSOE: Well, I think it's consistent with the history, and that's sad. You know, I think that we've seen Texas really evolve in a lot of ways. And, you know, Texas has had a history where in recent years I had a lot of bipartisan cooperation. And I know that when we've done report cards in the past, we had people in both parties that were doing exceptionally well on our report card.

But we haven't extricated ourselves from the past. And indeed when we look at the past and we look at all the disenfranchisement that's taking place, this is a direct extension of that because indeed if one wanted a voter ID law, there would be a way of having a voter ID law that would be more enabling, that would not suppress the vote. Because what we want people to do is to go out and to compete and to actually say that we will compete for the minority vote and not have a law that we think will have a clear disadvantage in terms of suppressing the minority vote.

SEN. WEST: Would you -- so do you believe that this voter ID law will, in fact, discriminate against people of color?

MR. BLEDSOE: There's no question, again,
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the types of IDs that are selected, the time period with
the nature of the jobs that African-Americans have and
the requirement for African-Americans to come in and
actually produce their proof within a certain period of
time. We've had enormous problems in this state with
the cross-racial identifications, and I can just see
enormous problems with that. Especially with the kinds
of things that we've seen in Bell County and some other
places here recently, we know that's going to be a
problem.

And we know, too, that in terms of the
issue of expirations, that's going to be a problem. And
if you look at state data on like voter -- excuse me --
motor vehicle ownership, our access to vehicles, you'll
find there's a big disparity among racial groups. And
so we're talking about the poorest of minority groups
not truly having access to be able to go and access the
identification. So I think it's clearly going to have a
disparate impact.

SEN. WEST: So is it your testimony that
this particular voter ID bill will discourage as opposed
to encourage people to participate in the electoral
system?

MR. BLEDSOE: It will; it clearly will.
And, you know, one of the big things obviously is the
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criminal prosecution, but then there are the other
provisions as well where you make it so difficult for
people. You know, we've had, in numerous instances,
Fort Bend, Harris, Bowie Counties, where individuals
have been turned away, who weren't even allowed to cast
a provisional ballot. And so that's a problem. You
know, it's kind of like the thing in Indiana when the 12
nuns were attempting to vote, and they did not allow 12
nuns to vote because they didn't bring their voter
identification with them.

SEN. WEST: It was 12 of them?
MR. BLEDSOE: Twelve; 12 nuns, yes.
SEN. WEST: Twelve. Okay. Huh,
interesting.
Now, let me ask this question, sir:
You've had an occasion to speak with many
African-American elected officials concerning voter
identification laws over the last few years. Is that
correct?
MR. BLEDSOE: That's correct.
SEN. WEST: Have you found any
African-American legislators -- any African-American
elected officials in the state of Texas that are in
favor of the voter identification laws that are being
considered by the Texas Legislature?
MR. BLEDSOE: We've seen none. And, you know, our group is unanimously opposed to it. And, you know, we've got Republicans and Democrats in our leadership. And let me say that one of our folks that I think you even know, Senator -- I don't know that you know this -- but Obie Greenleaf, who is a city councilman now up in Sherman, he just went and tried to renew his registration, and he was pulled out of line, told he had to go home and get -- and get his birth certificate.

SEN. WEST: And he's a city councilman?

MR. BLEDSOE: He's a city councilman. And another African/American male, who is 80 years old, was told to do the same thing. Now, all the whites in line were not pulled out.

And, you know, we've done some surveys around the state, and we're not complying with NVRA. So there is a real problem with our people being registered to vote by our agencies.

SEN. WEST: Well, there have, in fact, been some campaigns that have been launched lately -- or back in 2005, 2006, campaigns against voter fraud. Do you remember those campaigns by the Attorney General?

MR. BLEDSOE: I'm aware.

SEN. WEST: And some of the images that
were used there within the content of those campaigns?

MR. BLEDSOE: I think those things became part of litigation, if I'm not --

SEN. WEST: All right. So, frankly, the passage of this particular bill will encourage additional litigation in the civil rights area. Is that correct?

MR. BLEDSOE: There's no question. Let's look at the PV 19, for example --

SEN. WEST: Right.

MR. BLEDSOE: -- and the 19 children who bore the names of their fathers, and they were wrongfully prosecuted because they voted in Waller County. And that county still has enormous problems. You know, we had a couple years ago where the county registration officials declined to follow through and tender legitimately completed voter registration cards to be registered, and that was right before an election, and that continues to be a problem. And if it wasn't for the AG's Office telling them ultimately to register those voters, I don't know if they ever would have been registered, but they were not registered before the election. So there was an impact in them not following through and registering those voters.

SEN. WEST: Well, sir, I appreciate your
advocacy, and needless to say you're steadfast as it relates to protecting the rights and civil rights of people in this state. Thank you.

MR. BLEDSOE: Thank you.

CHAIRMAN DUNCAN: The Chair recognizes Senator Hinojosa.

SEN. HINOJOSA: Thank you, Mr. Chairman.

Mr. Bledsoe, thank you for your testimony. And I was very interested as you described the history in where minorities for a long time were being kept from voting and exercising their right to vote. You talk about many problems from intimidation, I guess, to the poll tax. Can you name some of those situations, for example, where laws have been passed for the sole purpose of trying to suppress the vote of minorities?

MR. BLEDSOE: Obviously there were -- there were a number of those that occurred. One of the things that we had in our state was the grandfather clause. You know, we had had poll taxes in this state, and ultimately in this state they ended up passing the rule that was used in the Democratic Primary, which at that time there were -- the two parties were the conservative Democrats and the liberal Democrats. And so if you didn't vote in that Democratic primary, you really didn't have a vote.
And that had to go -- the NAACP litigated that case, and we first defeated that system back in, I think, '28 or '29 before the Supreme Court, but they finessed the rule. And so the NAACP had to litigate it again, go to the Supreme Court again in 1944 where it was finally invalidated. So there have been quite a few instances. But if you happened to be African-American or Latino and your grandfather had not been able to vote in 1910, the teens or the '20s, '30s, you couldn't vote either.

SEN. HINOJOSA: And as you well know, Texas right now is under a Voting Rights Act.

MR. BLEDSOE: That is correct.

SEN. HINOJOSA: And they have an actual burden to prove that whatever laws they pass in terms of voting doesn't discriminate or suppress the vote against minorities.

MR. BLEDSOE: And that's one thing they didn't have in Indiana. That's an additional obstacle that they'll have to encounter with the law in this state.

SEN. HINOJOSA: And as you recite history, it seems to me that many times different laws, different methods are used to try to suppress the vote of minorities, and they use different euphemisms and
different names. And it seems to me that the purpose of the voter ID legislation is, again, to suppress the vote. Are you familiar with the Carter-Baker Commission and Federal Election Reform?

MR. BLEDSOE: Yes, I am.

SEN. HINOJOSA: Yeah. Well, one of the studies they made would show that here in Texas where we have approximately 13 million registered voters, that if we pass voter ID, it would disenfranchise approximately 3 million voters, mostly minorities. Are you surprised at that?

MR. BLEDSOE: I'm not, because I think this will have enormous implications. And again, if we wanted to look at Indiana or Georgia, I would have problems, but those laws -- they are so much less restrictive than what's being proposed here. This law would have enormous implications because of the way that it is written. So it seems like instead of seeking the least restrictive means, we're seeking the most restrictive means.

SEN. HINOJOSA: And as you describe the different problems that exist in terms of sometimes intimidation, sometimes in placing obstacles to minorities to vote, have you come across a lot of instances where there's voter fraud where a person tried
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to impersonate a registered voter?

MR. BLEDSOE: I have not seen of such a
situation, Senator. I think there are very few
situations because you are putting yourself in harm's
way when you do that, even under the current laws. So I
think there are fail-safes under the current law that
would prevent you from doing that. But be that as it is,
I think that it's pretty much widely acknowledged
today that that's really -- really not a problem.

SEN. HINOJOSA: And, for example, the last
ten years, do you know how many prosecutions have taken
place in terms of indicting a person for trying to
impersonate a registered voter?

MR. BLEDSOE: I think I saw something on
the Internet maybe about one in South Texas recently and
one person, and there might have been something in
Harris County. But in all those years, maybe one or
two, and I don't know if they were successful or not.

SEN. HINOJOSA: Well, if you compare the
number of people who have been indicted, maybe three or
four or five in the last five or six years that try to
impersonate a voter, to the negative impact that this
piece of legislation would have on minorities by
disenfranchising approximately 3 million who do not
carry photo ID, don't you think it's a little bit out of

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balance and a steep price to pay?

MR. BLEDSOE: It is. Again, if we wanted to have the integrity, there are things we could do to ensure integrity more so than what we're actually doing here. You know, there have been good and great suggestions that have been put forth. And again, the distinctions between Indiana and Georgia is the DMV had IDs on almost all those folks. So when we went to the Department of Justice in Georgia to get preclearance, Georgia could tell DOJ that 100 percent of our people we have IDs on already, and that's something we don't have.

SEN. HINOJOSA: Thank you for your testimony.

MR. BLEDSOE: Thank you, sir. Thank you, Mr. Chair.

CHAIRMAN DUNCAN: Hold on just a minute. Senator Ellis?

SEN. ELLIS: Yeah, briefly, Mr. President. I just wanted to thank Mr. Bledsoe. I called him last night and asked him to come. I know he had client business and court matters toady, and you've been waiting all day to testify. I think my colleagues asked the questions I would have asked, but I just wanted to publically thank you for staying here all day today.

MR. BLEDSOE: Thank you, Senator. I
appreciate it. Thank you.

CHAIRMAN DUNCAN: Are there any other questions of the witness?

(No response)

CHAIRMAN DUNCAN: Thank you, Mr. Bledsoe.

We appreciate your appearance here today.

TESTIMONY BY ANDRES TIJERINA

CHAIRMAN DUNCAN: Dr. Andres Tijerina.

Dr. Tijerina, state your name and who you represent.

MR. TIJERINA: My name is Andres Tijerina representing myself.

CHAIRMAN DUNCAN: You may begin.

MR. TIJERINA: I'm a citizen of Austin, a citizen of Texas, born in Texas, and I'd like to provide some useful information to give a historical perspective to voting laws and specifically those that have been discriminatory against Mexican-Americans and minorities in Texas.

As I said, I am from Texas. I'm from West Texas. I have a BA from A&M, a masters from Tech, a Ph.D. from The University of Texas at Austin, and I also worked as the liaison officer for the United States Air Force Academy in Colorado Springs. I'm a retired Air Force officer. I'm a member of the Texas State Historical Association among other associations. I'm
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also a Fellow of the TSHA, and I've conducted research here at the State Archives, the National Archives, University of Texas and other places in order to write numerous books and publications that I've published through Texas A&M University press and other refereed publications, primarily on Texas history and Mexican-American history that's given me this -- a perspective that I'd like to share with you all this afternoon.

Texas, I think, has a legacy and a history of voter discrimination that is very clearly directed and explicitly directed at Mexican-Americans to specifically and effectively keep them from voting that goes way back to the establishment of Texas right after it was annexed to the United States and goes right on up to the present.

It has a record of establishing and writing laws to create legal devices and to take actions specifically intended to intimidate Mexican-Americans and minorities from voting, to drive them away from the polls; actions to divide and to redistrict their population base, their counties, specifically directed to keep them from voting or to weaken their voting effect in Texas; devices and actions to literally terrorize them through the years, through the decades.
The effect has been to effectively reduce the number of Mexican-Americans who have voted through the years, through the history of Texas, and at the same time to leave an impact or a legacy among their community of distrust of the state government and even a fear of state government and state law enforcement officials. This has been done in many ways that appeared beneficial or that were presented as beneficial even innocuous laws. Many of the people who effected this were people who approached Mexican-Americans innocuously or supposedly to help them.

Political bosses, Texas has some of the most powerful political bosses, or had through history, Jim Wells, Robert Kleberg, George Parr, who used very explicit and physical methods, literally corralling hundreds of Mexican-American voters, thousands of Mexican-American voters, primarily in the years from around 1870 until around 1940, 1950, where they would literally corral hundreds or thousands and direct those votes, either through assistance to them by hiring them to work on the county at election time or literally through intimidation or specific assassinations. In any case, taking hundreds or thousands of Mexican-Americans and then directing them to vote for people who became great Texans, Lyndon B. Johnson, John Nance Garner,
Edward M. House, who benefited from corralling of Mexican-American voters, either through assistance to those voters or intimidation and threats of those voters.

The Terrell Election Law, which was presented as a beneficial law, actually created a poll tax specifically directed at Mexican-American voters to keep them from voting, a 1918 law to explicitly eliminate interpreters; other devices like the white man's primary that required that people take an oath that said that they were a white man and a Democrat; but also violence, violence that is almost unbelievable today, even considering the violence that we see in today's newspapers, even considering the violence you see in Mexico; Texas Rangers, law enforcement officials or vigilante groups in Harlingen, Edinburg, across Texas all the way out to El Paso, riots in which the Anglo-American, 4,000 Anglo-American riders in 1916 in Harlingen chanting, "Keep the Mexicans from voting," literally rioted and lynched several Mexican-American U.S. citizens to keep them from voting; Texas Rangers literally ethnic-cleansing hundreds and thousands of U.S. citizens, shooting them in the back of the head under sworn testimony that we have here in the Texas State library, all of them explicitly to keep them from...