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voting at election time; going through the barrios in Corpus Christi and Harlingen at election time, riding through and telling them, "Any Mexican-American citizen caught voting would be either killed or sent to prison."

That's the heritage of Texas, and it goes all the way on up to the lynchings in the 1930s, 1940s of Mexican-Americans. And then later all the way up through the 1960s and 1970s, Mexican-American organizations, LULAC, GI forum and voter right -- Southwest Voter Education Project of Woody Velasquez, having to literally engage in lawsuits to try to enforce the 1965 Voter Rights Act that has continued up until last -- well, 2008, in this very county, a group tried to, in effect, limit the extension of the Voter Rights Act and actually had to go up to an appeals court of the U.S. Supreme Court.

So the record of Texas has been specifically directed against Mexican-Americans and minority voters, and it's been very effective, not only in limiting and reducing their votes, but also in creating a legacy among their community of distrust of our state government, distrust of our voting process, distrust of the democratic process and even fear. Thank you.

CHAIRMAN DUNCAN: Thank you, Dr. Tijerina.
Are there any questions?

(No response)

CHAIRMAN DUNCAN: All right. The Chair hears none. We appreciate your testimony.

MR. TIJERINA: Thank you.

QUESTIONS FROM SENATE FLOOR

CHAIRMAN DUNCAN: Oh, I'm sorry. Excuse me. We do have Senator Gallegos.

Excuse me, Senator.

SEN. GALLEGOS: Professor, let me ask you -- I mean, I just heard your testimony and the history, and you've said all that discrimination has been targeted mainly to Mexican-Americans here in the state of Texas. Is that correct?

MR. TIJERINA: Yes, sir, very explicitly to Mexican-Americans.

SEN. GALLEGOS: So let me ask you, in your expertise on history discrimination except as compared to voting rights, how would you compare the present bill that is before us as to some of the intimidation and discrimination factors that you had just described to us in the past and some of the bills that were for like the no interpreters? That was in 1918?

MR. TIJERINA: Yes, sir.

SEN. GALLEGOS: And some of the other
issues that you brought up. How would you compare this
Senate Bill to the past history that you described to
this chamber?

MR. TIJERINA: That those in history also
were presented in a very positive good light. The
people who presented these laws and the people who took
the action, the rioters who lynched Mexican-Americans
called themselves the Good Government League. They had
good names. The people who killed and assassinated
hundreds, even thousands of Mexican-American/U.S.
citizens, called themselves Progressives. The laws that
were passed by Terrell himself in the Terrell Election
Law of 1903, he explicitly stated that he wanted to
"kill the Mexican vote." The candidates during that
time period who campaigned for the U.S. Senate -- it's
in the Senate record -- campaigned that their intent --
that their intent was to kill the Mexican vote. And yet
the way the poll tax was written, the way the Terrell
Election Law was written, it was innocuous. It was
beneficial. It was written specifically to assure that
only those legal voters could vote and to clean up the
elections.

So to read the Terrell Election Law itself
was very innocuous or beneficial, and yet to hear
Terrell himself speak, he was very explicit. He wanted
to "kill the Mexican vote," and that's how I would compare them.

Many of these devices through the years are written to sound beneficial or innocuous, and yet they have just the opposite effect.

SEN. GALLEGOS: Professor Tijerina, what you're describing to me and what I just heard is what I've seen on television recounts of what happened in Mississippi and in Alabama and those southern states that prevented African-Americans from either registering or voting. Is that what you're comparing this to?

MR. TIJERINA: I think it would -- it would have a parallel, yes, sir.

SEN. GALLEGOS: Let me ask you, is there any evidence that old historical discriminatory actions are relevant or applicable today?

MR. TIJERINA: Yes, sir, in the sense that there has been and there is a legacy today in Texas of voter discrimination, voter intimidation and a legacy of fear and distrust; yes, sir.

SEN. GALLEGOS: Professor, let me ask you also, is there any evidence -- well, I think you just answered this -- of innocuous or beneficial election laws that may have actually had the intent to disenfranchise Mexican-Americans -- Mexican-American
voters?

MR. TIJERINA: Yes, sir, those that I just cited.

SEN. GALLEGOS: Okay. I just -- I just wanted to be clear on that fact. Thank you very much, Professor.

MR. TIJERINA: Thank you.

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

(No response)

CHAIRMAN DUNCAN: All right. The Chair hears none. The witness will be excused. Thank you.

TESTIMONY BY CHASE BEARDEN

CHAIRMAN DUNCAN: The Chair calls Chase Bearden. Please state your name and who you represent.

MR. BEARDEN: My name is Chase Bearden. I'm with the Coalition of Texans with Disabilities. Good afternoon. Thank you for a chance to speak to all of you.

We have spent some time looking at voter ID, and we feel that there is a portion that will disenfranchise a large number of Texans with disabilities. We've looked at just the logistics of trying to reach a place to get this free ID that
everyone has talked about.

There's a large cost associated for a person with a disability who lives in a rural area or place that's farther out to try and reach a DPS office to try and get these IDs. The majority of people with disabilities, especially that have had one for their entire life, may not have ever gotten a driver's license. They may not have a Texas license. They more than likely don't have a passport. So when you look at trying to get the IDs that you need to go and vote, you're starting off at a large cost.

The majority of people with disabilities that are wanting to get these IDs will have to probably go and get their birth certificate. To find someone who can actually pick them up, drive them there, find an accessible vehicle, if they don't have one, or find a bus line that actually goes to where they can get a birth certificate is going to be very difficult. A lot of people said, "Well, maybe they can go online. They could access and get their birth certificate sent to them online." There's a large number of Texans with disabilities who are living on a very small amount of money each month. They more than likely don't have a computer to even access the Internet much less a provider or a credit card that they could use to access
the birth certificate they need. It also takes quite a long time to get that birth certificate if you were to access that online unless you were to expedite it.

Then after getting that, you would have to find a way to get to the DPS office. If you do live in a very rural area and you have a significant disability, maybe you're using a power chair and your family doesn't have an accessible van to be able to get you somewhere, you have to look at how are you going to be able to make it to where that person can access these IDs easily.

One of the other areas that we looked at was people living in nursing homes, state-supported living centers who might not be able to access the IDs they need to go and get identification. Do we have something in place that's going to allow them to be able to go and more than likely not be able to catch a ride or hop in their car and drive down to the DPS office. They are living in a state-supported living center, but they still have the right to vote.

So looking at how they would get their identifications, we feel like they would still more than likely be put in a place where they are not going to be able to get the identification they need.

One of the other areas that we looked at was that there's an exemption for a person that's over
70. And when we thought about that, isn't that similar
to the same issues that a person with a disability might
be facing, a harder time getting transportation to get
in to go get that ID, maybe the cost, living on a fixed
income? So we have an inconsistency that kind of keeps
the same person from getting the ID they need, that free
ID, but we're giving an exemption to someone else.

When we started looking at a person who is
traveling to go and actually vote and they get there and
they don't have the correct ID or they are missing
something, so they have to cast a provisional ballot,
trying to get back there within six days can sometimes
be logistically impossible for a person. They might
have had to get public transportation to go and get
there. So they had to set up a ride through one of the
kind of disability bus systems, but they might not be
able to get a ride again or to get to the place to get
the documentation they need to get back and cure their
ballots.

Currently right now there are being bills
filed that would reduce the accessibility at some of the
polling places on nonfederal elections. They wouldn't
have to use all the accessible voting machines. We feel
like if you end up passing a law like that and then you
add voter ID to that and you're kind of putting a burden
on someone trying to force them to get an ID that they might not be able to get to, and then they get to the polling place and they don't even have the accessibility they need to cast a private ballot. It's just recently in 2001 that we've been able to get the technology we need to cast that private ballot without someone else doing it for us. And now we're looking at having that removed and then being forced to try and find an ID that's acceptable that might not be obtainable by everyone.

So we ask that y'all take the time to really investigate how these IDs will really affect someone who might not be able to obtain what it is y'all are asking for. Thank you.

CHAIRMAN DUNCAN: Thank you, Mr. Bearden.

QUESTIONS FROM SENATE FLOOR

CHAIRMAN DUNCAN: Senator Zaffirini?

SEN. ZAFFIRINI: Thank you for being with us this afternoon, Mr. Bearden. Excellent testimony. I have several questions for you that will focus on the needs of persons with disabilities and how they will be impacted if Senate Bill 14 were to pass.

First, are persons with disabilities less likely to have a current driver's license, military ID or passport than the general population of voters?
MR. BEARDEN: I think there's probably a large number of people with disabilities who don't have a current driver's license or who don't have a driver's license. Many depend on the bus system, and they live in areas where they can access buses. Not all the bus systems will access DPS. Not all people with disabilities are going to have a passport. Many of them are living on a fixed income and more than likely are not traveling abroad. They more than likely have not been in the military or are carrying any other type of ID.

SEN. ZAFFIRINI: And what is the reason for this? Why is it that persons with disabilities -- and I'm trying to enter it into the record. Why is it that persons with disabilities are less likely than other voters to have these documents?

MR. BEARDEN: People with disabilities tend to be of the lowest demographics when it comes to having jobs, having income. They are having a harder time trying to get the services they need. So being able to have a driver's license or a passport is a lot of times unobtainable.

SEN. ZAFFIRINI: Thank you. What additional barriers do persons with disabilities have in obtaining the forms of ID requested or required by...
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1  Senate Bill 14.
2  
3  MR. BEARDEN: Could you repeat that again?
4  
5  SEN. ZAFFIRINI: What additional barriers do persons with disabilities have or would have in obtaining the forms of identification required by Senate Bill 14?
6  
7  MR. BEARDEN: I think many of the barriers would be -- I think it was brought up that one of the DPS offices was inaccessible. There's still accessibility issues in Texas. We've had accessibility issues in polling places.
8  
9  When you look at trying to get $22 put together to buy a birth certificate, have to take the time to get that birth certificate, then go to get another ID, I think when you look at the amount of money that that is -- and I know everyone doesn't feel it's a large amount of money -- but someone living on a fixed income, on SSI, that is a large portion of their funds, and a lot of them won't be able to obtain it.
10  
11  SEN. ZAFFIRINI: Would the voter identification required in this bill be sufficient to ensure access to accurate information about the new ID requirement information for the full range of persons with disabilities in our state?
12  
13  MR. BEARDEN: We don't feel it will. The
majority of people who have disabilities are living on a
fixed income. They don't have access to a computer.
They don't have access to the Internet and more than
likely not to have a newspaper to receive the
information. So we don't feel that they will be able to
get all the information.

SEN. ZAFFIRINI: Thank you. What effect
do you believe that Senate Bill 14 would have on the
turnout of voters with disabilities?

MR. BEARDEN: The turnout of voters with
disabilities has increased up to -- we feel like it will
decrease. The majority of people will show up. They'll try and cast their vote. They will have to do a
provisional ballot, and I think when they start to look at having to come back, they will have a harder time making it. The journey getting there sometimes is incredibly difficult, trying to find a way to get there,
trying to get everything in order to be able to get there. So we do think it will decrease the turnout.

SEN. ZAFFIRINI: Thank you. Now, thinking specifically of persons with disabilities who are
registered voters and who do have a photo ID, is there any way that they would be impacted negatively by Senate Bill 14?

MR. BEARDEN: I think they could be if
they do not bring their ID. The majority of people with
disabilities, if they had a photo ID and were to show up
without it or to have one that has expired, may not have
the time to actually go afterwards, get an ID redone or
to get a current ID to be able to make it back and have
their ballot cured in time.

SEN. ZAFFIRINI: Would part of the problem
be that they might have a photo ID that is very old?
MR. BEARDEN: I think that's very
possible. There's a lot of people who might have
received an injury who were driving before who are not
driving anymore, who have held onto an ID that has
expired. That's all they've needed. So more than
likely if they are not driving and their ID is expired,
they probably won't have a current ID.

SEN. ZAFFIRINI: And they might have a
driver's license that has expired, too --
MR. BEARDEN: Uh-huh, yes.
SEN. ZAFFIRINI: -- that would have a
photo?

What affect do you believe Senate Bill 14
would have on the number of provisional ballots cast by
voters with disabilities?

MR. BEARDEN: I think we'll have a lot --
a larger amount of provisional ballots casted, and I
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don't think we will be able to -- in the next few
elections be able to educate people fast enough to be
able to lower that level. We've spent since 2001
educating people, that they have the technologies now to
make an independent, private vote themselves. And it
took time to get people to understand that if they were
visually impaired, they didn't have to rely on someone
else anymore. They went before, they had a bad
experience, weren't able to cast their own ballot, and
then once we passed HAVA and they had the technology to
cast their own ballot, it took us time to get people
educated to know that they can still do that and how to
do that. So I think we would be kind of taking steps
backwards by doing this.

SEN. ZAFFIRINI: To your knowledge, have
HAVA funds been used specifically to increase the access
of persons with disabilities to polling places.

MR. BEARDEN: Yes, they have. We've
specifically worked with HAVA and the Secretary of
State's Office to increase Texans with disabilities
voter outreach. We've also worked with them on finding
access issues. So I think these funds would be greatly
hampered, and the ability for Texans to be able to vote
would have problems.

SEN. ZAFFIRINI: Do you have any concerns
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about the plan or the possibility of diverting $2 million in HAVA funds to pay for this Senate Bill 14 instead?

MR. BEARDEN: Yes. Because right now I believe that's about what they are spending to do all the outreach and to work on accessibility and to maintain some of the voting machines. Right now what they've said, the reason -- I believe one of the House bills that's been filed to not have to have the accessible voting machines is that it's a higher cost during nonfederal elections. If that's the case and the counties are not able to afford to make -- have an accessible machine, the funds that could have helped them are probably now going to be taken away to let people know that they're going to need an ID.

SEN. ZAFFIRININI: So it is your testimony that if $2 million in HAVA funds are diverted for the purpose of Senate Bill 14, that there could be a negative impact on the accessibility of persons with disabilities to the polling places?

MR. BEARDEN: Yes.

SEN. ZAFFIRININI: Thank you. Now, Mr. Bearden, you represent the Coalition of Texans with Disabilities?

MR. BEARDEN: Yes, I do.
SEN. ZAFFIRINI: And that comprises different member organizations?

MR. BEARDEN: Yes, it does.

SEN. ZAFFIRINI: Who are some of those member organizations?

MR. BEARDEN: We have organizations that are not disability related. We have a majority of disability groups that are out there. I think we have --

SEN. ZAFFIRINI: Do you have veterans, for example --

MR. BEARDEN: We do; we do.

SEN. ZAFFIRINI: -- with disabilities?

MR. BEARDEN: We have veterans' associations. We have organizations that are more specific to single disabilities. We've worked with groups of older Texans.

SEN. ZAFFIRINI: And is your testimony today personal, or are you representing this Coalition of Texans with Disabilities?

MR. BEARDEN: I'm representing the Coalition of Texans with Disabilities.

SEN. ZAFFIRINI: Have they discussed this bill thoroughly?

MR. BEARDEN: Yes.
SEN. ZAFFIRINI: And what is their consensus about this bill?

MR. BEARDEN: We feel it will disenfranchise a portion of Texans with disabilities.

SEN. ZAFFIRINI: And you are speaking for this coalition --

MR. BEARDEN: -- yes.

SEN. ZAFFIRINI: -- when you stand in opposition to this bill?

MR. BEARDEN: Yes.

SEN. ZAFFIRINI: Thank you. Now, you're familiar with the bill, of course, and you've seen different versions of it through the years?

MR. BEARDEN: Yes.

SEN. ZAFFIRINI: Can you think of any amendments that we could propose that would help address the issues that are of concern to persons with disabilities?

MR. BEARDEN: I think an amendment that might be similar to a person who is 70 years old who would be able to say that they have a disability and that maybe they have the registrar -- they have written earlier to the voter registrar and stated they have a disability that would affect them from being able to get the ID to be able to just present their voter
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registration card.

SEN. ZAFFIRINI: Are there any other amendments that could cure this bill for you?

MR. BEARDEN: I can't think of any right now, but I could ask more of our groups.

SEN. ZAFFIRINI: Well, I offer you the opportunity to work with my staff today, and we will address those concerns, and we will try to craft some amendments that would suit your issues --

MR. BEARDEN: Sounds good.

SEN. ZAFFIRINI: -- and try to cure them.

MR. BEARDEN: Thank you.

SEN. ZAFFIRINI: Thank you very much, Mr. Bearden.

Thank you, Mr. Chairman.

CHAIRMAN DUNCAN: Thank you, Senator. Are there any other questions of Mr. Bearden?

(No response)

CHAIRMAN DUNCAN: All right. Thank you, Mr. Bearden. I appreciate your testimony.

Members, that concludes the invited testimony for the day. We have been going now for a little over three hours, and so it's time for a short break. We'll take a 15-minute break, and then we'll begin testimony with regard to our resource witnesses.
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My plan is just to call them up in the order that I've previously announced, and you can ask any questions, and then we'll go into public testimony after that.

So the Senate Committee of the Whole will stand at ease until 5:45.

(Recess: 5:30 p.m. to 5:45 p.m.)

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

RESOURCES TESTIMONY

TESTIMONY BY REBECCA DAVIO

CHAIRMAN DUNCAN: We have -- Members, the next portion of this hearing will be our resource witnesses. The first resource witness we announced earlier will be Rebecca David (sic) with the Texas Department of Public Safety.

Ms. David, why don't you come on up, state your name and who you represent, and then we'll open the floor to questions.

MS. DAVIO: My name is Rebecca Davio. I am the Assistant Director for Driver Licenses at DPS.

QUESTIONS FROM SENATE FLOOR

CHAIRMAN DUNCAN: Okay. Senator Zaffirini, you have a light on. Are you -- would you like to ask any questions?

SEN. ZAFFIRINI: (Nodded)
CHAIRMAN DUNCAN: All right. Any other member have a question? Senator Watson, you're recognized.

SEN. WATSON: Yes. Thank you, Mr. Chairman. Ma'am, you may not be the right person to ask this, but I was deferred earlier, and so I thought I would ask a couple of questions and see if you are the right person.

Right now when someone goes in to get an identification, is it your office that provides that identification card?

MS. DAVIO: Yes, sir.

SEN. WATSON: And how much is charged for that identification card?

MS. DAVIO: That card is $15.

SEN. WATSON: All right. So how much does it cost you to produce the card?

MS. DAVIO: $1.67 to produce and mail it.

SEN. WATSON: All right. So if we're looking at it from a budgetary standpoint for the state of Texas, it costs you $1.60, but currently the state collects $15?

MS. DAVIO: Yes, sir. $1.67 is what our costs are.

SEN. WATSON: I'm sorry. $1.67. I
rounded that down, didn't I? So now you've made the
math completely hard for me and probably impossible.

MS. DAVIO: I'm sorry.

SEN. WATSON: But the bottom line to it is
there's a net -- 15 minus $1.67 gives the state of Texas
a net return?

MS. DAVIO: Yes, sir.

SEN. WATSON: Now, under this legislation,
have you seen that there is no means test for someone
that comes in to get an ID card?

MS. DAVIO: No, sir.

SEN. WATSON: You've not seen that, or am
I saying that right?

MS. DAVIO: By "means test," do you mean
do they qualify? Do they have to show economic
disadvantage?

SEN. WATSON: That's right.

MS. DAVIO: No, sir.

SEN. WATSON: There's not a means test, is
there?

MS. DAVIO: No, sir. I didn't see one.

SEN. WATSON: And, in fact, it forbids
your department from collecting a fee if an eligible
voter -- if a person is an eligible voter or submits a
registration application. Is that right?
MS. DAVIO: Yes, sir. That's the way that I understand it.

SEN. WATSON: And have you had a chance to look at the fiscal note for this legislation?

MS. DAVIO: Yes, sir.

SEN. WATSON: Have you seen anywhere in that fiscal note where it looks to try to determine what the cost to the state of Texas would be for the state losing the fees if people were able to get these identification cards for free?

MS. DAVIO: No, sir. I don't believe that's covered in the fiscal note. We were unable to estimate that because we didn't know how many people would take advantage of the card -- of the free ID card.

SEN. WATSON: But you would anticipate some would, otherwise it wouldn't be in the bill. Is that right?

MS. DAVIO: I'm sorry. I don't understand that question.

SEN. WATSON: You would anticipate that some people would attempt to get the card for free?

MS. DAVIO: Yes, sir. That would make sense.

SEN. WATSON: Are you familiar with the legislation or the fiscal note that was attached to
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House Bill 218 in the 2007 session?

MS. DAVIO: I'm sorry, sir. I am not. I just started this job in June of this year.

SEN. WATSON: Well, I don't -- that's one of the better answers I've heard today. So thank you.

Are you familiar with the fiscal note that was attached to House Bill 2335 in the last session of the legislature?

MS. DAVIO: Again, no, sir.

SEN. WATSON: Okay. Thank you very much.

MS. DAVIO: Thank you.

CHAIRMAN DUNCAN: Senator Williams, you are recognized.

SEN. WILLIAMS: Thank you. I appreciate you being here tonight and staying with us all day. I have several questions that I wanted to ask just to clarify some things that I think have been brought up as we went along here. For the record, can you tell us what the requirements are for someone to receive either -- well, to receive an official identification card from the state of Texas?

MS. DAVIO: Yes, sir. Basically, those requirements are quite simple. You can say that you have to verify that you qualify, and currently that is proving that you are a U.S. citizen or you have lawful
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residence here. And the second thing is to demonstrate who you are, to prove who you are by providing various different types of identification.

SEN. WILLIAMS: Okay. Anything else? Do you have to be photographed or fingerprinted or anything like that?

MS. DAVIO: Yes, sir, you do have to be photographed and fingerprinted and provide your signature.

SEN. WILLIAMS: Okay. Can someone have both a Texas driver's license and an ID?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: And if someone had a driver's license and they wanted to come back and get a free ID, if they wanted to stand in line to do that, they could do that. Is that correct?

MS. DAVIO: Yes, sir, as I understand it.

SEN. WILLIAMS: Okay. How long does it take once an applicant has submitted all of their materials to DPS to actually mail out the physical ID?

MS. DAVIO: We issue a temporary receipt that's good for 45 days. The time that it takes varies. We are currently, I believe, running about 35 days production and mailing time. There are times -- we're having some equipment problems right now. There are
times when it's shorter than that.

SEN. WILLIAMS: Okay. And the temporary ID is valid for how long?

MS. DAVIO: Forty-five days.

SEN. WILLIAMS: Okay. About the same amount of time that it takes to get the physical license. Okay.

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: What security features does a temporary ID have?

MS. DAVIO: The temporary ID has a picture of the ID or driver license applicant and also has their basic demographic information that's shown on the license.

SEN. WILLIAMS: Okay. There's been a lot said about how many licenses -- how many license offices -- driver's license offices we have around the state.

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: Can you tell me what the total number of driver's license offices are?

MS. DAVIO: Yes, sir. There are 307 locations. Currently 226 of those are operating. That includes 174 full-time offices, 34 part-time offices and 18 mobile offices that are open.
SEN. WILLIAMS: Okay. And how many counties do not have a driver's license office?

MS. DAVIO: There are 77.

SEN. WILLIAMS: Seventy-seven. Okay.

MS. DAVIO: Yes, sir. And I do have a map that shows the driver license offices if you'd like to have that passed out.

SEN. WILLIAMS: Okay. I think we've had one submitted earlier and -- no, we haven't? Okay. Well, let's -- why don't we go ahead and submit that into evidence.

MS. DAVIO: This map, when you get it, will show the full-time, the part-time and mobile offices that are open and the offices that are temporarily closed.

SEN. WILLIAMS: Okay.

CHAIRMAN DUNCAN: Okay. Ms. Davio, let us first -- this will be Exhibit 9.

(Exhibit No. 9 marked)

CHAIRMAN DUNCAN: And you've just described Exhibit 9 as a map. Driver's License Offices in Texas is what the label is, and that will be distributed. Exhibit 9, is there any objection to receiving that?

(No response)
CHAIRMAN DUNCAN: Exhibit 9 is received.

(Exhibit No. 9 admitted)

SEN. WILLIAMS: Okay. So we have 77 counties that don't have a license office. Is that correct?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: Okay. And could you describe for me briefly -- you mentioned that some offices are temporarily closed. Why are those offices temporarily closed, and what is the department doing to remedy that situation?

MS. DAVIO: Yes, sir. The DPS just implemented our new driver license system, fully implemented in May. Our mobile offices are functioning on equipment from our Legacy system, and that equipment is very, very old. And as it breaks, we are unable to replace it. We simply can't get parts. We can't get replacement pieces even trying to go out and buy things on eBay, and so we have no other choice other than to temporarily close that office.

We have tried to get new equipment -- equipment for our new system to work in these mobile locations. And the way that we've changed -- the way that we have changed the way we do driver license, we're pushing much more data through, and so we find it very
difficult, impossible really, to get the new equipment
to work.

SEN. WILLIAMS: So when you say Legacy
equipment and the new equipment, you're talking about
computers that you use to process the information --

MS. DAVIO: Yes, sir. I'm sorry.

SEN. WILLIAMS: -- that people get in?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: Okay. And so what kind of
information is being submitted? I guess what we're
trying to do is meet the qualifications of the REAL ID
Act, which is a federally mandated program -- right --
and that's why we're switching to this new equipment?

MS. DAVIO: Well, we're switching to the
new equipment because our old system was so old.

SEN. WILLIAMS: Right.

MS. DAVIO: There are many safeguards that
are built into the new technology. For example, we now
scan real-time all the documents that are brought in.
So it used to be that we had to make copies and send
those back to headquarters for scanning. They are now
scanned real-time, and we give the originals back to the
customer. We also capture a photo, the fingerprints and
the image of the person's signature.

SEN. WILLIAMS: So --
MS. DAVIO: And that's a lot of data.

SEN. WILLIAMS: Yeah. And the issue is -- and have you tried using these mobile phone air cards or anything like that to be able to have --

MS. DAVIO: We have tried using air cards. We have tried using DSL lines. All of our offices, full-time offices, use T1 lines, and that's been the only thing that we can find.

SEN. WILLIAMS: Okay. So you mentioned to me yesterday when we visited that you have an initiative going on. Tell us a little bit about what you're trying to do.

MS. DAVIO: Yes, sir. We realized that closing these offices even temporarily might cause a burden. What we're trying to do is look and be able to provide a more consistent level of service. We found that in some locations we only serve one or two or a very small number of customers, when in our other offices customers experience a very long wait time. And so we're trying to equalize that level of service as much as we can, provide a consistent high quality level of service across the state.

So to do this we are doing a business intelligence analysis project. That actually means that we are looking at our data very carefully to see how
many transactions are conducted at what location, how
long those transactions take, that kind of thing, so
that we can optimize the use of our resources. We
realize this is not a good time to come and ask for
additional resources, and so we're trying to make the
best use of the resources that we can through this
analysis project.

SEN. WILLIAMS: Okay. Can a noncitizen
get an ID card from the state?

MS. DAVIO: A noncitizen, yes. If you are
an asylee or a refuge or have some other status of
lawful presence, yes, sir, you can.

SEN. WILLIAMS: Illegal foreign visitor,
for instance. You wouldn't have to be an asylee.
Right? You could be a legal foreign visitor?

MS. DAVIO: Yes, sir, a legal foreign
visitor.

SEN. WILLIAMS: Okay. And is there
anything unique about that card?

MS. DAVIO: The cards do say "temporary
visitor" on them.

SEN. WILLIAMS: Okay. How many driver's
license holders do we have in this state?

MS. DAVIO: There are a little better than
15 million.
SEN. WILLIAMS: Okay. And how many people hold ID cards?

MS. DAVIO: Approximately 750,000.

SEN. WILLIAMS: And just to clarify, I think I may have -- I'm not sure about the cost of an ID. Is there anything you want to add to what my remarks are? I'm not sure I was actually on the money with everything. Is what I said early, $1.67, is the cost to produce those cards? Is that --

MS. DAVIO: Yes, sir. The cost of producing and mailing, yes, sir.

SEN. WILLIAMS: Okay. And then what is the cost to the state to give those IDs away?

MS. DAVIO: What is the cost to the state to give those away? The loss of the revenue, the $15.00 --

SEN. WILLIAMS: Okay.

MS. DAVIO: -- or the $5 for over 65.

SEN. WILLIAMS: Okay. And have you been able to determine how many people this would apply? You can't tell?

MS. DAVIO: No, sir.

SEN. WILLIAMS: Okay.

MS. DAVIO: We don't have any way of estimating.
SEN. WILLIAMS: So when we talk about cost, there could be a loss of revenue, but really the cost to produce that document is pretty negligible -- right -- $1.67?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: All right. All right.

That's all the questions I have. Thank you very much.

MS. DAVIO: Thank you.

SEN. ELTIFE: Thank you, Senator Williams.

Senator Gallegos?

SEN. GALLEGOS: Thank you, Mr. Chairman.

Now, you're representing the DPS. Is that what you said?

MS. DAVIO: Yes, sir. I'm the assistant director --

SEN. GALLEGOS: I'm sorry. I didn't -- I didn't hear your name or --

MS. DAVIO: My name is Rebecca Davio --

SEN. GALLEGOS: Rebecca.

MS. DAVIO: -- and I'm the Assistant Director for Driver Licenses at DPS.

SEN. GALLEGOS: Okay, Rebecca. And you passed out this map right here. Right?

MS. DAVIO: Yes, sir.

SEN. GALLEGOS: Okay. Now, I'm trying to
see real close here. It's got a big green spot right in
the middle of Harris County.

MS. DAVIO: Yes, sir.

SEN. GALLEGOS: Is that correct?

MS. DAVIO: Yes, sir.

SEN. GALLEGOS: But the maps I have shows
nothing within the 610 Loop.

MS. DAVIO: That actually -- I believe
that green -- that big green circle that you commented
on is -- indicates that there are seven driver license
offices within Harris County.

SEN. GALLEGOS: Yeah, but I'm looking at
this one. It says there's nothing within the 610 Loop.
Is that correct?

MS. DAVIO: I'm sorry, sir. I'm not
familiar with that map. That point has been made
earlier and --

SEN. GALLEGOS: No. I introduced this map
two years ago, and I'm introducing it again today. I'm
just asking if you're the assistant of DPS, you don't
know that there's not a DPS office within the 610 Loop
in the largest city in the state?

MS. DAVIO: I can't claim to be intimately
familiar with the layout of Houston. I have been to the
offices.
SEN. GALLEGOS: Well, wait a minute. What was your title again?

MS. DAVIO: I'm the Assistant Director for Driver Licenses at DPS.

SEN. GALLEGOS: Okay. Well, then if you don't know the answer, who can give me the answer? I haven't been getting any answers today. And we are told to ask DPS. Now you're before us, and you can't answer that question for me. So who can I -- I mean, who do I ask?

MS. DAVIO: I'll verify that for you, sir.

SEN. GALLEGOS: Before we finish today?

MS. DAVIO: Yes, sir.

SEN. GALLEGOS: All right. And not only that, in Fort Worth, I only see one within the loop. In Dallas, only one inside the city. But you're still -- on your map that you're introducing here, it shows a bunch of green spots. Now, I think it needs to be clarified by cities of how many are there, how many are open, how many are closed, after your 10 percent cut in the agency how many are proposed to be closed and the hours that they open up. You know, that is what I'd like to know.

Now, the other question that I had is -- and Senator Williams brought up a good point. The
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problem that I have on temporary license, the
temporaries -- my son lost his, and he went and got a
temporary license, and it's got his photo ID. That's a
temporary license. So what Senator Williams said is
correct.

My concern is on a confiscated license
when the DPS picks up -- or the law enforcement agency
picks up that license and replaces it with this
temporary license. Well, this confiscated license.
Let's not call it temporary because temporaries have a
photo ID. This confiscated license does not have a
photo ID, yet the verbiage on it says this will act as a
valid DPS license and valid ID. That's what it says,
for 40 days. Okay? And the date of it y'all gave us
that we asked for, is in 2010 there's almost 100,000
drivers out there with this license without a photo ID,
yet the verbiage on it has that this will be a valid DPS
license for 40 days. Now, is that correct? Yes or no.

MS. DAVIO: Yes, those are issued --

SEN. GALLEGOS: Okay.

MS. DAVIO: -- by law enforcement. They
are not issued through the DPS offices.

SEN. GALLEGOS: So there's two different
classes. I just wanted to make it clear for Senator
Williams. He's pretty -- he's pretty almost correct. I
just want to make the difference between a temporary and a confiscated that I just showed you that y'all give out.

MS. DAVIO: That sheet of paper is actually given by law enforcement officers at the time of stop on the street.

SEN. GALLEGOS: I understand, but it has DPS verbiage on it.

MS. DAVIO: Yes, sir. It's our form, but we do not issue it.

SEN. GALLEGOS: Okay. Now -- and this is just one -- one avenue that we looked. That's just 100,000 in one category. There's four other categories that we have not got a tally on, that confiscated -- that licenses are confiscated for whatever other issue, nonpayment of child support or some other categories that you confiscate licenses. And we haven't taken the tally on those. I'm just going on this one avenue where licenses are confiscated and that person has not been convicted yet. He or she is innocent until proven guilty. But this is the only form of ID that they have, and it doesn't have a picture on it.

MS. DAVIO: It would be possible for the people whose license are confiscated to apply for an ID.

SEN. GALLEGOS: It doesn't say that on
here. Nowhere does it say that. I understand what you
just told me.

MS. DAVIO: Yes, sir.

SEN. GALLEGOS: But when they stop me and
take my license and give me this in return, it has
nowhere that instructs me that I have an option to go
get a license with a picture. It doesn't say that on
here. That's why you have almost 100,000 out there with
this type of license. And not only that, in just one
month, last month -- well, let's see in December of
2010, we have 10,000 out there driving right now with
this license without a picture.

So I just wanted to make that clear that
this is -- that this is out there, that it's got DPS
language on it. It doesn't tell us that we can -- we
have an option to go get one with a picture. It doesn't
say that on here. So that's why you have the high
number out there driving with this license.

So I just wanted to make that clear for
the record that that's how many drivers that we know of.
We haven't gone into the other categories. There could
be more that are driving with this license, that's their
only form of ID, and I just want to make it sure --
Senator Fraser is not on the floor -- but that he
understood that. But Senator Williams is, and I just
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wanted to make sure that that is understood, the
difference between the two licenses, that one, the
temporary has a photo ID --

MS. DAVIO: Yes, sir.

SEN. GALLEGOS: -- the confiscated does
not, but yet it shows here that this -- by the DPS that
it is a valid ID that you can use.

MS. DAVIO: As I understand that, sir,
it's valid for driving purposes. And because it's
provided by the law enforcement officer on the side of
the street, they don't have any of the equipment to take
a person's picture or do any of that.

SEN. GALLEGOS: I understand that; I
understand that. I just wanted to make the difference
in the two. And I can use this paper ID, you know, go
to Wal-Mart, "Where is your ID?" "Here it is right
here; here it is right here. The DPS gave it to me," or
it's got DPS language that I can use it as a valid ID.
I just wanted to make sure that that's clear. Is that
correct?

MS. DAVIO: Sir, I'm unable to comment on
whether Wal-Mart would accept that as an ID.

SEN. GALLEGOS: Well, it says here -- it
says here that this is valid per DPS language and I can
use as an ID.
MS. DAVIO: I believe it's valid for driving purposes. It's a temporary driving permit, and so I can't speak to whether a bank or retail establishment would accept it for identification purposes.

SEN. GALLEGOS: Okay. Well, let's just say they'll take it because it's got your language on it, but I just wanted to make that point out there to the members that, you know, when you're talking about an ID from the DPS, there are differences, and this one just doesn't happen to have a photo ID on it. I just want to make that clear.

And you will give me those answers before we get through tonight?

MS. DAVIO: Yes, sir. I will work to do that. I know I can give you the answer about the offices within the 610 Loop in Houston. We have the information about the hours that the offices are open, and we'll look into the cuts -- the proposed cuts.

SEN. GALLEGOS: Let me ask you this question: Do you anticipate any other closures per the shortfall that we have now of any DPS office, whether in Houston or anywhere in the state?

MS. DAVIO: Well, there may be some more of the temporary closures because of the equipment...
failure because we don't have any other way to replace that failing equipment with new equipment. Because of this need for a higher, larger data pipeline, there may be some additional closures, but we're looking at where our offices are located and how they are staffed through our business intelligence project. And so we plan on coming to all the legislators and the local judges and bringing you that information about office closures and what our recommendations would be to provide the optimal level.

SEN. GALLEGOS: I'm only asking that because if we're going to mandate Texans to obtain a photo ID and we have to go to DPS to get that and you're telling us you anticipate some more closures, I'd like to know where they are at. And then that way we can tell our folks that these particular locations -- that you're going to get a free ID under this bill, that those offices are going to be closed.

MS. DAVIO: Sir, we don't plan to close any more offices unless the equipment breaks. Right now we have no plans to close any of our driver license offices, those mobile locations, unless the equipment fails.

SEN. GALLEGOS: Unless the equipment fails?
MS. DAVIO: Yes, sir, in the short term.

SEN. GALLEGOS: So you have no plans to close any other offices?

MS. DAVIO: In the short --

SEN. GALLEGOS: Is that what you're telling me?

MS. DAVIO: In the short-term, yes, sir.

We want to do the business --

SEN. GALLEGOS: What do you mean "short-term"?

MS. DAVIO: We want to -- we need to do this business intelligence analysis so that we can really look to determine how we can best use our resources to provide the optimal level of service for all Texans when they are trying to get their driver license or an ID.

SEN. GALLEGOS: All right. And you'll get me those answers before we finish today?

MS. DAVIO: Yes, sir.

SEN. GALLEGOS: Okay. Thank you.

MS. DAVIO: Yes, sir.

CHAIRMAN DUNCAN: The Chair recognizes Senator Ellis.

SEN. ELLIS: Ms. Davio, I know you've been here all day, and we're all very appreciative of that,
and we know you don't have a position on the bill. You're just here as a resource.

MS. DAVIO: Yes, sir.

SEN. ELLIS: Including Senator Gallegos, we appreciate you being here and the work you do.

MS. DAVIO: Thank you.

SEN. ELLIS: Let me ask you this: Now, I saw this article in the paper today about the driver surcharges.

MS. DAVIO: Yes, sir.

SEN. ELLIS: Are you familiar with that program?

MS. DAVIO: Yes, sir.

SEN. ELLIS: Does that come under your jurisdiction?

MS. DAVIO: Yes, sir, it does.

SEN. ELLIS: If I'm reading this right, it says it's estimated that a total of about 1.2 million Texans are in default?

MS. DAVIO: Yes, sir. I believe that's the number.

SEN. ELLIS: Okay. Now, how do we get to that? I mean, can you give us some sense -- since we passed that in '03, is it about 100,000 per year, a half? Is it getting better? Worse? I'm just trying to
get a sense of how much -- how many more people may end up in that category between now and when Senator Fraser's bill goes into effect.

MS. DAVIO: You're asking about the number of people that are in default on their surcharges?

SEN. ELLIS: Yeah. About 1.2 million now, and I'm asking how much do you think that will grow between now and January of 2012, next year, a year from now?

MS. DAVIO: We actually hope that the number of people in default will be reduced. There is a program going on now -- that was probably what the article in the paper was -- about the amnesty program. So what this program does is it allows people who are in default, if they've received a surcharge between 2004 and 2008 and are in default on that surcharge, then they can pay 10 percent up to a maximum of $250. And if they pay that reduced amount and their reinstatement fees and do the other things, then they will no longer be in default. That program will run -- the amnesty program will run through -- I believe it's April 17th. And then we will begin a program for indigent folks that cannot pay their surcharges. And so we will enable those people to pay their surcharges, and so we really do hope the number of people in default
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SEN. ELLIS: Is this your first amnesty program?

MS. DAVIO: Yes, sir, it is.

SEN. ELLIS: Now, you know -- I'm sure you know -- two other states that had a similar program for trying to balance their budgets abandoned the programs. And in those states, I'm told that they tried the amnesty programs, they tried virtually everything you could think of, and it didn't work. So they just abandoned the programs.

So is there any empirical evidence that would make you think that 1.2 million people who have lost their licenses in Texas because they didn't pay on average, I guess, what -- I guess this is a thousand dollars a year if you were drunk, 2,000 if the blood alcohol level was twice the legal limit? Is there any reason why you would think the amnesty program in Texas will work when it didn't work in the other two states that abandoned the program?

MS. DAVIO: We actually have had a pretty good response so far. I'm sorry. Off the top of my head, I can't give you the statistics of the people that have opted in, but I'd be happy to get that information for you.
SEN. ELLIS: Now, I think I heard you say in response to a question from Senator Williams 15 million Texans have a driver's license.

MS. DAVIO: Yeah.

SEN. ELLIS: Or did you mean authorized to have one? Are you counting the 1.2 million who have lost them?

MS. DAVIO: I believe that's active driver licenses.

SEN. ELLIS: Okay. So 15 million have active driver's licenses. And just as a point of reference to Senator Williams, there are 12.6 million registered voters in Texas. So he was correct earlier when he made the point that --

SEN. WILLIAMS: (No mic)

SEN. ELLIS: Yeah, that's right. Probably about 30 percent of them vote. Of course, maybe half of them vote wrong; maybe half of those vote wrong, but about 30 percent of them vote, Senator.

But I just wanted to make the point 15 million people have driver's license in Texas, 12.6 million registered voters. Most people who go to vote do what most of us on this floor do, they show their driver's license. And if the trend of 1.2 million who have drivers -- who had driver's licenses haven't lost
them since 2003 continues, if your amnesty program does not work, if it's not something unique about the Lone Star State that would make it work here when it didn't work in those other states, that means that 15 million figure is going to be going down in terms of the people who have a driver's license. Correct?

MS. DAVIO: Yes, sir.

SEN. ELLIS: Okay. Now --

MS. DAVIO: Those people --

SEN. ELLIS: Those people who owe those surcharges, is that a felony, or what is it?

MS. DAVIO: I don't believe it's a felony.

SEN. ELLIS: It's a civil offense?

MS. DAVIO: I mean, it depends upon what -- there's five different things that you can receive a surcharge for.

SEN. ELLIS: How about drunk?

MS. DAVIO: Yes, sir. Driving while intoxicated is one of them.

SEN. ELLIS: Wouldn't that be a felony when they get a surcharge? It's a civil fine. I'm really making a point to my colleagues.

And can -- what can you-all do to those folks short of taking a driver's license? You know, can we -- maybe the finance chair can start building some
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more debtor prisons. Can you put them in prison, or do you know? If you don't know, it's okay.

MS. DAVIO: I don't know, sir.

SEN. ELLIS: Okay. I just want to raise that point so my colleagues do realize what we're doing, Senator Fraser, under your bill. 15 million people have a driver's license. 1.2 million have lost them. I don't think we're going to start building debtor prisons. I don't think we're going to get to the point where three times you're drunk and get a surcharge we lock you up. We can't afford to do it, but it's making it more and more challenging, and it is a burden that we're putting on these folks. Thank you.

SEN. WHITMIRE: Mr. President?

CHAIRMAN DUNCAN: The Chair recognizes Senator Whitmire.

SEN. WHITMIRE: Briefly. First of all, how long -- how long have you been in your present job? Pretty recent?

MS. DAVIO: Yes, sir. I just started June 1st of 2010.

SEN. WHITMIRE: So about six months?

MS. DAVIO: Yes, sir.

SEN. WHITMIRE: Did you ever envision when they gave you the job you were going to be here today
and have the opportunity to meet Senator Gallegos?

(Laughter)

MS. DAVIO: The pleasure is all mine.

(Laughter)

SEN. WHITMIRE: No; we appreciate you as we do our other state employees.

MS. DAVIO: Thank you.

SEN. WHITMIRE: A couple of things I want to clarify, Senator Ellis was talking about the folks who have had their license suspended because of the severance. I don't believe he asked if you have no license but we're going to require you to go get an ID at a DPS office, what is the relationship if I come into the office, I don't have a license because it's been suspended because I can't pay the severance, it's a civil penalty. Is there any chance that you're arrested because you haven't paid your back severance? I mean, first I think whether you confiscate the person or handcuff them, it would probably be a huge deterrent for someone to go there knowing they owe you thousands of dollars. Would you not agree?

MS. DAVIO: Yes, sir.

SEN. WHITMIRE: Okay. But going one step further, if someone chose to do that what -- and they apply for a voter ID and the computer is going to kick
out "you owe us" -- and some of these figures are fantastic amounts, thousands of dollars -- what will be the conduct of the DPS? I walk up to your station for voter ID and you say Mr. Whitmire you owe us $20,000 in back severance, is that going to be brought up and you're going to be asked to not leave until you have a payment plan?

MS. DAVIO: No, sir. Those are really handled as separate transactions. If you come in and you say you want to get an ID and you don't already have an ID, then they will determine if you are eligible, and you should be eligible. And they do have the information in the driver license system about the surcharges. But if you aren't asking to get a driver license then that won't be brought up.

SEN. WHITMIRE: Okay. It's your testimony -- y'all have actually discussed this internally. It's going to be the policy, as you state before us today, I come in there, I owe you a surcharge, but I don't want to deal with the surcharge today, they are not going to bring it up or ask me for my intention of paying it, don't leave until you make a payment plan?

MS. DAVIO: No, sir. I haven't witnessed that. I have visited the --

SEN. WHITMIRE: Well, you haven't
witnessed it -- excuse me for interrupting because this is all in the planning stage. So I know you haven't seen it because no one has been in there asking for a voter ID.

MS. DAVIO: No, sir, they haven't asked.

SEN. WHITMIRE: Would it be -- and can you -- has it really been decided or is that just your opinion or you've got to go upstairs to the colonel or the DPS board? I mean, this is a pretty serious matter in my mind because you have no license because you can't afford to pay the surcharge, but we're fixing -- if this law will pass -- require you to go to that location, law enforcement, a pretty intimidating setup anyway to some. You know, they've already run afoul, but they've got to go to that site for a voter ID. Are you telling me there won't be any discussion of the surcharge, or is it really you don't know?

MS. DAVIO: You're right. We haven't discussed voter ID, but I have witnessed numerous transactions where somebody comes in and they request to get an ID. And, you know, they may -- they may make an inquiry about can I -- you know, what about a driver license or something like that, and actually the records come up and show that they are ineligible to get a driver license. But if there --
SEN. WHITMIRE: Because of the surcharge?

Because of the surcharge?

MS. DAVIO: Yes, sir. And so then they can still continue to get an ID, and I haven't witnessed any occasion where there was discussion of the surcharges unless the customer brought that up.

SEN. WHITMIRE: Well, if this passes, and of course none of us are going anywhere, but -- and I understand you're just representing the DPS, but I would think that would be a major policy decision, that you deal with something as important and precious as the right to vote, but we're fixing to require you to come in contact with law enforcement that you owe thousands of dollars with the same personnel. I think someone is going to have to really put some safeguards, Senator Williams, that you can enter one of these sites and not have to deal with the surcharge.

And would you not agree, even though you have an amnesty program and you said it's working pretty good -- in fact, pretty expensive, it's 250 and I think there's a fee schedule. You've still got to pay a fee to the folks that are doing y'all's collection work. So what is the actual cost, 250? I think 150 to the collection agency, and then it's going to run about five or $600 if you want to -- if you want to use the amnesty
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program. But that -- do you know the amount that's working pretty good? What does "pretty good" to you mean out of a million folks?

MS. DAVIO: I'm sorry. I will work to get you those information.

SEN. WHITMIRE: Yeah, and I'm not trying to pin you down. It's just, you know, you're the best source we've got at the time.

Let me ask you something. You said a while ago if someone confiscated your license, you could apply for an ID. What if they confiscate it the week before the election? What's the processing time to apply for this ID? Say you're unfortunate, you come to Austin before a Saturday election. On Thursday, if you're real unfortunate, they get your license because you have been pulled over. How are you going to get that before Saturday's election? Do you know the turnaround?

MS. DAVIO: You can come into our office, and we -- as long as you qualify, we issue a temporary receipt immediately.

SEN. WHITMIRE: Come in your office, what do you mean by that?

MS. DAVIO: You can go to any driver license office.
SEN. WHITMIRE: Any office?

MS. DAVIO: Yes, sir. And as long as you qualify, then you can walk out with a temporary receipt.

SEN. WHITMIRE: Of course under my scenario, you've first got to get out of jail, but that's not mine or your problems tonight.

Let's talk about that office, and then I'll pass. The truth of the matter is, is it not, as you stand before us today, you have no idea what the future budget considerations are going to do to your office locations, do you not? When you were having a question and answer with Senator Williams, that's under today's setup, is it not?

MS. DAVIO: Yes, sir.

SEN. WHITMIRE: Have you been in meetings recently at the command headquarters where you're contemplating a significant, maybe as much as a 10 percent cut in your budget? Have y'all made your plans for how to deal with the shortfall and expected reduction of DPS funding?

MS. DAVIO: Yes, sir. The 5 percent cut.

SEN. WHITMIRE: That you've already been requested to make.

MS. DAVIO: Yes, sir. I believe that that did envision the closing of some -- I believe --
SEN. WHITMIRE: Have you looked at the House proposed budget and the Senate proposed --

MS. DAVIO: I have not.

SEN. WHITMIRE: -- and calculated the impact and reduction of services and maybe troopers and personnel as it relates to the licensing division?

MS. DAVIO: I'm sorry, sir. I have not.

SEN. WHITMIRE: So the truth of the matter is when you were answering Senator Williams' question, that's under current funding levels, is it not, as you understand them? Since you took the job in June and here we are the second week of January, that's really the funding and the resources that you were using to answer his questions. It certainly wasn't going forward. Is that not correct?

MS. DAVIO: That's correct, sir.

SEN. WHITMIRE: You do expect significant reductions in your operating resources, do you not?

MS. DAVIO: I would remain optimistic.

SEN. WHITMIRE: Do you see that guy sitting right in front of you right there? We don't call him Mr. -- we don't call him Mr. Optimistic around here.

(Laughter)

SEN. WHITMIRE: The truth of the matter
is -- and I really understand this position you're in. And, quite frankly, I'm not even sure it's fair that they brought you here to answer our questions, but you're here, and they had the right to do so. But we haven't even written the budget. Our first meeting is next Monday, and the operation of these offices and their hours, their personnel, is yet to be determined as we go and consider this legislation. Is that not correct?

MS. DAVIO: Yes, sir, I think that --

SEN. WHITMIRE: You have no idea what you're going to have after September 1.

MS. DAVIO: I think that's a fair statement, sir.

SEN. WHITMIRE: But we do know that in Houston -- and Senator Gallegos was asking you about the locations -- that's an important factor, but I'm really more important -- or concerned about when you get to one of our locations. Are you familiar with 290 and Tacoma?

MS. DAVIO: Yes, sir.

SEN. WHITMIRE: Gessner and I-10?

MS. DAVIO: Yes, sir.

SEN. WHITMIRE: South Houston? Nearly each of our Harris County sites, you know it takes from two to three hours to enter that office and renew your
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driver's license on many days of the week.

MS. DAVIO: Yes, sir, I think that's true.

That is the way it's happened in the past. We are implementing a queuing system which we hope will bring about reductions in wait times at our 50 largest offices.

SEN. WHITMIRE: But today, this week, it's not unusual -- and I've checked -- it can still take you up to three hours. In fact, if we accomplish anything in this discussion with you, I would like to appeal to you to work with your supervisors and Senator Ogden and each of the 31 Senators and fix that problem. That's a very fixable problem that we've been talking about too long.

But you know it takes up to three hours. People cannot take off their lunch hour or expect to go over there before work or after work. It is a major challenge to enter one of those offices today and get your license renewed. But have you had an opportunity to factor in what it's going to be like to get additional people now for voter ID? You really don't know what the demands or the numbers will be --

MS. DAVIO: That's correct.

SEN. WHITMIRE: -- as we talk?

MS. DAVIO: We were unable to estimate the

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SEN. WHITMIRE: And then I'll repeat one more time. That's today's circumstances, and we're faced with budget cuts to the DPS going forward that could even compound the current wait at those Houston offices. And I was even told by a colleague of mine that it can happen in other even rural settings in this state, that you would literally wait two and three hours to renew your driver's license. Is that not correct?

MS. DAVIO: It is possible that you can have a two- or three-hour wait in many of our offices at this moment.

SEN. WHITMIRE: Have y'all had much internal discussion about the impact that this proposed legislation will have in detail in terms of personnel required, equipment required? I mean, have y'all had any initial planning?

MS. DAVIO: We have had discussions, yes, sir. It's very, very difficult, we found it impossible, to estimate the impact of this legislation.

SEN. WHITMIRE: I really appreciate you being here tonight and your hard work. And if I was you, I would say -- I'd speak to Senator Ogden before you leave here tonight and make a pitch for your budget.

MS. DAVIO: Okay. Thank you.
CHAIRMAN DUNCAN: The Chair recognizes Senator Van de Putte.

SEN. VAN de PUTTE: Thank you, Mr. Chairman. Good evening. Thank you for being here. My questions are fairly quick. But I want to follow up with the fiscal impact, and you stated there were how many counties that don't have offices right now?

MS. DAVIO: There are currently 77 counties without a functioning --

SEN. VAN de PUTTE: Seventy-seven.

MS. DAVIO: Yes, sir -- yes, ma'am.

SEN. VAN de PUTTE: Mr. Chairman, could we have the resource witness look at exhibit -- or Item No. 6, which was the map that was displayed, compiled by the legislative counsel? The map that this expert witness brought shows us dots. And if you could just glance at that, that was prepared by legislative counsel. As you can see, the counties are outlined with closed, temporarily closed, permanently closed, those counties that may have one, but they are there -- would you suggest that since that was compiled by legislative counsel that that document is correct?

MS. DAVIO: Senator, this is the first time I've seen this map. Just doing a very quick visual check on the counties that they have in red that say...
that there are no offices, I can verify that. I haven't
gone through and done all the others to give you a
completely accurate response. If you could give me a
little bit more time, I'd be happy -- I'd be happy to do
that.

SEN. VAN de PUTTE: We will certainly
allow you to do that because we have another resource
witness.

MS. DAVIO: Okay.

SEN. VAN de PUTTE: Let me ask you, we
have 77 where they are closed, they have no one. We
have temporary ones because of equipment malfunction.
But are you aware of the document that is the
legislative appropriations request that was sent on
August 23, 2010 and printed to us in 2010?

MS. DAVIO: I did not see that document
personally.

SEN. VAN de PUTTE: Well, let me tell you
why I'm a little bit concerned because when Senator
Williams talked to you, you said you had -- the division
had no plans or no intention of closing any more unless
there was equipment failure, and you talked a little bit
about equipment failure. That's correct. Right?

MS. DAVIO: Yes, ma'am. No more offices
unless there were equipment failure until we had
completed our business intelligence analysis.

SEN. VAN de PUTTE: Well, let me tell you why I'm a little concerned.

MS. DAVIO: Okay.

SEN. VAN de PUTTE: On Page 704 of the legislation appropriations request, DPS says, "No. 10, building program and deferred maintenance." The category is under "Program Service Reduction (Other). Item Comment: 11 additional DPS offices would be closed due to lack of funding for utilities." So it's utilities funding, not -- "resulting in 215 FTEs that would be displaced and DPS customers would travel further for any assistance."

Now, this is in a document that was given to the legislature dated August 23, 2010. You said you don't have to plan any more, but somewhere in the agency under this request, they are closing another -- I'm sorry -- they are closing another 11. Do you know where those other 11 are that they plan to close?

MS. DAVIO: I do not have personal knowledge of that. I believe this was for 2012 and the 2013 --

SEN. VAN de PUTTE: Well, yeah, but --

MS. DAVIO: -- legislative appropriation request.
SEN. VAN de PUTTE: This is the legislative appropriations. So right now what you're saying is nothing is going to be closed. But in the document that DPS supplied to us as their legislative appropriations request, on Page 704, they tell us, "Oh, we're closing 11 more." And it's not due to equipment failure. It's due to the reduction in utilities funding as a result of our crisis in our revenue and with the displacement of 215 FTEs where DPS says, "Customers will travel further for assistance."

So I'm trying to figure out -- you say, "Okay. We're not going to," but then we have a document. I just don't know what part of DPS to believe.

MS. DAVIO: I'm terribly sorry. I was imprecise. I should have said this fiscal year we had no more plans to close any offices.

SEN. VAN de PUTTE: This fiscal year. Oh. We just didn't ask the right question then.

MS. DAVIO: I'm sorry.

SEN. VAN de PUTTE: We should have asked --

MS. DAVIO: I don't claim to be --

SEN. VAN de PUTTE: -- do you plan to close any maybe after September 1st of next year?
MS. DAVIO: I'm sorry. I don't claim to be an expert on our legislative appropriation request. I'm not our chief financial officer.

SEN. VAN de PUTTE: Thank you for that clarification.

MS. DAVIO: I'm sorry.

SEN. VAN de PUTTE: And I'm sorry you were caught like this. But, you know, you can understand our confusion when you testify as the expert witness for DPS one thing, and then the budget documents that are turned into us say another. And I am so sorry that you were put in this predicament, but the documents are the documents. So let me, again, ask some other questions since I think that one is pretty well taken care of.

Can you tell me in obtaining an identification card what types of birth certificates are allowed under current DPS guidelines?

MS. DAVIO: What types of birth certificates?

SEN. VAN de PUTTE: Yes.

MS. DAVIO: An original or a certified copy of a birth certificate issued by the appropriate state Bureau of Vital Statistics or the equivalent agency from a U.S. state, U.S. territory, the District of Columbia or a Canadian province, or an original or
certified copy of a United States Department of State certification of birth abroad.

SEN. VAN de PUTTE: Are any of those documents a Department of Defense hospital or facility?

MS. DAVIO: I don't know for certain if the Department of Defense would be included in a Department of State certification of birth abroad.

SEN. VAN de PUTTE: No, there are two different ones. And this is why I'm asking. Members, this is very, very clear. We have many, many citizens and your constituents who were born on military basis within the United States. And if I right now had to go get an identification card, I don't have -- I wouldn't have a birth certificate. And the reason, I was born in Madigan Hospital, Fort Lewis, Tacoma, Washington. But if you were born before 1960, the records are slowly being updated into the state of Washington as are many of our military hospitals. But my birth certificate is not from the Department of State. It is not from the city. The only birth certificate that I have is from a military hospital on a military installation.

Now, it was valid for me to get my passport, and it was valid for me to get my driver's license when I got my driver's license. But should I have to apply today and what I think might happen under...
our current regulations is that the type of birth certificate that is required for those of us who happen to be born prior to 1960, which would be anybody, '40s, '50s, '30s and on, we would not have a birth certificate that would be recognized by DPS if you were born on a military -- in a military hospital. Is that correct?

MS. DAVIO: I can't be absolutely positive of that. I'll confirm, and we will look.

SEN. VAN de PUTTE: If you could, because I think --

MS. DAVIO: Yes, ma'am.

SEN. VAN de PUTTE: And I don't know how many would be, but if -- for those that were born when there was a mandatory draft and there was a mandatory thing, if you were born in a military hospital, those are Department of Defense hospitals, not Department of State. Some states have included them as they start to update and others haven't because a lot of those military hospitals are now closed as those bases have been closed. So I just wanted to make sure. And if you would check that for us?

MS. DAVIO: Yes, ma'am.

SEN. VAN de PUTTE: And then if it's a birth certificate, what happens if for many of our elderly who were born not in a hospital and not -- but
they used baptismal or church records to establish their
social security, to establish anything? Right now if
there is not a recorded birth certificate in one of the
state registries, is a church document that was allowed
back then for a driver's license, is that allowed --

MS. DAVIO: There are --

SEN. VAN de PUTTE: -- currently to get --

MS. DAVIO: There are a variety of
documents, and we're expanding the list, but we try and
work with our customers to -- if you can bring in a
variety and demonstrate to us to our satisfaction.

SEN. VAN de PUTTE: Yes, I understand.

What types of birth certificates? Is it only those
that --

MS. DAVIO: Typically we would not allow a
church or a baptismal birth certificate.

SEN. VAN de PUTTE: So that would affect
people like my mother.

MS. DAVIO: She may be able to find other
documentation that she can bring.

SEN. VAN de PUTTE: She might be.

Let me also ask you for one other thing.
I have a wonderful constituent and she asked that I
relate her story and has given me permission. She
contacted us last June in that -- Ms. Hardy who needed
to have a DPS identification card. However, she's very, very ill and could not travel to the DPS office. I put in a request to DPS to ask what sort of options she had since she needed an ID but could not travel.

MS. DAVIO: Yes, ma'am.

SEN. VAN de PUTTE: That was on June the 18th, and we were very pleased at least that a week later someone was able to call her and give her some options.

Well, the options included that she had to physically go. And so luckily she was able to go, but not until months later, but it entailed bus trips, a nurse going with her, on public transit, going to the offices.

And so my question is, what sort of -- and it took her months, months to get this. Are there any accommodations currently for those with disabilities if they are unable to physically go to a DMV station to acquire identification documents?

MS. DAVIO: We do have a home bound program where we send an employee out to take their picture and gather their information.

SEN. VAN de PUTTE: Do you know how robust that program is? Is there one in -- and why weren't we told about it when we called last summer?
MS. DAVIO: I can't tell you why you weren't told about it. I apologize for that. I don't -- I don't know how many of those IDs we issue. I could check into that if you'd like me to.

SEN. VAN de PUTTE: Well, I'm a little bit worried because we had several employees of DPS call, including the Chief of the Complaint Resolution Specialty Department, assisting with inquiries of identification cards, who said the only option for my constituent was physical presence.

MS. DAVIO: There may --

SEN. VAN de PUTTE: So within DPS if there's a program, certainly didn't tell a Senator's office and certainly didn't tell the client. And if this is -- I mean, what happened here? We didn't know about a program. Are there plans to make that known in light of -- or publicize it in any way in light of the new additional restrictions?

MS. DAVIO: I apologize that you weren't told about it. There may have been particular circumstances that your constituent didn't qualify for that, but we can certainly make sure that all of our employees know about that and are informed so that there won't be such an oversight in the future.

SEN. VAN de PUTTE: So you mean you have
to qualify? So if you're like undergoing chemotherapy, can't leave the house or an organ transplant, you have certain categories to qualify? So even if you're a person with disabilities, you have to have a person of disabilities with certain qualifications to get the homebound program?

MS. DAVIO: I'm sorry. I can't discuss the detailed reasons why someone would qualify and someone wouldn't, but I will certainly check into that for you.

SEN. VAN de PUTTE: Well, thank you. And I am -- I apologize for my mean tone, but understand how frustrating it is --

MS. DAVIO: I understand.

SEN. VAN de PUTTE: -- when people call our offices, they are trying to do the right thing. They are trying to get an ID card, they have situations, and then the people who are employed and hired from state government to provide the information who are head of the departments of this don't know of their own programs. It's really disheartening.

And then if you would, please find out from someone on the fiscal side so that we don't have two opposing statements from DPS of the additional 11 offices that are scheduled to be closed, not this fiscal
year, but probably starting in 2012 and 2013. And then
if you would, please get back with us with the
information of what types of birth certificates would be
eligible to be used for someone seeking to obtain a
personal identification card.

Thank you very much, Mr. Chairman. I
don't have any other questions.

CHAIRMAN DUNCAN: The Chair recognizes

Senator Zaffirini.

SEN. ZAFFIRINI: Thank you, Mr. Chairman.

Ms. Davio, your title is Assistant
Director for Driver Licenses, Department of Public
Safety. Is that correct?

MS. DAVIO: Yes, ma'am.

SEN. ZAFFIRINI: And were you expected to
testify on all aspects of the bill or only what refers
to driver's licenses specifically?

MS. DAVIO: Only what refers to a driver
license specifically, as I understand it, in DPS.

SEN. ZAFFIRINI: When Senator Fraser laid
out the bill, I asked a number of questions about the
criminal justice impact statement. Is there someone
available from DPS who can answer my questions related
to the criminal justice impact statement?

MS. DAVIO: I don't believe that there's a
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resource witness here that can answer that currently.

SEN. ZAFFIRINI: And you cannot?

MS. DAVIO: I'm sorry. I can't.

SEN. ZAFFIRINI: That's all right. I assumed that you could not based on your title. But I would like to have someone answer my questions, if not today, maybe tomorrow.

And just to put a face on the issues that we have been discussing today, I happened to receive a letter from the County Judge of Frio County recently, and he explained to me that the office -- the DPS driver's license office in Frio County has been closed. And he wrote in his letter, "Signage on the door directs drivers needing their services to go to San Antonio, Hondo or Jourdanton."

Now, San Antonio is 55 miles from Pearsall, Hondo is 42, and Jourdanton is 41. That's an average of 46 miles. You said earlier that 77 counties do not have driver's license offices.

MS. DAVIO: Currently, yes, ma'am.

SEN. ZAFFIRINI: Do you know how far those residents of those counties have to drive to get a driver's license?

MS. DAVIO: I do not have the average for every single location. That would probably be pretty
difficult to calculate, but, you know, that is something that we're looking at.

SEN. ZAFFIRINI: Well, certainly because if that's the average distance, double that for a round trip.

MS. DAVIO: Yes, ma'am.

SEN. ZAFFIRINI: That's a lot of mileage, especially for low-income persons, for persons with disabilities who have to get a ride, because that's a one-way distance that I just mentioned to you.

MS. DAVIO: Yes, ma'am. Driver licenses do have to be renewed every six years, once every six years. And if the option to renew online would be used, then they'd actually only have to go to the office once every 12 years.

SEN. ZAFFIRINI: Do you have mobile units that can go to these counties?

MS. DAVIO: We do not presently have mobile units. As I mentioned before, the amount of data that we're collecting with your photo, your fingerprints, your -- all the scans of your documents, we have not been able to get that to work with an air card or a DSL line, and we tried for several months.

SEN. ZAFFIRINI: Now, I can't speak for the 77 counties, but I know that for the ones in my
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district that have been closed or temporarily closed --
in fact, I mentioned earlier that in my district there
are -- there is one office that has wheelchair
accessible barriers, there are two counties that have no
offices, four counties in which the offices have been
temporarily closed and one that is open three days or
fewer per week.

Now, in the counties in my district, there
is a digital divide. So it's easy to say "renew
online," but when you're dealing with counties where
there is a predominantly low income, minority population
and there is a digital divide, imagine the impact. Do
you have any data relating to addressing those issues
and how to increase the accessibility of the residents
of those counties to your particular services?

MS. DAVIO: One of the elements of the
business intelligence analysis project that we're doing
is actually to try and get information to understand
where people have connectivity and aren't using that.
Maybe they don't know that they can renew online and
being able to encourage people to do that there, but
that would also give us information about where people
don't have accessibility.

SEN. ZAFFIRINI: Thank you. Judge Garcia
writes, "This has caused quite a bit of inconvenience
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and consternation for our drivers and potential drivers in this county when they need driver's license renewals, driver's licenses," et cetera, and you can imagine the consternation and the inconvenience that they are suffering.

There's been some reference to how long persons have had to wait to get their driver's license, and I know that before we got our driver's license in Laredo, the big joke -- and it wasn't really a joke. It was a cruelty joke because it was so true -- is that persons who were waiting for their driver's licenses could stand in line, order pizza, receive it and eat it and still be waiting for their driver's license.

Now, there has been some improvement in that, but I wonder what kind of inconvenience we're talking about when we're talking about these long, long lines in the different counties. And if that isn't bad enough, dealing with the issues related to the counties that don't have any offices.

And you, I understand from your exchange with Senator Van de Putte, do expect more offices to close, at least temporarily -- is that correct -- in the next fiscal year?

MS. DAVIO: If the equipment fails in our mobile offices, we will have to close those offices.
SEN. ZAFFIRINI: And have you looked at Senate Bill 1 thoroughly yet?

MS. DAVIO: I'm sorry?

SEN. ZAFFIRINI: Have you looked at Senate Bill 1, the appropriations bill, thoroughly yet?

MS. DAVIO: I have not done any detailed analysis of that, no, ma'am.

SEN. ZAFFIRINI: So you have no idea what -- how that budget will impact you at this point in time?

MS. DAVIO: No, ma'am. I know people at -- the experts at our agency are looking at it now.

SEN. ZAFFIRINI: Well, when you have that information -- I assume that you will -- would you share that with us, please?

MS. DAVIO: Yes, ma'am.

SEN. ZAFFIRINI: From your perspective.

Thank you very much.

Thank you, Mr. Chairman.

CHAIRMAN DUNCAN: Senator Williams?

SEN. WILLIAMS: Thank you, Mr. Chairman.

Just a couple of things that I wanted to clarify. And I guess, first of all, I wanted to thank Senator Gallegos and Senator Whitmire because I really wasn't that familiar with people who had their licenses confiscated.
or taken away because of the driver responsibility plan.

Now, by the way, if you have your license confiscated, what kind of traffic offense would you have had to have been involved in for law enforcement to take your -- confiscate your license? Do you know? It doesn't have to be an exhaustive list, but just --

MS. DAVIO: The major reason that people give those particular forms apart -- away, that law enforcement issues those, as I understand it, is for intoxication offenses where they've failed or refused to provide a specimen.

SEN. WILLIAMS: Okay.

MS. DAVIO: That's my understanding.

SEN. WILLIAMS: So if you refused to take a breathalyzer test or give blood, then they'll take your license away?

MS. DAVIO: That's my understanding, sir.

SEN. WILLIAMS: Okay. Now, that person can apply for a temporary license, a work permit, you know, to be able to get back and forth to work.

MS. DAVIO: They may be able to, yes, sir.

SEN. WILLIAMS: And they could come and get a state ID -- correct -- at no cost if they wanted to have it to vote?

MS. DAVIO: Yes, sir, they could.
SEN. WILLIAMS: Okay. And then what about if you had your license taken away because of -- what kinds of things under the driver responsibility? Are those also going to be a lot of speeding tickets? I guess it could be. Or more than likely it's going to involve a DWI since we have one of the worse records of any state in the country on that, I believe?

MS. DAVIO: It could be DWI. It could be driving while your license is invalid. It could be traffic offenses as you mentioned, driving without insurance.

SEN. WILLIAMS: So the bottom line is these law breakers would be inconvenienced by having to go get a free ID so they could go and vote if that's -- if they wish to exercise their constitutional responsibility. Is that correct?

MS. DAVIO: Yes, sir. They would be able to get an ID.

SEN. WILLIAMS: Okay. And then how often would -- once you had this state ID card and assuming that you were a citizen and you had met all the requirements that it took to get the license or the state ID card, how often would that be renewed? How often are they going to have to appear in person to get
that renewed?

MS. DAVIO: The ID cards just like the
driver licenses are good for six years, and it is
possible to renew them online.

SEN. WILLIAMS: Okay. So it could be 12
years?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: So they would be able to
vote with that ID card at least six and maybe 12 years?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: Okay. That -- okay. I
just wanted to make sure that we had cleared that up.
Thank you very much. I really appreciate you hanging in
here with us tonight.

MS. DAVIO: Thank you.

SEN. WILLIAMS: I did have one last
question. Excuse me, Mr. Chairman, if I could. The
other thing I wanted to ask is, in a moment when we have
the Secretary of State's Office up here, I'm going to
talk to them, and I visited with you about it, I'm
hoping that we can take your driver's license file and
cross-match that with the voter registration files and
try to find that group of people who are voting and
registered to vote, but they don't have a driver's
license or a state ID card so that we can focus our
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efforts on education on -- especially on that group.

Now, would you be able to do that, provide
that information to the Secretary of State's Office
with -- under the current resources that you have? And
I'm not going to ask you about the next biennium's
budget. We're just trying to get through this biennium
now. But under the current biennium, would you be able
to provide that information to the Secretary of State
with the resources?

MS. DAVIO: They already -- they already
have the information, and I believe they are working on
the analysis now.

SEN. WILLIAMS: Oh, okay. Great. Boy,
y'all are quick. Thank you.

CHAIRMAN DUNCAN: Okay. Thank you.

We have a few more -- a few more questions
from -- this witness has been going about an hour and
ten minutes.

Senator West?

SEN. WEST: Thank you, Mr. Chairman. I'm
not going to be redundant. I just have a couple of
requests. Can your office provide an analysis of how
long the average wait in each one of the offices that
you have -- what is the average wait in order to get a
driver's license? I assume that you have that sort of
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an analysis.

MS. DAVIO: Actually, sir, currently we do not have that information. We have anecdotal information, but we do not have wait times. We're in the process of installing a queuing system in our 50 largest offices. And so in a matter of months I'd be able to provide that information for you in our largest offices, but I do not have any complete information for wait times in our offices.

SEN. WEST: Give us the best guesstimate that you have. I assume that there are conversations about wait time that you have internally. And, you know just make sure you just qualify it based on what you have. It's not -- it's not a perfect example, a perfect study or anything like that, but get us -- give us the best estimates that you have concerning that. Okay?

MS. DAVIO: The average wait time?
SEN. WEST: Yes.
MS. DAVIO: In all of our offices?
SEN. WEST: Yeah, broken down by office, so I don't just want a global -- to the extent that you can. And what you may want to do is just contact the offices and get an idea from the individuals that are in the offices.

As you go about implementing this
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particular identification procedure, have you given an
idea as to whether or not you are going to be using
troopers or civilian employees to do this?

MS. DAVIO: There really aren't troopers
in the driver license division anymore. That was a
recommendation from the Sunset Commission. So there are
no commissioned troopers in the driver license office.

SEN. WEST: So it would be civilian
employees?

MS. DAVIO: Yes, sir.

SEN. WEST: All right. Thank you.

CHAIRMAN DUNCAN: Senator Gallegos?

SEN. GALLEGOS: Let me ask you, Rebecca --
and I'm sorry you drew the short straw. And Senator
West asked the question I was going to ask you, but
Senator Williams brought up an issue that, you know, I
disagree with him. When you're stopped, it's an
alleged -- you're not a law breaker, it's an alleged.
You know, I'm not the jury, and I'm not the judge. So
that person that's stopped is not guilty until he or she
has their day in court.

So when you confiscate the license, you
have confiscated on an alleged offense. And until he or
she has their day in court and they are convicted, then
you can call him or her a law breaker. So I disagree

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1 with Senator Williams. Is that correct? I mean, am I
2 wrong? Am I wrong? When you arrest that person, is he
3 or she convicted right then and there?
4
5 MS. DAVIO: No, sir.
6
7 SEN. GALLEGOS: So you're telling me they
8 are not guilty until they have their day in court. Is
9 that correct?
10
11 MS. DAVIO: I believe that's the way the
12 legal system works.
13
14 SEN. GALLEGOS: I didn't hear you. I'm
15 sorry.
16
17 MS. DAVIO: I believe that's the way the
18 legal system works.
19
20 SEN. GALLEGOS: Okay. So that person --
21 that person that has that temporary license is innocent
22 until proven guilty. Is that correct?
23
24 MS. DAVIO: You're asking me to testify on
25 something that's outside my area of expertise, sir. I
26 don't -- I don't know the intricacies of traffic --
27
28 SEN. GALLEGOS: The document that your
29 office gives these law enforcement agencies when
30 somebody is stopped either on DWI or whatever issue,
31 whatever issue when you confiscate a license, that
32 person is innocent until proven guilty under the --
33 under the temporary license that I'm seeing here, that
has your language on it, that you give to these law
enforcement agencies when you stop these people. Is
that correct?

MS. DAVIO: As I understand it, a DWI, if
they get a mandatory suspension, that does not start
until after their conviction.

SEN. GALLEGOS: After a conviction?

MS. DAVIO: Yes, sir, for a --

SEN. GALLEGOS: So when you stop that
person, that is not a conviction?

MS. DAVIO: Or DWI mandatory suspension.

SEN. GALLEGOS: That is not a conviction,
though?

MS. DAVIO: Just shopping them I don't
believe is a conviction.

SEN. GALLEGOS: And you give they one of
these licenses. You have confiscated their license and
have given them a temporary. Is that correct?

MS. DAVIO: Law enforcement does that,
yes, sir.

SEN. GALLEGOS: Well, you gave them the --
(Simultaneous discussion)

MS. DAVIO: We simply give them the form.

SEN. GALLEGOS: You give the law
enforcement this paper. It has your language on it. Is
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that correct?

MS. DAVIO: Yes, sir. That is our form.

Yes, sir.

SEN. GALLEGOS: Okay. Thank you.

CHAIRMAN DUNCAN: Senator Wentworth?

SEN. WENTWORTH: I'm going to be very

brief and thank you for your testimony this evening and
tell you that this probably happened before you arrived
here in June of last year. But there were some

considerable complaints from people in my district in

north Bexar County --

MS. DAVIO: Uh-huh.

SEN. WENTWORTH: -- about a driver license

office on Perrin Beitel Road --

MS. DAVIO: Uh-huh.

SEN. WENTWORTH: -- where I can testify

anecdotally, as you have, that it was an hour or

longer --

MS. DAVIO: Yes, sir.

SEN. WENTWORTH: -- about the wait.

MS. DAVIO: Yes, sir.

SEN. WENTWORTH: And there were enough

complaints over the years that you all let the lease

expire.

MS. DAVIO: Yes, sir.
SEN. WENTWORTH: And then you found a new location on Pat Booker Road out near Randolph Air Force Base, and my constituents are very pleased with that improvement and were grateful that that improvement has been made.

MS. DAVIO: Thank you so much.

SEN. WENTWORTH: Thank you.

MS. DAVIO: I appreciate that. It's nice to hear a good story.

SEN. WENTWORTH: You bet.

CHAIRMAN DUNCAN: Thank you, Senator Wentworth.

Are there any other questions of the resource witness?

(No response)

CHAIRMAN DUNCAN: All right. Thank you very much, Ms. Davio.

MS. DAVIO: Uh-huh.

CHAIRMAN DUNCAN: All right. The Chair calls Ann McGeehan, Secretary of State's Office. If you'll state your name and who you represent, please.

TESTIMONY BY ANN McGEEHAN

MS. McGEEHAN: Ann McGeehan, and I'm Director of Elections in the Texas Secretary of State's Office.
CHAIRMAN DUNCAN: All right. Thank you, Ms. McGeehan.

The Chair recognizes Senator Davis.

QUESTIONS FROM SENATE FLOOR

SEN. DAVIS: Hello. Good evening. Thank you so much for being here with us to provide answers for our questions. I know you've had a long day.

I just want to ask you a few questions about the current state of voter education as it's taking place today in the Secretary of State's Office. Can you describe for us the use of the HAVA funds and how those are currently being used today?

MS. McGEEHAN: We received -- when Congress passed the Help America Vote Act, the state of Texas received a set amount of funds. And pursuant to the Help America Vote Act, there are certain purpose areas that we can use those funds for, and one of the purpose areas is voter education. So since two -- we have conducted three statewide education -- voter education programs, one in 2006, one in 2008 and one in 2010 using those federal dollars. And they have been -- we've worked with a public education firm to do research, and then they develop creative material. We run PSAs on TV, radio. In this last cycle, 2010, we used the Internet quite a bit as well.
SEN. DAVIS: And how many people do you think you reach through your voter education efforts right now? And how much have each of those cycles of voter education effort cost?

MS. McGEEHAN: The average cost is about $3 million for each one, around that amount. As far as the number of people we've touched through the campaign, we do have some reports on that. I don't have that number at my fingertips, but we have a report for each one of the voter education campaigns that talks a little bit about the effectiveness and how many people saw the media spots and things of that nature.

SEN. DAVIS: And are the Help America Vote Act funds funds that are continually given to the state from the federal government, or was it a one-time disbursement that's been used over the course of those three cycles?

MS. McGEEHAN: It was authorized in that one bill. We've received it in about three or four separate payments. We don't contemplate that we're going to be receiving any more.

SEN. DAVIS: And what was the total amount that was given to Texas?

MS. McGEEHAN: Let me grab that. The total amount for all the purpose areas is $224,092,477.
SEN. DAVIS: That's the amount that was
given to the state of Texas?

MS. McGEEHAN: Yes.

SEN. DAVIS: Okay. And so of that amount,
how much have we spent so far?

MS. McGEEHAN: Let's see here. We -- I
think we have spent $177,798,488.

SEN. DAVIS: Okay. And you described
spending about $3 million over the last three two-year
cycles. How have we spent the balance of that?

MS. McGEEHAN: Well, I mean, the bulk of
the money or about half of the money went to counties to
obtain HAVA compliant voting systems, electronic voting
systems that made -- that complied with HAVA and allowed
disabled voters to vote independently. So let's see.
$140 million went to the counties for that purpose.

The other program areas are for developing
a statewide voter registration system. We've spent
25 million on that. And then as far as the
administrative expenses, we've spent about 2.8 million
on that. For voter education, we've spent 9.5 million
so far.

SEN. DAVIS: And what are the -- setting
aside the requirements of the bill that's being
introduced today, what are the intended plans for the
balance of that money? Were this bill not to come forward to your department, what would the intended use for those funds be?

MS. McGEEHAN: I can't speak necessarily for, you know, exactly what would be done in the next general election cycle, but I would contemplate we would do another statewide voter education program in 2012, and if funds remained in 2014.

SEN. DAVIS: Is there a plan for ongoing capital expenditures as you talked about, which was the use of the bulk of the funds that we've received so far?

MS. McGEEHAN: Yeah. There are -- there's 24 -- roughly $24 million left in the -- in the purpose area for grants to counties to obtain voting equipment.

SEN. DAVIS: Okay. And so after you take out that 24 million, what will the balance be that remains for voter education efforts?

MS. McGEEHAN: Well, that's -- that's already frozen as far as the -- in order to draw down those funds, the state had to submit a state plan. We had to meet with stakeholders, publish in the Register and submit it to the Election Assistance Commission. And so pursuant to that state plan, we had to define how we were going to spend the money, and so these -- the
budget that I discussed is following that state plan.

SEN. DAVIS: Okay. And under that state plan right now, what portion of funding remains for voter education?

MS. McGEEHAN: For voter education, okay. And actually to be more precise, what the purpose area for voter education is for voter education and also for election official and poll worker training; that's grouped. And the amount remaining is between 5 and $7 million.

SEN. DAVIS: Okay. And that is expected to extend us or to take us through the next how many years under that plan?

MS. McGEEHAN: It will -- again, it's going to depend how extensive our next few voter education programs are because that's what the bulk of the money has been spent on, voter education programs. The average is about 3 million. So I guess the hope might be for at least two other statewide voter education programs.

SEN. DAVIS: Okay. And I'm sure you've seen the fiscal note that was a part of this bill. And by the way, I think it would be very helpful if you would enter that state plan into the record as an exhibit for our further use.
I'm sure you've seen the fiscal note that came as a part of this bill in terms of the expected expenditures. Part of that note talks about a fiscal impact that's related to researching and developing ways to inform the public of the new ID requirements. That's $.5 million expenditure, an additional cost of 1.5 million for media advertisements, television, radio, print and Internet. That's specifically to educate voters about the new requirements under this bill.

What will go undone that's currently in the state plan -- if we take 2 million of the 5 million remaining, what will go undone that's currently in the state plan in terms of voter education effort?

MS. McGEEHAN: I don't know that I have an exact answer to that. If we're able to incorporate the new voter ID requirements that would be required by this bill into a voter education program, then maybe we wouldn't need 2 million just for the voter ID. We could parlay that into the -- basically the voter education campaigns that we've done or the voter education programs have been to educate voters on the basic rights on how to vote, what you need to vote. So it may not be such an extension to incorporate these new requirements for voter ID, or they may. I mean, depending on the research that we get back from stakeholders and whatnot,
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but it's hard for me to say today exactly how much that may take away from future voter education efforts.

SEN. DAVIS: When was the last time in the state of Texas we made any changes of significance to the voter rules?

MS. McGEEHAN: Probably the -- when we had to implement the federal Help America Vote Act. That's when provisional voting became a requirement. There were significant changes to voter registration as to what's required to become a registered voter, and that's why we have these HAVA dollars for voter education.

SEN. DAVIS: And that began in '06. Correct?

MS. McGEEHAN: Correct.

SEN. DAVIS: Okay. In '06, the Texas voter registration application form changed in accordance with those requirements, it's my understanding, and that's when we began to collect this data that requested a driver's license number or a social security number. Is that's correct?

MS. McGEEHAN: That's correct.

SEN. DAVIS: Okay. So we have data, I guess, only from '06, and that would -- would that only be then for new registrants from '06? If I had already registered to vote prior to that, you wouldn't have that
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information from me.

MS. McGEEHAN: That's right.

SEN. DAVIS: Correct?

MS. McGEEHAN: That's right. It was voluntary before. So we have some TDLs and SSN numbers from -- but it wasn't required until 2006.

SEN. DAVIS: So we've been able to gather that information from that point in time for people who are newly registering to vote in the state of Texas. Of that group, how many people or what percentage of people are answering one or both of those questions in response to No. 8 versus signing the attestation clause in Section No. 9?

MS. McGEEHAN: Are you asking the number of --

SEN. DAVIS: Let me -- let me break it down better.

MS. McGEEHAN: Okay. Okay.

SEN. DAVIS: So under Question No. 8, what percentage of people currently, who are requesting a voter registration card, who are filling out the application starting in '06 with this new form, what percentage of people are providing their Texas driver's license in response to the questions on the application?

MS. McGEEHAN: Okay. I don't have the
percent number, but the actual number is 2.3 million since 2006. Since January 1, 2006 through December 31, 2010, 2.3 million, when they registered, provided their driver's license number.

SEN. DAVIS: What's the total number of applications in that time period?

MS. McGEEHAN: And the total number -- I think it's going to be just under 3 million, and I'm doing math on the fly. I might have to -- I'd prefer to give that --

SEN. DAVIS: Can you provide that information --

MS. McGEEHAN: Yes.

SEN. DAVIS: -- to us?

MS. McGEEHAN: Yes.

SEN. DAVIS: That would be appreciated.

So what's the number of people who are not filling out either the driver's license number or the social security number in Section 8 but instead are going to Section 9 and signing the attestation clause of Section 9?

MS. McGEEHAN: And that's the attestation clause saying they have not been issued either form of ID?

SEN. DAVIS: (Nodded)
MS. McGEEHAN: Yeah, that number is 34,506.

SEN. DAVIS: Okay. Do we have any -- any estimate of the number of people who are currently registered today? If we've only been gathering that information since 2006, do we have any kind of an estimate of the number of people who are currently registered to vote today who do not have a driver's license number to provide?

MS. McGEEHAN: Well, if we -- if we look at our entire statewide file, we have 5.2 million voters that did provide a driver's license number or an ID number. We have 2.1 million voters that present -- that provided a social security number. 4 million of them provided both. And then the numbers that have neither -- or the voters that hadn't provided either one is 690,887. So it doesn't necessarily mean that those people haven't been issued, but they didn't -- either they don't have those numbers or they registered before it was required, and so they didn't provide them when they registered if it was pre-2006.

SEN. DAVIS: But the question wasn't asked. It was -- I guess as you said, you could voluntarily provide that information prior to '06.

MS. McGEEHAN: Well, it was asked, but it
was optional. It was on the form.

SEN. DAVIS: Uh-huh. Okay. So we really
don't know how many of that group were answering the
question voluntarily because they have the number versus
those who were not answering it, not because they chose
to, but because they did have their driver's license
number?

MS. McGEEHAN: Yes, you are correct.

That's right.

SEN. DAVIS: So when we're putting
together an estimate of what the cost to educate our
voters is going to be and when we think about how
significant the changes are that are addressed in this
bill, what's your -- what's your process been to try to
determine how many people will be impacted and what that
voter education is going to need to look like?

MS. McGEEHAN: Well, we -- I mean, to be
very honest, we haven't done much planning yet. We
prepared this fiscal note on Friday. That would be
obviously a very important component is trying to
identify who the appropriate audiences are, who you need
to get the information out to.

Senator Williams had approached us earlier
today to see if we could do some comparisons to try and
further focus in on who those registered voters are that
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don't have -- or have not been issued a driver's license
or a personal ID number. So we're trying to run some of
those numbers right now.

SEN. DAVIS: I guess a confusion for me is
how we came up with the $2 million fiscal note for that
and yet we don't really know, as you said a moment ago
we don't really know how many people will be impacted by
it and what that statewide voter education effort is
going to need to look like. So where did the $2 million
number come from?

MS. McGEEHAN: Well, the $2 million number
came from the way the bill is written because the bill
simply says "a statewide voter education effort." So
there's not too much detail in the bill as to what's
required. Our assumption is that our previous voter
education programs might be the model, and they've been
around 3 million. And plus, we also noticed that last
session the Senate put a $2 million fiscal note on it.
So we thought, well, maybe that's some representation of
legislative intent as to what an appropriate voter
education program might cost, but --

SEN. DAVIS: So we've had voter education
efforts in the past that have cost about $3 million each
time we've engaged in the voter education effort. We're
talking today about making some sweeping changes to
what's required in order to vote in the state of Texas.

Why is the number to educate -- on such a sweeping change for what will likely be a much larger group of impacted people in the state of Texas, why is that number so much lower than the $3 million number that's currently being spent for voter education?

MS. McGEEHAN: Well, if the -- if a $2 million program is added into an existing $3 million program, then you've got a $5 million program. I mean, our voter education under HAVA is directed to all registered voters. And so, you know, a new voter -- a new photo ID requirement would also need to be directed to all registered voters because it's a change for all voters.

SEN. DAVIS: So we're talking about -- I'm sorry to interrupt you. We're talking a $2 million addition to the $3 million that was already intended for voter education in this next two-year cycle.

MS. McGEEHAN: Possibly, possibly. I mean, we -- you know, we've got a communications director that would have some input on that. This fiscal note represented what we thought might be a reasonable fiscal note. If we have, you know, legislative direction to take it a different way or do additional outreach, that's fine. But based on the way
the bill was written and based on the fiscal note filed last time, we thought that was a reasonable number.

SEN. DAVIS: So let's say we spend about a total of $5 million in the next two years with our intended voter education effort that's already been planned and with an additional cost for educating on the requirements of this proposed new law. That's about the balance of the voter education fund right now. Is that correct?

MS. McGEEHAN: Well, it's about -- we've spent 9 million. I think the balance -- yeah, the balance is between 5 and 7 million. That's correct.

SEN. DAVIS: Okay. So that will take us through about what -- how long of a period of time will that take us through?

MS. McGEEHAN: If we used 5 million to do a voter -- a general voter education plan and then another 2 million to do a detailed photo -- photo identification plan, that might -- that might use it up.

SEN. DAVIS: And if it uses it up, what will we do in future years to educate our voters about these requirements?

MS. McGEEHAN: Well, frankly -- I mean, state law has never appropriated state funds to educate voters. So, you know, these federal funds have been
really nice to have them to do that. We never had that kind of funding before. So if there's a desire to do voter education programs of this -- of this type, then we would need state appropriation.

SEN. DAVIS: So these federal funds will take us basically through a one-time voter education drive on the requirements of this new law, but it's not going to take us further than that?

MS. McGEEHAN: Not if we use it all, not -- it could possibly use up the remainder of the voter education funds.

SEN. DAVIS: Okay. So we've talked about the voter education. Talk to us a little bit about the costs of training the poll workers and the registrars.

MS. McGEEHAN: We currently have several training programs for -- well, we have training programs for the county election officials and then other training programs for the poll workers. We have an online training program. We have a video. We have handbooks. So we would have to update all of those -- all those different formats of training.

SEN. DAVIS: And what's the anticipated costs for updating all those forms of training?

MS. McGEEHAN: We don't usually put a fiscal note when there's a change in state law and we
have to change and update training like that because at least it's always been considered that is part of our mandate in election administration. So when we get appropriation under the election administration umbrella, our statutory mandate is to train and assist election authorities.

SEN. DAVIS: And what's happened to your -- your budget, not only in this current biennium that we're in, but the proposed budget going forward?

MS. McGEEHAN: We're still digesting that as far as on the House side. I don't know about the Senate side yet. But on the House side, I believe we took about a 14.5 percent budget reduction on the House -- HB 1 bill.

SEN. DAVIS: So we're talking about a fairly dramatic budget cut for your agency while at the same time we are talking about adding some very significant requirements in terms of the changes that you would need to make to your training programs and materials for purposes of educating election workers and county administrators on the new rules that would be implemented in this bill?

MS. McGEEHAN: That's correct.

SEN. DAVIS: And there's no fiscal note currently estimated for what that cost might be?
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MS. McGEEHAN: It's my understanding that when we've been asked to prepare fiscal notes for these kinds of issues, we have not added a fiscal impact for something that's already a statutory duty. As we analyze HB 1, maybe we're going to have to revise that, but at least our standing policy was if it was a statutory duty that we're already charged to do, that we don't put an additional fiscal note on it.

SEN. DAVIS: Are you concerned that you're going to find yourselves fairly flatfooted in terms of not being prepared with the resources that you need, to train election workers and to train county administrators on the requirements of this new law facing the budget cuts that you're facing without a fiscal note that's going to add resources to your department for purposes of carrying out these requirements?

MS. McGEEHAN: I think all state agencies in the state have concerns about providing the services they are charged to provide in light of significant budget cuts. But on the issue of training, the analysis was that that was not going to cost anything additional as to what we've already been appropriated.

SEN. DAVIS: And do you agree with that, that it's not going to cost anything additional for your

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agency to provide the training for the significant
changes in the law that will be imposed if this bill is
passed into law?

MS. McGEEHAN: Well, after every session,
we have to change all our materials. And, you know,
maybe I can talk to our fiscal officer and maybe we'll
start putting in fiscal notes for these kinds of things,
but it has been our policy not to add a fiscal note for
something we're currently doing under state law and
funded for.

SEN. DAVIS: And so the change in
materials is all that would occur? If I'm an election
worker in the state of Texas and I'm facing some pretty
significant changes -- and I have to tell you I've read
this bill numerous times, and I'm still confused in
terms of what it would require of me as an election
worker. Is that the only costs that we assume will be
incurred, is the cost of the change of the material?
Isn't there some training -- active training that has to
occur to be able to make sure that the election workers
and the county administrators who are tasked with
carrying out this new law will understand exactly what's
expected of them in terms of its implementation?

MS. McGEEHAN: We do -- we do, I think,
pretty extensive training right now. I mean, in an odd
numbered year, we hold four seminars, and we have very good attendance from our county election officials. So I would be certain that our August county election official seminar will be heavily -- if this passes will heavily emphasize these new rules.

To go back to the federal funds, which we know are limited, the grant for voter education also includes election official training and poll worker training. So if there are any remaining HAVA dollars in that category that we don't use on voter education, we could perhaps use to additional -- to develop additional training materials.

SEN. DAVIS: Yes, and we talked about that a moment ago, and you did state on the record that that category of 5 to $7 million that's remaining is the entirety of the federal resource that you have available to you right now, both for voter education and for training purposes. And we've also talked about the fact that the expectation and the demand on that particular fund for public education is going to take the significant balance that remains there. Correct?

MS. McGEEHAN: Right. Well, just to be clear, the remaining balance in the HAVA is all we have for voter education, but there are some state funds -- I don't think it's a lot -- but that would go towards
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updating handbooks and video and things like that that we normally produce as training materials.

SEN. DAVIS: When the Help America Vote Act was implemented and in '06, as you said, that was the first significant change that's been made or it's the most recent significant change that's been made in election laws in the state of Texas in terms of the requirements of your agency and the training of your agency, did the costs that your agency realize as a result of the training component for HAVA increase as a result of those new requirements?

MS. McGEEHAN: We -- what we did do was develop an online training component. So we used a portion of the HAVA dollars to develop an online training component, which was in addition to our other training. I could get -- I don't know the cost of that, but I could get you the cost.

SEN. DAVIS: It would be a helpful number to have.

There's also a discussion in terms of the fiscal note on this bill, including a coordinated voter registration drive or other activities that would be designed to expand voter registration. What would the costs of such a registration drive be? It's on Page 2 of the fiscal note.
MS. McGEEHAN: Okay. I think that what that is referring to is that at the end of Senate Bill 14, there's a reference that says county voter registrars can use Chapter 19 funds to defray costs in conducting a voter registration drive. But I don't see anything -- and I may have missed it -- but I don't see anything in Senate Bill 14 that requires a voter registration drive. I think it's -- what that section in the bill is doing is trying to make clear that these funds, which are -- go to county voter registrars to enhance voter registration could be used to do voter registration drives, but I don't see anything that requires a voter registration drive in Senate Bill 14.

SEN. DAVIS: What resources currently are expected of our local governments in carrying out the training and the public awareness programs under our election code.

MS. McGEEHAN: The -- there's no state law requirement to do voter education by the county officials. Most of them do it as a public service because they want to, but there's not a mandate under state law to do that.

Under Senate Bill 14, there's required training of poll workers on the new photo ID requirements. And I may have missed part of your
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SEN. DAVIS: And that required training is to be done at the county level. It's expected that the county will fulfill that requirement through their own resources?

MS. McGEEHAN: Well, they are required to use the Secretary of State materials. I think that the election code gives them discretion as to how they implement it and how they conduct their training.

SEN. DAVIS: So it's foreseeable that at the county level increased costs will be realized as a consequence of the expectations of this bill?

MS. McGEEHAN: Most counties conduct training today. So they would just be incorporating another component into their training program. Depending on how they handled it would impact how significant the fiscal impact would be in that county.

SEN. DAVIS: If I'm a voter today and I want to go to the bill itself in terms of making sure I understand what would be expected of me under today's rules versus under the rules of the new bill, if I'm a voter today and I come in to vote and I don't have my voter registration card, instead I have an ID, I have a state issued ID, I have a valid driver's license, and my driver's license shows a different name than is
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1 currently on the roll because I've married or I've
2 divorced, how is that situation handled today?

3    MS. McGEEHAN: State law doesn't directly
4 address it. So I think that as a practical matter
5 what's happening is the poll workers are making judgment
6 calls as they qualify those voters for voting.

7    SEN. DAVIS: But they are not being given
8 guidance or rules or requirements in terms of how they
9 are to deal with that situation today?

10    MS. McGEEHAN: No.
11    SEN. DAVIS: It's within their discretion?
12    MS. McGEEHAN: At this point. I mean,
13 state law is silent on it, and our office has not issued
14 any guidance on it. So we're hearing a lot about that
15 today. That's definitely something we'll probably need
16 to look into, but right now there is no rule or statute
17 on that issue.

18    SEN. DAVIS: Okay. And today if I go to
19 vote and my identification that I use for purposes of
20 voting has a different address on it than is listed on
21 the precinct roll, I think it's the interpretation today
22 under 2004 Secretary of State opinion that I am asked
23 for my correct address, and I am to be believed if I say
24 that my address is the address that's on the precinct
25 list as opposed to what might be on my ID?
MS. McGEEHAN: I think that's basically correct. The purposes -- you know, showing ID today is only for purposes of proving who you are. It's not to prove where you live. So independent from the requirement to show ID, either certificate or one of the other authorized ID, there's a separate requirement in the code where the election -- where the poll worker has to ask every voter "Have you moved," so regardless of what ID they show. And if they say yes, they've moved, then they have to sign a statement of residence and update their information. If they say no, they haven't, they still live at the address on the list of registered voters, then they are permitted to vote.

SEN. DAVIS: And what is your understanding of whether -- how or whether that would change under the requirements of the new bill if everyone now is going to come in with a state-issued ID or a driver's license? If the address on that ID does not match the address that's on the voter file, how is that to be handled going forward if this bill were to pass into law?

MS. McGEEHAN: My current understanding is that that process wouldn't change, that the purpose of SB 14 is, again, just to prove up ID, not prove where you reside.
SEN. DAVIS: And what steps would the Secretary of State's Office engage in to assure that the ID wasn't being used to establish an understanding of the voter's residency?

MS. McGEEHAN: Would definitely, I think, be included in our training materials to emphasize that.

SEN. DAVIS: Currently, is there any information that the Secretary of State's Office gathers that breaks down by category voters in the state? And when I say "by category," I mean by race, by gender, by disability, by age.

MS. McGEEHAN: We have some information. We have -- we have age for sure. On gender -- we have some information on gender, but it's not conclusive because gender is now -- it used to be a required element on the voter registration application. In 1995, it was taken -- or it became optional after the National Voter Registration Act. So we have some data on gender, but, again, it's not complete.

Regarding ethnicity, we really -- we don't have any information like that because it's not collected when a person applies to register to vote. The only data that we do have is we do have the number of voters that have an Hispanic surname. And so we can run the list of registered voters against this list of...
Hispanic surnames that is provided by the census department.

SEN. DAVIS: I'm sure you understand that one of the sensitive issues that will arise as a consequence of this legislation will be a question as to whether the implementation of this law creates a disproportionate impact on minorities, on seniors, on the disabled, on women. How will the Secretary of State's Office work to be able to answer those questions when they are asked if we currently don't track that data? And is there an intention to track it going forward?

MS. McGEEHAN: When we changed the voter registration application in '94, '95, due to the National Voter Registration Act, there was a long discussion regarding this issue of whether the state application should request a voter's race. The determination at that time, based on feedback from all the stakeholders, was not to do it because the thought was that might be intimidating to a minority voter, "Why are you asking, you know, what my ethnicity is? It doesn't impact whether I can register or not."

We can revisit that issue because in order to provide data, you know, if the legislature wants data like that from the Secretary of State's Office, we have...
to have some way to collect it. So we could revisit
putting that question or adding that as a question to
the voter registration application. I'd be happy to
visit on ways where we could try and collect that, but
right now we would not have the tools that we would need
to be able to collect that data.

SEN. DAVIS: It seems rather important as
implementation of this law advances that that
information be made available for the Justice Department
review as well as any judicial review that might occur
in terms of the impact of the implementation of the law.
I believe that's all the questions I have
for you. Thank you so much.

MS. McGEEHAN: Thank you.

CHAIRMAN DUNCAN: The Chair recognizes
Senator West.

SEN. WEST: Thank you very much,
Mr. Chairman. Many of the questions Senator Davis has
already asked, but have you had a chance to look at the
bill as introduced?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. Do you happen to have
it there in front of you?

MS. McGEEHAN: Yes, I do.

SEN. WEST: Okay. Great. Before I get
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into it, does this bill provide you any rulemaking authority?

MS. McGEEHAN: No.

SEN. WEST: Okay. So in interpreting the -- let me back up. Are you often called upon by county registrars to answer questions concerning issues that arise in local counties?

MS. McGEEHAN: Yes.

SEN. WEST: How do you normally decide those questions? Do you just look at the black and white law? Do you issue opinions? How is that -- what's that process?

MS. McGEEHAN: We issue opinions in a couple of different ways. We have a toll-free number. One is dedicated just for county officials. So if it's a fairly straightforward, simple question, we give a quick answer over the phone. If it's a -- if it's a less involved question, we might get an email. We'll give a response via email. If it's something that's hard or we're really interpreting several different laws or it's a new law and we feel like it has statewide impact, we want to make sure that everyone is operating under the same understanding, we'll issue an advisory.

SEN. WEST: Okay. And so an advisory or just depending upon the circumstances maybe an email
opinion or something like that?

MS. McGEEHAN: Well, advisories are usually a little more -- it's like the most formal that we do.

SEN. WEST: Right.

MS. McGEEHAN: Yeah. Okay.

SEN. WEST: All right. Let me ask you to go to Page 4 of the bill.

MS. McGEEHAN: Okay. Can you tell me the section? Because I think I have a different format.

SEN. WEST: Okay. It's Section 7, and Section 7(c) and (d).

MS. McGEEHAN: Okay.

SEN. DAVIS: Let me know when you get there.

MS. McGEEHAN: Yes.

SEN. WEST: Okay. It's my understanding that the election officer that's being referred to in Section (d) is -- is the individual working at the poll. Is that right?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. That person will be called upon in Section (d) to determine if the voter's name is on the precinct list of registered voters, and the voter's identity can be verified from the

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documentation presented. Is that correct?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. In advising on that, will that be a strict interpretation? Let me -- this is what I mean. I think that some of the hypotheticals that were provided by Senator Davis may be illustrative of what I'm asking. My last name is West, W-e-s-t. And say that there's a typographical error where my name is spelled W-e-s on the voters' roll, precinct list, and then my -- but my identity I'm using my driver's license and it has "t" on it. How does a poll -- an election officer in that situation resolve that problem?

MS. McGEEHAN: That's a good question, and I don't think the bill necessarily defines what verification --

SEN. WEST: I know. Senator Fraser said I'd have to ask the Secretary of State that question. That's why I'm asking you that question.

MS. McGEEHAN: I think -- you know, based on the way the bill is written now and if we had to develop training materials for the poll workers on how to implement this, we would look to the best practices of the states that have implemented. I heard Indiana testify earlier today that they have written some guidelines. We'd look to that and try and incorporate...
the best practices on reasonable methods to verify the ID document against the list of registered voters.

SEN. WEST: Okay. But you would agree with me that in interpreting Section (c) and (d) without some sort of guidance would lend itself to a great deal of subjectivity; thus inconsistent application throughout the state?

MS. McGEEHAN: It could, yes.

SEN. WEST: Okay. As it relates to -- let's see. What page is it on? The next page, which will be (h), it's in the same section.

MS. McGEEHAN: Okay.

SEN. WEST: Would you read Section (h) and tell me how you interpret that as the chief administrator of the election laws in the state of Texas next to, needless to say, Secretary of State?

MS. McGEEHAN: (h) reads, "The requirements for identification prescribed by Subsection (b) do not apply to a voter who: (1) presents the voter's voter registration certificate on offering to vote; and (2) was 70 years of age or older on January 1, 2012, as indicated by the date of birth on the voter's voter registration certificate."

The way I had -- until earlier this afternoon when Senator Ellis asked the question, I had
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assumed that anybody that is 70 years of age or older
would not have to provide the photo ID. I think the
wording is less than perfect. I think that's the
intent, and I heard Senator Fraser, I think, answer that
his intent is it would apply. You know, even if a
person became 70 after January 1, 2012, they could still
take advantage of this exception.

SEN. WEST: Okay. But would it be your
suggestion that we need to reword that language to make
certain that whether you're there or someone else -- I
understand that you're here and you heard the
discussion, but if for some reason you're not in the
same position you're in right now, there's going to be
someone else, and they won't have -- they will not have
had the benefit of this discussion. So, therefore, do
you think it would be advisory to -- advisory to reword
that to make certain it's perfectly clear?

MS. McGEEHAN: I think so. If people are
reading it inconsistent, it would probably help it if it
were.

SEN. WEST: Okay. Now, a couple of other
questions. As it relates to the counties, it's my
understanding that you -- that your agency and maybe
either yourself or someone working for you put together
the fiscal note. Is that correct?
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MS. McGEEHAN: Yes. Our agency put it -- I helped.

SEN. WEST: Okay. Did someone under your supervision contact local governments to determine the impact, the fiscal impact, that implementation of this will have?

MS. McGEEHAN: No, we did not.

SEN. WEST: That was done by someone else?

MS. McGEEHAN: I think LBB does that. We just -- we just --

SEN. WEST: Provided the information?

MS. McGEEHAN: Yeah. Right.

SEN. WEST: And based on your experience when these types of changes -- let me back up. How much experience have you had in this particular area, that is, the election laws, in administration of election laws?

MS. McGEEHAN: I have been working in the elections division for 21 years.

SEN. WEST: So you've had a little experience, huh?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. All right. As it relates to when changes are made in state law of this nature, is there an impact, a fiscal impact, on local...
units of governments when they have to make changes to comply with these types of changes or laws that are being suggested?

MS. McGEEHAN: I think it really depends on what the change is. You know, if there's a new mandate for a county or if the county has to do something different, then obviously there would be a fiscal impact.

SEN. WEST: Well, will -- and, again, drawing on your expertise, will counties have to do something different to implement this particular law?

MS. McGEEHAN: They will have to -- they are going to have to post information on their website notifying the public what the new photo ID requirements are.

SEN. WEST: Right.

MS. McGEEHAN: When they issue voter registration certificates, they are going to have to mail out -- which they have to mail out every two years under current law. The new certificates will have new language, but -- informing voters of the voter ID requirements, but that should be cost neutral because they are already mailing out the voter registration certificates.

The piece that I think might have a fiscal