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

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

I believe that the Ogden amendment should
go on there and say, you know, if it's going to be over,
over what you're showing on the fiscal note, that it
shouldn't be implemented if it's going to cost that type
of money. That's a lot of money, that's a lot of money
to implement voter ID when you're just saying -- well,

not you -- but the fiscal note on this bill is saying
only two million bucks. Now, you know, that just
concerns me, Senator. And I guess I'll ask that
question when the proper resource witness comes up.

Senator Fraser, the other question I had
was similar to Senator Uresti's question. Now, two
years ago, I put maps up on one of my amendments where
the City of Houston has no DPS offices within the 610
loop. The City of Fort Worth, I believe -- let me see
here. Let me look at my notes here.

The City of Fort Worth I think doesn't
have any either inside -- what is that loop? '82,
'82? -- 81. And Dallas, Senator West, only has one --
only has one inside the city, only has one DPS center
inside the city. And it concerns me, if we're going to
mandate Texans to get a photo ID and you have no place
to send them to, especially inside the loop and
especially those without transportation, and if they
can't get to it on a bus route, to one of the DPS
centers --

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

SEN. GALLEGOS: I'm talking about your

bill that mandates a photo ID. And if we're going to
mandate Texans, then we should at least allow them the
opportunity to have places where they can get it, where
they don't have to travel 150 miles, like Senator Uresti
just said. That's my concern, especially the elderly
that don't have any and they're going to have to get a
photo ID, that that person is going to have to travel
150 miles, even from their house inside the loop, those
people that don't have cars and they have to do public
transportation.
Now, I'm looking at the map in the City of
Houston, the bus route where it takes them three buses
just to get close to a DPS center from anywhere inside
the 610 loop. That really concerns me, Senator, on
this, and hopefully that -- Senator Fraser?
SEN. FRASER: I'm with you.
SEN. GALLEGOS: Hopefully that you will
look at it and maybe in some of our amendments will take
that into consideration. I'm just telling you, you
know, what's in Houston, not in Horseshoe Bay where you
live. And, you know, that is really a problem that we
have, especially those of us that represent minority
communities like Senator Uresti and me and others on
this floor.
There is another issue, Senator Fraser,
that I wanted to ask you. On driver's license, you
know, it says on a driver's license that's -- on a
driver's license that's pulled from somebody for
whatever reason, DPS gives you a temporary, and that
temporary is good for about 40 days or in some cases
when they've been stopped for a DWI or anything but
still have not gone through the legal process, they are
given a paper temporary license, and it says on that
paper that this is used for identification purposes.
Now, I guess my question to you would be
that if that is pulled -- and there's several thousands
of drivers, of Texans, that are using this paper ID
right now -- that if a driver's license is pulled for
whatever reason, that that DPS certification, paper
temporary license can be used as an ID to go vote.
SEN. FRASER: Senator, if you don't mind,
I'm going to yield to Senator Williams on that question.
If you don't mind, he'll answer that question for you.
SEN. WILLIAMS: Senator Gallegos, I had a
similar question of what you have as I visited with the
Department of Public Safety about this. And, in fact,
it had been a while since I had renewed my license. And
they now issue -- these temporary licenses actually have
a photo on the license, and it would be valid under
Sen. Fraser's bill as identification if you went to
vote.
And, you know, in more detail, we could
get the Department of Public Safety to give you some
more detail on that. But now the temporary licenses
actually have a photo on the paper license that you're
referring to.
SEN. GALLEGOS: Well, Senator Williams,
I'm showing that 98,000 drivers right now have temporary
licenses without photo IDs.

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

SEN. GALLEGOS: Well, I agree.

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

SEN. GALLEGOS: Senator Williams, I understand what you just told me. But, you know, I've known some folks that have had their license pulled and have not gone through the process, and there is no photo ID. All they're given is the sheet of paper that I have right here that they're driving with. 98,184 that are driving with this paper right here, no photo ID. And it says -- it says here -- well, I'm not going to read it to you. Just trust me; you can read it yourself. It says that this would be used for identification purposes.

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

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

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

SEN. GALLEGOS: Sure.

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

SEN. GALLEGOS: Sure.

Thank you, Mr. Chairman.
SEN. DAVIS: Can you hear me okay, Senator Fraser?

SEN. FRASER: Right now I am.

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

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

SEN. DAVIS: Well, I would --

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

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

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

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

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

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

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

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

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

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

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

7 SEN. FRASER: And again, you're making a
reference to Section 8 that -- you know, I'm sorry. I
don't -- I don't know what you're referring
to. The Secretary of State is the expert in that area.

11 And when you ask that question, I'll be listening and
will, you know, listen to the response.

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

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

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

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

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

8 SEN. FRASER: I'm not advised.

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

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

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

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

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

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

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

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

SEN. DAVIS: That's correct. They said they did not believe that it created a constitutionally prohibited burden, based on the fact that voters in the State of Indiana have the opportunity to vote a provisional ballot even if they don't have a photo ID.
SEN. FRASER: The bill that I'm moving forward I believe will be approved by the U.S. Supreme Court and will be precleared by the Department of Justice.

SEN. DAVIS: Okay. Let's look at the things that are required in your bill in terms of a photo ID. And I appreciate what you said earlier. I think it's true. I think if you ask anybody on the street that you might walk up to at this moment in time whether they think it's a good idea for someone to show a photo ID in order to vote, they would probably agree.

What they might not understand in agreeing with that, though, are what the requirements are going to be in the State of Texas in order for them to comply with that particular requirement, and they also might not appreciate the challenge and the difficulty that some people may have in supplying that.

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

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

SEN. FRASER: I'm not advised.

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

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

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

SEN. FRASER: You know, I think our belief is that someone should have a valid ID that has not
expired. "Expired" implies it is not valid, and we in
Texas believe you should have a valid ID.

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

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

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

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

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

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

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

SEN. FRASER: Yes.

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

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

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

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

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

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

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

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

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

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

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

I think it's pretty easy for us to stand on the Senate floor where we are today and the shoes we're in today and say, "Why should that be a problem?" But for people who have to take time off of work and for whom that's an unaffordable idea, it can be a very, very real problem.

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

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

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

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

Why is that?

SEN. FRASER: Senator, I appreciate the story you just gave. And I would advise you of the other 31 members here. There's a lot of people that can tell like stories. When I was 16 and working on a potato picker in California or when I was 17 working picking cucumbers in Rising Star or when I was 18, picking cotton in West Texas, I figured out a way to have time after work to go get a driver's license, because I really wanted one. I worked that into the...
I think what I would ask you is to give evidence, either in Indiana or Georgia, of a single person that has come forward and said that they were denied their ability to vote because of these provisions, because in my knowledge, there has not been a single person that came forward.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you.

SEN. DAVIS: Thank you.

CHAIRMAN DUNCAN: Senator West.

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

Senator Fraser, good morning, sir.

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

SEN. WEST: That was actually Billy Ocean,

which both of us like.

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

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

SEN. FRASER: This bill?

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

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

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

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

keep them off the counties.

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

SEN. FRASER: I didn't say that.

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

SEN. FRASER: Not advised.

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

SEN. FRASER: That's a correct statement.

SEN. WEST: That is a correct statement.

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

Right?

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

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

SEN. FRASER: I'm not advised.

SEN. WEST: You're not advised as to what

your objective is?

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

SEN. WEST: All right. So you can't tell
county officials that there are not unfunded mandates in this bill?

SEN. FRASER: Well, as you know, a lot of times there's unintended consequences, and we don't know until it's passed, the impact.

SEN. WEST: It was your bill, though.

This is your bill. You don't know --

SEN. FRASER: My bill says that --

SEN. WEST: I'm just --

SEN. FRASER: -- when you walk into the --

SEN. WEST: I'm just trying to find out whether or not county officials are going to have to pick up any of the cost in terms of putting this bill into effect. You tell me. Tell the county officials that there are no unfunded mandates in this bill. Tell them.

SEN. FRASER: I'm not advised.

SEN. WEST: So what you're telling county officials, that you're not advised as to whether or not there is any unfunded mandates in this bill. Correct?

SEN. FRASER: I'm sure that there's probably an expert witness coming. You probably can ask a question. Someone, or someone may be coming to testify about that, but --

SEN. WEST: All right. Let's talk about expert witnesses. Did you ask for the fiscal note in this bill?

SEN. FRASER: I'm sorry?

SEN. WEST: Did you ask for the fiscal analysis in this bill -- the fiscal note?

SEN. FRASER: No. I think the committee chairman did. I believe the -- there is a fiscal note requested. I did not request it.

SEN. WEST: Did you review the fiscal note?

SEN. FRASER: The fiscal note was handed to me. I read the fiscal note. I guess reviewing it, yes, I read it.

SEN. WEST: Okay. Go to the local government impact section of it, Page 2 of 3, down at the bottom.

SEN. FRASER: Yes.

SEN. WEST: Okay. Second paragraph, "According to Texas Association of Counties, Tarrant County anticipated a one-time cost to reprint provisional balloting materials and provides new notices, of $8,000. Bexar County stated that due to limited space on current registration certificate, large cards would be necessary, resulting in additional costs for cards, printing and postage of $381,000," et cetera. Is that a cost that is going to be picked up by the state or is that going to be a cost that's
going to be occasioned by the counties?

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

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

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

SEN. WEST: Advise what the bill will do?

SEN. FRASER: The bill is going --

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

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

(Simultaneous discussion)

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

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

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

SEN. FRASER: Not advised about unfunded mandates.

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

(Simultaneous discussion)

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

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

Under the local government impact, do you know where the counties will get that money from?

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

No, I do not know --

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

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

18 SEN. WEST: Now, the HAVA funds, is that
general revenue or is that federal funds?

19 SEN. FRASER: Federal funds.

20 SEN. WEST: Okay.

21 SEN. FRASER: And I believe I'm right, but
again, I would ask that question of the Secretary of
State if I were you.

22 SEN. WEST: Okay. Well, as it relates to

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1 general revenue, now, as I understand and as I've used
2 the term "general revenue" over the last 17 years I've
3 been here -- and maybe Senator Ogden or someone else on
4 the Finance Committee can correct me if I'm wrong --
5 general revenue basically means state funds -- right --
6 monies that we get from state --

7 SEN. FRASER: You are the member of
8 Finance.

9 SEN. WEST: Well, let me -- general
10 revenue -- okay. Well, then, take my word for it;
11 that's what it means. It means monies that we receive
12 from tax revenues in the State of Texas, not HAVA funds
13 but revenues from taxes and revenues that are -- and
14 sources of revenues that we get from citizens in the
15 State of Texas. And that's what this deals with, it is
16 specifically general revenue-related funds, not HAVA
17 funds. HAVA funds are federal funds. So let's make
18 sure -- in terms of my questions, that's the distinction
19 that I'm making.

20 SEN. FRASER: Well, the distinction you're
21 not making is that if the HAVA funds are not available,
22 yes, there would be a cost to the state. But if HAVA
23 funds are available, it would offset that cost to the
24 state.

25 SEN. WEST: Where do you see that in this

0117
1 fiscal note?
2 SEN. FRASER: It's not in that. That's
3 conversation --
4 SEN. WEST: Then how are you making that
5 statement, if it's not in this fiscal note? There's
6 nothing in the fiscal note that says that.
7 SEN. FRASER: Mr. Chairman?
8 CHAIRMAN DUNCAN: Senator Fraser.
9 SEN. FRASER: Could I please enter into
10 the record -- this is information coming that is
11 addressing the questions he's talked about addressing
12 HAVA. I would like to have this added as an exhibit,
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13 please.
14
15 CHAIRMAN DUNCAN: Bring it forward to the
16 Secretary, if you would, and we'll need to --
17 SEN. WEST: May we approach on it, Your
18 Honor -- Your Honor -- may we approach on it,
19 Mr. Chairman?
20 CHAIRMAN DUNCAN: You may.
21 (Brief pause)
22 SEN. FRASER: Mr. President?
23 CHAIRMAN DUNCAN: Senator Fraser, if
24 you'll hold on just a minute. I'm going to allow --
25 we're already premarked a couple of exhibits. And so
26 just in order to keep the record flowing correctly, I'm
27 going to recognize Sen. Van de Putte at this point to
28 introduce a motion in writing.
29 Senator Van de Putte.
30 SEN. VAN DE PUTTE: Thank you,
31 Mr. Chairman. And thank you, Chairman, and the bill
32 author, to yield so that I can move that all actions
33 taken by the Senate on the 81st Legislature on Senate
34 Bill 362, as contained in the official Senate Journal,
35 be included in the record as Exhibit 2. The Senate
36 Journal excerpts shall include motions, remarks, written
37 responses, exhibits and any other material directly
38 related to Senate Bill 362.
39 Mr. Chairman, I move this motion in
40 writing.
41 CHAIRMAN DUNCAN: Members, you've heard
42 the motion. Is there any objection?
43 The Chair hears none. Exhibit 2 will be
44 received into the record.
45 (Exhibit No. 2 marked and admitted)
46 CHAIRMAN DUNCAN: Now, Senator Fraser,
47 you're recognized on Exhibit 3, I believe.
48 SEN. FRASER: And, members, just to
49 clarify, what we're entering here is the answer to the
50 question that we've been discussing. It is a letter
51 from the Secretary of State, Hope Andrade, saying that
52 the $2 million we're discussing, there is sufficient
53 HAVA funds allocated to voter education and poll worker
54 training that would cover this expense that is
55 available.
56 Also, in addition to your question, we
57 have been advised by other counties saying they do not
58 expect more than a nominal cost for counties, existing
59 staff and resources should be sufficient to implement
60 the new law.
61 And I would request this be entered into
62 the record.
63 CHAIRMAN DUNCAN: Members, Senator Fraser
64 sends up Exhibit No. 3. It will be received into the
65 record.
CHAIRMAN DUNCAN: Senator Fraser, you still have the floor. Senator West, Senator has yielded to you for questions.

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

SEN. WEST: Thank you, Mr. Chairman.

SEN. FRASER: Yes.

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

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

SEN. WEST: It's not general revenue?

SEN. FRASER: Yes.

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

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

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

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

SEN. WEST: And then --

SEN. FRASER: To handle this.

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

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

SEN. WEST: There's 254 counties, and you've just made a statement that most of the counties have said they can absorb it within their normal --
SEN. FRASER: I said I do not expect it to be more than a nominal cost.

SEN. WEST: But otherwise -- now Bexar County is saying it's going to be over $380,000. That's not a nominal cost, is it?

SEN. FRASER: Well, I guess that's something you should consider in the Finance Committee. They have a huge budget, and in --

SEN. WEST: Who has a huge budget?

SEN. FRASER: The large counties.

SEN. WEST: I'm sorry?

SEN. FRASER: The large counties.

SEN. WEST: They have huge budgets?

SEN. FRASER: Yes. And you will have to make that decision.

SEN. WEST: They don't have budget shortfalls in large counties?

SEN. FRASER: If I were you, then I would discuss that with the chairman --

SEN. WEST: But the reality is, the reality is, is that if -- and I won't belabor the point -- the reality is, if those counties will have to fund this out of existing revenue from their budgets, it's going to be an unfunded mandate on them if the state does not appropriate the money. Is that correct?

SEN. FRASER: Yes. It is expected that it will be a nominal cost for counties. Existing staff and resources should be sufficient to implement the new law.

SEN. WEST: And where are you getting that from?

SEN. FRASER: From the sheet here. If you'll follow, Comal County reported the cost associated with the provision of the bill should be absorbed within existing revenues.

SEN. WEST: But that's Comal County. That's not Travis County, that's not Harris County, that's not Bell County or any of the other counties. That's Comal County. Comal County is not indicative of all of the counties in the State of Texas, is it?

SEN. FRASER: I think what you should do, then, is get 254 counties, if you'll call them all and get that number and --

SEN. WEST: Okay. Well, I mean, it's your bill. (Simultaneous discussion)

SEN. FRASER: -- Finance.

SEN. WEST: And the reality is, if it's an unfunded mandate, you're responsible for it if this bill passes. Now, let me ask you this: The $2 million, the $2 million that you're talking about, if it does not come from HAVA funds, then it's going to have to come from general revenue. Is that correct?
SEN. FRASER: I'm not advised. I'm not a member of Finance; you are. And I think that would be a decision of Finance.

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

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

SEN. FRASER: That's Section 11.


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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEN. WEST: How does your bill work? Tell...
SEN. FRASER: You know, it's a --
(Simultaneous discussion)
SEN. WEST: I mean, would that be a great
question to ask the Secretary of State?

SEN. FRASER: It's a great concept. You
walk in in Oak Cliff to vote. And if you're in the
right precinct and your name is on the list and you pull
out your driver's license and you show it to them and
your smiling face on your driver's license matches
you --
SEN. WEST: Well, let me --
SEN. FRASER: -- I think they're going to
hand you a ballot and allow you to vote.
SEN. WEST: Then let me ask you this: My
last name is spelled W-e-s-t. Suppose there's some
typographical error where they spelled it W-e-s, but
it's me. I have an ID, but my name is misspelled. What
happens then? I have to vote a provisional ballot?
SEN. FRASER: I think that would be a good
question for the Secretary of State, because I think
they will cover that in the training with the election
officials you're discussing.
SEN. WEST: What is your, intent, Senator?
SEN. FRASER: My intent is that the
Secretary of State would make a ruling on that.
SEN. WEST: Under those circumstances,
what would be your intent, as the author of this bill?
If my name is W-e-s-t but there is a typographical error
someplace and it's W-e-s, what is the intent. Give the
record your intent as the author of this bill.
SEN. FRASER: My intent, as the author of
the bill, is that I'm going to give the authorization to
the Secretary Of State to make a ruling and train the
poll workers so that it would be clear that they're
allowing the proper person to vote.
SEN. WEST: They're allowing the proper
person to vote. So in that circumstance, would it be up
to the election officer there to determine whether I'm
the same person --
SEN. FRASER: I think it would be up to
the Secretary of State --
SEN. WEST: Let me finish; let me finish.
-- whose last name is W-e-s, but my
identification says W-e-s-t, and I'm presenting that, it
would be up to that election worker. Right?
SEN. FRASER: I think that would be a
great question to ask the Secretary of State.
SEN. WEST: But what's your intent,
though? I'm just asking your intent. I can't ask the
Secretary of the Senate what's your -- I mean, Secretary
of State what your intent is.
SEN. FRASER: I intend to --

(Simultaneous discussion)

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

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

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

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

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

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

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

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

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

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

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

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

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

SEN. FRASER: We don't have it.

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

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

SEN. WEST: I don't know. But what I'm
SEN. WEST: -- given the fact that you are deferring everything to the Secretary of State, are you going to put some additional language in the bill that provides the Secretary of State some additional rulemaking?

SEN. FRASER: I think the key word there, this does not provide any additional. I think it's assumed that the Secretary of State has that ability under current ability we've given the Secretary of State.

SEN. WEST: Let me ask this, Senator Fraser. Okay. All right. You can't give me what your intent is in that situation. I'll just take that for granted.

You have made reference to the Carter-Baker Commission and recommendations. Is that correct?

SEN. FRASER: I want to make an observation here for Senator Whitmire. If you'll look up, it is filling up, so there must be someone concerned about the legislation we're talking about.

What was the question?

SEN. WHITMIRE: Lubbock.

SEN. FRASER: While Senator West gathers himself, I'll tell you that those are the great people from West Texas, the City of Lubbock. And they are great voters and very concerned. And I've seen the polling data that shows that West Texas was the highest percentage of people that believe that they should show their ID whenever they show up to vote. I'm really glad to have them at my back.

Go ahead.

SEN. WEST: Do I need to ask the Secretary of State about that, too, or what?

SEN. FRASER: You could. These people respect the opinion of the Secretary of State, and they probably have already asked.

SEN. WEST: Okay. Senator Fraser, a couple of things. As it relates to the Carter-Baker Commission, you've talked about the recommendations, and you are following the recommendations that came out of that commission. Is that correct?

SEN. FRASER: No. I filed a piece of legislation that I believe will be approved by the U.S. Supreme Court and will be cleared by the Department of Justice.

SEN. WEST: Okay. Let me ask you this:

Have you made mention of the Carter-Baker Commission?

SEN. FRASER: I have made references a couple of times of things that they mentioned in their
SEN. WEST: Of the recommendations that they mentioned, did you incorporate any of those in your bill?

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

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

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

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

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

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

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

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

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

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

SEN. FRASER: I'm not advised.

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

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

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

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

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

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

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

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

SEN. WEST: Okay.

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

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

SEN. FRASER: I didn't reference that.

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

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

I didn't reference that.

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

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

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

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

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

SEN. FRASER: I think probably when the --

SEN. WEST: Well, you would not agree with that?

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

SEN. WEST: Sure.

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

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

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

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

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

SEN. WEST: Well, you basically said, sir,
that you have to wait -- we have to wait until you hear
their testimony before we can make a determination as to
whether or not they're --

SEN. FRASER: No, I can't tell you --

SEN. WEST: Well, let me finish; let me
finish, please. Let me finish.

What you just said a second ago is, is
that you want to defer to the Department of Public
Safety to make a determination as to whether or not
there are things that they can do in order to make
certain they're doing the outreach that's necessary to
accommodate just some of the concerns that senator
Uresti had.

SEN. FRASER: I didn't say that at all. I
said --

SEN. WEST: What did you say?

SEN. FRASER: -- I'm anxious to hear their
testimony when they're asked and their response of what
they are able, capable of doing for that. And then once
you do that, if you want to offer an amendment, I will
look at every amendment offered. If you'll got one, you
need to go ahead and file it.

SEN. WEST: Let me give you a
hypothetical, then. If the Department says that they
can do much more than your bill currently allows them to
do, would you support an amendment that would give them
the resources or give them the rulemaking authority to
be able to do the outreach?

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

SEN. WEST: Okay. Well, I'm going to make
sure and I'll put that down.

I want to talk about seniors just for one
second. How did you come up with 70 years old? Well,

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JA_000954
hold on. Let me ask you this: Is there a definition, a federal definition under any of our laws, U.S. laws or either state laws, that defines a senior citizen?

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

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

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

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

SEN. FRASER: How old are you, sir?

SEN. WEST: I'm 58 years old.

SEN. FRASER: Okay. Of the people (laughter) --

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

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

SEN. WEST: Ask the Secretary.

SEN. FRASER: I need a photo ID.

SEN. WEST: Got to ask the Secretary.

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

SEN. WEST: And what community?

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

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

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

SEN. WEST: People. Okay.

SEN. FRASER: Yes, like myself.

SEN. WEST: Yes.

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

SEN. WEST: Let me make sure I understand
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your answer to that question. You're saying that the age 70 is predicated on people that you know that live in your community?

SEN. FRASER: It is predicated by a democrat member offering me that up as a number, that if we would put that in the bill, there would be five or six Democrats that would vote for the bill. That's the answer to your question.

SEN. WEST: Okay. But you added a lot of other stuff after that. What was all that other stuff?

SEN. FRASER: The other stuff was the people that I know that are capable of that. Now, if someone is not capable, we are not changing the mail-out ballot procedures. And that anyone for some reason that could not vote in person would be allowed to vote like they do today.

SEN. WEST: Don't you think that a better definition would be 65? Why wouldn't you use 65? And let me give an example.

In the Human Resource Code, elderly person means a person 65 years of age or older. Why wouldn't we use that as an age? Our Penal Code uses elderly individual means a person 65 years of age or older. Our Utility Code means an individual who is 60 years or older. Our Human Resource Code means an elderly person, means a person who 60 years or older. And now we're going to have our election code basically saying a person of 70 years or older. Don't you think -- I'm not going to vote for your bill anyway, but just in case.

SEN. FRASER: You actually were one of the ones that was asking if I would put it in the bill.

SEN. WEST: No, no, no, no, no, no, no, let's get it straight. I didn't ask you that -- okay? -- for the record. Okay? I didn't ask you that.

SEN. FRASER: Okay.

SEN. WEST: But if you're going to put it in there, it seems as though you should have one of a consistent definition with some of the other statutes. You're making an elderly individual for voting purpose more onerous than it is under these other statutes, like in our Penal Code where it says an individual -- elderly person is 65 years old.

SEN. FRASER: I actually believe that the number probably could easily be higher, because --

SEN. WEST: So you would make it 80 years old?

SEN. FRASER: I'm sorry?

SEN. WEST: You would make it 80 years old for election purposes?

SEN. FRASER: I'm saying when I'm 80, I still believe I'll be able to get in the car, go down and get my ID and be able to vote.
SEN. WEST: But, see, you're assuming that all elderly people have cars.
SEN. FRASER: If they don't, they can vote by mail.
SEN. WEST: But you're assuming that they all have cars and that they'll be able to do everything that you'll be able to do at the age of 80. And I'm pretty certain you will be able to do it given, you know, the things that you do to keep yourself in shape and everything.

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

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

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

SEN. WEST: Let me --
SEN. FRASER: -- exception.

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

SEN. WEST: No objection.
CHAIRMAN DUNCAN: Okay. Very good. Why don't we go ahead and do that. Before we do that, let me ask the body if you would, please, if you have amendments that you would wish to -- we're not putting a deadline on amendments, but it will help us if you can deliver your amendments as soon as possible to Jennifer Fagan who is the State Affairs Committee Director, and we will try to collate them and make sure that there are...
not conflicting amendments. And if you'll do that as
soon as possible, that will be helpful.
There are a number of people that are on
queue to be recognized, and I will recognize them in
order that they're on queue. Now we'll record that and
then start. Senator Lucio will be first, Senator Van de
Putte, Senator Ellis, Senator Seliger, unless you're
just -- you're just on for the motion, so we'll take you
off center -- Wentworth. He's just for the motion, so
we'll take him off. And then, Senator Zaffirini, you
would be in queue at that point in time. And then we'll
just start the queue. Whenever we come back in, you can
go ahead and hit your button and we'll have the queue.

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

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

Senator Zaffirini is recognized for an
announcement.

(Announcement by Senator Zaffirini)

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

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

CHAIRMAN DUNCAN: Members, you've heard
the motion. Is there objection?
Chair hears none. It's so ordered.
(Recess: 10:43 a.m. to 12:38 p.m.)
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SEN. DEUELL: (Indicated presence)
SECRETARY SPAW: Duncan?

CHAIRMAN DUNCAN: (Indicated presence)
SECRETARY SPAW: Ellis?

SEN. ELLIS: (Indicated presence)
SECRETARY SPAW: Eltife?

SEN. ELTIFE: (Indicated presence)
SECRETARY SPAW: Estes?

SEN. ESTES: (Indicated presence)
SECRETARY SPAW: Fraser?

SEN. FRASER: (Indicated presence)

SECRETARY SPAW: Gallegos?
SEN. GALLEGOS: (Indicated presence)
SECRETARY SPAW: Harris?
SEN. HARRIS: (Indicated presence)
SECRETARY SPAW: Hegar?
SEN. HEGAR: (Indicated presence)
SECRETARY SPAW: Hinojosa?
SEN. HINOJOSA: (Indicated presence)
SECRETARY SPAW: Huffman?
SEN. HUFFMAN: (Indicated presence)
SECRETARY SPAW: Jackson?
SEN. JACKSON: (Indicated presence)
SECRETARY SPAW: Lucio?
SEN. LUCIO: (Indicated presence)
SECRETARY SPAW: Nelson?
SEN. NELSON: (Indicated presence)
SECRETARY SPAW: Nichols?
SEN. NICHOLS: (Indicated presence)
SECRETARY SPAW: Ogden?
SEN. OGDEN: (Indicated presence)
SECRETARY SPAW: Patrick?
SEN. PATRICK: (Indicated presence)
SECRETARY SPAW: Rodriguez?
SEN. RODRIGUEZ: (Indicated presence)
SECRETARY SPAW: Seliger?

SEN. SELIGER: (Indicated presence)
SECRETARY SPAW: Shapiro?
SEN. SHAPO: (Indicated presence)
SECRETARY SPAW: Uresti?
SEN. URESTI: (Indicated presence)
SECRETARY SPAW: Van de Putte?
SEN. VAN de PUTTE: (Indicated presence)
SECRETARY SPAW: Watson?
SEN. WATSON: (Indicated presence)
SECRETARY SPAW: Wentworth?
SEN. WENTWORTH: (Indicated presence)
SECRETARY SPAW: West?
SEN. WEST: (Indicated presence)
SECRETARY SPAW: Whitmire?
SEN. WHITMIRE: (Indicated presence)
SECRETARY SPAW: Williams?
QUESTIONS FROM THE SENATE FLOOR (CONTINUED)

Chairman Duncan: Senator Fraser, are you ready?

Senator Fraser: I am ready.

Chairman Duncan: Senator West, you're recognized to continue your questioning with Senator Fraser.

Senator West: Yes, sir. Thank you very much.

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

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

Senator West: Okay.

Chairman Duncan: -- if you forget.

Senator West: All right. Thank you.

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

Chairman Duncan: The -- probably not because we have switched court reporter shifts and so --

Senator West: I was just trying not to be redundant on it.

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

Senator Fraser: You are being redundant.

Senator West: Okay. I need to ask the Secretary of State about that.

(Laughter)

Senator West: Wait a minute. Hold on. I'm being redundant?

Senator Fraser, I think I was asking you about the $2 million, and you had indicated that those funds may very well come from the federal funds, but we're not certain at this point. And if they don't come from federal funds, they will have to come from general revenue, and we're at least -- the minimum amount is about $2 million. And I think that I mentioned to you that the average teacher in the state of Texas makes
about $48,000.

If we have to appropriate state funds in order to fund this voter ID bill, it will cost a minimum of $2 million, and that's the equivalent of about 40,000 teachers. You do understand and appreciate that. Is that correct?

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

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

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

If for some reason --

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

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

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

SEN. WEST: For sure?

SEN. FRASER: For sure.

SEN. WEST: Okay.

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

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

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

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

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

SEN. WEST: Regard --

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

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

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

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

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

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

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

SEN. WEST: Okay. All right.

SEN. FRASER: -- that your own finance, you're going to have to make those decisions; and we've got to make sure that we educate voters, making sure...
that they understand the implementation of this law.

SEN. WEST: All right. Let me ask the

question this way, then: Would you agree with me that

both the House and the Senate have introduced bills that
put pressure on school districts to reduce their budgets
that would impact the number of teachers that would be
in classrooms?

SEN. FRASER: You're a member of the
Finance Committee that implemented a draft budget. I am
not. I have not advised.

And the answer is, I'm sorry, I don't --

I -- I'm not advised on that issue.

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

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

SEN. WEST: What decision would you make?

SEN. FRASER: I'm sorry?

SEN. WEST: What decision would you make?

SEN. FRASER: I made a decision to support

you, as a member of finance, to keep you on the
committee.

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

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

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

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

SEN. WEST: So that's your answer in terms
of -- is that what you're telling the teachers, that
you'd rather do that than -- to the extent it's there,
(Simultaneous speaking)
SEN. FRASER: Well, unfortunately, since
I'm not a member of finance, I don't get to make a
choice of what I would rather do. I'm laying --
bringing forward a bill today that would restore the
confidence of the public in the election system and --
today, because I'm sponsoring that bill, that I'm going
to ask that we -- you know, we restore that confidence.

SEN. WEST: So, I'm trying to -- so let me
make certain I understand your answer to my question.
SEN. FRASER: I know you're trying to --
SEN. WEST: Let me -- let me -- hold up.
Now, I'm listening, because if you remember, both of us
can't talk at the same time because the stenographer's
taking it down, and I'm trying to make certain that I am
reminded of that fact.
So your answer to that question is that
you would prefer to fund the voter ID bill, if need be,
with state funds than to put extra money -- take that
$2 million, if we need to, and put it back in the budget
for our school districts?
SEN. FRASER: You know, the -- you know,
the important thing -- or the good thing with the
Legislature is you don't get to make -- answer questions
for me, and the -- I did not say that at all.
Today I'm laying -- bringing forward a
bill that would deter and detect fraud and restore the
public confidence in the election system.
SEN. WEST: How does your bill detect
fraud?
SEN. FRASER: Come back? I'm sorry. I
didn't hear you. What did you say?
SEN. WEST: How does your bill detect
fraud?
SEN. FRASER: The -- the bill is designed
to deter and detect fraud and restore --
SEN. WEST: No. I asked you: How does
your bill detect fraud?
SEN. FRASER: The -- I think the easy
answer to that would be, is that when you walk into
the -- into your election booth and you show your
driver's license, they know for sure that you're Royce
West and that if you're on the precinct list,
registered, you're entitled to vote.
SEN. WEST: And so that's -- that's the
fraud detection provision in it? And so you'd rather
fund --
SEN. FRASER: That's the way the bill
works.
SEN. WEST: Now, let me ask you this: If there's empirical evidence that -- in Texas, at least, because, you know, we are -- we are Texas. We are the Lone Star State. The rest of America can go this way, and we'll go that -- the other way. Right? Right.

Okay. You're good with that. Right?

SEN. FRASER: I'm sitting here listening.

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

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

You're --

SEN. WEST: We are Texans.

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

SEN. WEST: We're Texans.

SEN. FRASER: Keep going.

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

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

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

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

(Pause)

SEN. FRASER: Are you there?

SEN. WEST: Yes.

SEN. FRASER: Would you say something?

SEN. WEST: Testing, testing, testing.

SEN. FRASER: Okay. I got you.

SEN. WEST: One, two, three.

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

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

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

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

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

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

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

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

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

SEN. FRASER: No, they are not.

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

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

So I would say the answer to your question is: If you ask someone that is either African American

or Hispanic, do they believe that--"Do you favor/oppose requiring a valid photo ID before a person is allowed to vote?" and you have 82 percent of the public that says that--

SEN. WEST: Right.

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

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

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

SEN. WEST: Lighthouse Opinion.

SEN. FRASER: Lighthouse Opinion, LLC.

SEN. WEST: Okay. And --

SEN. FRASER: One that was --

(Simultaneous discussion)

SEN. WEST: Were you finished?

SEN. FRASER: Yeah.

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

SEN. FRASER: But what --

SEN. WEST: Let me -- let me finish. Let me finish, though. Hold on for a second. I would agree with you that, but my question wasn't about their opinion. My question was: Have you conducted any research on how burdens of photo ID requirements may fall disproportionately on racial minorities?

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

So the answer to your question is, that I look at the data that has been collected from the states that have implemented, and they're coming forward. That is the case. Plus the fact that if you ask African Americans or Hispanics in Texas, it's a very straightforward question. When you have 82 percent of the public, the people that you represent, saying, you know, "I think that's a good ideal," I'm having a lot of trouble understanding how -- why you don't understand
SEN. WEST: Okay. So the answer to my question is, is that you did not conduct any type of research on it other than looked at opinion polls and referenced what went on in other states?

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

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

SEN. FRASER: I just explained --

SEN. WEST: -- to make that determination?

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

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

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

SEN. WEST: Well, the --

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

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

SEN. FRASER: Good.

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

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

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

SEN. FRASER: Not advised.

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

SEN. FRASER: Well, I mean, every state has a different demographic of the makeup of people.
within the state.

SEN. WEST: Sure. I know that, yeah.

SEN. FRASER: Georgia is a -- you know,

ey're -- they're a Section 5 voter rights state, but

their makeup is not exactly like Texas.

SEN. WEST: That's the point. That's what

I'm asking you. You said you weren't advised, so I was

just trying to point to you some set of facts that all

of us commonly know that we get from the Department of

Census, U.S. Department of Census. And if they give

different demographic information for the states, then

that would probably be controlling, and you would agree

that that's the best evidence that we have of what the

population is in those various states. That's all I'm

asking. Now, let me ask this.

SEN. FRASER: But you're trying to answer

my question, and I did not say that.

SEN. WEST: No, I'm not. But are the

forms of identification listed in your bill the least

restrictive options in order to achieve the goal of

avoiding what you call voter identification fraud?

SEN. FRASER: Okay. You're going to have

to ask that again.

SEN. WEST: Are the forms of

identification that you've listed in the bill the least

restrictive options in order to achieve the goal of

avoiding what you have said is voter identification

fraud?

SEN. FRASER: And I think what you're

asking, which is going to be the easiest to use? And

the -- the data, if you look back at 2006, the number of

people that have registered to vote, about -- I think

the number now is 91 percent actually use their driver's

license when they registered to vote. So the assumption

is at least 91 percent of the people that voted -- or

that registered since 2006 had a driver's license. So

I'd say that's the -- if it's the -- the easiest thing,

I'd say a driver's license.

SEN. WEST: So this -- the list of

identifications that you use as the -- is the least

restrictive options that you could come up with?

SEN. FRASER: Well, I don't -- I'm not

sure. Your verbiage you're using, I don't know that

that's the intent.

SEN. WEST: Well --

SEN. FRASER: I'm saying that the thing

that the -- the type of identification that is most

readily available appears to be a driver's license.

It -- we think, that is.

SEN. WEST: Okay. Now, since there are

studies that show that African Americans and Hispanics

are more affected by poverty and --
SEN. FRASER: Ask him, then. We're trying to figure out if this is a filibuster.

SEN. WEST: Is it a what?

SEN. FRASER: A filibuster?

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

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

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

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

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

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

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

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

SEN. FRASER: I'm not advised.

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

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

SEN. FRASER: Not advised.

SEN. WEST: Okay. Do you --

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

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

SEN. FRASER: Minister and --

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

SEN. FRASER: Yes, he did.

SEN. WEST: Did a little singing and stuff.
SEN. FRASER: Yes.

SEN. WEST: Okay. And do you represent a district that has a high poverty level -- or excuse me -- a high ethnic minority population?

SEN. FRASER: Interestingly -- well, and what you call high, it is not one of the highest percentage wise of ethnic minority. But the last figure I was shown, my district is the third poorest district in the state, right behind Senator Uresti's. That that -- that number is a couple of year's old, but I'm -- you know, the --

SEN. WEST: Okay.

SEN. FRASER: -- people in my district are -- are the working poor.

SEN. WEST: Okay. The -- the protected classes, that would be an African American and Hispanics, do you have a high concentration of African Americans and Hispanics in your district?

SEN. FRASER: Well, I don't know what you'll call a high percentage. I've got --

SEN. WEST: Okay. Comparatively speaking.

SEN. FRASER: There -- there are a lot of my voters in my district that, you know, I'm -- I love to say "my constituents" -- that are African American or Hispanic.

SEN. WEST: Are they in poverty or what?

SEN. FRASER: Well, Senator, if --

SEN. WEST: Oh.

SEN. FRASER: If I have the third poorest district in the state, that implies that we have some people that are working poor.

SEN. WEST: Let me just ask you this question.

Do you know whether or not the elimination of the government document that have hereto been utilized by voters for identification purposes at the polls --

SEN. FRASER: Issued before?

SEN. WEST: Yeah, I mean, under current law. Let me back up, then.

Based on current law and the various government identifications that can be used for purposes of voting, by eliminating those, whether they have an adverse impact on ethnic minorities in the state?

SEN. FRASER: Let me -- let me tell you that the people in my district voted -- or they're polling that they -- 92 percent of them say that they're in favor of this -- this requirement.

SEN. WEST: Okay. So you don't -- and that's your response to my question?
SEN. FRASER: My response is, is that I think the people of the state of Texas, which makes up -- I think it was 83 percent of -- of African Americans and 85 percent of Hispanics, said that they're in favor of it. I'm sorry. It's 82 percent Hispanic -- I'm sorry -- Hispanic, 80 -- 83 percent Hispanic, the African American, which is -- it's listed as a black vote, is 82 percent say they are in favor of asking for a photo ID.

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

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

SEN. FRASER: Yes.

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

SEN. FRASER: Thank you, Senator.

CHAIRMAN DUNCAN: Chair recognizes Senator Lucio for questions.

SEN. LUCIO: Thank you, Mr. Chairman.

Senator Fraser, under this legislation, there are no exceptions at all if you do not have a driver's license -- and correct me if I'm wrong -- military ID, citizenship certificates, or passports.

Now, not even Senate IDs are appropriate for the purposes of voting. That means the state employee working in the building wishing to cast a ballot during early voting at the Sam Houston Building couldn't use a combination of their voter registration card and their Senate ID. Further, this bill's requirements for identification are stronger than what's used for new employees in obtaining driver's license, the way we understand it.

Now, I know many people don't think it's all that difficult to get a driver's license and that everyone has one, but that's just not the case.

Eleven percent of Americans surveyed by the Brennan Center for Justice do not have government-issued photo ID. Forty percent of those without voter ID are disproportionately the -- the elderly, the -- the students, women, people with disabilities, low-income people, and people of color.

According to disability advocates, nearly 10 percent of the 40 million Americans with disabilities do not have any state-issued photo ID. So I do not see how this legislation is going to ensure that they are not kept from exercising their right to vote. Again, it's a right. It's not a privilege. Plus, according to that same survey, one of every five senior women does...
What troubles me even more about the legislation is that it could mean, for so many, under this legislation, election workers will be responsible for determining identity; and that has never been part of their job as election clerks.

Now, I got a question.

SEN. FRASER: Is there a question coming?

I'm looking for the question.

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

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

(Simultaneous speaking)

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

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

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

(Simultaneous speaking)

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

SEN. LUCIO: Go ahead and address --

SEN. FRASER: -- so far.

SEN. LUCIO: Go ahead and address that one.

SEN. FRASER: Huh?

SEN. LUCIO: Okay. Well --

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

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

SEN. LUCIO: Okay.

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

SEN. LUCIO: Okay.

SEN. FRASER: -- the first one.

CHAIRMAN DUNCAN: All right.

SEN. FRASER: But --

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

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

SEN. LUCIO: I'll take one at a time.

What are you going to do when someone has conflicting last names on their ID on the voter rolls?

SEN. FRASER: Okay. I'm going to start even further back than that.

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

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

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

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

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

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

SEN. LUCIO: I'm sorry?

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

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

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

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

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

SEN. FRASER: I was four or five, then,

EDDIE, I GUESS. '64, I was 17 years old.

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

SEN. FRASER: 15 years old.

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

Now, Texas adopted a poll tax in 1902. It required that otherwise eligible voters pay between $1.50 and $1.75 to register to vote. Now, $1.75 may not sound like a lot, but for a lot of families living on the breadline, it made voting a privilege instead of a right. Well, 1.75 -- $1.75 adjusted for inflation today is about 40 to $45. That means, Senator, that's a mean instrument -- excuse me -- using several ways of calculating, including the consumer price index.

Now, 40 bucks is a symbolic figure. A driver's license or ID today costs $25, even for a renewal. And going to the DMV, which is Department of Motor Vehicles, can take time. You're going to get there, wait in line, return home, take off from work, pay for the gas. Now, let's say it takes two hours. Minimum wage in Texas is 7.25 an hour. So if you took off two hours and paid for gas, you're looking at $40, the same amount of the old poll tax would cost today.

Don't -- don't you find that kind of ironic? I do.

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

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

Texas has a history, unfortunately, in my
opinion of voter suppression. Texas used the poll tax
to suppress voters. In fact, Texas only ratified the
So what is to stop future legislators
making a driver's license or an ID cost more than $25?
We've talked openly over the last few months about
raising fees to cover the back -- the budget hole. So,
you know, it's -- it's happened with passports.
Passports keep going up and up in price. What if in the
future, driver's license cost $125 or $300? Would it be
a poll tax then? And would it be a poll tax then,
Senator?

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

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

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

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

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

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

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

SEN. FRASER: When does it expire?
SEN. LUCIO: Yes, sir.

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

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

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

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

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

SEN. LUCIO: Well, the ID. They use this
ID for passports.
Well, I obviously have a bunch of other
questions, but in the -- in the interest of time, I will
address these to you in writing because I'm very, very
concerned about, you know, some of the things that are
going to be transpiring. I think Senator Davis touched
on marriage -- the marriage -- marriage issues.

Or I'll give you one scenario, if I may.
Two citizens that are getting married. The woman getting married has decided to change her name. They get the marriage certificate. They get married and so on. But when the newlywed wife tries to vote, there is a problem. The name on her voter ID does not match the name on her voter registration. So maybe she did the right thing and changed her name on the voter ID, but before that, when she registered to vote, she had used her maiden name. Maybe she registered to vote with her new married surname but had not had yet changed her voter ID to reflect a change of name. Maybe there is no time to address it because she gets married in October.

SEN. FRASER: Senator, these --

SEN. LUCIO: Those are just scenarios that are coming up.

Others that I'm concerned with are the 18 year olds that are turning 18 thirty days inside of -- you know, between a primary and a general election. Many of them will not be able to register to vote.

There are so many different scenarios, Senator, and I'm very concerned about whether or not they will be disenfranchised. That's all. Thank you very much for your time.

CHAIRMAN DUNCAN: Senator Van de Putte?

SEN. VAN de PUTTE: Thank you, Senator Fraser. I wanted to have a moment to clarify some of the conversation and the points that we had on our discussion earlier.

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

SEN. FRASER: Senator --

SEN. VAN de PUTTE: And I --

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

SEN. VAN de PUTTE: No.

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

CHAIRMAN DUNCAN: Senator Ellis?

SEN. ELLIS: Just a couple questions, Senator. I know you're tired. You've been up a long time.

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

SEN. FRASER: The integrity --

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

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

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

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

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

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

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

SEN. ELLIS: Do you care?

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

SEN. ELLIS: Okay. You heard the discussion earlier about the concern -- I think even in your district, some of those DPS offices, I think, on that map may be closing a few days a week. So you --

you did say that you have some concern about access for people to go and get --

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

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

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

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

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

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

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

If you -- if you remember, this is the third session I filed this bill.

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

Why would you say a new photo ID? Why
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SEN. FRASER: That -- well, I don't --
SEN. ELLIS: Okay. All right.
SEN. FRASER: I don't --
SEN. ELLIS: You think more people in Texas than have a driver's license.

SEN. FRASER: -- think that's true.
SEN. ELLIS: -- have a driver's license?
SEN. FRASER: I don't -- I'm having the chairman of the committee that is over it --
interestingly, I want you to think about what you just suggested, is that driver's license is going to be the easy form of identification. We -- we know that 90-plus percent of the people -- and I think the number is probably higher than that -- have a driver's license in Texas.
But if you're going to put a picture on a voter registration, that means that every single person that's registered to vote has to go back in, have a picture made, have the cost of putting it on there. So it's not only the cost --
SEN. ELLIS: Let me try it a different way. Do you think that more people who are registered to vote would have the voter registration card than a driver's license?
SEN. FRASER: Say it again. Do it one more time.
SEN. ELLIS: Do you -- would you agree that more people who vote have a voter registration card in Texas than have a driver's license.

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

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

SEN. FRASER: Can I answer your question?

SEN. ELLIS: Yeah.

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

SEN. ELLIS: I show my driver's license.

SEN. FRASER: Well, there's -- but you
have -- you probably were mailed a voter registration.

SEN. ELLIS: I have both.

SEN. FRASER: Okay.

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

But would you concede it ought to be a
problem because we've got a lot of people who had a
driver's license, I assume the one's who owe the
surcharges are -- you know, maybe a disproportionate
number of them are folks who didn't have the money to
pay the surcharges. Maybe some of them were just civil
libertarians, didn't like the bill and wouldn't pay it
period. But a lot of them are probably working-class
people who can't pay it. So at least over 1.2 million
Texans since 2003 have gotten their licenses suspended,
so they will no longer have a valid driver's license
that they could use to go and vote like you and I do.

Does that concern you?

SEN. FRASER: Well, first of all, if -- if
some reason it's a felony, that -- of the crime that
they're not paying for, I'm not sure that they -- I
guess I'd question whether they're eligible. I don't
know the answer. We'd ask the Secretary of State that.

SEN. ELLIS: I don't think --

SEN. FRASER: But the easy answer to your
question is, we're going to give them an ID free. So if

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they've lost their driver's license, all they got to do
is go back down and get a free ID. We'll hand them a
new one.

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

SEN. FRASER: I'm not advised.

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

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

SEN. FRASER: Yes.

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

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

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

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

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

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

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

SEN. FRASER: Yes.

SEN. ELLIS: Okay.

SEN. FRASER: Yes.

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

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

SEN. FRASER: I am --

SEN. ELLIS: Are you confident?

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

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

SEN. FRASER: Yes.

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

SEN. FRASER: I'm very confident.

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

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

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

SEN. ELLIS: Maybe I'm just at a loss. If you -- I know your intent, and you are confident your bill will not have a disproportionate impact on certain groups. I mean, were the concern be the methodology, you could design that. But what would be wrong with the Secretary of State doing an annual report on whether or not this bill has a disproportionate impact on any groups of people so that we know? What -- I mean, you know, we -- oftentimes we pass -- I think we even have
a -- I think it might have been Shapleigh who put it in
some time ago, when we do a tax bill as a requirement,
that we have LBB do a disparate impact statement just so
we know because as you know, I mean, we're tinkering
with a constitutional right.

And, Senator, I might add, we're in a
state -- well, you know the history. I mean, initially,
you had to be a property owner to vote or you had to be
a male to vote, had to be a certain color to vote. Now,

over time, that has gotten better; but in our southern
states, in particular, it has not been an easy journey
to get to where we are. So what -- what would be wrong
with just simply coming up with some simple methodology
and let the Secretary of State do that?

SEN. FRASER: We have a simple
methodology. It's called going into a session on the
second Tuesday of every -- you know, every odd year.
And you, as my desk mate, sitting beside me, I feel very
comfortable that we'll -- we'll get that -- you know,
we'll look at it every couple of years. So I -- I think
the fact that we come back in, we're going to be given
the opportunity every two years to -- to re-examine.
And there will be discussion about this, of whether it's
working or not.

SEN. ELLIS: To implement your bill,
you're going to use federal money to be able to do it.
Where would that money be used if it was not going to be
used to implement this new system?

SEN. FRASER: Well, obviously -- and,
again, I don't want to speak for the Secretary of
State's office. When they're here, they can give you an
idea. But if there's a pretty good-sized pot of money
that's sitting there that we haven't spent yet and
we're -- you know, we're pretty good about being
creative about, you know, where you spend money. So I'm
assuming that money is restrictive about where they can
spend it, and I think probably this is a -- an
application where it fits.

And I guess to answer to your question, I
don't know. You can ask them, but I think this is a
good place to spend it.

SEN. ELLIS: Would a new change go into
effect in the next cycle?

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

SEN. ELLIS: With a new election change, a
major requirement going into place for the next cycle
with new districts, you and I have new districts, do you
think it would make sense to give people the ability to
register on that day with the photo ID you're requiring?

SEN. FRASER: No.

SEN. ELLIS: So could you go in and
register on that day because some people are just maybe
SEN. FRASER: We're going to spend a lot of time and hopefully dollars educating both the public and the -- the workers, and I think the system will work very well like it is.

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

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

SEN. ELLIS: They take student --

SEN. FRASER: Huh?

SEN. ELLIS: They take student IDs --

SEN. FRASER: Well, I --

SEN. ELLIS: -- in Indiana?

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

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

government-issued photo IDs.

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

SEN. FRASER: Not advised.

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

SEN. FRASER: Not advised.

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

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

(Laughter)

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

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

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

SEN. ELLIS: What if we tried to put in a student ID from a state institution so at least we did that.

SEN. FRASER: Senator, if you want to offer amendments, as I told Senator Gallegos, I draw them up, get it to you where I can look at it and get plenty of time to look at it. There's -- you know, we're going to look at every amendment. If you -- you know, you can throw anything out. We'll discuss it.

But, I mean, the thing we're trying to do is we're trying to make it easy as possible on the Secretary of State and the poll worker as we implement, making sure that it's easily identifiable but also, you know, is good public policy.

SEN. ELLIS: Well, I'm just asking -- now, I hate to take your time, but, I mean, you -- you put it on the fast track. I mean, I -- I'd like to be working on the budget or something else, but --

SEN. FRASER: I didn't put it --

SEN. ELLIS: -- since you put it on the fast track.

SEN. FRASER: I didn't put it on the fast track. I'm -- you know, I did not put it on the fast track. I think the -- the person in the center office put it on as an emergency bill and --

SEN. ELLIS: So you really don't want to do this, do you?

SEN. FRASER: I am standing here explaining it to you because I think it's good public policy.

SEN. ELLIS: I'll leave you alone after this one.

But based on the election results of the last cycle, what fraud will your side of the aisle be worried about? Senator Whitmire raised that with me the other day. I'm saying this: As well as your side did, seems like my side ought to be a little bit more worried about if there was some fraud.

SEN. FRASER: I think if you look at the polling in your district, your district is worried because they're telling you you need to vote for it; and I'm telling you, you're on the wrong side of this issue.

SEN. ELLIS: I respectfully would say you...
ought to be a little careful with that notion of what polling data says. I'm willing to bet you, Troy, when our predecessors stood on this floor and sat in these seats and passed most of the restrictions, that at some point were in state law, the polling data indicated they were on the right side of history; but you and I know they were on the wrong side of it.

SEN. FRASER: All I can tell you is the question's pretty straightforward. It said -- they asked the people in your area, "Should you have to show a photo ID when you vote?" And the number across, Republican, Democrat, Hispanic, African American, others, were overwhelming.

SEN. ELLIS: Well, let me ask you this:

If I come up with some polling data that says they would support same-day registration, recognizing student ID, exempting people over 70 forever, not just for those who hit 70 before the next election cycle, to what extent would you be voting based on what the polling says?

SEN. FRASER: Well, come -- come forward with your data. But I can tell you the things you've mentioned, the only one that is applicable to this bill is the -- the elderly because the same-day voting, those other things, that's another issue for another day.

SEN. ELLIS: Thank you.

CHAIRMAN DUNCAN: Chair recognizes Senator Zaffirini.

SEN. ZAFFIRINI: Thank you, Mr. President -- or Mr. Chairman. Senator Fraser, my first questions will focus on the criminal justice impact, if you have a copy of that.

SEN. FRASER: Well, excuse me, before you -- what your first question should be, do I still have my thick book that you were impressed with last time. My --

SEN. ZAFFIRINI: Yes. I was --

SEN. FRASER: I reread the data last night that you were going to instruct your staff asking them why you didn't have one.

SEN. ZAFFIRINI: Well, good. I wish you had it again.

SEN. FRASER: I do have it.

SEN. ZAFFIRINI: Good.

SEN. FRASER: Right here.

SEN. ZAFFIRINI: Good.

SEN. FRASER: I was -- oh, go ahead, please.

SEN. ZAFFIRINI: But do you have a copy of your criminal justice impact statement?

SEN. FRASER: I do now.
SEN. ZAFFIRINI: My first questions will focus on that.

In the first paragraph, you'll see that it states very clearly that the punishment for attempting to vote illegally would be enhanced from a Class A misdemeanor to a state jail felony, and the punishment for illegal voting would be enhanced from a third degree felony to a second degree felony. What would be the impact on our state budget of increasing those penalties?

SEN. FRASER: I'm sorry. I'm not advised as the impact on the budget, as you know. You're on finance, I'm not. You would know that.

The second question I'm assuming you're asking is, why we would consider doing this? Actually, these suggestions were brought forward by Democratic members of your delegation that said, "Why don't we go ahead and increase it?" So we increased the penalties for fraud. So the recommendations on doing this, it actually was across the board. We had people on both sides, but there was recommendations that we increase these penalties.

The impact of the cost to the budget, I'm sorry, I'm not advised. My job is to make sure the public is well served, and if someone commits fraud by -- by voter impersonation, that the penalties are strict.

SEN. ZAFFIRINI: But I am concerned about this, Senator, and I don't know what Democrat or what Republican asked you to make those changes. I was not privy to that conversation.

But if you look at the last paragraph, it says: Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the state due to longer terms of probation, of longer terms of confinement and county jails or prison. And then it also states: When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement of convicted offenders from the counties to the state.

So earlier there was senators who talked about unfunded mandates for the counties, but in this case, we are -- we seem to be relieving the county of some of its burden but then increasing the burden to the state. And my question remains: At what cost?

Now, this bill, were it before the Finance Committee, we would have a fiscal note; but because it's not, it's because it's before the Committee of the Whole. We are restricted to the fiscal note that we have here, and it's strange that we don't have a
connection between the cost of the criminal justice
impact and the fiscal note. It seems that there's two
independent documents, as they should be, but it seems
to me, that the fiscal note should reflect the cost that
is defined or, at least, specified in the criminal
justice impact statement.

SEN. FRASER: Well, and I think the easy
answer to that -- I'll -- if someone else, if -- we may
defer to Senator Williams, if he wanted to comment, or
another member.

But I think the easy answer to this is
that if we implement the photo ID, it's pretty
straightforward, that someone -- if they're going in, if
they have a driver's license and they're -- you're
attempting to vote, that there's a good assumption that
the driver's license is valid, that they are who they
say they are. So I'm -- we're hoping that the deterrent
will be that people will not try to vote fraudulently,
that the ones that are voting will be valid voters, and
we don't have a lot of people going to prison because
hopefully, they won't try to vote illegally. I --
that's the hope.

SEN. ZAFFIRINI: Well, actually, Senator,
that is why some of us are opposed to this bill because
we don't understand the problem that has been defined.

For example, in that same paragraph, it says: In fiscal
year 2010, less than five people were under parole or
supervision for illegal voting. In fiscal year 2010,
five offenders were placed on community supervision, and
less than five offenders were released from community
supervision for illegal voting or attempting to vote
illegally, and then more important, in fiscal year 2010,
less than five people were arrested for illegal voting
or attempting to vote illegally.

So it seems to me that this criminal
justice impact statement makes the point that there
isn't a problem, especially if you look at the last
sentence: It is assumed the number of offenders
convicted under this statute would not result in a
significant impact on the programs and workload of state
corrections agencies or on the demand for resources and
services of those agencies. So if they don't see an
increased demand in this area because they don't see
people being arrested, then where's the problem?

SEN. FRASER: Well, and I guess I just
disagree with your analysis of this, is that voter
fraud, under current law, that our laws are so weak,
it's virtually impossible to -- to catch one and
convict, and that's the problem we're trying to address.

SEN. ZAFFIRINI: Well, okay, Senator.

My next questions will focus on the fiscal
note. Do you have a copy of the fiscal note?

SEN. FRASER: I do. Somewhere.

SEN. ZAFFIRINI: I'll wait till you get it.

SEN. FRASER: Yes.

SEN. ZAFFIRINI: You have it?

SEN. FRASER: I have.

SEN. ZAFFIRINI: So the fiscal note shows $2 million but all in fiscal year 2012. Why aren't there recurring costs? Is that because the photo ID card is issued in perpetuity, or it doesn't have to be renewed?

SEN. FRASER: Senator, again, you're -- you're a member of finance who would know. You know, this comes from LBB which did consultation with the affected parties, which are Secretary of State, DPS. We're going to have expert witnesses who will come up in a minute --

SEN. ZAFFIRINI: Okay.

SEN. FRASER: -- and they will explain how they delivered that data. I think probably what you're going to hear from them is that a lot of the initial cost would be in the education of the -- the -- the Secretary of State educating both voters and poll workers and any initial -- the free cards that we're giving out, there will be more, probably, the first year than other years. I'm -- I'm assuming that's it, but I think I'd ask that question of the Secretary of State and DPS.

SEN. ZAFFIRINI: Well, but, again, the fiscal note is submitted to the chair of the committee that hears the bill. You'll notice at the top of Page 1, it is directed to Robert Duncan, chair of the Senate Committee of the Whole, not to Senator Ogden, chair of Finance. And so it is not for the Finance Committee to consider the costs and the implications of these policy changes, but it's up to the Committee of the Whole; and we are the ones who have this fiscal note.

And I challenged the fiscal note last time. Remember it was zero, and I couldn't believe it? And I asked you questions about that, and I just couldn't believe it. And so now, all of a sudden, it's a fairly similar bill. Many would say more restrictive, but now it has a fiscal note of $2 million.

And did you say earlier, Senator, that this cost would be covered by HAVA funds?

SEN. FRASER: And -- and the difference between this year and two years ago, I think the assumption last year -- two years ago is that they would just be able to use the HAVA funds. And, again, I think you probably should ask the Secretary of State.
I believe since then, they have made a request of HAVA requesting that, and HAVA's response, I believe, is that they will wait until the bill is passed. And when the bill is passed, then they will make a determination on whether you could use the -- the money. But we're also looking at history of other states. They have been allowed to use HAVA money. But, again, I think I'd ask the Secretary of State that question.

SEN. ZAFFIRINI: Well, as the author of this bill, would you prefer that the state pay this $2 million in costs, or would you prefer that we use federal funds?

SEN. FRASER: I would prefer the money that's sitting over here in a pot at the Secretary of State -- that has not been spent; obviously, I'd much rather use that.

SEN. ZAFFIRINI: Do you know, Senator, what the HAVA funds are used for?

SEN. FRASER: For educating -- it's the -- help America vote. It's to encourage voting.

SEN. ZAFFIRINI: So basically, if we use the HAVA funds for this purpose, we are repurposing the HAVA funds that are already there and intended for things like new equipment and ongoing training programs?

SEN. FRASER: Senator, I don't think -- I think the decision will be made by the federal agency that sent us the money, the HAVA people; and if they've already authorized other states to use this for voter -- it's for voter education, and this would fall in the area of voter education, I would assume.

SEN. ZAFFIRINI: Well, it's my understanding, Senator, that it is for the state to submit a plan. The federal government doesn't tell us what to do in that area, not that it doesn't tell us in other areas.

SEN. FRASER: And, Senator, I hate -- it's the same answer I've given multiple people before, is that the Secretary of State will be coming up. I think that's the person to address this.

SEN. ZAFFIRINI: Do you have any suggestions regarding the training that is referred to on Page 2 of the fiscal note, local government impact?

SEN. FRASER: I do not. That, again, will -- it is the job of the Secretary of State to administer that, recommend the training, and I believe they have the authority under current law.

SEN. ZAFFIRINI: And you have no information, then, about any recurring costs that we should worry about?

SEN. FRASER: I have none.

SEN. ZAFFIRINI: And to whom would you file a CONSIDERATION_OF_SENATE_BILL_14.txt
SEN. FRASER: On recurring costs? 
SEN. ZAFFIRINI: Uh-huh.
SEN. FRASER: Could you give me an example? I don't -- I don't think I --
SEN. ZAFFIRINI: Well, the fiscal note shows all the expense in fiscal year 2012, and then it doesn't show any other expenses --
SEN. FRASER: I --
SEN. ZAFFIRINI: -- beyond that.
SEN. FRASER: I would ask the Secretary of State or DPS.
SEN. ZAFFIRINI: It just seems to me, Senator, that there will be recurring costs because one example would be the State's responsibility to provide free photo ID cards on a recurring basis to the significant portion of our population that moves regularly. They move from one part of the state to another, and they might need a different card in that area. And that would be a recurring cost, would it not?
SEN. FRASER: Senator, since 2006, there have only been 37,000 people that registered to vote that did not have a current driver's license. That -- that's in the last five years. So the assumption is, the number that is coming into the system that would not have a card, the number is very low. The cost of that card is not a huge number. So actually, the amount that it would cost to take care of them is a -- not a large number.
SEN. ZAFFIRINI: What I'm worried about, Senator, as a member of the Finance Committee, is unintended consequences and unexpected costs. Not unexpected because we don't foresee them and can't identify them, but because of the criminal justice impact statement and because of the fiscal note that we have that simply don't address these issues.
For example, Line 12, Page 12 of the bill, you refer to the cost of the get-out-the-vote efforts; and basically, the fiscal note states: The analysis is incomplete because, quote, it is not known how many voter registration drives or other activities designed to expand voter registration would occur. So we don't even have an estimated cost of one voter registration drive. And if it is our intent to ensure that we have more, we're not considering the cost, it seems to me that we are being irresponsible in terms of identifying the exact cost or the best estimated cost of this bill.
SEN. FRASER: And we are -- have the benefit of not being the first one to implement this. We don't have to reinvent the wheel. We can look at the history of states that have implemented, like Indiana, Georgia, and others, look at common things that have
happened there. We're going to have a person from Indiana here. I think it -- that would probably be a question you might ask, is the reoccurring cost, because they've had this in effect. I believe they passed it in 2006.

SEN. ZAFFIRINI: But, of course, when we talk about other states, including Indiana, we -- Texas is much bigger and much more diverse; and so our problems will be very different, our challenges will be very different, and I believe our costs will be significantly higher. But, again, I'm concerned as a member of the Finance Committee.

But speaking of costs related to other states, are you aware, Senator, that in many, if not all, of the states that have implemented photo ID bills, including those with less restrictive laws than the one that you propose, they have been challenged in court. What costs are we anticipating regarding being challenged in court because of this bill?

SEN. FRASER: I'm -- I'm not advised, that you're making an assumption we'll be challenged, and I'm -- I do not -- I'm not advised.

SEN. ZAFFIRINI: I think it's a pretty safe assumption. Indiana was challenged, and as I said, many, if not all, of the states that have implemented these bills have been challenged.

So I think, again, as members of the Finance Committee, as members of the Senate, even those who are not members of the Finance Committee, should look at that as a possibility and certainly should consider the costs. Is this where we want to spend our money? Even the $2 million. What if HAVA funds are not used for this purpose? Is this where we want to spend the $2 million and significantly more in defending the bill instead of addressing the other issues that we are facing right now because of economic crisis in Texas?

SEN. FRASER: Was that a question?

SEN. ZAFFIRINI: Yes. Is it?

SEN. FRASER: Is what? Should --

SEN. ZAFFIRINI: Is this where we want to spend our money?

SEN. FRASER: It's -- the decision on that, you know, I'm not on Finance, you are. You're -- you're -- you're asked to make those hard decisions. So that, I would -- you know, that'll go back to the Finance Committee.

SEN. ZAFFIRINI: Okay.

SEN. FRASER: But you're also making an assumption that there's going to be an expense, which I don't think there will be one because I think we'll be able to spend the HAVA funds.

SEN. ZAFFIRINI: All right. Well, we
disagree on those. I think those assumptions are fairly safe.

Senator Fraser, Senator Van de Putte
distributed this map earlier. Have you seen this map?

SEN. FRASER: I have not.

SEN. ZAFFIRINI: Basically, it shows her -- if my -- Mr. Chairman?

CHAIRMAN DUNCAN: Senator Zaffirini?

SEN. ZAFFIRINI: If I may direct a question to Senator Van de Putte?

CHAIRMAN DUNCAN: Pardon?

SEN. ZAFFIRINI: If I may direct a question to Senator Van de Putte?

CHAIRMAN DUNCAN: Senator Van de Putte doesn't have the floor.

SEN. ZAFFIRINI: That's why I'm asking.

SEN. FRASER: And -- and I won't yield.

SEN. ZAFFIRINI: You won't yield?

SEN. FRASER: No, I will not yield.

SEN. ZAFFIRINI: All right.

SEN. FRASER: You -- I'll be glad to answer the question.

SEN. ZAFFIRINI: All right. I simply wanted to ask if she planned to distribute this, and if so, I wasn't going to address it.

CHAIRMAN DUNCAN: If you want to introduce the exhibit, you're welcome to do so. We've marked it, I think.

SEN. ZAFFIRINI: All right. Then I would like --

SEN. FRASER: Senator, I'm sorry. I have a map in front of me. I had not seen it, so --

SEN. ZAFFIRINI: All right. Well, Senator Van de Putte has indicated that I can request permission to introduce this as an exhibit.

CHAIRMAN DUNCAN: Okay. I think it's been marked, and would you -- would you bring it down, please?

SEN. ZAFFIRINI: I believe Senator Van de Putte has a clean copy. And this is a map that Senator Van de Putte had developed, and it's titled, "Counties With Department of Public Safety Driver's License Office Closures."

My question, Senator Fraser, would focus on my district. For example, in my district, which comprises 16 counties and part of Bexar, Northeast Bexar, there is one county that has wheelchair accessibility barriers; there are two counties that have absolutely no driver's license offices; there are four that have offices that are temporarily closed; and there is one that has an office that is open three days or fewer each week. And so you can see the accessibility

issues that we're dealing with, and you can -- when you get the map -- oh, you do have a copy of the map. You can see the difference throughout the state. There are some states that you can see have a lot of pink, a lot of blue, a lot of green, and then -- counties, rather -- and there are others that are just white, that have absolutely no barriers.

So, Senator Fraser, looking at this map, are you concerned that this bill would impact certain counties that have a problem related to the accessibility to driver's license offices?

CHAIRMAN DUNCAN: Senator Zaffirini, if I could -- before you get an answer to that question, let's get it in the record so everybody knows what we're talking about.

SEN. ZAFFIRINI: All right.

CHAIRMAN DUNCAN: It's Exhibit --

SEN. ZAFFIRINI: Mr. Chairman?

CHAIRMAN DUNCAN: It's Exhibit 6, I believe. Is that correct? It's not the two that you've previously submitted.

SEN. ZAFFIRINI: No.

CHAIRMAN DUNCAN: Is that correct?

SEN. ZAFFIRINI: It's Exhibit 6, then, according to --

CHAIRMAN DUNCAN: Okay.

SEN. NELSON: Mr. Chairman?

CHAIRMAN DUNCAN: And for what purpose?

SEN. NELSON: It's me, and to ask Senator Zaffirini a question or to point out that some of us do not have a copy of this map.

CHAIRMAN DUNCAN: Okay. Well, that would be a parliamentary inquiry and --

SEN. NELSON: Then I would like to make that.

CHAIRMAN DUNCAN: That's what I'm trying to clear up, is I'm trying to get the exhibit in so that we can distribute it so that everyone can understand what the questions are.

Would you identify it, please? What's the title of it?

SEN. ZAFFIRINI: Yes. It is titled, "Counties with Department of Public Safety Driver's License Office Closures." It is a map of Texas showing this -- these issues, and it was developed by Senator Van de Putte. I had assumed that she had introduced it into the record or had planned to, but I'm happy to do it.

CHAIRMAN DUNCAN: Okay. Do we have copies?

SEN. NELSON: We don't. Only the Democrats do.
CHAIRMAN DUNCAN: Okay. Well, here's what I would suggest so that other members have an opportunity to follow your questions and the answers, that we at least get copies of that exhibit and distribute it, if we could do that. And then, so if we could defer on that until we get that done, Senator --

SEN. ZAFFIRINI: Certainly.

CHAIRMAN DUNCAN: -- that would be helpful.

SEN. ZAFFIRINI: Absolutely. No problem, Mr. Chairman.

Moving right along. I do have exhibit --

I guess it's 4 --

CHAIRMAN DUNCAN: We do have --

SEN. ZAFFIRINI: -- and Exhibit No. 5 that I'd like to enter into the record --

CHAIRMAN DUNCAN: Okay.

SEN. ZAFFIRINI: -- at this time. And I'll wait until they're distributed, if you -- if I may be permitted.

CHAIRMAN DUNCAN: Would you identify Exhibit 4, please?

SEN. ZAFFIRINI: Exhibit 4 is a copy of a driver's license with personal information obliterated.

CHAIRMAN DUNCAN: Thank you. And Exhibit 5?

SEN. ZAFFIRINI: Exhibit 5 is a letter directed to me, which I received today, from Spencer Overton, professor of law at the George Washington University Law School and a member of the Carter-Baker Commission on federal election reform.

CHAIRMAN DUNCAN: All right. Those exhibits will be received in the record and distributed to the members.

(Exhibit Nos. 4 and 5 marked and admitted)

CHAIRMAN DUNCAN: Senator, you're -- you can --

SEN. ZAFFIRINI: Thank you.

CHAIRMAN DUNCAN: -- continue on those exhibits.

SEN. ZAFFIRINI: Senator Fraser, thank you for your courtesy and for your patience and your stamina. I'm impressed, as always.

On Page 4 of your bill, Senator Fraser, Line 8, it states that "and the voter's identity can be verified from the documentation presented under Subsection (b), the voter shall be accepted for voting."

Can you describe what training the poll workers would receive to ensure that they are trained in identification verification?

SEN. FRASER: Senator, you're moving --
faster than I can. I'm on Page 4. Where are you referring?

SEN. ZAFFIRINI: Line 8 of the bill.

Well, basically, that's all it says, that if the voter's -- that "If the voter's identity can be verified from the documentation presented, the voter shall be accepted for voting." That's the only part that I'm quoting, and then I'm asking what kind of training the poll workers would undergo in identification verification.

SEN. FRASER: Great question to the Secretary of State.

SEN. ZAFFIRINI: To the Secretary of State.

Do you worry at all, Senator, and I know -- I believe it was Senator Davis who asked this question earlier: Do you worry at all about people who don't look like their driver's licenses at all?

SEN. FRASER: I'm sorry. I -- there's so many things to worry about in life, that's -- you know, the -- the question you're asking, I think, is covered by the Secretary of State, and I believe they would make a determination.

SEN. ZAFFIRINI: Well, Senator Fraser, I have distributed Exhibit 4. Would you take a good look at that, please?

And, Members, I ask you to please look at my Exhibit 4 and look at the photograph of this driver's license. Has anyone of you ever seen this person before? He looks familiar?

SEN. FRASER: Yes.

SEN. ZAFFIRINI: Can you identify this person? I'd like to ask this person to stand.

(Unidentified person stands)

SEN. ZAFFIRINI: Take a good look. Look at that picture. Look at him. That's right. That -- and this picture was taken in 2006. Now, if I didn't know Ray, who is my chief of staff, and I were to look at this picture, I would say, "You're not verified. You can't vote. You're an imposter." Look at the difference. Total difference, and yet this photograph was taken in 2006, and so it's current, it's valid. And you can see if we who know him and have seen him, see him every day, don't recognize his picture, imagine what a poll worker would do with a driver's license like this.

UNIDENTIFIED SPEAKER: (Mic off)

SEN. ZAFFIRINI: He's not a Laredoan, so don't worry about it.

(Laughter)

SEN. ZAFFIRINI: Senator Fraser, do you understand why we worry?
(Senator Shapiro speaking without mic)

point to make, Senator Shapiro, that we should look at our composite photos; and most of us don't look like them, and yet they have the dates like 2008.

SEN. WEST: We keep using those pictures.

SEN. ZAFFIRINI: 2009. We sure keep using those pictures, so what would happen?

My next question, Senator Fraser, focuses on Exhibit 5.

And, Members, you have a copy of Exhibit 5.

And it is a letter directed to me from Spencer Overton, professor of law from George Washington University. And basically, I received this letter from Professor Overton today, and it directly addresses Senate Bill 14's inconsistency with the Carter-Baker Commission.

Specifically, the letter states that Professor Overton wrote this letter to, quote, Refute claims that Senate Bill 14 is consistent with the recommendations of the Carter-Baker Commission. And according to Professor Overton, quote, The Commissioners recommended requiring photo ID of voters only if state's assumed the responsibility to seek out citizens and provide them with an ID free of charge, if states assume the responsibility to seek out unregistered citizens and register them and automatically update the registration of citizens when they move, and if states allow citizens without a photo ID to vote by signing an affidavit under penalty of perjury for the first two federal elections following adoption of the photo ID.

Now, Senator Fraser, this bill does not meet any of these criteria. Is that correct? Under your bill, the state would not assume any of these responsibilities?

SEN. FRASER: Not advised.

SEN. ZAFFIRINI: Well, I assure you, Senator, that it does not. But Professor --

SEN. FRASER: I disagree.

SEN. ZAFFIRINI: Could you show me it does, where in your bill it would allow this?

SEN. FRASER: I'm not advised. This -- there's been no representation made that we are modeling this bill after the -- the Carter-Baker recommendations. This bill is moving forward as a bill that when someone votes, they will present an ID to show they are who they say they are. The bill that I'm passing we think will be approved by the Supreme Court and will be approved by Department of Justice.

SEN. ZAFFIRINI: Well, then, let me ask you a question. Where in your bill does it specify that
The state would assume the responsibility to seek out citizens and provide them with an ID free of charge?

SEN. FRASER: I would think it would be your responsibility to show in the bill, you know, your -- the bill speaks for itself.

SEN. ZAFFIRINI: So you can't tell me if your bill does that?

SEN. FRASER: The bill speaks for itself.

The language of the bill is very clear as to what the -- the issues we're addressing.

SEN. ZAFFIRINI: Okay. Do you know, Senator Fraser, if this -- under your bill, the state would assume the responsibility to seek out unregistered citizens and to register them and automatically update the registration of citizens when they move?

SEN. FRASER: I don't believe that is covered in my bill.

SEN. ZAFFIRINI: It is not.

And do you know, Senator Fraser, if your bill -- under your bill, the state would allow citizens without a photo ID to vote by signing an affidavit under penalty of perjury for the first two federal elections following adoption of the photo ID bill?

SEN. FRASER: Every person that votes will be required to have a photo ID.

SEN. ZAFFIRINI: Well, basically, it seems to me, my analysis is that Senate Bill 14, as introduced, does not meet these specifications of the Carter-Baker Commission.

And what's more, in this letter that you have, Members, Professor Overton states that, quote, Even President Carter and Secretary Baker rejected the strict photo ID requirement initially adopted in Georgia after concluding it was discriminatory because it was costly or difficult for poor Georgians to obtain the identification for voting, unquote. But according to the Carter-Baker Commission, it devotes insufficient resources to address the burdens it would impose on Texas voters who lack photo ID.

SEN. FRASER: That is absolutely incorrect. The original observation -- the bill that was filed in Georgia was changed, and the bill that originally -- that is in law now, that was not their observation. And that was written in 2005. The bill was replaced 2008. That was not their observation.

SEN. ZAFFIRINI: Well --

SEN. FRASER: That it was -- I saw that comment made in a 2005 comment, but you're also making sure you don't take it out of context. And the -- the law that had been passed by Georgia was revisited. They passed a different law, and then that law was -- that bill was precleared by Department of Justice.
SEN. ZAFFIRINI: But it still required --

SEN. FRASER: So the bill he's --

SEN. ZAFFIRINI: -- photo ID.

SEN. ZAFFIRINI: But the Georgia law still requires a photo ID.

SEN. FRASER: Yes, it does.

SEN. ZAFFIRINI: It does.

And finally, Professor Overton closes with his statement that the current proposal for a photo ID law in Texas is inconsistent with the recommendations of the Carter-Baker Commission.

SEN. FRASER: I disagree with that.

SEN. ZAFFIRINI: Why, Senator?

SEN. FRASER: I just disagree with that.

SEN. ZAFFIRINI: Are there any specific points that you disagree with that he made or that I quoted in his letter?

SEN. FRASER: I'm -- you know, the letter that you're laying out is -- the first time I've seen it is just then. We're -- our bill is not -- we're not trying to model it after that, but the Carter-Baker Commission very clearly recommended a photo ID.

SEN. ZAFFIRINI: Well, Senator, the reason that we asked for this letter, we followed up on your early statement when you laid out the bill. And you referred to the Carter-Baker Commission, and it was based on your statement that we followed up and did this immediate research and got this letter written to us.

SEN. FRASER: Will you show me where I referred to it in my opening statement?

SEN. ZAFFIRINI: Well, I don't have the transcript yet, but as I recall, you referred to it in your opening statement.

SEN. FRASER: Do you want me to read what I said again from the opening statement?

SEN. ZAFFIRINI: Yes, would you?

SEN. FRASER: I read two --

SEN. ZAFFIRINI: Your copy to the -- your reference to the Carter-Baker Commission report.

SEN. FRASER: I said, "The Carter-Baker Commission reaffirms the dangers. Elections are at the hard democracy. Americans are losing confidence in the fairness of elections, and while we do not face a crisis today, we need to address the problems of our electoral system. At the end of the day, there's considerable national evidence of in-person fraud; and regardless of whether one believes that voter impersonation is widespread or relatively rare, there can be no serious dispute that -- that real effect can be substantial because in a close election, even a small amount of..."
fraud could take -- be the margin of difference."

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SEN. ZAFFIRINI: Well, sir.

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

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

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

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

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

SEN. FRASER: Before I made the statement?

SEN. ZAFFIRINI: It should be
January 25th.

SEN. FRASER: But you -- you said that you
responded -- that you requested it after I made the
statement in my --

SEN. ZAFFIRINI: I requested --

SEN. FRASER: -- opening comments.

SEN. ZAFFIRINI: I requested this
information based on your opening statement, and I
received this letter today. That's correct. Okay?
Thank you very much, Senator. I
appreciate, as I said, your courtesy and your patience.

SEN. FRASER: Thank you.

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

(RECESS: 2:21 P.M. TO 2:34 P.M.)

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

SEN. HINOJOSA: Thank you, Mr. Chairman.

Senator Fraser?

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

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

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

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

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

SEN. HINOJOSA: Approximately, 13 million.

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

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

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

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

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

SEN. HINOJOSA: None?

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

SEN. HINOJOSA: Well, do you have any evidence?

SEN. FRASER: I'm sorry?

SEN. HINOJOSA: Do you have any evidence?

SEN. FRASER: Evidence?

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

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

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

SEN. FRASER: Well, that's interesting.

Back home, in the area you're from, most of the -- or a lot of the stories that I've seen reported to the media -- and actually, you've got two voter registrars through your area that have endorsed this concept because they are -- they are having a problem with voter