projecting some what-ifs.

SEN. ZAFFIRINI: I thought it --

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

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

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

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

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

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

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

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

SEN. FRASER: All right.

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

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

SEN. ZAFFIRINI: Yes.

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

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

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

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

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

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

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

SEN. FRASER: No.

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

SEN. ZAFFIRINI: That is my question.

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

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

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

SEN. ZAFFIRINI: Good.

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

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

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

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

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

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

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

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

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

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

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

(Brief pause)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEN. ZAFFIRINI: I see.

SEN. FRASER: I'm for that.

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

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

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

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

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

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

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

SEN. FRASER: Yes.

SEN. ZAFFIRINI: Good.

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

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

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

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

SEN. FRASER: Some of it was being inclusive.

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

SEN. FRASER: Not included.

SEN. ZAFFIRINI: They're not included. Was that an oversight? Do you intend to include them at a later date?

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

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

SEN. FRASER: As the bill is currently written.

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

SEN. FRASER: Yes.

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

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

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

SEN. DUNCAN: Sen. Ellis. Or I'm sorry.

Sen. Whitmire.

SEN. WHITMIRE: Thank you, Mr. President.

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

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

SEN. WHITMIRE: I think I --

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

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

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

SEN. WHITMIRE: Sure.

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

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

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

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

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

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

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

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

SEN. WHITMIRE: She supports the bill.

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

SEN. WHITMIRE: Sure.

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

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

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

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

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

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

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

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

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

SEN. FRASER: Johnny --

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

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

SEN. WHITMIRE: That --

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

SEN. WHITMIRE: Were they prosecuted?

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

SEN. FRASER: Ask that question.

SEN. WHITMIRE: What are you trying to --

SEN. FRASER: Ask that question of the witness.

SEN. WHITMIRE: I look forward to it.

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

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

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

SEN. FRASER: I know. But --

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

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

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

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

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

SEN. WHITMIRE: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEN. FRASER: I --

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

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

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

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

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

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

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

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

How many what?

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

SEN. FRASER: Are you --

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

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

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

SEN. FRASER: I'm not advised.

SEN. ELLIS: It was the Help America
Vote Act and the Voting Rights Act. That's what the
Commission was created for. Senator --

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

SEN. ELLIS: But --

SEN. FRASER: And I suspect my witnesses
that you're going to hear are going to tell you that.
SEN. ELLIS: Good try but not quite.

You referenced a New York Times editorial a little earlier. I'm going to try to be a little more balanced than you were, my desk mate, in reading your provision from that editorial, that op ed by President Carter and Secretary Baker. It was titled, "A Clearer Picture on Voter ID," February 3, 2008. Here is just a snippet that I think gives a pretty good --

SEN. FRASER: Is that about a snippet?

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

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

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

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

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

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

SEN. FRASER: Why?

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

SEN. ELLIS: Senator --

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

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

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

SEN. ELLIS: Oh, I did.

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

SEN. ELLIS: Yes.
SEN. FRASER: -- "votes to steal the
election in a democratic primary in Dallas, Texas,"
and he brought that forward. And you're one of the
persons that voted for that --
SEN. ELLIS: That's correct.
SEN. FRASER: -- bill, as I did --
SEN. ELLIS: Senator, you --
SEN. FRASER: -- to address voter fraud.
SEN. ELLIS: Are you aware of how a
puzzle works?
SEN. FRASER: I'm sorry?
SEN. ELLIS: Are you aware of how a
puzzle works, a puzzle, p-u-z-z-l-e, puzzle?
SEN. FRASER: Puzzle?
SEN. ELLIS: Yes.
SEN. FRASER: Well, if you're asking,
maybe I don't.
SEN. ELLIS: If you take a certain piece
of what someone has said out of context, Senator, what
you're doing is distorting what they intended to say.
So here is my point: Your bill does not touch mail-in
ballots. You used a quote by Steve Wolens to try and
augment your position. Your bill does not touch
mail-in ballots. Most of the cases of fraud that your
witnesses are going to talk about are going to involve
mail-in ballots, but this bill does not do anything to touch that.

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

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

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

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

SEN. FRASER: Absolutely.

SEN. ELLIS: That's what you believe?

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

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

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

SEN. ELLIS: Senator --

SEN. FRASER: Was he from -- since you
asked me the question, I get to answer.
SEN. ELLIS: I can --
SEN. FRASER: You said was the --
SEN. ELLIS: I can assure you the people in Illinois knew Barack Obama was going to win the State of Illinois. I can assure you that.
SEN. FRASER: You're saying they didn't feel comfortable voting for him because they knew him?
SEN. ELLIS: No, I'm not saying that at all. Let you ask you this: Do you know what the increase in vote was in Texas?
SEN. FRASER: All the questions you're covering is the same thing that was asked about the last four -- you're the fifth person.
SEN. ELLIS: 600,000 additional votes.
SEN. FRASER: We're going to have witnesses from Indiana and Georgia --
SEN. DUNCAN: Senators, you're taking over each other and the court reporter only has two hands.
SEN. ELLIS: Okay. You all right?
SEN. FRASER: I'm going to vacate the premise so you can talk.
SEN. ELLIS: I think I've completed my questions. I think I've made the point. I would like to ask the author of the bill about a historic bill
that he's carrying that in my judgment would negatively impact minority voters in Texas.

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

SEN. ELLIS: All right. Thank you.

SEN. DUNCAN: Sen. Davis?

SEN. DAVIS: Sen. Fraser --

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

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

(Laughter)

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

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

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

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

SEN. FRASER: Say that again.

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

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

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

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

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

SEN. FRASER: I highlighted a lot.

SEN. DAVIS: But you highlighted those?

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

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

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

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

SEN. FRASER: I'm not --

SEN. DAVIS: Do you remember reading that?

SEN. FRASER: I'm sorry?

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

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

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

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

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

SEN. DAVIS: I will speak up.

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

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

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

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

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

SEN. FRASER: Please.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEN. FRASER: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEN. DAVIS: It is free of charge?

SEN. FRASER: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

SEN. FRASER: We didn't talk to LBB.

That's not the process.

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

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

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

SEN. FRASER: A multitude of choices.

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

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

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

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

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

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

SEN. FRASER: Thank you.

SEN. SHAPLEIGH: I've got three exhibits.

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

Sen. Shapleigh.

SEN. SHAPLEIGH: Thank you, Mr. Chair.

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

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

Members, have those copies been provided to the Secretary?

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

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

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

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

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

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

Sen. West.

SEN. WEST: Thank you very much, Mr. Chairman.

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

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

SEN. WEST: The Barry White voice.

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

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

SEN. WEST: Well, I --

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

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

SEN. FRASER: Now yet.

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

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

SEN. WEST: Sure.

SEN. FRASER: You're reading from what?

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

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

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

SEN. FRASER: Yes, sir.

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

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

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

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

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

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

SEN. FRASER: No.

SEN. WEST: What was the other reason?

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

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

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

SEN. WEST: Yes.

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

SEN. WEST: Okay.

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

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

SEN. FRASER: (a)?

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

SEN. FRASER: Where are you? What page?

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

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

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

SEN. FRASER: Got it.

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

SEN. FRASER: Yes, that's correct.

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

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

SEN. WEST: Section (b) is on.

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

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

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

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

SEN. FRASER: The bill was filed.

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

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

   And I think those would be very good questions to ask them, that if we implement a voter identification bill, how did it impact their voters? And I think they're going to tell you that their voter response went up because those people felt very, very good -- just a second. You're about to interrupt me. They felt very good that -- they felt before -- weren't comfortable because they were afraid their vote was going to be stolen. But after we implement the voter identification, they felt good about it.

   And voter results for all classes, but more especially for African-Americans and Hispanics, increased. And I believe that's what they're going to tell you. I don't want to speak for them.

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

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

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

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

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

SEN. FRASER: Have I talked to any?

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

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

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

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

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

SEN. FRASER: The answer is yes.

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

SEN. FRASER: Yes.

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

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

SEN. FRASER: Yes.

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

SEN. FRASER: Yes.

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

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

SEN. WEST: Yes.

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

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

SEN. FRASER: Yes, he is.

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

He's not coming to testify --

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

SEN. WEST: All right. Now, let me go
back to my question. Maybe it wasn't specific enough. Have you talked to any African-Americans or Hispanics that are in support of your bill --

SEN. FRASER: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEN. WEST: Oh, yes.

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

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

SEN. FRASER: Yes, I have.

SEN. WEST: African-Americans and Hispanics --

SEN. FRASER: Yes.

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

SEN. FRASER: I have spoken to --

SEN. WEST: African-Americans and Hispanics?

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

SEN. WEST: In the State of Texas?

SEN. FRASER: -- in the State of Texas.

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

SEN. WEST: Sir, but --

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

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

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

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

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

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

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

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

SEN. WEST: Well, and you --

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

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

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

SEN. WEST: Every witness?

SEN. FRASER: I think so.

SEN. WEST: Okay.

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

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

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

SEN. FRASER: No, I'm not.

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

SEN. FRASER: This bill --

SEN. WEST: Okay.

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you very much, Sen. Fraser.

SEN. FRASER: Thank you.

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

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

SEN. HINOJOSA: Thank you,
Mr. President.

Sen. Fraser?

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

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

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

(Brief pause)
Are you there?

SEN. HINOJOSA: Yes, sir.

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

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

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

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

Senator, let's try that one.

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

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

SEN. HINOJOSA: Okay. Thank you, Senator.

SEN. FRASER: I'm --

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

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

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

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

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

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

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

SEN. FRASER: Senator, I'm sorry.
Did you get another head thing?
Senator, let's try it one more time.
Would you ask that question again, please.
SEN. HINOJOSA: Can you hear me?
SEN. FRASER: This receiver is a bad receiver. I'm getting nothing but interference.
Can somebody get one of these that works?
Let me try without it.
SEN. HINOJOSA: Okay.
SEN. FRASER: Where is Lucio's?
Go ahead.
SEN. HINOJOSA: I will repeat my question, Sen. Fraser. And what I'm asking is whether or not in your legislation you have provisions to fund the detection equipment that will be able to tell whether or not an ID is a fake one?
SEN. FRASER: Senator, again, I think that would be a question of the Secretary of State, is that -- I think you could ask him how they're going to do it. But we -- as you know, the way this works --
you have been here like I have, a long time -- we lay this legislation out. They come back with a fiscal note of the impact to the state. They said there is no impact to the state, that they have sufficient money within their budget to handle it. And I would suggest you ask that question of the Secretary of State.

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

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

SEN. HINOJOSA: But you are.

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

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

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

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

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

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

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

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

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

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

And thank you for answering my questions.
SEN. FRASER: Thank you.

SEN. DUNCAN: Sen. Uresti.

SEN. URESTI: Thank you, Mr. President.

Sen. Fraser, I just have a few questions. I know it's been a long day, but I would like to ask a few questions more specific to my district.

But as a backdrop to my questions, not only to you but to the witnesses that you've been referencing all day, you have probably heard me speak to this session, my senatorial district is the largest geographical district in Texas.

SEN. FRASER: I know your district well. There's a lot of it that I used to represent, so I'm very familiar with it.

SEN. URESTI: And it's actually larger than about 24 states in the country.

SEN. FRASER: It's a great district, good people.

SEN. URESTI: It is a beautiful district. And one of the reasons I stand today to ask you these questions is, I represent the constituents of my district. In addition to being the largest district in Texas, it's also the second poorest district in Texas. The per capita income, the average
per capita for my constituents is $12,484 per year.

SEN. FRASER: Are you aware of the fact that just right below, right above that is the district that I represent? And so we have a lot in common in the people that I represent and the people you represent, because our districts touch. And a lot of the people that you represent now are people that I used to. So we have a very like district.

SEN. URESTI: And even more reason why I think you will appreciate the questions that I have of you, Sen. Fraser. In my district, the poverty rate is approximately 24 percent. So when you couple the poverty rate with the vast area of my district, you see the challenges that my constituents face.

And I tell you that because when we talk about photo ID and the necessity to obtain an ID, whether it be a driver's license or whether it be an actual Texas photo ID, knowing the area as well as you do, when you look at some of the counties in my district, I think you probably, better than most, fully appreciate the distances that one has to travel in order to get an ID. And I'll just give you a few examples. In addition to that, though, the fact that many of these DPS offices are only open on very sporadic days and times.
For example, in Bandera County, it's open -- the DPS office is only open on Wednesdays from 9:00 to 4:00. In Culberson County, it's only open -- the DPS office is only open on Thursdays from 9:00 to 5:00.

In Kinney County, which is where Brackettville is located, the DPS office is only open the first and third Tuesday of each month from 9:00 to 4 o'clock. And then one other example of many, Terrell County, which is down where Sanderson is located, the DPS office is only open one Monday a month from 9:30 to 3:30.

So having said that, my concern is the fact that if an individual needs to obtain a photo ID or a Texas driver's license, the challenges that they will face in, one, having to go to those offices; two, the distances that they'll have to travel; and then three, if they're not familiar with the dates or the times that they are open, the fact that they may have to go back.

And if they're not registered or they do not obtain that in a timely manner, which I understand it could take up to 60 days or so to receive your photo ID, there is a very good chance that they will not be able to have that ID when they do go to vote.
Would you agree with me on that, Sen. Fraser?

SEN. FRASER: Well, that was a consideration in looking at the parameters, is that the good news for you is, we still have all the same parameters for mail-in ballots. We haven't changed that. And all these other forms, there is just a multitude of things they can use for a secondary form of identification. So if for some reason they couldn't get to that -- and I would -- you know, you and I know that most of those people out there drive and they do have cars, the bulk of them do, and they would be -- they would really like to go and get that driver's license. But if they couldn't and they were going to vote, there is a multitude of things they can use for identification to make it really, really easy, or they could do a mail-in ballot. We've made it easy for them.

SEN. URESTI: And I appreciate you bringing that up, because that's a good segue into my next question. But again, going back to the poverty rate, I would respectfully disagree with you, Sen. Fraser, that they all have cars, because most of them can't afford cars, at least in my district.

On Page 5 of your bill, Senator, you reference -- Page 5, Line 20, under "Documentation of
Proof of Identification," you reference "a United
States military identification card that contains the
person's photograph." And I just want to make sure
that I clearly understand what you have in your bill,
and that for those military individuals, whether they
be active duty, reservists, retired, et cetera, if
there is no photograph on their military ID, then they
would not be able to use that ID under your bill. Is
that correct?

SEN. FRASER: I'm sorry, Senator. I
think you probably have misread this. You're under
the section that lays out the acceptable form of photo
ID. But if it doesn't have a photo on it, it could be
used as one of the non-photo IDs, plus one other form
of identification. So the answer to your question is,
yes, they could use it.

SEN. URESTI: Okay. So a military ID
that does not have a photo could be used?

SEN. FRASER: Yes. It's a form of
government identification.

SEN. URESTI: Okay. That's not the way
I read it, but I'm glad you cleared that up for me.

SEN. FRASER: Under the (2), it would be
one of their forms of identification. It is a
government-issued form of identification. And under
SEN. URESTI: And just so I'm clear, it reads "a United States military identification card that contains the person's photograph." What my question is, if there is a military ID card that does not have a photograph, then you're saying that those military individuals, whether they be active duty, whether they be reservists, whether they be retired, would not be able to vote with that form of ID. Is that correct?

SEN. FRASER: That is not correct. That would be one of their forms of ID. And if they had one other piece of identification, their utility bill, with that military ID, they're fine.

SEN. URESTI: Whether it has a photograph or no?

SEN. FRASER: Yes.

SEN. URESTI: Okay. Very good. That's good to know.

Going into the alternative forms of documentation, specifically on Page 6, what I'm trying to reconcile and what is confusing to me, and I believe would be very confusing to the voters of Texas, and complicated, on Page 6, Line 14, you list the following documents -- I beg your pardon -- "The the non-photo area, it would be used.
following documentation is acceptable as proof of identification under this chapter."

Then it goes on to read, Subparagraph (1), a copy of a current utility bill; Paragraph (2), official mail; Paragraph (3), a certified copy; Paragraph (4), United States citizenship papers; Paragraph (5), an original or certified copy; and then No. (6,) court records.

And so I'm trying to reconcile those different terms in that you have a copy, you have official document, you are certified document, you have papers, you have original or certified copy, and then you have court records.

And to me, that's confusing as an attorney, much less I think to my constituents. And so specifically -- this is my question, Sen. Fraser -- on No. (16) (sic) under the Paragraph (b) where it reads, "a copy of a current utility bill, bank statement, government check, paycheck, or other government document," that leads me to believe that if they brought the original document, they would not be able to use the original document, it would have to be a copy of that document. Is that correct?

SEN. FRASER: I think you're over-reading the issue, because this is current law. This
is current law that we're operating. If you voted in
this last election, you voted under this. If you will
look at that -- and I believe -- is that not taken
from current law? So if you're confused about it
today, you were confused about it yesterday, because
it was -- that's current law.

SEN. URESTI: Well, let me tell you why
I'm confused, Sen. Fraser, because if you go on into
Paragraph (2) that's not current law, and Paragraph
(3) that's not current law, for specifically Paragraph
(3,) you insert "a certified copy." Paragraph (5),
you put "an original or certified copy." So that's
why it's confusing, Sen. Fraser, and that's why I'm
trying to clarify it, because you use a copy in one
instance, then you use a certified copy in another
instance. But here is my question. I want to go back
to my question.

SEN. FRASER: Wait, wait, wait. Hold on
a second. You've got to answer the one that you just
asked. One of the great things about these
hearings -- and it's the same answer I gave now to the
last eight people I've talked to -- I'm about to have
the Secretary of State come up here. The Secretary of
State's job is to issue the clarification of adopting
rules to clarify the implementation of the law we
passed. And I would -- I don't want to put words in their mouth, but I would assume they're going to say, "We can handle that."

SEN. URESTI: Okay. And I appreciate that. And because you can't speak for the Secretary of State and because you are the author of this bill, I just wanted to ask you, so I could clarify and so I can explain it to the voters of Texas and to my constituents, then -- and I think you understand now what I'm trying to reconcile in that you asked for different documentation. And, one, it can be a copy or it can be the official mail, et cetera. And I will ask the specific questions of the Secretary of State.

SEN. FRASER: I think it would be a good idea to do that.

SEN. URESTI: But because you are the author, I wanted to ask you specifically. And then I think my last question, Sen. Fraser, if you bear with me one second. I beg your pardon.

On Page 4 under Section 8, on Line 20 where it reads "did not deliberately provide false information to secure registration in a precinct in which the voter does not reside," I'm trying to understand what you mean when you put "deliberately provide false information."
SEN. FRASER: Senator, again --

SEN. URESTI: And (2) --

SEN. FRASER: -- I don't want to interrupt you here, but you're quoting current law. That's law right now that we have been living under for some period of time. And if you've got a question about the interpretation of the Secretary of State's rule on that, I bet they would answer it.

SEN. URESTI: And I hope they can. But, Senator, this is part of your bill, though. (1) --

SEN. FRASER: Now, just a second. You know the way this works in legislation is that if it's current law, you reprint current law. And if you're going to make a change, you insert it and underline. And all we're doing there -- we could have left all that out and make you work and go see how it fits together. But, you know, you have been here a long time, and you know that's the way it works is, we go ahead and tell you what current law is so it reads correctly. I didn't make that law up. It's just a law that is there. And I think you could ask the Secretary of State the way it's interpreted.

SEN. URESTI: And I appreciate that.

But did you not strike certain language from current law in this bill, Sen. Fraser?
SEN. FRASER: If it was struck -- did we
strike -- just a second.

(Brief pause)

I'm not advised as to whether we struck
something. I believe the language that you're
referring to on Line 20 is current law and above and
below it is current law. And I, to my knowledge --
but again, I think you should ask the Secretary of
State that.

SEN. URESTI: And I'll do that. Thank
you, Sen. Fraser.

SEN. FRASER: You bet. Thank you.
SEN. DUNCAN: Sen. Van de Putte.
SEN. VAN de PUTTE: Thank you,
Mr. President.

And, Sen. Fraser, I'm . . .

SEN. FRASER: It was wishful thinking.
SEN. VAN de PUTTE: And I would have
hoped that this question would have been asked before,
and I've listened and it's not, and I know that we
would love to --

SEN. FRASER: I would love to have a new
question.

SEN. VAN de PUTTE: Well, thank you.

I'm going to be very, very quick. I am looking at
SEN. FRASER: Just a second. Let me get my glasses, Senator. Hold on. I'm deaf and blind.

SEN. VAN de PUTTE: Section 10 of the bill.

SEN. FRASER: Section 10. What page?

SEN. VAN de PUTTE: Page 5, Line 27.

SEN. FRASER: Got it.

SEN. VAN de PUTTE: In that section, there is a change from the United States citizenship papers -- and you strike that -- to certificate. Tell me, what is the difference between a certificate and the papers?

SEN. FRASER: Senator, again, you and I have served together a long time. And you know when these bills come from Leg. Council, that if there is clean-up legislation, they need to clarify something that is either case law. The answer is, I don't know why they struck that.

SEN. VAN de PUTTE: Well, it --

SEN. FRASER: It was not our recommendation. This came from Leg. Council this way. I can find out the answer to that --

SEN. VAN de PUTTE: Okay.

SEN. FRASER: -- but I can honestly say
I don't know.

SEN. VAN de PUTTE: Okay. Well, I think there is different terminology. It is my understanding, since I represent a Hispanic district -- and many of the senators here have a number of Hispanics -- this is especially important for naturalized citizen. It is my understanding that the certificate means the 8-by-11 certificate with a photo that is given at the time of naturalization. So it does have a photo, and it's under your section that it would be okay for a photo. My question is that the government also issues a wallet-sized card that is listed as a paper. That could be part of the paper, but it has no ID.

On the section of the bill that you talk about non-photo, which would be Page 6, Line 24, it says "United States citizenship papers." Papers I think are the card. But the papers, are they the certificate? And the reason I ask is, because at the time of naturalization -- and many of us have Hispanics in our district that as young children were naturalized. That picture is of a child and doesn't match up. So how --

SEN. FRASER: Senator -- and again, I don't want to dodge your question. I think probably...
this is a legitimate question to ask the Secretary of State.

SEN. VAN de PUTTE: Okay.

SEN. FRASER: I'm not sure they can answer that one. But I will tell you my intent on this is not to deny any legal voter that should have the right to vote, and that if someone is using this as a source of documentation and it is a legal documentation that proved they are who they say they are, I want them to be able to use it. I want all Hispanics that you represent --

SEN. VAN de PUTTE: Yes.

SEN. FRASER: -- to have the ability to vote under this bill, and my intent is to increase their right to do that. So if there is a tweak needed there, I can tell you I'm open to it. I don't know the answer to the question you're asking.

SEN. VAN de PUTTE: Well, thank you. In researching that, there is a difference between "certificate" and "paper." On one, the certificate does have a photo ID; the paper does not. And I think that's probably why Leg. Council did that.

SEN. FRASER: You and I could probably sit down with a Leg. Council lawyer, ask them what happened, the meaning of that. And it is certainly...
not my intent in any way to deny someone the right to vote. My intentions are exactly the opposite. I want them to be able to identify themselves and vote.

SEN. VAN de PUTTE: Well, thank you, Senator, because the picture photo for many of my constituents who have been naturalized and are now adults or maybe even elderly does not match up, because that was taken at the time of naturalization.

And my fear was that an election clerk, having to know the difference between certificates and paper and then maybe the name not matching up, particularly for women who then would be -- the naturalization paper certificate would never match up with your married name if you were naturalized as a child, and that would be extremely discriminatory toward Hispanic citizens and particularly to this state, which may not have been a problem in Georgia or Indiana but is definitely a problem here, and I appreciate that.

SEN. FRASER: Not a -- absolutely, we want -- if someone is a legal citizen and has identification and they're registered to vote, then I want them to have the ability to do that.

One of the questions you just asked about the picture not matching up, I would also advise
you to ask the Secretary of State that, is that I
think there's methodology, that it's even addressed --
it was anticipated -- in some of the things I read,
that if I grew a beard and I don't look like I used
to, a methodology to make sure that we could verify
who you say you are.

SEN. VAN de PUTTE: Thank you, Senator.

And I have one follow-up question. You and I have the
luxury and the blessing of representing many now Texas
residents who are voting in the state who happen to be
military families and military members. And I know
you are well aware of Fort Hood and Sen. Shapleigh at
Fort Bliss. My question is a follow-up to Sen.
Uresti's questions on military ID.

Many times the identification of record
doesn't have the address of the voting. So if they
were voting here but their address of record is at --
how would, under your bill, a clerk treat that
inconsistency of a nonmatch-up for our military
members?

SEN. FRASER: Again, Senator -- and I
thank you for acknowledging my district being
impacted. I believe that I have the largest number of
ex-military in the state living in my senate district,
you know, former military. I want to make sure that
they have the right to vote.

Yes, they do change addresses, but this is something that we have been coping with for years, even under our current system. Again, I think the Secretary of State is capable of not only answering that question but also making sure we have a seamless transition to this, because it's extremely important to me, and I know it is to you, is that I want to make sure that our brave men and women that have served this country preserve that very basic right in making sure they get to vote in elections.

SEN. VAN de PUTTE: Thank you, Senator. I appreciate that. And I want to clarify, just for the last time, so that I understand. With the changes that you are proposing, every Texan who wishes to cast a ballot would have to bring both their certificate, voter certificate that's issued by the jurisdiction that they've registered in, and some sort of photo identification. Is that correct?

SEN. FRASER: Well, that's not exactly, the way you phrased that. Actually, for someone to vote, all they've got to do is show up. So that the -- I need to ask a question. I just thought of something.

(Brief pause)
Okay. I'm sitting here having a discussion with my staff, clarifying that that is the case. And I can tell you, my intent on this would be that it's -- here would be the example I would give you. I go to Marble Falls or Horseshoe Bay to vote. I never have my voter ID. I always just pull out my driver's license. Let's just say for some reason I forgot my driver's license. My intent would be, if I have two other pieces of identification listed here and they match up with the voter roll and it says, "Troy Fraser, 103 Lighthouse," a particular precinct, it would be my intention you should vote.

SEN. VAN de PUTTE: Well, that's --

SEN. FRASER: I'm not clear -- I want to make sure, as you do -- and I think what you're raising is making sure that the bill absolutely says that, and that is the intent.

SEN. VAN de PUTTE: Well, thank you, Sen. Fraser, because the way I looked at this, I thought that every Texan who wants to cast a ballot now will have to present with both the voter certificate and a photo ID or the certificate and two alternate forms. So you either have a two-fer or a three-fer. And I'm just wondering if that's correct or if someone shows up and they do not have their
certificate, do they just need a photo ID? And if they show up and they don't have their certificate or a photo, what other two --

SEN. FRASER: I don't have the answer for you today. I'll be honest with you, that I've got to look at that. I wish I could give you an answer on that, but I don't have an answer right now. And I've got to look at the bill, talk to the Secretary of State's office, see how that flows together, look at the election official and determine how we blend that together.

My intention is that I want everyone to vote. I'll give you that as a blanket answer. My intention is that if someone can prove who they say they are, I want them to vote.

SEN. VAN de PUTTE: Thank you,

Sen. Fraser.

SEN. FRASER: Thank you.
SEN. DUNCAN: Nobody else?
All right, members. Sen. Gallegos -- I thought I had lost count.

SEN. GALLEGOS: A question of the author.

SEN. FRASER: This is the three-minute rule. Are we using the egg timer rule?
SEN. GALLEGOS: Well, you already surpassed that, so I thought I would --

SEN. FRASER: No. I'm still just answering your questions.

SEN. GALLEGOS: Well, Senator, let me ask you, have you thought about the state of our economy and the steadily rising number of foreclosures taking place? And I'm talking about this bill. Just last week, the Dallas Morning News reported that the Carrollton-Farmers Branch School District has seen 185 percent increase in the 2008-2009 school year of homeless students.

SEN. FRASER: Senator, can you help me here? I'm having trouble. I'm looking at the bill, and I'm having trouble finding the place that has to do with foreclosures.

SEN. GALLEGOS: Well, no, no, no. I'm getting to my question, if you allow me.

SEN. FRASER: I will.

SEN. GALLEGOS: These are people in the State of Texas whose entire families are affected. And the homeless, as you know, well know, they move around a lot. They're U.S. citizens, and they move around a lot and stay in cars, in shelters and sometimes relatives' houses. But the important thing
is that they do not have a permanent residence, even
though they're U.S. citizens.

And I guess -- and they don't have
utility bills, they aren't on a current regular
schedule. And to show, if that is asked for when they
go to a precinct to vote, I guess my question is,
under your bill, under this scenario, is there a limit
on how many times they can get an official DPS ID to
vote every couple of weeks?

SEN. FRASER: Well, first of all, I'm
confused in your description of this, because for
someone to register to vote and be legal to vote, they
have to specify the precinct that they're in. And
that's one -- I think one of the requirements that the
Secretary of State looked for, is that you have to be
a resident voting in a specific precinct, and they had
to mail that to somewhere. But the answer to your
question that you were getting to is, is there a limit
on the number of IDs they can get? And, no, there is
no limit.

SEN. GALLEGOS: There is no limit under
your bill?

SEN. FRASER: No limit.

SEN. GALLEGOS: Okay. All right. Thank
you.
SEN. FRASER: Unlimited IDs.

SEN. GALLEGOS: There's unlimited ID.

Okay. All right. Thank you.

SEN. FRASER: Thank you.

SEN. DUNCAN: Okay, members. If there are no other questions, we are now ready to move into the invited testimony phase of the hearing. So at this point in time, I think I have been submitted -- actually, we had the Secretary of State collect the list from the author and those who might be opposed to the bill.

And, as stated earlier, I will first invite -- we'll have Hans von Spakovsky to testify first. He is proposed by Sen. Fraser. And then followed by that, we'll have Tova Andrea Wang, who is proposed by Sen. Van de Putte. If we could bring them into the chamber. And we will have a timer that will be 10 minutes.

Sen. Van de Putte, I believe you had a witness that you needed a little bit longer time. Is this the witness?

Okay. And, members, again I'll state again, we will not recognize anybody for a question during the 10-minute period of time for layout. Thereafter, we will allow questions. I'll remind you
that we have the public testimony that will follow
after the invited testimony, so be efficient. But,
you know, you're entitled to ask your questions.

So is Mr. von Spakovsky in the chamber?
And for the sake of time, if we could go
ahead and bring Tova Andrea Wang into the chamber.

Is this -- who is this?

(Off-the-record discussion)

SEN. DUNCAN: Mr. von Spakovsky.
Okay. She will go second.

Okay, Mr. von Spakovsky, you're
recognized. You need to state your name and who you
represent. I believe you have turned in a witness
affirmation card. You have 10 minutes. That will be
strictly enforced. And you have a timer there in
front of you. You can begin.

(Proceedings continued in Volume I B)
TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-FIRST LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE: §
CONSIDERATION OF §
SENATE BILL 362 §

COMMITTEE OF THE WHOLE SENATE
TUESDAY, MARCH 10, 2009

BE IT REMEMBERED THAT AT 5:50 p.m., on
Tuesday, the 10th day of March 2009, the above-
entitled matter continued at the Texas State Capitol
Senate Chamber, Austin, Texas, before the Committee of
the Whole Senate; and the following proceedings were
reported by Aloma J. Kennedy, a Certified Shorthand
Reporter of:

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