A BILL TO BE ENTITLED
AN ACT
relating to requirements to vote, including presenting proof of identification; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 15, Election Code, is amended by adding Section 15.005 to read as follows:

Sec. 15.005. NOTICE OF IDENTIFICATION REQUIREMENTS.
(a) The voter registrar of each county shall provide notice of the identification requirements for voting prescribed by Chapter 63 and a detailed description of those requirements with each voter registration certificate issued under Section 13.142 or renewal registration certificate issued under Section 14.001.
(b) The secretary of state shall prescribe the wording of the notice to be included on the certificate under this section.

SECTION 2. Subsection (a), Section 15.022, Election Code, is amended to read as follows:
(a) The registrar shall make the appropriate corrections in the registration records, including, if necessary, deleting a voter's name from the suspense list:
(1) after receipt of a notice of a change in registration information under Section 15.021;
(2) after receipt of a voter's reply to a notice of investigation given under Section 16.033;
(3) after receipt of a registration omissions list and any affidavits executed under Section 63.006 (63.007), following an election;
(4) after receipt of a voter's statement of residence executed under Section 63.0011;
(5) before the effective date of the abolishment of a county election precinct or a change in its boundary;
(6) after receipt of United States Postal Service information indicating an address reclassification;
(7) after receipt of a voter's response under Section 15.053; or
(8) after receipt of a registration application or change of address under Chapter 20.

SECTION 3. Subchapter A, Chapter 31, Election Code, is amended by adding Section 31.012 to read as follows:

Sec. 31.012. VOTER IDENTIFICATION EDUCATION. (a) The secretary of state and the voter registrar of each county that maintains a website shall provide notice of the identification requirements for voting prescribed by Chapter 63 on each entity's respective website. The secretary of state shall prescribe the wording of the notice to be included on the websites.
(b) The secretary of state shall conduct a statewide effort to educate voters regarding the identification requirements for voting prescribed by Chapter 63.

SECTION 4. Section 32.111, Election Code, is amended by adding Subsection (c) to read as follows:
(c) The training standards adopted under Subsection (a) must include provisions on the acceptance and handling of the identification presented by a voter to an election officer under
Section 63.001.

SECTION 5. Subsection (a), Section 32.114, Election Code, is amended to read as follows:

(a) The county clerk shall provide one or more sessions of training using the standardized training program and materials developed and provided by the secretary of state under Section 32.111 for the election judges and clerks appointed to serve in elections ordered by the governor or a county authority. Each election judge shall complete the training program. Each election clerk shall complete the part of the training program relating to the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001.

SECTION 6. Chapter 62, Election Code, is amended by adding Section 62.016 to read as follows:

Sec. 62.016. NOTICE OF ACCEPTABLE IDENTIFICATION OUTSIDE POLLING PLACES. The presiding judge shall post in a prominent place on the outside of each polling location a list of the acceptable forms of identification. The notice and list must be printed using a font that is at least 24 point.

SECTION 7. Section 63.001, Election Code, is amended by amending Subsections (b), (c), (d), and (f) and adding Subsections (g) and (h) to read as follows:

(b) Except as provided by Subsection (h), on [on] offering to vote, a voter must present to an election officer at the polling place one form of identification listed in Section 63.0101 [the voter's voter registration certificate to an election officer at the polling place].

(c) On presentation of the documentation required by Subsection (b) [a registration certificate], an election officer shall determine whether the voter's name on the documentation [registration certificate] is on the list of registered voters for the precinct.

(d) If the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the documentation presented under Subsection (b), the voter shall be accepted for voting.

(f) After determining whether to accept a voter, an election officer shall return the voter's documentation [registration certificate] to the voter.

(g) If the requirements for identification prescribed by Subsection (b) are not met, the voter may be accepted for provisional voting only under Section 63.011. For a voter who is not accepted for voting under this section, an election officer shall:

1. inform the voter of the voter's right to cast a provisional ballot under Section 63.011; and
2. provide the voter with written information, in a form prescribed by the secretary of state, that:
   (A) lists the requirements for identification;
   (B) states the procedure for presenting identification under Section 65.0541;
   (C) includes a map showing the location where identification must be presented; and
   (D) includes notice that even if all procedures are followed, there is no guarantee a provisional ballot will be accepted.

(h) The requirements for identification prescribed by
Subsection (b) do not apply to a voter who:

1. presents the voter's voter registration certificate on offering to vote; and
2. was 70 years of age or older on January 1, 2012, as indicated by the date of birth on the voter's voter registration certificate.

SECTION 8. Subsection (a), Section 63.0011, Election Code, is amended to read as follows:

(a) Before a voter may be accepted for voting, an election officer shall ask the voter if the voter's residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county. If the voter's address is omitted from the precinct list under Section 18.005(c), the officer shall ask the voter if the voter's residence is listed on identification presented by the voter under Section 63.001(b) [the voter's voter registration certificate] is current and whether the voter has changed residence within the county.

SECTION 9. Chapter 63, Election Code, is amended by adding Section 63.0012 to read as follows:

Sec. 63.0012. NOTICE OF IDENTIFICATION REQUIREMENTS TO CERTAIN VOTERS. (a) An election officer shall distribute written notice of the identification that will be required to vote in elections held after January 1, 2012, and information on obtaining identification without a fee under Section 521.422, Transportation Code, to each voter who, when offering to vote, presents a form of identification that will not be sufficient for acceptance as a voter under this chapter beginning with those elections.

(b) The secretary of state shall prescribe the wording of the notice and establish guidelines for distributing the notice.

(c) This section expires September 1, 2013.

SECTION 10. Section 63.006, Election Code, is amended to read as follows:

Sec. 63.006. VOTER WITH REQUIRED DOCUMENTATION [CORRECT CERTIFICATE] WHO IS NOT ON LIST. (a) A voter who, when offering to vote, presents the documentation required under Section 63.001(b) [a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote], but whose name is not on the precinct list of registered voters, shall be accepted for voting if the voter also presents a voter registration certificate indicating that the voter is currently registered:

1. in the precinct in which the voter is offering to vote; or
2. in a different precinct from the one in which the voter is offering to vote and the voter executes an affidavit stating that the voter:

   (A)(i) is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct; or

   (ii) was a resident of the precinct in which the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar;

   (B) did not deliberately provide false information to secure registration in a precinct in which the voter does not reside; and

   (C) is voting only once in the election.

(b) After the voter is accepted, an election officer shall:
(1) indicate beside the voter's name on the poll list that the voter was accepted under this section; and
(2) if applicable, enter on the registration omissions list the precinct of the voter's registration as indicated by the voter's registration certificate.

SECTION 11. Section 63.009, Election Code, is amended to read as follows:

Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST. A [a] Except as provided by Subsection (b), a voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for provisional voting if the voter executes an affidavit in accordance with Section 63.011.

(b) If an election officer can determine from the voter registrar that the person is a registered voter of the county and the person presents proof of identification, the affidavit required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.011 in complying with that section. After the voter is accepted under this subsection, an election officer shall also indicate beside the voter's name on the poll list that the voter was accepted under this section.

SECTION 12. Section 63.0101, Election Code, is amended to read as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The following documentation is an acceptable form [as proof] of photo identification under this chapter:

(1) a driver's license or personal identification card issued to the person by the Department of Public Safety that has not [or a similar document issued to the person by an agency of another state, regardless of whether the license or card has] expired;
(2) a United States military identification card that contains the person's photograph that has not expired [form of identification containing the person's photograph that establishes the person's identity];
(3) a [birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity];
(4) United States citizenship certificate [papers] issued to the person that contains the person's photograph; or
(5) a United States passport issued to the person that has not expired[;]
(6) - - official mail addressed to the person by name from a governmental entity;
(7) - - a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or
(8) - - any other form of identification prescribed by the secretary of state.

SECTION 13. Subsections (a) and (b), Section 63.011, Election Code, are amended to read as follows:

(a) A person to whom Section 63.001(g) [63.008(b)] or 63.009 [63.009(a)] applies may cast a provisional ballot if the person executes an affidavit stating that the person:
(1) is a registered voter in the precinct in which the person seeks to vote; and
(2) is eligible to vote in the election.
(b) A form for an affidavit required by this section shall be printed on an envelope in which the provisional ballot voted by the person may be placed and must include a space for entering the identification number of the provisional ballot voted by the person and a space for an election officer to indicate whether the person presented a form of identification described by Section 63.0101. The affidavit form may include space for disclosure of any necessary information to enable the person to register to vote under Chapter 13. The secretary of state shall prescribe the form of the affidavit under this section.

SECTION 14. Subsection (b), Section 64.012, Election Code, is amended to read as follows:

(b) An offense under this section is a felony of the second [third] degree unless the person is convicted of an attempt. In that case, the offense is a state jail felony [Class A misdemeanor].

SECTION 15. Subsection (b), Section 65.054, Election Code, is amended to read as follows:

(b) A provisional ballot shall [may] be accepted [only] if the board determines that, from the information in the affidavit or contained in public records, the person is eligible to vote in the election and has not previously voted in that election and the person meets the identification requirements of Section 63.001(b) in the period prescribed under Section 65.0541.

SECTION 16. Subchapter B, Chapter 65, Election Code, is amended by adding Section 65.0541 to read as follows:

Sec. 65.0541. PRESENTATION OF IDENTIFICATION FOR CERTAIN PROVISIONAL BALLOTS. (a) A voter who is accepted for provisional voting under Section 63.011 because the voter does not meet the identification requirements of Section 63.001(b) may, not later than the sixth day after the date of the election, present proof of identification to the voter registrar for examination by the early voting ballot board.

(b) The secretary of state shall prescribe procedures as necessary to implement this section.

SECTION 17. Section 66.0241, Election Code, is amended to read as follows:

Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4 must contain:

1. the precinct list of registered voters;
2. the registration correction list;
3. the registration omissions list;
4. any statements of residence executed under Section 63.0011; and
5. any affidavits executed under Section 63.006 [63.007] or 63.011.

SECTION 18. Section 521.422, Transportation Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), the [The] fee for a personal identification certificate is:

1. $15 for a person under 60 years of age;
2. $5 for a person 60 years of age or older; and
3. $20 for a person subject to the registration requirements under Chapter 62, Code of Criminal Procedure.

(d) The department may not collect a fee for a personal identification certificate issued to a person who states that the person is obtaining the personal identification certificate for the
purpose of satisfying Section 63.001(b), Election Code, and:

(1) who is a registered voter in this state and presents a valid voter registration certificate; or

(2) who is eligible for registration under Section 13.001, Election Code, and submits a registration application to the department.

SECTION 19. Effective January 1, 2012, Sections 63.007 and 63.008, Election Code, are repealed.

SECTION 20. As soon as practicable after the effective date of this section:

(1) the secretary of state shall adopt the training standards and develop the training materials required to implement the change in law made by this Act to Section 32.111, Election Code; and

(2) the county clerk of each county shall provide a session of training under Section 32.114, Election Code, using the standards adopted and materials developed to implement the change in law made by this Act to Section 32.111, Election Code.

SECTION 21. The change in law made by this Act applies only to an offense committed on or after January 1, 2012. An offense committed before January 1, 2012, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before January 1, 2012, if any element of the offense occurs before that date.

SECTION 22. State funds disbursed under Chapter 19, Election Code, for the purpose of defraying expenses of the voter registrar's office in connection with voter registration may also be used for additional expenses related to coordinating voter registration drives or other activities designed to expand voter registration. This section expires January 1, 2013.

SECTION 23. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2012.

(b) The changes in law made by Sections 1, 3, 4, 5, 9, 20, and 22 of this Act take effect September 1, 2011.
1    AN ACT
2 relating to requirements to vote, including presenting proof of
3 identification; providing criminal penalties.
4 
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
6 
7 SECTION 1. Subchapter A, Chapter 15, Election Code, is
8 amended by adding Section 15.005 to read as follows:
9 
10 Sec. 15.005. NOTICE OF IDENTIFICATION REQUIREMENTS.
11 (a) The voter registrar of each county shall provide notice of the
12 identification requirements for voting prescribed by Chapter 63 and
13 a detailed description of those requirements with each voter
14 registration certificate issued under Section 13.142 or renewal
15 registration certificate issued under Section 14.001.
16 
17 (b) The secretary of state shall prescribe the wording of
18 the notice to be included on the certificate under this section.
19 
20 SECTION 2. Subsection (a), Section 15.022, Election Code,
21 is amended to read as follows:
22 
23 (a) The registrar shall make the appropriate corrections in
24 the registration records, including, if necessary, deleting a
25 voter's name from the suspense list:
26 (1) after receipt of a notice of a change in
27 registration information under Section 15.021;
28 (2) after receipt of a voter's reply to a notice of
29 investigation given under Section 16.033;
30 (3) after receipt of a registration omissions list and
any affidavits executed under Section 63.006 [63.007], following an election;

(4) after receipt of a voter's statement of residence executed under Section 63.0011;

(5) before the effective date of the abolishment of a county election precinct or a change in its boundary;

(6) after receipt of United States Postal Service information indicating an address reclassification;

(7) after receipt of a voter's response under Section 15.053; or

(8) after receipt of a registration application or change of address under Chapter 20.

SECTION 3. Subchapter A, Chapter 31, Election Code, is amended by adding Section 31.012 to read as follows:

Sec. 31.012. VOTER IDENTIFICATION EDUCATION. (a) The secretary of state and the voter registrar of each county that maintains a website shall provide notice of the identification requirements for voting prescribed by Chapter 63 on each entity's respective website. The secretary of state shall prescribe the wording of the notice to be included on the websites.

(b) The secretary of state shall conduct a statewide effort to educate voters regarding the identification requirements for voting prescribed by Chapter 63.

SECTION 4. Section 32.111, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The training standards adopted under Subsection (a) must include provisions on the acceptance and handling of the
any affidavits executed under Section 63.006 [63.007], following an
election;

(4) after receipt of a voter's statement of residence
executed under Section 63.0011;

(5) before the effective date of the abolishment of a
county election precinct or a change in its boundary;

(6) after receipt of United States Postal Service
information indicating an address reclassification;

(7) after receipt of a voter's response under Section
15.053; or

(8) after receipt of a registration application or
change of address under Chapter 20.

SECTION 3. Subchapter A, Chapter 31, Election Code, is
amended by adding Section 31.012 to read as follows:

Sec. 31.012. VOTER IDENTIFICATION EDUCATION. (a) The
secretary of state and the voter registrar of each county that
maintains a website shall provide notice of the identification
requirements for voting prescribed by Chapter 63 on each entity's
respective website. The secretary of state shall prescribe the
wording of the notice to be included on the websites.

(b) The secretary of state shall conduct a statewide effort
to educate voters regarding the identification requirements for
voting prescribed by Chapter 63.

SECTION 4. Section 32.111, Election Code, is amended by
adding Subsection (c) to read as follows:

(c) The training standards adopted under Subsection (a)
must include provisions on the acceptance and handling of the
identification presented by a voter to an election officer under Section 63.001.

SECTION 5. Subsection (a), Section 32.114, Election Code, is amended to read as follows:

(a) The county clerk shall provide one or more sessions of training using the standardized training program and materials developed and provided by the secretary of state under Section 32.111 for the election judges and clerks appointed to serve in elections ordered by the governor or a county authority. Each election judge shall complete the training program. Each election clerk shall complete the part of the training program relating to the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001.

SECTION 6. Chapter 62, Election Code, is amended by adding Section 62.016 to read as follows:

Sec. 62.016. NOTICE OF ACCEPTABLE IDENTIFICATION OUTSIDE POLLING PLACES. The presiding judge shall post in a prominent place on the outside of each polling location a list of the acceptable forms of identification. The notice and list must be printed using a font that is at least 24-point.

SECTION 7. Section 63.001, Election Code, is amended by amending Subsections (b), (c), (d), and (f) and adding Subsections (g) and (h) to read as follows:

(b) Except as provided by Subsection (h), on [on] offering to vote, a voter must present to an election officer at the polling place one form of identification listed in Section 63.0101 [the voter's voter registration certificate to an election officer at the
the polling place].

(c) On presentation of the documentation required by Subsection (b), an election officer shall determine whether the voter's name on the documentation [registration certificate] is on the list of registered voters for the precinct.

(d) If the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the documentation presented under Subsection (b), the voter shall be accepted for voting.

(f) After determining whether to accept a voter, an election officer shall return the voter's documentation [registration certificate] to the voter.

(g) If the requirements for identification prescribed by Subsection (b) are not met, the voter may be accepted for provisional voting only under Section 63.011. For a voter who is not accepted for voting under this section, an election officer shall:

(1) inform the voter of the voter's right to cast a provisional ballot under Section 63.011; and

(2) provide the voter with written information, in a form prescribed by the secretary of state, that:

(A) lists the requirements for identification;

(B) states the procedure for presenting identification under Section 65.0541;

(C) includes a map showing the location where identification must be presented; and
(D) includes notice that even if all procedures are followed, there is no guarantee a provisional ballot will be accepted.

(h) The requirements for identification prescribed by Subsection (b) do not apply to a voter who:

(1) presents the voter's voter registration certificate on offering to vote; and

(2) was 70 years of age or older on January 1, 2012, as indicated by the date of birth on the voter's voter registration certificate.

SECTION 8. Subsection (a), Section 63.0011, Election Code, is amended to read as follows:

(a) Before a voter may be accepted for voting, an election officer shall ask the voter if the voter's residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county. If the voter's address is omitted from the precinct list under Section 18.005(c), the officer shall ask the voter if the voter's residence, if listed, on identification presented by the voter under Section 63.001(b) [the voter's voter registration certificate] is current and whether the voter has changed residence within the county.

SECTION 9. Chapter 63, Election Code, is amended by adding Section 63.0012 to read as follows:

Sec. 63.0012. NOTICE OF IDENTIFICATION REQUIREMENTS TO CERTAIN VOTERS. (a) An election officer shall distribute written notice of the identification that will be required to vote in elections held after January 1, 2012, and information on obtaining
B No. ____

identification without a fee under Section 521.422, Transportation Code, to each voter who, when offering to vote, presents a form of identification that will not be sufficient for acceptance as a voter under this chapter beginning with those elections.

(b) The secretary of state shall prescribe the wording of the notice and establish guidelines for distributing the notice.

(c) This section expires September 1, 2013.

SECTION 10. Section 63.006, Election Code, is amended to read as follows:

Sec. 63.006. VOTER WITH REQUIRED DOCUMENTATION [CORRECT CERTIFICATE] WHO IS NOT ON LIST. (a) A voter who, when offering to vote, presents the documentation required under Section 63.001(b) [a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote], but whose name is not on the precinct list of registered voters, shall be accepted for voting if the voter also presents a voter registration certificate indicating that the voter is currently registered:

(1) in the precinct in which the voter is offering to vote; or

(2) in a different precinct from the one in which the voter is offering to vote and the voter executes an affidavit stating that the voter:

(A)(i) is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct; or

(ii) was a resident of the precinct in which
B. No. 

the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar; 

(B) did not deliberately provide false information to secure registration in a precinct in which the voter does not reside; and 

(C) is voting only once in the election. 

(b) After the voter is accepted, an election officer shall: 

(1) indicate beside the voter's name on the poll list that the voter was accepted under this section; and 

(2) if applicable, enter on the registration omissions list the precinct of the voter's registration as indicated by the voter's registration certificate. 

SECTION 11. Section 63.009, Election Code, is amended to read as follows: 

Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST. 

A [4a] Except as provided by Subsection (b), a voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for provisional voting if the voter executes an affidavit in accordance with Section 63.011. 

[b] If an election officer can determine from the voter registrar that the person is a registered voter of the county and the person presents proof of identification, the affidavit required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.011 in complying with that section. After the voter is accepted under this subsection, an
SECTION 12. Section 63.0101, Election Code, is amended to read as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The following documentation is an acceptable form of proof of photo identification under this chapter:

(1) a driver's license or personal identification card issued to the person by the Department of Public Safety that has not expired;

(2) a United States military identification card that contains the person's photograph that has not expired [form of identification containing the person's photograph that establishes the person's identity];

(3) a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;

(4) United States citizenship certificate [papers] issued to the person that contains the person's photograph; or

(5) a United States passport issued to the person that has not expired;

(6) official mail addressed to the person by name from a governmental entity;

(7) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or
B No. ______

[(8)] any other form of identification prescribed by
the secretary of state].

SECTION 13. Subsections (a) and (b), Section 63.011,
Election Code, are amended to read as follows:

(a) A person to whom Section 63.001(g) [63.008(b)] or 63.009
[63.009(a)] applies may cast a provisional ballot if the person
executes an affidavit stating that the person:

(1) is a registered voter in the precinct in which the
person seeks to vote; and

(2) is eligible to vote in the election.

(b) A form for an affidavit required by this section shall
be printed on an envelope in which the provisional ballot voted by
the person may be placed and must include a space for entering the
identification number of the provisional ballot voted by the person
and a space for an election officer to indicate whether the person
presented a form of identification described by Section 63.0101.
The affidavit form may include space for disclosure of any
necessary information to enable the person to register to vote
under Chapter 13. The secretary of state shall prescribe the form
of the affidavit under this section.

SECTION 14. Subsection (b), Section 64.012, Election Code,
is amended to read as follows:

(b) An offense under this section is a felony of the second
[third] degree unless the person is convicted of an attempt. In
that case, the offense is a state jail felony [Class A misdemeanor].

SECTION 15. Subsection (b), Section 65.054, Election Code,
is amended to read as follows:

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(b) A provisional ballot shall [may] be accepted [only] if the board determines that, from the information in the affidavit or contained in public records, the person is eligible to vote in the election and has not previously voted in that election and the person meets the identification requirements of Section 63.001(b) in the period prescribed under Section 65.0541.

SECTION 16. Subchapter B, Chapter 65, Election Code, is amended by adding Section 65.0541 to read as follows:

Sec. 65.0541. PRESENTATION OF IDENTIFICATION FOR CERTAIN PROVISIONAL BALLOTS. (a) A voter who is accepted for provisional voting under Section 63.011 because the voter does not meet the identification requirements of Section 63.001(b) may, not later than the sixth day after the date of the election, present proof of identification to the voter registrar for examination by the early voting ballot board.

(b) The secretary of state shall prescribe procedures as necessary to implement this section.

SECTION 17. Section 66.0241, Election Code, is amended to read as follows:

Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4 must contain:

1. the precinct list of registered voters;
2. the registration correction list;
3. the registration omissions list;
4. any statements of residence executed under Section 63.0011; and
5. any affidavits executed under Section 63.006.
SECTION 18. Section 521.422, Transportation Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), the fee for a personal identification certificate is:

(1) $15 for a person under 60 years of age;
(2) $5 for a person 60 years of age or older; and
(3) $20 for a person subject to the registration requirements under Chapter 62, Code of Criminal Procedure.

(d) The department may not collect a fee for a personal identification certificate issued to a person who states that the person is obtaining the personal identification certificate for the purpose of satisfying Section 63.001(b), Election Code, and:

(1) who is a registered voter in this state and presents a valid voter registration certificate; or
(2) who is eligible for registration under Section 13.001, Election Code, and submits a registration application to the department.

SECTION 19. Effective January 1, 2012, Sections 63.007 and 63.008, Election Code, are repealed.

SECTION 20. As soon as practicable after the effective date of this section:

(1) the secretary of state shall adopt the training standards and develop the training materials required to implement the change in law made by this Act to Section 32.111, Election Code; and

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(2) the county clerk of each county shall provide a
session of training under Section 32.114, Election Code, using the
standards adopted and materials developed to implement the change
in law made by this Act to Section 32.111, Election Code.

SECTION 21. The change in law made by this Act applies only
to an offense committed on or after January 1, 2012. An offense
committed before January 1, 2012, is covered by the law in effect
when the offense was committed, and the former law is continued in
effect for that purpose. For purposes of this section, an offense
is committed before January 1, 2012, if any element of the offense
occurs before that date.

SECTION 22. State funds disbursed under Chapter 19,
Election Code, for the purpose of defraying expenses of the voter
registrar’s office in connection with voter registration may also
be used for additional expenses related to coordinating voter
registration drives or other activities designed to expand voter
registration. This section expires January 1, 2013.

SECTION 23. (a) Except as provided by Subsection (b) of
this section, this Act takes effect January 1, 2012.

(b) The changes in law made by Sections 1, 3, 4, 5, 9, 20,
and 22 of this Act take effect September 1, 2011.
BILL ANALYSIS

Senate Research Center

S.B. 14
By: Fraser et al.
Committee of the Whole
1/21/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, to vote a regular ballot, voters are only required to present a voter registration certificate to a poll worker. While this practice attempts to ensure that only registered voters receive a regular ballot on Election Day, it leaves a potential loophole for fraud. With the current process, no statutory standards exist to verify the identity of individuals at the polling place when they present a voter registration certificate. On Election Day, an election judge must accept a voter if a voter registration certificate is valid, even if the judge suspects that the voter is not the person listed on the certificate.

As proposed, S.B. 14 amends current law relating to requirements to vote, including presenting proof of identification, and provides criminal penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 15, Election Code, by adding Section 15.005, as follows:

Sec. 15.005. NOTICE OF IDENTIFICATION REQUIREMENTS. (a) Requires the voter registrar of each county (registrar) to provide notice of the identification requirements for voting prescribed by Chapter 63 (Accepting Voter) and a detailed description of those requirements with each voter registration certificate issued under Section 13.142 (Initial Registration Certificate) or renewal registration certificate issued under Section 14.001 (Renewal Registration Certificate).

(b) Requires the secretary of state to prescribe the wording of the notice to be included on the certificate under this section.

SECTION 2. Amends Section 15.022(a), Election Code, as follows:

(a) Requires the registrar to make the appropriate corrections in the registration records, including, if necessary, deleting a voter's name from the suspense list:

(1) after receipt of a notice of a change in registration information under Section 15.021 (Notice Of Change In Registration Information By Voter);

(2) after receipt of a voter's reply to a notice of investigation given under Section 16.033 (Cancellation Following Investigation By Registrar);

(3) after receipt of a registration omissions list and any affidavits executed under Section 63.006 (Voter With Correct Certificate Who Is Not On List), rather than Section 63.007 (Voter With Incorrect Certificate Who Is Not On List), following an election;
(4) after receipt of a voter's statement of residence executed under Section 63.0011 (Statement Of Residence Required);

(5) before the effective date of the abolishment of a county election precinct or a change in its boundary;

(6) after receipt of United States Postal Service information indicating an address reclassification;

(7) after receipt of a voter's response under Section 15.053 (Response To Confirmation Notice); or

(8) after receipt of a registration application or change of address under Chapter 20 (Voter Registration Agencies).

SECTION 3. Amends Subchapter A, Chapter 31, Election Code, by adding Section 31.012, as follows:

Sec. 31.012. VOTER IDENTIFICATION EDUCATION. (a) Requires the secretary of state and the registrar of each county that maintains a website to provide notice of the identification requirements for voting prescribed by Chapter 63 on each entity's respective website. Requires the secretary of state to prescribe the wording of the notice to be included on the websites.

(b) Requires the secretary of state to conduct a statewide effort to educate voters regarding the identification requirements for voting prescribed by Chapter 63.

SECTION 4. Amends Section 32.111, Election Code, by adding Subsection (c), as follows:

(c) Requires that the training standards adopted under Subsection (a) (relating to a requirement that the secretary of state adopt standards of training in election law and procedure for presiding or alternate election judges, develop materials for a standardized curriculum for that training, and distribute the materials to certain entities that hold certain elections) include provisions on the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001 (Regular Procedure For Accepting Voter).

SECTION 5. Amends Section 32.114(a), Election Code, to require each election clerk to complete the part of the training program relating to the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001.

SECTION 6. Amends Chapter 62, Election Code, by adding Section 62.016, as follows:

Sec. 62.016. NOTICE OF ACCEPTABLE IDENTIFICATION OUTSIDE POLLING PLACES. Requires the presiding judge to post in a prominent place on the outside of each polling location a list of the acceptable forms of identification. Requires that the notice and list be printed using a font that is at least 24-point.

SECTION 7. Amends Section 63.001, Election Code, by amending Subsections (b), (c), (d), and (f) and adding Subsections (g) and (h), as follows:

(b) Requires a voter, except as provided by Subsection (h), on offering to vote, to present to an election officer at the polling place one form of identification listed in Section 63.0101 (Documentation Of Proof Of Identification), rather than the voter's voter registration certificate.

(c) Requires an election officer, on presentation of the documentation required by Subsection (b), rather than on presentation of a registration certificate, to determine whether the voter's name on the documentation, rather than on the registration certificate, is on the list of registered voters for the precinct.
(d) Requires that the voter be accepted for voting, if the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the documentation presented under Subsection (b).

(f) Requires an election officer, after determining whether to accept a voter, to return the voter's documentation, rather than the voter's registration certificate, to the voter.

(g) Provides that if the requirements for identification prescribed by Subsection (b) are not met, the voter may be accepted for provisional voting only under Section 63.011 (Provisional Voting). Requires an election officer, for a voter who is not accepted for voting under this section, to:

(1) inform the voter of the voter's right to cast a provisional ballot under Section 63.011; and

(2) provide the voter with written information, in a form prescribed by the secretary of state, that:

(A) lists the requirements for identification;

(B) states the procedure for presenting identification under Section 65.0541;

(C) includes a map showing the location where identification must be presented; and

(D) includes notice that even if all procedures are followed, there is no guarantee a provisional ballot will be accepted.

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

SECTION 8. Amends Section 63.0011(a), Election Code, to require the election officer, if the voter's address is omitted from the precinct list under Section 18.005(c) (relating to the exclusion, under certain conditions, from the original or supplemental list of registered voters the residence address of a voter who is a federal judge, a state judge, or the spouse of a federal judge or state judge), to ask the voter if the voter's residence, if listed on identification presented by the voter under Section 63.001(b), rather than as listed on the voter's voter registration certificate, is current and whether the voter has changed residence within the county.

SECTION 9. Amends Chapter 63, Election Code, by adding Section 63.0012, as follows:

Sec. 63.0012. NOTICE OF IDENTIFICATION REQUIREMENTS TO CERTAIN VOTERS. (a) Requires an election officer to distribute written notice of the identification that will be required to vote in elections held after January 1, 2012, and information on obtaining identification without a fee under Section 521.422 (Personal Identification Certificate Fee), Transportation Code, to each voter who, when offering to vote, presents a form of identification that will not be sufficient for acceptance as a voter under this chapter beginning with those elections.

(b) Requires the secretary of state to prescribe the wording of the notice and establish guidelines for distributing the notice.

(c) Provides that this section expires on September 1, 2013.

SECTION 10. Amends Section 63.006, Election Code, as follows:
Sec. 63.006. New heading: VOTER WITH REQUIRED DOCUMENTATION WHO IS NOT ON LIST. (a) Requires that a voter who, when offering to vote, presents the documentation required under Section 63.001(b), rather than presents a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote, but whose name is not on the precinct list of registered voters, be accepted for voting if the voter also presents a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote, or in a different precinct from the one in which the voter is offering to vote, and the voter executes an affidavit stating that the voter is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct or was a resident of the precinct in which the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar did not deliberately provide false information to secure registration in a precinct in which the voter does not reside, and is voting only once in the election.

(b) Requires an election officer, after the voter is accepted, to indicate beside the voter's name on the poll list that the voter was accepted under this section and, if applicable, enter on the registration omissions list the precinct of the voter's registration as indicated by the voter's registration certificate.

SECTION 11. Amends Section 63.009, Election Code, as follows:

Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST. Deletes the existing designation of Subsection (a). Requires that a voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, be accepted for provisional voting if the voter executes an affidavit in accordance with Section 63.011, and deletes an exception under existing Subsection (b). Deletes existing Subsection (b) providing that, if an election officer can determine from the voter registrar that the person is a registered voter of the county and the person presents proof of identification, the affidavits required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.011 in complying with that section, and requiring an election officer, after the voter is accepted under this subsection, to also indicate beside the voter's name on the poll list that the voter was accepted under this section.

SECTION 12. Amends Section 63.0101, Election Code, as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. Provides that the following documentation is an acceptable form of photo identification under this chapter: a driver's license or personal identification card issued to the person by the Department of Public Safety (DPS) that has not expired; a United States military identification card that contains the person's photograph that has not expired; a United States citizenship certificate issued to the person that contains the person's photograph; or a United States passport issued to the person that has not expired. Deletes existing text providing that the following documentation is acceptable as proof of identification under this chapter: a driver's license or personal identification card issued to the person by the DPS or a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired; a form of identification containing the person's photograph that establishes the person's identity; a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity; United States citizenship papers issued to the person; a United States passport issued to the person; official mail addressed to the person by name from a governmental entity; a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or any other form of identification prescribed by the secretary of state.

SECTION 13. Amends Sections 63.011(a) and (b), Election Code, as follows:

(a) Authorizes a person to whom Section 63.001(g) or 63.009, rather than Section 63.008(b) or 63.009(a), applies to cast a provisional ballot if the person executes an
affidavit stating that the person is a registered voter in the precinct in which the person seeks to vote and is eligible to vote in the election.

(b) Requires that a form for an affidavit required by this section be printed on an envelope in which the provisional ballot voted by the person may be placed and include a space for entering the identification number of the provisional ballot voted by the person and a space for an election officer to indicate whether the person presented a form of identification described by Section 63.0101.

SECTION 14. Amends Section 64.012(b), Election Code, to provide that an offense under this section is a felony of the second, rather than third, degree unless the person is convicted of an attempt. Provides that in that case, the offense is a state jail felony, rather than a Class A misdemeanor.

SECTION 15. Amends Section 65.054(b), Election Code, to require, rather than authorize, that a provisional ballot be accepted if the early voting ballot board (board) determines, rather than only if the board determines, that from the information in the affidavit or contained in public records, the person is eligible to vote in the election and has not previously voted in that election and the person meets the identification requirements of Section 63.001(b) in the period prescribed under Section 65.0541.

SECTION 16. Amends Subchapter B, Chapter 65, Election Code, by adding Section 65.0541, as follows:

Sec. 65.0541. PRESENTATION OF IDENTIFICATION FOR CERTAIN PROVISIONAL BALLOTS. (a) Authorizes a voter who is accepted for provisional voting under Section 63.011 because the voter does not meet the identification requirements of Section 63.001(b) to, not later than the sixth day after the date of the election, present proof of identification to the voter registrar for examination by the board.

(b) Requires the secretary of state to prescribe procedures as necessary to implement this section.

SECTION 17. Amends Section 66.0241, Election Code, to require that Envelope no. 4 contain the precinct list of registered voters, the registration correction list, the registration omissions list, any statements of residence executed under Section 63.0011, and any affidavits executed under Section 63.006 or 63.011, rather than Section 63.007 or 63.011.

SECTION 18. Amends Section 521.422, Transportation Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Provides that the fee for a personal identification certificate, except as provided under Subsection (d), is $15 for a person under 60 years of age, $5 for a person 60 years of age or older, and $20 for a person subject to the registration requirements under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure.

(d) Prohibits DPS from collecting a fee for a personal identification certificate issued to a person who states that the person is obtaining the personal identification certificate for the purpose of satisfying Section 63.001(b), Election Code, and who is a registered voter in this state and presents a valid voter registration certificate, or who is eligible for registration under Section 13.001 (Eligibility For Registration), Election Code, and submits a registration application to DPS.


SECTION 20. Requires the secretary of state, as soon as practicable after the effective date of this section, to adopt the training standards and develop the training materials required to
implement the change in law made by this Act to Section 32.111 (Training Standards For Election Judges), Election Code. Requires the county clerk of each county, as soon as practicable after the effective date of this section, to provide a session of training under Section 32.114 (Public County Training Program), Election Code, using the standards adopted and materials developed to implement the change in law made by this Act to Section 32.111, Election Code.

SECTION 21. Provides that the change in law made by this Act applies only to an offense committed on or after January 1, 2012. Provides that an offense committed before January 1, 2012, is covered by the law in effect when the offense was committed and the former law is continued in effect for that purpose. Provides that for purposes of this section, an offense is committed before January 1, 2012, if any element of the offense occurs before that date.

SECTION 22. Authorizes state funds disbursed under Chapter 19 (Financing Voter Registration), Election Code, for the purpose of defraying expenses of the voter registrar's office in connection with voter registration to also be used for additional expenses related to coordinating voter registration drives or other activities designed to expand voter registration. Provides that this section expires January 1, 2013.

SECTION 23. (a) Effective date, except as provided by Subsection (b) of this section: January 1, 2012.

(b) Effective date, for the changes in law made by Sections 1, 3, 4, 5, 9, 20, and 22 of this Act: September 1, 2011.
TO: Honorable Robert Duncan, Chair, Senate Committee of the Whole Senate

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: SB14 by Fraser (Relating to requirements to vote, including presenting proof of identification; providing criminal penalties.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for SB14, As Introduced: a negative impact of ($2,000,000) through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</th>
</tr>
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<tr>
<td>2012</td>
<td>($2,000,000)</td>
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<tr>
<td>2013</td>
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<td>2014</td>
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<td>2015</td>
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All Funds, Five-Year Impact:

<table>
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<tr>
<th>Fiscal Year</th>
<th>Probable Savings/(Cost) from General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>($2,000,000)</td>
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<tr>
<td>2013</td>
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<td>2014</td>
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<tr>
<td>2015</td>
<td>$0</td>
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<tr>
<td>2016</td>
<td>$0</td>
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</tbody>
</table>

Fiscal Analysis

The bill would require the voter registrar of each county to provide a notice of identification requirements for voting with each initial voter registration certificate or renewal registration certificate issued. The Secretary of State (SOS) and the voter registrar of each county that maintains a website would be required to post on their websites a notice of the identification requirements. SOS would be required to prescribe the wording of these notices. SOS would also be required to establish a statewide effort to educate voters regarding the identification requirements for voting.

The bill would require training standards to include instructions on the acceptance and handling of the identification presented by a voter to an election officer and each election clerk would be required to complete this training.

The presiding judge at each polling place would be required to post in a prominent location outside of the
The Secretary of State would be required to prescribe the wording for written notifications of the identification requirements to vote in elections after January 1, 2012 and election officers would be required to provide this written notification of voting identification requirements to voters who do not meet identification requirements.

The Department of Public Safety (DPS) would be prohibited from collecting a fee for a personal identification certificate issued to a person who states that they are obtaining the personal identification certificate to meet voting identification requirements and that person meets certain other voter registration criteria.

The bill would change an offense under this section after January 1, 2012 to a second degree felony from a third degree felony unless the person is convicted of an attempt, in which case, the offense would be a state jail felony instead of a Class A misdemeanor.

The Secretary of State would be required to prescribe procedures for voters who provisionally vote without proper identification to present proof of identification to the voter registrar not later than the sixth day after the date of the election.

The bill would repeal Sections 63.007 and 63.008 of the Election Code related to voters with incorrect certificates who are not on the voter list and voters without certificates who are not on the voter list.

The Secretary of State (SOS) would be required to adopt the training standards and to develop training materials as soon as practicable after September 1, 2011. Each county clerk would be required to provide a session of training using the standards adopted by and the materials developed by SOS as soon as practicable as well.

The bill would expand the uses of state funds disbursed under Chapter 19 of the Election Code to include additional expenses related to coordinating voter registration drives or other activities designed to expand voter registration. This section would expire January 1, 2013.

Sections 1, 3, 4, 5, 9, 20, and 22 pertaining to providing notice of voter identification requirements, providing voter identification training, providing voter education to the public, and expanding the uses of voter registration funds would be effective September 1, 2011. The rest of the bill would be effective January 1, 2012.

**Methodology**

The total fiscal impact of the bill is estimated to be $2 million for fiscal year 2012 out of the General Revenue Fund. This estimate includes $0.5 million to research and develop ways to inform the public of the new identification requirements. Additional costs are estimated to be $1.5 million for media advertisements: television ($750,000), radio ($300,000), print ($300,000), and internet ($150,000).

The Secretary of State would also be required to prescribe the wording for voter identification requirement notifications and to develop training materials on voter identification requirements. It is assumed that any fiscal implication associated with these responsibilities could be absorbed within existing resources.

The fiscal impact of expanding the uses of funds disbursed under Chapter 19 of the Election Code to include coordinating voter registration drives or other activities designed to expand voter registration is unknown because it is not known how many voter registration drives or other activities designed to expand voter registration would occur.

The fiscal impact of the revenue loss from the prohibition of DPS to collect a fee for a personal identification certificate issued to a person seeking the certificate for the purpose of voting is unknown because it is not known how many people would make a request for a personal identification certificate for voting.

**Local Government Impact**

The bill would require counties to notify registered voters of changes online if the county maintains a website at polling locations, and included with voter registration certificates. Election clerks would be required to undergo training regarding accepted forms of voter identification.

According to Texas Association of Counties (TAC), Tarrant County anticipated a one-time cost to reprint provisional balloting materials and provide new notices ($8,000); Bexar County stated that due to limited space on current registration certificates, larger cards would be necessary resulting in additional costs for cards,
printing and postage ($381,256); however, Comal County reported the costs associated with the provisions of the bill could be absorbed within existing resources.

**Source Agencies:** 304 Comptroller of Public Accounts, 307 Secretary of State, 405 Department of Public Safety

**LBB Staff:** JOB, SD, MS, BTA
TO: Honorable Robert Duncan, Chair, Senate Committee of the Whole Senate

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: SB14 by Fraser (Relating to requirements to vote, including presenting proof of identification; providing criminal penalties.), As Introduced

The bill would amend the Elections Code as it relates to requirements to vote. The provisions of the bill that create new punishment or enhance existing punishment for criminal offenses are the subject of this analysis. Under the provisions of the bill, the punishment for attempting to vote illegally would be enhanced from a Class A Misdemeanor to a State Jail Felony and the punishment for illegal voting would be enhanced from a third degree felony to a second degree felony.

A Class A Misdemeanor is punishable by confinement in a county jail for any term of not more than one year, or, in addition to confinement, a fine not to exceed $4,000.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed $10,000.

A felony of the third degree is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed $10,000.

A felony of the second degree is punishable by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years, or, in addition to confinement, a fine not to exceed $10,000.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or longer terms of confinement in county jails or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement of convicted offenders from the counties to the State. In fiscal year 2010, less than five offenders were admitted to prison and less than five offenders were released from prison for illegal voting. In fiscal year 2010, less than five people were under parole supervision for illegal voting. In fiscal year 2010, five offenders were placed on community supervision and less than five offenders were released from community supervision for illegal voting or attempting to vote illegally. In fiscal year 2010, less than five people were arrested for illegal voting or attempting to vote illegally. It is assumed the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of State corrections agencies or on the demand for resources and services of those agencies.

Source Agencies:
LBB Staff: JOB, GG, LM, ADM, ESi
TO: Honorable Robert Duncan, Chair, Senate Committee on Committee of the Whole Senate

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The bill would amend the Elections Code as it relates to requirements to vote. The provisions of the bill that create new punishment or enhance existing punishment for criminal offenses are the subject of this analysis. Under the provisions of the bill, the punishment for attempting to vote illegally would be enhanced from a Class A Misdemeanor to a State Jail Felony and the punishment for illegal voting would be enhanced from a third degree felony to a second degree felony.

A Class A Misdemeanor is punishable by confinement in a county jail for any term of not more than one year, or, in addition to confinement, a fine not to exceed $4,000.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed $10,000.

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Source Agencies:
LBB Staff: JOB, GG, LM, ADM, ESi
SENATE
NOTICE OF PUBLIC HEARING

COMMITTEE: Committee of the Whole Senate
TIME & DATE: 1:30 PM, Monday, January 24, 2011
PLACE: Senate Chamber

**PLEASE NOTE THAT THE SENATE WILL CONVENE AT 1:30 P.M.

Upon adoption of the appropriate motion, the Senate will resolve into the Committee of the Whole Senate to consider the following:

SB 14 Fraser/et al.
Relating to requirements to vote, including presenting proof of identification; providing criminal penalties.

The Committee will hear invited testimony only on SB 14.

The public is invited to observe the proceedings of the Committee from the Senate Gallery on the 3rd Floor.

For any questions regarding the hearing, please contact Patsy Spaw (512) 463-0100.
The Senate met at 1:38 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Hegar.

The President announced that a quorum of the Senate was present.

Chaplain Steven Vaughn, Texas Army National Guard, offered the invocation as follows:

I will say of the Lord, He is my refuge and my fortress, my God, in whom I trust. (Psalm 91:2) Father, today we pause to honor a group of men and women who by their very sacrifice have set themselves apart from all others. We cannot bestow more honor and dignity upon them than they themselves have already earned, but we can say "thank you." We can and do ask Your hand of mercy and love be around them. For those still recovering we ask that You give the doctors the wisdom needed to assist these patriots in their recovery process. We ask also for their families that will walk this road alongside them. Grant them the wisdom and strength to be a pillar of support and love as their loved one makes his or her journey. Now, Father, we humbly ask Your blessings upon our country and our service members currently serving in harm's way. We ask that they might soon be returned to their loved ones. We ask in Your blessed and holy name. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of the previous day be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.
LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Hegar was granted leave of absence for today on account of illness.

RESOLUTION SIGNED

The President announced the signing of the following enrolled resolution in the presence of the Senate: SCR 6.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time, and referred to the committees indicated:

SB 1 by Ogden
General Appropriations Bill.
To Committee on Finance.

SB 14 by Fraser, Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams
Relating to requirements to vote, including presenting proof of identification; providing criminal penalties.
To Committee of the Whole Senate.

MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were filed with the Secretary of the Senate:

Austin, Texas
January 20, 2011

STATE OF TEXAS
OFFICE OF THE GOVERNOR

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTY-SECOND TEXAS LEGISLATURE, REGULAR SESSION:

I, RICK PERRY, Governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matter for immediate consideration to the Senate and House of Representatives of the 82nd Legislature, now convened:

Legislation that requires a voter to present proof of identification when voting.

Respectfully submitted,

/s/Rick Perry
Governor

Austin, Texas
January 20, 2011

STATE OF TEXAS
OFFICE OF THE GOVERNOR

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTY-SECOND TEXAS LEGISLATURE, REGULAR SESSION:
I, RICK PERRY, Governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matter for immediate consideration to the Senate and House of Representatives of the 82nd Legislature, now convened:

Legislation that will provide for a federal balanced budget amendment to the United States Constitution.

Respectfully submitted,

/s/Rick Perry
Governor
Austin, Texas
January 21, 2011

STATE OF TEXAS
OFFICE OF THE GOVERNOR

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTY-SECOND TEXAS LEGISLATURE, REGULAR SESSION:

I, RICK PERRY, Governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matter for immediate consideration to the Senate and House of Representatives of the 82nd Legislature, now convened:

Legislation that requires a sonogram before a woman elects to have an abortion so that she may be fully medically informed.

Respectfully submitted,

/s/Rick Perry
Governor

SENATE RESOLUTION 31

Senator Uresti offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join the citizens of Real County and Texans across the state in celebrating Real County Day at the State Capitol on January 24, 2011; and

WHEREAS, Real County was established in 1913 from parts of Edwards, Bandera, and Kerr Counties, and it was named for Julius Real, the only Republican in the Texas Senate at that time; and

WHEREAS, Situated on the Balcones Escarpment, on the southern edge of the Edwards Plateau, Real County is marked by the rugged terrain and scenic canyons of the Frio and Nueces Rivers; and

WHEREAS, Anglo-American settlers first came to the area in the 1850s, and the military post Camp Wood was established in 1857; ranching soon came to dominate the local economy, with the raising of angora goats and sheep playing a major role; and
WHEREAS, Today ranching continues to play a vital role in the economy of Real County, with tourism and hunting also contributing greatly to its prosperity; the county is also known for its pecans; Leakey, the county seat, annually hosts the July Jubilee; and

WHEREAS, Real County Day at the Capitol is an excellent opportunity to celebrate the history and the fine qualities of this area; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby commend the people of Real County on their many contributions to the rich historical legacy of our state and extend to them best wishes for a memorable Real County Day at the State Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for them as an expression of esteem from the Texas Senate.

SR 31 was read and was adopted without objection.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate Garry Merritt, Real County Judge; Charles Reagor, Trustee of Leakey ISD; Carl Jensen, Leakey City Councilmember; Charles Hunger, Trustee of Nueces Canyon Consolidated ISD; and Karen Dean, City of Camp Wood.

The Senate welcomed its guests.

PHYSICIANS OF THE DAY

Senator Watson was recognized and presented Drs. John and Judith Egerton of Austin as the Physicians of the Day.

The Senate welcomed the Egertons and thanked them for their participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate members of the Mariachi Los Tigres del Sur of Martin High School in Laredo.

The Senate welcomed its guests.

SENATE RESOLUTION 53

Senator Van de Putte offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize and pay tribute to the members of the United States military who have so honorably served our great nation and state in the armed services and join all Texans in observing January 24, 2011, as Wounded Warrior Day at the Texas State Capitol; and

WHEREAS, The soldiers, sailors, airmen, and Marines of the United States military and their families have made extraordinary sacrifices to serve our nation both abroad and within our own borders; and

WHEREAS, Of the 253,049 members of the United States military who are currently deployed around the world, 19,413 are from Texas, and of the 42,167 service members who have been wounded since 2001 in the Iraqi Freedom, Enduring Freedom, and New Dawn Conflicts, 3,622 have been from Texas; and
WHEREAS, We are blessed to honor today the wounded warriors who have returned from these conflicts, including Major John J. Ploch, Staff Sergeant Richard Groff, Staff Sergeant Frank Lamar, Sergeant Juan Carrion, Sergeant Chris Goebel, and Private First Class Kevin Macari; without their willingness to serve and the contributions made by them and their families, we could not enjoy many of the freedoms that make this nation great; and

WHEREAS, These veterans have bravely and selflessly served in defense of our nation and its democratic ideals; with silent dedication and unmatched grit, they ensure our safety and security, and it is indeed fitting that all Texans recognize, honor, and reaffirm their gratitude to these true American heroes; and

WHEREAS, Although these veterans represent many different hometowns and backgrounds, what unites them is greater than what divides them—a deep and abiding love of their country; it is for America and all Americans that they leave their homes and their family and friends in order to guarantee the continuation of those freedoms etched into the Declaration of Independence and ensured by our Constitution; and

WHEREAS, It is for our service members’ willingness to serve to protect these freedoms that we honor them; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby commend the wounded warriors of our nation for their sacrifice, dedication, and patriotism, recognizing them, honoring them, and reaffirming the gratitude of all Texans to these true American heroes; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of the dedication and sacrifice of the men and women of the United States armed services and their families.

SR 53 was read and was adopted by a rising vote of the Senate.

GUESTS PRESENTED

Senator Van de Putte, joined by Senators Estes, Ogden, Davis, and Birdwell, was recognized and introduced to the Senate Sergeant Juan Carrion, Sergeant Chris Goebel, Staff Sergeant Frank Lamar, Private First Class Kevin Macari, and the Purple Heart Warriors present.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Wentworth was recognized and introduced to the Senate Staff Sergeant Richard Groff.

The Senate welcomed its guest.

GUEST PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Major John J. Ploch.

The Senate welcomed its guest.

GUEST PRESENTED

Senator Fraser was recognized and introduced to the Senate Staff Sergeant Floyd L. Hall.

The Senate welcomed its guest.
GUEST PRESENTED

Senator Birdwell was recognized and introduced to the Senate Lieutenant Colonel Tim Karcher of Copperas Cove.

The Senate welcomed its guest.

GUEST PRESENTED

Senator West was recognized and introduced to the Senate Chaplain Roger Benimoff of Dallas County.

The Senate welcomed its guest.

GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate Army veterans Joel Jimenez, Paul Miller, and Paul VanLinder.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Van de Putte was again recognized and introduced to the Senate T. P. O’Mahoney, Chair, Texas Veterans Commission; Tom Palladino, Executive Director, Texas Veterans Commission; and Adjutant General Jose Mayorga.

The Senate welcomed its guests.

ACKNOWLEDGMENT

Senator Whitmire acknowledged the following Senators who are veterans: Senator Birdwell, United States Army; Senator Hinojosa, United States Marines; Senator Ogden, United States Marines; and Senator Uresti, United States Marines.

ACKNOWLEDGMENT

Senator Van de Putte acknowledged Lieutenant Governor David Dewhurst, a veteran of the United States Air Force.

SENATE RESOLUTION 41

Senator Williams offered the following resolution:

SR 41, Commending Sergeant James Eddie Wright on his service to our nation.

The resolution was read and was adopted without objection.

GUEST PRESENTED

Senator Williams was recognized and introduced to the Senate Sergeant James Eddie Wright of Conroe.

The Senate welcomed its guest.

SENATE RESOLUTIONS

Senator Hinojosa offered the following resolutions:

SR 75, Commending Ram Chavez on his service to our nation.

The resolution was read.
SR 76, Commending Frank Alaniz on his service to our nation.
The resolution was read.
SR 78, Commending Roberto Callejo on his service to our nation.
The resolution was read.
SR 75, SR 76, and SR 78 were adopted without objection.

GUESTS PRESENTED

Senator Hinojosa was recognized and introduced to the Senate Ram Chavez, United States Army, and Frank Alaniz and Roberto Callejo, United States Marine Corps.

The Senate welcomed its guests.

SENATE RESOLUTION 49

Senator Davis offered the following resolution:

SR 49, Commending Master Sergeant Richard Ruffert on his service to our nation.

The resolution was read and was adopted without objection.

GUEST PRESENTED

Senator Davis was recognized and introduced to the Senate Richard Ruffert of Fort Worth, United States Army.

The Senate welcomed its guest.

SENATE RESOLUTION 69

Senator Uresti offered the following resolution:

SR 69, Commending First Sergeant Ruperto Cruz, Jr., on his service to our nation.

The resolution was read and was adopted without objection.

GUEST PRESENTED

Senator Uresti was recognized and introduced to the Senate Ruperto Cruz, Jr., United States Army, Retired, of San Antonio.

The Senate welcomed its guest.

STANDING COMMITTEE APPOINTED

The President announced the appointment of the following committee for the 82nd Legislature:

FINANCE
Ogden, Chair; Hinojosa, Vice-chair; Deuell, Duncan, Eltife, Estes, Lucio, Nelson, Patrick, Seliger, Shapiro, West, Whitmire, Williams, Zaffirini.
SENATE RESOLUTION 79

Senator Duncan offered the following resolution:

WHEREAS, Article III, Section 9, and Article IV, Section 16, of the Texas Constitution and Article XIII of the Senate Rules recognize the existence of the Committee of the Whole Senate; and

WHEREAS, Pursuant to Senate Rule 7.06, the President referred Senate Bill 14, relating to voter identification requirements, directly to the Committee of the Whole Senate; and

WHEREAS, Senate Rule 13.01 provides that it is in order for the Senate at any time after bills and resolutions have been called to resolve itself into a Committee of the Whole Senate; and

WHEREAS, The Senate may adopt by resolution specific procedures to govern the operation of the Committee of the Whole Senate during its consideration of Senate Bill 14; now, therefore, be it

RESOLVED, That the Senate resolve itself into a Committee of the Whole Senate on Monday, January 24, 2011, at the conclusion of the morning call for the consideration of Senate Bill 14; and

RESOLVED, That the Senate may meet as in Committee of the Whole Senate from day to day as necessary; and

RESOLVED, That the following procedures shall apply when in Committee of the Whole Senate for the duration of its consideration of Senate Bill 14:

1. The Committee shall afford reasonable opportunity to interested parties to appear and testify before the Committee.

2. The Chair shall require all parties appearing at the meeting to swear or affirm that the testimony they give to the Committee is true and correct.

3. The Chair may fix the order of appearance and time allotted for each witness unless a majority of the members present directs otherwise.

4. Senate Rules addressing access to the Senate Floor shall be enforced by the Chair while the Committee is meeting, except as follows:

   (a) Witnesses appearing before the committee may be admitted to the floor of the Senate as their names are called by the Chair, and may remain only until their testimony is completed.

   (b) Each Senator may be assisted by one employee of the Senate within the brass rail at any given time. The Sergeant-at-Arms shall provide seating next to a requesting senator for such authorized employees.

5. Senate Rule 3.04, relating to posters, placards, banners and signs, and Senate Rule 3.05, relating to applause, outbursts, and demonstrations, shall be strictly enforced by the Chair. Subject to approval by the Chair, witnesses may use visual aids as necessary in the presentation of their testimony.

6. Senate Rule 3.01, relating to attire, shall not apply to witnesses.
SR 79 was read and was adopted by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.


Absent-excused: Hegar.

NOTICE FILED BY LEGISLATOR CONCERNING RELATIVE WHO IS A LOBBYIST

Name of Legislator: John Whitmire

A legislator must file a notice before introducing, sponsoring, or voting on a measure or bill if the legislator's spouse, parent, or child is registered as a lobbyist with respect to the subject matter of the measure or bill. Gov't Code § 572.0531.

The notice must be filed with the Texas Ethics Commission and the chief clerk of the house or the secretary of the senate, as applicable. In addition, the spouse or relative must file a notice with the Texas Ethics Commission. A legislator uses this form to provide the notice. A spouse or relative uses FORM LOB-REL.

LOBBYIST NAME AND BILL/MEASURE INFORMATION

Name of registered lobbyist: Whitney Whitmire

Bill, measure, or class of bills or measures with respect to which this notice is required. See attached.

I give notice that I intend to introduce, sponsor, or vote on a bill or measure and my spouse, parent, or child is registered as a lobbyist under Chapter 305 of the Government Code with respect to the subject matter of the bill or measure.

/s/John Whitmire January 10, 2011

Attachment:
amusements, games, sports; business and commerce; coastal affairs and beaches; communications and press; consumer protection; corporations and associations; disaster preparedness and relief; economic and industrial development; energy; environment; fees and other non-tax revenue; gambling; health and healthcare; highways and roads; insurance; oil and gas; product liability; property interests; taxation; transportation; utilities; vehicles and traffic.

Received by Texas Ethics Commission on January 20, 2011

COMMITTEE OF THE WHOLE SENATE

On motion of Senator Duncan and by unanimous consent, the Senate at 4:18 p.m. resolved into a Committee of the Whole Senate to consider SB 14 with Senator Duncan presiding.
(Tuesday, January 25, 2011)

IN LEGISLATIVE SESSION

The President called the Senate to order at 10:44 a.m. as In Legislative Session.

COMMITTEE OF THE WHOLE SENATE REPORT

Senator Duncan was recognized and reported that the Committee of the Whole Senate had met and would continue consideration of SB 14.

CO-AUTHOR OF SENATE BILL 121

On motion of Senator Ellis, Senator Carona will be shown as Co-author of SB 121.

CO-AUTHORS OF SENATE BILL 124

On motion of Senator Patrick, Senators Carona and Nelson will be shown as Co-authors of SB 124.

CO-AUTHORS OF SENATE BILL 178

On motion of Senator Fraser, Senators Deuell, Hegar, and Nichols will be shown as Co-authors of SB 178.

CO-AUTHORS OF SENATE BILL 321

On motion of Senator Hegar, Senators Deuell and Eltife will be shown as Co-authors of SB 321.

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 5

On motion of Senator Hinojosa, Senator Lucio will be shown as Co-author of SCR 5.

CO-AUTHOR OF SENATE JOINT RESOLUTION 15

On motion of Senator Wentworth, Senator Eltife will be shown as Co-author of SJR 15.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 51 by Van de Putte, In memory of Mary Espiritu of San Antonio.
SR 54 by West, In memory of Charles Key.
SR 57 by Watson, In memory of Hunter Mason Morris.
SR 61 by Uresti, In memory of Maria Rosa Pena of San Antonio.

Congratulatory Resolutions

SR 29 by Harris, Recognizing Danny F. Vance of Arlington on the occasion of his retirement from the Trinity River Authority of Texas.
SR 39 by Ellis, Recognizing East Bethel Missionary Baptist Church in Houston on the occasion of its 85th anniversary.
SR 42 by Van de Putte, Recognizing John J. Ploch for his service to his country.
SR 43 by Van de Putte, Recognizing Juan Carrion for his service to his country.
SR 44 by Van de Putte, Recognizing Frank Lamar for his service to his country.
SR 45 by Van de Putte, Recognizing Kevin Macari for his service to his country.
SR 46 by Van de Putte, Recognizing Chris Goebel for his service to his country.
SR 47 by Van de Putte, Recognizing Richard Groff for his service to his country.
SR 58 by Watson, Recognizing Carlota Vasquez of Austin on the occasion of her 90th birthday.
SR 59 by Ellis, Recognizing Minnie J. and Delbert Ray Jefferson for their 25 years of service to Christian Home Missionary Baptist Church.
SR 62 by Uresti, Recognizing Glenn Ratliff of Monahans on the occasion of his 100th birthday.
SR 63 by West, Recognizing Holy Cross Catholic Church in Dallas on the occasion of the dedication ceremony for the new church sanctuary.
SR 64 by West, Congratulating Travis T. Howard Lewis on being honored by the Alpha Xi Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated.
SR 65 by Ogden, Recognizing Mark Evans on the occasion of his retirement as Trinity County Judge.
SR 67 by Nelson, Fraser, Huffman, and Lucio, Recognizing the Turquoise Council of Americans and Eurasians on the occasion of its Turkic-Texan Friendship Reception and Awards Dinner.
SR 68 by Ellis, Congratulating Kalamu Ryo Johnson and Jatoi Jones Johnson on the birth of their daughter, Kailah Ryonne Johnson.
SR 70 by Lucio, Recognizing Jose M. Mendoza on the occasion of his retirement from the Brownsville Police Department.
SR 77 by Hinojosa, Recognizing Richard Valent for his service to his country.
SR 80 by Davis, Recognizing James Cash, Jr., for his career as a leader in academia and business.

**Official Designation Resolutions**

SR 40 by Birdwell, Celebrating January 25, 2011, as Hewitt Day at the State Capitol.
SR 50 by West, Recognizing January of 2011 as National Slavery and Human Trafficking Prevention Month.
SR 66 by Whitmire, Recognizing the Texas Chapter of Paralyzed Veterans Annual BBQ Cook-Off as a Texas State Barbecue Championship competition.
SR 71 by Lucio, Celebrating January 30 through February 5, 2011, as Catholic Schools Week.
SR 73 by Nelson, Recognizing January 23 through January 29, 2011, as Texas Nurse Anesthetists Week.
SR 74 by Nelson, Proclaiming January, 2011, Communities In Schools Month and January 26, 2011, Communities In Schools Day at the State Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 10:45 a.m. Tuesday, January 25, 2011, adjourned until 11:00 a.m. today.

APPENDIX

RESOLUTIONS ENROLLED

January 19, 2011
SCR 6, SR 24, SR 26, SR 27, SR 28, SR 30, SR 32, SR 33, SR 35, SR 36, SR 37, SR 38

SENT TO GOVERNOR

January 20, 2011
SCR 3

SENT TO SECRETARY OF STATE

January 24, 2011
SCR 6
MINUTES

SENATE COMMITTEE ON COMMITTEE OF THE WHOLE SENATE
Monday, January 24, 2011
1:30 PM
Senate Chamber

*****

Pursuant to Article XIII, Senate Rule 13.01, the Senate resolved into the Committee of the Whole at 4:16 p.m., Monday, January 24, 2011, in the Senate Chamber for a public hearing on SB 14.

Pursuant to Senate Rule 13.02, Senator Robert Duncan was named Chair of the Committee of the Whole Senate.

*****

MEMBERS PRESENT:  MEMBERS ABSENT:
Lt. Governor David Dewhurst  Senator Glenn Hegar
Senator Brian Birdwell
Senator John Carona
Senator Wendy Davis
Senator Bob Deuell
Senator David Dewhurst
Senator Robert Duncan
Senator Rodney Ellis
Senator Kevin Eltife
Senator Craig Estes
Senator Troy Fraser
Senator Mario Gallegos, Jr.
Senator Chris Harris
Senator Juan Hinojosa
Senator Joan Huffman
Senator Mike Jackson
Senator Eddie Lucio, Jr.
Senator Jane Nelson
Senator Robert Nichols
Senator Steve Ogden
Senator Dan Patrick
Pursuant to the passage of Senate Resolution 79, Senator Robert Duncan called the Committee of the Whole Senate to order at 4:16 p.m. There being a quorum present, the following business was transacted:

Senator Duncan outlined the procedures and process for the Committee of the Whole Senate.

The Chair laid out SB 14 by Senator Troy Fraser, relating to requirements to vote, including presenting proof of identification; providing criminal penalties.

The Chair asked Senator Fraser if a committee substitute would be laid out or considered for SB 14. Senator Fraser responded that there would be no committee substitute considered.

Senators Van de Putte raised a parliamentary inquiry about submitting amendments to SB 14. Senator Duncan announced that amendments would be accepted at any time, there would be no deadline for submitting committee amendments to SB 14. Senator Van de Putte asked if members of the public could begin registering at 7:30 a.m. on Tuesday, January 25, 2011. Senator Duncan responded that the public would be able to begin registering at 7:30 a.m. and announced that invited testimony would be limited to ten minutes per person while the time limits for public testimony would be three minutes per person, pending the adoption of the appropriate motion on Tuesday, January 25, 2011.

Senator Ellis was recognized for a question regarding invited testimony and requested that an equal amount of proponents and opponents offering invited testimony on SB 14 be allowed. Senator Duncan responded that he would consider the issue at the appropriate time.
Senator Uresti was recognized for a question regarding whether a list of invited persons would be provided to the members. Senator Duncan responded by announcing the names of the resources witnesses that would be available (David Maxwell, Office of the Attorney General’s Office; Ann McGeehan, Secretary of State’s Office; and Rebecca Davio, Department of Public Safety) and stated that invited persons would be recognized, as follows, one proponent and then one opponent.

Senator Gallegos was recognized for a question about whether or not Spanish speaking staff would be available to assist Spanish speaking members of the public. Senator Duncan responded that arrangements were being made to address his question. Senator Gallegos also asked about the procedures for submitting written testimony, especially, if members of the public cannot attend the hearing. Senator Duncan responded that written testimony can only be submitted and made part of the record up until the bill has been voted out of committee.

With no further questions, at 4:36 p.m., Senator Duncan moved that the Committee of the Whole stand at ease until 8 a.m. on Tuesday, January 25, 2011.

On Tuesday, January 25, 2011, Senator Duncan called the Committee on the Whole to order at 8:05 a.m. There being a quorum present, the following business was transacted:

Senator Duncan once again outlined the procedures and process of SB 14; namely, a ten minute time limit for persons providing invited testimony, the availability of resource witnesses to provide answers for members, and a time limit of three minutes for persons providing public testimony. Senator Duncan recognized the court reporters: Aloma Kennedy and Lorrie Schnoor.

Senator Van de Putte asked Senator Duncan about access to the Senate Chamber for individuals with disabilities. Senator Duncan responded that a wireless microphone and table would be made available to individuals with disabilities.

Senator Duncan recognized Senator Fraser to lay out and explain SB 14, relating to requirements to vote, including presenting proof of identification; providing criminal penalties.

Senator Huffman was recognized for a motion to enter exhibit #1 into the public record (invited and public testimony, exhibits and transcripts on SB 362 as considered by the Texas Senate in March, 2009). Without objection, the motion was adopted by unanimous consent. Senator Davis inquired whether exhibit #1 included the responses received after the March 2009 hearing.
Senator Eltife assumed presiding duties at 8:58 a.m.

Senator Duncan resumed presiding duties at 9:05 a.m.

Senator Van de Putte moved to enter exhibit #2 into the record, (all actions contained in the Senate Journals of SB 362, 81st Legislature, 2009, including motions, remarks, written responses, exhibits, and any other materials directly related to SB 362). Without objection, the motion was adopted by unanimous consent.

Senator Fraser moved to enter exhibit #3 into the record, (letter from Hope Andrade, Texas Secretary of State, re: HAVA funds). Without objection, the motion was adopted by unanimous consent.

Senator Seliger moved that the Committee of the Whole rise and report progress at 10:43 a.m. Without objection, it was so ordered.

__________________________
Senator Robert Duncan, Chair

__________________________
Patsy Spaw, Secretary of the Senate
IN RE: $ $

CONSIDERATION OF $ $
SENATE BILL 14 $ $

COMMITTEE OF THE WHOLE SENATE
TUESDAY, JANUARY 25, 2011

BE IT REMEMBERED THAT AT 8:05 a.m., on Tuesday, the 25th day of January 2011, the above-entitled matter continued at the Texas State Capitol, Senate Chamber, Austin, Texas, before the Committee of the Whole Senate. The following proceedings were reported by Aloma J. Kennedy, Lorrie A. Schnoor and Kim Pence, Certified Shorthand Reporters.
CONSIDERATION OF SENATE BILL 14 1/25/2011

PROCEEDINGS
TUESDAY, JANUARY 25, 2011
(8:05 a.m.)

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

OPENING INSTRUCTIONS BY CHAIRMAN DUNCAN
CHAIRMAN DUNCAN: Members, we talked yesterday a little bit about the process, and I thought I would go through that once again so that we'll all kind of know what the plan is.

First of all, I intend to recognize Senator Fraser in just a moment to lay out the specifics of Senate Bill 14. And then after he lays the bill out, then members will be recognized for questions of the author or co-authors. Then after that is finished, then our invited testimony will begin. It's the Chair's intent to place a 10-minute limit on invited testimony. And then there will be no questions to interrupt the invited testimony as they're laying out their positions or their testimony. Then once they're finished, members will be recognized for questions.

When that's done, we'll have a resource witness panel that will be available for you. I'm advised that we have David Maxwell, Deputy Director of Law Enforcement with the Office of the Attorney General, and Ann McGeehan, Director of Elections with the Secretary of State's office, and Rebecca Davio, Assistant Director for Driver's License with the Department of Public Safety.

When we have completed the invited testimony and you've had an opportunity to question those who have been invited, then I will I don't think the list is as long as it was last year, but certainly I'm sure there will be discussion among the members concerning their testimony.

Then we'll open up for public testimony. You will recall last session, we would announce the names of those who were in line, and you are in line in order of your registration at the front desk. We will have those persons escorted down to the well, and then they will be allowed to begin their testimony. It's the intent of the Chair to impose a three-minute time limit on public testimony. And I will not recognize anyone to interrupt someone giving public testimony until their time has run. There is a timer at the front at the secretary's desk. There will be a warning, I think it's a 30-second warning.

CHAIRMAN DUNCAN: Thank you, Senator Van de Putte.

Mr. Chairman, thank you for outlining the processes and the procedures that we will be using today. My question is specifically with those members of the public who wish to offer testimony sometimes today who have disabilities. To my knowledge, we have people coming to the floor who are in wheelchairs and will not be able to use the podium. I wanted to ask what sort of amenities or accommodations we will have so that they will be able to have their documents when they're testifying.

CHAIRMAN DUNCAN: Thank you, Senator Van de Putte, an excellent question.

Ms. Kennedy. Ms. Kennedy, would you stand so everyone can see you.

Remember Ms. Kennedy from last time. I think she went 12 or 13 hours. Because we're making a record here, obviously we need to be mindful that the court reporter only has two hands and can only type one person at a time. So the Chair will be careful to help you remember that we cannot have people talking over each other. Also we need to try to identify each other so that the record will be clear as to the source of the comments being recorded.

We will take periodic breaks in order to allow the court reporter a little time, but we will move expeditiously as we move through the process.

There is a document -- like last session, we will have an orderly process for admitting documents into the record. They will be labeled as exhibits and be referred to in the record and will be received in the record by exhibit number. So when you have an exhibit that you want to introduce into the record, well, then, you'll need to have it marked. And the secretary's desk will have a procedure for marking your exhibits and receiving them in the record.

Once we have completed the public testimony, obviously we're going to be interrupted by our Senate session which begins at 11:00. Once we finish the public testimony, then it will be appropriate for you to lay out any amendments that you may wish to have considered by the body.

And once that's completed, then obviously, we will vote on our resolutions to rise and report back to the full Senate. That is basically the layout of the procedure. Any questions?

CHAIRMAN DUNCAN: Thank you, Senator Van de Putte.
CONSIDERATION OF SENATE BILL 14 1/25/2011

SEN. VAN de PUTTE: Would it be possible for those members of the public who are offering testimony who have disabilities who are in a wheelchair to have some sort of either a table or something so that they can refer to their notes? The problem with last time is that they weren't able to actually, because they don't have use of the podium.

CHAIRMAN DUNCAN: Senator, we can accommodate that.

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

CHAIRMAN DUNCAN: Members, also I forgot to mention, the resolution that we passed yesterday allows us to have a staff person on the floor to assist us. And so if you wish to have that person sit well then you'll need to ask the sergeant for a chair and we have chairs available back there.

Any other questions?

All right. The Chair hears none.

Senator Fraser, you're recognized to explain Senate Bill 14.

LAYING OUT OF SENATE BILL 14

SEN. FRASER: Thank you, members.

Obviously, this is an issue that we know a lot about, we had a lot of experience with two years ago. The issue I think has been defined and talked about a lot.

I think we all recognize the dangers of voter fraud has threatened the integrity of our electoral process for the entire history of the United States. The threat continues today. In 2005 there was a Commission, a bipartisan commission, the Carter Baker Commission that was appointed by the Election Commission. Of course President Carter, a past president, James Baker, Secretary of State, they reaffirmed the dangers by saying, "Elections are at the heart of democracy. Americans are losing confidence in the fairness of elections. And while we do not face a crisis today, we need to address the problem of our electoral system."

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

Texas today has a legitimate interest in protecting elections. It is imperative that we protect the public's confidence in elections by deterring and detecting voter fraud.

In upholding the Indiana photo ID law, the U.S. Supreme Court stated, "Confidence in the integrity of our electoral process is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic process and breeds distrust of our government. Voters who fear the legitimate votes will be outweighed by fraudulent ones will feel disenfranchised."

On October 10, Lighthouse poll, which I have here and be entering into the record -- it's the newest poll that is out -- shows that 86 percent of Texas voters -- that's both Republican and Democrats favor voter photo ID laws.

The bill that we're laying out today is in compliance with the U.S. Supreme Court Decision which upheld the Indiana voter ID legislation because it offsets burdens on voters by providing access to free ID cards, allowing for provisional ballots and absentee ballots, ensuring that obtaining photo ID is no more inconvenient or burdensome than the usual act of voting and providing an exception for elderly voters.

The current law as you know provides that when a voter shows up to vote he or she must just show a valid voter registration card. If unable to do so, the voter may show a photo ID card or other official mail from a government entity, utility bill, bank statement, government check, paycheck or other government document with name and address and sign an affidavit.

Senate Bill 14, what we're doing with this bill, Senate Bill 14 would require a voter to show a photo ID except that people 70 or older on January 1, 2012, may continue to vote with just a registration card. Acceptable ID will include an unexpired card issued by the Department of Public Safety, a military ID, a passport or a citizenship certificate with photo. Voters who cannot produce an acceptable form of photo identification will be allowed to cast a provisional ballot. That ballot will be counted if the
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 voter returns within six days to show a photo ID.
2 It would also provide for statewide training and notification of the changes required for
3 the individual to vote with the photo ID. It would provide for a free DPS-issued identification card to any
4 registered voter who requests an identification card.
5 Every fraudulent vote effectively still is unprotected when the Legislature could take proactive steps to prevent fraud and protect our democracy.
6 Mr. President, that is what Senate Bill 14 does. And if there's no questions, I would move passage.

KENNEDY REPORTING SERVICE, INC.
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CONSIDERATION OF SENATE BILL 14 1/25/2011

1 The record has been certified by Patsy Spaw, the Secretary of the Senate, and so we might check 2 with her to see if that was done. If not, we could 3 certainly make sure that it was placed in Exhibit No. 1 4 as part of the record.
5 SEN. DAVIS: Thank you. I would 6 appreciate that.

1 Chairman Duncan: I suggest that it be 2 Exhibit 1A, if there are additional information, so that 3 it can be kept separate from what you are going to 4 introduce in your motion in writing as Exhibit 1.

1 SEN. HUFFMAN: Yes, sir.

1 Chairman Duncan: Okay. Is there any 2 objection to Exhibit 1 being included in the record?
3 All right. The Chair hears none. Exhibit 4 will be included in the record.
5 Exhibit No. 1 admitted.

1 SEN. VAN de PUTTE: Thank you, Mr. Chairman.

1 SEN. VAN de PUTTE: Thank you, Senator Fraser.

1 And thank you, Senator Fraser.

1 Senator Fraser, this is kind of like a 2 dance where we have another song, another round, and so 3 we find ourselves with another year and this version of 4 the voter identification bill. And I wanted to ask you 5 a few questions.

1 Given the fact that the bill that was 2 debated during the 81st Legislature was a different 3 bill, can you tell me the model for the bill that was in 4 the 81st Legislature and the differences in what you 5 have proposed in this legislative session?

1 SEN. FRASER: Well, if you don't mind, the 2 bill before us today is Senate Bill 14, and I will 3 probably spend my time talking about that bill. The 4 bill you're addressing, obviously, didn't get through 5 the process. So I'm going to be addressing the comments 6 on Senate Bill 14 which is before us. So I would be 7 glad to describe it, if you would like.

1 SEN. VAN de PUTTE: Well, my question has 2 to deal with -- I understand that since last we met, 3 there are two years and different court cases. And the 4 bill that was before this body last legislative session 5 was modeled on a Georgia law and used the template.

1 I understand it, this year's model is fashioned after 2 the Indiana law?

1 SEN. FRASER: And I think you actually 2 have made the point that I was going to make. Two years 3 have passed. Since that time, we've had, you know, 4 obviously, the confirmation by the Supreme Court on the 5 photo ID and then also the preclearance of the Georgia 6 bill by Dale Jays (phonetic).

1 So looking at it, you know, the experience of 2 the bill in place, the simplicity of the photo ID, we 3 chose to go with that. And as you will remember, the 4 recommendation by President Carter and Secretary of 5 State Baker was, you know, the national photo ID, and 6 that's what we're attempting to implement.

1 SEN. VAN de PUTTE: Thank you.

1 Mr. Chairman.

1 And a few other questions. With the 2 Carter-Baker Commission, they felt very strongly about 3 encouraging the maximum participation in voter and 4 suggested the type of strategies that we're using. But 5 the addendum for both gentlemen and the members of the 6 commission were that they, as I recall, and entered into 7 the record during last legislative session, was that the 8 conclusion of the commission was that we should not 9 implement the type of photo identification until you had 10 universal registration, and I believe that was one. But 11 given that or not, what I really wanted to ask you is -- 12 SEN. FRASER: Hold on a second. I'm 13 sorry. I disagree with that. That is not what the 14 commission said. And if you would like to correct that, 15 but I disagree.

1 SEN. VAN de PUTTE: The State of Georgia 2 is under two sections of the Voting Rights Act, as is 3 Texas. Is that correct?

1 SEN. FRASER: They are a Section 5 voting 2 rights state like Texas.

1 SEN. VAN de PUTTE: And to your knowledge, 2 is the State of Indiana subject to Section 5 of the 4 Voting Rights Act?

1 SEN. FRASER: To my knowledge, they are 2 not.

1 SEN. VAN de PUTTE: So Indiana would have 2 a different burden of proof under a legal document and a 3 legal challenge than the State of Georgia?

1 Brief pause

1 SEN. FRASER: I'm sorry. I was asking for 2 some data. Would you reask the question, please.

1 SEN. VAN de PUTTE: The State of Indiana, 2 which your bill is modeled after, without two alternate 3 forms of identification; whereas, the Georgia bill that
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1 we talked about last legislative session had two --
2 certainly had a photo identification, but if the voter
3 was unable to produce a photo identification, they could
4 produce for the election judges two forms of
5 identification without, and it was utility bill and --
6 in fact, the things that you struck here.
7 But in Indiana that requirement is not
8 there, so we went with the Indiana bill. But my
9 question is Indiana is not subject to Section 5 of the
10 Voting Rights Act. So their legal hurdle to the
11 Department of Justice challenge is very different than
12 what happened in the State of Georgia. Is that correct?
13 SEN. FRASER: The Indiana law has been
14 approved by the U.S. Supreme Court, the Georgia law was
15 declared by the Department of Justice, and both of
16 those have gone through that challenge.
17 SEN. VAN de PUTTE: Senator Fraser, when
18 this legislature passed the voter identification bill --
19 and there is no doubt that this bill will pass -- it
20 will have to proceed to the Department of Justice for
21 clearance?
22 SEN. FRASER: As a Section 5 state, we are
23 subject to Section 5 rules.
24 SEN. VAN de PUTTE: So, yes, it will
25 proceed to the Department of Justice?

1 SEN. FRASER: We are a Section 5 voter
2 rights state, and we will be subject to those laws.
3 SEN. VAN de PUTTE: And do you have any
4 concerns that a Section 5 state as Texas would offer to
5 the Department of Justice a voter identification bill
6 that mirrored a non-Section 5 state rather than something
7 that has already been upheld in the Georgia law, a
8 Section 5 state?
9 SEN. FRASER: We are offering a bill that
10 has been approved by the U.S. Supreme Court. And the
11 parameters that the Supreme Court set, we meet all of
12 those tests.
13 SEN. VAN de PUTTE: However, in the
14 Indiana court and in the Supreme Court case on Indiana,
15 what they said was, the undue burden was -- did not be
16 demonstrative because they did not have the level of
17 minority voters, that was never a check point, because
18 they did not have to go through the Department of
19 Justice. Is that correct?
20 SEN. FRASER: I'm sorry. I'm having
21 equipment failure here. Just a second.
22 [Brief pause]
23 SEN. FRASER: Senator, I'm sorry. I'm
24 asking for data, backup data, because the information
25 that you're addressing, my information doesn't agree

1 with that, is that the Georgia law that I have in front
2 of me said it is a photo ID. Do you have something that
3 shows differently?
4 SEN. VAN de PUTTE: Yes. In the Georgia
5 bill, you have to have a photo ID. However --
6 SEN. FRASER: I realize you're saying
7 that, but do you have -- you know, do you --
8 SEN. VAN de PUTTE: The bill that you
9 introduced last year had the two alternate forms of ID,
10 which was exactly the Georgia bill. We used the model
11 of the Georgia bill.
12 SEN. FRASER: And that bill is not before
13 us today; Senate Bill 14 is before us.
14 SEN. VAN de PUTTE: That's correct. And
15 so my question is --
16 SEN. FRASER: And I would ask you, did you
17 vote for that bill last year?
18 SEN. VAN de PUTTE: No, sir, I didn't.
19 SEN. FRASER: Okay.
20 SEN. VAN de PUTTE: But my question is, do
21 you have any concerns that we will offer to the
22 Department of Justice a bill, a voter identification
23 bill that is modeled after a state law that does not
24 have to go through Section 5 rather than a Georgia
25 model which already has been proven and has been

1 affirmed, both in the court case and the Department of
2 Justice? That was my question. Do you have any concern
3 that we will have done all of this debate and work, and
4 certainly to ensure the ballot security, only to be shut
5 down at the Department of Justice, because we are a
6 Section 5 state and what we're offering in your bill is
7 not something that has been approved by the Department
8 of Justice?
9 SEN. FRASER: I have no concern about
10 Senate Bill 14, both going before the U.S. Supreme Court
11 or going before the Department of Justice.
12 SEN. VAN de PUTTE: Thank you, Senator
13 Fraser. I wanted to ask a little bit of your thinking.
14 And in the bill that you have before us, the student
15 identifications were omitted from your list of
16 acceptable documentation. And could you give me the
17 rationale why a student photo identification is not
18 acceptable form of identification?
19 SEN. FRASER: The types of identification
20 we've included are one from a government entity that
21 would identify that person as who they are, that they
22 say they are, they're a valid voter and a citizen of the
23 United States, and these are the ones that we have
24 suggested that would be acceptable.
25 SEN. VAN de PUTTE: So the rationale for
SEN. VAN de PUTTE: So why were the student identifications -- you explained that the student identifications were omitted from the list of acceptable documentation, because it was not a government entity.

SEN. FRASER: The four types of identification that we are offering up we believe are less confusing, they're simpler for both voters and election voters. Everyone knows what they look like. There is a standardization of those, and they all look alike and it would be less confusing for the systems who are accepting the voter ID.

SEN. VAN de PUTTE: So to prove their provisional ballot is correct and the six-day cure, what documentation does your bill have that is acceptable?
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1 been, under current Texas voter laws, any impact that it
2 would have on affected class of Latino and
3 African-American voters?
4 SEN. FRASER: The bill that I'm laying out
5 today is a model that has been approved by the U.S.
6 Supreme Court, it has been precleared by the Department
7 of Justice in Georgia. It will deter fraud. We're
8 providing free access of cards. And, yes, we believe
9 this will protect confidence in election in making sure
10 only eligible voters are counted.
11 SEN. VAN de PUTTE: Senator Fraser, on the
12 availability of free identification cards, is there a
13 means test, or what sort of proof do citizens have to
14 give to the Department of Public Safety to be able to
15 get a free identification card under your bill?
16 SEN. FRASER: The Department of Public
17 Safety is here as a resources witness. Senator Williams
18 is also here. That's his area of expertise. If you
19 have a question about that, if you would like, I will
20 yield to Senator Williams now or you can wait and ask
21 the DPS when it comes up.
22 SEN. VAN de PUTTE: Well, right now the
23 DPS I don't think gives free IDs. But in your bill,
24 what sort of process or documentation can voters use to
25 get a free identification card, in your bill? What are

1 the --
2 SEN. FRASER: If you would like I can
3 yield to Senator Williams or we can wait and have the
4 DPS. Our instruction is the bill, is that they will
5 issue an ID card and they will not charge. That is very
6 clear to the DPS. And if you want to ask now that will
7 be done, they will be coming up, and you will be able to
8 ask that question. Or if you would like for me to yield
9 to Senator Williams, we'll let him answer that.
10 SEN. VAN de PUTTE: No, Senator. Thank
11 you. I appreciate this is just a different bill from
12 last legislative session, and I was trying to get at
13 least some of your thinking of why you went with a
14 different bill than last year, a more restrictive, a far
15 more restrictive bill than what we debated last
16 legislative session. And I look forward to the
17 questions. I look forward to the testimony today, but I
18 don't have any other further questions.
19 And I'm sure some of my colleagues have
20 questions, both of the author of the bill and any of the
21 other senators that have certain sections that they have
22 got expertise on.
23 But thank you very much, Mr. Chairman. I
24 don't have any other further questions.
25 CHAIRMAN DUNCAN: Senator Watson?
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SEN. NICHOLSON: Right now the fiscal note that was delivered is $2 million, yes?

SEN. WATSON: Okay. And that's what I really wanted to ask about. And I'll talk about the fact that you want to take some federal funds here in a second. But first of all, last session when we were talking about the fiscal note, my memory was and is, that at the beginning of the session when you filed the bill last session, there was a zero fiscal note, and then that got changed to the same as it is right now, a $2 million fiscal note for voter awareness, and it was exclusively for voter awareness in the second fiscal note.

Can you tell me what analysis has gone into coming up with how much money should be spent on voter awareness and voter education regarding this bill in order to get to that $2 million?

SEN. NICHOLSON: I think the analysis on this comes from the Secretary of State's office, and I'm sure they will be glad to answer your question. Two years ago before we started, we advised them that we needed voter education. If you remember in the bill we discussed in that when we were discussing that, we needed to have an appropriation for that.

I think Senator Ogden stood up and talked about the fact that they would be willing to make sure that there was money there. Since then we have been made aware that the Secretary of State not only has a plan for doing that, but also a plan for requesting the funds from HAVA.

SEN. WATSON: Well, I'll ask about that.

SEN. NICHOLSON: I think Senator Ogden stood up and talked about the fact that they would be willing to make sure that there was money there. Since then we have been made aware that the Secretary of State not only has a plan for doing that, but also a plan for requesting the funds from HAVA.

SEN. WATSON: Well, I'll ask about that. So then, let me ask you another question. You indicated in your opening comments that everyone gets a free identification card if they come in and ask for a free identification card they show a voter registration card, or they apply for a registration card. That $2 million that you just talked about doesn't include the cost of any of the cost for providing these free identification cards, does it?

SEN. NICHOLSON: I'm sorry. I was doing something else. Would you ask that last question again, please.

SEN. WATSON: Does the $2 million in the fiscal note include any of the cost of providing free identification cards?

SEN. NICHOLSON: To my knowledge, it does not.

SEN. WATSON: And, in fact, there is no means test and your bill forbids DPS from collecting a fee. If any eligible voter comes in or submits a registration application, they can then avoid what is the typical $15 fee.

SEN. NICHOLSON: Senator, have you seen the numbers that have been collected by DPS on the number of eligible voters that have registered since 2006, the ones that registered with a driver's license or a driver's license and a social security card that identified the number of people registering?

SEN. WATSON: Yes.

SEN. NICHOLSON: -- that already had identification. So the question you're asking is, the universe we're talking about believe is very, very, very small. In fact, the Carter Commission, after the implementation in both Indiana and Georgia, and actually Mississippi, they looked at, they found that only 1.2 percent of people did not have, already have a photo ID available, so the universe of this; so the question you're asking is the universe we're talking about, we believe, is very, very, very small.

SEN. WATSON: Then why don't we talk about specific numbers. With you talking about those numbers, you're probably aware that in 2007, House Bill 218 was offered. It was referred to the committee, the Senate Committee on State Affairs. And in that one, which was HB 218, DPS talked specifically about identification cards and it put a fiscal note, it believed that it would be $1.3 million per biennium or $4 million every 3 years out of the highway fund. Were you familiar with that?

SEN. NICHOLSON: Senator, you're getting into an area that's outside of my area of expertise. We have the person that's in charge of that. You've got two choices. Either you can ask that question of DPS as a resource when it comes up, or I will yield to Senator Williams right now, and he can answer your question.

SEN. WILLIAMS: I just want to be sure. Since we're talking about numbers here, and I'm trying to get a feel for what the cost of this is -- in House Bill 218 in the 2007 -- the 80th legislative session, there was a bill filed that dealt with the provision of identification cards. And in that one, the LBB indicated the fiscal note would be $1.3 million or $4 million every 3 years coming out of the highway fund. Are you familiar with that?
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SEN. WILLIAMS: I'm not familiar with House Bill 218. But, you know, I take what you're saying --

SEN. WATSON: Sure. Okay.

SEN. WILLIAMS: -- at value.

SEN. WATSON: And since I anticipate that there would be deferral to you on the next question, too, let me just go ahead and ask that. Last session, in the 81st session, there was a bill by -- it was HB 2335 that indicated similar to what Senate Bill 14 does not that there couldn't be a fee charged for issuing a document that someone might use as proof of their identification for purposes of voting. In the fiscal note there, the LBB singled out DPS identification cards, which is what we're talking about here, and assumed that if everyone used those, the number they came up in that fiscal note was $47 million over five years. Are you familiar with that one?

SEN. WILLIAMS: I'm not familiar with that.

SEN. WATSON: Okay.

SEN. WILLIAMS: -- particular bill. But what I can tell you is that the cost to the Department of Public Safety for issuing an ID card is about $1.67. It's a very small amount of money. So $47 million sounds -- that's a lot of IDs at a buck 67 apiece. And so what I would say is that when I discussed this with the Department of Public Safety recently -- and they'll be here to testify about this in detail more -- I think that it would be difficult for them to determine now how many people might take advantage of the free ID card. I think it's probably not possible for them to estimate that.

SEN. WATSON: Okay.

SEN. WILLIAMS: -- have driver's license -- the Department of Public Safety. And we've got about 15 million people that have either a driver's license -- and I can get you the exact numbers. I have them here -- there are a lot of people that already --

SEN. WATSON: Right.

SEN. WILLIAMS: -- have state ID cards.

And a lot of the folks that don't have those would be using a mail-in ballot, and there is no requirement to present any kind of photo identification for a mail-in ballot, and this legislative doesn't touch that. So we think that the chances that there's going to be somebody who is going to want to avail themselves, there will be some, but it's going to be a very small number.

SEN. WATSON: Of course, what I'm attempting to do is not engage in that as I vote no on this. What I've tried to do is go back and find out what the LBB, which we rely upon for fiscal notes, has actually said about these sorts of things, with previous legislation that has addressed this, as opposed to speculation.

SEN. WILLIAMS: And, Senator Watson, I understand, and there are a lot of things -- I'm not familiar with those bills. And what I would tell you is that each -- the LBB comes up with their methodology based on what each bill's requirements are. And not being familiar with that --

SEN. WATSON: I can't tell you what the difference between that and this is. But we did specifically sit down and talk to DPS, and they really don't expect that this is going to be any big burden on the agency that they're not going to be able to handle.

SEN. WATSON: Thank you for your answer.

SEN. WILLIAMS: Yes.

SEN. WATSON: I have a couple more questions for Senator Fraser, if that would be all right.

SEN. FRASER: I'm back with you.

SEN. WATSON: Okay. Great.

SEN. WILLIAMS: I'm back with you.

SEN. WATSON: Senator. Would the HAVA money that -- first of all, you're familiar that in the base budget that the Senate has put out, the $2 million for this biennium for voter education has been explicitly cut. You're familiar with that. Right?

SEN. FRASER: I don't think the word "explicitly cut," I don't think it's been addressed.

SEN. WATSON: Well, it's been struck through in the base budget. Did you know that?

SEN. FRASER: I'm not advised.

SEN. WATSON: Okay. Are you also familiar that in this budget it calls for a 358 million cut to the DPS budget?

SEN. FRASER: Again, I'm not on Finance.

SEN. WATSON: I'm not sure you're on Finance. And so, no, I haven't -- the base bill is the starting point of our discussion, so I'm not advised.

SEN. FRASER: All right. So you're not advised whether, out of that 9.5 percent of the cut that comes in regulatory and the licensing area for DPS?

SEN. FRASER: Well, and as you know, as we start the session, that's a draft budget as a starting point. We're a long ways from that being concluded. So the answer is no, I'm not aware.
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SEN. WATSON: Thank you very much.

Thank you, Mr. Chairman.

SEN. ELTFIE: Senator Whitmire, what purpose do you rise?

SEN. WHITMIRE: Will the gentleman yield?

SEN. ELTFIE: Senator Fraser yield?

SEN. WHITMIRE: Senator Fraser, a couple of questions about the implementation of your legislation if it passes. First off, I have to make this observation: Have you ever seen the gallery so empty when the Legislature is considering something that’s been given such a high billing as Senator Duncan was making yesterday when he asked us to go to Committee of the Whole? I mean, how timely this was and how critical it was? The Governor has made it an emergency and I don’t know if there’s 20 people in the gallery. If it’s so important can you explain to me why the gallery is empty?

SEN. FRASER: I am not advised.

SEN. WHITMIRE: Based on the action on the floor rather than looking up and seeing who is in the gallery.

SEN. WHITMIRE: Well but it’s an indication if the public is really concerned, particularly based on your polling data which I’m sure you would join with we don’t govern in the state by polls normally, do we?

SEN. FRASER: I'm concentrating on the action on the floor rather than looking up and seeing who is in the gallery.

SEN. WHITMIRE: Well but it’s an indication if the public is really concerned, particularly based on your polling data which I’m sure you would join with. We don’t govern in the state by polls normally, do we?

SEN. FRASER: Other than I find it interesting whenever they asked the people of your district that you represent that they could prove who they are before they vote it’s a very simple concept.

SEN. WHITMIRE: Except Senator Fraser the unintended consequences that you’re going to disenfranchise people that have not been able to acquire these cards and that’s what I want to spend a few moments on. Let me walk through a real life example of how an 86 year old lady in my district who has never been required to have one how is she going to get her card?

SEN. FRASER: She would vote under current law.

SEN. WHITMIRE: Well, but it’s an indication, if the public is really concerned, you would join with, we don’t govern in the state by polls normally, do we?

SEN. FRASER: Well, other than I find it interesting whenever they asked the people of your district that you represent.

SEN. WHITMIRE: Sure.

SEN. FRASER: -- of whether they’re in favor, the polls continue to show that the public, both Republican and Democrat.

SEN. WHITMIRE: -- you say. "Will you support a person voting with a photo ID?"

SEN. WHITMIRE: And did you include in that question and would you be for it if it would disenfranchise senior citizens, students, or others? You and I know it’s all in how you ask the question. In fact, the way you’re stating it, I’m surprised you didn’t get 100 percent. If you ask people, "Are you against vote fraud?" I would assume you would get 100 percent.

SEN. FRASER: Here’s the question --

SEN. WHITMIRE: It’s the unintended consequences that we’re concerned about.

SEN. FRASER: "Do you favor or oppose requiring a photo ID before a person is allowed to vote?" Pretty straightforward.

SEN. WHITMIRE: I’m surprised you didn’t get 100 percent if you include "and stop fraud." It’s when you add into it, "if it meant disenfranchising senior citizens," and then I think you would have a significant drop.

SEN. FRASER: I will not concede that until after the vote and we’re assuming the ones that vote for it are.

SEN. WHITMIRE: Well, let me go ahead and speak for the 12 of us that are probably going to vote no. We’re all against election fraud. And I would suggest we’ve actually seen an election process since we took this up two years ago. Let’s look at the most recent election. What fraudulent activity this past November are you so concerned about? I think it’s "the election fraud" and maybe I should be more concerned. If you look at the election results, it was an overwhelming victorious day for Republicans in November. You replaced 34 Democrats in the house. Now, are you suggesting there was significant fraud on that election day?

SEN. FRASER: Senator, all we’re trying to do with this bill is that when you walk into the polling place and represent that you are John Whitmire --

SEN. WHITMIRE: Sure.

SEN. FRASER: -- that you can prove you are who you say you are before you vote it’s a very simple concept.

SEN. WHITMIRE: Except, Senator Fraser, the unintended consequences that you’re going to disenfranchise people that have not been able to acquire these cards, and that’s what I want to spend a few moments on. Walk me through a real life example of how a senior citizen in my district is going to acquire that card. Do they do it by mail? Do they have to do it in person? What’s the process?
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<td>1</td>
<td>Because literally it's a two to three-hour wait. So how do you add this new group of participants that have to show up at a DPS office to get a voter ID.</td>
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<td>Sen. Fraser: We have someone coming from the DPS. I think you can ask that question or I'll yield to Senator Williams.</td>
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<td>Sen. Whitmire: I'm not sure if they're --</td>
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<td>Sen. Fraser: The bill that I'm laying out is very clear that it complies with the Supreme Court ramification and it also has been cleared by the Department of Justice.</td>
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<td>Sen. Whitmire: Okay. So you don't know. Is that your answer?</td>
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<td>Sen. Fraser: I said we've got resource witnesses that are coming. I'm not an expert in that area. We do have an expert coming, and they'll be glad to answer your question.</td>
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<td>7</td>
<td>Sen. Whitmire: The DPS folks will have to publicly say at Gessner and I-10 or at Tacoma and 290, two sites in my district -- and I complained and asked for more resources -- it's a two- to three-hour wait. Governor Behbushir, to get your driver's license renewed. So you can't even go over there on your lunch hour and get a driver's license, and now you want the folks to go over there and I assume wait in line to get a voter ID.</td>
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<td>Sen. Uresti: Thank you, Senator Fraser.</td>
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SEN. URESTI: No, I don’t. Do you know, Senator?

SEN. FRASER: I don’t, no. I have been out in those counties and I see people driving. I’m assuming they have a driver’s license.

SEN. URESTI: Well, it makes it even more difficult if they don’t have a driver’s license and they need to get a driver’s license or a photo ID to vote.

How are they going to drive long distances in order to retrieve that -- or obtain that ID?

SEN. FRASER: Again, the data we’ve been shown is that people registered to vote -- and I guess I would like to look in your area -- but about 90 percent of the people that are coming in show their driver’s license when they register to vote.

You know, yes, there’s it looks like there’s a lot of people or, you know, 47,000, but I’m assuming that the bulk of those, probably a lot of them have IDs.

SEN. URESTI: Well, that’s an assumption. Senator Fraser, that you’re making that I don’t have the luxury of making on behalf of those 47,000 people. But in addition to that, Senator Fraser and members, there’s another 70,000 constituents in my district that have access to only partial or sporadic service for example Senator Fraser the first Tuesday of each month from 9:00 to 4:00. So they have one day a month, members to go and get an ID and that’s between the hours of 9:00 to 4:00.

Well, if you can’t get off of work that one month that’s the only day it’s open, what are my constituents supposed to do?

SEN. URESTI: So they’re going to answer my question as to what should my constituents do if they can’t get off of work that one Tuesday of the month in order to get their ID to vote. That’s what you’re saying, they’re going to answer that question?

SEN. FRASER: You’ll just have to ask them.

SEN. URESTI: This is your bill, Senator Fraser. I’m asking you, because I need to go back to my district and tell them that they have to get a photo ID in order to vote. And their first question to me is going to be, “Well, Senator Uresti, you know that our DPS offices are closed,” or “We have no DPS office in our county,” or “It’s only open on one Tuesday a month.” What am I supposed to do, Sen. Uresti?

SEN. FRASER: Again, the DPS will be here. You can outline the problem, and you can outline the problem with Senator Williams, and you’re free to ask them those questions.

SEN. URESTI: Sen. Fraser, in addition to those counties that have no DPS offices, many of my constituents in several other counties are going to have to travel long distances in order to get an ID. For example, my constituents in Crockett County, Ozona, will have to travel 163 miles round trip to San Angelo to get to the nearest DPS office. And if you live in Sanderson in Terrell County, you will have to travel 170 miles round trip to get to Port Stockton. If you live in Sierra Blanca in Hudspeth County, you have to travel 176 miles to get to El Paso in order to get to the DPS office. Did you know that, Sen. Fraser?

SEN. FRASER: I’m very aware of that. I, you know, the district I represented, there were 3 bus routes that were 80 to 90 miles each way for kids to attend public school, because the people lived out in the country.

SEN. URESTI: And would you agree with me then that that’s going to be a challenge for those folks?

SEN. FRASER: We’re not changing the early voting mail-in ballot rules, and that will still be an option for people.

SEN. URESTI: So they don’t need an ID to vote by mail?

SEN. FRASER: By mail? Again, you can ask the Secretary of State. We’re not addressing the mail-in ballots. The Secretary of State will be here.

SEN. URESTI: Well, let me just mention a few more of my counties. If you live in Van Horn in Culberson County, you have to travel 200 miles round trip to Marfa, which is the nearest DPS office. If you live in Pecos, which is in Reeves County, you have to travel 143 miles to Port Stockton. If you live in Rocksprings in Edwards County, it’s 152 miles round trip to Del Rio, Sen. Fraser. And finally, if you live in
1 Medina, which is in Hondo, if you live in Hondo which is in Medina County you have to travel 84 miles. And so again my question Sen Fraser if you can't answer it, just let me know -- what am I supposed to tell my constituents because this is your bill it's not my bill how are they supposed to get their Texas ID if their DPS office is --

SEN. FRASER: Senator, if I were you, when the DPS comes up, I would ask them questions and say, "Is there a way that we could do something like a temporary van coming through to accommodate those people?" And if I were the senator from that area, that probably would be a question I would ask the DPS. But again, they're coming forward, and that's a question I think that is appropriate of the DPS of you know, "How do we make sure that we accommodate those people?"

SEN. URESTI: It's a great suggestion, Senator Fraser. But what if DPS says, "We can't do that. It's not in the budget. The $2 million that we're being allocated?" So then what do I tell my 21 constituents?

SEN. FRASER: Well, you're assuming that suggestion, Senator Fraser. But what if DPS says, "We can't do that. It's not in the budget. The $2 million that we're being allocated?" So then what do I tell my 21 constituents?

SEN. URESTI: Well, you're assuming that suggestion, Senator Fraser. But what if DPS says, "We can't do that. It's not in the budget. The $2 million that we're being allocated?" So then what do I tell my 21 constituents?

SEN. FRASER: Again, I'm not advised. I think the DPS could advise you on that, or Sen. Williams.

SEN. URESTI: Do we know when they're going to be available to answer or --

SEN. FRASER: I think they're on hand. And as soon as we complete these questioning, I think we're going to bring -- you know, as soon as we start the -- well, I think that the plan -- I'm not speaking for the Chair, but I believe we're going to allow questions from members, then we're going to have invited guests. And then once we start the public testimony, they would be ready to come up, and I think they'll answer any questions you've got.

SEN. URESTI: Senator Fraser, let me ask you a few more questions, if I may, please. And I want to be clear. So as I understand it, in order to vote with your bill, if your bill passes, you can have a voter registration card and a Texas ID or a driver's license, and you're able to vote with both of those documents. Correct?

SEN. FRASER: Actually, you don't -- if you go in and you're on the voter roll and you have a valid Texas ID or a valid Texas driver's license, then you do not need --

SEN. URESTI: I think probably if you'll ask the Secretary of State. But my understanding is that you just have to identify yourself with a photo. And if you're on the voter roll and you're at the correct voting location, you live in that precinct and you're on that roll and you show them your ID, I believe you'll be allowed to vote.

SEN. URESTI: And that's my question, but I want to be specific about it. So if I have a valid photo ID or a valid Texas driver's license and I'm on the rolls, then I do not need a voter registration card. Correct?

SEN. FRASER: To my understanding, the answer is yes. But I still think I would ask that question of the Secretary of State.

SEN. URESTI: Well, I'm pretty sure that's correct. That's what I read. Then why do we need a voter registration card, then? Why are we going to need voter registration cards after your bill passes?

SEN. FRASER: Good question. Why don't you ask that of the Secretary of State. It might be a -- you could offer that as a cost-saving measure.

SEN. URESTI: But it's your bill, Senator Fraser. I mean --

SEN. FRASER: All my bill is addressing is the photo identification when you vote. You know, Carlos, when you walk in and they say, "Senator Uresti, you know, we'll need some identification," and even though you're on the roll, you're going to have to show a photo ID.

SEN. URESTI: And that's correct, and I agree with you, Senator Fraser. But the result will be, you do not need your voter registration card, then?

SEN. FRASER: That is my understanding. But, again, I would ask the Secretary of State.

SEN. URESTI: Okay. That's all the 24 question I have for now, Mr. Chairman.

SEN. FRASER: Thank you, Senator Fraser.
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SEN. FRASER: Have you read all the data that was in the box?

SEN. GALLEGOS: I have not read it; I have not read it. But, you know, I would think that, especially some of the questions that I asked and I'm fixing to ask you, you know, that if those answers aren't in that box that Senator Huffman introduced as Exhibit No. 1. I just want to make a point that it concerns me that these questions these senators have about their districts are not being answered. I just wanted to make that point.

And on another question, Senator, on the fiscal note -- and I know that Senator Watson brought it up -- it says that it's $2 million to implement. Now, here is my concern on that, is that Texas is ranked No. 1 nationally in this country as far as population. Missouri is ranked 19th. Yet, the numbers that I'm looking at on the costs that the Secretary of the State of Missouri on implementing -- and Missouri only has 5.9; we have 25 million -- Missouri has 5.9 in population, and the Secretary of the State of Missouri is going it's going to cost $6 million just to implement their voter ID program, and that's just the first year. The second year, another $4 million.

Now, with only 5.9 in population, and I'm looking at Texas that has 25 million, now, what kind of methodology is the Secretary of State using in Missouri as opposed to the Secretary of State in Texas? To me, that math -- you know, I'm not an expert in math, but I can tell the difference between 5.9 and 25 million to implement a voter ID bill, you know, that obviously there's something wrong here in the numbers. Can you tell me the difference in 6 million for Missouri and 2 million in implementing the cost of voter ID in Texas?

SEN. FRASER: I'm not a citizen of Missouri, so we don't have access to that information. And you and I have been in the Legislature a long time, and you're very aware that your fiscal note -- whenever you file a bill, you get a fiscal note with a bill, they look at the cost, and this is the cost that's been estimated.

SEN. GALLEGOS: You know, Senator, I'm concerned here that this number that has been laid out in this bill -- you know, and we do have -- and I don't know if the rules if we have the Ogden amendment on this bill where you're looking at one number and then all of a sudden, before we start implementing the bill, it's going to cost us $30 million to implement the bill by the numbers -- if we use the formula being used by Missouri that has only 5.9 in population. Now, that

SEN. GALLEGOS: Senator Fraser, I stayed up very late last night reading the deposition of the questions that were asked, that you asked me last year, the answers. And I guess if you're concerned about that, maybe you should get that deposition and you read it and then you can feel more comfortable about what was asked and what was answered. Have you read the deposition?

SEN. GALLEGOS: There will be plenty of time for that. But I'm just asking you, as the author of the bill, you know, I mean, you are laying it out, and you're trying to explain it. And you're asking us to ask resource witnesses on questions, especially the questions that Senator Uresti had. And it concerns me that before we even, you know, lay it out and go forward with a bill, that the people that are here listening, at least they have the right to -- they leave, they have the right to know these questions, especially those questions that Senator Uresti just got through asking two years ago and have never been answered.

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SEN. GALLEGOS: Well, I mean, I heard you say that Senator Watson could use that here and stop the closure of those Austin Independent School District schools that are being closed. They could use that $30 million that I see as opposed to what I'm seeing as the formula in math that Missouri used.

Now, it concerns me that the fiscal note that's laid out in this bill is misleading, according to the other states that are using more money and less population to implement their voter ID bill. That concerns me, Senator. And, I mean, is there somebody that can answer that question for me, why it costs so little on a state that has 25 million in population as opposed to another state that has 5 million and it's triple the cost?

You know, I mean, that concerns me, and that should concern you, when you're given a number, and you're telling the people in the audience here, the taxpayers, it's only going to cost us $2 million. And we have 25 million in population; Missouri only has 5.9 million, and it's costing them $6 million to implement voter ID. Now, you know, that really concerns me. And I don't want to mislead the public in any form or fashion that it's only going to cost us $2 million to implement voter ID when that is a misleading number. And not you -- but the fiscal note on this bill is saying only two million bucks. Now, you know, that just concerns me, Senator. And I guess I'll ask that question when the proper resource witness comes up.

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

The City of Fort Worth I think doesn't have any either inside -- what is that loop? 82, 132? -- 81. And Dallas, Senator West, only has one -- 14 only has one inside the city, only has one DPS center inside the city. And it concerns me, if we're going to mandate Texans to get a photo ID and you have no place to send them to, especially inside the loop and especially those without transportation, and if they can't get to it on a bus route, to one of the DPS centers --

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

SEN. GALLEGOS: I'm talking about your bill that mandates a photo ID. And if we're going to mandate Texans, then we should at least allow them the opportunity to have places where they can get it, where they don't have to travel 150 miles like Senator Uresti just said. That's my concern, especially the elderly that don't have any and they're going to have to get a photo ID, that that person is going to have to travel 150 miles, even from their house inside the loop, those people that don't have cars and they have to do public transportation.

Now, I'm looking at the map in the City of Houston, the bus route where it takes them three buses just to get close to a DPS center from anywhere inside the 610 loop. That really concerns me, Senator, on this, and hopefully that -- Senator Fraser?

SEN. FRASER: I'm with you.

SEN. GALLEGOS: Hopefully that you will look at it and maybe in some of our amendments will take that into consideration. I'm just telling you, you know, what's in Houston, not in Horseshoe Bay where you live. And, you know, that is a really a problem that we have, especially those of us that represent minority communities like Senator Uresti and me and others on this floor.

There is another issue, Senator Fraser,
1 that I wanted to ask you. On driver's license, you know, it says on a driver's license that's -- on a driver's license that's pulled from somebody for whatever reason, DPS gives you a temporary, and that temporary is good for about 40 days or in some cases when they've been stopped for a DWI or anything but still have not gone through the legal process, they are given a paper temporary license, and it says on that paper that this is used for identification purposes.

Now, I guess my question to you would be that if that is pulled -- and there's several thousands of drivers, of Texans, that are using this paper ID right now -- that if a driver's license is pulled for whatever reason, that that DPS certification paper temporary license can be used as an ID to go vote.

SEN. FRASER: Senator, if you don't mind, I'm going to yield to Senator Williams on that question.

SEN. WILLIAMS: Senator Gallegos, I had a similar question of what you have as I visited with the Department of Public Safety about this. And, in fact, it had been a while since I had renewed my license. And it now -- these temporary licenses actually have a photo on the license, and it would be valid under Sen. Fraser's bill as identification if you went to vote.

SEN. GALLEGOS: Well, Senator Williams, I'm showing that 98,000 drivers right now have temporary licenses without photo IDs.

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

SEN. GALLEGOS: Well, I agree.

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

SEN. GALLEGOS: Senator Williams, I understand what you just told me. But, you know, I've known some folks that have had their license pulled and have not gone through the process, and there is no photo ID. All they're given is the sheet of paper that I have right here that they're driving with, 98,184 that are driving with this paper right here, no photo ID.

And it says -- it says here -- well, I'm not going to read it to you. Just trust me; you can read it yourself. It says that this would be used for identification purposes.

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

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

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

SEN. GALLEGOS: Sure.

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

SEN. GALLEGOS: Sure. Thank you, Mr. Chairman.
| 1 | SEN. DAVIS: Well, I would -- |
| 2 | SEN. FRASER: -- that you would like to -- |
| 3 | and we also, I believe, are going to have someone from Indiana here this afternoon, and we're also going to have an invited -- an attorney that will address that. |
| 4 | So if you have specific questions about that, that might be the appropriate place. |
| 5 | SEN. DAVIS: Well, I'll read to you from Section 8, but can only fill out the attestation clause in Section 9? |
| 6 | SEN. FRASER: And again, you're making a reference to Section 8 that -- you know, I'm sorry. I don't -- I'm not -- I don't know what you're referring to. The Secretary of State is the expert in that area. And when you ask that question, I'll be listening and will, you know, listen to the response. |
| 7 | SEN. DAVIS: Earlier you talked about the Executive Director from the Carter-Baker Commission, and you cited a statistic, that only 1.2 percent of Americans would be affected by a requirement that a photo ID be required. Correct? |
| 8 | SEN. FRASER: I did make that reference, yes. |
| 9 | SEN. DAVIS: Are you aware that was limited to a study of only three states, and Texas was not one of them? |
| 10 | SEN. FRASER: Yes, because at that time the Carter-Baker was looking at the states that had issued a photo ID. |

| 1 | And you're making a reference to Section 8 that you know I'm not advised. |
| 2 | SEN. DAVIS: Are you aware that even in those states in the 1.2 percentage number there was a disparate impact that was found on elderly and women and African Americans in terms of people who actually had the eligible photo ID that's counted in that percentage? |
| 3 | SEN. FRASER: I'm not advised. |
| 4 | SEN. DAVIS: Does it concern you at all that the bill that we are looking at today the bill might have a disparate impact on women, minorities and senior citizens possibly disabled people in the State of Texas? |
| 5 | SEN. FRASER: I'm not advised. |
| 6 | SEN. DAVIS: When you ask the Secretary of State that question, I will be listening very carefully to make sure that I hear what they say. |
| 7 | SEN. DAVIS: And would you agree that it's probably the case that if I fill out Section 9, the attestation clause, because I can't fill out Section 8 with either a social security number or my driver's license number, that I will probably be impacted by a bill that's going to require what your bill requires in order for me to vote? |
| 8 | SEN. FRASER: Again, that would be a good case second of the Secretary of State.
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1 read to you from the Supreme Court opinion, the U.S. Supreme Court opinion when it was reviewing the Indiana law.

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

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

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

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

6 SEN. DAVIDS: That’s correct. They said they did not believe that it created a constitutionally prohibited burden, based on the fact that voters in the State of Indiana have the opportunity to vote a provisional ballot even if they don’t have a photo ID, if they can show that they were unable to get one, either because of their circumstances as an elderly person or because they’re indigent. Does your bill provide a special exception for people under those circumstances to vote a provisional ballot?

7 SEN. FRASER: The bill that I’m moving forward I believe will be approved by the U.S. Supreme Court and will be precleared by the Department of Justice.

8 SEN. DAVIDS: Okay. Let’s look at the things that are required in your bill in terms of a photo ID. And I appreciate what you said earlier. I think it’s true. I think if you ask anybody on the street that you might walk up to at this moment in time whether they think it’s a good idea for someone to show a photo ID in order to vote, they would probably agree. What they might not understand in agreeing with that, though, are what the requirements are going to be in the State of Texas in order for them to comply with that particular requirement, and they also might not appreciate the challenge and the difficulty that some people may have in supplying that. SEN. FRASER: Senator, this is not rocket science. The people of your district understand very clearly that when they walk into that voting booth, they have to show a photo ID proving they are who they say they are. The people in Fort Worth, that area, I have the polling data -- I believe the number is about 20 around 90 percent. And of that, that’s Republicans and Democrats. So I believe the people that elected you, sent you down here have said, "We believe that when you go in to vote, you should show identification to prove you are who you say you are." It’s a very, very simple concept.

9 SEN. FRASER: And I would ask you what would happen if you were driving to the polling place would happen if you were driving to the polling place and your driver’s license expires the day before I go to vote and I’m not recognized acceptable forms of identification that we have recommended.

10 SEN. DAVIDS: And it does not include that form of ID.

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

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

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

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

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

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

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

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

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

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

SEN. DAVIS: I am asking you the question.

SEN. FRASER: You have a valid Texas driver’s license, right?

SEN. DAVIS: It has my name and it has my picture on it and my name matches what’s on the registrar’s -- the precinct rolls, how does that fail to prove that I’m who I am?

SEN. FRASER: I think we go back to the word “valid.” do you have a valid Texas driver’s license?

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

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

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

SEN. FRASER: You would ask for that ID, based on the fact that they want to ask for that ID based on the fact that they want to be sure that the person who is receiving my ballot can verify that I am the person casting it.

SEN. DAVIS: I have to admit to you that I would have been quite challenged in being able to accomplish it. I had gotten divorced, so my name was different on my state ID than was on the registration rolls. And so because of that, I would have had to go through the process of trying to get a new state ID.

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

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

The other issue, in trying to receive a state ID in the State of Texas is, it’s almost a circular process. In order to get the state ID, you have to have underlying ID that provide you with the opportunity to get that ID. And I know we’re talking right now in the State of Texas about giving free ID to 24 people who come in to the Department of Motor Vehicles and ask for that ID, based on the fact that they want to have when they’re being asked to supply some of the documentation that’s required in your bill. And I’ve put together a little chart that I just want to go over very quickly. I won’t belabor the point.

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

SEN. DAVIS: Thank you.

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

SEN. DAVIS: Senator Fraser, I came from a fairly challenged background before I arrived on the floor of the Texas Senate. I had the opportunity to receive an incredible education that ultimately allowed me the privilege of standing here and having a conversation with you today. But there was a time when I was indigent, there was a time when I was a single mother and I was working a full-time job in Dallas, from which I had to leave my house at 6 o’clock in the morning every morning to arrive at, and I worked...
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1 vote. 2 But if I can't provide underlying 3 documentation, I'm going to have to go get that 4 underlying documentation, and it's going to cost me 5 money, and I'm concerned about that person. I'm 6 concerned that if I need a birth certificate in the 7 state of Texas, it's going to cost me $25. I'm also 8 concerned that I might have a really hard time getting 9 that birth certificate. And if you look to see what you 10 can show in order to get it, you see the circularity of 11 the problem. You can show a driver's license or you can 12 show a state ID. Well, the reason I need the birth 13 certificate is so I can get my driver's license or my 14 state ID. 15 In order for me to get a birth 16 certificate, I can show a social security card as one of 17 my underlying two documents that are required. But in 18 order to have a social security card, I've got to have a 19 driver's license or a state ID, so it puts me right back 20 at my original problem. To get my driver's license or 21 my state ID, I might be able to use a passport. But in 22 order to use my passport, I'm going to have to have a 23 birth certificate, but I couldn't get my birth 24 certificate because I didn't have a driver's license or 25 a state ID to get my birth certificate.

SEN FRASER: The question has already 21 been asked twice. We will have someone here from the 22 Secretary of State and the DPS that can answer that 23 question for you.

SEN DAVIS: Okay. Back to the fiscal 28 note, Senator Fraser. The fiscal note --

29 SEN FRASER: We've also talked about that 30 a couple of times.

31 SEN DAVIS: Yes, we did, but I want to 32 ask this question. The fiscal note, of course, 33 described the methodology under which the $2 million 34 figure was compiled, and it specifically states that it 35 left out the cost for training poll workers and election 36 officers. It specifically states that it left out any 37 cost for coordinating voter registration drives. It 38 specifically states that it left out the costs of 39 providing the ID cards, all of that because it is an 40 unknown number.

41 SEN FRASER: Well, you're making an 42 assumption, and this amount was brought forward by LBB 43 after they talked to the secretary of the State. The 44 Secretary of State, I think, they can answer that 45 question. But I disagree that it's unknown. I believe 46 the Secretary of State and LBB knew exactly what they 47 were doing when they brought it forward, because that's 48 their job.

49 SEN DAVIS: Well, it literally says that. 50 It says, "The fiscal impact of the revenue loss from the 51 prohibition of DPS to collect a fee is unknown because 52 it is not known how many people would make such a
CONSIDERATION OF SENATE BILL 14 1/25/2011

SEN. FRASER: And that is a correct statement.

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

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

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

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

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

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

SEN. WEST: Thank you.

SEN. DAVIS: Thank you.

CHAIRMAN DUNCAN: Senator West.

SEN. WEST: Thank you very much.

Mr. Chairman, I would like to ask the author a couple of questions.

SEN. FRASER: Senator, I'm sure you're aware through -- the past session, you were here.

You're reading current law. There is one change there where we insert *presented by the voter under Section 63.001,* which is the description I think of the photo used. That amount of money is setting in the Secretary of State's office now, and I think that would be a good question to ask them.

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

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

SEN. DAVIS: It's your bill, though.

SENATOR FRASER, and the language is here. And there is no guidance for someone -- if we were to vote on a bill like this, how are we to know how a situation like that would be handled if it's not addressed in the bill?

SEN. FRASER: Senator, I'm sure you're aware through -- the past session, you were here.

You're reading current law. There is one change there where we insert *presented by the voter under Section 63.001,* which is the description I think of the photo used. That amount of money is setting in the Secretary of State's office now, and I think that would be a good question to ask them.

SEN. DAVIS: Thank you.

SEN. FRASER: Thank you.

CHAIRMAN DUNCAN: Senator West.

SEN. WEST: Thank you very much.

Mr. Chairman, I would like to ask the author a couple of questions.

SEN. FRASER: Senator, good morning, sir.

SEN. FRASER: Senator, I'm sure you're aware through -- the past session, you were here.

You're reading current law. There is one change there where we insert *presented by the voter under Section 63.001,* which is the description I think of the photo used. That amount of money is setting in the Secretary of State's office now, and I think that would be a good question to ask them.

SEN. DAVIS: Thank you.

SEN. FRASER: Thank you.

CHAIRMAN DUNCAN: Senator West.

SEN. WEST: Thank you very much.

Mr. Chairman, I would like to ask the author a couple of questions.

SEN. FRASER: Senator, good morning, sir.

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

SEN. WEST: That was actually Billy Ocean,
CONSIDERATION OF SENATE BILL 14 1 25 2011

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1 Which both of us like.
2 SEN. FRASER: Both of us do like. I
3 agree.
4 SEN. WEST: Now, we're not going to have
5 any unfunded mandates on counties, are we? This bill
6 would not occasion any unfunded mandates on counties.
7 SEN. FRASER: This bill?
8 SEN. WEST: Yes, this bill that you're
9 proposing. The counties will not have to pick up any of
10 this cost -- is that correct -- because that would be an
11 unfunded mandate? And I know you are not for unfunded
12 mandates. Right?
13 SEN. FRASER: I am not for -- I'm opposed
14 to unfunded mandate, but I'm not advised of whether it
15 would be --
16 SEN. WEST: So you can tell counties, you
17 can tell all county officials in the sound of my voice
18 and your voice that there will be no unfunded mandates
19 in this bill and counties will not have to spend any
20 money that they don't have right now to implement this
21 particular bill. Correct?
22 SEN. FRASER: I had my largest county,
23 Bell County, in my office last week, and I told Judge
24 Burrows at that time that I'm opposed to unfunded
25 mandates and, you know, we'll do everything we can to

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1 County anticipated a one-time cost to reprint
2 provisional voting materials and provide new
3 notices, of $8,000. Bexar County stated that due to
4 limited space on current registration certificate, large
5 cards would be necessary, resulting in additional costs
6 for cards, printing and postage of $381,000, etcetera.
7 Is that a cost that is going to be picked
8 up by the state or is that going to be a cost that's
9 going to be occasioned by the counties?
10 SEN. FRASER: Senator, you're on the
11 Finance Committee. You helped with proposing the draft
12 bill, and then you will be voting on the bill coming out
13 of the committee that you send to us, so I think you
14 would be better to answer that. My job is to pass the
15 bill. The implementation of the bill, then, and the
16 cost will have to be considered by the Finance
17 Committee.
18 SEN. WEST: So let me make sure that I
19 understand this, then. The answer to that question is,
20 you don't know. So if we don't appropriate that
21 money -- that being the legislature doesn't appropriate
22 that money -- then that's an unfunded mandate. Correct?
23 SEN. FRASER: My job is to bring the bill
24 forward, put it before the membership, advise what the
25 bill will do. And then if there's a fiscal impact --

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1 SEN. WEST: Advise what the bill will do?
2 SEN. FRASER: The bill is going --
3 SEN. WEST: Is that your job? Didn't you
4 just say part of your job is to advise what it will do?
5 SEN. FRASER: Yes. What it's going to do
6 is that when you walk into --
7 (Simultaneous discussion)
8 SEN. WEST: So I'm asking you --
9 SEN. FRASER: -- in Oak Cliff and went to
10 vote, you're going to have to show your smiling face --
11 SEN. WEST: And I'm asking what it will
12 do. I'm asking what it will do in terms of unfunded
13 mandates right now.
14 SEN. FRASER: Not advised about unfunded
15 mandates.
16 SEN. WEST: Not advised. So where will
17 the counties get this money under the local impact --
18 (Simultaneous discussion)
19 SEN. FRASER: And I think that's going to
20 be your responsibility as a member of Finance.
21 SEN. WEST: Do you know -- then let me ask
22 this question. Do you know where the county will get
23 the money from, counties will get that money from?
24 Under the local government impact, do you know where the
25 counties will get that money from?

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22 this question. Do you know where the county will get
23 the money from, counties will get that money from?
24 Under the local government impact, do you know where the
25 counties will get that money from?

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1 SEN. FRASER: You're asking me a question.
2 No, I do not know --
3 SEN. WEST: Okay. Thank you. Now, as it
4 relates to -- this bill, plus the costs that we don't
5 know, you've said repeatedly that it's going to cost at
6 least $2 million. And we know, based on the fiscal
7 note, that there's still some undetermined cost.
8 SEN. FRASER: I have not said one time
9 that it's going to cost $2 million. I've said there is
10 a fiscal note that has been projected, but there are
11 dollars in the HAVA fund, federal funds, that are
12 setting in the Secretary of State's office that far
13 exceed that number. And I think the Secretary of State
14 probably will let us know what that is. So there is a
15 pot of money there that we believe will help offset some
16 of the associated expenses. I do not believe the cost
17 will be $2 million.
18 SEN. WEST: Now, the HAVA funds, is that
19 general revenue or is that federal funds?
20 SEN. FRASER: Federal funds.
21 SEN. WEST: Okay.
22 SEN. FRASER: And I believe I'm right, but
23 again, I would ask that question of the Secretary of
24 State if I were you.
25 SEN. WEST: Okay. Well, as it relates to

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1 general revenue, now, as I understand and as I've used
2 the term 'general revenue' over the last 17 years I've
3 been here -- and maybe Senator Ogden or someone else on
4 the Finance Committee can correct me if I'm wrong --
5 general revenue basically means state funds -- right --
6 monies that we get from state --
7 SEN. FRASER: You are the number of
8 Finance.
9 SEN. WEST: Well, let me -- general
10 revenue -- okay. Well, then, take my word for it,
11 that's what it means. It means monies that we receive
12 from tax revenues in the State of Texas, not HAVA funds
13 but revenues from taxes and revenues that are -- and
14 sources of revenues that we get from citizens in the
15 State of Texas. And that's what this deals with, it is
16 specifically general revenue-related funds, not HAVA
17 funds. HAVA funds are federal funds. So let's make
18 sure -- in terms of my questions, that's the distinction
19 that I'm making.
20 SEN. FRASER: Well, the distinction you're
21 not making is that if the HAVA funds are not available,
22 yes, there would be a cost to the state. But if HAVA
23 funds are available, it would offset that cost to the
24 state.
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1 fiscal note?
2 SEN. FRASER: It's not in that. That's
3 conversation --
4 SEN. WEST: Then how are you making that
5 statement, if it's not in this fiscal note? There's
6 nothing in the fiscal note that says that.
7 SEN. FRASER: Mr. Chairman?
8 CHAIRMAN DUNCAN: Senator Fraser.
9 SEN. FRASER: Could I please enter into
10 the record -- this is information coming that is
11 addressing the questions he's talked about addressing
12 HAVA. I would like to have this added as an exhibit,
13 please.
14 CHAIRMAN DUNCAN: Bring it forward to the
15 Secretary, if you would, and we'll need to --
16 SEN. WEST: May we approach on it, Your
17 Honor -- Your Honor -- may we approach on it,
18 Mr. Chairman?
19 CHAIRMAN DUNCAN: You may.
20 (Brief pause)
21 SEN. FRASER: Mr. President?
22 CHAIRMAN DUNCAN: Senator Fraser, if
23 you'll hold on just a minute. I'm going to allow --
24 we're already premarked a couple of exhibits. And so
25 just in order to keep the record flowing correctly, I'm

1 going to recognize Sen. Van de Putte at this point to
2 introduce a motion in writing.
3 SEN. VAN de PUTTE: Thank you,
4 Mr. Chairman. And thank you, Chairman, and the bill
5 author, to yield so that I can move that all actions
6 taken by the Senate on the 81st Legislature on Senate
7 Bill 362, as contained in the official Senate Journal,
8 be included in the record as Exhibit 2. The Senate
9 Journal excerpts shall include motions, remarks, written
10 responses, exhibits and any other material directly
11 related to Senate Bill 362.
12 Mr. Chairman, I move this motion in
13 writing.
14 CHAIRMAN DUNCAN: Members, you've heard
15 the motion. Is there any objection?
16 The Chair hears none. Exhibit 2 will be
17 received into the record.
18 (EXHIBIT No. 2 marked and admitted)
19 CHAIRMAN DUNCAN: Now, Senator Fraser,
20 you're recognized on Exhibit 3, I believe.
21 SEN. FRASER: And, members, just to
22 clarify, what we're entering here is the answer to the
23 question that we've been discussing. It is a letter
24 from the Secretary of State, Hope Andrade, saying that
25 the $2 million we're discussing, there is sufficient
26 HAVA funds allocated to voter education and poll worker
27 training that would cover this expense that is
28 available.
29 Also, in addition to your question, we
30 have been advised by other counties saying they do not
31 expect more than a nominal cost for counties existing
32 staff and resources should be sufficient to implement
33 the new law.
34 And I would request this be entered into
35 the record.
36 CHAIRMAN DUNCAN: Members, Senator Fraser
37 sends up Exhibit No. 3. It will be received into the
38 record.
39 (Exhibit No. 3 marked and admitted)
40 CHAIRMAN DUNCAN: Senator Fraser, you
41 still have the floor. Senator West, Senator has yielded
42 to you for questions.
43 SEN. WEST: Thank you, Mr. Chairman.
44 SEN. FRASER: Yes.
45 SEN. WEST: Okay. So you've admitted this
46 as part of the record. So these are federal funds and
47 not general revenue. Is that correct?
48 SEN. FRASER: No. Those are federal
49 funds, as I understand it, yes.
50 SEN. WEST: It's not general revenue?
51 SEN. FRASER: Yes.
52 SEN. WEST: Okay. And the certainty of it
53 is still up in the air. Based on this document from the
54 Secretary of State, they still have to confirm that the
55 funds can, in fact, be used for this particular purpose?
56 SEN. FRASER: That is correct, and that's
57 what I advised earlier, is that HAVA has said until the
58 passage of the bill, they would not rule, but the funds
59 have been used before in Indiana and Georgia, and it is
60 expected that we will be able to use them here.
61 SEN. WEST: Okay. Now, you had made
62 mention also that you've talked to some other counties
63 and that there won't be any unfunded mandates on those
64 counties?
CONSIDERATION OF SENATE BILL 14 1/25/2011

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

SEN. WEST: And then --

SEN. FRASER: To handle this,

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

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

SEN. WEST: There's 254 counties, and you've just made a statement that most of the counties have said they can absorb it within their normal --

SEN. FRASER: I said I do not expect it to be more than a nominal cost.

SEN. WEST: But otherwise -- now Bexar County is saying it's going to be over $300,000. That's not a nominal cost, is it?

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

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

SEN. FRASER: The large counties, they have huge budgets, and you will have to make that decision.

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

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

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

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

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

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

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

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

SEN. WEST: Okay. Well, I mean, it's your bill.

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

SEN. WEST: Okay. In Section 7 of the bill, specifically (c), let me know when you're with me on it.

SEN. WEST: I'm sorry.

SEN. WEST: That's Section 11.

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

SEN. FRASER: The Secretary of State.

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

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

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

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

SEN. FRASER: We have had a lot of discussion with the Secretary of State's office in helping to draft this bill, last three years in the process of drafting bills.

SEN. WEST: So you don't know what an election officer is?
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1 asking the question. I would suspect probably poll
2 workers may be paid different from one county to
3 another. And it's an area -- I think that that's a good
4 question of the Secretary of State.
5
6 SEN. WEST: Okay. Now, you keep referring
7 to the Secretary of State. But in the bill analysis,
8 doesn't it also say that this bill does not expressly
9 grant any additional rulemaking authority to the state
10 office -- to a state officer, institution or agency?
11 Does it say that? Do I have to ask the Secretary of
12 State about that also?
13 SEN. FRASER: Senator, I'm sorry. I'm not
14 advised. I do not have a bill analysis. Do you have
15 one in front of you you would like show me?
16 SEN. WEST: I do. Look under "Rulemaking
17 Authority."
18 SEN. FRASER: We don't have it.
19 SEN. WEST: You don't have a -- okay. In
20 the bill analysis, what it says is that this bill does
21 not expressly grant any additional rulemaking authority
22 to a state officer, institution or agency?
23 SEN. FRASER: Isn't that standard language
24 that's put on every bill?
25 SEN. WEST: I don't know. But what I'm
26 asking you is --
1 2
1 report.
2 SEN. WEST: Of the recommendations that
3 they mentioned, did you incorporate any of those in your
4 bill?
5 SEN. FRASER: My bill is a bill I believe
6 will be approved by the U.S. Supreme Court and be
7 approved by the Department of
8 Justice.
9 SEN. WEST: Okay. Let me ask you this:
10 Have you made mention of the Carter-Baker Commission?
11 SEN. FRASER: I have made references a
12 couple of times of things that they mentioned in their
13 report.
14 SEN. WEST: Of the recommendations that
15 they mentioned, did you incorporate any of those in your
16 bill?
17 SEN. FRASER: My bill is a bill I believe
18 will be approved by the U.S. Supreme Court and be
19 approved by the Department of
20 Justice.
21 SEN. WEST: So the answer to the question
22 is? Did you incorporate any of the recommendations
23 from the Carter-Baker Commission in your bill?
24 SEN. FRASER: The bill that we're filing
25 is a bill that I believe will be approved by the U.S.
26 Supreme Court and be approved by the Department of
27 Justice.
28 SEN. WEST: So the answer to the question
29 is? That we're filing a bill
30 that's going to be approved by the U.S. Supreme Court.
31 SEN. WEST: Well, that wasn't the question
32 asked. The question asked, did you incorporate any of
33 the recommendations in the Carter-Baker Commission in
34 your bill? That was the question I asked.
35 SEN. FRASER: I read the Carter-Baker
36 report. And you know, obviously, I'm aware of the
37 things they're recommending. But the bill that I've
38 You have made reference to the Carter-
39 Baker Commission and recommendations. Is that correct?
40 SEN. FRASER: I want to make an
41 observation here for Senator Whitmire. If you'll look
42 up, it is filling up, so there must be someone concerned
43 about the legislation we're talking about.
44 What was the question?
45 SEN. WHITMIRE: Lubbock.
46 SEN. FRASER: While Senator West gathers
47 himself, I'll tell you that those are the great people
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<th>CONSIDERATION OF SENATE BILL 14</th>
<th>1/25/2011</th>
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<tbody>
<tr>
<td>1 Drafted is based on the fact that whenever you walk in to vote, I want you to show an ID proving you are who you say you are, and I believe that bill will be approved by the U.S. Supreme Court.</td>
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<td>2 SEN. WEST: Do you not know whether you did or not. Is that the answer to my question?</td>
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<td>3 SEN. FRASER: My answer is, the bill that we filed, that we brought forward, is a bill that clearly says that whenever you vote, you need to show your ID, and I believe that bill will be approved by the U.S. Supreme Court.</td>
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<td>4 SEN. WEST: Was that one of the recommendations of the commission?</td>
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<td>5 SEN. FRASER: I'm not advised.</td>
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<td>6 SEN. WEST: But you made reference to it as a predicate for why this particular bill --</td>
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<td>7 SEN. FRASER: No, I made a reference to comments that were made by the Carter-Baker Commission.</td>
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<td>8 SEN. WEST: What were those comments that you made?</td>
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<td>9 SEN. FRASER: If you want to go over it again, I can do my opening statement again if you would like.</td>
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<td>10 SEN. WEST: No, just the comments from the Carter-Baker Commission.</td>
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<td>11 SEN. FRASER: Carter-Baker Commission, bipartisan -- Carter-Baker Commission affirms the danger. Elections are at the heart of the democracy.</td>
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<td>12 &quot;Americans are losing confidence in the fairness of elections, and while we do not face a crisis today, we need to address the problems of our electoral system.&quot;</td>
<td></td>
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<tr>
<td>13 The Carter-Baker Commission concluded at the end of the day, there's considerable national evidence of in-person voter fraud. And regardless of whether one believes that voter impersonation is widespread or relatively rare, there can be no serious dispute that it is a real effect, can be substantial because, in a close election, even a small amount of fraud could make a margin of difference.</td>
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<td>14 SEN. WEST: Okay.</td>
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<td>15 SEN. FRASER: That was my reference to the commission.</td>
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<td>16 SEN. WEST: Okay. Did they also recommend, though, that we should use some sort of mobile strategy, mobile strategy in order to get vehicles out to different locations to --</td>
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<td>17 SEN. FRASER: I didn't reference that.</td>
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<td>18 SEN. WEST: No. I said did they also recommend that, though?</td>
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<td>19 SEN. FRASER: I'm sorry. I'm not advised.</td>
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<td>20 SEN. WEST: Okay. But if they did make a recommendation that we should do everything we can to make certain people are registered to vote, you would support that, wouldn't you?</td>
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<td>21 SEN. FRASER: The bill I'm filing, that I'm filing today --</td>
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<td>22 SEN. WEST: No. That's not --</td>
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<td>23 SEN. FRASER: -- very clearly says that I think it will be approved by the U.S. Supreme Court and approved by the Department of Justice.</td>
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<td>24 SEN. WEST: And we need to ask the Secretary of State. Okay. I understand that. But what I'm asking is, you would agree that if we are trying to quote unquote purify our election process, that we should do everything we can in order to make certain people are registered to vote. Wouldn't you agree with that?</td>
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<td>25 SEN. FRASER: I think probably when the --</td>
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<td>26 SEN. WEST: Well, you would not agree with that?</td>
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<td>27 SEN. FRASER: If you'll allow me to make a statement.</td>
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<td>28 SEN. WEST: Sure.</td>
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<td>29 SEN. FRASER: I think when DPS comes up I think there's going to be a lot of discussion about what they can do in the form of either making it easy for people to sign up and/or even, maybe even a temporary van for an area that Senator Uresti had talked about in far West Texas. Those people that are, you know, 100 miles from the nearest location, maybe there's a way to accommodate that. So I think the answer to your question is, I'm anxious to hear the response of the Department of Safety of what they're either able and/or willing to do.</td>
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<td>30 SEN. WEST: And let's assume that they are able and willing to do more than your bill permits. Would you support an amendment that would enable them to do what they're able to do in order to --</td>
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<td>31 SEN. FRASER: Have you prefilled that amendment and have I had a chance to look at it?</td>
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<td>32 SEN. WEST: No. I'm asking you a question right now.</td>
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<td>33 SEN. FRASER: And I'm asking you, have you filed your amendment?</td>
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<td>34 SEN. WEST: Well, you basically said, sir, that you have to wait -- we have to wait until you hear their testimony before we can make a determination as to whether or not they're --</td>
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<td>35 SEN. FRASER: No. I can't tell you --</td>
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<td></td>
<td>SEN. WEST:</td>
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<td>1</td>
<td>Well, let me finish; let me finish, please. Let me finish.</td>
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<td>2</td>
<td>What you just said a second ago is, is that you want to defer to the Department of Public Safety to make a determination as to whether or not there are things that they can do in order to make certain they're doing the outreach that's necessary to accommodate just some of the concerns that senator Uresti had.</td>
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<td>3</td>
<td>SEN WEST: What did you say?</td>
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<td>4</td>
<td>SEN WEST: Let me give you a hypothetical, then. If the Department says that they can do much more than your bill currently allows them to do, would you support an amendment that would give them the resources or give them the rulemaking authority to be able to do the outreach?</td>
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<td>5</td>
<td>SEN WEST: I'm probably not going to work in hypotheticals right now. Let's wait until we hear from them. Then we'll determine that.</td>
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<td>6</td>
<td>SEN WEST: Okay. Well, I'm going to make sure and I'll put that down.</td>
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<td>7</td>
<td>SEN WEST: It was really actually a very complicated system that we came up with this. It was actually recommended by a democrat member that said, 'If you'll put that in the bill, that would help five or six of us vote for the bill.' So that was recommended originally to be put in the bill. But the answer to your question is, I'm 61 years old, and I think you're just about as old as I am.</td>
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<td>8</td>
<td>SEN WEST: No, I'm younger; I'm younger than you are. I'm younger.</td>
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<td>9</td>
<td>SEN FRASER: Oh, you're 69 -- 59?</td>
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<td>10</td>
<td>SEN WEST: I'm younger than you are.</td>
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<td>11</td>
<td>SEN WEST: I'm 58 years old.</td>
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<td>12</td>
<td>SEN FRASER: Okay. Of the people that I know, people that are up to that age, it would not be an inconvenience for them, and they're still very, very active. Actually, I've got numerous people that I play golf with often that are above 70 and up to 80. So, actually, the number probably could have been higher, but that number we thought was a fair number and represented a number that we could offer up as a very fair number for an exception to this bill.</td>
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<td>13</td>
<td>SEN FRASER: I live in an area where there's a lot of retired people.</td>
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<td>14</td>
<td>SEN WEST: People. Okay.</td>
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<td>15</td>
<td>SEN FRASER: Yes, like myself.</td>
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<td>16</td>
<td>SEN WEST: Yes.</td>
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<td>17</td>
<td>SEN FRASER: Those people that I know, people that are up to that age, it would not be an inconvenience for them, and they're still very, very active. Actually, I've got numerous people that I play golf with often that are above 70 and up to 80. So, actually, the number probably could have been higher, but that number we thought was a fair number and represented a number that we could offer up as a very fair number for an exception to this bill.</td>
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<td>18</td>
<td>SEN FRASER: I live in an area where there's a lot of retired people.</td>
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<td>19</td>
<td>SEN WEST: I just didn't hear. You said you lived in a retirement --</td>
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<td>20</td>
<td>SEN FRASER: I live in an area where there's a lot of retired people.</td>
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<td>21</td>
<td>SEN WEST: People. Okay.</td>
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<td>22</td>
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<td>24</td>
<td>SEN FRASER: Those people that I know, people that are up to that age, it would not be an inconvenience for them, and they're still very, very active. Actually, I've got numerous people that I play golf with often that are above 70 and up to 80. So, actually, the number probably could have been higher, but that number we thought was a fair number and represented a number that we could offer up as a very fair number for an exception to this bill.</td>
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<td>25</td>
<td>SEN FRASER: I live in an area where there's a lot of retired people.</td>
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CONSIDERATION OF SENATE BILL 14
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1. definition would be 65. Why wouldn't you use 65? And let me give an example.

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

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4. 512.474.2233

5. 141

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

7. SEN. WEST: No, no, no, no.

8. 142

9. no. Let's get it straight. I didn't ask you that -- okay? -- for the record. Okay? I didn't ask you that.

10. SEN. FRASER: Okay.

11. SEN. WEST: But if you're going to put it in there, it seems as though you should have one of a consistent definition with some of the other statutes.

12. You're making an elderly individual for voting purpose more onerous than it is under these other statutes, like in our Penal Code where it says an individual -- elderly person is 65 years old.

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

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

15. SEN. FRASER: I'm sorry?

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

17. SEN. FRASER: I'm saying when I'm 80, I still believe I'll be able to get in the car, go down and get my ID and be able to vote.

18. SEN. WEST: But, see, you're assuming that all elderly people have cars.

19. SEN. FRASER: If they don't, they can vote by mail.

20. SEN. WEST: But you're assuming that they all have cars and that they'll be able to do everything that you'll be able to do at the age of 80. And I'm pretty certain you will be able to do it given, you know, the things that you do to keep yourself in shape and everything.

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

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

23. SEN. WEST: Let me interrupt and I don't want to -- we can continue with your line of questions when we reconvene as a Committee of the Whole. It's 20 till 3. We've gone 10 minutes over what we previously announced. Would you have any objection if we could continue the dialogue after session?

24. SEN. WEST: No objection.

25. CHAIRMAN DUNCAN: Senator West --

26. SEN. WEST: Yes.

27. CHAIRMAN DUNCAN: -- if I might.

28. SEN. FRASER: exception.

29. SEN. WEST: -- if I might interrupt -- and I don't want to -- we can continue with your line of questions when we reconvene as a Committee of the Whole. It's 20 till 3. We've gone 10 minutes over what we previously announced. Would you have any objection if we could continue the dialogue after session?

30. SEN. WEST: No objection.

31. CHAIRMAN DUNCAN: Okay. Very good. Why don't we go ahead and do that. Before we do that, let me ask the body if you would please, if you have amendments that you would wish to -- we're not putting a deadline on amendments, but it will help us if you can deliver your amendments as soon as possible to Jennifer Fagan who is the State Affairs Committee Director, and we will try to collate them and make sure that there are not conflicting amendments. And if you'll do that as soon as possible, that will be helpful.

32. There are a number of people that are on queue to be recognized and I will recognize them in order that they're on queue. Now we'll record that and then start. Senator Lucio will be first, Senator Van de Putte, Senator Ellis, Senator Seliger, unless you're just -- you're just on for the motion, so we'll take you off center. He's just for the motion, so we'll take him off. And then, Senator Zaffirini, you would be in queue at that point in time. And then we'll just start the queue. Whenever we come back in, you can go ahead and hit your button and we'll have the queue.
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1 Exhibits, too. If you have exhibits that you want to enter into the record so that we can make sure we have an orderly transition of those exhibits, would you go ahead and bring those forward, at least during the interim time, so we can go ahead and number them and have them available. It's not absolutely necessary that we introduce them in their chronological order, but it does help have a cleaner record. Finally, I want to remind you, we did have a little talking over, so we've got to make sure we have a clear record. So please, in the future, remember to speak one at a time.

Senator Zaffirini is recognized for an announcement.

(Announcement by Senator Zaffirini)

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

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

CHAIRMAN DUNCAN: Members you've heard the motion. Is there objection?

Chair hears none. It's so ordered.

Recess 10:43 a.m. to 12:38 p.m.

AFTERNOON SESSION

TUESDAY, JANUARY 25, 2011
(12:38 p.m.)

CHAIRMAN DUNCAN: The Committee of the Whole Senate will come to order. The Secretary will call the roll.

ROLL CALL

SECRETARY SPAW: Birdwell?

SEN. BIRDWELL: (Indicated presence)

SECRETARY SPAW: Carona?

SEN. CARONA: (Indicated presence)

SECRETARY SPAW: Davis?

SEN. DAVIS: (Indicated presence)

SECRETARY SPAW: Deuell?

SEN. DREUILL: (Indicated presence)

SECRETARY SPAW: Duncan?

CHAIRMAN DUNCAN: (Indicated presence)

SECRETARY SPAW: Ellis?

SEN. ELLIS: (Indicated presence)

SECRETARY SPAW: Eltife?

SEN. ELTIFE: (Indicated presence)

SECRETARY SPAW: Estes?

SEN. ESTES: (Indicated presence)

SECRETARY SPAW: Fraser?

SEN. FRASER: (Indicated presence)

SECRETARY SPAW: Gallegos?

SEN. GALLUGOS: (Indicated presence)

SECRETARY SPAW: Harris?

SEN. HARRIS: (Indicated presence)

SECRETARY SPAW: Hegar?

SEN. HEGAR: (Indicated presence)

SECRETARY SPAW: Hinojosa?

SEN. HINOJOSA: (Indicated presence)

SECRETARY SPAW: Huffman?

SEN. HUFFMAN: (Indicated presence)

SECRETARY SPAW: Jackson?

SEN. JACKSON: (Indicated presence)

SECRETARY SPAW: Lucio?

SEN. LUCIO: (Indicated presence)

SECRETARY SPAW: Nelson?

SEN. NELSON: (Indicated presence)

SECRETARY SPAW: Nichols?

SEN. NICHOLS: (Indicated presence)

SECRETARY SPAW: Ogden?

SEN. OGDEEN: (Indicated presence)

SECRETARY SPAW: Patrick?

SEN. PATRICK: (Indicated presence)

SECRETARY SPAW: Rodriguez?

SEN. RODRIGUEZ: (Indicated presence)

SECRETARY SPAW: Seliger?

SEN. SELIGER: (Indicated presence)

SECRETARY SPAW: Shapiro?

SEN. SHAPIRO: (Indicated presence)

SECRETARY SPAW: Uresti?

SEN. URESTI: (Indicated presence)

SECRETARY SPAW: Van de Putte?

SEN. VAN de PUTTE: (Indicated presence)

SECRETARY SPAW: Watson?

SEN. WATSON: (Indicated presence)

SECRETARY SPAW: Wentworth?

SEN. WENTWORTH: (Indicated presence)

SECRETARY SPAW: West?

SEN. WEST: (Indicated presence)

SECRETARY SPAW: Whitmire?

SEN. WHITMIRE: (Indicated presence)

SECRETARY SPAW: Williams?

SEN. WILLIAMS: (Indicated presence)

SECRETARY SPAW: Saffirini?

SEN. ZAFFIRINI: (Indicated presence)

SECRETARY SPAW: Lieutenant Governor

PRESIDENT DEWHURST: (Indicated presence)

CHAIRMAN DUNCAN: Quorum is present. (Pause)
QUESTIONS FROM THE SENATE FLOOR (CONTINUED)

1

CHAIRMAN DUNCAN: Senator Fraser, are you ready?

2

SEN. FRASER: I am ready.

3

CHAIRMAN DUNCAN: Senator West, you're recognized to continue your questioning with Senator Fraser.

4

SEN. WEST: Yes, sir. Thank you very much.

5

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

6

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

7

SEN. WEST: Okay.

8

CHAIRMAN DUNCAN: If you forget.

9

SEN. WEST: All right. Thank you.

10

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

11

CHAIRMAN DUNCAN: The -- probably not because we have switched court reporter shifts and so--

12

SEN. WEST: I was just trying not to be redundant on it.

13

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

14

SEN. FRASER: You are being redundant.

15

SEN. WEST: Okay. I need to ask the Secretary of State about that.

16

(Laughter)

17

SEN. WEST: Wait a minute. Hold on. I'm being redundant?

18

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

19

If we have to appropriate state funds in order to fund this voter ID bill, it will cost a minimum of $2 million, and that's the equivalent of about 4,000 teachers. You do understand and appreciate that. Is that correct?

20

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

21

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

22

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

23

If for some reason --

24

SEN. FRASER: I would never refer anything to the Secretary of State if for some reason the bill is not precleared by Justice, will those HAVA funds be made available?

25

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

26

SEN. FRASER: For sure.

27

SEN. WEST: For sure.

28

SEN. FRASER: Okay.

29

SEN. WEST: Okay.

30

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

31

SEN. WEST: Okay.

32

SEN. FRASER: I'm asking you a question.

33

SEN. WEST: And we need to make certain we do.

34

SEN. FRASER: Though an amendment, though that basically says that if general revenue, state revenue, had to be used in order to fund this particular bill, that you would then delay the -- the implementation of it?

35

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

36

SEN. FRASER: Senator, could I remind you that there was a motion in writing that was entered by Senator Huffman of the testimony of two years ago. And I think if you'll go back and read that testimony, yourself and several others, one of the big arguments you had was making sure that there was sufficient money that went forward for the education of
1 voters, making sure voters understood and that no one
2 would misunderstand this process. So it's difficult for
3 me when you're arguing both sides of the issue.
4 I think the answer to your question is,
5 I'm not going to take a position today about whether we
6 should or should not. We are requesting that the
7 Secretary of State do sufficient education so that no
8 one misunderstands the -- the implementation of this
9 bill.
10 SEN. WEST: Regard --
11 SEN. FRASER: We're going to give -- we're
to give them that power. And that without a
12 doubt, I would hate for us to be using money that could
13 be used for a schoolteacher, and I'm not going to get
14 into that debate because I'm a great supporter of
15 schoolteachers.
16 But I still stand by the letter from the
17 Secretary of State. The Secretary of State believes
18 very clearly that they have sufficient funds, the money
19 is available, and it will be made available.
20 SEN. WEST: So the answer to my question
21 is, is that there are no federal funds available, you
22 would support an amendment that basically says that we
23 should not use general revenue in order to fund this
24 bill?
25 SEN. FRASER: And my position is, is that
26 you've taken both sides of that issue. You argued in
27 favor of funds last time. You're -- now you're asking
28 for amendment saying we're not going to use funds. If
29 we don't use funds to educate voters, obviously that's a
30 problem.
31 And the answer is, no, I believe the
32 instruction to the Secretary of State is that we do need
33 to educate the voters.
34 SEN. WEST: So you'd be -- you'd be in
35 favor of cutting schoolteachers using -- and, I mean,
36 you agree with me that based on the budget that was
37 introduced by the House and the budget that was
38 introduced by the Senate, that school districts will be
39 under pressure to terminate some of the teachers that
40 would otherwise be in the classroom?
41 SEN. FRASER: I -- I don't agree with
42 anything other than the fact --
43 SEN. WEST: Okay. All right.
44 SEN. FRASER: -- that your own finance,
45 you're going to have to make those decisions; and we've
46 got to make sure that we educate voters, making sure
47 that they understand the implementation of this law.
48 SEN. WEST: All right. Let me ask the
49 question this way, then: Would you agree with me that
50 both the House and the Senate have introduced bills that
51 put pressure on school districts to reduce their budgets
52 that would impact the number of teachers that would be
53 in classrooms?
54 SEN. FRASER: You're a member of the
55 Finance Committee that implemented a draft budget. I an
56 not. I have not advised.
57 And the answer is, I'm sorry, I don't --
58 I -- I'm not advised on that issue.
59 SEN. WEST: If you were so advised -- if
60 you were so advised that both the House and the Senate
61 by -- if you were so advised by me, the Chairman of
62 Finance, the Chairman of Appropriation, that both the
63 House and the Senate have introduced bills that would
64 require us cutting our commitment to our public schools
65 and our teachers, if you were so advised that both
66 houses introduced the budget that did that, would your
67 position still be the same as it relates to the question
68 I asked you concerning whether or not we should be using
69 general revenue in order to fund voter ID implementation
70 over funding our public schools?
71 SEN. FRASER: I am so advised that you're
72 a member of finance, a very respected member, and you're
73 very capable of making those hard decisions; and I'm
74 sure you'll move forward and make the right decision for
75 our wonderful schoolteachers across the state.
76 SEN. WEST: What decision would you make?
77 SEN. FRASER: I'm sorry?
78 SEN. WEST: What decision would you make?
79 SEN. FRASER: I made a decision to support
80 you, as a member of finance, to keep you on the
81 committee.
82 SEN. WEST: So if you had -- if you had to
83 make a decision, though, if you were on finance and had
84 to make a decision, what decision would you make?
85 SEN. FRASER: I'm sorry. I'm not sitting
86 on finance. I'm not subject to being able to listen to
87 the debates, so it would be -- wouldn't be right for me
88 to take a position on that.
89 SEN. WEST: But if you had to make -- take
90 a position on funding voter ID over schoolteachers,
91 which one would you fund?
92 SEN. FRASER: I'm -- I think the
93 position -- because this bill is before us, it is
94 extremely important that -- that we deter and detect
95 fraud and restore the public confidence in the election
96 system.
97 SEN. WEST: So that's your answer in terms
98 of is that what you're telling the teachers, that
99 you'd rather do that than -- to the extent it's there,
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 you'd --
2 (Simultaneous speaking)
3 SEN. FRASER: Well, unfortunately, since
4 I'm not a member of finance, I don't get to make a
5 choice of what I would rather do. I'm laying --
6 bringing forward a bill today that would restore the
7 confidence of the public in the election system and --
8 today, because I'm sponsoring that bill, that I'm going
9 to ask that we -- you know, we restore that confidence.
10 SEN. WEST: So, I'm trying to -- so let me
11 make certain I understand your answer to my question.
12 SEN. FRASER: I know you're trying to --
13 SEN. WEST: Let me -- let me -- hold up.
14 Now, I'm listening, because if you remember, both of us
15 can't talk at the same time because the stenographer's
16 taking it down, and I'm trying to make certain that I am
17 reminded of that fact.
18 So your answer to that question is that
19 you would prefer to fund the voter ID bill, if need be,
20 with state funds than to put extra money -- take that
21 $2 million, if we need to, and put it back in the budget
22 for our school districts?
23 SEN. FRASER: You know, the -- you know,
24 the important thing -- or the good thing with the
25 Legislature is you don't get to make -- answer questions

1 for me, and the -- I did not say that at all.
2 Today I'm laying -- bringing forward a
3 bill that would deter and detect fraud and restore the
4 public confidence in the election system.
5 SEN. WEST: How does your bill detect
6 fraud?
7 SEN. FRASER: Come back? I'm sorry. I
8 didn't hear you. What did you say?
9 SEN. WEST: How does your bill detect
10 fraud?
11 SEN. FRASER: The -- the bill is designed
12 to deter and detect fraud and restore --
13 SEN. WEST: No. I asked you: How does
14 your bill detect fraud?
15 SEN. FRASER: The -- I think the easy
16 answer to that would be, is that when you walk into
17 the -- into your election booth and you show your
18 driver's license, they know for sure that you're Royce
19 West and that if you're on the precinct list,
20 registered, you're entitled to vote.
21 SEN. WEST: And so that's -- that's the
22 fraud detection provision in it? And so you'd rather
23 fund --
24 SEN. FRASER: That's the way the bill
25 works.

1 approved by Department of Justice.
2 SEN. WEST: I notice you keep on saying
3 that in terms of you believe that the bill is going to
4 pass muster at the Department of Justice and also the
5 United -- the Supreme Court of the United States. Are
6 you anticipating any -- let me -- let me ask this: If
7 the Department of Justice decides not to preclear this
8 legislation, are you anticipating any type of court
9 challenge by the state of Texas?
10 SEN. FRASER: Senator, I'm starting to
11 have trouble hearing you. Hold on a second. Let me put
12 my earphones on.
13 [Pause]
14 SEN. WEST: You have consistently
15 indicated that this particular bill will pass the
16 Department of Justice and also the Supreme Court. I'm
17 asking you: Do you anticipate that if the Department of
<table>
<thead>
<tr>
<th>Senator Fraser</th>
<th>Senator West</th>
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</thead>
<tbody>
<tr>
<td>1 Justice decides not to preclear this particular legislation, any litigation concerning it?</td>
<td>1 that in favor of that. Of that, 82 percent were black, 2 83 percent were Hispanic.</td>
</tr>
<tr>
<td>2 You're -- you're being subjective about me assuming what's going to happen. I believe the bill that we had -- that we're offering will be precleared.</td>
<td>3 So I would say the answer to your question is: If you ask someone that is either African American or Hispanic, do they believe that -- &quot;Do you favor/oppose requiring a valid photo ID before a person is allowed to vote?&quot; and you have 82 percent of the public that says that --</td>
</tr>
<tr>
<td>3 But I'm asking if it's not precleared. Do you want to see us go into litigation with the federal government concerning your bill if it's not precleared?</td>
<td>4 I don't -- I don't think that's my choice. I think we -- we will present the bill forward and try to present our best case that it should.</td>
</tr>
<tr>
<td>4 That's, you know, my choice. I think we -- we will present the bill forward and try to present our best case that it should.</td>
<td>5 The bill in no way addresses or thinks about any litigation. It is clearly just a bill saying this is what we're asking you to do, to present a photo ID when you vote, and that's the extent of the bill.</td>
</tr>
<tr>
<td>5 Okay. So does your bill anticipate any litigation at all?</td>
<td>6 I know because -- and the reason I ask that question, you continue to make reference to the Department of Justice and the U.S. Supreme Court or --</td>
</tr>
<tr>
<td>6 The bill in no way addresses or thinks about any litigation. It is clearly just a bill saying this is what we're asking you to do, to present a photo ID when you vote, and that's the extent of the bill.</td>
<td>7 The best evidence that I could bring forward is that the latest poll that was conducted in January the 10th, 2011. This one was by the Lighthouse Opinion Polling, LLC.</td>
</tr>
<tr>
<td>7 Okay. I know because -- and the reason I ask that question, you continue to make reference to the Department of Justice and the U.S. Supreme Court or --</td>
<td>8 It was conducted this is one of many we had. I've got a whole series of polls. This just happened to be the latest one that was conducted in January the 10th, 2011. This one was by the Lighthouse Opinion Polling, LLC.</td>
</tr>
<tr>
<td>8 The bill in no way addresses or thinks about any litigation. It is clearly just a bill saying this is what we're asking you to do, to present a photo ID when you vote, and that's the extent of the bill.</td>
<td>9 Lighthouse Opinion Polling, LLC.</td>
</tr>
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<td>9 Okay. So does your bill anticipate any litigation at all?</td>
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<td>11 The bill in no way addresses or thinks about any litigation. It is clearly just a bill saying this is what we're asking you to do, to present a photo ID when you vote, and that's the extent of the bill.</td>
<td>12 Lighthouse Opinion Polling, LLC.</td>
</tr>
<tr>
<td>12 Okay. So does your bill anticipate any litigation at all?</td>
<td>13 One that was Simultaneous discussion</td>
</tr>
<tr>
<td>13 The bill in no way addresses or thinks about any litigation. It is clearly just a bill saying this is what we're asking you to do, to present a photo ID when you vote, and that's the extent of the bill.</td>
<td>14 Were you finished?</td>
</tr>
<tr>
<td>14 Okay. In Georgia, not Indiana. Indiana's not a Section 5 state, they were precleared.</td>
<td>15 Yeah.</td>
</tr>
<tr>
<td>15 Okay. In Georgia, not Indiana. Indiana's not a Section 5 state?</td>
<td>16 Okay. Now, the question, though, that I asked, not -- and I agree with you that most people will say that some form of photo ID is okay. How --</td>
</tr>
<tr>
<td>16 Okay. No, they are not.</td>
<td>17 We have conducted any research on how burdens of photo ID requirements may fall disproportionately on racial minorities?</td>
</tr>
<tr>
<td>17 Has the Legislature or have you conducted any research on how burdens of the photo ID requirements may fall disproportionately upon racial minorities?</td>
<td>18 Most people will say that some form of photo ID is okay. How --</td>
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<tr>
<td>18 Come back again. I'm sorry. My sound went off.</td>
<td>19 We have conducted any research on how burdens of photo ID requirements may fall disproportionately on racial minorities?</td>
</tr>
<tr>
<td>19 In drafting your -- in drafting your bill, was there any research conducted on how burdens of -- burdens of photo identification requirements may fall disproportionately on racial minorities?</td>
<td>20 And I think the answer to the question wasn't about their opinion. My question was: Have you conducted any research on how burdens of photo ID requirements may fall disproportionately on racial minorities?</td>
</tr>
<tr>
<td>20 Probably the best evidence that I could bring forward, that the latest poll that was conducted of Texans, including the people in your area. Of the -- there were 86 percent of the public that in favor of that. Of that, 82 percent were black, 2 83 percent were Hispanic.</td>
<td>21 I would agree with you that, but my question wasn't about their opinion. My question was: Have you conducted any research on how burdens of photo ID requirements may fall disproportionately on racial minorities?</td>
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<tr>
<td>21 I would agree with you that, but my question wasn't about their opinion. My question was: Have you conducted any research on how burdens of photo ID requirements may fall disproportionately on racial minorities?</td>
<td>22 Let me -- let me finish. Let me finish, though. Hold on for a second.</td>
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<tr>
<td>22 Come back again. I'm sorry. My sound went off.</td>
<td>23 I would agree with you that, but my question wasn't about their opinion. My question was: Have you conducted any research on how burdens of photo ID requirements may fall disproportionately on racial minorities?</td>
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<tr>
<td>23 In drafting your -- in drafting your bill, was there any research conducted on how burdens of -- burdens of photo identification requirements may fall disproportionately on racial minorities?</td>
<td>24 And the answer to your question is, that I look at the data that has been collected from the states that have implemented, and they're coming forward. That is a good example because it is a Section 5 state. In those states, to our -- to my knowledge, there has not been a single person that has came forward to identify themselves that they were in any way you know kept from voting or inconvenienced by voting.</td>
</tr>
<tr>
<td>24 Probably the best evidence that I could bring forward, that the latest poll that was conducted of Texans, including the people in your area. Of the -- there were 86 percent of the public that in favor of that. Of that, 82 percent were black, 2 83 percent were Hispanic.</td>
<td>25 And the answer to your question is, that I look at the data that has been collected from the states that have implemented, and they're coming forward. That is a good example because it is a Section 5 state. In those states, to our -- to my knowledge, there has not been a single person that has came forward to identify themselves that they were in any way you know kept from voting or inconvenienced by voting.</td>
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**CONSIDERATION OF SENATE BILL 14 1/25/2011**

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<td>Is the case. Plus the fact that if you ask African</td>
<td>Indiana?</td>
<td>2</td>
<td>2</td>
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<td>Americans or Hispanics in Texas, it's a very</td>
<td></td>
<td>SEN. FRASER: Not advised.</td>
<td>3</td>
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<td>straightforward question. When you have 81 percent of</td>
<td></td>
<td>SEN. WEST: So if -- if the demographic</td>
<td>4</td>
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<td>the public, the people that you represent, saying, you</td>
<td></td>
<td>information that we have from the U.S. Department of</td>
<td>5</td>
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<td>know, &quot;I think that's a good ideal,&quot; I'm having a lot of</td>
<td></td>
<td>Census indicated that, you would not disagree with that.</td>
<td>6</td>
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<td>trouble understanding how -- why you don't understand</td>
<td></td>
<td>Correct?</td>
<td>7</td>
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<td>that.</td>
<td></td>
<td>SEN. FRASER: Well, I mean, every state</td>
<td>8</td>
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<tr>
<td>SEN. WEST: Okay. So the answer to my</td>
<td></td>
<td>has a different demographic of the makeup of people</td>
<td>9</td>
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<td>question is, is that you did not conduct any type of</td>
<td></td>
<td>within the state.</td>
<td>10</td>
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<td>research on it other than looked at opinion polls and</td>
<td></td>
<td>SEN. WEST: Sure. I know that, yeah.</td>
<td>11</td>
</tr>
<tr>
<td>referenced what went on in other states?</td>
<td></td>
<td>SEN. FRASER: Georgia is a -- you know,</td>
<td>12</td>
</tr>
<tr>
<td>SEN. FRASER: No, we've done all --</td>
<td></td>
<td>they're -- they're a Section 5 voter rights state, but</td>
<td>13</td>
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<td>there's been a lot of research done.</td>
<td></td>
<td>their makeup is not exactly like Texas.</td>
<td>14</td>
</tr>
<tr>
<td>SEN. WEST: And that's what I was asking.</td>
<td></td>
<td>SEN. WEST: That's the point. That's what</td>
<td>15</td>
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<tr>
<td>What research have you done --</td>
<td></td>
<td>I'm asking you. You said you weren't advised, so I was</td>
<td>16</td>
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<td>SEN. FRASER: I just explained --</td>
<td></td>
<td>just trying to point to you some set of facts that all</td>
<td>17</td>
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<td>SEN. WEST: -- to make that determination?</td>
<td></td>
<td>of us commonly know that we get from the Department of</td>
<td>18</td>
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<tr>
<td>SEN. FRASER: -- to you what we did. We</td>
<td></td>
<td>Census, U.S. Department of Census. And if they give</td>
<td>19</td>
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<td>have looked at the experience of other states. And</td>
<td></td>
<td>different demographic information for the states, then</td>
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<td>you're going to have witnesses come from some of the</td>
<td></td>
<td>that would probably be controlling, and you would agree</td>
<td>21</td>
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<td>other affected states, and you're going to be able to</td>
<td></td>
<td>that's the best evidence that we have of what the</td>
<td>22</td>
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<td>ask that question: Who has came forward in your state</td>
<td></td>
<td>22 population is in those various states. That's all I'm</td>
<td>23</td>
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<td>and said it's a problem?</td>
<td></td>
<td>23 asking. Now, let me ask this.</td>
<td>24</td>
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<td>SEN. WEST: Okay. So you're saying, then,</td>
<td></td>
<td>SEN. FRASER: But you're trying to answer</td>
<td>25</td>
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<td>that as a result of experiences in other states and an</td>
<td></td>
<td>my question, and I did not say that.</td>
<td>26</td>
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<td>opinion poll, that that is the sum total of the research</td>
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<td>2</td>
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<td>that's been done by you in preparation of this bill?</td>
<td></td>
<td>SEN. WEST: No, I'm not. But are the</td>
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<td>2</td>
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<td>in your district understand very clearly. If you ask</td>
<td></td>
<td>forms of identification listed in your bill the least</td>
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<td>them a direct question, someone you represent, and said,</td>
<td></td>
<td>restrictive options in order to achieve the goal of</td>
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<td>&quot;Do you favor or oppose requiring a valid photo ID</td>
<td></td>
<td>avoiding what you call voter identification fraud?</td>
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<td>before you're allowed to vote,&quot; this is -- that's not</td>
<td></td>
<td>SEN. FRASER: Okay. You're going to have</td>
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<td>rocket science.</td>
<td></td>
<td>6 to ask that again.</td>
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<tr>
<td>SEN. WEST: Well, the --</td>
<td></td>
<td>SEN. WEST: Are the forms of</td>
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<tr>
<td>SEN. FRASER: &quot;Should you be required to</td>
<td></td>
<td>identification that you've listed in the bill the least</td>
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<td>show your picture ID when you go into voter?&quot; That's --</td>
<td></td>
<td>restrictive options in order to achieve the goal of</td>
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<td>that's -- to me, that's -- that's, you know, pretty</td>
<td></td>
<td>avoiding what you have said is voter identification</td>
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<td>telling.</td>
<td></td>
<td>fraud?</td>
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<td>SEN. WEST: Well, the great thing about it</td>
<td></td>
<td>SEN. FRASER: And I think what you're</td>
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<td>is, we're going to have an opportunity to do just that.</td>
<td></td>
<td>asking, which is going to be the easiest to use? And</td>
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<td>Because guess what? I've got a few people from my</td>
<td></td>
<td>the -- the data, if you look back at 2006, the number of</td>
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<td>district down here to testify, so you'll have an</td>
<td></td>
<td>15 people that have registered to vote, about -- I think</td>
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<td>opportunity to ask them. Okay?</td>
<td></td>
<td>the number now is 91 percent actually use their driver's</td>
</tr>
<tr>
<td>SEN. FRASER: Good.</td>
<td></td>
<td>license when they registered to vote. So the assumption</td>
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<td>SEN. WEST: But, again, that's the sum</td>
<td></td>
<td>is at least 91 percent of the people that voted -- or</td>
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<tr>
<td>total of your research, though. Right?</td>
<td></td>
<td>that registered since 2006 had a driver's license. So</td>
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<td>SEN. FRASER: I didn't say that was the</td>
<td></td>
<td>I'd say that's the -- if it's the -- the easiest thing,</td>
</tr>
<tr>
<td>22 sum total of my research.</td>
<td></td>
<td>21 I'd say a driver's license.</td>
</tr>
<tr>
<td>SEN. WEST: Now, would you agree that</td>
<td></td>
<td>SEN. FRASER: So this -- the list of</td>
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<td>Texas has a larger proportion of minorities than</td>
<td></td>
<td>identifications that you use as the -- is the least</td>
</tr>
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<td>25 restrictive options that you could come up with?</td>
<td></td>
<td>SEN. FRASER: Well, I don't -- I'm not</td>
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<td>169</td>
<td>170</td>
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<td>-----</td>
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<tr>
<td>1. Your verbiage you're using, I don't know that</td>
<td>1. You've been referring to the</td>
<td></td>
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<tr>
<td>2. that's the intent.</td>
<td>Secretary of State.</td>
<td></td>
</tr>
<tr>
<td>3. SEN. WEST: Well --</td>
<td>4. SEN. PRASER: -- these -- the questions --</td>
<td></td>
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<tr>
<td>4. SEN. PRASER: I'm saying that the thing</td>
<td>the questions you're asking, the question and the answer</td>
<td></td>
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<td>5. that the -- the type of identification that is most</td>
<td>are already in the record from two years ago; that</td>
<td></td>
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<tr>
<td>6. readily available appears to be a driver's license.</td>
<td>you're asking the exact same question, and I'm answering</td>
<td></td>
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<td>7. It -- we think, that is.</td>
<td>the exact same answer. It's already in the --</td>
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<td>8. SEN. WEST: Okay. Now, since there are</td>
<td>SEN. WEST: And it may very well be. I</td>
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<td>9. studies that show that African Americans and Hispanics</td>
<td>just don't remember. I haven't gone back and read that</td>
<td></td>
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<td>10. are more affected by poverty and --</td>
<td>entire record. It was like 26 hours. So if I'm being a</td>
<td></td>
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<td>11. SEN. PRASER: Ask him, then.</td>
<td>little bit redundant, please give me -- give me a little</td>
<td></td>
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<td>12. We're trying to figure out if this is a</td>
<td>space on that.</td>
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<td>13. filibuster.</td>
<td>Let me go back to the questions I'm</td>
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<td>14. SEN. WEST: Is it a what?</td>
<td>asking. Studies have shown that African Americans and</td>
<td></td>
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<td>15. SEN. PRASER: A filibuster.</td>
<td>Hispanics are more affected by poverty and, therefore,</td>
<td></td>
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<td>16. SEN. WEST: Oh, no, this is serious</td>
<td>14. more likely to participate in government benefit</td>
<td></td>
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<tr>
<td>17. business. This is serious business.</td>
<td>15. programs. Will the elimination of the government</td>
<td></td>
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<td>18. SEN. PRASER: I guess I would remind you</td>
<td>16. documents as a form of ID disproportionately affect</td>
<td></td>
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<td>19. that the information that was put into the record this</td>
<td>African Americans and Hispanics?</td>
<td></td>
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<td>20. morning by Senator Huffman, the questions you've gone</td>
<td>20. SEN. FRASER: -- people in my district</td>
<td></td>
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<td>21. over, I believe we put these --</td>
<td>2. are -- are the working poor.</td>
<td></td>
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<td>22. SEN. WEST: Well, at any -- at any point,</td>
<td>3. SEN. WEST: Okay. The -- the protected</td>
<td></td>
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<tr>
<td>23. you can defer to whomever you want to answer the</td>
<td>classes, that would be an African American and</td>
<td></td>
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<td>24. question.</td>
<td>Hispanics, do you have a high concentration of African</td>
<td></td>
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<tr>
<td>25. SEN. PRASER: No, no, I'm saying --</td>
<td>6. Americans and Hispanics in your district?</td>
<td></td>
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<td>1. SEN. FRASER: Not advised.</td>
<td>1. SEN. FRASER: -- are the working poor.</td>
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<tr>
<td>2. SEN. WEST: Okay. Do you --</td>
<td>3. SEN. WEST: Okay. The -- the protected</td>
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<td>3. SEN. FRASER: I grew up in a pretty poor</td>
<td>4. classes, that would be an African American and</td>
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<td>4. family, so --</td>
<td>Hispanics, do you have a high concentration of African</td>
</tr>
<tr>
<td>5. SEN. WEST: Well, that's what I know, and</td>
<td>5. Americans and Hispanics in your district?</td>
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<tr>
<td>6. correct me if I'm wrong because we've had our</td>
<td>6. SEN. FRASER: Well, I don't know what</td>
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<td>7. conversations. Your father was a minister, too. Right?</td>
<td>8. you'll call a high percentage. I've got --</td>
</tr>
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<td>9. SEN. WEST: Okay. He went to a lot of</td>
<td>10. SEN. PRASER: There -- there are a lot of</td>
</tr>
<tr>
<td>10. African American churches?</td>
<td>my voters in my district that, you know, I'm -- I love</td>
</tr>
<tr>
<td>11. SEN. FRASER: Yes, he did.</td>
<td>12. to say &quot;my constituents&quot; -- that are African American or</td>
</tr>
<tr>
<td>12. SEN. WEST: Did a little singing and stuff</td>
<td>13. Hispanic.</td>
</tr>
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<td>13. like that?</td>
<td>14. SEN. FRASER: Are they in poverty or what?</td>
</tr>
<tr>
<td>14. SEN. FRASER: Yes.</td>
<td>15. I mean, you know what poverty is.</td>
</tr>
<tr>
<td>15. SEN. WEST: Okay. -- Senator, if --</td>
<td>16. SEN. FRASER: --</td>
</tr>
<tr>
<td>16. SEN. WEST: Oh.</td>
<td>17. SEN. WEST: Ch.</td>
</tr>
<tr>
<td>17. SEN. PRASER: If I have the third poorest</td>
<td>18. SEN. PRASER: If I have the third poorest</td>
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<td>18. district in the state, that implies that we have some</td>
<td>district in the state, that implies that we have some</td>
</tr>
<tr>
<td>19. people that are working poor.</td>
<td>20. people that are working poor.</td>
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<tr>
<td>20. SEN. WEST: Let me just ask you this</td>
<td>21. SEN. WEST: Let me just ask you this</td>
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<td>21. question.</td>
<td>22. question.</td>
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<tr>
<td>22. Do you know whether or not the elimination</td>
<td>23. Do you know whether or not the elimination</td>
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<td>23. of the government documents that have hereto before been</td>
<td>24. of the government documents that have hereto before been</td>
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<tr>
<td>24. utilized by voters for identification purposes at the</td>
<td>used by voters for identification purposes at the</td>
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1 polls -- 
2 SEN. FRASER: Issued before?
3 SEN. WEST: Yeah, I mean, under current
4 law. Let me back up, then.
5 Based on current law and the various
6 government identifications that can be used for purposes
7 of voting, by eliminating those, whether they have an
8 adverse impact on ethnic minorities in the state?
9 SEN. FRASER: Let me -- let me tell you
10 that the people in my district voted -- or they're
11 polling that they -- 92 percent of them say that they're
12 in favor of this -- this requirement.
13 SEN. WEST: Okay. So you don't -- and
14 that's your response to my question?
15 SEN. FRASER: My response is, is that I
16 think the people of the state of Texas, which makes
17 up -- I think it was 83 percent of -- of African
18 Americans and 85 percent of Hispanics, said that they're
19 in favor of it. I'm sorry. It's 82 percent Hispanic --
20 I'm sorry -- Hispanic, 80 -- 83 percent Hispanic, the
21 African American, which is -- it's listed as a black
22 vote, is 82 percent say they are in favor of asking for
23 a photo ID.
24 So it's -- it's -- this is a pretty easy
25 question for them. *Should you have to show your -- your

1 photo ID, your driver's license, when you come in to
2 vote? And they said, 'Sure. That's' -- you know,
3 'That's fair.'
4 SEN. WEST: And that's your response to my
5 question?
6 SEN. FRASER: Yes.
7 SEN. WEST: Okay. No more questions at
8 this time.
9 SEN. FRASER: Thank you, Senator.
10 CHAIRMAN DUNCAN: Chair recognizes Senator
11 Lucio for questions.
12 SEN. LUCIO: Thank you, Mr. Chairman.
13 Senator Fraser, under this legislation.
14 there are no exceptions at all if you do not have a
15 driver's license -- and correct me if I'm wrong --
16 military ID, citizenship certificates, or passports.
17 Now, not even Senate IDs are appropriate for the
18 purposes of voting. That means the state employee
19 working in the building wishing to cast a ballot during
20 early voting at the Sam Houston Building couldn't use a
21 combination of their voter registration card and their
22 Senate ID. Further, this bill's requirements for
23 identification are stronger than what's used for new
24 employees in obtaining driver's license, the way we
25 understand it.

1 Now, I know many people don't think it's
2 all that difficult to get a driver's license and that
3 everyone has one, but that's just not the case.
4 Eleven percent of Americans surveyed by the Brennan
5 Center for Justice do not have government-issued photo
6 ID. Forty percent of those without voter ID are
7 disproportionately the -- the elderly, the -- the
8 students, women, people with disabilities, low-income
9 people, and people of color.
10 According to disability advocates, nearly
11 16 percent of the 40 million Americans with disabilities
12 do not have any state-issued photo ID. So I do not see
13 how this legislation is going to ensure that they are
14 not kept from exercising their right to vote. Again.
15 It's a right. It's not a privilege. Plus, according to
16 that same survey, one of every five senior women does
17 not have a license.
18 What troubles me even more about the
19 legislation is that it could mean, for so many, under
20 this legislation, election workers will be responsible
21 for determining identity; and that has never been part
22 of their job as election clerks.
23 How, I got a question.
24 SEN. FRASER: Is there a question coming?
25 I'm looking for the question.

1 SEN. LUCIO: Yeah, it's coming up. I had
2 to --
3 SEN. FRASER: You've got about five or six
4 thoughts. I -- well, I'm going to --
5 [Simultaneous speaking]
6 SEN. FRASER: -- one of them. But you're
7 getting so many thoughts, I'll have trouble responding
8 to them.
9 SEN. LUCIO: What are -- what are they
10 going to do, Senator Fraser, when someone has
11 conflicting last names, conflicting last names on IDs,
12 on their voter rolls, and how many professional ballots
13 will be cast? Are counties ready to resolve all those
14 issues?
15 That might have been asked. I missed it,
16 and I apologize for that because we've been busy, as we
17 always are. But let me -- let me just ask this
18 question, as a follow-up.
19 [Simultaneous speaking]
20 SEN. FRASER: You've asked me 12 --
21 SEN. LUCIO: Go ahead and address --
22 SEN. FRASER: -- so far.
23 SEN. LUCIO: Go ahead and address that
24 one.
25 SEN. FRASER: Huh?
SEN. LUCIO: Okay. Well --

CHAIRMAN DUNCAN: Wait, wait, wait, wait.

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

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

SEN. LUCIO: Okay.

SEN. FRASER: -- you've asked so many questions.

SEN. LUCIO: I can't remember --

SEN. FRASER: -- the first one.

CHAIRMAN DUNCAN: All right.

SEN. FRASER: But --

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

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

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

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

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

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

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

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

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

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

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

SEN. LUCIO: I'm sorry?

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

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

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

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

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

SEN. FRASER: I was four or five then. Eddie, I guess. '64, I was 17 years old.

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

SEN. FRASER: 15 years old.

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

Now, Texas adopted a poll tax in 1902. It required that otherwise eligible voters pay between $1.50 and $1.75 to register to vote. Now, $1.75 may not sound like a lot but for a lot of families living on the breadline it made voting a privilege instead of a right. Well, $1.75 -- $1.75 adjusted for inflation today is about 40 to $45. That means, Senator, that's a mean instrument using several ways of calculating including the consumer price index. Now 40 bucks is a symbolic figure. A
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1  Driver's license or ID today costs $25, even for a
2  renewal. And going to the DMV, which is Department of
3  Motor Vehicles, can take time. You're going to get
4  there, wait in line, return home, take off from work,
5  pay for the gas. Now, let's say it takes two hours.
6  Minimum wage in Texas is 7.25 an hour. So if you took
7  off two hours and paid for gas, you're looking at $40.
8  The same amount of the old poll tax would cost today.
9  Don't -- don't you find that kind of ironic? I do.

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

17  The poll tax was outlawed in -- in the
18  1960s by the 24th Amendment. It was outlawed because
19  the nation understood that poll tax -- taxes served as
20  one purpose, to --

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

13  SEN. FRASER: When does it expire?
14  SEN. LUCIO: Yes, sir.
15  SEN. FRASER: You know, interestingly, I
16  was in -- looking at mine just then, in my office. I
17  got a new one this year, and it's good for six years. 18
18  so every six years, evidently. I'm -- I'm going to ask
19  DPS that, but my assumption is that a driver's license
20  is renewed to last for six years.

1  SEN. LUCIO: Well, we talked about senior
2  citizens. There are senior citizens, 60, 70 years old,
3  who used an expired driver's license as a form of ID.
4  That's where I'm going to talk about the last
5  five minutes that, but my assumption is that a driver's license
6  is renewed to last for six years.

19  SEN. LUCIO: Well, we talked about senior
20  citizens. There are senior citizens, 60, 70 years old,
21  who used an expired driver's license as a form of ID.
22  That's where I'm going with my questions and my remarks.
23  Are they no longer -- they no longer drive, but they
24  still vote.
25  Now, under this bill, they will have to
1 **SEN. FRASER:** You -- you've given a
2 hypothetical, and I guess it's one of the things --
3 actually, we were in the back discussing a question that
4 was brought up by Senator Davis about an expired
5 driver's license and at what point should it be -- how
6 long should it be used. I think someone used it for an
7 extended period, like the example you're giving, for
8 several years. Unfortunately, that's not a valid --
9 that would be considered a valid license.
10
11 **SEN. LUCIO:** I was under that impression
12 or to renew their passport or -- which are seldom used
13 by seniors.
14
15 **SEN. FRASER:** I disagree with that. I
16 travel with a lot of seniors. I think there's a lot.
17 you know.
18
19 **SEN. LUCIO:** Well, the ID. They use this
20 ID for passports.
21
22 **SEN. FRASER:** I'm obviously having a bunch of other
23 questions in the -- in the interest of time, I will
24 address those to you in writing because I'm very, very
25 concerned about, you know, some of the things that are
26 going to be transpiring.
27
28 **SEN. LUCIO:** The ID for the marriage -- the marriage -- marriage issues.
29
30 **SEN. FRASER:** Or I'll give you one scenario, if I may.
31
32 **SEN. LUCIO:** Two citizens that are getting married. The woman
33 getting married has decided to change her name. They
34 get the marriage certificate. They get married and so
35 on. But when the newlywed wife tries to vote, there is
36 a problem. The name on her voter ID does not match the
37 name on her voter registration. So maybe she did the
38 right thing and changed her name on the voter ID, but
39 before that, when she registered to vote, she had used
40 her maiden name. Maybe she registered to vote with her
41 new married surname but had not had yet changed her
42 voter ID to reflect a change of name. Maybe there is no
43 time to address it because she gets married in October.
44
45 **SEN. LUCIO:** Those are just scenarios that
46 are coming up.
47
48 **SEN. LUCIO:** Others that I'm concerned with are the 18
49 year olds that are turning 18 thirty days inside of --
50 you know, between a primary and a general election.
51 Many of them will not be able to register to vote.
52
53 **SEN. LUCIO:** There are so many different scenarios, 54 senator, and I'm very concerned about whether or not
55 they will be disenfranchised. That's all. Thank you
56 very much for your time.
57
58 **CHAIRMAN DUNCAN:** Senator Van de Putte?
59
60 **SEN. VAN de PUTTE:** I'm -- the -- the bill that
61 we modeled last year was a Texas model that we were
62 moving forward, and whenever earlier you were addressing
63 the Georgia bill -- you're a past president of NCSL, and
64 I have the NCSL analysis here. And that's the reason I
65 was confused because you were referencing Georgia, and
66 I've got --
67
68 **SEN. VAN de PUTTE:** That's correct.
69
70 **SEN. FRASER:** The document that came from
71 the organization that you chaired and that was the
72 reason I was confused about what you were representing.
73
74 **SEN. VAN de PUTTE:** Well, Senator, you
75 were confused, and I was confused. However, both -- I
76 think we can both agree that your bill, Senate Bill 14,
77 is more restrictive than current Georgia and Arizona
78 law; that this is based after an Indiana model, but it
79 is even more restrictive. I mean, you have a pretty
80 tight vote --
81
82 **SEN. FRASER:** I -- I --
83
84 **SEN. VAN de PUTTE:** -- of the bill.
85
86 **SEN. FRASER:** I disagree with you on that.
87
88 **SEN. VAN de PUTTE:** I want to have a moment to clarify
89 some of the conversation and the points that we had on
90 our discussion earlier.
91
92 **SEN. FRASER:** Thank you.
1. So saying that they're very different is not a correct observation. There is very small
differences between the -- the Indiana, Georgia, or
Texas. They're actually very, very much alike, and that
also gives us the reason we believe it will be approved
by the Supreme Court and DOJ.

2. SEN. VAN de PUTTE: Well, I wanted the
opportunity to correct myself because Georgia only
allows for an alternate two forms in a provisional
ballot for first-time voters only, and so they do not
allow -- and I stand corrected. You are correct that
does not have two forms of alternate that are not a
photo ID. The only time in the Georgia law that they
make reference to two forms -- and that's what I was
looking at and they have other things that they can use.

3. a bank statement, a current utility bill, a paycheck --
17 is when they are casting a ballot for the first time and
18 they have -- they are new registrants and they don't
19 have a photo ID.

4. So I stand corrected. You are correct in
20 that for a provisional ballot, they do not allow two.
21 The only time they do -- and I'm looking at their
22 Senate -- their -- their bill -- is on a -- and I stand
23 corrected. So I wanted to let you know that I mispoke.
24 That is not correct. It's only the two alternate forms

1 when they're doing for first-time registrants.

2. SEN. FRASER: Thank you for that
3 correction, and that -- that is -- the documentation I
4 show does show that they require a photo ID.
5 SEN. VAN de PUTTE: And so I just want to
6 thank you for the ability to clarify this and know that
7 this is your -- this is a Texas bill, and it'll probably
8 be known as the Texas bill. And -- and -- and to your
9 credit, for every -- all the work that you've done, I
10 believe it is very stringent in small ways in the
11 wording. But for the groups of people that I think will
12 have a burden, they -- they have no alternate means.

13 So thank you very much for the opportunity
14 to clarify. And, Mr. Chairman, I don't have any other
15 questions of the author.

16 CHAIRMAN DUNCAN: Senator Ellis?
17 SEN. ELLIS: Just a couple questions.
18 Senator. I know you're tired. You've been up a long
19 time.

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

24 SEN. FRASER: The integrity --
25 SEN. ELLIS: -- for the --

1 would you think people who are more apt to do a mail-in
2 ballot would be people in the red jersey or the blue
3 jersey?

4 SEN. FRASER: I wouldn't be apt to guess.
5 SEN. ELLIS: Do you care?
6 SEN. FRASER: Oh, I care a lot, but I'm
7 not going to guess.

8 SEN. ELLIS: Okay. You heard the
9 discussion earlier about the concern -- I think even in
10 your district, some of those DPS offices. I think, on
11 that map may be closing a few days a week. So you --
12 you did say that you have some concern about access for
13 people to go and get --

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

20 But that's a discussion we're having
21 with -- with Senator Williams. He's having a discussion
22 with DPS, and we're -- we're trying to look at, through
23 his committee, the Finance Committee and communique with
24 DPS, the -- the easiest way to make sure that everyone
25 can -- can comply.
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SEN. ELLIS: But you'll agree, it's a problem? There's some concerns about it?

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

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

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

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

SEN. ELLIS: Okay. All right.

SEN. FRASER: That -- well, I don't --

SEN. ELLIS: Okay. All right.

SEN. FRASER: I don't --

SEN. ELLIS: You think more people in Texas --

SEN. FRASER: -- think that's true.

SEN. ELLIS: -- have a driver's license?

SEN. FRASER: I don't -- I'm having the chairman of the committee that is over it --

interestingly, I want you to think about what you just suggested, that driver's license is going to be the easy form of identification. We -- we know that 90-plus percent of the people -- and I think the number is probably higher than that -- have a driver's license in Texas.

But if you're going to put a picture on a voter registration, that means that every single person that's registered to vote has to go back in, have a picture made, have the cost of putting it on there. So it's not only the cost --

SEN. ELLIS: Let me try it a different way. Do you think that more people who are registered to vote -- you think that more people who are registered to have the voter registration card than a driver's license?

SEN. FRASER: Say it again. Do it one more time.

SEN. ELLIS: Do you -- would you agree that more people --

CHAIRMAN DUNCAN: Senator? Senator Ellis, you all are talking over each other. If you --

SEN. ELLIS: Oh, are we? Should I back up?

CHAIRMAN DUNCAN: Yeah -- no. No.

Just --

SEN. ELLIS: I'll talk slower.

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

SEN. ELLIS: Okay.

CHAIRMAN DUNCAN: Thank you.

SEN. ELLIS: Are you through?

SEN. FRASER: I'm not even sure what the question was.

SEN. ELLIS: The question is, would you agree that more people who vote have a voter registration card than a driver's license? They'd have to because you've got to -- you're supposed to go get a voter registration to be able to vote.

SEN. FRASER: Can I answer your question?

SEN. ELLIS: Yeah.

SEN. FRASER: I'm -- I'm sure everyone at some point were mailed one, but it has been years since I walked in with a voter registration card. I show my driver's license when I vote, and I would say probably 20 that is -- do you show yours, or do you show your driver's license?

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

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

SEN. ELLIS: I have both.
| 1 | SEN. FRASER: Okay. |
| 2 | SEN. ELLIS: Let me ask you this: There's an article in today's paper. It says nearly 650,000 Texans who refuse to pay surcharge penalties for drunken driving, no insurance, and other violations are being offered a one-time amnesty by the state. Those offered amnesty represent just over half of the estimated 1.2 million Texans in default. It talks about what they owe the state. But all of these folks who are in default, because we balanced the budget in '03 with surcharges for people who have a license, all have had their licenses suspended for not paying. So would that concern you any that at least according to folks who go get amnesty, that's 1.2 million. That would be more than that. There's 1.2 million owes the state X amount. That's what this article is about. But would you concede it ought to be a problem because we've got a lot of people who had a driver's license, I assume the one's who owe the surcharges are -- you know, maybe a disproportionate number of them are folks who didn't have the money to pay the surcharges. Maybe some of them were just civil libertarians, didn't like the bill and wouldn't pay it period. But a lot of them are probably working-class people who can't pay it. So at least over 1.2 million Texans since 2003 have gotten their licenses suspended so they will no longer have a valid driver's license that they could use to go and vote like you and I do. Does that concern you? |
| 5 | SEN. FRASER: Well, first of all, if -- if some reason it's a felony that they're not paying for, I'm not sure that they are eligible. I don't know the answer. We'd ask the Secretary of State that. |
| 8 | SEN. ELLIS: I don't think so. |
| 10 | SEN. FRASER: But the easy answer to your question is, we're going to give them an ID free. So if they've lost their driver's license, all they got to do is go back down and get a free ID. We'll hand them a new one. |
| 14 | SEN. ELLIS: So you think the over 1.2 million people who had their licenses suspended in 2003 will all get an ID free? |
| 15 | SEN. FRASER: I don't think so. They're being offered amnesty, according to the article in today's paper. You think that those folks would go and get this new ID? You don't think they'd be worried about showing up and somebody saying, "Hey, by the way, now that I know where you are, I want my money. I want some of this 1.1 billion that you owe to the state?" |
| 19 | SEN. FRASER: I'm not advised. |
| 20 | SEN. ELLIS: Okay. One distinction, obviously, is these people still have a constitutional right to be able to vote. |
| 21 | SEN. FRASER: Yes. |
| 22 | SEN. ELLIS: So your intent is that one time. |
| 23 | SEN. FRASER: No, it's not a one-time at all. |
| 24 | SEN. ELLIS: Continuous for people who are over 70. |
| 28 | SEN. FRASER: If you're 70 on January 1, 2012, you will be subject to current law the rest of your life. |
| 29 | SEN. ELLIS: Are you confident Senator, that your bill would not have a disparate impact on the elderly on women, on those that are physically challenged, on racial ethnic minorities? |
| 30 | SEN. FRASER: I am. |
| 31 | SEN. ELLIS: Are you confident? |
| 32 | SEN. FRASER: Absolutely sure. I would
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1 not have filed the bill if I had thought it -- I want to
2 make sure that every person in the state has a right to
3 vote. The -- not -- you know, the right that we extend
4 them, they should have that, and I do not believe that
5 in any way we're impacting that and that -- that -- you
6 know, I want to make sure that the groups you're talking
7 about, you know, women, minority, elderly, that they all
8 have the right to vote; and I believe my bill does that,
9 SEN. ELLIS: Okay. And I know that's your
10 intent.
11 SEN. FRASER: Yes.
12 SEN. ELLIS: But you're confident that it
13 will have no impact?
14 SEN. FRASER: I'm very confident.
15 SEN. ELLIS: Okay. To that end, would you
16 have a problem with putting a provision in this bill so
17 that the Secretary of State would do an annual report on
18 whether or not this bill has had a disparate impact?
19 SEN. FRASER: I think we're going to get
20 our report back from the -- assuming it gets to the
21 Supreme Court and Department of Justice. I believe we'll
22 get our report card from that. And then through time,
23 if there are -- and I'm going to go back to the examples
24 of Indiana and Georgia. To my knowledge, there has
25 never been a person that has reported that had a

201
202
203
204

1 over time, that has gotten better; but in our southern
2 states, in particular, it has not been an easy journey
3 to get to where we are. So what -- what would be wrong
4 with just simply coming up with some simple methodology
5 and let the Secretary of State do that?
6 SEN. FRASER: We have a simple
7 methodology. It's called going into a session on the
8 second Tuesday of every -- you know, every odd year.
9 And you, as my desk mate, sitting beside me. I feel very
10 comfortable that we'll -- we'll get that -- you know,
11 we'll look at it every couple of years. So I -- I think
12 the fact that we come back in, we're going to be given
13 the opportunity every two years to -- to re-examine.
14 And there will be discussion about this, of whether it's
15 working or not.
16 SEN. ELLIS: To implement your bill,
17 you're going to use federal money to be able to do it.
18 Where would that money be used if it was not going to be
19 used to implement this new system?
20 SEN. FRASER: Well, obviously -- and,
21 again, I don't want to speak for the Secretary of
22 State's office. When they're here, they can give you an
23 ideal. But if there's a pretty good-sized pot of money
24 that's sitting there that we haven't spent yet and
25 we're -- you know, we're pretty good about being

1 problem -- came forward because they had a problem with
2 the laws they're, you know, implemented. We're doing
3 exactly the same thing.
4 So I think you and I, as legislators, if
5 there's a problem, will hear about it. And I would not
6 want to put the burden on an agency. You know, if we
7 hear about it, then we can do that in the future.
8 SEN. ELLIS: Maybe I'm just at a loss. If
9 you -- I know your intent, and you are confident your
10 bill will not have a disproportionate impact on certain
11 groups. I mean, the concern be the methodology,
12 you could design that. But what would be wrong with the
13 Secretary of State doing an annual report on whether or
14 not this bill has a disproportionate impact on any
15 groups of people so that we know. What -- I mean, you
16 know, we -- oftentimes we pass -- I think we even have
17 a -- I think it might have been Shapleigh who put it in
18 some time ago, when we do a tax bill as a requirement,
19 that we have LBB do a disparate impact statement. Just so
20 we know because as you know, I mean, we're tINKering
21 with a constitutional right.
22 And, Senator, I might add, we're in a
23 state -- well, you know the history. I mean, initially,
24 you had to be a property owner to vote or you had to be
25 a male to vote. Had to be a certain color to vote. Now,
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SEN. FRASER: That -- you missed the conversation we just had with Senator Van de Putte. That is not the case. It actually is -- is a very, very small change between --

SEN. ELLIS: They take student --

SEN. FRASER: Huh?

SEN. ELLIS: They take student IDs --

SEN. FRASER: Well, I --

SEN. ELLIS: -- in Indiana?

SEN. FRASER: We -- we have four forms of IDs in this bill that we're accepting, but we're also listening to the debate. Indiana has six forms. Georgia, I think expands it to about eight. So it's the number -- the type of, but they're all photo --

government-issued photo IDs.

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

SEN. FRASER: Not advised.

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

SEN. FRASER: Not advised.

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

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

(Laughter)

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

Six percent of the people, I think, in America have passports. I think about the lowest percentage for most nations in the top 20. 6 percent of the people in America have passports. So I guess I'm saying, why would you choose that as one of your forms of ID as opposed to a student ID when you know we have problems getting young people sometimes to focus for more than a week. But folks who have a passport, you've got to be fairly worldly, shall we say, to go get a passport. And if the number is 6 percent in America, I'm just guessing less than 5 percent of the people in Texas have a passport.

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

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

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

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

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

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

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

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

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

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

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

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

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

SEN. ELLIS: I respectfully would say you ought to be a little careful with that notion of what polling data says. I'm willing to bet you, Troy, when 25 our predecessors stood on this floor and sat in these
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SEN. FRASER: All I can tell you is the question's pretty straightforward. It said -- they asked the people in your area: Should you have to show a photo ID when you vote? And the number across Republican, Democrat, Hispanic, African American, others, were overwhelming.

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

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

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

SEN. ELLIS: Thank you.

CHAIRMAN DUNCAN: Chair recognizes Senator Zaffirini.

SEN. ZAFFIRINI: Thank you.

Mr. President -- or Mr. Chairman.

Senator Fraser, my first questions will focus on the criminal justice impact, if you have a copy of that.

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

SEN. ZAFFIRINI: Yes, I was --

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

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

SEN. FRASER: I do have it.

SEN. ZAFFIRINI: Good.

SEN. FRASER: Right here.

SEN. ZAFFIRINI: Good.

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

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

SEN. FRASER: I do now.

SEN. ZAFFIRINI: My first questions will focus on that.

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

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

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

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

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

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

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

Now, this bill, were it before the Finance Committee, we would have a fiscal note; but because it's not, it's because it's before the Committee of the Whole. We are restricted to the fiscal note that we have here and it's strange that we don't have a
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Senator Fraser: Well, and I think the easy answer to that is: 'I'll -- if someone else, if -- we may defer to Senator Williams, if he wanted to comment, or another member.

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

That's the hope.

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

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

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

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

Senator Zaffirini: Well, okay, Senator.

Secretary of State educating both voters and poll workers and any initial -- the free cards that we're giving out, there will be more, probably, the first year than other years. I'm -- I'm assuming that's it, but I think I'd ask that question of the Secretary of State and DDS.

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

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

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

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

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

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

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

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

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

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

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

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

SEN. FRASER: I do not. That, again, will -- it is the job of the Secretary of State to administer that, recommend the training, and I believe 18 State or DPS.

SEN. ZAFFIRINI: It just seems to me, Senator, that there will be recurring costs because one example would be the State's responsibility to provide free photo ID cards on a recurring basis to the significant portion of our population that moves regularly. They move from one part of the state to another, and they might need a different card in that area. And that would be a recurring cost, would it not?

SEN. FRASER: Senator, since 2006 there have only been 37,000 people that registered to vote that did not have a current driver's license. That's in the last five years. So the assumption is, the number that is coming into the system that would not have a card, the number is very low. The cost of that card is not a huge number. So actually, the amount that it would cost to take care of them is a not a large number.

SEN. ZAFFIRINI: What I'm worried about is the unintended consequences and unexpected costs. Not unexpected because we don't foresee them and can't identify them but because of the criminal justice impact statement and because of the fiscal note that we have that simply don't address these issues. For example, Line 12, Page 12 of the bill, you refer to the cost of the get-out-the-vote efforts; and basically, the fiscal note states: The analysis is incomplete because, quote, it is not known how many voter registration drivers or other activities designed to expand voter registration would occur. So we don't even have an estimated cost of one voter registration drive. And if it is our intent to ensure that we have
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1 more, we're not considering the cost, it seems to me that we are being irresponsible in terms of identifying the exact cost or the best estimated cost of this bill. SEN. FRASER: And we are -- have the benefit of not being the first one to implement this. We don't have to reinvent the wheel. We can look at the history of states that have implemented, like Indiana, Georgia, and others, look at common things that have happened there. We're going to have a person from Indiana here. I think it -- that would probably be a question you might ask, is the reoccurring cost, because they've had this in effect. I believe they passed it in 2006.

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

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

SEN. ZAFFIRINI: I think it's a pretty safe assumption. Indiana was challenged, and as I said, many, if not all, of the states that have implemented these bills have been challenged. So I think, again, as members of the Finance Committee, as members of the Senate, even those who are not members of the Finance Committee, should look at that as a possibility and certainly should consider the costs. Is this where we want to spend our money? Even the $2 million. What if HAVA funds are not used for this purpose? Is this where we want to spend the $2 million and significantly more in defending the bill instead of addressing the other issues that we are facing right now because of economic crisis in Texas?

SEN. ZAFFIRINI: Yes. Is it? SEN. FRASER: Is what? Should -- SEN. ZAFFIRINI: Is this where we want to spend our money?

SEN. FRASER: It's -- the decision on

SEN. ZAFFIRINI: That's why I'm asking.
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1. Van de Putte had developed, and it's titled, "Counties Closures."
2. My question, Senator Fraser, would focus
3. on my district. For example, in my district, which
4. comprises 16 counties and part of Bexar, Northeast
5. Bexar, there is one county that has wheelchair
6. accessibility barriers; there are two counties that have
7. absolutely no driver's license offices; there are four
8. that have offices that are temporarily closed; and there
9. is one that has an office that is open three days or
10. fewer each week. And so you can see the accessibility
11. issues that we're dealing with, and you can -- when you
12. get the map -- oh, you do have a copy of the map. You
13. can see the difference throughout the state. There are
14. some states that you can see have a lot of pink, a lot
15. of blue, a lot of green, and then -- counties, rather --
16. and there are others that are just white, that have
17. absolutely no barriers.
18. So, Senator Fraser, looking at this map,
19. are you concerned that this bill would impact certain
20. counties that have a problem related to the
21. accessibility to driver's license offices?
22. CHAIRMAN DUNCAN: Senator Zaffirini, if I
23. could -- before you get an answer to that question.

1. What are the questions are.
2. Would you identify it, please? What's the
3. title of it?
4. SEN. ZAFFIRINI: Yes. It is titled,
5. "Counties with Department of Public Safety Driver's
6. License Office Closures." It is a map of Texas showing
7. this -- these issues, and it was developed by Senator
8. Van de Putte. I had assumed that she had introduced it
9. into the record or had planned to, but I'm happy to do
10. it.
11. CHAIRMAN DUNCAN: Okay. Do we have
12. copies?
13. SEN. NELSON: We don't. Only the
15. CHAIRMAN DUNCAN: Okay. Well, here's what
16. I would suggest so that other members have an
17. opportunity to follow your questions and the answers,
18. that we at least get copies of that exhibit and
19. distribute it, if we could do that. And then, so if we
20. could defer on that until we get that done, Senator --
21. SEN. ZAFFIRINI: Certainly.
22. CHAIRMAN DUNCAN: -- that would be
23. helpful.
25. Mr. Chairman.

1. Moving right along. I do have exhibit --
2. I guess it's 4 --
3. CHAIRMAN DUNCAN: We do have --
4. SEN. ZAFFIRINI: -- and Exhibit No. 5 that
5. I'd like to enter into the record --
6. CHAIRMAN DUNCAN: Okay.
7. SEN. ZAFFIRINI: -- at this time. And
8. I'll wait until they're distributed, if you -- if I may
9. be permitted.
10. CHAIRMAN DUNCAN: Would you identify
11. Exhibit 4, please?
12. SEN. ZAFFIRINI: Certainly. Exhibit 4 is
13. a copy of a driver's license with personal information
14. obliterated.
15. CHAIRMAN DUNCAN: Thank you. And
16. Exhibit 5?
17. SEN. ZAFFIRINI: Exhibit 5 is a letter
18. directed to me, which I received today, from Spencer
19. Overton, professor of law at the George Washington
20. University Law School and a member of the Carter-Baker
22. CHAIRMAN DUNCAN: All right. Those
23. exhibits will be received in the record and distributed
24. to the members.
25. [Exhibit Nos. 4 and 5 marked and admitted]
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<th>COLUMNS</th>
<th>TEXT</th>
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<td>1-229</td>
<td>CHAIRMAN DUNCAN: Senator, you're -- you can ...</td>
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<td>SEN. ZAFFIRINI: Thank you.</td>
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<td>3-230</td>
<td>CHAIRMAN DUNCAN: -- continue on those exhibits.</td>
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<td>SEN. ZAFFIRINI: Senator Fraser, thank you for your courtesy and for your patience and your stamina. I'm impressed, as always.</td>
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<td>4-231</td>
<td>On Page 4 of your bill, Senator Fraser, it states that &quot;and the voter's identity can be verified from the documentation presented under Subsection (b), the voter shall be accepted for voting.&quot; Can you describe what training the poll workers would receive to ensure that they are trained in identification verification?</td>
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<td>SEN. FRASER: Senator, you're moving faster than I can. I'm on Page 4. Where are you referring?</td>
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<td>SEN. ZAFFIRINI: Line 8 of the bill. Well, basically, that's all it says, that if the voter's -- that &quot;if the voter's identity can be verified from the documentation presented, the voter shall be accepted for voting.&quot; That's the only part that I'm quoting, and then I'm asking what kind of training the poll workers would undergo in identification verification.</td>
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<td>230-231</td>
<td>1 verification.</td>
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<td>SEN. FRASER: Great question to the Secretary of State.</td>
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<td>SEN. ZAFFIRINI: To the Secretary of State.</td>
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<td>Do you worry at all, Senator, and I know -- I believe it was Senator Davis who asked this question earlier: Do you worry at all about people who don't look like their driver's licenses at all?</td>
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<td>SEN. FRASER: I'm sorry. I -- there's so many things to worry about in life, that's -- you know, the -- the question you're asking, I think, is covered by the Secretary of State; and I believe they would make a determination.</td>
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<td>SEN. ZAFFIRINI: Well, Senator Fraser, I have distributed Exhibit 4. Would you take a good look at that, please?</td>
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<td>And, Members, I ask you to please look at my Exhibit 4 and look at the photograph of this driver's license. Has anyone of you ever seen this person before? He looks familiar?</td>
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<td>SEN. FRASER: Yes.</td>
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<td>SEN. ZAFFIRINI: Can you identify this person? I'd like to ask this person to stand. (Unidentified person stands)</td>
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1. Now, Senator Fraser, this bill does not meet any of these criteria. Is that correct? Under your bill, the state would not assume any of these responsibilities?

SEN. FRASER: Not advised.

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

SEN. FRASER: I disagree.

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

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

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

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

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

SEN. FRASER: The bill speaks for itself.

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

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

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

SEN. ZAFFIRINI: It is not.

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

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

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

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

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

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

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

SEN. FRASER: I disagree with that.

SEN. ZAFFIRINI: Why, Senator?

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

SEN. ZAFFIRINI: Well, basically, it seems to me, my analysis is that Senate Bill 14, as introduced, does not meet these specifications of the Carter-Baker Commission.
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SEN. FRASER: But you -- you said that you responded -- that you requested it after I made the
3 statement in my --
SEN. ZAFFIRINI: I requested --
SEN. FRASER: -- opening comments.
SEN. ZAFFIRINI: I requested this
7 information based on your opening statement, and I
8 received this letter today. That's correct. Okay?
9 Thank you very much, Senator. I
10 appreciate, as I said, your courtesy and your patience.
SEN. FRASER: Thank you.
12 CHAIRMAN DUNCAN: Members, we've been
13 going for a while, and I think it would be -- we're kind
14 of at a -- maybe getting close to a breaking point. Why
15 don't we go ahead and take a ten-minute break and then
16 reconvene, give the court reporter and staff a minute or
17 two to rest. So a time certain, we'll stand at ease
18 until 2:30.
19 (Recess: 2:21 p.m. to 2:34 p.m.)
20 CHAIRMAN DUNCAN: Senate Committee of the
21 Whole will come back to order. Senator Hinojosa?
22 SEN. HINOJOSA: Thank you, Mr. Chairman.
24 SEN. FRASER: These are actually pretty
25 good.

SEN. ZAFFIRINI: Well, sir.
SEN. FRASER: That was a quote that was
made. It was -- it was used not only there, but it is
also used later in the Supreme Court decision.
SEN. ZAFFIRINI: Right. And, Senator
Fraser, it is because I was surprised at that statement
that we followed up, and it seems that that is in the
report. But there is other information in addition to
that, so I could turn around and say, "Well, are you
taking it out of context?" I won't raise that question
as a courtesy, but I could raise it.
But on the other hand, what I want to make
very clear is that the reason we followed up was that
you made this opening statement.
SEN. FRASER: Your letter is dated January
16 the 24th. I made the statement this morning. Was --
did I make the statement, and then he -- he wrote the
letter and sent it to you today?
SEN. ZAFFIRINI: Well, I requested it
today, so that's perhaps a typo because we received it
today. Let me check. We received it -- we received it
this morning.
SEN. FRASER: Before I made the statement?
SEN. ZAFFIRINI: It should be
January 25th.

SEN. HINOJOSA: Can you hear me?
SEN. FRASER: Yes, this is -- these are
much better. Yes, I do. I can hear you.
SEN. HINOJOSA: I just have a few
questions that I'd like to follow up on.
Do you know how many people are registered
to vote here in the state of Texas?
SEN. FRASER: Oh, I do -- I'm sorry, I do
not know.
SEN. HINOJOSA: Approximately, 13 million.
SEN. FRASER: Okay. 13, yeah. Okay.
SEN. HINOJOSA: Yeah. And do you know how
many voted in the last election?
SEN. FRASER: No, I'm not advised on that
either. I'm sorry.
SEN. HINOJOSA: Close to 5 million voters
voted this last election. And do you know how many
people were arrested or prosecuted or indicted for
trying to use somebody else's voter registration card?
SEN. FRASER: I'm sorry, not -- no, I do
not have that number.
SEN. HINOJOSA: None?
SEN. FRASER: I don't -- I don't have the
number, I'm sorry. I'm not advised.
SEN. HINOJOSA: Well, do you have any
CONSIDERATION OF SENATE BILL 14 1/25/2011

SEN. FRASER: I'm sorry!

SEN. HINOJOSA: Do you have any evidence?

SEN. FRASER: Evidence?

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

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

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

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

SEN. HINOJOSA: As a matter of fact, I have a letter dated January 24th, 2011, from Professor Spencer Overton addressed to Senator Judy Zaffirini where he states that approximately 3 million Texas voters do not have photo ID.

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

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

CHAIRMAN DUNCAN: The chair recognizes Senator Williams.

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

SEN. FRASER: Senator, what are you -- I'm sorry. What are you familiar with the Carter-Baker Commission on federal election reform?

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

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

SEN. HINOJOSA: Yes, sir, it's a letter. (Simultaneous speaking)

SEN. FRASER: Senator, that is --

SEN. WILLIAMS: Senator Fraser, there's several things that I wanted to clear up for the record. The first, I'd like to make a reference back to the Secretary of State has recently sent this letter -- she sent it over today -- that indicated that there would be probably $2 million of the HAVA funds that would be available for voter education, to help fund the voter education efforts that we would have in connection with this bill. And it would be normal, it would be the Secretary of State's office who would develop what those programs are. In taking into account our legislative intent about what we're trying to do.
1. States Supreme Court -- I believe they've stated that it's been documented throughout our nation's history by respected historians and journalists, and they demonstrate not only that the risk of voter fraud is very real, but they could affect the outcome in close elections. Does Senate Bill 14 provide the kind of safeguard against that fraud that might be crucial in an election?

2. SEN. FRASER: Yes, it does, Senator.

3. SEN. WILLIAMS: Now, we've had some close elections, even in the Texas Legislature. I know over in the House right now, there is an election contest that's been -- for Senate, State House District 48.

4. It's being contested. The last numbers that I saw from the Secretary of State showed that Donna Howard had won her seat by 12 votes, which amounts to .02 percent of all the votes cast in that race. And, of course, back in 2008, Linda Harper Brown in Dallas County defeated her opponent by 19 votes, or .05 percent of the total votes cast in that race.

5. Are those the kind of close elections you think Senate Bill 14 provides safeguards to protect the reliability and integrity of our voting system, especially those in close elections like we've just talked about?

6. SEN. FRASER: Yes.

7. SEN. WILLIAMS: Okay. I believe in this Crawford v. Marion, on Page 10, the Supreme Court brief, they quoted -- the United States Supreme Court quoted the Carter Baker report that has been referenced here.

8. And in that report, their quote was, "There's no evidence of extensive fraud in U.S. elections or of multiple voting, but both occur and it could affect the outcome of a close election. The electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters. Photo identification cards currently are needed to board a plane, enter federal buildings, and cash a check. Voting is equally important."

9. Is that your understanding? Is Senate Bill 14 designed to inspire that public confidence in close elections like those we've just talked about?

10. SEN. FRASER: Yes, it is.

11. SEN. WILLIAMS: -- we talked about?

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

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

14. SEN. WILLIAMS: Okay. Senator, having listened to what I heard and just read a minute ago from the Carter-Baker report that has been referenced here, are you aware of how difficult it is not only to discover but to prosecute voter fraud?

15. SEN. FRASER: Yes, it is very difficult.

16. SEN. WILLIAMS: And having said that, do you think that that's one of the reasons we have the 58
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SEN. WILLIAMS: Okay. Couple of things that I just think that it was important to get back into the record again about what the Supreme Court actually said in Crawford v. Marion; and all of this, of course, was included in the record last time.

SEN. WILLIAMS: And I think it's you know, I gave the example last year of my mother in the retirement center, that she couldn't get to the -- 12 it was too much -- it's too hard for her to get to the polls, but she voted by mail. And there's -- there are people in that category, and we have that safeguard in Texas.

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

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

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

SEN. WILLIAMS: Okay. Couple of things that I just think that it was important to get back into the record again about what the Supreme Court actually said in Crawford v. Marion; and all of this, of course, was included in the record last time. I thought it was interesting that Justice Stevens comments about this. He said first, the state has an interest in counting only eligible votes. And I think it's you know, I gave the example last year of my mother in the retirement center, that she couldn't get to the polls, but she voted by mail. And there's -- there are people in that category, and we have that safeguard in Texas.

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<td>1 a photograph, does not qualify as a substantial burden on most voters' right to vote or represent a significant increase over the usual burdens of voting. And I think that's interesting that that was noted. And those provisions that we have are essentially -- in your bill, there are very similar provisions with respect to those matters. Correct? SEN. FRASER: They -- yes, and I want to clarify. The Crawford case went to the U.S. Supreme Court, and those observations were made in the -- the majority opinion. SEN. WILLIAMS: Now, they go on to say that it's generally applicable, nondiscriminatory voting regulation, it's universally applicable, it's imminently reasonable because the burden of acquiring, possessing, and showing a free photo identification is not a significant increase over the usual voting burdens, and the State's interest are sufficient to sustain whatever those minimal burdens are. So we know there's some inconvenience, but we've done everything we can to make that inconvenience as insignificant as possible. Is that -- SEN. FRASER: I will actually go with that in the -- the Crawford/Indiana case. SEN. WILLIAMS: Just in closing, in my final comments as -- before we go to take testimony, I just think that it's noteworthy to look back at what the opponents of this legislation have said on the floor thus far today, and what I've heard is very little debate about the actual content of your legislation. And I think that speaks to the fact that it's unequivocally a good idea that people ought to be able to be positively identified as who they say they are when they come to vote. What I've heard today is a lot of talk about procedures, even though what we're doing is very normal for a Committee of the Whole, and it's the same procedure that we used the last session when we considered this. Is that correct, Senator Fraser? SEN. FRASER: It is, and I think it's very difficult for a member to argue the merits of the bill when it's so straightforward when you ask someone in their district do they think that someone should -- should have -- be required to show a photo ID when they vote, that you've got near 90 percent of the population across the state of Texas. Again, every one of these members, it's hard to argue of the merits -- argue the merits of the bill. SEN. WILLIAMS: Yeah, the other thing that I've heard that I think is interesting is fiscal notes.</td>
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<td>1 A lot of talk about fiscal notes, even though we have a letter from the Secretary of State that states that there are going to be HAVA funds that will be available to help with the voter education, and I think we're going to have testimony in a few moments. And I tried to clarify that early on that the cost of issuing for the state these free ID cards is less than $1. It's a very minimal cost, and with almost 16 million people that we have who have a driver's license or -- or an ID card now, it seems unlikely that there's going to be a whole lot of people out of that 13 million that actually don't already have a driver's license or a state ID card. In fact, Senator Fraser, I spoke last night with the Department of Public Safety and today I've talked with the Secretary of State and just asked them if it would be possible for us to target those voters who are below age 65 and have -- don't have an ID card, a driver's license or an ID card issued by the state; and we told them, yes, it would be possible for us to direct our voter education to those people specifically so that we could step it up and let them know before your bill takes effect -- not till, when, in January? Is that -- am I remembering that correctly? SEN. FRASER: January, 2012.</td>
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| 1 final comments as -- before we go to take testimony, I just think that it's noteworthy to look back at what the opponents of this legislation have said on the floor thus far today, and what I've heard is very little debate about the actual content of your legislation. And then the other thing I've heard a lot about is current law, and, you know, there's been a lot of discussion. In fact, a lot of what we've talked about is what's actually on the books right now, and your bill is not touching any of that top side or bottom. Really, most of what you do is very limited by changing what the requirements are when you come to the polls. Is that correct? There's not any other real substantive change to election law here. SEN. FRASER: We're only addressing the actual in-person voting and the identification required when somebody votes in person. We're not addressing mail-in ballots or any of the other provisions. It's just that one section. SEN. WILLIAMS: Well, thank you for allowing me to question you about this and I appreciate you bringing this issue before us and I especially appreciate the fortitude that you've shown during this long debate. Thank you. SEN. FRASER: Thank you, Senator. CHAIRMAN DUNCAN: Chair recognizes Senator Shapiro.
SENATOR SHAPIRO: Thank you, Mr. Chairman.

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

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

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

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

SENATOR FRASER: No. No, I --

SENATOR SHAPIRO: This is something that you have inserted into the bill. It'd be your interpretation --

SENATOR FRASER: -- inserted it into the bill. It'd be your interpretation --

SENATOR FRASER: Okay.

SENATOR SHAPIRO: Okay. And my recollection is it is. Thank you.

SENATOR FRASER: Okay.

CHAIRMAN DUNCAN: Chair recognizes Senator Huffman.

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

SENATOR FRASER: Thank you.

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

SENATOR FRASER: I think that's the one that was referenced I think in the Indiana case, I believe.

SENATOR HUFFMAN: Okay.

SENATOR FRASER: And that's yes.

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

SENATOR FRASER: Yes, without a doubt. That's already been approved by the Supreme Court and obviously we wanted to make sure we stayed within those parameters.

SENATOR HUFFMAN: All right. Now, you know, the Supreme Court, I think -- we know that the Supreme Court has told us that there is a balancing test, and we understand that the right to vote is sacred. And so we know that the law tells us that if there is a burden placed upon a voter, that they're going to look very carefully at that. And it's going to have weight but it's going to be balanced against legitimate state interest.

SENATOR FRASER: Yes; without a doubt.

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<td>and with voter confidence.</td>
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<td>3 So as you prepared the bill and</td>
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<td>I know you've been asked this</td>
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<td>question a lot.</td>
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<td>SEN. FRASER: Absolutely.</td>
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<td>SEN. HUFFMAN: Right. Do you think</td>
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<td>of Texas?</td>
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<td>SEN. FRASER: Yes.</td>
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<td>SEN. HUFFMAN: Do you think that</td>
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<td>there's a larger scheme nationwide</td>
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<td>SEN. FRASER: Absolutely.</td>
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<td>SEN. HUFFMAN: Do you think that Senate</td>
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<td>Bill 14 will help to prevent</td>
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<td>voter fraud and actually help</td>
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<td>to ensure that only the votes of</td>
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<td>eligible Texas voters are</td>
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<td>counted in these crucial elections that</td>
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<td>happen in the state of Texas?</td>
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<td>SEN. FRASER: That is our intent, and we</td>
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<td>believe the bill does that.</td>
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<td>SEN. HUFFMAN: And do you believe that</td>
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<td>once we have established these safeguards, that the</td>
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<td>voters will feel more confident about their vote being counted and only the votes of registered Texans who can vote to be counted?</td>
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<td>SEN. FRASER: Yes, that is our belief.</td>
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<td>SEN. HUFFMAN: Do you think that once that's established, that it will actually encourage the democratic process and that it will encourage more voters to go to the polls?</td>
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<td>SEN. FRASER: The thing we've seen in other states that have implemented photo ID, the -- the voter turnout actually increased. And so, yes, we believe the confidence in the voters will increase, and we believe it will actually increase the voting percentages.</td>
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<td>SEN. HUFFMAN: Now, we've heard comments today from many senators, Senator Whitmire, Senator Davis, Senator Uresti, about hypothetical burdens that may be placed on some hypothetical voter. But taking that into account and looking at and trying to balance it, do you feel like we have a bill here that -- that presents and moves forward our legitimate interest in Texas as it regards voting?</td>
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<td>SEN. FRASER: Without a doubt.</td>
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<td>SEN. HUFFMAN: All right.</td>
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<td>SEN. FRASER: We believe it does.</td>
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<td>SEN. HUFFMAN: Thank you very much, Senator Fraser.</td>
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<td>SEN. FRASER: Thank you, Senator.</td>
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<td>SEN. HUFFMAN: Thank you.</td>
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<td>SEN. WENTWORTH: Chair recognizes Senator Fraser.</td>
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<td>SEN. WENTWORTH: Thank you, Mr. Chairman.</td>
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<td>Will the gentleman yield?</td>
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<td>SEN. FRASER: I will yield.</td>
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<td>SEN. WENTWORTH: Senator, I want to compliment you on your long hours of being on your feet in responding to these questions. I just wanted to touch on a couple of things.</td>
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<td>One is we had - - we had some testimony here two years ago on a very similar bill, and I just wanted -- since it's been raised earlier today, the issue about whether or not maybe passage of this bill would reduce voter participation. There are only a couple of other states, Indiana and Georgia, where there sorts of bills have been passed. One of the witnesses in March of '09 said to us: Not only does voter ID help prevent fraudulent voting, but where it has been implemented, it has not reduced turnout. There is no evidence that voter ID decreases the turnout of voters or has a disparate impact on minority voters, the poor, or the elderly. The overwhelming majority of Americans have photo ID or can easily obtain one.</td>
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<td>Now, this is in the record from the 2009 hearing, which we've already adopted, but I just wanted to recall some of the testimony that we had.</td>
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<td>Another quote was: Recent election results in Georgia and Indiana also confirmed that the suppositions that voter ID will hurt minority turnout are incorrect.</td>
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<td>In addition -- and I'm not sure whether this was part of the record in '09, but there is a study of Indiana's photo ID law that was conducted by a University of Missouri professor. He found that requiring identification doesn't have much impact on voter turnout rates. His name is Jeffery Milyo. He's professor of economics and public affairs at the University of Missouri, a part of the Institute of Public Policy of the Harry S. Truman School of Public Affairs.</td>
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<td>And his conclusion is -- if I can find it</td>
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<td>1 quickly it's a many-page study, and his conclusion is</td>
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<td>4 turnout increase of almost 2 percentage points -- and</td>
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<td>5 this is just in Indiana. This isn't Georgia as well --</td>
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<td>6 an insignificant increase in relative turnout for</td>
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<td>7 counties with a greater percentage of minority and poor</td>
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<td>8 population; no consistent or significant impact on</td>
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<td>9 relative turnout in counties with a greater percentage</td>
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<td>10 of less educated or elderly voters; and finally, a</td>
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<td>11 significant relative increase in turnout for counties</td>
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<td>12 with a higher percentage of Democrat voters.</td>
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<td>13 I was just wondering if you remembered</td>
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<td>14 those things that were testified to two years ago or</td>
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<td>15 whether you were familiar with this university</td>
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<td>16 professor's study.</td>
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<tr>
<td>17 SEN. FRASER: Thank you for bringing that</td>
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<td>18 forward. It -- yes, I -- now, as you mention it, I do</td>
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<td>19 remember it. The other thing that comes to mind that</td>
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<td>20 was through the testimony two years ago is in the '09 --</td>
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<td>21 I'm sorry -- the '08 president election for '09, that</td>
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<td>22 even though the president was from Illinois, the</td>
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<td>23 adjoining state, Indiana, had doubled the increase in</td>
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<td>24 voting next door in the state -- in Indiana where they</td>
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<td>25 had put in photo ID. Illinois did not have it, but the</td>
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<td>1 increase was double the amount of increase next door.</td>
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<td>2 So it certainly didn't show that they were hurt by the</td>
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<td>3 implementation of the --</td>
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<td>4 SEN. WENTWORTH: Where Indiana has a photo</td>
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<td>5 ID law --</td>
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<td>6 SEN. FRASER: Illinois does not.</td>
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<td>7 SEN. WENTWORTH: Thank you very much,</td>
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<td>8 Senator.</td>
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<td>9 SEN. FRASER: Thank you, Senator.</td>
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<tr>
<td>10 CHAIRMAN DUNCAN: Okay. Members, we</td>
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<tr>
<td>11 have -- that completes all of the Members who want to</td>
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<td>12 ask questions of the author. You can sit down for a</td>
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<td>13 second, Senator, if you want to. Take a rest.</td>
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<td>14 We have a little bit of housecleaning.</td>
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<td>15 There's a few witnesses that -- or a few exhibits that</td>
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<td>16 may want to go in that we have now made copies of. I</td>
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<td>17 think, Senator Van de Putte, you had -- Senator</td>
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<td>18 Saffirini had Exhibit 6 which was a map of the DPS, and</td>
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<td>19 we've now had that copied and available to distribute.</td>
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<tr>
<td>20 Do you want to go ahead and offer it into the record?</td>
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<td>21 SEN. VAN de PUTTE: Yes, I will.</td>
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<td>22 CHAIRMAN DUNCAN: Okay. It'll be</td>
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<td>23 received.</td>
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<td>24 (Exhibit No. 6 marked and admitted)</td>
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<td>25 CHAIRMAN DUNCAN: And then I believe we</td>
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<td>1 had -- Senator Davis had a chart that -- excuse me.</td>
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<td>2 SEN. VAN de PUTTE: Mr. Chairman, do --</td>
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<tr>
<td>3 move to add to Exhibit 6 the counties with Department of</td>
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<tr>
<td>4 Public Safety Driver's License Office Closures prepared</td>
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<td>5 by legislative counsel.</td>
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<td>6 CHAIRMAN DUNCAN: Okay. Thank you. That</td>
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<td>7 will be received in the record.</td>
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<td>8 Senator Davis, you had an exhibit that you</td>
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<td>9 wanted to offer.</td>
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<td>10 SEN. DAVIS: Yes, Mr. Chair. I'd like to</td>
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<td>11 add that as -- I guess it would be Exhibit No. 7 to the</td>
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<td>12 record.</td>
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<td>13 CHAIRMAN DUNCAN: And I think we have</td>
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<td>14 copies to distribute to the Members? Would you describe</td>
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<td>15 it, please?</td>
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<td>16 SEN. DAVIS: Yes, I'm sorry. It's the</td>
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<td>17 chart that I displayed and talked about earlier in my</td>
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<td>18 questions of Senator Fraser. It's exact -- an exact</td>
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<tr>
<td>19 replica of the chart that was displayed on the Senate</td>
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<td>20 floor.</td>
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<td>21 CHAIRMAN DUNCAN: It has a -- it's a</td>
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<td>22 graphic that has a -- at the top, a title that says,</td>
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<td>23 &quot;IL/State ID.&quot; Okay. Exhibit 7 will be received in the</td>
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<td>24 record.</td>
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<td>25 SEN. DAVIS: Thank you.</td>
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<td>1 (Exhibit No. 7 marked and admitted)</td>
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<tr>
<td>2 CHAIRMAN DUNCAN: Are there any other</td>
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<td>3 exhibits that --</td>
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<td>4 SEN. FRASER: Mr. President?</td>
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<td>5 CHAIRMAN DUNCAN: -- were discussed that</td>
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<td>6 we'd like to include? Senator Fraser?</td>
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<td>7 SEN. FRASER: And I had one that I</td>
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<td>8 mentioned that I was going to enter in that I have not</td>
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<td>9 yet. It is the Lighthouse Opinion Poll. This is the</td>
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<td>10 most current poll that is taken and has a very good</td>
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<td>11 breakout of not only across the state, the regions, but</td>
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<td>12 also has a breakout, Republican, Democrat, and it breaks</td>
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<td>13 out for the African American, Hispanic, and --</td>
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<td>14 CHAIRMAN DUNCAN: Do you have copies of</td>
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<td>15 that to distribute?</td>
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<td>16 SEN. FRASER: I have one copy.</td>
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<td>17 CHAIRMAN DUNCAN: Okay. Well, Exhibit 8</td>
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<td>18 will be received, but if you'll go ahead and get copies</td>
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<td>19 so that we can distribute those at this time.</td>
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<tr>
<td>20 (Exhibit No. 8 marked and admitted)</td>
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<td>21 SEN. GALLEGOs: Mr. President?</td>
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<td>22 CHAIRMAN DUNCAN: Senator Gallegos, for</td>
<td></td>
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<tr>
<td>23 what purpose?</td>
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<td>24 SEN. GALLEGOs: I have also some diagrams,</td>
<td></td>
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<td>25 but I wasn't going to present them until the time of my</td>
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1 amendments. I mean, do they need to be entered now or
2 at the time of the amendment?
3 CHAIRMAN DUNCAN: I don't see any problem
4 with entering them at the time when it's relevant to
5 what you're trying to do.
6 SEN. GALLEGO: Okay.
7 CHAIRMAN DUNCAN: You can put them in the
8 record at that time --
9 SEN. GALLEGO: Then I'll wait till --
10 till the time of the amendment. Thank you,
11 Mr. President.
12 CHAIRMAN DUNCAN: All right. Members, the
13 next phase is the invited testimony.
14 And Senator Van de Putte and Senator
15 Fraser, if you could come up to the -- make sure we've
16 got everybody in the right order.
17 And while they're coming up, I want to
18 announce that it's my intention to -- we have about
19 17 last check 17 registered witnesses for public
20 testimony, and I would like to accommodate those
21 witnesses, if we could. So remember that when you're
22 questioning and -- that we have some folks that would
23 like to testify here later on.
24
25 All right. Members, let's go ahead and
26 move into the invited testimony.
27 The first witness will be Jerry Bonnett,
28 general counsel, Indiana Secretary of State.
29 Mr. Bonnett? Mr. Bonnett, you'll have ten minutes the
30 timer is right before you. You'll get a yellow light at
31 30 seconds, I think. And then we'll strictly hold you
32 to the time, and then open it to questions at that time.
33 You'll not be interrupted during your testimony.
34
35 TESTIMONY BY JERRY BONNETT
36 MR. BONNETT: All right. Thank you,
37 Chairman Duncan. I want to thank Senator Fraser and
38 supporters of Senate Bill 14 for inviting me to be here
39 today.
40 CHAIRMAN DUNCAN: Would you state your
41 name and --
42 MR. BONNETT: Yes. My name is Jerry
43 Bonnett. I've served as general counsel for the Indiana
44 Secretary of State Todd Rokita from 2005 to the end of
45 2010 when he completed his second term in office. I am
46 currently serving as general counsel to Indiana's next
47 Secretary of State and chief election officer, the
48 Honorable Charles White.
49 Since 2005, my duties as general counsel
50 have involved assisting with the implementation of
51 Indiana's photo ID law, including working with multiple
52 players in Indiana's election process, which is included
53 the Bureau of Motor Vehicles, county election boards,
54 poll workers, our Help America Vote Act, and support
55 agencies in coming up with the procedures and rules to
56 administer our photo ID law.
57 I've also been responsible for statewide
58 monitoring of election day activity in elections in our
59 statewide and primary -- primary general elections in
61 complaint from the -- regarding voting submitted to the
62 Secretary of State, the Indiana Election Division, the
63 Indiana Election Commission, the Department of Justice,
64 our Help America Vote Act, and other county election
65 boards.
66 I've also assisted the Indiana Attorney
67 General and the Indiana Solicitor General with the
68 discovery trials appeals and ultimately Supreme Court
69 review in the state courts and in the U.S. Supreme Court
70 of Indiana's photo ID law.
71 Prior to the first statewide election in
72 Indiana under the photo ID law, there was no shortage of
73 organizations claiming that we smell a rat of some sort
74 or political subtext. My job has been to look for
75 exactly any application of the law that was illegal or
76 overburdened.
77 Despite the intense scrutiny of the law
78 that has been locally -- local, state, national, and
79 even international, in my impression, Indiana has
80 been -- and our courts have been very open to giving
81 a fair and complete hearing to anyone feeling agreed or
82 disenfranchised by our voter ID laws. In the five years
83 and eight statewide primary general elections I've been
84 involved with, there's been scant evidence of
85 disenfranchisement or discrimination in Indiana. If the
86 naysayers and conspiracy theorists and armchair social
87 scientists were correct in their prognostications,
88 Indiana would have experienced hundreds of thousands of
89 disenfranchised voters after the laws passed in 2005,
90 but hardly any group or individual or circumstance has
91 been found that has genuinely disenfranchised or
92 inconvenience a voter beyond what the Supreme Court has
93 held to be the reasonable orderly regulation of
94 elections.
95 Did Indiana fix something that wasn't
96 broke? Was it a law in search of a crime? Admittedly,
97 there's been little evidence of in-person voter fraud in
98 Indiana, but that's been of little consolation to
99
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1 citizens who have come to Secretary of State’s office with concerns about the confidence in our elections.
2 What Indiana has experienced were
3 manipulation of voter registrations with thousands of
4 voter registrations submitted just prior to the closing
5 of registration which have confounded the orderly
6 registration of voters. Indiana has experienced issues
7 with voter list maintenance where -- where partisan
8 activists have refused to update voter registration
9 lists, insisting the U.S. Department of Justice to
10 intervene and require voter list maintenance in Indiana.
11 Indiana has seen inconsistent agency-to-agency
12 cooperation in the sharing of information. There have
13 been times when the Social Security office was unable to
14 provide verifications of voter registrations, times when
15 other state agencies were not able to exchange
16 information that would assist in verifying voter
17 registrations.
18 There have been reports of people in urban
19 areas being bussed around from poll location to poll
20 location. There is evidence, after the fact, of dead
21 voters having registered or of dead voters having voted.
22 There was also a report of a well intentioned high
23 school civics teacher who was intent on having every 17
24 year old vote even though there were some
25 year old that came into her class register to vote and
26 vote. In Indiana, voters can conform their voter
27 registration up through election day to the IDs that
28 they have.
29 Other state agencies have reached out to
30 anyone identified who has been experiencing problems of
31 obtaining photo IDs. In Indiana, it’s not a money
32 issue. And an ID is reviewed by social services agencies
33 in Indiana as key to other social services and other
34 benefits of citizenship, and there’s been an interest in
35 working with individuals who had difficulty obtaining
36 photo ID. Also, in the Indiana Election Day Handbook,
37 in bold print, it says, on -- in several locations, that
38 lack of ID or problems with an ID is not a cause for
39 someone -- for a voter to be turned away.
40 After five busy years of monitoring
41 primary general elections in Indiana, working with
42 deputies, reviewing complaints, I can say that Indiana’s
43 photo ID law is not only constitutional as it is written
44 but as it has been applied in routine use -- is applied
45 and become routinely used in good faith and in -- and in
46 an accommodating matter in the state.
47 Now, keeping to its principal and intent,
48 Indiana’s law, subject to all matter of partisan,
49 nonpartisan, state, national scrutiny, has not been
50 applied with the rigid inflexibility and consequences
51 predicted by detractors. After exhaustive review in the
52 state and federal courts involving the application of
53 the law as applied -- instance of the law and in -- and
54 in Indiana’s informed public opinion, Indiana photo ID
55 has earned broad acceptance, even from skeptics, as
56 become -- as having become integral component of voter
57 confidence and law that honors the privilege and the
58 dignity of American’s right to free and equal
59 participation in elections.
60 I honor you for the difficult work
61 you’re doing here today. I assure you that the work
62 won’t be done if and when you pass Senate Bill 14. I
63 can certainly tell you that the sun came up in Indiana
64 after Indiana’s photo ID was passed. It continued to
65 come up and continues to come up after each election
66 that we have. So I’m ready to address your questions,
67 please.
68 CHAIRMAN DUNCAN: Thank you, Mr. Bonnett.
69 So we’ll have our first questions.
70 Senator Van de Putte, you’re recognized.
71 QUESTIONS FROM SENATE FLOOR
72 SEN. VAN DE PUTTE: Thank you very much,
73 Mr. Chairman.
74 And thank you very much, Mr. Bonnett, for
75 traveling from Indiana. I know on much short notice,

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1 We appreciate you being here to help us with your expert testimony as we deliberate this very, very important issue.

4 I had a few questions that -- that I wanted to ask about because here in Texas, we looked at the Indiana law, and we're looking toward -- this is -- as our bill author has said, it's kind of a Texas bill, which we think is more restrictive than yours. And we have heard from testimony that there is increased turnout and you haven't found any instances in where anybody, -- and I think in your testimony and in saying that it is working and even in your Supreme Court case, no party or amicus cited well, of course, there were no cases of impersonation at the polls in Indiana. So I have some confusion because in the bill that you passed, we had reports in Marion County in 2007 that 32 vote voters cast ballots that could not be counted because of the voter ID law, and I want to ask you about them because just a couple of them really bring to mind some difficulties. And yet, you cited that there were no problems.

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

14 Mr. Bonnett: I can't --

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

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

21 In the case of the -- the -- the nuns, in Northern Indiana, the -- it's my understanding and that situation was also discussed in the Crawford case -- the -- the nuns did have passports.

1 They did have a form of ID that was acceptable, but they refused to present that. They were eligible for other exceptions under the law, absentee voting exception, and it was really a media event because the media had been brought to the scene before. And they also refused to go provisionally. I did not -- I believe they were brought in a van to a polling location that was not --

8 not, I understand, any time that they were voting at the place that they lived.

10 Sen. Van de Putte: So --

12 Mr. Bonnett: That incident was -- seemed to be discredited as a -- as a legitimate case of disenfranchisement.

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

20 Mr. Bonnett: Yes, Your Honor.

22 Sen. Van de Putte: Oh, thank you.

1 (Laughter)

2 Sen. Van de Putte: Well, let me ask you about another case. One of them was Lauren McCall in

4 who was an 18-year-old freshman at Saint Mary's College in South Bend and who was not able to cast her ballot in the 2008 primary. She was crying, and she was the first time that she was going to be able to vote, and she tried to -- she did do a provisional ballot. But since she couldn't get the documentation that she needed within the time requirement, she didn't have a chance to vote because she was in class and she couldn't go back to her -- so can you tell me what happened to Ms. Lauren McCall in this case?

19 Mr. Bonnett: Unfortunately, I'm not familiar with -- with that case.
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1 a -- some sort of a -- it wasn't a senior assisted, but it was some sort of a temporary, like rehab, where people go after strokes or after a motor vehicle accident, and that they weren't allowed. I mean, I can understand your story about the nun because, you know, I'm a Catholic and sometimes they get really organized, and they make their point. But what --

8 MR. BONNITT: I am too.

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

12 MR. BONNITT: Uh-huh.

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

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

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

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

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

8 But let me ask you about something else.

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

17 SEN. VAN de PUTTE: Absolutely please.

16 MR. BONNITT: Uh-huh.

17 SEN. VAN de PUTTE: And so why is this more restrictive than Indiana is we don't have the protections that you do in Indiana under this bill, for those who live in religious communities, for those who are retired religious and that's why I wanted to clear up.

8 MR. BONNITT: May I respond to that?

9 SEN. VAN de PUTTE: Absolutely, please.

10 MR. BONNITT: If you compare the turnout in electing between now President Obama and John McCain I mean it was fabulous I mean so you really can't compare turnouts to turnouts because the electorate in electing between now President Obama and John McCain, I mean, it was fabulous. I mean, so you really can't compare turnouts to turnouts because the turnout was wonderful in November, and we're all very excited about that. So I wonder a little bit because, I mean, everybody's turnout went up.

16 MR. BONNITT: May I respond to that?

17 SEN. VAN de PUTTE: Absolutely, please.

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

20 And you're right, in 2008, Indiana voted

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

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

MR. BONNETT: Uh-huh.

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

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

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

MR. BONNETT: Uh-huh.

SEN. VAN DE PUTTE: But there is no affidavit of indigency or -- or anything required, at least from what I looked at your law. But I'm not sure.

That's why I wanted to ask.

MR. BONNETT: That's my understanding.

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

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

1 Indiana code that has not complied with -- and I think that Indiana code 3-7-33-4.6 -- on election day must present one of the following documents to the -- and it says, "A current and valid photo ID," or it says, "current utility bill, bank statement, government check, paycheck, government document that shows the name and address of the voter." And yet, we've been told that Indiana only has a photo.

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

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

SEN. VAN DE PUTTE: Well, I think that is -- it was very hard to follow, but I think it's under a provisional ballot that has a state-licensed care facility or something. But there is at least that protection for those who are at a temporary facility.

That even if they don't have a photo ID, the exception is not that they're just exempted but I think that they can utilize other forms of ID, which our Texas bill doesn't have.

To your knowledge, was -- since this was 7 from the Indiana Legislature, do you remember any discussions on why they -- they put that in? Was this put in at the same time as the original voter ID legislation, or was this only done after the mess up with the nuns and the other folks who were at this temporary facility?

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

SEN. VAN DE PUTTE: Thank you. I really appreciate your candid answer; and, again, we thank you. 

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1 very much for your travel here to help us on this
topic. Thank you.
2
3 MR. BONNETT: Thank you.
4
5 SEN. VAN de PUTTE: I don't have any other
6 questions, Mr. Chairman.
7
8 CHAIRMAN DUNCAN: Chair recognizes Senator
9 Davis.
10
11 SEN. DAVIS: Thank you, Mr. Chair.
12
13 Mr. Secretary, thank you so much for
14 traveling to be with us today and to help inform us
15 about the work that you've done in Indiana on this
16 issue. I just want to make sure that I clearly
17 understand because today there's been a great deal of
18 discussion about your bill as you can imagine as the
19 reason why the bill that's being proposed in the Texas
20 Senate today would be able to withstand constitutional
21 scrutiny. So I want to make sure that we have a clear
22 record in terms of how the bill that Indiana has
23 introduced or the law that you've introduced mirrors
24 or does not mirror what we are discussing on the
25 Senate floor today.
26
27 So I think I heard you say that you do
28 allow women who have been married or divorced to come in
29 to vote and to provide some affidavit that they their
30 name has changed and is different than is on the ID that
31 they have because of marriage or divorce. Is that
32 correct?
33
34 MR. BONNETT: That's correct. That's by
35 administrative directive. It's not part of the statute.
36 And I'll say that when the -- when the Indiana courts
37 reviewed the law, it was
38 reviewed in the context not just of the statutory
39 language but other administrative procedures that were
40 developed after the law was passed, after the framework
41 of the law was passed, for the -- the view of -- as
42 applied, how the law was applied.
43
44 SEN. DAVIS: Absolutely. And I think
45 that's terribly important, and I'd like to invite you
46 to -- to please inform us as much as possible both
47 statutorily what was reviewed in terms of what you've
48 done to try to preserve the integrity of someone's right
49 to vote and administratively what's been done.
50
51 So you said on that particular one, that
52 was a rule that was instituted administratively, but it
53 was part of what was reviewed by the court system in
54 terms of the implementation of that law?
55
56 MR. BONNETT: Yes. That -- that directive
57 clarified procedures for poll workers in -- in viewing
58 IDs for conforming names.
59
60 SEN. DAVIS: And then I believe you said
61 that in the -- the language that's presented to a voter
62 in terms of their right to vote in Indiana, in bold
63 language, you have clarified for voters there that not
64 having a photo ID will not in and of itself be
65 sufficient cause for them not to be able to vote. Is
66 that correct?
67
68 MR. BONNETT: Yes. I'll -- I'll just look
69 up the exact -- the exact bold language, one example's
70 are referred to on Page 10 of the Indiana Election Day
71 Handbook. This is the 2008 copy. In bold, "No voter
72 should be turned away from the polls for failing to
73 provide photo ID." That's -- that's instruction to all
74 poll workers.
75
76 SEN. DAVIS: And does that wording go to
77 instances where, for example, as you -- as you talked
78 about earlier, if a person comes to the poll and they do
79 not have a photo ID, they can vote a provisional
80 ballot -- or ballot -- excuse me -- on the condition
81 that they attest that they do not have a photo ID
82 because there would be a cost to receiving that ID
83 either through having to get the underlying
84 documentation that would qualify them to receive the ID
85 or some other cost that would be associated with
86 receiving the ID?
87
88 MR. BONNETT: Yes there are several
89 alternatives to means to -- to verifying a provisional
90 ID to allow --
91
92 SEN. DAVIS: And can you discuss what
93 those several alternatives are, please?
94
95 MR. BONNETT: Well, generally, providing
96 the -- the ID or providing the -- the -- the voter
97 registration correction or an affidavit that there is a
98 religious exception to being photographed, that an ID
99 cannot be obtained without -- without cost. There may
100 be another. That's provided for in the Voter Bill of
101 Rights which is posted at each poll site, and then
102 voters who vote provisionally are given a paper receipt,
103 so to speak, with the instructions on how to verify
104 their provisional ballot and have it cast, how and
105 where.
106
107 SEN. DAVIS: Thank you. That's very
108 helpful.
109
110 And I believe you also have a provision in
111 Indiana, do you not, that allows for the use of an
112 expired driver's license for a certain period of time.
113
114 MR. BONNETT: Yes. And I believe if it --
115 if it goes back to the beginning of the -- the opening
116 of registration for the election which is generally 30
117 days from the prior election. So it's generally about a
118
| 1 year, year past. | 1 religious purposes. We talked about the fact that if a person comes to the polling location without an ID, they can vote a provisional ballot so long as they attest as one of the -- the reasons for voting that provisional ballot, that they had to pay a fee in order to -- to get a photo ID and they were unable to pay that fee. You talked about the special rule that's been created to handle the situation where women have been married or divorced and their -- their name would be different than what is on their ID. |
| 2 SEN DAVIS: Okay. Have you done any work in Indiana to track or to attempt to track the percentage of persons based on categories, whether it be senior status, whether it be minority status, whether it be indigent status, where people have claimed that somehow their right to vote has been interfered with as a result of this particular law? | 3 MR. BONNETT: I'm not familiar with the state doing that research. Certainly there are interest groups that have -- have made a concerted effort to identify individuals, groups, or characteristics, identify them and locate beyond the theoretical basis; and generally, it's not been something that's been accomplished. There's been a tremendous separation between the theoretical concerns and what's actually been experienced in our elections over the last five years. |
| 4 SEN DAVIS: Okay. Have you done any work in Indiana to track or to attempt to track the percentage of persons based on categories, whether it be senior status, whether it be minority status, whether it be indigent status, where people have claimed that somehow their right to vote has been interfered with as a result of this particular law? | 5 MR. BONNETT: When you started your comments this afternoon, you began by saying that there had been scant evidence of disenfranchisement. Scant to me means that there must have been some. So can you talk a little bit with us about what that's looked like for Indiana? |
| 6 SEN DAVIS: Okay. Have you done any work in Indiana to track or to attempt to track the percentage of persons based on categories, whether it be senior status, whether it be minority status, whether it be indigent status, where people have claimed that somehow their right to vote has been interfered with as a result of this particular law? | 7 MR. BONNETT: There was a single media report prior to the 2010 election a few days prior to the election. It was not officially reported to the state, but the media account was a gentleman of a particular county of 40 something years due to some unusual circumstances did not have a birth certificate. I think it involved him having been discharged to foster care through state programs and so on. But it also was evident that the Bureau of Motor Vehicles Division has a special group -- team that works with individuals who have particular problems to address those needs and the -- the report did not result in -- in a complaint, and there was no indication the state got that the person wasn't able to vote under -- under one of the exceptions. |
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| 11 SEN DAVIS: Okay. Have you done any work in Indiana to track or to attempt to track the percentage of persons based on categories, whether it be senior status, whether it be minority status, whether it be indigent status, where people have claimed that somehow their right to vote has been interfered with as a result of this particular law? | 12 MR. BONNETT: There was a single media report prior to the 2010 election a few days prior to the election. It was not officially reported to the state, but the media account was a gentleman of a particular county of 40 something years due to some unusual circumstances did not have a birth certificate. I think it involved him having been discharged to foster care through state programs and so on. But it also was evident that the Bureau of Motor Vehicles Division has a special group -- team that works with individuals who have particular problems to address those needs and the -- the report did not result in -- in a complaint, and there was no indication the state got that the person wasn't able to vote under -- under one of the exceptions. |
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| 13 MR. BONNETT: Yes. College -- college students at some state universities have -- it came about they have IDs that don't have an expiration date, and through arrangements with -- with state colleges, the universities provided through some type -- I believe it was a secure online facility -- a way for the polling locations to -- to verify the expiration date independent of the actual ID. And so arrangements were made, then, for students with -- with a university ID that did not have the expiration date but where the college was able to provide that information independently to go ahead and vote on election day. |
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| 16 SEN DAVIS: Okay. Thank you. |
| 17 CHAIRMAN DUNCAN: There being no further questions, Mr Bonnett, Thank you for your testimony today and for traveling here. |
| 18 CHAIRMAN DUNCAN: There being no further questions, Mr Bonnett, Thank you for your testimony today and for traveling here. |
| 19 SEN WEST: Mr Chairman? |
| 20 SEN WEST: I thought it was on. I apologize. And I just have a couple of questions anyway. |

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And it may have already -- you may have already addressed this, and I just may not have heard it. As it relates to the provisional ballots in your state. 

MR. BONNETT: Uh-huh. 

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

MR. BONNETT: Yes. 

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

MR. BONNETT: Within ten days. 

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

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

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

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

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

SEN. WEST: Is that information disaggregated by ethnicity? 

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

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

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

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

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

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

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

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

SEN. WEST: To the chairman and the staff? I'd appreciate that. 

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