political process. Political interest is considered one of the best predictors of voter turnout. As the controller for motivation to participate in the electoral process, Mikoff and his colleagues assert that there's little reason to believe that voter ID laws would induce a person's desire to vote. Their study found that photo identification laws do not effect turnout.

Americans in general support photo ID laws for good reason. First, there's little evidence to suggest that these policies disenfranchised voters. Second, voter ID laws are a common-sense policy to help ensure the integrity of elections.

CHAIRMAN SMITH: Let me start your clock.

Q. (By Chairman Smith) You mentioned -- I want to get my hands a little bit around -- I have so many documents behind me, I have had trouble identifying the report that I'm looking for.

In terms of the report studies that are out there and the attempt to look at this issue and the extent to which these laws have affected turnouts, it's my understanding -- we've got your study, which I'm getting a bottom line conclusion is concluding that there's no effect on voter turnout; is that right?

A. Right.

Q. We've got this University of Delaware and
University of Nebraska professor's study that was in Political Science Magazine?

A. The Mikoff study.

Q. That's an indication that there's no effect?

That's their conclusion, correct?

A. Yes.

Q. And then we've got a Missouri study. And did they not, in fact, determine that they thought it had a positive impact on turnout?

A. Well, basically what the state found basically that percentage of votes actually increased, but also found that the law had no effect even though the raw number suggests that voter turnout increased by 2 percent.

Q. So, they found the law itself had no effect?

A. Yes.

Q. And so, there is a study out there on the other side of this issue that indicates a 2 point something percent adverse effect in turnout.

What study is that?

A. I'm not sure off the hand. I know that there's been a study that compares states that use very weak statistical techniques that I would not consider a very rigorous study.

Q. What study was that?

A. I believe it's a study that compared Indiana to
another state that had Professor Brennan's --

Q. Was that the Brennan Department or --

A. I can't remember offhand.

Q. So, I'm trying desperately to find out in that study what they were comparing, what to what?

A. What they were controlling for, too. That's very important, too.

CHAIRMAN SMITH: Okay. Any questions, members, of this witness? Representative Anchia.

Q. (By Representative Anchia) Mr. Mulhausen, thank you for being here today. Was your study peer reviewed?

A. It actually didn't go through a journal process. My study was basically a -- a response to a study that was funded by the federal government that on its face used questionable methods, and I just go through in my study and just show that --

Q. Is that the Eagleton study?

A. The Eagleton study. I just to show that basically they have a lot of coding errors, mistakes in classification of laws. If you account for those errors, the effect that they found disappears.

Q. And the Eagleton study did conclude -- I think you say this in your -- include this in your written testimony. This is Professor Timothy Versalotti found that more stringent voter identification requirements
appear to reduce voter turnout. That was the conclusion?

A. That was the conclusion, but when you corrected
the further mistakes, those findings disappear.

Q. And are you aware -- are you familiar with the
Erickson and Midnight study entitled Modeling Programs in
Voter ID: Voter Turnout Debate?

A. I actually haven't read that study.

Q. Okay. Well, they conclude that we should be wary
of claims on both sides of the controversy because of the
limitations of the modeling that are used, and I think
Mr. Leavitt alluded to that from the Brennan Center.

Did you hear his testimony?

A. Yes.

Q. And would you agree with that, that they are
inherent limitations to proving -- using turnout year over
either and in -- turnout from before the implementation of
voter ID and after, that it would be very difficult to
prove one situation or another?

A. Well, I think that it wouldn't be too difficult
to prove. I think the Mikoff study is probably, in my
opinion, the best study out there because they controlled
for the political motivation of the voter.

Q. How did they do that?

A. Basically they have a survey of voters and the
voters are asked how strongly you are engaged into the
total process -- not very likely, moderately, and very.

Q. Was it statistically significant?

A. Yes. And once you control for that, you'll find that some of the previous -- my own study doesn't control for the motivation of the voter simply because it's based on current population survey which doesn't ask the voter or the respondent what their motivations are.

Q. So, you did you calculate -- were your results statistically significant or were your -- was your survey statistically significant?

A. Some of my results are statistically significant.

Q. What about others? Were all of them statistically significant?

A. Well, it depends -- found had statistically significant finding, but after you correct it for the misclassification of Arizona, the results disappear. And so, it was no longer statistically significant. So, you can get statistically significant with a bad model.

Q. Are you aware of any evidence at all that voters are more likely to vote because of new voter ID laws?

A. I am not aware of any evidence that consistently points in that direction. What I would say is --

Q. Can you cite any work that points in that direction?

A. Well, the Miller study of Indiana, Jeffrey
Miller, he indicates that --

Q. Was that peer reviewed?
A. I do not know.

Q. Okay. Have you studied any instances of -- let's back up.

Have you read this bill, the Frazier bill?
A. I'm not expert in the bill.

Q. Have you read the bill analysis, the summary to the bill?
A. No. I've read the summary to the bill.

Q. But you haven't read the bill itself? And you wouldn't be able to tell us, based on your Heritage Center report, how it might impact voters in Texas?
A. What I would suggest is probably the overwhelming majority of Texans already have appropriate form of identification.

Q. What percentage?
A. Don't know. I would be very interested -- wish somebody would actually find that out because I would bet it's a very high percentage. And second, I would say that people who are engaged in the voting process are going to go out and get photo ID if necessary.

Q. Would it be relevant to your conclusion that about 810,000 Texans who are eligible and registered voters when they registered to vote did not furnish either
the last four digits of their Social Security number or a Texas driver's license?

A. Well, I think that under this court of law there's already enough outs where you can actually vote without presenting a photo ID.

Q. And how many -- and what are those outs?

A. I believe if you have two letters from the government, official letters, that they can be used and there's some other -- I don't have the whole list.

REPRESENTATIVE ANCHIA: Okay. Okay. Thank you for your time.

Q. (By Chairman Smith) Just for the record, I want to state I have been given a copy and it looks like it is the Eagleton Institute of Politics at the State University of New Jersey and the Morenz College of Law at the Ohio State University that has issued this report, and I just want to indicate for the record that their finding on Page 28 is that "Voters and states that required photo identification were 2.7 percent less likely to vote than voters in states where individuals had to give their names."

So, that you would agree would indicate to me what they were doing when they made the comparison was comparing -- I think Vermont is like that, where you just walk in, you give them the name, if you're on voter
registration, you vote -- to Indiana, which has a
requirement that you provide a photo ID and if you do not,
the only way your vote counts is if a justice approves it
within 10 days.

A. They looked at all 50 states. They classified
each state by their voting laws, and they found that --
again, I replicate the findings in their study. They
found that, for instance, after you corrected for
Arizona -- in 2004, Arizona had a ballot to require a
photo ID. And so, what they do is before the law was
actually passed and after you correct for that mistake,
the findings disappear so that --

Q. I understand that you don't agree with the
conclusion. I'm just trying to determine what this study,
which as far as I know is the only study that I have seen
that indicates that there's an adverse effect on turnout.
So, I'm trying to determine for the record what their
assertion or allegation is.

In reading this sentence, it sounds like to
me they are comparing states that require photo
identification to states where individuals had to give
their names. So, what they are doing is comparing an
Indiana-like law to a Vermont-like law. Is that correct?

A. Yes.

Q. And their conclusion was that even where you
compare the most extreme possibilities from one end of the spectrum to the other, there's a 2.7 percent reduction in turnout. Right?

A. Yes.

Q. Other studies have indicated no effect?

A. Yes.

Q. But even if this were accepted as truth, it would not be any kind of an indication of the effect of a change in Texas where we do not change the photo identification requirement that is in place already. It's not a requirement. It's an option -- and we simply change the non-photo requirement to require if you use that form of identification that you back your voter registration up with some sort of additional non-photo documentation. There's nothing in place that would suggest or infer that that in any way is going to suppress any kind of turnout.

Do you agree with that?

A. I agree with you totally.

CHAIRMAN SMITH: Any other questions? Dr. Allen?

Q. (By Alma Allen) In your study you use the term "state your name." Do you simply mean walk up and say, "I'm Alma Allen," and they said okay?

A. Yes. In some states -- I voted in Maryland where I said, My name is David Mulhausen," and they look in the
roll and they find a David Mulhausen and say, "Okay. You can vote."

CHAIRMAN SMITH: That's the way Texas was until the late Nineties.

ALMA ALLEN: Great. The late Nineties? Okay. 1990?

CHAIRMAN SMITH: No, late Nineties.

ALMA ALLEN: I didn't know that.

CHAIRMAN SMITH: You may not have ever tried to do that.

ALMA ALLEN: No, because I always had something else. Since 1964, I couldn't walk up. Until then, I had to do something.

CHAIRMAN SMITH: I don't know how far back that goes, but my understanding is the requirement to provide identification did not come into play until the 1990s.

Any other members of the committee that wish to ask some questions before I give Representative Raymond the opportunity to?

Q. (By Representative Raymond) First, I just want to ask you, Mr. Mulhausen, looking at your testimony, at the top it's a letterhead from the Heritage Foundation but then, you know, the second sentence says, "The views I express in this testimony are my own and should not be
1 construed as representing any official position of the
2 Heritage Foundation."
3 So, is it the Heritage Foundation's
4 position or not?
5 A. It's my position, and basically it's standard
6 practice for Heritage Foundation where they are
7 testifying --
8 Q. Is this the position of the Heritage Foundation
9 or not?
10 A. This is the position of David Mulhausen.
11 Q. Why would you use this -- it's a little
12 misleading. Would you agree it's a little misleading?
13 A. Well, this is actually how it's done.
14 Q. I'm really -- I want to ask because this is a
15 well-known foundation. And so, you know, is this the
16 position of the foundation or not?
17 A. It is the position of David Mulhausen.
18 Q. Okay.
19 A. An employee of the Heritage Foundation.
20 Q. But not the foundation?
21 A. Not necessarily the foundation.
22 Q. You don't believe that that's misleading?
23 A. No. I'm here --
24 Q. Well, I'm sorry, but I think it is. But
25 nonetheless, it's not the position of the Heritage
Foundation. You're based in D.C.?
   A. Yes, we are.
   Q. Flew down there?
   A. Yes, I did.
   Q. Who pays for your expenses to come down here?
   A. It depends. Sometimes the Heritage Foundation, sometimes not. In this case, somebody else did.
   Q. You're not telling us who?
   A. Safe Texas.
   Q. Say again?
   A. Safe Texas.
   Q. Safe Texas?
   A. Safe Texas.
   Q. I'm sorry. Who is Safe Texas?
   A. It's an organization concerned about photo ID issues in the state.
   Q. Where are they based?
   A. I think you should ask Safe Texas.
   Q. Well, I'm asking you because that's who you're representing.
   A. I'm representing myself. I think you're making a big deal out of nothing here.
   Q. I'm sure you're right, you think we're making a big deal out of nothing. This is a big deal for us because what we feel -- a lot of us feel, and I guess
we're -- you know, you're all right or we're all wrong, that every minority who is involved in trying to make sure the minorities have voting rights feel like this is an effort to suppress voting rights. So, it is a big deal to us. I'll move on.

The -- is it your feeling -- you came all the way down here, but is it your feeling that the voting system in Texas right now is not good or it needs to be made better?

A. Well, I think in general -- I think most states should adopt --

Q. I'm talking about Texas.

A. I think most states, including Texas, should adopt --

Q. Do you feel that our election system right now is being corrupted or not efficient or it allows people to cheat or --

A. I think there are reasonable steps to help ensure the integrity of the process that could be adopted.

Q. Is it your feeling that there is something wrong with Texas now or not?

A. I think the voting system could be improved in Texas.

Q. So, you think that there are problems with the voting system in Texas?
A. I think a lot of states have problems.

Q. I'm trying to ask you a reasonable question.

A. Sure. I'm trying to answer.

Q. Well -- so, do you think that Texas has problems?

A. I think Texas can improve its electoral process. There are some problems in Texas.

Q. And you're aware that we've had a Republican governor in this state since 1994. Right?

A. Right.

Q. So, from '94 to now we've had a Republican governor, a Republican state senator. From 2002 until today, the majority of the state House is Republicans.

So, you think we have problems in our voting system and we're electing all these Republicans, is it your view that if we pass this it's going to be better and that --

A. Well, I'm -- to be honest with you, I don't really care who you elect as long as you elect somebody and a system that has -- that has held to certain standards to make sure that it's a valid election.

Q. You have a bunch of examples of where people in Texas have tried to impersonate voters?

A. I think there's some other people here who can testify to that better who are coming after me.

Q. Well, you came here, so I was trying to ascertain
what got you on the airplane.

A. What got me on an airplane is that I've studied the effect of voter ID laws, and that's where my expertise lies. There appears to be no effect from photo ID laws on voter turnout.

Q. You mentioned here the Rasmussen report on Page 2 of your paper. Right?

A. Uh-huh.

Q. And it says that, quote, on here 57 percent of Americans favor ID laws. 9 percent of white, 15 percent of African Americans, and you don't mention Hispanics, but is it your contention that there would be that great disparity from 9 to 58 percent in terms of that there are a lot more Anglos that support it as opposed to a lot more African-Americans who obviously don't?

A. Well, I mean, the odds --

Q. Does it matter to you or not?

A. Well, what matters to me is that it looks like the majority of Americans in this poll support the law. I'm not somebody who obsesses about racial differences or ethnicity among people. I don't spend my whole time obsessed with that. You are who you are, and I accept you for that.

Q. So, you wouldn't take notice of the fact that a lot more African-Americans are concerned about this than...
Anglo Americans?

A. Well, I think the fact -- I think certain segments of the population could be better educated on the effect of these laws.

Q. Really?

A. Yeah.

Q. So, you think African-Americans aren't educated enough?

A. Well, I read some literature of some organizations and -- comparing the -- required to show identification supports some form of identification to a poll tax and I think that's a very unfair comparison. It doesn't hold much merit.

Q. Really?

A. Yes.

Q. So, you've lived a life amongst the folks who -- and you can't imagine folks that would actually think it would be cumbersome or costly or hard to go get a voter ID?

A. Actually, I think Justice Stephens wrote is that once every six years to go get a free photo ID.

Q. Justice Stephens, is he African-American?

A. No, but --

Q. Is he Hispanic?

A. No, he's not.
Q. Answer my question, then you can -- is he African-American or Hispanic? Yes or no?

A. He looks to be white American.

Q. And how old is he, more or less?

A. He's quite elderly.

Q. And he's lived in Washington, D.C. how long?

A. Since -- probably a good portion of his life.

Q. Right, a good portion of his life. And how much experience do you think he has had in his life -- in the last 50 years of his life of understanding our community and what would be too hard or too easy? (Inaudible) who didn't have a photo ID, it would be easy for them to get it. From his point of view and his vantage point -- I don't care if he's liberal. He's a white, rich guy sitting up on the Supreme Court for the last 45 years, however many years it's been, and he has no clue about what's hard or what's easy for folks in the communities we represent.

A. I can't delve into his mind, but my perspective is that I consider all human beings to have enough capacity to not just -- if there's a law passed that says you need to have certain forms of identification, I don't think for some reason that minorities are going to be unable to fill that obligation. I just --
A. I think it's a disrespectful sort of view of minorities to think that they are incapable of --

Q. I'm saying would it be more difficult? Can you fathom how that might be more difficult?

A. How much more difficult? How much more difficult it is to go and -- go to Department of Public Safety and get a free voter ID card?

Q. Right, you can't. Have you represented five rural towns -- 25 rural towns in south Texas like I did?

A. No.

Q. You grew up in a town of 1500 with 99 percent Hispanics like I did?

A. No.

Q. Then you can't -- you can't understand.

CHAIRMAN SMITH: Any other questions?

Q. (By Speaker) You mentioned something just a second ago about fair and reasonable steps as it relates to the photo ID voter integrity.

I don't remember exactly how you phrased it, but do you remember making that comment?

A. I was supporting Justice Stephens.

Q. About the fair and reasonable steps. Can you tell me that the organization or the individual -- because you said you treat everybody equally and that you believe that everybody is the same and we're all created equal.
Can you come up (inaudible) idea on how people that don't have ID and they go vote on election day at 6:55 p.m. and they don't have any ID, how they are likely to vote and be protected?

A. Well, first of all, any voter ID law should not take effect immediately. There must be some period where the voting public can be educated. We must assume that all voters will be able to easily understand their obligations and take the time over the course of a year or two -- or in this case, this bill, four years -- to go get the appropriate identification.

Now, if you didn't have appropriate ID, there's still alternative forms of documentation that can be brought. So, I think that any reasonable person should be able to -- given enough time be able to get the appropriate documentation together because at some point you have to go out and register to vote. At some point you have to go find out where you're supposed to go vote, and then you've got to go vote.

Q. There's a large stigma of the population that's already been noted by several people that may not have access to that or may not carry that on them or because of various, you know, ways they get around, transportation, you know, may not have that readily available and they may go and vote and -- which is not unusual in the district
that I represent. And, you know, by your answer you're
telling me that, you know, that you haven't gave as much
thought and consideration to reasonable measures that can
be taken that those people vote and that's what's missing
here today and everybody for this deal, that they are
looking at one side of the equation but they could care
less. Everyone else is invisible. Everyone else is an
invisible man and it doesn't matter what happens with
those folks.

A. Appears that you're asking -- you have a
hypothetical person who decides at 10 minutes before the
polls are going to close that, "Oh, I'm going to go vote."
I mean, you would presume that the person would
have registered in advance to vote.

Are you assuming the person did or didn't
register to vote in the first place?

Q. (By Alma Allen) -- that you need to go get a
driver's license. How much does a driver's license cost?

A. I never said you had to get a driver's license.

Q. ID.

A. One of the things is this bill would provide a
free ID and, if you don't get that free ID, there's other
materials that you can -- you can get to get your access
to vote. So, I don't understand -- there's so many outs
in this bill as it's currently written that it's really
not even a photo ID law.

Q. Okay. What about senior citizens who live in a house with -- they don't drive, but they live in a house with their children so the light bill doesn't come to them in their name? I don't know we would get an ID for them.

A. They may have a Social Security card. They may have other documentation that they can use. I know that the list of acceptable documents is not a brief list.

Q. Okay. So, if we were looking at the number of people who needed to at this moment -- the law came into effect at this moment, then the number of people who would have to do something extra to be in a position to vote, then usually I ask in meetings, "Do you have two forms of ID right now and you can vote," and I find very few people able to do that. But the research shows that 25 percent of blacks don't have the proper ID, 25 percent right this minute, to go and vote. Of course I'm supposing if you put another hurdle out there, we would probably jump it, too. It would be a little hard. We always have to jump it. 16 percent of the Hispanics don't have an ID compared to 8 percent of whites.

It's going to impact everybody. So -- and 18 percent of senior citizens don't have an ID right now. So, any money you would spend -- think about it.

A. I think the Supreme Court actually sort of took
that up and basically said that there are reasonable expectations for a voter to exercise some responsibility in ensuring a fair -- an election that has integrity behind it is not a poll tax. I mean, it's -- I think that's rhetoric that's stopped moving the debate forward.

Q. Are you talking about the 1964 --
A. No, I'm talking about the recent Supreme Court's decision on photo ID laws.

Q. Oh, okay. I didn't think you were talking about the poll tax.
A. My understanding, poll taxes are illegal.

Q. Not in the State of Texas. We haven't done that yet. Every state has to ratify the Constitution of -- the 24th Amendment of the Constitution of the United States which abolished poll tax. The state of Texas has not done that yet. Neither has Mississippi, Florida, Alabama, and a couple of other states. So, we're kind of behind the eight ball already.

A. So, there's a poll tax in Texas right now?

Q. Officially on the books. It may come up if you wanted to use it. If it's on the books, you can use it.

A. You made your point.

ALMA ALLEN: Thank you.

CHAIRMAN SMITH: Any other questions, members? Mr. Mulhausen, I don't hear any. Thank you very
MR. MULHAUSEN: Thank you.

CHAIRMAN SMITH: Thanks for coming down.

MR. MULHAUSEN: Appreciate it.

CHAIRMAN SMITH: At this time, the chair will call Jenigh Garrett, representing the NAACP Legal Defense and Educational Fund to testify against Senate Bill 362.

SPEAKER: Mr. Chairman, as she comes up, I though you might make a clarification on the witness affirmation form for the preceding witness, but he said that he was not representing the Heritage Foundation that, in fact, a company called Safe Texas was paying his way here and that's who he's representing.

Are you familiar with Safe Texas?

CHAIRMAN SMITH: Yeah. No, I don't think he said he's representing Safe Texas. It's certainly not my understanding he's representing Safe Texas.

SPEAKER: They paid him to come here.

CHAIRMAN SMITH: Transportation.

SPEAKER: Oh, that doesn't count?

CHAIRMAN SMITH: I don't think that means he's representing them.

SPEAKER: Okay.

CHAIRMAN SMITH: All right. How are you?
Why don't you go ahead, Ms. Garrett, and state your name and who you represent on the record?

JENIGH GARRETT: Jenigh Garrett. I'm assistant counsel of the NAACP Legal Defense and Educational Fund. It's my pleasure to be here. I thought it was this afternoon, but that's fine.

(Inaudible) has been a pioneer in the efforts to secure minority voter rights in the United States, particularly those of African-Americans over many decades. Part of the efforts are involved in nearly all of the precedents in litigation. Voting rights, including cases abolishing white primaries, creating and/or defending the first majority African-American Congressional and state legislative (inaudible) in several states and eliminating various black voter participation in office holdings. (Inaudible) has also worked across the country and in Texas to educate voters, election officials, and poll workers about the importance of developing state election processes that empower voters and ensure that all eligible voters have an opportunity to exercise their vote though our voter education, Prepare to Vote, and our work in the National Election Protection Program.

I'm pleased to offer testimony today regarding SB 362, the legislative (inaudible) current
identification procedures by requiring certain forms of identification on election day, including photo identification.

My testimony today will address how photo identification laws work against the goals of achieving a more inclusive democracy. In our experience, photo identification laws restrict access to the political process and discourage political participation.

Just to begin -- our democracy requires electoral processes that encourage the participation of all citizens and I think it's important that this body, as it was doing today, carefully evaluate the impact that a voting law will have on the entire electorate and the impact that the law will have on minority voters in particular.

Unfortunately, LDM has determined that photo identification requirements undermine the 14th and 15th Amendments to the Constitution and the Voting Rights Act. Photo identification requirements place onerous burdens on racial minorities because they are marginalized voters.

While the adoption of a photo identification requirement might pose no significant threat to the most mobile and affluent among the Texas citizens, in the state the most marginalized population
remain at the forefront of the legislature's analysis, and I take two cases to really point this out that I found. One was in a different context. Justice Marshall on the Supreme Court discussing in a different context about saving money, (inaudible) that a weekly savings of less than $2 -- $2 even a burden. But no one who has had close contact with the poor people can fail to understand how close to the margin of survival many of them are.

A study found, for example, may destroy whatever savings that they have accumulated and by eliminating that sense of security may destroy the sense to save in the future. A pack or two of cigarettes may be for them not able to purchase but a luxury indulged in only rarely. The poor almost never go to see a movie, which the majority seems to believe is almost weekly activity. They have more important things to do with what little money they have, like attempting to provide some comfort for a gravely ill child -- and the quote goes on. (Inaudible) the Missouri Supreme Court took that principle and looked at it in the context of photo ID (inaudible) who move beneath the poverty line, the $15 they must pay in order to obtain a birth certificate and vote, that's $15 that they must subtract from the meager ability to feed, shelter and clothe their family.
So, you have to look at that economic burden in the context of race. And in 2005 Hurricane Katrina in its aftermath demonstrated that rising poverty can distort reality from many of our nation's most marginalized citizens. Even there in the context of life and death, (inaudible) were without cars. They were without ATM cards. Many did not have a driver's license. All of those instances (inaudible) remain part of our democracy.

My testimony -- my written testimony goes on to talk about depressed voter participation. I would like to go on and just talk about our on-the-ground observations since 2000 and in 2008 and particularly in Indiana.

Most recently we observed the application of the Indiana photo identification requirement during the 2008 primary and general election. LDF attorneys were on the ground to monitor the election, to determine to the extent to which African-Americans in Gary, Indianapolis and surrounding communities in Lake and Marion Counties were adversely impacted by the identification requirement. LDF noted -- encountered difficulty casting ballots as a result of Indiana's photo identification law. LDF attorneys were informed by poll workers that voters who did not submit qualifying identification were not always
informed of their right to cast a provisional ballot. Instead, some of those voters were turned away.

Our observations demonstrated that provisional ballots, although designed to protect voters in such situations did not provide an adequate safeguard. In light of the reality that provisional ballots are not always immediately available and even if poll workers uniformly offer provisional ballots to voters who lack valid government-issued identification, the extra step required to count the ballot is a trip to the county seat within 10 days of the election proved excessively burdensome for many of the poor voters. For example, if a voter without photo ID cast a provisional ballot in Gary, they would have to travel to the county seat in Crown Point in order to make sure that their ballot counted. And when we went there, we learned that often these ballots went uncounted.

I know there were questions about how many were counted. It's my understanding that at least in Lake County they are segregated so they know which ones are photo ID ballots and which ones are other types of provisional ballots. I'm not quite sure why the Secretary of State wasn't able to get all that information and then comply with the requirements to report it.

So, what this shows is that the provisional
ballot option does not guarantee the rights of otherwise eligible voters who are simply unable to satisfy the photo identification requirement at the outset. And although the Texas proposal does not require that additional trip in order to make the ballot count, the exceptionally high rate of rejected provisional ballots in Texas illustrates that provisional ballots will not neutralize the burden of photo identification requirements.

Based on our experiences, we really think it's important for the legislature to really consider some specific things about how any type of photo identification law will impact voters along racial lines. We have a few examples of data that's very informative in that regard -- the number of facilities, the distance between facilities where individuals can obtain free identification for voting purposes in minority communities as compared to non-minority communities, the number of minority voters without acceptable photo identification, the number of minority voters with driver's licenses as compared to the number without, the number of minority voters who are transient and/or homeless and are less likely to have photo identification or photo identification that matches their voter registration address, the impact of the requirement that voters present two forms of non-photo identification on minority student voters at Texas.
universities, the impact of the requirement that voters
bring two forms of non-photo identification on the elderly
citizens in nursing homes, and the current levels of
rejected provisional ballots and the grounds for the
rejection in minority precincts in particular.

Voting is a fundamental right because it is
the basis of all other rights. It appears that a number
of states, including Texas, are now considering moving to
adopt laws that would effectively restrict or deny access
to the ballot box, and I would just like to say that the
course -- explicitly left open the possibility of future
challenges that demonstrate how identification laws burden
the rights of voters. Accordingly, Texas call for it as a
blanket endorsement of the photo identification.

Thank you. I'm open for any questions that
you may have.

Q. (By Representative Bonnen) Are they issued
most of the photo identification cards at the
universities?

A. Which universities are you talking about? In
Texas?

Q. In Texas. Do you know the extent to which that
occurs at state universities? If I go to University of
Texas, do I get a photo identification?

A. I do not know those specifics.
Q. Prairieview University had a gentleman earlier testifying about Prairieview University or any other predominantly minority institutions, is there anything to prevent -- to the extent that there is any college who currently does not already have a photo identification for their students, do you know of anything that would prevent them from providing that?

A. Not to my knowledge, but I would like to talk about our experience on the ground in Indiana. A particular called us during the early voting period, an African-American student attending a state university and when she appeared to early vote, she was presenting her state university ID and her driver's license and she was there (inaudible), but it was her second, and she was told that that was not adequate in order to vote, that she would have to go and get a state ID from the Indiana DMV down in Indiana and she was told by a white voter from New Hampshire that all she had to do -- because the white lady was explaining that she went down and she picked up her ID by just turning in her New Hampshire ID. And went she went down to the DMV, she was told that she would have -- she could get a driver's license, but she would have to disqualify her Minnesota license, re-take and pass a written driver's license test, provide proof of living on campus, bring her original birth certificate and Social
Security card and surrender her Minnesota license.

She wrote the instructions down and she called her mother and asked her mother to help her get her original copy of her birth certificate. They couldn't FedEx it there in enough time because the early voting closed on the weekend, couldn't get the FedEx delivery in enough time for her to get down to the DMV to get the ID that she needed so that she could actually cast her vote on that day. The reason why the state ID wasn't counted was because it didn't have an expiration date on it because the state made a decision not to do that. So, there's still students definitely impacted (inaudible).

Q. And I can't -- I can't -- I don't know the list of documents that are acceptable in Indiana as photographic documents -- I probably have some evidence somewhere back here in the file -- but in the Senate bill it does indicate that any valid identification card that contains the person's photograph and is issued by an agency, institution, or political subdivision of Texas is certainly a valid ID. Along with, of course, any such document issued by an agency that's an extension of federal government.

So, I guess that raises a question with regard to private universities, and I don't know if that's otherwise addressed in here or not. But certainly with...
regard to public universities, it seems clear that to the extent -- and I'm getting head shakes from the audience that would seem to indicate that at least as I asked the University of Texas, that is already done and you don't know if there is any university that does not already provide a photo identification for their students?

A. In the State of Texas?

Q. You don't know?

A. I do not know about Texas specifically, no. I do believe, however, there's someone who could testify.

Q. I think that's -- I think that's a legitimate point to be made to the extent that the students are -- you know, I suppose that's already an issue with regard to the identification that's already required, but, you know, if there is a significant problem I would really want to know specifics in terms of the absence of photo identification documents that are already available in those universities rather than simply presuming the problem. I would like to see some indication that it can't be corrected simply by the university issuing a photo identification to their students.

A. Well, I think there are additional issues in the Senate bill that should give you pause with that consideration in mind. Particularly, it seems as if the specifics as far as whether it is simply presentation of
the ID or if it's looking at the ID or the signature or looking at the ID and the address and expiration date, et cetera, is not addressed. Instead, the Secretary of State will give training materials (inaudible) and so that the election official will look at the -- have the discretion to look at the non-photo identification and then make a determination.

That leads to the question of the election official who will be presenting the two forms of non-photo identification. And again, some things may be resolved in training materials. However, that stuff is not in the bill right now and these are the types of things that we see actually misapplied, particularly in minority precincts. So, if you go to the polling place and when they even present, let's say, in Indiana a photo ID instead of -- they take the ID and they use it for a lot of different things that they should not use it for and they can't vote and unfortunately it's been used as a mechanism to actually stop people from voting.

Q. Well, to the extent that that has occurred, I presume the question is to what extent does this legislation advance the likelihood of that occurring because, again, this legislation doesn't change existing law with regard to photo identification. It simply changes the existing law with regard to non-photo
identification. I can only imagine what things might happen at the polls that you are concerned about, but I presume that to the extent that that is possible it's currently every bit as possible as it would be after this legislation was passed.

Do you have any reason to doubt that?

A. Well, I have -- I guess, respectfully, I do disagree a little bit about what the law is actually doing and I could be corrected, definitely.

Q. Well, do you understand that current law gives you the option of using a photo ID?

A. It's my understanding that what is required under the current law is your voter's registration certificate.

Q. No. You don't have to have a voter registration certificate. I never have a voter registration certificate when I vote.

A. Then I was going to go on to say and that if you do not have a voter registration certificate, you can provide a photo ID. I think this law is different because it creates two different classes of voters. It creates two different classes of voters. It's saying, "Okay. You're the photo ID voter. Just go through." And it's saying, "Oh, you're the non-photo ID voter." Now I'm going to take your ID, and I'm going to -- we don't know. Who knows? I'm going to make a judgment and decision.
based on what you're giving me, and I'm going to say whether you can cast that vote. I think that is my main concern with this particular bill that is before us.

Q. The only change is that you go through that process with regard to two documents rather than one.

A. It's not my understanding -- and again, I may be corrected, but it's not my understanding that when you're presenting your voter registration card it's subject to some type of discretionary determination by the election official.

SPEAKER: Mr. Chairman, I think what she's referring to, if I can shed some light on it, I think you're missing the difference between current law which is a presentment standard and the Frazier bill, which is an identify standard. And that's why it really does change what current law is because the documents -- the language in the Frazier bill says if your identity can be verified from the proof presented, which is -- and if -- I'm just offering this up for clarification purposes -- I think in certainly my opinion potentially the opinion of the witness, that's very subjective.

Q. (By Chairman Smith) So, if the standard coming out of the House was a presentment standard rather than an identity standard, then that would comfort you? In other words, an objective black and white test, either have the
document or you don't have it. You don't have part-time workers making decisions on whether or not you look enough like your picture to cast a regular ballot.

Does that comfort you as described?

A. I'm pausing on the word "comfort."

Q. You don't like using it, do you?

A. No.

CHAIRMAN SMITH: Okay. I won't make you. Any other questions, members?

SPEAKER: Yes, sir. Thank you, Chairman.

Q. (By Speaker) Ms. Smith -- I am so sorry. I imagine one of the things that gives you concern -- I know. I know. I know -- let me ask it this way.

Does it give you concern that there's language in the bill that says your identity must be verified by the poll worker from the proof presented?

Does that give you concern?

A. Yes.

Q. And does it give you concern because there could be address match problems for denying persons? For example, on your photo ID it says you lived in your old apartment, but you are on the rolls at your new place.

Do you think that it gives people wiggle room to deny somebody for that reason?

A. I would agree with that. I have a given concern
because different people are treated differently under photo identification law. Everyone is not treated equally under photo identification law. And whether it's the address, whether it's the expiration date, whether it's because as reported to us in Indiana a white voter enters the polling place and they say, "Go ahead." (Inaudible) this is also reported, and the black voter and that the poll worker reported it because she observed it.

Q. Does it give you also concern that we had someone testify about systematic disenfranchisement of African Americans that continues presently in Waller County? Does that add to your concern?

A. Not only -- yes, not only Waller County but that discrimination persists throughout the State of Texas. And I know it's uncomfortable, but it is true.

SPEAKER: Thank you.

Q. (By Chairman Smith) When you talk about not having the right address or not having the right name, how do I alleviate the concerns without eliminating identification requirements of any kind?

A. I think that the real focus should be, one, on making sure that the process is open to everyone equally in that if there are concerns about the name and about the address, about transients, homeless folks, then ID may not be the right solution if this is really looking to not
give additional mechanism for racial discrimination in jurisdictions and elections that are racially charged. This is the reality of voting, unfortunately for me, a minority citizen. It may not be your experience personally, but it is the experience of many minority citizens.

Q. I'm going to kiddingly object as nonresponsive. I don't -- if you're expressing a concern that the voters might not have the right address or might not have the right name -- and again, I have difficulty understanding how that concern can be dramatically different in this proposal than under current law, but how do I eliminate that concern without eliminating identification requirements of any kind?

A. For me, I would say that you can have an affidavit requirement where a person can sign an affidavit that they are who they say they are and vote a regular ballot.

CHAIRMAN SMITH: All right. Any other questions?

Q. (By Speaker) -- address the issue of the poor and not wanting to place any -- anything on them that would cause them to not be able to survive is what I'm thinking. And I start thinking about the poorest among us who would -- quite a few people without a bank account.
Right? They would -- most likely in Texas they would have a Lone Star card. That's our safety net for the poor to provide them a means to exist. I understand to get a Lone Star card you have to prove your identity some way. I'm not sure about the process, about how you do that, but they do have to prove their identity to qualify for a Lone Star card. And if you don't have a bank account, assuming you get a check of some kind, either a government check or a paycheck, in order to cash it don't you have to have some kind of proof of ID in order to cash a check?

A. Well, based on practical experiences, there are people who co-sign their checks. I don't quite know if (inaudible) might not have ID and how they cash their checks.

Q. So, they find someone can prove their identity and they co-sign, is that what you're saying?

A. I'm not quite sure how it works place to place, but I know that one process that may occur for the poor for cashing a check is that they may sign their name and then give it to someone else -- they have a bank account or something -- and they sign their name under that first name and then that person cashes the check.

Q. I've just been trying to figure out -- prove their identity in some way, and I feel like if we managed to come up with a bill that we could support and we
provide free ID for people who don't have them, I think we're going to be doing them a huge favor because they will be able to move around in our society and do things that perhaps they haven't had access to before. It's just something that's so needed for every one of our citizens.

A. I can say that if, you know, the State of Texas wanted to do a free ID, that's one thing. But to link it to a fundamental right, (inaudible) sort of considerations.

So, what it does is it says -- if I were to agree with this idea that if everyone had ID it would help but what it does is it says, "Well, if you don't have it, now you can't exercise your fundamental right," and that's the problem with the photo identification, it relates to all other aspects of life or saying, "Well, DPS offices and they can, you know, get free ID." But the DPS offices, their locations -- thinking about whether or not people would have the access to exercise a fundamental right and there was a reason why, you know, the Supreme Court long ago said that voting is a fundamental right such that if you can't exercise the right to vote then you're not only taken out of participating in the jury system and other aspects, but even in the laws that you're governed under. So, it needs to be as inclusive as possible.
Q. I agree it should be inclusive. I just feel like it's hard to get around the voter having some kind of responsibility in this situation, taking on some responsibility for proving your identity as far as you know, getting to the polls, for one thing. They managed to do that. I just -- still it's not only a privilege, but you do have some responsibility in exercising it. Thanks.

JENIGH GARRETT: Thank, you ma'am. I do agree that (inaudible).

CHAIRMAN SMITH: Representative Heflin, real quick.

Q. (By Representative Heflin) Ms. Garrett, I have 16 counties and several of my counties, the DPS is only open -- one of them for three hours a week and four of them for, like, four hours a week and it's hit or miss which day you get. So, it's a difficult situation.

Q. (By Chairman Smith) And let me just say, you know, the reason why I'm not enchanted with the Indiana law is because I agree with some of the concerns that you're expressing.

What I have trouble with is applying those concerns to the Senate bill, which does not require photo identification. I'm not really interested in -- is, you know, how many people you know that -- that -- we all
I agree -- I don't know that we've determined the precise small percentage of people that do not have photo identification, and I think it's just unimaginable that anybody would argue -- and I don't think you have -- that to provide that small group of people with a photo identification would not -- aside from the election process -- would be of some general benefit to their ability to function in our society. But the -- you know, what I'm interested in is what is the evidence about the extent to which that small group of people who do not already have photo identification also do not have in addition to their voter registration card one of these many documents, including Medicaid and Medicare cards, envelopes from a governmental entity that are, you know, et cetera. That's -- that's really what would describe the burden, if any, that this legislation would place on our constituents, which is dramatically different than the burden that is -- that is placed on constituents that do not have photo identification documents in the State of Indiana. And I haven't heard a lot of evidence -- and that's because I don't imagine that it exists -- that there are a large number of Texans that do not have access to one of these non-photo identification documents in addition to their voter registration card among the very tiny proportion of our constituents that do not have
already photo identification documents.

So, you know, appreciate the fact that I am very sensitive to the policy concerns that you're raising about the fact that every voter, even ones who do not have a photo identification, have a right, a Constitutional right to vote that is not to be deprived. And even though they are a minority, they are important and they have that right and it's our job to make sure that there's nothing that we do that places any unreasonable barrier in their way, which is why I think the Senate adopted the version of this legislation that it did. There's some things I hope we're going to be able to do on the House side to make it even more sensitive to those concerns. But, you know, I just -- a lot of what we're hearing are legitimate criticisms, in my opinion -- and some of my Republican friends on the panel may not agree with me on that -- are some legitimate criticisms of the law insofar as it applies to Indiana, but it simply has no relationship or bearing to what we're proposing here or what the Senate has proposed here. Representative Anchia?

Q. (By Representative Anchia) Can I thank you again for being here today? Are you aware of the case of Bessie Jenkins Foster from Tarrant County?

A. No, sir.

Q. This was recently reported in the Fort Worth Star
Telegram. She's a 98-year-old African-American woman who has tried three times to get an ID and all three times she's been turned away from DPS offices in Tarrant County. She was asked for a birth certificate. She brought a copy because the original was destroyed in a fire at the county courthouse in Walker County. She brought her expired license -- she doesn't drive anymore at 98 years old -- and she brought her former photo military identification, Social Security card, and other documents and was turned away on three separate occasions from the Department of Public Safety in Tarrant County.

Two questions. Does this surprise you? Do you believe this is an isolated case, and/or do you think it happens regularly, especially for African-Americans?

A. First, I would say that it does not surprise me. This is a difficult burden for me to overcome, but particularly African-Americans, given -- especially older African-Americans, given the circumstances surrounding their birth, often at home without birth certificates, etcetera. Also, even though African-Americans do have birth certificates, they have typos on the spellings on their birth certificates. Let's say in Illinois, there was a Julia Murray who was looking for her birth certificate. She was about 80 something years old now, and at the time she was looking for her birth certificate she spelled her
name M-U-R-R-A-Y her entire life but when she couldn't
find her birth certificate, finally the person who was
administering the system there just happened to type it
in with a different spelling and found out it was
M-U-R-R-E-Y.

In addition to that, you have circumstances
where African-Americans were not issued birth
certificates. Again, like I said, because of the
hospitals and discrimination. One problem, I think, with
photo ID laws is that it starts five years ago but the
history of our country doesn't start that close to today.

CHAIRMAN SMITH: Members of the committee,
are you through?

SPEAKER: I just want to make a quick
comment on what she was just saying. My own family, if
you go past Betty Brown's neck of the woods and keep on
going down towards Marshall, Texas, where my dad's side of
the family is from before they migrated to Fort Worth, you
know, the people that are down there, well, I thought
you-all (inaudible) because of what you're saying. Half
of my relatives spell their name differently, and it's
just -- what you're saying. It's spelled differently
because a lot of those folks -- none of my folks from
Marshall were born in the hospital, I don't believe. They
were all born in the woods. So, that's the reality.
That's what you know, I'm here to shed light on that because I think it sort of gives some of the members of the committee are like, "Well, why can't anybody do that? I can do that. Why can't they go and do it, too?" It gives them a glimpse into a different segment of society that they probably haven't dealt with on a very personal basis before.

Q. (By Alma Allen) I have my birth certificate right here. Most people do not even recognize this as a birth certificate, but my birth certificate was issued to Alma Alabee Oliver. My maiden name. If I was to present that today, I may or may not be able to vote. My name is spelled wrong, and it doesn't have Allen on here anywhere. That might be a problem. I'm just throwing that out there as a problem.

CHAIRMAN SMITH: This is sort of a question that is currently faced by poll workers on a regular basis and somebody else would have to come up, perhaps Ms. McGee in the Secretary of State's office to answer questions about how they deal with that question, but there's not anything in this legislation that would alter that issue, change that issue in any way, or alter a standard by which those decisions are made in terms of --

SPEAKER: Well, that's not true, Mr. Chairman, because it's an identity requirement. If
she provided that piece of ID along with another piece of non-photo ID, you would give discretion to a poll worker to say, "That's not you. I can't verify your identity from the proof presented."

CHAIRMAN SMITH: How does that change the current law?

SPEAKER: Because it's a presentment standard and not a --

CHAIRMAN SMITH: You're talking about the Senate bill?

SPEAKER: Yes, the bill we're talking about today.

ALMA ALLEN: My voter registration has no Oliver on it at all. So, they would be matching this with that. I would like to say one other thing. (Inaudible) it might be a good idea when registering a voter that we have voter registration with your picture on it. Why can't we have voter registration with a picture?

CHAIRMAN SMITH: The challenge is that you can currently register by mail. You just have to fill out the card. I don't think you guys -- I don't think anybody on this panel wants to alter the ability of a voter to simply register by mail from home. You wouldn't want to do that, would you? And -- and so, you know, that's the challenge because they are not going anywhere to register.
They are doing it from home.

ALMA ALLEN: You could grandfather, the rest of us who have been registered 99 years. Ongoing, we could start with picture ID, change the format all together.

CHAIRMAN SMITH: The challenge is how you do that while still allowing people to register from their own living room.

ALMA ALLEN: Now, if they can give you an ID card --

CHAIRMAN SMITH: If we want to require people to go to some particular location in order to register to vote, then we could probably make a photograph a part of that process, but I don't think you would want me to do that, nor would she.

ALMA ALLEN: When I got my passport, I didn't go anywhere. I got my --

CHAIRMAN SMITH: Well, we could require that as a part of the registration process, that you also provide a photograph of yourself.

ALMA ALLEN: You could go on-line, you can send your picture. Somebody calls me and asks me for a resume or a picture of myself, bang.

CHAIRMAN SMITH: Would you support that requiring people to submit a picture of them self along
with their voter registration card?

JENIGH GARRETT: Even for a passport photograph, you have to pay for a passport photograph.

ALMA ALLEN: That's an example of how it's not that difficult to get a picture to wherever you want to get a picture to.

JENIGH GARRETT: I think that that's something that I would need to analyze further. My initial reaction is no only because -- there's federal law that governs the ability to register to vote in a lot of different ways.

CHAIRMAN SMITH: I just want to mention that Representative Anchia brought up an article in the Fort Worth Star Telegram and I remember having read it and -- and, again, I think that article is an excellent representation of the kinds of difficulties that can be created by the Indiana voter registration, voter ID law, but in the article itself which is trying to get this identification document, it imitates that she submitted her photo military identification, her Social Security card, and other documents.

So, embedded within the article is proof that this woman has the necessary documents in her possession to vote under the Texas Senate bill.

SPEAKER: Except that they were expired,
Mr. Chairman.

CHAIRMAN SMITH: The Social Security card was expired?

SPEAKER: No, sir, but the photo ID was. It said she had to present two forms of non.

CHAIRMAN SMITH: The voter registration card and the Social Security card is certainly sufficient.

SPEAKER: The other point I think this article makes is that you need ID to get ID. So, if she just wanted to get photo ID so she would only have to present one form of ID at the polls is what this -- what this bill calls for as the standard, the main standard, the it would have been very difficult for her to comply with that before the election. I think that's what this case illustrates.

CHAIRMAN SMITH: Right.

SPEAKER: It takes ID to get ID.

CHAIRMAN SMITH: If you want the ID that lets you vote with one piece of ID, there are problems. I'll grant you that in this instance apparently this woman was having some difficulty getting a photo ID, but I'm simply making the point which I think is important that it also proves that she had the documentation that would allow her to vote under the non-photo identification alternative that was present from the Senate bill and will
presumably also be present in the House bill.

SPEAKER: And all she has to do is

hope that she has it with her when she goes to vote.

CHAIRMAN SMITH: What people do when they

understand what the requirements are, and that is comply

because of a document that are readily available in her

possession. Representative Linda Harper-Brown?

Q. (By Representative Harper-Brown) Thank you,

Mr. Chairman. Ms. Garrett, thank you so much for being

here today. I want to tell you that I have always been

impressed with the work the NAACP has done in trying to

help minorities understand the various laws and to work to

improve the standing of minorities in this state and in

the nation. And I wanted to ask you: When you work on

these issues, do you work on them in multiple states or

are you with the national group or do you work on election

laws in other states or are you just focusing or working

here in Texas?

A. Just to clarify, I'm with the NAACP Legal Defense

and Education Fund the LDF. So, we are a national

organization. We work on voting right laws throughout the

country.

Q. Okay. Did you work on the Georgia law?

A. The NAACP (inaudible) in Georgia.

Q. When did it pass, or when did it go into effect?
A. I think it was 2005, but it was right around the
time when I started. The litigation was ongoing when I
actually arrived.

Q. We keep talking about Indiana. So, you didn't
actually work in Georgia, then, on that issue or had just
started?

A. I had just started so I kind of jumped in, but I
never physically participated in the litigation.

Q. The -- I was looking back at their statistics and
in their statistics that are on the Secretary of State's
website, in 2000 67 percent of female blacks voted,
registered voters, and 57 percent of the males. In 2004,
70 percent of the female blacks voted and 66 percent of
the males. In 2008, though, after this was implemented --
and I notice on the NAACP had a majority had an
announcement. In 2008, though, 80 percent of black
females voted and 71 percent of black males and that was
after the law was in effect and the Supreme Court ruling
had come down on this -- on this law.

And so, it looks like the numbers have
increased in the number of people that have voted even
with this ID law in place. And what the news release says
here is that the president of the Georgia NAACP had said
that although he's not happy about it, once that the --
the ruling had come down from the U.S. Supreme Court on
voter ID that he would be -- that his group would get out and work now to educate people on -- around the state on how to understand the rules.

So, I just wondered if you knew, with you being with the legal defense fund, but I just wondered if the NAACP is going to do the same thing if this bill passes here in the State of Texas.

A. I would leave that to the state (inaudible) testify today on that issue, but I would like to make two points.

First, it's my understanding that -- again, a clarification of what happens here in Texas -- that the NAACP gives its participation percentages based on actual turnout versus actually casting a ballot. I think that's a distinction that has to be considered because we heard a lot today about provisional ballots, provisional ballot rejection rates, provisional ballot for a variety of reasons and it's unclear whether that was taken into consideration with the president's statement there, but it's just in case you have to clarify whether or whether or not it was relying on that as (inaudible) participation. Also taking into account the particular circumstances surrounding the 2008 election into consideration. And I just said at least -- although I wasn't on the ground in Georgia, I was on the ground in
Indiana -- the saturation not just from the state but from
the political parties in that particular election and that
an election is not just a general election, but it's a
school board election and it's the county clerk election.
I'm not sure what you all have in Texas or not. It goes
all the way down to these very, very local elections that
impact on a local level how people live. So, I would want
to take all that into consideration.

Q. Well, I believe that this was actually in May of
2008 when the president announced that, and I don't know
when they hold their other elections in Georgia, but I
believe from his press release talking about trying to
educate all the voters in the state for all elections.

A. (Inaudible).

CHAIRMAN SMITH: Members, we are three
minutes passed the 30-minute allotted time for the record.

Q. (By Representative Bohac) I wanted to say,
Jenigh, that your testimony has been outstanding.

A. Thank you.

Q. I actually could listen to you all day. You've
done a great job.

A. Thank you.

Q. I did hear something earlier that I was going to
try to get your take on, and it was from one of the
witnesses -- and this will be my only question for you.
One of the witnesses before referenced the former Mayor of Atlanta, Andrew Young, and said that he believed that photo ID could actually be used to elevate a society and that a photo ID can be used as a positive effort to help lift people in society. And I wanted to see your take -- that was kind of an interesting take on this whole photo ID argument, and I wanted to try and get your take on his opinion.

A. First, I'm not sure what context -- I come from a legal background, so I would probably have to look at the context of that. I think that we did talk a little bit about how -- and I think Representative Brown raised the issue of photo ID and what photo IDs could do for society in general. However, I connected it to the right to vote is where that aspiration kind of runs afoul of the Constitutional spirit.

CHAIRMAN SMITH: Any other questions, members? Thank you very much, Ms. Garrett.

JENIGH GARRETT: Thank you, Chairman.

CHAIRMAN SMITH: At this time, the chair calls Wesley Tailor. He's the Director of Elections Division, Georgia Secretary of State, testifying -- he's neutral on the bill. Again, for the record -- I apologize for being redundant -- please state your name and who you represent.
WESLEY TAILOR: Yes, sir. I've had the pleasure of listening to many people do it before. My name is Wesley Tailor, and I am the elections division director for the Secretary of State of Georgia.

Thank you-all for allowing me to address you today. I'm basically going to just discuss Georgia's experience with photo ID. I became the elections director for the State of Georgia in April of last year, thrown into the fire, if you will, right before an election. And fortunately, before that I served as general counsel to the Secretary of State since March of 2007.

So, I will be focusing my discussion on Georgia's most recent experience with photo ID, although I will say that Georgia has had over a decade of experience with some form of voter ID, much like what Texas has now and what Texas will have in the future.

We enacted our current photo ID legislation in 2006. Currently we allow six forms of photo identification to be used at the polls -- a driver's license, which actually can be either expired or valid driver's license, a U.S. passport, a government employee photo ID, a valid federal or state government photo ID, a military photo ID, or a travel photo ID.

I will tell you about the -- we've had about 16 elections since the implementation of this law in
August of 2007. In Georgia we like to have elections, and we've had many of them. We've cast about 9 and a half million ballots with the photo ID in place and my office has received no complaints that anyone has been disenfranchised or turned away from the polls because they lacked a photo ID, and I think that's very telling based on some of the discussions that have been had previously today.

If a voter shows up at the polls, of course, without a photo ID, they may cast a provisional ballot and that will be counted if that individual shows back up with a photo ID within two days following an election.

In 2006 I heard some issues -- I'm trying not to just talk about what everybody has talked about previously. In 2006, the DOJ, Department of Justice, did pre-clear Georgia's photo ID law, much like it did in 1997 when the Department of Justice under then President Bill Clinton pre-cleared Georgia's voter ID law which, as I said, is very similar to Texas' current voter ID law and the one being discussed here today. Of course, the U.S. Supreme Court has addressed all of the Constitutional arguments in last year's Indiana case.

Georgia has had its own experience with lawsuits over voter ID and photo ID. I will tell you from
that experience I know there's been some discussion of who
hadn't had a photo ID or who might not have a photo ID
that they can use. We have had some of the most prominent
lawyers in the State of Georgia bring lawsuits against the
state making those same arguments, and yet still we have
not seen one individual who can actually say that they
have been adversely impacted by this law or that they
would have an undue burden placed upon them.

We have -- I heard -- I'm going to address
a couple of the arguments very quickly. The one that I've
heard is in-person voter fraud doesn't occur and it's not
an issue. I will tell you that as an elections
administrator I take my responsibility with respect to
voting very seriously. I agree with anybody who has said
and everybody who has said it here today that voting is
the fundamental right and the foundation of our country
and Republic, that it's the core -- and I believe all of
us here take that at face value, that voting is the core
right upon which all other rights are based.

So, with respect to whether somebody can
vote or whether somebody else's vote is cancelled out
because of voter fraud, those are equal in my mind as an
elections administrator and you must look at them equally
and address both to the extent that you possibly can to
make sure that one doesn't cancel out the other or prevent
somebody who otherwise is perfectly able to vote to be able to cast their legitimate vote.

When you say that voter fraud doesn't occur, Georgia has had its unfortunate share of election fraud in the past. As you heard, the nature of in-person voter fraud makes it very difficult to deter and detect, which does require some proactive measures in dealing with voter fraud. We've enforced our voter laws since August of 2007 following a three-day bench trial by a Jimmy Carter appointee in federal district court in Georgia, and one of the interesting things that Judge Murphy stated in his order which allowed Georgia to implement its photo ID laws in August is that in a previous order the court speculated that the photo ID requirement probably was not even rationally related to the asserted justification of preventing voter fraud. That speculation, however, is not binding on the court and, frankly, proved to be inaccurate, which I find -- having litigated cases before -- fascinating to have a judge actually write that in an order, that he was wrong early on.

Argument 2 is that an undue burden is placed on numerous voters. As I've said, after four years of lawsuits we haven't seen a single individual that has come forward. And, in fact, Judge Murphy again in an order wrote, "Although plaintiffs claim to know people who
claim that they lack photo ID, plaintiffs have failed to identify those individuals. The failure to identify those individuals is particularly acute in light of plaintiff's contention that a large number of Georgia voters lack acceptable photo ID."

With respect to the facts and statistics, I know you've heard or talked much about that. Looking at the 2008 general election, we had a 75 percent turnout for active voters. We have about 5.8 million registered voters total in the State of Georgia, and we had 3.9 million votes cast and that was about 700,000 more votes cast in the previous largest election we ever saw in the State of Georgia.

The interesting part about that is that Georgia allows for no excuse in-person absentee voting, allows for in-person voting on election day, and it allows for no excuse voting by mail. We saw 92 percent in the general election choose to cast their vote in person. So, only 8 percent -- in fact, less than 8 percent chose to vote by mail. And that was true for the runoff, as well, because we did have a runoff. We received about 80,000 more new voter registration applications in 2008 as compared to 2004 when we did not have photo ID in place. In the presidential preference primary we also saw a historic turnout of more than 1 million voters than we had
ever had in a presidential preference primary before and
that, again, with photo ID in place.

With respect to minority, elderly, and
female voters which I have heard some people bringing up
those are the individuals who might be most affected by
voter ID or a photo ID requirement, if you compare 2004 to
2008, Georgia saw a -- with respect to Hispanic Latino
voters, we saw 140 percent increase in turnout in 2008 and
that was just compared to a population increase of about
71 percent during 2008. African-American vote increased
by 42 percent. The white vote increased by about
8 percent, and the 65 and older increased by about
24 percent all, again, with photo ID requirement in place.

One last thing that I will point out is
that I heard earlier that photo ID is described to favor
potentially one party over another. In Georgia, the
voters did cast their votes in the presidential race for
Senator McCain. However, our sitting incumbent, Senator
Wright, was forced into a runoff in a very close race with
his Democratic opponent very close behind. So, we have
not seen that be an issue either. I'll be happy to
address --

Q. (By Chairman Smith) I just want to make sure.
You said your program was very similar to what they
propose in Texas. Do you require a photo ID?
A. Yes, sir. I was talking about our previous voter ID that we've had in place since '97.

Q. Currently you do require photo ID?

A. We require photo ID.

Q. If you don't have a photo ID, then you must cast a provisional ballot?

A. Yes, sir.

Q. There's no alternative in your law for providing non-photographic identification documents; is that correct?

A. That is correct.

Q. Okay. And you talked about the fact with all these ballots cast there's no complaints.

Do you have any way to quantify on a statewide level how many provisional ballots are being cast and the process by which you determine whether those votes count or do not count?

A. Yes, sir, I can. I can talk about the presidential preference primary, and I can talk about the general election, whatever you prefer.

Q. Refer to both.

A. Well, I can talk about both. Let me start out with the presidential preference primary. We had about 7541 total provisional ballots cast. Of those, 409 --

Q. 7500?
A. 7500, yes, sir. Of those, 409 were because the individual lacked a photo ID.

Q. Okay.

A. That's about point 00019 percent of the total votes cast in the presidential preference primary.

Q. In the recent Obama elections?


Q. And 7500 provisional ballots out of how many total votes cast?

A. We had 2.2 million.

Q. What's the total population of the state?

A. Over 9 million.

Q. You said how many were provisional due to lack of ID?

A. 409.

Q. What was the result of those ballots? Were any of those counted?

A. Yes, sir. 155 returned.

Q. 155 were not counted?

A. No, were counted.

Q. And what's the standard that you use to determine which ones count?

A. Well, you have to show back up with a valid ID within two days following an election.

Q. And then the rest were not counted because they
chose not to return?
   A. Correct.
   
   Q. So, by requiring people to show back up, you've got something approaching approximately a third of those counting?
   A. That's right.
   
   Q. You would agree with me that as Florida does it where the vote counts automatically unless sort of a board determines by majority vote that the signatures are not of the same person flips that so that a much greater percentage of those provisional ballots will count if you opted for that procedure? You may not know.
   A. I don't know. I couldn't extrapolate, but it sounded like theirs did, but he didn't even have the numbers for me.

   CHAIRMAN SMITH: Okay. Representative --
   A. I'm sorry. Did you want to know about the general election, too?
   
   Q. (By Chairman Smith) Yeah, go ahead.
   A. In the general election we had 3.9 million total votes cast. We had 17,366 provisional ballots cast total. Of those, 1181 were because the individual did not have photo ID.
   
   Q. How many of those were counted?
   A. 308.
Q. 308 counted?
A. Yes, sir. And since you had asked previously, the number of provisional ballots, that's about point 0.003 percent of the total votes cast.
Q. That was not counted?
A. That were just provisional ballots.
Q. But the number that was not counted would be something smaller than that?
A. Yes.
Q. And the numbers you gave us earlier -- that was the general election. The numbers you gave us earlier were what?
A. The presidential preference primary.

CHAIRMAN SMITH: Yes, Representative Bohac?
Q. (By Representative Bohac) Mr. Tailor, I find your testimony as equally compelling as Jenigh's. This is almost a perfect scientific experiment that you're bringing before this body. It really is. So, thank you for coming here.

Really three questions for you. Number one, did you just testify that 92 percent of Georgians vote in person or voted in person even though you have what we would consider vote laws that are pretty liberal?
A. Yes.
Q. 92 percent voted in person?
A. Yes.

Q. So, a little -- so, these provisional ballot numbers that you gave us that were cast are really interesting in light of the sheer number of people that voted in person.

Here's my second question. What do you do in case of a name mismatch like we heard Dr. Allen testify a moment ago that her license may say Alma misspelled, but on the other hand she goes by Dr. Alma Allen.

How would you-all treat that in Georgia?

A. Well, we actually have change of name forms that people use when they come to the poll. So, they will actually do a change of name form even when they are voting. That's one of the things that folks do quite often, actually. I will say also in this past election, especially in the general election, there was a significant voter registration drive, so to speak. We handed out out of our office about 2 million voter registration applications, and what we found is percentage-wise the new voter registration applications didn't increase but we did get a lot of folks changing -- updating their information, changing their names, changing their addresses, whatever needed to occur to update their information.

Q. So, in this case, would that vote count in case
of a name mismatch?

   A. Sure. I mean, you could -- obviously it would be
whether the individual can be matched and whether the
individual could be verified, but most of the time I would
see no issue with that.

   Q. And then, thirdly, you said of the 12 elections
that you-all have been through -- that you-all have held
there have been no reports, not one of disenfranchisement
as a result of Georgia's voter ID law?

   A. No, sir. If I said 12, I misspoke. We've
actually had 16. We just had one in March.

   Q. I would say, Mr. Tailor, there's hysteria on both
sides of this issue and your testimony for me has been
very mainstream because we looked at it more
scientifically and tried to remove the emotion.

   So, I want to thank you for coming to our
state and testifying. I've never heard you before, I've
never seen you before, and your testimony has been truly
compelling and thank you for that.

   A. Thank you.

   Q. (By Representative Bonnen) Just a couple quick
questions. I was using some Georgia numbers earlier and
one of the comments or retorts -- I think it was a fair
one -- well, it's fair in that I think we would agree
there are a number of reasons why voter turnout goes up or
down. But the interesting question left to ponder the
witness left was, yes, I know turnout was up and I know
the African-American population went way up in Georgia and
all, but had voter ID not existed, we only know how much
further it would've even gone up. I'm asking you somewhat
to speculate, but I actually think based on the numbers
you may not have to.

Do you have any information or any fact
basis or anything you can share with us that would
indicate one direction or the other as to whether voter ID
had an impact on reducing the turnout not only of
African-Americans but of any voters in Georgia or not?
Other than the obvious data of the actual turnout itself.

A. Right. I'm an elections administrator. I'm not
a mathematician. I haven't studied any of that, but I
will just say that I don't know whether photo ID increases
voter turnout. I just don't know that to be the case; but
the nice part in administering the law that was passed by
the legislature and signed into law by the governor is
that I haven't seen any evidence that it has been an undue
burden on anybody to comply. That's the one thing I can
say.

Q. Do the numbers make sense to you in Georgia in
that -- well, you know them, so I don't need to repeat to
you, but the significant increase in the African-American
vote in the '08 election.

Is there any reason for you to speculate that had voter ID not existed that it would have been an even greater increase?

A. Based on the numbers that have been talked about today, I just don't know how. I mean, we had -- as I say, the overall voter turnout was about 75 percent of the active registered voters. So, with the numbers that I had heard earlier, I haven't looked at specifically for African-Americans or Hispanic Latino or anything. But just based on those, I don't know how, especially if you look at historic turnout numbers.

Q. Right. What is the average historic turnout in Georgia?

A. It's right in that mid Seventies.

Q. Is it?

A. Yes, sir. We're talking about general elections.

REPRESENTATIVE BOHAC: Right. Thank you very much. Appreciate your time.

CHAIRMAN SMITH: Any other questions?

Representative Anchia?

Q. (By Representative Anchia) Thank you, Mr. Tailor. Thank you for being here today. I wanted to talk to you a little bit about the numbers that you gave us and have you articulate. To make it easy, let's just talk about the
general election numbers.

A. Yes, sir.

Q. 3.9 -- and I want to make sure I wrote them down correctly. 3.9 million voters in the general in Georgia?

A. Right.

Q. 17,366 provisionals?

A. Yes.

Q. Of those provisionals, 1,181 were for no ID?

A. Correct.

Q. Of those, 308 were counted because people were able to come back; is that right?

A. Correct. I don't know about "were able," but they decided to come back, yes.

Q. Okay. In some cases, they may not have been able during the two-day period. Right?

A. We just don't know.

Q. Have you reached out to any of the people who didn't have ID and didn't come back within the two-day period? Have you done anything systematic?

A. Actually what we did is before the general election, in getting ready for the general election and every election before that when photo ID went into effect, anybody who voted a provisional ballot and didn't come back, we actually mailed them a letter that said, "Hey, not sure why you didn't, but just so you know, photo ID is
required. Here's how you can get one," and we did an active reach-out to those folks.

Q. Is that a requirement that you send them that letter?

A. No.

Q. Thank you. After any of the elections have you studied the reasons why people may not have come back?

A. No, sir, we have not.

Q. You send them a letter, and I think it's good to inform them of the requirement and use it as an education opportunity, but you haven't looked at the reasons why in this case maybe 800 people -- a little more than 800 people didn't come back?

A. Right.

Q. Okay. Okay. Would you characterize any of those 800 people as disenfranchised?

A. No, sir.

Q. Why not?

A. Well, disenfranchising -- in fact, I've heard that word passed around. That's actually to deprive the rights of citizenship, especially the right to vote, and none of these individuals were deprived the right to vote. In fact, they were able to cast a vote on election day and they had to ability to either come back or to not come back. They chose one way or the other. And also in
Georgia, don't forget, we have the absolute right to cast a mail-in ballot with no photo ID requirement. So, no, these individuals were not disenfranchised.

Q. But their vote was not counted. So, you had about 800 or so people whose vote was not counted because they didn't return to present some form of ID?
A. Yes.

Q. Otherwise, they had no other infirmity than that. Right? They were citizens of the United States, they were validly registered. They had no ID. Is that the fact pattern that we're looking at there? They didn't have the requisite ID, let's say that, to be fair.
A. They did not have the requisite ID. Whether they were eligible, all of the other issues, I just don't know at this point in time, but I do know that was the issue.

Q. Would you think that the law would disenfranchise people -- if the Georgia law did not have the two-day return opportunity, would you then call it disenfranchisement if people were not able to come back and remedy that situation?
A. Well, again, it depends on --

Q. In this case, 1181. If Georgia did not have the ability to come back, a two-day window, would you say that those people that were disenfranchised, that 1181?
A. Well, except for provisional ballots are a
federal requirement. So, I don't think there's any way that you couldn't allow somebody to vote provisionally in a federal election.

Q. But the fact that their ballots were not counted as regular ballots if they did not have the opportunity to return, would you consider that disenfranchisement?

A. In the -- I'll have to think about that, actually, because I just haven't given that hypothetical consideration.

Are you taking away the no excuse absentee voting by mail?

Q. Yes. Let's say that's also, as well.

A. I just have to think about that.

Q. So, no -- so, you can't vote absentee, no excuse, and you don't have the ability to come back.

A. I guess I have a problem -- let me ask you this. I'm trying to figure out what the idea of disenfranchisement and how far you go with it because voting at a precinct, if somebody can't get to the precinct and can't vote absentee, that's a requirement, and would that be considered disenfranchisement?

Q. Certainly their vote didn't cast. I would argue that we have this inalienable right and we have -- we should have the ability to cast that vote and every obstacle or combination of obstacles that limits that
increases or decreases the potential for
disenfranchisement. I wouldn't say it's one thing.
Specifically things in combination. And our policy
balance here is, you know, access to the franchise. This
is articulated in Carter/Ford and Carter/Baker versus
potential obstacles for voting. That's the balance. And
on balance I would say the more requirements that you put
out there, the less opportunity an individual is going to
have to exercise the franchise. In the past it was a poll
tax or it was white-only elections. Those were all
obstacles that limited the free exercise of
African-Americans or literacy tests for Hispanics, for
example, from exercising their franchise. I would say
that goes toward disenfranchising, for example.

A. I will agree with you on those, absolutely.

Q. So, the reason I asked you about the no excuse
election plus the no ability to come back -- your
testimony is that you're in favor of the Frazier bill,
correct?

A. Actually, I'm really here just to testify about
Georgia's experience with photo ID.

Q. Is it on the bill or in favor of the bill?

A. It's neutral.

Q. Okay. Good. I'm glad to hear that because the
Frazier bill doesn't include any opportunity to come back,
right, and we also in Texas don't have a no excuse mail-in ballot policy. So, I mean, in that sense it is -- it would be difficult because once you cast a provisional under the Frazier bill there's no ability to come back and remedy it is my understanding. So, I'm glad we were able to flesh that piece out.

Can I talk to you a little bit about how you run your elections?

A. Go for it. I'm sorry. Yes.

Q. No, no. I really appreciate the casual colloquy. Among lawyers it's okay, I think. One little, quick thing.

You talked about the fact that we dispensed with all the Constitutional arguments on voter ID. Is that accurate?

A. The facial --

Q. As lawyers, it's important to distinguish. I think somebody else said it today. (Inaudible) ruled Constitutional, but there is a difference between facial and misapplied. Right?

A. Of course.

Q. And the Supreme Court has left open the question whether these photo ID laws are Constitutional as applied?

A. Sure.

Q. Okay.
A. I'm sorry. And that's why it's important, at least for me, that we've had 16 elections and haven't had anybody come forward. So, at least on the facial challenge that's been dealt with hopefully as applied at least thus far in the State of Georgia. We've had a good experience.

Q. And we might differ in our interpretation of the 800 or so people that didn't have their provisional vote counted. It's clearly your testimony that those folks are not disenfranchised. I might take a different approach and that's where we might disagree, but what I really want to get at is stuff that we'd agree on. The spirit of Carter/Baker and its predecessor Carter/Ford was to, again, balance the franchise with access to ID -- excuse me -- security with access to the franchise?

A. Yes, sir.

Q. So, how much did Georgia spend to get people free identification? Do you recall the numbers on that?

A. I know generally, yes, sir. Except for on the identification itself, it was -- I'm not sure exactly the number on the identification itself, but on education efforts I know we've spent over a million dollars.

Q. Okay. Is that per annum, or was that up front?

A. No, sir. That was a specific allocation by the legislature, the Georgia legislature, to educate the
population about the requirements.

Q. And what about -- sorry. Texas has 25 million people. How big is Georgia?

A. A little over 9.

Q. Was that just for voter education? Did you spend any other amount on poll worker training?

A. Well, poll workers actually have to be trained before every election in Georgia, which means they have a lot of training. Everybody can tell from the number of elections. So, that's built in. We also have --

Q. And what's that on an annual basis from general revenue?

A. The state doesn't spend -- that's all done at the county level.

Q. That's all at the county? The state doesn't subsidize the county at all? It doesn't give them elections money? Do you know how much that is if you aggregate the counties?

A. I do not. I will say, though, that on the state level we did produce -- we did actually develop a photo identification on-line training course that poll workers had to take and were required to take in order to become familiar with photo ID requirements.

Q. And you also have mobile buses that travel the state providing IDs; is that right? Did you have mobile
ID centers?

A. In theory. I'm not sure that actually ever materialized.

Q. Never materialized?

A. Yes, sir.

Q. Because that's one of the suggestions. It's not a recommendation, but they gave -- there's a for instance in Carter/Baker that says you can do these mobile units and I was wondering if you-all included that in your outreach to folks to get them IDs.

A. We did not, no, sir.

Q. Okay. Let's see. How much did you spend in voter registration? I'm talking three pockets of money. First one was getting people IDs, the second one was to train folks, and the third bucket of money would be just on voter registration, getting new people registered in the system.

How much do you spend on an annual basis for that?

A. Well, we spend millions on the voter registration system itself. If you're talking about the voter registration system --

Q. I'm talking about outreach, voter registration.

How much do you-all spend per anum on that?

A. That would have been included in some of the
photo ID. We would have been talking about get
registered, get your photo ID.

Q. Okay. So, you didn't aggregate the cost of
getting people free ID, for example, from the bucket of
money that is for voter education from the bucket of money
that is outreach to get people registered?

A. I just don't know it off the top of my head.

Q. Okay. Is there a tension between no excuse
mail-in ballot and having a photo ID at the polls from a
philosophical perspective? You talked about your
experience with voter fraud generally.

Was that experience with mail-in ballot
fraud?

A. For the most part.

Q. Okay. For the most part?

A. In my experience -- I will be honest. As an
administrator, I haven't seen a whole lot of fraud yet, of
course. It's been in place -- I've been here doing this
since photo ID went into place.

Q. So, you've spent all your time with photo ID?

A. Yes.

Q. Most of it, based on your experience, has been in
mail-in ballot fraud?

A. The cases I have seen have been prior to this
administration and to the current Secretary of State and
my role. So -- but I have seen some mail-in ballot fraud. Yes, sir. In fact, we had a case that we just tried last week.

Q. What are some of the things that you do in your mail-in ballot system to avoid fraud? What are some of the systemic controls that you have in place?

A. Sure. Actually, we did this a bit piecemeal, as well. Photo ID was passed in 2006. It was enjoined by the same federal judge that I quoted earlier twice. So, he had enjoined it until 2007 when the trial happened, but in the meantime, working with the state legislature, we passed a triple signature check on absentee ballots, mail-in absentee ballots. So, registrars have to actually compare the signature on the voter registration application to the signature on the absentee ballot application to the signature on the absentee ballot itself. So, you have to actually check to make sure all of those signatures --

Q. Three times?

A. Yes, sir. We also made absentee ballot fraud a felony. Surprisingly enough -- you may or may not find this surprising. Prior to the current Secretary of State coming into office, mail-in voter fraud was a misdemeanor. In-person voter fraud was a felony. So, voter fraud is voter fraud regardless of whether it occurs by mail or in
person. So, we increased that to felony status and also
we vigorously investigate any allegations of fraud.

Q. Okay. This is my last question. I want to make
sure you're testifying on the bill, not in favor of the
bill as a resource witness, correct?

A. Yes, sir.

Q. And none of your testimony speaks to any study
that you've done as to the Texas system or how it might
impact Latinos or African-Americans in Texas, correct?

A. I can only give you my experience in Georgia.

REPRESENTATIVE ANCHIA: Thank you. I
appreciate your testimony.

CHAIRMAN SMITH: Representative Brown?

Q. (By Representative Harper-Brown) I'll be very,
very brief. You haven't really addressed the
pre-clearance required -- provides -- required by the
Department of Justice.

A. Yes, ma'am.

Q. And I think you might address the fact that Texas
is pretty much in the same category that Georgia is. So,
rather than compare us to Indiana, it would make more
sense for us to compare our experience to yours in that we
don't have (inaudible), as well.

Would you like to address that, what you
had to do?
A. I would be happy to. We did have to submit this. Georgia is subject to Section 5 of the Voting Rights Act, unfortunately, for its past practices before 1965. So, yes, we do have to pre-clear all changes in voting statutes, voting laws. We did pre-clear the current photo ID law in 2006, and we submitted the normal submission -- the attorney general's office actually makes those submissions, but -- but it was just the normal information. We've now had, I want to say, experience with photo ID and we haven't seen any issues with application thus far on -- to show any retrogressive effect or undue burden on minorities in the state of Georgia. Like I said before, back in 1997 we passed a voter ID requirement that is similar to Texas', and that was passed by a Democratic legislature with a Democrat as the governor of the State of Georgia and it was pre-cleared by the then President Clinton's Department of Justice.

Q. How long was it from the time that you -- the AG submitted the pre-clearance material and the time the bill could actually begin?

A. Well, we had the -- we also had to contend with numerous lawsuits that were filed and the facial challenges to the law. And so, Judge Murphy actually enjoined the law in the meantime. So, it never went into
effect actually until August of 2007, but the
pre-clearance side of things didn't take any longer than
the normal time period, I believe, which is about 60 days
unless they ask for additional information, which would
then increase it to another 60 days after the State of
Texas answers the questions or sent their information.

Q. So, then, after that time period is up, you're
kind of on probation for a while? Or when you said that
"we had no problems," is there a period of time that you
have to prove yourself?

A. No, ma'am.

Q. Okay.

A. They either interpose an objection at the
beginning, or they do not. "They" being the Department of
Justice.

REPRESENTATIVE HARPER-BROWN: Thank you.

Q. (By Chairman Smith) Just to be clear as a
follow-up there, how long was it between the point in time
when the bill passed and the point in time the bill went
into effect?

A. The legislature in Georgia is in January to
usually April, and it would have passed in 2006 and the
injunctions lasted until August of 2007.

Q. Okay. So, it passed from when -- do you know
when in 2006, somewhere --
A. April is a good --

Q. April of '06 to August of '07?

A. Yes.

Q. Okay. And -- and that was as a result of the pre-clearance time through the Clinton Justice Departments and -- is that --

A. No, sir.

Q. Did you not say Clinton?

A. That was for '97. This one went with Bush Department of Justice.

Q. That would make sense. Were you referring to something that did happen during the Clinton --

A. Yes, sir. That was the previous -- we used to require 14 forms of ID starting in 1997.

Q. Do you have any knowledge yourself about how that time -- if you choose -- might have been -- the state can choose to have us pre-cleared through the Washington, D.C. Court of Appeals?

A. The district court.

Q. The district court?

A. I believe so.

Q. Okay. Do you know if it takes longer for that process, or is it presumably the same period of time?

A. I would be speculating and talking on hearsay on that.
SPEAKER: Mr. Chair, we have a resource witness that could speak to that. Toby Moore, I think, was with DOJ.

Q. (By Chairman Smith) I just want to make a map point here. We've heard testimony before from the state of Florida. You're providing testimony for the State of Georgia. Both of these have card -- mandatory photo ID requirements.

Is it fair to presume in your judgment that if Georgia, instead of implementing a hard photo identification requirement had implemented a requirement like the one proposed in Centerville where it provides a photo identification or your voter registration card and one of these lists of non-photo identification documents that the number of -- of provisional ballots would be less with that alternative non-photo requirement available to you than it would be with a hard photo requirement?

A. I don't know that that's true.

Q. Okay.

A. I really don't. Like I say, we've had some form of voter ID requirement in place since '97, and I can't go back and look at the provisional statistics from previous elections because we started to collect it and require the counties to actually report that to the Secretary of State, but I don't know that that's correct. I imagine,
you know -- I just don't know.

Q. So, you don't necessarily presume by providing simply an additional alternative that is not available in your law that that reduces the number of provisional ballots?

A. It certainly would make sense, but I --

Q. You don't know?

A. No, sir.

Q. Okay. What we do know is that you provided us with statistics indicated that in your system 900 votes didn't count with 3.9 million cast. Under Florida, there were 8.3 million cast and there were 394 that did not count. So, they had twice as many more voters and the number of votes was reduced by somewhere between -- approximately 40 percent. Instead of 900, it's 394 presumably because of the difference in the way that they handle their provisional ballots in terms of how it is determined whether it counts or whether it doesn't count.

So, if your vote total of 3.9 million had been more like Florida's vote total of 8.3 million, then roughly presumably if the same proportions apply, you would have had about 2,000 voters not counted under a -- a provisional ballot system which does not allow a similar signature to make the vote automatically count, which you require for the voter to do something affirmatively within
a finite period of time. Right?

SPEAKER: Object as compound. I'm sorry.

Q. (By Chairman Smith) I would think that if your
voter turnout had increased to 8.3 million that the number
of votes not counted would have increased proportionately
to approximately 2,000.

A. I would hate -- this is why I was hoping to stick
with what we had and what I saw in Georgia and what we've
experienced. I would hate to speculate as to what would
happen. Sure, you can do the math and extrapolate and
multiply it by two, but I can only tell you what we
experienced.

Q. Okay. I just wanted to indicate that on the
record that if you do that math and you extrapolate it out
and you assume if you double the turnout with Florida the
number of votes that did not count would double, then
roughly the difference between the number of votes that
are not counted in Georgia with the same turnout as
Florida with the same turnout drops from about 2,000 to
394 on 8.3 million cast because of the difference in the
way that they handle the provisional ballots. I'm simply
trying to point out there's evidence -- there's a
substantial difference in the number of votes that are not
counted if you handle those signatures one way, which is
the point made in the U.S. Supreme Court and why those
three more liberal justices expressed a strong preference
for the Florida law in terms of how they handle the
provisional ballot.

A. Actually, we had one of those dissenting judges
point to Georgia's law as actually one that he could stand
behind, as well.

Q. I don't recall the basis of that.

A. It was because of how we provide for provisional
ballots and how we count those, as well.

Q. He liked yours much better than he liked
Indiana's?

A. Apparently.

CHAIRMAN SMITH: All right. Okay.

Representative Heflin?

Q. (By Representative Heflin) Just so I'm clear.
So, in '97 you did a voter identification law and then in
'05, '06 at some point in time you did a photo ID law that
was enacted in '07?

A. Correct.

Q. That's what you've been operating under for the
last 16 elections. Why do you have so many elections? I
just had to ask.

A. I asked that, too. I guess we just like
elections.

Q. Okay. And so, you've been there since '07?
A. Yes, sir.

Q. Based on what you know -- this may have been already asked and answered. So, as far as instances of voter -- allegations of voter fraud or voter impersonation, you've basically been clear. Is that what you would say?

A. As far as I know, I'm not aware of any. I will say that our enforcement side is actually done by an inspector general who is also under the Secretary of State, but I do the administration of the elections and she does the enforcement of the election law. So, if there are cases independent that she is aware of, she may be aware of something that I am not.

Q. One of the provisions you did do is you raised it to a felony grade offense on mail-in ballots?

A. Yes, sir.

REPRESENTATIVE HEFLIN: Thank you.

CHAIRMAN SMITH: Just for the record, we're four minutes over. Take that into consideration, if you would, Representative Bohac.

Q. (By Representative Bohac) This will be very quick. Do you have early voting in person?

A. Yes, sir.

Q. How many days does that last?

A. 45.
Q. 45 days?

A. Yes, sir. It's actually the exact same -- and this is something that we enacted last year, actually, or the legislature enacted last year. It corresponds with the number of days for mail-in ballots.

Q. I've been trying to get to this 92 percent figure. So, I've been trying to get around to it, and I think that probably helped me understand this 92 percent figure because I've just been shell shocked by that figure.

I want to talk to you now real quick about the -- what level of a felony is the ballot by mail?

A. You're talking about a felony grade? Well, in Georgia we don't do felony grades for the most part. You have a specified sentence in terms of money or years, but a felony is a felony.

Q. Tell me what that is in Georgia, if you know. How many days in jail?

A. I think it's five years and $100,000, along those lines. Up to.

Q. Okay. And then finally -- and this is the last portion of my question.

Prior to moving to voter ID, you still had provisional ballots that was in effect prior to moving photo ID, correct?
A. Yes.

Q. How many provisional ballots as a percent of the total ballots cast -- I know the hour is late. What I'm trying to get at, is your provisional ballots roughly the same as they were before photo ID when they were just merely voter ID as opposed to photo ID or do you know the answer?

A. I knew from the start of your question you were going to ask me that, and I don't know. I'm sorry. I don't know what off the top of my head. I will say that most of our statistics are right up on our website, on the Secretary of State's website in Georgia, but I don't know that.

Q. Thank you. I've been to Peachtree City in Georgia many, many times. I love your state. So, thank you.

CHAIRMAN SMITH: Representative Heflin?

Q. (By Representative Heflin) One more quick question. I have to ask this. I'll spend an extra minute tonight. So, in the last two years you've had 720 days of early voting going on. So, the last two years you've basically been early voting all but 10 days?

A. Well, I say 45. It's 45 for general elections and general primaries. Special elections is a shorter period of time. But for the general elections and
generally primaries, that's 45 days.

Q. I like early voting.

A. Our voters do, too. I do, too. We had more than half of our votes cast early.

REPRESENTATIVE HEFLIN: Thank you.

Q. (By Chairman Smith) Is there any way for you to describe for us the extent of the locations, the early voting locations throughout the state?

A. Sure. Well, Georgia is like Texas. We like our counties. I think we're the second most after Texas with 159. All of those counties have a voter registration office or an elections office. So, each county would have at least one location which would be the election office or registrar's office. In our major metropolitan counties, they could have as many as seven early voting centers interspersed around the county. Many with five, four, three.

Q. What are the hours -- do you know what hours the polls are open?

A. In Georgia and I think in Texas elections are administered actually by the county elections officials, especially the general election. So, they get to set their hours that they are open, but they can vary from normal business -- they have to be open at least normal business hours of the county. Some counties, the week
before an election or even the two weeks before will open up their offices, say, 7:00 to 7:00 or 8:00 to 7:00, what have you.

Q. Up to the county?
A. Yes, sir.

CHAIRMAN SMITH: Any other questions, members? Thank you very much. Appreciate it.

WESLEY TAILOR: Appreciate it.

(End of Volume 2.)
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COMMITTEE ON ELECTIONS

April 6, 2009

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TEXAS HOUSE OF REPRESENTATIVES

COMMITTEE MEETING ON ELECTIONS

APRIL 6, 2009

TRANSCRIBED ON APRIL 15, 2012
CHAIRMAN SMITH: At this time the Chair calls Mary Scott, who is speaking on behalf of the Associated -- American Association of Retired Persons of Texas to testify against Senate Bill 362.

MS. SCOTT: Thank you, Mr. Chairman, and members of the committee.

My name is Mary Scott, and I am the AARP Texas state president and a 44-year resident of Fed for Texas in Tarrant County.

AARP is a nonprofit, nonpartisan organization dedicated to addressing the needs and interests of Americans age 50 and older.

AARP has 2.4 million members here in Texas, and they vote in high numbers. I've been a volunteer with AARP for many years. I've served on AARP's National Policy Council and the National Board of Directors.

I'm also a life-long Texan, and I'm old enough to be a Texan who paid a poll tax for over a decade when I first started voting.

I worked with members of my generation to eliminate the poll tax, and we do not want to see barriers erected to prevent people from voting, which would replace those things we fought so hard to get rid of.
Now, you might wonder why is AARP interested in Texas' and other states' election laws. So, I especially appreciate the opportunity to speak with you today about our interest in those laws.

AARP views the right to vote as the most basic of rights and encourages steps to engage all eligible voters in the process.

In spite of these efforts, voter turnout in Texas remains alarmingly low. In 2006, the last gubernatorial election in Texas, only one in three registered voters cast their vote.

In 2008, the last presidential election, only 45 percent of the voting age population in Texas cast their vote.

Now, given the low turnout rates in Texas and across the United States, AARP would like to see law makers do more to encourage participation in the whole election process.

Older voters vote in disproportionately high numbers. About one half of the voters in the November, 2006 and in the recent presidential elections were over the age of 50, and AARP believes fair and simple procedures help to maintain this high level of participation in the Democratic process.

AARP does not support procedures that
reflect partisan bias or that permit arbitrary or discriminatory reviews or voter challenges that may discourage turnout by older voters.

Of particular concern today are efforts to enact voter ID requirements. AARP believes voter ID laws, as enacted in other states, serve to discourage, rather than encourage, participation of older voters in the election process.

These requirements harken back to the days before the Voting Rights Act when many people were disenfranchised and they were barred from voting by formal and informal measures, such as the poll taxes and literacy tests.

At first glance, this type of voter ID law that we're talking about may sound simple. It may appear harmless. However, voter ID requirements pose a real barrier for senior voters, who are our most faithful voters.

It's not uncommon for birth certificates to be lost and passports to expire. Fire, a move, a hurricane or misplaced documents can all result in the absence of the numerous documents typically required by voter ID laws in other states.

With a voter ID requirement in place, the wait time required to replicate the documents could,
even without the cost involved, disenfranchise a voter who has the misfortune to be without a birth certificate or passport shortly before an election.

Further, allowing alternate forms of ID does not make voter ID less onerous. Older citizens who are living in a retirement or assisted living facility may not even have an electricity bill or a phone bill in their own names, and even if those documents are readily available, people just don't carry them around in their pockets.

But I think stories of real people make cases and principles come alive, so, I want to tell you about Antonio. He's a 50 year old Katrina evacuee who settled in Fort Worth, and his -- I want to tell you about his nearly two-year odyssey to get a Texas state issued photo ID.

Antonio had no idea what he was in for when he first went to the closest Texas DPS office to get a Texas state ID card. He and his wife stayed in Fort Worth after being evacuated before Katrina, and Fort Worth is now home to them.

His ID ordeal started when he realized that he should obtain a Texas state issued photo ID card just before his Louisiana driver's license expired. Little did he know it would take an intelligent, educated 50
year old employed American citizen and veteran a year and a half and many miles to get that increasingly important state issued photo ID.

When Antonio first went to the DPS, he took his still valid Louisiana issued state photo ID card, his original Social Security card and his retired military photo ID card issued by the U.S. government.

He waited in the usual lines only to be told he didn't have the proper documentation of his identity. I don't really think he had access to the Internet to read those five pages on the DPS web site that tell you what the requirements are.

Surprisingly, neither his Louisiana state issued photo ID nor his Social Security card was considered primary identification, nor are they secondary identification. In Texas, they are mere support for identification.

Antonio's retired military photo ID card apparently isn't any kind of identification at all as far as Texas is concerned.

So, he was told to go on his way and return when he had proper documentation. Well, it took him time to obtain his birth certificate from Georgia, where he was born, and when he did get it, he walked back to the same office with it, with his Louisiana photo ID,
his original Social Security card and his retired U.S.
   military photo ID.

   Once again, he waited in line. The clerk
   carefully looked over his documents and then decided
   that the last letter of his first name looked to her
   like an A and not an O, even though the certificate was
   describing the birth of a male child.

   Discussion of all the different forms of ID
   that he had ensued but in the end, it was clear no
   amount of reasoning was going to convince the clerk that
   this was actually his birth certificate.

   The clerk did suggest that since he was a
   veteran, he could use his military records. So, getting
   those military records took time.

   When that one finally arrived, he walked
   again back to the same DPS office with the military
   records, his Louisiana photo ID, his original Social
   Security card and his retired U.S. military photo ID
   card and the certified copy of his birth certificate.

   He thought this time would be it but in the
time it took him to get his military papers, the
   driver's license division had changed their rules.
   Military papers were not good enough.

   This time the clerk's best suggestion to
   Antonio was that he go to court and get his name changed
to Antonia to match the clerk's opinion of the handwriting -- the handwritten name on his birth certificate.

So, he was again told to go away and return when he had proper identification. Well, he had finally had enough and he asked to speak to the sergeant in charge.

He was told the sergeant was not in that day and again was told to return when he had proper documentation. Well, just then the sergeant walked in the door.

A personal appeal from one veteran to another resulted in a phone call, and he finally -- the sergeant called Austin and he finally got a Texas ID.

I was struck by how easy it would be for a clerk to turn away someone who had the same circumstances that Antonio did or to turn them away because they didn't think that the race or the gender or the national origin looked good to them.

The issues being addressed in this discussion are essentially an effort to strike a balance between preventing election fraud and protecting and maximizing our citizens' right to vote.

Where fraud exists, of course, it should be prosecuted and punished but to date there's been little,
if any, evidence of such fraudulent activities.

   Without that evidence in the Texas election
system, there's no justification to jeopardize senior
Texans' rights to vote. Implementing new barriers to
voting, like voter ID requirements, seem to be a
solution in search of a problem.

   We face some very serious challenges in
Texas today. AARP has all of these pages of priority
bills. We have a population -- a quarter of our
population who lack health insurance. We have mounting
job losses.

   And we would really like to see our
legislature use its time in Austin -- its limited time
on something that actually is an issue.

   So, I urge the Texas legislature to address
the real issues facing Texas families and to address the
real challenges in our election system.

   The right to vote, along with full and fair
representation in the election process, is the most
basic of all political rights and it should be
protected.

   Many of those who will be disenfranchised by
this legislation are those who most depend on government
to protect their rights.

   So, please help to protect their right to
vote for you and other elected officials who have the
power to make such a difference in their lives.

Thank you.

CHAIRMAN SMITH: Thank you, Ms. Scott.

I'm going to be especially nice to this
constituent since she's -- I mean this witness since
she's mine.

We thank you for taking the time to come
down here today and share our views with the committee.

I want to ask you a few questions. I
presume -- and I don't expect you to have done this and
I'm presuming that a part of the mechanism by which you
determined the official position of the AARP of Texas
does not involve polling the 2.4 million members that
you have in Texas, is that fair?

MS. SCOTT: That's fair. The association
does a lot of polling of our members and of the public
but I don't think that we've actually done a poll of our
membership in Texas.

We are kind of like -- we're kind of in the
same situation you are. They write to us. We have had
responses since the Senate committee of the whole met
and all -- practically all those responses have been
positive about our presentation and the position we have
taken, and I think that's the situation you're often in.
You're going to hear from them if they don't like what you do.

CHAIRMAN SMITH: Do you think it's possible that if you were to poll the 2.4 million members in your organization and ask them even the question which is not necessarily at issue today and, that is, do you think that a photo identification should be a requirement in the State of Texas, do you think it's possible that a majority of them would answer that question in the affirmative?

MS. SCOTT: I have no way of answering that except to just say that the responses we have had since the Senate action have indicated that we would probably have them taking the same position we do but that's just speculation.

CHAIRMAN SMITH: Okay. And the story that -- again, you know, the story that you tell about Antonio and his horrible experience with the Texas bureaucracy is -- is -- is horrible, and I think everybody on the committee here is sympathetic with the situation that any Texan sometimes faces when they are dealing with our bureaucracy in a variety of context but, again, just as with the 98 year old woman and the four star telegram where it is a wonderful illustration of why I might disagree with some of my Republican
colleagues about a hard and fast photo identification requirement, it also embedded in the story indicated that Antonio had a Social Security card despite the fact that he was a hurricane victim and an evacuee, which would be -- you know -- which would be all that was required under this provision or this particular legislation to allow him to vote.

And I think that's, again, an important distinction to make between the Indiana law and the law that is before us tonight as proposed by the Senate.

Any questions, members?

Yes, Representative Brown.

REPRESENTATIVE BROWN: Just one comment. I think Antonio's story just points to the fact that we could -- we could pass the most perfect law in the world but those people who are out there implementing, we're dependent on them doing the right thing and, you know, imperfect people make bad decisions sometimes.

You know, we have to depend on those people out there to enforce our laws or to implement them, and so, just because of this bad experience, regardless of how bad it was, it doesn't necessarily mean that that's something that we don't want to pursue but thank you for coming.

CHAIRMAN SMITH: Representative Dr. Allen.
REPRESENTATIVE DR. ALLEN: Thank you, Mary, for coming today and thank you for being up late with us. I know us AARP members go to bed at 10:00 o'clock.

MS. SCOTT: Not these.

REPRESENTATIVE DR. ALLEN: And your story of Antonio was a very poignant story. It happens all the time, so, with that in mind, is the training and the notice in the bill sufficient to assure older Texans to be -- to make them aware of the new requirements? Do you think the training that they mentioned in the bill and the notice and I think it goes out on the back of the registration card?

MS. SCOTT: I think we would still have problems with that. I'm not satisfied that that would be enough to help people overcome the barriers. We are just opposed to erecting any more barriers to voting.

REPRESENTATIVE DR. ALLEN: What do you think would be a barrier for a senior citizen or older citizen to get an ID, other barriers, say, for example, like Antonio?

MS. SCOTT: Well, I think you're looking at people who may not have transportation to go and get that first photo ID if they don't have it. They may no longer be driving.

I think we're probably looking at a fair
size population who find even -- you know, this still
would be expensive for them if they had to get their
birth certificate, if they had to pay for that ID,
although I know it's a reduced rate when you're over 65,
I believe it is, but we still feel that there would be
particular barriers for people who are older.

REPRESENTATIVE DR. ALLEN: Okay. I'll even
go to the Medicare card, which was one of the forms of
identification that you can use. Does Texas issue a
Medicare card?

MS. SCOTT: Well, the Medicare card comes
from the U.S. government, just like your Social Security
card does.

REPRESENTATIVE DR. ALLEN: One of the other
things, do all Social Security recipients get their
Social Security check in the mail? I don't.

MS. SCOTT: No. I -- at one time, I think
there -- I'm not sure whether this actually happened.
There was a proposal that they could no longer receive
them by mail.

REPRESENTATIVE DR. ALLEN: Right.

MS. SCOTT: But many of us do not get them
by mail.

REPRESENTATIVE DR. ALLEN: They go straight
into their account.
MS. SCOTT: They go straight -- direct deposit and special accounts were set up so those people had access to that much banking.

REPRESENTATIVE DR. ALLEN: Do you have knowledge to other states who implemented the photo ID and some of the problems they may be having?

MS. SCOTT: Personally, I have not been involved in that but I do know which states AARP has litigation or been active with. We did file a brief in the Indiana case. We -- our litigation unit has served as co-counsel in the Georgia and Arizona cases and filed Amicus briefs in Missouri and Michigan cases.

So, AARP's litigation department has been quite involved in those states, and I'm sure that there was advocacy action, too, as those proposals came up in the legislatures.

REPRESENTATIVE DR. ALLEN: I heard you mention the -- both persons residing in a nursing home --

MS. SCOTT: Uh-huh.

REPRESENTATIVE DR. ALLEN: -- may or may not have a utility bill. They do not have a utility bill because their utilities are covered under their rents or whatever they pay, am I right?

MS. SCOTT: That's right.
REPRESENTATIVE DR. ALLEN: That's not a --

MS. SCOTT: And they may not even have phone

service.

REPRESENTATIVE DR. ALLEN: That's true.

MS. SCOTT: And someone who is perhaps on

Medicaid would not have the money to pay for a money.

REPRESENTATIVE DR. ALLEN: Absolutely.

Absolutely. Because some of those checks are pretty

small, aren't they?

MS. SCOTT: They are.

REPRESENTATIVE DR. ALLEN: They are. Mine

is $62.

CHAIRMAN SMITH: Ms. Scott, does every

senior citizen -- everyone over 65 receive a Medicare

card?

MS. SCOTT: You know, I'm not sure. I know

you have to apply for it.

CHAIRMAN SMITH: Okay.

MS. SCOTT: So, if you don't apply, you

wouldn't have it. So, I wouldn't know what the

percentages are on those --

CHAIRMAN SMITH: That do not apply?

MS. SCOTT: Who do not apply. It's a very

small percentage who do not apply or who do not apply

for Social Security.
CHAIRMAN SMITH: Sure. And, you know. I'm trying to imagine -- while I presume there are a number of situations where we can point to individuals who do not have some form of photo identification on the list, I don't know that that really is fair because I think the question is how many do not have any form of identification on the list, and you would agree with me that insofar as we're talking about people in nursing homes, et cetera, who may not get a water bill or an electric bill, you don't -- do you know of any that do not have a Medicare card?

(Inaudible.)

MS. SCOTT: Unless -- unless the teacher themselves paid into Social Security or their spouse did.

(Inaudible.)

MS. SCOTT: That's the Social Security. However, they're eligible for the Medicare benefits under the spouse's record.

CHAIRMAN SMITH: So, they do get Medicare. Everybody over 65 is entitled to get Medicare --

MS. SCOTT: That's right.

CHAIRMAN SMITH: -- to the extent that they apply?

MS. SCOTT: That's right.
CHAIRMAN SMITH: Is that right? Okay. And that is one of the things you can add in addition to your voter's registration card.

(Inaudible.)

CHAIRMAN SMITH: Not Social Security.

UNIDENTIFIED SPEAKER: But you get Medicare.

CHAIRMAN SMITH: Not Social Security.

Different than Medicare.

MS. SCOTT: Yeah. Now teachers -- in fact, we were doing that before I retired -- pay in to Medicare, which makes them eligible to receive Medicare benefits. It's not just on the spouse record, although many of them are. They pay the Medicare tax, so, they can receive the benefit.

CHAIRMAN SMITH: Do you know any senior citizen who does not have any of the documents in addition to the voter registration card listed among the non -- nonphoto identification documents that would be allowed under this law?

MS. SCOTT: Personally, I don't. You know, you and I live in a very nice area. Most of my friends are not some of the ones that we're concerned about in other areas. And so, I think I just safely could not say that.

I do know some people who are no longer able
to drive and who don't hear well. And so, those people
may no longer have what we consider the main photo ID.

CHAIRMAN SMITH: And with regard to that
category of senior citizens that are past the driving
phase, I presume a large number of those people are
already voting, to the extent that they do vote, by
absent ballot, is that fair?

MS. SCOTT: Yes, unless they get someone to
take them to the polls.

CHAIRMAN SMITH: Right. And you do
understand that there's nothing in this law that changes
the requirements for absentee ballots?

MS. SCOTT: Right.

CHAIRMAN SMITH: Do you understand that?

MS. SCOTT: I guess I do. I've read the
bill but I'm not just familiar with --

CHAIRMAN SMITH: I'm representing to you
that doesn't change at all.

MS. SCOTT: I accept.

CHAIRMAN SMITH: Who's next? Representative
Anchia? Representative Helfin?

REPRESENTATIVE HELFIN: Yes, ma'am. If
there was provisions here -- first, let me ask this
question: And our population seems to be -- our
younger are getting older and our older are getting
MS. SCOTT: I think that would be true. I think we would still have some cases where the identification might be questioned, like if you have people who have become homeless.

REPRESENTATIVE HELFIN: The gentleman you mentioned, some problem?

MS. SCOTT: Yeah, some problem like that. I don't have any idea how many of those there are.

REPRESENTATIVE HELFIN: So, if there was a provision that exempted people born after 1944, which would be basically 65, would that be a provision that we could work with the older population? And we want to make sure we guaranty their right to vote because my dad fought in World War II, and I think that was very important to him.

MS. SCOTT: Well, my concern there would be how would you find out how old they actually are --

REPRESENTATIVE HELFIN: That's true.

MS. SCOTT: -- without requiring some identification?

REPRESENTATIVE HELFIN: Maybe an affidavit or something.
MS. SCOTT: So, it seems to me you still would require some identification or some manner of determining the age if you're going to place it on that basis.

REPRESENTATIVE HELFIN: Okay. But that would be a consideration we should probably look at, would you -- would you agree with that statement?

MS. SCOTT: Well, I hate to dictate to you what you need to look at.

REPRESENTATIVE HELFIN: Agree with. Thank you.

CHAIRMAN SMITH: Representative Anchia, did you have questions?

REPRESENTATIVE ANCHIA: No.

CHAIRMAN SMITH: Any questions from any members?

Okay. We're going to let you off easy.

MS. SCOTT: Fine. Thank you.

CHAIRMAN SMITH: I hope you're not driving back tonight.

MS. SCOTT: Not tonight.

CHAIRMAN SMITH: Good. You all drive safely.

MS. SCOTT: Thank you.

CHAIRMAN SMITH: All right. At this time
the Chair calls Gary Bledsoe, who is authorized to speak on behalf of the Texas NAACP, and is testifying against Senate Bill 362.

MR. BLEDSOE: Mr. Chairman, how are you?

CHAIRMAN SMITH: I'm doing fine. How are you?

MR. BLEDSOE: Pretty good. Thank you very much.

CHAIRMAN SMITH: Please state your name and who you represent.

MR. BLEDSOE: My name is Gary Bledsoe. I represent the NAACP of Texas.

CHAIRMAN SMITH: Okay. Thank you. Please proceed.

MR. BLEDSOE: Okay. Thank you.

I'd like to commend the members of the committee for spending a great deal of time on this issue.

I'd like to give a bit of background about the NAACP so you will understand more so what our position is and how we've arrived at our position.

You know, we're a nonpartisan organization. We try to get both parties to compete for the African American vote. That's essentially what our mission is.

And, you know, back years ago when Steve
Rowlands had introduced a bill that required various requirements regarding absentee ballots, we were very much opposed to that. We gave testimony against that legislation.

We knew that it was going to end up being a real nightmare for African Americans and Latinos, and it ended up being just that, and I would put this bill in the same category as we do the Rowlands bill.

I think in understanding that dynamic in why we feel the way that we do, we have to look at the history, even the recent history of the African American vote throughout the State of Texas.

What we've done, knowing that the Voting Rights Act was going to be up for extension three years ago, we held a number of hearings around the state to identify voting irregularities and issues relating to voter intimidation.

And also during each election cycle, we have a statewide election hotline where we have lawyers and law students that man the -- that man or person the line to handle issues that arise around the state.

And let me say very clearly, there -- there are enormous problems relating to intimidation of African American voters that continue to happen. I want to describe some of those for you because I think
they're -- they're important.

If we look, for example, in -- and we've seen hate crimes in Wharton County where individuals who happen to be Anglo elected officials supporting African American sheriff's candidate had their home burned down simply because they were supporting the African American candidate, and received a number of hate calls.

We have a number of instances in various counties where individuals were registered to vote and were not allowed to vote, were not given provisional ballots.

We have had a number of instances where individuals were wrongfully purged from rolls. We've had a number of instances where individuals were directed to the wrong polling places so that they would not ultimately be able to vote.

We've had a number of instances where individuals -- this past election in Bell County in particular, there were a number of conflicts between individual voters and individuals who were running the actual polling sites.

I know that state law changed the way that individuals are selected to run and handle different polling location has been changed and there has been some serious animosity in a number of communities.
between those individuals running the polling sites and African American voters, and we are very concerned with all of this information.

And there's just -- there's just so much more, you know, with the use of police, the use of mailboxes and putting intimidation mailers in individual mailboxes in Tarrant County, saying if you show up to vote, we're going to have you arrested if there's an outstanding warrant, giving people misinformation about whether a person who has served their time on a felony, whether parole or probation, when they're off time, you're able to vote in Texas, with putting misinformation in mailboxes. It goes on and on.

And one of the problems we've had at a number of polling sites is that in minority polling sites, there are too few ballots that are actually given, and so, you find when there are too few ballots and there are not enough polling stations at the polling sites, this causes lines to be very long.

And we know that when you have a community of working persons that that community doesn't have indefinite periods of time in which to be there and to vote, and so, therefore, when they're there, if it takes more time, then that's going to be problematic.

And one thing that is absolutely clear is