I think what I would ask you is to give evidence, either in Indiana or Georgia, of a single person that has come forward and said that they were denied their ability to vote because of these provisions, because in my knowledge, there has not been a single person that came forward.

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

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

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

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

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

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

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

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

SEN. FRASER: And that is a correct statement.

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

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

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

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

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

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

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

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

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

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

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

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

Thank you.

SEN. DAVIS: Thank you.

CHAIRMAN DUNCAN: Senator West.

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

Senator Fraser, good morning, sir.

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

SEN. WEST: That was actually Billy Ocean,
which both of us like.

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

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

SEN. FRASER: This bill?

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

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

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

SEN. FRASER: I had my largest county, Bell County, in my office last week, and I told Judge Burrows at that time that I'm opposed to unfunded mandate and, you know, we'll do everything we can to
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1 keep them off the counties.
2 SEN. WEST: So you're telling county
3 officials there are no unfunded mandates coming from
4 this bill?
5 SEN. FRASER: I didn't say that.
6 SEN. WEST: So there may be unfunded
7 mandates coming from this bill?
8 SEN. FRASER: Not advised.
9 SEN. WEST: So let me back up. And I want
10 to pursue this just a minute now. You philosophically
11 are not for unfunded mandates. Right?
12 SEN. FRASER: That's a correct statement.
13 SEN. WEST: That is a correct statement.
14 And you, by your action in previous legislatures, have
15 made certain that you have not passed any bills that
16 would provide for unfunded mandates on the counties.
17 Right?
18 SEN. FRASER: I have made an effort not to
19 vote, if possible.
20 SEN. WEST: Okay. Now, in this particular
21 bill, it is your objective to make certain that there
22 are no unfunded mandates on any county in this entire
23 state. Is that correct?
24 SEN. FRASER: I'm not advised.
25 SEN. WEST: You're not advised as to what
your objective is?

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

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

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

SEN. WEST: It was your bill, though. This is your bill. You don't know --

SEN. FRASER: My bill says that --

SEN. WEST: I'm just --

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

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

SEN. FRASER: I'm not advised.

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

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

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

SEN. FRASER: I'm sorry?

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

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

SEN. WEST: Did you review the fiscal note?

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

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

SEN. FRASER: Yes.

SEN. WEST: Okay. Second paragraph, "According to Texas Association of Counties, Tarrant
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1 County anticipated a one-time cost to reprint
2 provisional balloting materials and provides new
3 notices, of $8,000. Bexar County stated that due to
4 limited space on current registration certificate, large
5 cards would be necessary, resulting in additional costs
6 for cards, printing and postage of $381,000, "et cetera.
7
8 Is that a cost that is going to be picked
up by the state or is that going to be a cost that's
9 going to be occasioned by the counties?

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

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

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

SEN. FRASER: The bill is going --

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

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

(Simultaneous discussion)

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

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

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

SEN. FRASER: Not advised about unfunded mandates.

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

(Simultaneous discussion)

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

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

Under the local government impact, do you know where the counties will get that money from?
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SEN. FRASER: You're asking me a question.

No, I do not know --

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

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

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

SEN. FRASER: Federal funds.

SEN. WEST: Okay.

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

SEN. WEST: Okay. Well, as it relates to
general revenue, now, as I understand and as I've used
the term "general revenue" over the last 17 years I've
been here -- and maybe Senator Ogden or someone else on
the Finance Committee can correct me if I'm wrong --
general revenue basically means state funds -- right --
monies that we get from state --

SEN. FRASER: You are the member of
Finance.

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

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

SEN. WEST: Where do you see that in this
fiscal note?

SEN. FRASER: It's not in that. That's conversation --

SEN. WEST: Then how are you making that statement, if it's not in this fiscal note? There's nothing in the fiscal note that says that.

SEN. FRASER: Mr. Chairman?

CHAIRMAN DUNCAN: Senator Fraser.

SEN. FRASER: Could I please enter into the record -- this is information coming that is addressing the questions he's talked about addressing HAVA. I would like to have this added as an exhibit, please.

CHAIRMAN DUNCAN: Bring it forward to the Secretary, if you would, and we'll need to --

SEN. WEST: May we approach on it, Your Honor -- Your Honor -- may we approach on it, Mr. Chairman?

CHAIRMAN DUNCAN: You may.

(Brief pause)

SEN. FRASER: Mr. President?

CHAIRMAN DUNCAN: Senator Fraser, if you'll hold on just a minute. I'm going to allow -- we're already premarked a couple of exhibits. And so just in order to keep the record flowing correctly, I'm
going to recognize Sen. Van de Putte at this point to introduce a motion in writing.

Senator Van de Putte.

SEN. VAN de PUTTE: Thank you, Mr. Chairman. And thank you, Chairman, and the bill author, to yield so that I can move that all actions taken by the Senate on the 81st Legislature on Senate Bill 362, as contained in the official Senate Journal, be included in the record as Exhibit 2. The Senate Journal excerpts shall include motions, remarks, written responses, exhibits and any other material directly related to Senate Bill 362.

Mr. Chairman, I move this motion in writing.

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

The Chair hears none. Exhibit 2 will be received into the record.

(Exhibit No. 2 marked and admitted)

CHAIRMAN DUNCAN: Now, Senator Fraser, you're recognized on Exhibit 3, I believe.

SEN. FRASER: And, members, just to clarify, what we're entering here is the answer to the question that we've been discussing. It is a letter from the Secretary of State, Hope Andrade, saying that
the $2 million we're discussing, there is sufficient HAVA funds allocated to voter education and poll worker training that would cover this expense that is available.

Also, in addition to your question, we have been advised by other counties saying they do not expect more than a nominal cost for counties, existing staff and resources should be sufficient to implement the new law.

And I would request this be entered into the record.

CHAIRMAN DUNCAN: Members, Senator Fraser sends up Exhibit No. 3. It will be received into the record.

(Exhibit No. 3 marked and admitted)

CHAIRMAN DUNCAN: Senator Fraser, you still have the floor. Senator West, Senator has yielded to you for questions.

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

SEN. WEST: Thank you, Mr. Chairman.

Senator Fraser?

SEN. FRASER: Yes.

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

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

SEN. WEST: It's not general revenue?

SEN. FRASER: Yes.

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

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

SEN. WEST: Okay. Now, you had made mention also that you've talked to some other counties and that there won't be any unfunded mandates on those counties?
SEN. FRASER: You didn't read the rest of the fiscal note, is that Comal County reported the costs associated with the provision would be absorbed within existing revenues. You gave one example, but I think most of the counties expect this to be a nominal cost and that they have existing staff and resources --

SEN. WEST: And then --

SEN. FRASER: To handle this.

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

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

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

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

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

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

SEN. WEST: Who has a huge budget?
SEN. FRASER: The large counties.

SEN. WEST: I'm sorry?

SEN. FRASER: The large counties.

SEN. WEST: They have huge budgets?

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

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

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

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

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

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

SEN. FRASER: From the sheet here. If you'll follow, Comal County reported the cost associated with the provision of the bill should be absorbed within existing revenues.
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SEN. WEST: But that's Comal County.
That's not Travis County, that's not Harris County,
that's not Bell County or any of the other counties.
That's Comal County. Comal County is not indicative of
all of the counties in the State of Texas, is it?

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

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

(Simultaneous discussion)

SEN. FRASER: -- Finance.

SEN. WEST: And the reality is, if it's an
unfunded mandate, you're responsible for it if this bill
passes. Now, let me ask you this: The $2 million, the
$2 million that you're talking about, if it does not
come from HAVA funds, then it's going to have to come
from general revenue. Is that correct?

SEN. FRASER: I'm not advised. I'm not a
member of Finance; you are. And I think that would be a
decision of Finance.

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

SEN. FRASER: What page are you on?

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

SEN. FRASER: That's Section 11.


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

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

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

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

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

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

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

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

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

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

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

As it relates to Section (d), you say
that, "If the voter's name is on the precinct list of
registered voters and the voter's identity can be
verified from the documentation presented under
Subsection (b), the voter shall be accepted for voting."
But if, indeed -- and the election officer is to make
that determination. Is that correct?

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

SEN. WEST: How does your bill work? Tell
us how your bill works.

SEN. FRASER: You know, it's a --
(Simultaneous discussion)

SEN. WEST: I mean, would that be a great
question to ask the Secretary of State?
SEN. FRASER: It's a great concept. You walk in in Oak Cliff to vote. And if you're in the right precinct and your name is on the list and you pull out your driver's license and you show it to them and your smiling face on your driver's license matches you --

SEN. WEST: Well, let me --

SEN. FRASER: -- I think they're going to hand you a ballot and allow you to vote.

SEN. WEST: Then let me ask you this: My last name is spelled W-e-s-t. Suppose there's some typographical error where they spelled it W-e-s, but it's me. I have an ID, but my name is misspelled. What happens then? I have to vote a provisional ballot?

SEN. FRASER: I think that would be a good question for the Secretary of State, because I think they will cover that in the training with the election officials you're discussing.

SEN. WEST: What is your, intent, Senator?

SEN. FRASER: My intent is that the Secretary of State would make a ruling on that.

SEN. WEST: Under those circumstances, what would be your intent, as the author of this bill? If my name is W-e-s-t but there is a typographical error someplace and it's W-e-s, what is the intent. Give the
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1 record your intent as the author of this bill.

SEN. FRASER: My intent, as the author of
2 the bill, is that I'm going to give the authorization to
3 the Secretary Of State to make a ruling and train the
4 poll workers so that it would be clear that they're
5 allowing the proper person to vote.

SEN. WEST: They're allowing the proper
6 person to vote. So in that circumstance, would it be up
7 to the election officer there to determine whether I'm
8 the same person --

SEN. FRASER: I think it would be up to
9 the Secretary of State --

SEN. WEST: Let me finish; let me finish.
10 -- whose last name is W-e-s, but my
11 identification says W-e-s-t, and I'm presenting that, it
12 would be up to that election worker. Right?

SEN. FRASER: I think that would be a
13 great question to ask the Secretary of State.

SEN. WEST: But what's your intent,
14 though? I'm just asking your intent. I can't ask the
15 Secretary of the Senate what's your -- I mean, Secretary
16 of State what your intent is.

SEN. FRASER: I intend to --
17 (Simultaneous discussion)

SEN. WEST: You've got to manifest your
consideration of senate bill 14 1/25/2011

1 intent so the Secretary of State will know, have some
guidance in terms of how this bill should be
implemented. Don't you agree, as the author of the
bill?

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

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

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

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

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

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

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

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

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

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

Does it say that? Do I have to ask the Secretary of
State about that also?

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

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

SEN. FRASER: We don't have it.

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

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

SEN. WEST: I don't know. But what I'm
asking you is --
SEN. FRASER: You don't know?

SEN. WEST: -- given the fact that you are deferring everything to the Secretary of State, are you going to put some additional language in the bill that provides the Secretary of State some additional rulemaking?

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

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

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

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

What was the question?

SEN. WHITMIRE: Lubbock.

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

Go ahead.

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

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

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

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

SEN. WEST: Okay. Let me ask you this:
Have you made mention of the Carter-Baker Commission?

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

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

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

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

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

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

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

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

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

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

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

SEN. FRASER: I'm not advised.

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

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

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

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

SEN. WEST: No, just the comments from the
Carter-Baker Commission.
SEN. FRASER: Carter-Baker Commission, bipartisan -- Carter-Baker Commission affirms the danger. Elections are at the heart of the democracy. "Americans are losing confidence in the fairness of elections, and while we do not face a crisis today, we need to address the problems of our electoral system."

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

SEN. WEST: Okay.

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

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

SEN. FRASER: I didn't reference that.

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

SEN. FRASER: I'm sorry. I'm not advised.
I didn't reference that.

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

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

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

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

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

SEN. FRASER: I think probably when the --

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

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

SEN. WEST: Sure.

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

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

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

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

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

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

SEN. FRASER: No, I can't tell you --
SEN. WEST: Well, let me finish; let me finish, please. Let me finish.

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

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

SEN. WEST: What did you say?

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

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

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

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

I want to talk about seniors just for one second. How did you come up with 70 years old? Well, hold on. Let me ask you this: Is there a definition, a federal definition under any of our laws, U.S. laws or either state laws, that defines a senior citizen?

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

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

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

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

SEN. FRASER: How old are you, sir?

SEN. WEST: I'm 58 years old.

SEN. FRASER: Okay. Of the people (laughter) --
SEN. WEST: Ask the Secretary. We're not going to --

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

SEN. WEST: Ask the Secretary.

SEN. FRASER: I need a photo ID.

SEN. WEST: Got to ask the Secretary.

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

SEN. WEST: And what community?

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

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

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

SEN. WEST: People. Okay.

SEN. FRASER: Yes, like myself.

SEN. WEST: Yes.

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

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

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

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

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

SEN. WEST: Don't you think that a better
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1 definition would be 65? Why wouldn't you use 65? And
2 let me give an example.
3
4 In the Human Resource Code, elderly person
5 means a person 65 years of age or older. Why wouldn't
6 we use that as an age? Our Penal Code uses elderly
7 individual means a person 65 years of age or older. Our
8 Utility Code means an individual who is 60 years or
9 older. Our Human Resource Code means an elderly person,
10 means a person who 60 years or older. And now we're
11 going to have our election code basically saying a
12 person of 70 years or older. Don't you think -- I'm not
13 going to vote for your bill anyway, but just in case.
14
15 SEN. FRASER: You actually were one of the
16 ones that was asking if I would put it in the bill.
17
18 SEN. WEST: No, no, no, no, no, no, no, no, no. Let's get it straight. I didn't ask you that --
19 okay? -- for the record. Okay? I didn't ask you that.
20
21 SEN. FRASER: Okay.
22
23 SEN. WEST: But if you're going to put it
24 in there, it seems as though you should have one of a
25 consistent definition with some of the other statutes.
26 You're making an elderly individual for voting purpose
27 more onerous than it is under these other statutes, like
28 in our Penal Code where it says an individual -- elderly
29 person is 65 years old.
SEN. FRASER: I actually believe that the number probably could easily be higher, because --

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

SEN. FRASER: I'm sorry?

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

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

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

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

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

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

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

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

SEN. WEST: Let me --

SEN. FRASER: -- exception.

CHAIRMAN DUNCAN: Senator West --

SEN. WEST: Yes.

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

SEN. WEST: No objection.

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

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

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

Senator Zaffirini is recognized for an announcement.

(Announcement by Senator Zaffirini)

CHAIRMAN DUNCAN: Thank you, Senator.

The Chair recognizes Senator Seliger for a motion.

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

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

Chair hears none. It's so ordered.

(Recess: 10:43 a.m. to 12:38 p.m.)
CONSIDERATION OF SENATE BILL 14 1/25/2011

AFTERNOON SESSION

TUESDAY, JANUARY 25, 2011

(12:38 p.m.)

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

ROLL CALL

SECRETARY SPAW: Birdwell?
SEN. BIRDWELL: (Indicated presence)

SECRETARY SPAW: Carona?
SEN. CARONA: (Indicated presence)

SECRETARY SPAW: Davis?
SEN. DAVIS: (Indicated presence)

SECRETARY SPAW: Deuell?
SEN. DEUELL: (Indicated presence)

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

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

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

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

SECRETARY SPAW: Fraser?
SEN. FRASER: (Indicated presence)
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1  SECRETARY SPAW: Gallegos?
2  SEN. GALLEGOS: (Indicated presence)
3  SECRETARY SPAW: Harris?
4  SEN. HARRIS: (Indicated presence)
5  SECRETARY SPAW: Hegar?
6  SEN. HEGAR: (Indicated presence)
7  SECRETARY SPAW: Hinojosa?
8  SEN. HINOJOSA: (Indicated presence)
9  SECRETARY SPAW: Huffman?
10 SEN. HUFFMAN: (Indicated presence)
11 SECRETARY SPAW: Jackson?
12 SEN. JACKSON: (Indicated presence)
13 SECRETARY SPAW: Lucio?
14 SEN. LUCIO: (Indicated presence)
15 SECRETARY SPAW: Nelson?
16 SEN. NELSON: (Indicated presence)
17 SECRETARY SPAW: Nichols?
18 SEN. NICHOLS: (Indicated presence)
19 SECRETARY SPAW: Ogden?
20 SEN. OGDEN: (Indicated presence)
21 SECRETARY SPAW: Patrick?
22 SEN. PATRICK: (Indicated presence)
23 SECRETARY SPAW: Rodriguez?
24 SEN. RODRIGUEZ: (Indicated presence)
25 SECRETARY SPAW: Seliger?
CONSIDERATION OF SENATE BILL 14 1/25/2011

SEN. SELIGER: (Indicated presence)

SECRETARY SPAW: Shapiro?

SEN. SHAPIRO: (Indicated presence)

SECRETARY SPAW: Uresti?

SEN. URESTI: (Indicated presence)

SECRETARY SPAW: Van de Putte?

SEN. VAN de PUTTE: (Indicated presence)

SECRETARY SPAW: Watson?

SEN. WATSON: (Indicated presence)

SECRETARY SPAW: Wentworth?

SEN. WENTWORTH: (Indicated presence)

SECRETARY SPAW: West?

SEN. WEST: (Indicated presence)

SECRETARY SPAW: Whitmire?

SEN. WHITMIRE: (Indicated presence)

SECRETARY SPAW: Williams?

SEN. WILLIAMS: (Indicated presence)

SECRETARY SPAW: Zaffirini?

SEN. ZAFFIRINI: (Indicated presence)

SECRETARY SPAW: Lieutenant Governor Dewhurst?

PRESIDENT DEWHURST: (Indicated presence)

CHAIRMAN DUNCAN: Quorum is present.

(Pause)
QUESTIONS FROM THE SENATE FLOOR (CONTINUED)

CHAIRMAN DUNCAN: Senator Fraser, are you ready?

SEN. FRASER: I am ready.

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

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

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

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

SEN. WEST: Okay.

CHAIRMAN DUNCAN: -- if you forget.

SEN. WEST: All right. Thank you.

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

CHAIRMAN DUNCAN: The -- probably not because we have switched court reporter shifts and so --
SEN. WEST: I was just trying not to be redundant on it.

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

SEN. FRASER: You are being redundant.

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

(Laughter)

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

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

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

SEN. FRASER: And I very much appreciate...
how valuable our schoolteachers are to the state of Texas. Without a doubt, I'm very, very aware of that. And, again, the discussion we had prior to us breaking, we believe very, very strongly that there is sufficient funds in the Secretary of State's budget from HAVA funds that would -- that the letter says they have enough funds to cover this. They are going to request of the federal government. It is not unprecedented. They have allowed that to be used before, so we have every reason to believe it will be done. And so the discussion of whether that money would deprive some -- the rest of the budget is speculative us not knowing because we believe very strongly that -- that that money is going to be available.

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

If for some reason --

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

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

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

SEN. FRASER: For sure.

SEN. WEST: Okay.

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

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

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

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

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

SEN. WEST: Regard --

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

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

SEN. WEST: So the answer to my question
is, is that if there are no federal funds available, you
would support an amendment that basically says that we
should not use general revenue in order to fund this
bill?
SEN. FRASER: And my position is, is that you've taken both sides of that issue. You argued in favor of funds last time. You're -- now you're asking for amendment saying we're not going to use funds. If we don't use funds to educate voters, obviously that's a problem.

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

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

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

SEN. WEST: Okay. All right.

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

SEN. WEST: All right. Let me ask the question this way, then: Would you agree with me that
both the House and the Senate have introduced bills that put pressure on school districts to reduce their budgets that would impact the number of teachers that would be in classrooms?

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

And the answer is, I'm sorry, I don't -- I -- I'm not advised on that issue.

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

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

SEN. WEST: What decision would you make?

SEN. FRASER: I'm sorry?

SEN. WEST: What decision would you make?

SEN. FRASER: I made a decision to support you, as a member of finance, to keep you on the committee.

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

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

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

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

SEN. WEST: So that's your answer in terms of -- is that what you're telling the teachers, that you'd rather do that than -- to the extent it's there,
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you'd --

(Simultaneous speaking)

SEN. FRASER: Well, unfortunately, since I'm not a member of finance, I don't get to make a choice of what I would rather do. I'm laying -- bringing forward a bill today that would restore the confidence of the public in the election system and -- today, because I'm sponsoring that bill, that I'm going to ask that we -- you know, we restore that confidence.

SEN. WEST: So, I'm trying to -- so let me make certain I understand your answer to my question.

SEN. FRASER: I know you're trying to --

SEN. WEST: Let me -- let me -- hold up.

Now, I'm listening, because if you remember, both of us can't talk at the same time because the stenographer's taking it down, and I'm trying to make certain that I am reminded of that fact.

So your answer to that question is that you would prefer to fund the voter ID bill, if need be, with state funds than to put extra money -- take that $2 million, if we need to, and put it back in the budget for our school districts?

SEN. FRASER: You know, the -- you know, the important thing -- or the good thing with the Legislature is you don't get to make -- answer questions
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for me, and the -- I did not say that at all.

Today I'm laying -- bringing forward a
bill that would deter and detect fraud and restore the
public confidence in the election system.

SEN. WEST: How does your bill detect
fraud?

SEN. FRASER: Come back? I'm sorry. I
didn't hear you. What did you say?

SEN. WEST: How does your bill detect
fraud?

SEN. FRASER: The -- the bill is designed
to deter and detect fraud and restore --

SEN. WEST: No. I asked you: How does
your bill detect fraud?

SEN. FRASER: The -- I think the easy
answer to that would be, is that when you walk into
the -- into your election booth and you show your
driver's license, they know for sure that you're Royce
West and that if you're on the precinct list,
registered, you're entitled to vote.

SEN. WEST: And so that's -- that's the
fraud detection provision in it? And so you'd rather
fund --

SEN. FRASER: That's the way the bill
works.
SEN. WEST: Now, let me ask you this: If there's empirical evidence that -- in Texas, at least, because, you know, we are -- we are Texas. We are the Lone Star State. The rest of America can go this way, and we'll go that -- the other way. Right? Right.

Okay. You're good with that. Right?

SEN. FRASER: I'm sitting here listening.

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

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

You're --

SEN. WEST: We are Texans.

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

SEN. WEST: We're Texans.

SEN. FRASER: Keep going.

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

SEN. FRASER: The bill that I'm bringing forward today will clearly say that when you walk in the voting booth, you identify yourself as who you say you are, and the bill that we're bringing forward we believe will pass the Supreme Court of the United States and be
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SEN. WEST: I notice you keep on saying that in terms of you believe that the bill is going to pass muster at the Department of Justice and also the United -- the Supreme Court of the United States. Are you anticipating any -- let me -- let me ask this: If the Department of Justice decides not to preclear this legislation, are you anticipating any type of court challenge by the state of Texas?

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

(Pause)

SEN. FRASER: Are you there?

SEN. WEST: Yes.

SEN. FRASER: Would you say something?

SEN. WEST: Testing, testing, testing.

SEN. FRASER: Okay. I got you.

SEN. WEST: One, two, three.

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

SEN. WEST: You have consistently indicated that this particular bill will pass the Department of Justice and also the Supreme Court. I'm asking you: Do you anticipate that if the Department of Justice...
Justice decides not to preclear this particular legislation, any litigation concerning it?

SEN. FRASER: You're -- you're being subjective about me assuming what's going to happen. I believe the bill that we had -- that we're offering will be precleared.

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

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

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

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

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

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

SEN. FRASER: No, they are not.

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

SEN. FRASER: Come back again. I'm sorry. My sound went off.

SEN. WEST: Okay. In drafting your -- in drafting your bill, was there any research conducted on how burdens of -- burdens of photo identification requirements may fall disproportionately on racial minorities?

SEN. FRASER: Probably the best evidence that I could bring forward, that the latest poll that was conducted of Texans, including the people in your area. Of the -- there were 86 percent of the public
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1 that in favor of that. Of that, 82 percent were black,
2 83 percent were Hispanic.
3 So I would say the answer to your question
4 is: If you ask someone that is either African American
5 or Hispanic, do they believe that -- "Do you
6 favor/oppose requiring a valid photo ID before a person
7 is allowed to vote?" and you have 82 percent of the
8 public that says that --
9 SEN. WEST: Right.
10 SEN. FRASER: -- pretty -- pretty
11 straightforward.
12 SEN. WEST: You keep referring to that
13 poll. What poll is that, sir, and who was it conducted
14 by?
15 SEN. FRASER: It was conducted -- this is
16 one of many we had. I've got a whole series of polls.
17 This just happened to be the latest one that was
18 conducted January the 10th, 2011. This one was by the
19 Lighthouse Opinion Polling & Research, LLC.
20 SEN. WEST: Lighthouse Opinion.
21 SEN. FRASER: Lighthouse Opinion Polling,
22 LLC.
23 SEN. WEST: Okay. And --
24 SEN. FRASER: One that was --
25 (Simultaneous discussion)
SEN. WEST: Were you finished?

SEN. FRASER: Yeah.

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

SEN. FRASER: But what --

SEN. WEST: Let me -- let me finish. Let me finish, though. Hold on for a second.

I would agree with you that, but my question wasn't about their opinion. My question was: Have you conducted any research on how burdens of photo ID requirements may fall disproportionately on racial minorities?

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

So the answer to your question is, that I look at the data that has been collected from the states that have implemented, and they're coming forward. That
is the case. Plus the fact that if you ask African
Americans or Hispanics in Texas, it's a very
straightforward question. When you have 82 percent of
the public, the people that you represent, saying, you
know, "I think that's a good ideal," I'm having a lot of
trouble understanding how -- why you don't understand
that.

SEN. WEST: Okay. So the answer to my
question is, is that you did not conduct any type of
research on it other than looked at opinion polls and
referenced what went on in other states?

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

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

What research have you done --

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

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

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

SEN. WEST: Well, the --

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

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

SEN. FRASER: Good.

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

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

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

SEN. FRASER: Not advised.

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

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

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

SEN. FRASER: Georgia is a -- you know, they're -- they're a Section 5 voter rights state, but their makeup is not exactly like Texas.

SEN. WEST: That's the point. That's what I'm asking you. You said you weren't advised, so I was just trying to point to you some set of facts that all of us commonly know that we get from the Department of Census, U.S. Department of Census. And if they give different demographic information for the states, then that would probably be controlling, and you would agree that that's the best evidence that we have of what the population is in those various states. That's all I'm asking. Now, let me ask this.

SEN. FRASER: But you're trying to answer my question, and I did not say that.
SEN. WEST: No, I'm not. But are the forms of identification listed in your bill the least restrictive options in order to achieve the goal of avoiding what you call voter identification fraud?

SEN. FRASER: Okay. You're going to have to ask that again.

SEN. WEST: Are the forms of identification that you've listed in the bill the least restrictive options in order to achieve the goal of avoiding what you have said is voter identification fraud?

SEN. FRASER: And I think what you're asking, which is going to be the easiest to use? And the -- the data, if you look back at 2006, the number of people that have registered to vote, about -- I think the number now is 91 percent actually use their driver's license when they registered to vote. So the assumption is at least 91 percent of the people that voted -- or that registered since 2006 had a driver's license. So I'd say that's the -- if it's the -- the easiest thing, I'd say a driver's license.

SEN. WEST: So this -- the list of identifications that you use as the -- is the least restrictive options that you could come up with?

SEN. FRASER: Well, I don't -- I'm not
sure. Your verbiage you're using, I don't know that that's the intent.

SEN. WEST: Well --

SEN. FRASER: I'm saying that the thing that the -- the type of identification that is most readily available appears to be a driver's license. It -- we think, that is.

SEN. WEST: Okay. Now, since there are studies that show that African Americans and Hispanics are more affected by poverty and --

SEN. FRASER: Ask him, then. We're trying to figure out if this is a filibuster.

SEN. WEST: Is it a what?

SEN. FRASER: A filibuster?

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

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

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

SEN. FRASER: No, no, I'm saying --
SEN. WEST: You've been referring to the Secretary of State.

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

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

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

SEN. FRASER: I'm not advised.

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

Do you agree that African Americans and Hispanics are disproportionately affected by poverty in the state of Texas?
SEN. FRASER: Not advised.

SEN. WEST: Okay. Do you --

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

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

SEN. FRASER: Minister and --

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

SEN. FRASER: Yes, he did.

SEN. WEST: Did a little singing and stuff like that?

SEN. FRASER: Yes.

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

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

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

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

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

SEN. WEST: Okay. Comparatively speaking.

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

SEN. WEST: Are they in poverty or what?
I mean, you know what poverty is.

SEN. FRASER: Well, Senator, if --

SEN. WEST: Oh.

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

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

Do you know whether or not the elimination
of the government documents that have hereto before been
utilized by voters for identification purposes at the
SEN. FRASER: Issued before?

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

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

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

SEN. WEST: Okay. So you don't -- and that's your response to my question?

SEN. FRASER: My response is, is that I think the people of the state of Texas, which makes up -- I think it was 83 percent of -- of African Americans and 85 percent of Hispanics, said that they're in favor of it. I'm sorry. It's 82 percent Hispanic -- I'm sorry -- Hispanic, 80 -- 83 percent Hispanic, the African American, which is -- it's listed as a black vote, is 82 percent say they are in favor of asking for a photo ID.

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

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

SEN. FRASER: Yes.

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

SEN. FRASER: Thank you, Senator.

CHAIRMAN DUNCAN: Chair recognizes Senator Lucio for questions.

SEN. LUCIO: Thank you, Mr. Chairman.

Senator Fraser, under this legislation, there are no exceptions at all if you do not have a driver's license -- and correct me if I'm wrong -- military ID, citizenship certificates, or passports. Now, not even Senate IDs are appropriate for the purposes of voting. That means the state employee working in the building wishing to cast a ballot during early voting at the Sam Houston Building couldn't use a combination of their voter registration card and their Senate ID. Further, this bill's requirements for identification are stronger than what's used for new employees in obtaining driver's license, the way we understand it.
Now, I know many people don't think it's all that difficult to get a driver's license and that everyone has one, but that's just not the case. Eleven percent of Americans surveyed by the Brennan Center for Justice do not have government-issued photo ID. Forty percent of those without voter ID are disproportionately the -- the elderly, the -- the students, women, people with disabilities, low-income people, and people of color.

According to disability advocates, nearly 10 percent of the 40 million Americans with disabilities do not have any state-issued photo ID. So I do not see how this legislation is going to ensure that they are not kept from exercising their right to vote. Again, it's a right. It's not a privilege. Plus, according to that same survey, one of every five senior women does not have a license.

What troubles me even more about the legislation is that it could mean, for so many, under this legislation, election workers will be responsible for determining identity; and that has never been part of their job as election clerks.

Now, I got a question.

SEN. FRASER: Is there a question coming?

I'm looking for the question.
SEN. LUCIO: Yeah, it's coming up. I had to --

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

(Simultaneous speaking)

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

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

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

(Simultaneous speaking)

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

SEN. LUCIO: Go ahead and address --

SEN. FRASER: -- so far.

SEN. LUCIO: Go ahead and address that one.

SEN. FRASER: Huh?
SEN. LUCIO: Okay. Well --

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

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

SEN. LUCIO: Okay.

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

SEN. LUCIO: Okay.

SEN. FRASER: -- the first one.

CHAIRMAN DUNCAN: All right.

SEN. FRASER: But --

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

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

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

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

SEN. FRASER: Okay. I'm going to start

even further back than that.

I -- the -- the first observation you made

is that we're making it harder than getting a driver's

license. That is totally incorrect. Driver's license

is one of the things we're offering, so whatever
difficulty it is to get a driver's license, once they

get it, that is their identification. So this is not in

any way harder than getting a driver's license.

No. 2, you made an observation about the

elderly. We have two different observations that --

that come into play here. First one is that at -- if

they're 70 years old on January 1st, 2012, they are not

subject to this bill, so they are -- they are operating

under current law. And then, also, we are not in any

way impacting the mail-in ballot system that is in place
today. Any elderly person that wants to vote by mail

would -- would have the ability to do it.

So, you know, those things, I think,

are -- the question you're asking, the third question,

about if the name does not match on the -- the ballot,

that's the same question that's been asked probably five
times already today. My answer continues to be the

same, as I've told everyone. We have the Secretary of
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1 State coming. I don't -- I don't know the -- the exact
2 ruling of what they -- the Secretary of State, slash,
3 the election administrator is how they determine that;
4 and I would like that question to be asked to the
5 Secretary of State, if possible.
6
7 SEN. LUCIO: Okay. That's fine, Senator.
8
9 To obtain a driver's license, you could
10 use nonphoto options. Correct?
11
12 SEN. FRASER: Senator, you can ask that of
13 the DPS.
14
15 SEN. LUCIO: I'm sorry?
16
17 SEN. FRASER: If you would -- DPS is going
18 to be here. I would ask you that you could ask the DPS
19 their procedures for -- for getting...
20
21 SEN. LUCIO: Okay. Well, I have
22 information to that effect, but it's all right. I'll
23 wait for DPS.
24
25 Let me ask a question on -- on where we
26 have been in this country and this state, and we don't
27 want to go.
28
29 But do you know what the 24th Amendment
30 did?
31
32 SEN. FRASER: I'm sorry. I do not.
33
34 SEN. LUCIO: It ended -- it amended the
35 constitution to allow -- outlaw poll taxes; and it did
so, and it ended in 1964. I was a freshman in college at the time, and you must have been junior high.

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

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

    SEN. FRASER: 15 years old.

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

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

    Now, 40 bucks is a symbolic figure. A
driver's license or ID today costs $25, even for a renewal. And going to the DMV, which is Department of Motor Vehicles, can take time. You're going to get there, wait in line, return home, take off from work, pay for the gas. Now, let's say it takes two hours. Minimum wage in Texas is 7.25 an hour. So if you took off two hours and paid for gas, you're looking at $40, the same amount of the old poll tax would cost today. Don't -- don't you find that kind of ironic? I do.

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

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

(Simultaneous speaking)

SEN. LUCIO: -- disenfranchise minorities and the vulnerable.

I'm leading to another question, if I may.
Texas has a history, unfortunately, in my opinion of voter suppression. Texas used the poll tax to suppress voters. In fact, Texas only ratified the 24th Amendment in 2009.

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

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

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

You think that we could work to that end?

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

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

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

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

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

SEN. FRASER: When does it expire?

SEN. LUCIO: Yes, sir.

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

SEN. LUCIO: Well, we talked about senior
citizens. There are senior citizens, 60, 70 years old,
who used an expired driver's license as a form of ID.
That's where I'm going with my questions and my remarks.
Are they no longer -- they no longer drive, but they
still vote.

Now, under this bill, they will have to
renew their license in order to vote. Is that correct?

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

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

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

SEN. LUCIO: Well, the ID. They use this ID for passports.

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

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

SEN. FRASER: Senator, these --

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

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

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

CHAIRMAN DUNCAN: Senator Van de Putte?

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

Would author of the bill yield for some clarification?

SEN. FRASER: I would yield.

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

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

SEN. FRASER: Senator --

SEN. VAN de PUTTE: And I --

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

SEN. VAN de PUTTE: No.

SEN. FRASER: I'm -- the -- the bill that
we modeled last year was a Texas model that we were
moving forward, and whenever earlier you were addressing
the Georgia bill -- you're a past president of NCSL, and
I have the NCSL analysis here. And that's the reason I
was confused because you were referencing Georgia, and
I've got --

SEN. VAN de PUTTE: That's correct.

SEN. FRASER: The document that came from
the organization that you chaired and that was the
reason I was confused about what you were representing.

SEN. VAN de PUTTE: Well, Senator, you
were confused, and I was confused. However, both -- I
think we can both agree that your bill, Senate Bill 14,
is more restrictive than current Georgia and Arizona
law; that this is based after an Indiana model, but it
is even more restrictive. I mean, you have a pretty
tight vote --

SEN. FRASER: I -- I --

SEN. VAN de PUTTE: -- of the bill.

SEN. FRASER: I disagree with you on that,
that there are -- are small things that we're different
on, which basically is the number of things that you can
use for identification. But there are a list. I think
they have six in Indiana. We have four in Texas. We're
under discussion about that four, should it be expanded.
So saying that they're very different is not a correct observation. There is very small differences between the -- the Indiana, Georgia, or Texas. They're actually very, very much alike, and that also gives us the reason we believe it will be approved by the Supreme Court and DOJ.

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

So I stand corrected. You are correct in that for a provisional ballot, they do not allow two. The only time they do -- and I'm looking at their Senate -- their -- their bill -- is on a -- and I stand corrected. So I wanted to let you know that I misspoke. That is not correct. It's only the two alternate forms
when they're doing for first-time registrants.

SEN. FRASER: Thank you for that correction, and that -- that is -- the documentation I show does show that they require a photo ID.

SEN. VAN de PUTTE: And so I just want to thank you for the ability to clarify this and know that this is your -- this is a Texas bill, and it'll probably be known as the Texas bill. And -- and -- and to your credit, for every -- all the work that you've done, I believe it is very stringent in small ways in the wording. But for the groups of people that I think will have a burden, they -- they have no alternate means.

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

CHAIRMAN DUNCAN: Senator Ellis?

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

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

SEN. FRASER: The integrity --

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

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

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

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

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

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

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

SEN. ELLIS: Do you care?

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

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

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

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

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

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

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

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

Why would you say a new photo ID? Why
wouldn't you just make a -- have a bill that has a
requirement that we put a photo on the voter
registration card? I mean, wouldn't you agree?

Probably more people have a voter registration card in
Texas than have a driver's license.

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

SEN. ELLIS: Okay. All right.

SEN. FRASER: I don't --

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

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

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

SEN. FRASER: I don't -- I'm having the
chairman of the committee that is over it --
interestingly, I want you to think about what you just
suggested, is that driver's license is going to be the
easy form of identification. We -- we know that 90-plus
percent of the people -- and I think the number is probably higher than that -- have a driver's license in Texas.

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

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

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

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

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

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

CHAIRMAN DUNCAN: Yeah -- no. No. Just --

SEN. ELLIS: I'll talk slower.

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

SEN. ELLIS: Okay.

CHAIRMAN DUNCAN: Thank you.

SEN. ELLIS: Are you through?

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

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

SEN. FRASER: Can I answer your question?

SEN. ELLIS: Yeah.

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

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

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

SEN. ELLIS: I have both.
SEN. FRASER: Okay.

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

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

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

SEN. ELLIS: I don't think --

SEN. FRASER: But the easy answer to your question is, we're going to give them an ID free. So if they've lost their driver's license, all they got to do is go back down and get a free ID. We'll hand them a new one.

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

SEN. FRASER: I'm not advised.

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

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

SEN. FRASER: Yes.

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

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

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

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

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

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

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

SEN. FRASER: Yes.

SEN. ELLIS: Okay.

SEN. FRASER: Yes.

SEN. ELLIS: So it's not for all people over 70. Just those who will hit 70 by January of 2012.

SEN. FRASER: If you're 70 on January 1, 2012, you will be subject to the -- the -- not be subject to these provisions. You basically will be operating under current law for the rest of your life.

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

SEN. FRASER: I am --

SEN. ELLIS: Are you confident?

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

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

SEN. FRASER: Yes.

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

SEN. FRASER: I'm very confident.

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

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

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

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

And, Senator, I might add, we're in a state -- well, you know the history. I mean, initially, you had to be a property owner to vote or you had to be a male to vote, had to be a certain color to vote. Now,
over time, that has gotten better; but in our southern
states, in particular, it has not been an easy journey
to get to where we are. So what -- what would be wrong
with just simply coming up with some simple methodology
and let the Secretary of State do that?

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

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

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

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

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

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

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

SEN. FRASER: No.

SEN. ELLIS: So could you go in and register on that day because some people are just maybe confused about this new requirement we're putting in place?

SEN. FRASER: We're going to spend a lot of time and hopefully dollars educating both the public and the -- the workers, and I think the system will work very well like it is.

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

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

SEN. ELLIS: They take student --

SEN. FRASER: Huh?

SEN. ELLIS: They take student IDs --

SEN. FRASER: Well, I --

SEN. ELLIS: -- in Indiana?

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

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

SEN. FRASER: Not advised.

SEN. ELLIS: Okay. Do you know how many
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1 Americans have a passport?
2
3 SEN. FRASER: Not advised.
4
5 SEN. ELLIS: Well, I know from the press
6 counts, you and I have one. But -- but I'll just tell
7 you --
8
9 SEN. FRASER: We don't -- we don't talk
10 about that.
11
12 (Laughter)
13
14 SEN. ELLIS: We've gone to a few places
15 together.
16
17 Six percent of the people, I think, in
18 America have passports. I think about the lowest
19 percentage for most nations in the top 20, 6 percent of
20 the people in America have passports. So I guess I'm
21 saying, why would you choose that as one of your forms
22 of ID as opposed to a student ID when you know we have
23 problems getting young people sometimes to focus for
24 more than a week? But folks who have a passport, you've
25 got to be fairly worldly, shall we say, to go get a
26 passport. And if the number is 6 percent in America,
27 I'm just guessing less than 6 percent of the people in
28 Texas have a passport.
29
30 SEN. FRASER: We know the people that are
31 issuing the passports. We don't know where all the
32 student IDs are coming from because not all student IDs
are issued with, you know, our -- our input. So the
easy answer to that is that we want to make sure that we
have something that is easily recognizable to the poll
worker, and we can verify that it is -- it is valid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Doesn't fit on this bill.

SEN. ELLIS: Thank you.

CHAIRMAN DUNCAN: Chair recognizes Senator Zaffirini.
SEN. ZAFFIRINI: Thank you, Senator Fraser, my first questions will focus on the criminal justice impact, if you have a copy of that.

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

SEN. ZAFFIRINI: Yes. I was --

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

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

SEN. FRASER: I do have it.

SEN. ZAFFIRINI: Good.

SEN. FRASER: Right here.

SEN. ZAFFIRINI: Good.

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

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

SEN. FRASER: I do now.

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

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

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

The impact of the cost to the budget, I'm sorry, I'm not advised. My job is to make sure the public is well served, and if someone commits fraud by -- by voter impersonation, that the penalties are
SEN. ZAFFIRINI: But I am concerned about this, Senator, and I don't know what Democrat or what Republican asked you to make those changes. I was not privy to that conversation.

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

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

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

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

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

SEN. ZAFFIRINI: Well, actually, Senator, that is why some of us are opposed to this bill because we don't understand the problem that has been defined.
For example, in that same paragraph, it says: In fiscal year 2010, less than five people were under parole or supervision for illegal voting. In fiscal year 2010, five offenders were placed on community supervision, and less than five offenders were released from community supervision for illegal voting or attempting to vote illegally; and then more important, in fiscal year 2010, less than five people were arrested for illegal voting or attempting to vote illegally.

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

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

SEN. ZAFFIRINI: Well, okay, Senator.
Thank you.

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

SEN. FRASER: I do. Somewhere.

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

SEN. FRASER: Yes.

SEN. ZAFFIRINI: You have it?

SEN. FRASER: I have.

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

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

SEN. ZAFFIRINI: Okay.

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

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

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

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

SEN. FRASER: And -- and the difference
between this year and two years ago, I think the assumption last year -- two years ago is that they would just be able to use the HAVA funds. And, again, I think you probably should ask the Secretary of State.

I believe since then, they have made a request of HAVA requesting that, and HAVA's response, I believe, is that they will wait until the bill is passed. And when the bill is passed, then they will make a determination on whether you could use the -- the money. But we're also looking at history of other states. They have been allowed to use HAVA money.

But, again, I think I'd ask the Secretary of State that question.

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

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

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

SEN. FRASER: For educating -- it's the -- help America vote. It's to encourage voting.
SEN. ZAFFIRINI: So basically, if we use the HAVA funds for this purpose, we are repurposing the HAVA funds that are already there and intended for things like new equipment and ongoing training programs?

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

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

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

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

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

SEN. ZAFFIRINI: And you have no

information, then, about any recurring costs that we

should worry about?

SEN. FRASER: I have none.

SEN. ZAFFIRINI: And to whom would you

refer us on that issue?

SEN. FRASER: On recurring costs?

SEN. ZAFFIRINI: Uh-huh.

SEN. FRASER: Could you give me an

example? I don't -- I don't think I --

SEN. ZAFFIRINI: Well, the fiscal note

shows all the expense in fiscal year 2012, and then it

doesn't show any other expenses --

SEN. FRASER: I --

SEN. ZAFFIRINI: -- beyond that.

SEN. FRASER: I would ask the Secretary of

State or DPS.

SEN. ZAFFIRINI: It just seems to me,

Senator, that there will be recurring costs because one

example would be the State's responsibility to provide

free photo ID cards on a recurring basis to the

significant portion of our population that moves

regularly. They move from one part of the state to

another, and they might need a different card in that
SEN. FRASER: Senator, since 2006, there have only been 37,000 people that registered to vote that did not have a current driver's license. That's in the last five years. So the assumption is, the number that is coming into the system that would not have a card, the number is very low. The cost of that card is not a huge number. So actually, the amount that it would cost to take care of them is a -- not a large number.

SEN. ZAFFIRINI: What I'm worried about, Senator, as a member of the Finance Committee, is unintended consequences and unexpected costs. Not unexpected because we don't foresee them and can't identify them, but because of the criminal justice impact statement and because of the fiscal note that we have that simply don't address these issues.

For example, Line 12, Page 12 of the bill, you refer to the cost of the get-out-the-vote efforts; and basically, the fiscal note states: The analysis is incomplete because, quote, it is not known how many voter registration drives or other activities designed to expand voter registration would occur. So we don't even have an estimated cost of one voter registration drive. And if it is our intent to ensure that we have...
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more, we're not considering the cost, it seems to me that we are being irresponsible in terms of identifying the exact cost or the best estimated cost of this bill.

SEN. FRASER: And we are -- have the benefit of not being the first one to implement this. We don't have to reinvent the wheel. We can look at the history of states that have implemented, like Indiana, Georgia, and others, look at common things that have happened there. We're going to have a person from Indiana here. I think it -- that would probably be a question you might ask, is the reoccurring cost, because they've had this in effect. I believe they passed it in 2006.

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

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

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

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

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

SEN. FRASER: Was that a question?

SEN. ZAFFIRINI: Yes. Is it?

SEN. FRASER: Is what? Should --

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

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

SEN. ZAFFIRINI: Okay.

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

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

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

SEN. FRASER: I have not.

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

CHAIRMAN DUNCAN: Senator Zaffirini?

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

CHAIRMAN DUNCAN: Pardon?

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

CHAIRMAN DUNCAN: Senator Van de Putte doesn't have the floor.
SEN. ZAFFIRINI: That's why I'm asking.
SEN. FRASER: And -- and I won't yield.
SEN. ZAFFIRINI: You won't yield?
SEN. FRASER: No, I will not yield.
SEN. ZAFFIRINI: All right.
SEN. FRASER: You -- I'll be glad to answer the question.
SEN. ZAFFIRINI: All right. I simply wanted to ask if she planned to distribute this, and if so, I wasn't going to address it.

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

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

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

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

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

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

4 My question, Senator Fraser, would focus
5 on my district. For example, in my district, which
6 comprises 16 counties and part of Bexar, Northeast
7 Bexar, there is one county that has wheelchair
8 accessibility barriers; there are two counties that have
9 absolutely no driver's license offices; there are four
10 that have offices that are temporarily closed; and there
11 is one that has an office that is open three days or
12 fewer each week. And so you can see the accessibility
13 issues that we're dealing with, and you can -- when you
14 get the map -- oh, you do have a copy of the map. You
15 can see the difference throughout the state. There are
16 some states that you can see have a lot of pink, a lot
17 of blue, a lot of green, and then -- counties, rather --
18 and there are others that are just white, that have
19 absolutely no barriers.

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

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

SEN. ZAFFIRINI: All right.

CHAIRMAN DUNCAN: It's Exhibit --

SEN. ZAFFIRINI: Mr. Chairman?

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

SEN. ZAFFIRINI: No.

CHAIRMAN DUNCAN: Is that correct?

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

CHAIRMAN DUNCAN: Okay.

SEN. NELSON: Mr. Chairman?

CHAIRMAN DUNCAN: And for what purpose?

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

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

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

CHAIRMAN DUNCAN: That's what I'm trying to clear up, is I'm trying to get the exhibit in so that we can distribute it so that everyone can understand...
what the questions are.
Would you identify it, please? What's the title of it?
SEN. ZAFFIRINI: Yes. It is titled, "Counties with Department of Public Safety Driver's License Office Closures." It is a map of Texas showing this -- these issues, and it was developed by Senator Van de Putte. I had assumed that she had introduced it into the record or had planned to, but I'm happy to do it.

CHAIRMAN DUNCAN: Okay. Do we have copies?
SEN. NELSON: We don't. Only the Democrats do.
CHAIRMAN DUNCAN: Okay. Well, here's what I would suggest so that other members have an opportunity to follow your questions and the answers, that we at least get copies of that exhibit and distribute it, if we could do that. And then, so if we could defer on that until we get that done, Senator --
SEN. ZAFFIRINI: Certainly.
CHAIRMAN DUNCAN: -- that would be helpful.
SEN. ZAFFIRINI: Absolutely. No problem, Mr. Chairman.
Moving right along. I do have exhibit --
I guess it's 4 --

CHAIRMAN DUNCAN: We do have --

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

CHAIRMAN DUNCAN: Okay.

SEN. ZAFFIRINI: -- at this time. And

I'll wait until they're distributed, if you -- if I may
be permitted.

CHAIRMAN DUNCAN: Would you identify

Exhibit 4, please?

SEN. ZAFFIRINI: Certainly. Exhibit 4 is

a copy of a driver's license with personal information
obliterated.

CHAIRMAN DUNCAN: Thank you. And

Exhibit 5?

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

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

(Exhibit Nos. 4 and 5 marked and admitted)
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CHAIRMAN DUNCAN: Senator, you're -- you can --

SEN. ZAFFIRINI: Thank you.

CHAIRMAN DUNCAN: -- continue on those exhibits.

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

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

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

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

SEN. ZAFFIRINI: Line 8 of the bill.

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

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

SEN. ZAFFIRINI: To the Secretary of State.

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

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

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

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

SEN. FRASER: Yes.

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

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

UNIDENTIFIED SPEAKER: (Mic off)

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

(Laughter)

SEN. ZAFFIRINI: Senator Fraser, do you understand why we worry?

(Senator Shapiro speaking without mic)

SEN. ZAFFIRINI: Well, it's a very good point to make, Senator Shapiro, that we should look at our composite photos; and most of us don't look like them, and yet they have the dates like 2008.

SEN. WEST: We keep using those pictures.

SEN. ZAFFIRINI: 2009. We sure keep using

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those pictures, so what would happen?

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

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

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

Specifically, the letter states that
Professor Overton wrote this letter to, quote, Refute
claims that Senate Bill 14 is consistent with the
recommendations of the Carter-Baker Commission. And
according to Professor Overton, quote, The Commissioners
recommended requiring photo ID of voters only if state's
assumed the responsibility to seek out citizens and
provide them with an ID free of charge, if states assume
the responsibility to seek out unregistered citizens and
register them and automatically update the registration
of citizens when they move, and if states allow citizens
without a photo ID to vote by signing an affidavit under
penalty of perjury for the first two federal elections
following adoption of the photo ID.
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Now, Senator Fraser, this bill does not meet any of these criteria. Is that correct? Under your bill, the state would not assume any of these responsibilities?

SEN. FRASER: Not advised.

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

SEN. FRASER: I disagree.

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

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

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

SEN. FRASER: I would think it would be your responsibility to show in the bill, you know, your -- the bill speaks for itself.
SEN. ZAFFIRINI: So you can't tell me if your bill does that?

SEN. FRASER: The bill speaks for itself. The language of the bill is very clear as to what the -- the issues we're addressing.

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

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

SEN. ZAFFIRINI: It is not.

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

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

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

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

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

SEN. ZAFFIRINI: Well --

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

SEN. ZAFFIRINI: But it still required --

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

SEN. ZAFFIRINI: -- photo ID.
SEN. FRASER: -- addressing is not law -- current law in Georgia.

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

SEN. FRASER: Yes, it does.

SEN. ZAFFIRINI: It does.

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

SEN. FRASER: I disagree with that.

SEN. ZAFFIRINI: Why, Senator?

SEN. FRASER: I just disagree with that.

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

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

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

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

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

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

SEN. ZAFFIRINI: Yes, would you?

SEN. FRASER: I read two --

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

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

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

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

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

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

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

SEN. FRASER: Before I made the statement?

SEN. ZAFFIRINI: It should be January 25th.
SEN. FRASER: But you -- you said that you responded -- that you requested it after I made the statement in my --

SEN. ZAFFIRINI: I requested --

SEN. FRASER: -- opening comments.

SEN. ZAFFIRINI: I requested this information based on your opening statement, and I received this letter today. That's correct. Okay?

Thank you very much, Senator. I appreciate, as I said, your courtesy and your patience.

SEN. FRASER: Thank you.

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

(Recess: 2:21 p.m. to 2:34 p.m.)

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

SEN. HINOJOSA: Thank you, Mr. Chairman.

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

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

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

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

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

SEN. HINOJOSA: Approximately, 13 million.

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

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

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

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

SEN. FRASER: I'm sorry, not -- no, I do not have that number.

SEN. HINOJOSA: None?

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

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

SEN. FRASER: I'm sorry?

SEN. HINOJOSA: Do you have any evidence?

SEN. FRASER: Evidence?

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

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

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

SEN. FRASER: Well, that's interesting. Back home, in the area you're from, most of the -- or a lot of the stories that I've seen reported to the media -- and actually, you've got two voter registrars
through your area that have endorsed this concept
because they are -- they are having a problem with voter
fraud, and I -- that actually -- I'm -- I'm responding
to things I've read they've said in the media. But I
believe there are numerous registrars that believe this
is a -- a large problem.

SEN. HINOJOSA: Well, I hear what you're
saying, but I don't see any evidence. There's a lot of
anecdote, a lot of rumors and guessing and speculation,
which I don't think it's a way to make good public
policy.

Are you familiar with the Carter-Baker
Commission on federal election reform?

SEN. FRASER: Senator, what are you -- I'm
sorry. What --

SEN. HINOJOSA: Are you familiar with the
Carter-Baker Commission on federal election reform?

SEN. FRASER: Yes, I am.

SEN. HINOJOSA: Okay. Are you aware that
by putting a requirement of having a photo ID to be able
to vote, that there are approximately 3 million
registered voters in the state of Texas that do not have
voter ID?

SEN. FRASER: I don't know where you get
that number.
SEN. HINOJOSA: Well, if you look at 3 million people who are going -- who will be kept from voting as compared to you cannot show anybody getting prosecuted -- getting prosecuted and convicted voter fraud, that's one big difference, one big price to pay for a bill that you don't have any evidence to support there's voter fraud.

SEN. FRASER: One second, Senator. My -- my iPhone is interfering with my microphone.

The 3 million number, where do you get that?

SEN. HINOJOSA: That's the estimate by the Carter-Baker Commission on federal election reform that here in Texas --

SEN. FRASER: Can you -- can you show me where it says in that Commission report? I don't remember.

SEN. HINOJOSA: Yes, sir, it's a letter dated January 24th, 2011, from Professor Spencer Overton addressed to Senator Judy Zaffirini where he states that approximately 3 million Texas voters do not have photo ID.

SEN. FRASER: Senator, that is --

(Simultaneous speaking)

SEN. FRASER: -- pure speculation by that
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1 gentleman. He has nothing to base that on, and that is
2 not in reference to the Carter-Baker report. That is a
3 estimation by some, you know, political hack that --
4 that y'all have asked to write a letter.

SEN. HINOJOSA: Well, actually, I thought
5 it was the opposite. I thought your side was pure
6 speculation. Thank you.

CHAIRMAN DUNCAN: The chair recognizes
7 Senator Williams.

SEN. WILLIAMS: Thank you, Mr. Chairman.
8 Would Senator Fraser yield for some
9 questions?

SEN. FRASER: I will yield.

SEN. WILLIAMS: Senator Fraser, there's
10 several things that I wanted to clear up for the record.

The first, I'd like to make a reference
11 back to the Secretary of State has recently sent this
12 letter -- she sent it over today -- that indicated that
13 there would be probably $2 million of the HAVA funds
14 that would be available for voter education, to help
15 fund the voter education efforts that we would have in
16 connection with this bill. And it would be -- normally,
17 it would be the Secretary of State's office who would
18 develop what those problem programs are with taking into
19 account our legislative intent about what we're trying
to accomplish. Is that right?

SEN. FRASER: Yes.

SEN. WILLIAMS: The other thing that I wanted to correct, for the record, Senator Watson opined earlier that a lot of this funding for these items had been struck in the budget, and actually, I went back and pulled a copy of the budget. I had not looked at this part, and so there were some budget riders that had expired and that were no longer relevant in the current budget. Those were struck. And under Strategy B.1.4, under elections improvement, administer Federal Help America Vote Act, we actually have, it looks like, a total of about $43 million over the next biennium that's been appropriated in the budget that Senator Ogden laid out for us earlier. So I just wanted to clear that up for the record because that's kind of been a moving target.

Another question that I had for you was the -- I wanted to go back, if I could, and -- and just touch on what my understanding after hearing all this questioning that's gone on, what your -- the purpose of your bill is -- really is to deter and detect fraud in-person voter fraud at the polls. Is that correct?

SEN. FRASER: That is correct.

SEN. WILLIAMS: Okay. And has the United
States Supreme Court -- I believe they've stated that it's been documented throughout our nation's history by respected historians and journalists, and they demonstrate not only that the risk of voter fraud is very real, but they could affect the outcome in a close election. Does Senate Bill 14 provide the kind of safeguard against that fraud that might be crucial in an election?

SEN. FRASER: Yes, it does, Senator.

SEN. WILLIAMS: Now, we've had some close elections, even in the Texas Legislature. I know over in the House right now, there is an election contest that's been -- for Senate, State House District 48. It's being contested. The last numbers that I saw from the Secretary of State showed that Donna Howard had won her seat by 12 votes, which amounts to .02 percent of all the votes cast in that race. And, of course, back in 2008, Linda Harper Brown up in Dallas County defeated her opponent by 19 votes, or .05 percent of the total votes cast in that race.

Are those the kind of close elections you think that the Supreme Court might have been referencing when they said in Crawford 533 U.S. at 11-12 that it's -- the threat's not only real, but it's actually -- you know, it demonstrates it's not real, but it could...
affect the outcome of a close election?

SEN. FRASER: The answer is absolutely, yes, and it actually the -- it's even closer to home. Senator Jackson, when he was elected to the Texas House, ended up winning by seven votes.

SEN. WILLIAMS: Landslide Jackson --

SEN. FRASER: Landslide Jackson.

SEN. WILLIAMS: -- I think they called him.

SEN. FRASER: So if -- fraud, in an election like that, could have changed history.

SEN. WILLIAMS: Senator Fraser, Senate Bill 14 provides safeguards to protect the reliability and integrity of our voting system, especially those in close elections like we've just talked about?

SEN. FRASER: Yes.

SEN. WILLIAMS: Okay. I believe in this Crawford v. Marion, on Page 10, the Supreme Court brief, they quoted -- the United States Supreme Court quoted the Carter-Baker report that has been referenced here. And in that report, their quote was, "There's no evidence of extensive fraud in the U.S. elections or of multiple voting, but both occur, and it could affect the outcome of a close election. The electoral system cannot inspire public confidence if no safeguards exist
to deter or detect fraud or to confirm the identity of voters. Photo identification cards currently are needed
to board a plane, enter federal buildings, and cash a check. Voting is equally important."

Is that your understanding? Is Senate Bill 14 designed to inspire that public confidence in
close elections like --

SEN. FRASER: Yes, it is.

SEN. WILLIAMS: -- we talked about?

Senator Fraser, do you recall the
testimony and exhibits that we provided in 2009 -- now
it's been admitted earlier today as Exhibit 1 -- that
detail the extensive voter fraud in Harris County and
other areas of the state?

SEN. FRASER: Yes, I'm very familiar with it.

SEN. WILLIAMS: Okay. Senator, having
listened to what I heard and just read a minute ago from
the Carter-Baker Commission and the language that was
adopted from them in the Supreme Court brief, are you
aware of how difficult it is to not only to discover but
to prosecute voter fraud?

SEN. FRASER: Yes, it is very difficult.

SEN. WILLIAMS: And having said that,
don't see many of these cases that are prosecuted because if someone is voting deceptively as someone else, it's going to be very difficult to discover that if they're successful?

SEN. FRASER: And that was recognized by the U.S. Supreme Court in their decision.

SEN. WILLIAMS: So are you offering Senate Bill 14 as a tool for the state of Texas to detect and deter this type of voter fraud and further inspire confidence in our voters and the voting system, to make sure that all Texans and all of our elections are conducted with the upmost integrity and equity to all Texans?

SEN. FRASER: Absolutely. That would be my reasoning.

SEN. WILLIAMS: Okay. Couple of things that I just think that it was important to get back into the record again about what the Supreme Court actually said in Crawford v. Marion; and all of this, of course, was included in the record last time. I thought it was interesting that Justice Stevens comments about this. He said first, the state has an interest in deterring and detecting voter fraud. They have a valid interest in participating in a nationwide effort to improve and modernize the election
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procedures that have been criticized as antiquated and inefficient, and the state, in that case, also argues that it has a particular interest in preventing voter fraud in response to a problem that is, in part, the product of its own maladministration; namely, that in the case -- in this case, Indiana's voter registration roles included a large number of people who were either deceased or no longer live in Indiana.

Now, Senator Fraser, when I look back at the record that we had introduced as Exhibit 1 today, didn't that record include many, many instances where we had people who were registered at fictitious addresses who had been voting or people who were deceased? I think my own brother came and testified that our grandfather had voted for 62 years after his death, and my grandmother had a very difficult time trying to get him taken off the voter roles and, in fact, had not been able to do so.

SEN. FRASER: Yes, I'm -- I'm -- remember that very well.

SEN. WILLIAMS: Okay. And so, you know, there's been a lot of talk about the burden on people, and Senator Davis made some very compelling and interesting remarks in her comments. But I would say that, you know, wouldn't you think that especially for
the elderly, which we've had a big focus on here today, of the inconvenience on elderly voters, people who are age 65, don't they have an opportunity to use a mail-in ballot and they completely bypass any restrictions that your bill or inconveniences that it might cause them?

SEN. FRASER: I'm actually surprised at the percentage now of people that do mail in ballots. That percentage continues to increase, and so someone that did have a problem getting to the polls -- and, you know, I gave the example last year of my -- my mother in the retirement center, that she couldn't get to the -- it was too much -- it's too hard for her to get to the polls, but she voted by mail. And there's -- there are people in that category, and we have that safeguard in Texas.

SEN. WILLIAMS: Well, and -- and I think we all care about everyone being able to exercise their constitutional right to vote, and along with the provisions that you have for people that are 70 and over plus the mail-in ballots and the fact that provisional ballots can be cast and allow people with expired licenses and that sort of thing the opportunity to prove up who they are, don't you think that addresses many of the concerns that have been raised here today?

SEN. FRASER: Absolutely. They -- and
that was our intent, is that obviously, we want to make
sure everyone is afforded the -- the ability to vote,
and we think we have those provisions in place so that
all Texans, every Texan, will be allowed to vote.

SEN. WILLIAMS: Well, I -- I think it's
also interesting, and you've noted several times today,
that so far as we could determine from our research,
there isn't a single voter in Indiana or Georgia who's
raised the issue that they've been disenfranchised since
those laws have been enacted. Is that true, to the best
of your knowledge?

SEN. FRASER: To the best of my knowledge.
And we have asked that question repeatedly, and to the
best of our knowledge, we have -- not a single person
has come forward in either state.

SEN. WILLIAMS: And I think it's -- you
know, when I look at the syllabus of the Crawford v.
Marion County election board case that went to the Texas
Supreme Court, they note in the syllabus that there's no
question about the legitimacy or importance of the
State's interest in counting only eligible votes. And I
think they go on to say that -- that requiring that and
the fact that the cards in the Indiana case, as we're
doing, they make those cards free. The inconvenience of
going -- of gathering the required documents, posing for
a photograph, does not qualify as a substantial burden
on most voters' right to vote or represent a significant
increase over the usual burdens of voting. And I think
that's interesting that that was noted.

And those provisions that we have are
essentially -- in your bill, there are very similar
provisions with respect to those matters. Correct?

SEN. FRASER: They -- yes, and I want to
clarify. The Crawford case went to the U.S. Supreme
Court, and those observations were made in the -- the
majority opinion.

SEN. WILLIAMS: Now, they go on to say
that it's generally applicable, nondiscriminatory voting
regulation, it's universally applicable, it's imminently
reasonable because the burden of acquiring, possessing,
and showing a free photo identification is not a
significant increase over the usual voting burdens, and
the State's interest are sufficient to sustain whatever
those minimal burdens are.

So we know there's some inconvenience, but
we've done everything we can to make that inconvenience
as insignificant as possible. Is that --

SEN. FRASER: I will actually go with that
in the -- the Crawford/Indiana case.

SEN. WILLIAMS: Just in closing, in my
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final comments as -- before we go to take testimony, I just think that it's noteworthy to look back at what the opponents of this legislation have said on the floor thus far today, and what I've heard is very little debate about the actual content of your legislation. And I think that speaks to the fact that it's unequivocally a good idea that people ought to be able to be positively identified as who they say they are when they come to vote.

What I've heard today is a lot of talk about procedures, even though what we're doing is very normal for a Committee of the Whole, and it's the same procedure that we used the last session when we considered this. Is that correct, Senator Fraser?

SEN. FRASER: It is, and I think it's very difficult for a member to argue the merits of the bill when it's so straightforward when you ask someone in their district do they think that someone should -- should have -- be required to show a photo ID when they vote, that you've got near 90 percent of the population across the state of Texas. Again, every one of these members, it's hard to argue of the merits -- argue the merits of the bill.

SEN. WILLIAMS: Yeah, the other thing that I've heard that I think is interesting is fiscal notes.
A lot of talk about fiscal notes, even though we have a letter from the Secretary of State that states that there are going to be HAVA funds that will be available to help with the voter education, and I think we're going to have testimony in a few moments.

And I tried to clarify that early on that the cost of issuing for the state these free ID cards is less than $2. It's a very minimal cost, and with almost 16 million people that we have who have a driver's license or -- or an ID card now, it seems unlikely that there's going to be a whole lot of people out of that 13 million that actually don't already have a driver's license or a state ID card.

In fact, Senator Fraser, I spoke last night with the Department of Public Safety and today with the Secretary of State and just asked them if it would be possible for us to target those voters who are below age 65 and have -- don't have an ID card, a driver's license or an ID card issued by the state; and they said, yes, it would be possible for us to direct our voter education to those people specifically so that we could step it up and let them know before your bill takes effect -- not till, when, in January? Is that -- am I remembering that correctly?

SEN. WILLIAMS: So a year from now. So we've got a lot of time to let these people know what's coming.

And then the other thing I've heard a lot about is current law, and, you know, there's been a lot of discussion. In fact, a lot of what we've talked about is what's actually on the books right now, and your bill is not touching any of that top side or bottom. Really, most of what you do is very limited by changing what the requirements are when you come to the polls. Is that correct? There's not any other real substantive change to election law here.

SEN. FRASER: We're only addressing the -- the actual in-person voting and the identification required when somebody votes in person. We're not addressing mail-in ballots or any of the other provisions. It's just that one section.

SEN. WILLIAMS: Well, thank you for allowing me to question you about this and I appreciate you bringing this issue before us and I especially appreciate the fortitude that you've shown during this long debate. Thank you.

SEN. FRASER: Thank you, Senator.

CHAIRMAN DUNCAN: Chair recognizes Senator Shapiro.
SEN. SHAPIRO: Thank you, Mr. Chairman.

I would just like to ask one question because we're getting mixed signals, and I just want to make sure. It's just going to take a yes-or-no answer, and I think that will be the easiest.

In Section 7 of your bill, which is actually on Page 5, the requirements for identification prescribed for people who do not have to have a vote -- a photo ID, where it references their age, does the bill require that people 70 or older present a voter registration card and that they be at least 70 years of age on January 1st, 2012?

SEN. FRASER: My understanding and this is, again, something probably the Secretary of State will address, but I believe your age is -- is on the card. So if someone is 70 on January 1, 2012, they will not be asked to show a photo ID.

SEN. SHAPIRO: Okay. And this is something that the Secretary of State has put into this bill?

SEN. FRASER: No. No, I --

SEN. SHAPIRO: This is something that you have --

SEN. FRASER: -- inserted it into the bill. It'd be your interpretation --
SEN. SHAPIRO: I got you.

SEN. FRASER: -- to -- to make sure --

SEN. SHAPIRO: Identify whether it's at hand?

SEN. FRASER: -- that they can identify themselves --

SEN. SHAPIRO: Okay.

SEN. FRASER: -- but it's not intended that they would -- I believe they're --

SEN. SHAPIRO: Separate.

SEN. FRASER: Yes.

SEN. SHAPIRO: It's not intended to be separate. It's intended --

SEN. FRASER: No.

SEN. SHAPIRO: -- to be the same document.

SEN. FRASER: Yes, as long as they're --

SEN. SHAPIRO: Okay.

SEN. FRASER: -- you know, 70 on January 1, 2012.

SEN. SHAPIRO: And the date of birth is on our current voter registration card?

SEN. FRASER: You need to ask that of the Secretary of State.

SEN. SHAPIRO: Okay. And my recollection is it is. Thank you.
SEN. FRASER: Okay.

CHAIRMAN DUNCAN: Chair recognizes Senator Huffman.

SEN. HUFFMAN: Thank you, Mr. Chairman. Senator Fraser, will you yield for a couple of questions?

SEN. FRASER: I would love to yield.

SEN. HUFFMAN: Thank you, sir. I'd like to commend you, too, for a long day of answering a lot of tough questions.

SEN. FRASER: Thank you.

SEN. HUFFMAN: But I think it's important, as we kind of wrap this part of the procedures up today, that -- that we circle back to -- to the idea and the concept that -- that we got here today. But there is a line of Supreme Court cases that have brought us here. Would you agree with that?

SEN. FRASER: Yes.

SEN. HUFFMAN: And certainly, the Crawford v. Marion case gives us guidance on how to do what we're doing here today properly. Would you agree --

SEN. FRASER: I think that's the one --

SEN. HUFFMAN: -- with that?

SEN. FRASER: -- was referenced, I think, in the Indiana case, I believe.
SEN. HUFFMAN: Okay.

SEN. FRASER: And that's yes.

SEN. HUFFMAN: And did you, as you sat down with your staff and so forth in, you know, pre-session, in the interim, and you started thinking about this bill and so forth, did you and your staff take into consideration Crawford v. Marion and try to follow the law and the rules the Supreme Court has laid out for us?

SEN. FRASER: Yes, without a doubt. That's already been approved by the Supreme Court, and obviously, we wanted to make sure we stayed within those parameters.

SEN. HUFFMAN: All right. Now, you know, the Supreme Court, I think -- we know that the Supreme Court has told us that there is a balancing test, and we understand that the right to vote is sacred. And so we know that the law tells us that if there is a burden placed upon a voter, that they're going to look very carefully at that; and it's going to have weight, but it's going to be balanced against legitimate state interest. And so I think what we need to explore, just briefly, is that, in fact, we -- we have legitimate state interest. The state of Texas has an interest to make sure that our elections are done with -- well, as
perfect as we can get them but with integrity, right, and with voter confidence.

So as you prepared the bill and as you look at the bill -- and the Supreme Court has told us that there are legitimate interests, and they define those for us. So as you prepared the bill and you look at Senate Bill 14 today, do you think that it addresses the relevant and legitimate concerns of deterring and detecting voter fraud? And I know you've been asked this question a lot.

SEN. FRASER: Absolutely.

SEN. HUFFMAN: Right. Do you think that it -- that it's important in that the bill will help to improve and modernize the election procedures of Texas?

SEN. FRASER: Yes.

SEN. HUFFMAN: Do you think that there's a larger scheme nationwide through the Help America Vote Act and the National Voter Registration -- Registration Act to do just that, to make elections come up to modern times?

SEN. FRASER: Absolutely.

SEN. HUFFMAN: Do you think that Senate Bill 14 will help to prevent voter fraud and actually help to ensure that only the votes of eligible Texas voters are counted in these crucial elections that

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SEN. FRASER: That is our intent, and we believe the bill does that.

SEN. HUFFMAN: And do you believe that once we have established these safeguards, that the voters will feel more confident about their vote being counted and only the votes of registered Texans who can vote to be counted?

SEN. FRASER: Yes, that is our belief.

SEN. HUFFMAN: Do you think that once that's established, that it will actually encourage the democratic process and that it will encourage more voters to go to the polls?

SEN. FRASER: The thing we've seen in other states that have implemented photo ID, the -- the voter turnout actually increased. And so, yes, we believe the confidence in the voters will increase, and we believe it will actually increase the voting percentages.

SEN. HUFFMAN: Now, we've heard comments today from many senators, Senator Whitmire, Senator Davis, Senator Uresti, about hypothetical burdens that may be placed on some hypothetical voter. But taking that into account and looking at and trying to balance it, do you feel like we have a bill here that -- that
presents and moves forward our legitimate interest in Texas as it regards voting?

SEN. FRASER: Without a doubt.

SEN. HUFFMAN: All right.

SEN. FRASER: We believe it does.

SEN. HUFFMAN: Thank you very much, Senator Fraser.

SEN. FRASER: Thank you, Senator.

SEN. HUFFMAN: Thank you.

CHAIRMAN DUNCAN: Chair recognizes Senator Wentworth.

SEN. WENTWORTH: Thank you, Mr. Chairman.

Will the gentleman yield?

SEN. FRASER: I will yield.

SEN. WENTWORTH: Senator, I want to compliment you on your long hours of being on your feet in responding to these questions. I just wanted to touch on a couple of things.

One is we had -- we had some testimony here two years ago on a very similar bill, and I just wanted -- since it's been raised earlier today, the issue about whether or not maybe passage of this bill would reduce voter participation. There are only a couple of other states, Indiana and Georgia, where these sorts of bills have been passed. One of the witnesses
in March of '09 said to us: Not only does voter ID help prevent fraudulent voting, but where it has been implemented, it has not reduced turnout. There is no evidence that voter ID decreases the turnout of voters or has a disparate impact on minority voters, the poor, or the elderly. The overwhelming majority of Americans have photo ID or can easily obtain one.

Now, this is in the record from the 2009 hearing, which we've already adopted, but I just wanted to recall some of the testimony that we had.

Another quote was: Recent election results in Georgia and Indiana also confirmed that the suppositions that voter ID will hurt minority turnout are incorrect.

In addition -- and I'm not sure whether this was part of the record in '09, but there is a study of Indiana's photo ID law that was conducted by a University of Missouri professor. He found that requiring identification doesn't have much impact on voter turnout rates. His name is Jeffery Milyo. He's professor of economics and public affairs at the University of Missouri, a part of the Institute of Public Policy of the Harry S. Truman School of Public Affairs.

And his conclusion is -- if I can find it...
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quickly -- it's a many-page study, and his conclusion is that the findings that emerge from his analysis are that photo ID is associated with an overall county level turnout increase of almost 2 percentage points -- and this is just in Indiana. This isn't Georgia as well -- an insignificant increase in relative turnout for counties with a greater percentage of minority and poor population; no consistent or significant impact on relative turnout in counties with a greater percentage of less educated or elderly voters; and finally, a significant relative increase in turnout for counties with a higher percentage of Democrat voters.

I was just wondering if you remembered those things that were testified to two years ago or whether you were familiar with this university professor's study.

SEN. FRASER: Thank you for bringing that forward. It -- yes, I -- now, as you mention it, I do remember it. The other thing that comes to mind that was through the testimony two years ago is in the '09 -- I'm sorry -- the '08 president election for '09, that even though the president was from Illinois, the adjoining state, Indiana, had doubled the increase of voting next door in the state -- in Indiana where they had put in photo ID. Illinois did not have it, but the
increase was double the amount of increase next door. So it certainly didn't show that they were hurt by the implementation of the --

SEN. WENTWORTH: Where Indiana has a photo ID law --

SEN. FRASER: Illinois does not.

SEN. WENTWORTH: Thank you very much, Senator.

SEN. FRASER: Thank you, Senator.

CHAIRMAN DUNCAN: Okay. Members, we have -- that completes all of the Members who want to ask questions of the author. You can sit down for a second, Senator, if you want to. Take a rest.

We have a little bit of housecleaning. There's a few witnesses that -- or a few exhibits that may want to go in that we have now made copies of. I think, Senator Van de Putte, you had -- Senator Zaffirini had Exhibit 6 which was a map of the DPS, and we've now had that copied and available to distribute. Do you want to go ahead and offer it into the record?

SEN. VAN de PUTTE: Yes, I will.

CHAIRMAN DUNCAN: Okay. It'll be received.

(Exhibit No. 6 marked and admitted)

CHAIRMAN DUNCAN: And then I believe we
had -- Senator Davis had a chart that -- excuse me.

SEN. VAN de PUTTE: Mr. Chairman, do -- I move to add to Exhibit 6 the counties with Department of Public Safety Driver's License Office Closures prepared by legislative counsel.

CHAIRMAN DUNCAN: Okay. Thank you. That will be received in the record.

Senator Davis, you had an exhibit that you wanted to offer.

SEN. DAVIS: Yes, Mr. Chair. I'd like to add that as -- I guess it would be Exhibit No. 7 to the record.

CHAIRMAN DUNCAN: And I think we have copies to distribute to the Members? Would you describe it, please?

SEN. DAVIS: Yes, I'm sorry. It's the chart that I displayed and talked about earlier in my questions of Senator Fraser. It's exact -- an exact replica of the chart that was displayed on the Senate floor.

CHAIRMAN DUNCAN: It has a -- it's a graphic that has a -- at the top, a title that says, "DL/State ID." Okay. Exhibit 7 will be received in the record.

SEN. DAVIS: Thank you.
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(Exhibit No. 7 marked and admitted)

CHAIRMAN DUNCAN: Are there any other exhibits that --

SEN. FRASER: Mr. President?

CHAIRMAN DUNCAN: -- were discussed that we'd like to include? Senator Fraser?

SEN. FRASER: And I had one that I mentioned that I was going to enter in that I have not yet. It is the Lighthouse Opinion Poll. This is the most current poll that is taken and has a very good breakout of not only across the state, the regions, but also has a breakout, Republican, Democrat, and it breaks out for the African American, Hispanic, and --

CHAIRMAN DUNCAN: Do you have copies of that to distribute?

SEN. FRASER: I have one copy.

CHAIRMAN DUNCAN: Okay. Well, Exhibit 8 will be received, but if you'll go ahead and get copies so that we can distribute those at this time.

(Exhibit No. 8 marked and admitted)

SEN. GALLEGOS: Mr. President?

CHAIRMAN DUNCAN: Senator Gallegos, for what purpose?

SEN. GALLEGOS: I have also some diagrams, but I wasn't going to present them until the time of my
amendments. I mean, do they need to be entered now or at the time of the amendment?

Chairman Duncan: I don't see any problem with entering them at the time when it's relevant to what you're trying to do.


Chairman Duncan: You can put them in the record at that time --


Chairman Duncan: -- when we're --

Sen. Gallegos: Then I'll wait till --

till the time of the amendment. Thank you, Mr. President.

Chairman Duncan: All right. Members, the next phase is the invited testimony.

And Senator Van de Putte and Senator Fraser, if you could come up to the -- make sure we've got everybody in the right order.

And while they're coming up, I want to announce that it's my intention to -- we have about 17 -- last check, 17 registered witnesses for public testimony, and I would like to accommodate those witnesses, if we could. So remember that when you're questioning and -- that we have some folks that would like to testify here later on.
All right. Members, let's go ahead and move into the invited testimony.

The first witness will be Jerry Bonnett, general counsel, Indiana Secretary of State.

Mr. Bonnett? Mr. Bonnett, you'll have ten minutes the timer is right before you. You'll get a yellow light at 30 seconds, I think. And then we'll strictly hold you to the time, and then open it to questions at that time. You'll not be interrupted during your testimony.

INVITED TESTIMONY

TESTIMONY BY JERRY BONNETT

MR. BONNETT: All right. Thank you, Chairman Duncan. I want to thank Senator Fraser and supporters of Senate Bill 14 for inviting me to be here today.

CHAIRMAN DUNCAN: Would you state your name and --

MR. BONNETT: Yes. My name is Jerry Bonnett. I've served as general counsel for the Indiana Secretary of State Todd Rokita from 2005 to the end of 2010 when he completed his second term in office. I am currently serving as general counsel to Indiana's next Secretary of State and chief election officer, the Honorable Charles White.

Since 2005, my duties as general counsel
have involved assisting with the implementation of
Indiana's photo ID law, including working with multiple
players in Indiana's election process, which is included
the Bureau of Motor Vehicles, county election boards,
poll workers, our Help America Vote Act, and support
agencies in coming up with the procedures and rules to
administer our photo ID law.

I've also been responsible for statewide
monitoring of election day activity in elections in our
statewide and primary -- primary general elections in
complaint from the -- regarding voting submitted to the
Secretary of State, the Indiana Election Division, the
Indiana Election Commission, the Department of Justice,
our Help America Vote Act, and other county election
boards.

I've also assisted the Indiana Attorney
General and the Indiana Solicitor General with the
discovery trials appeals and ultimately Supreme Court
review in the state courts and in the U.S. Supreme Court
of Indiana's photo ID law.

Prior to the first statewide election in
Indiana under the photo ID law, there was no shortage of
organizations claiming that we smell a rat of some sort
and that the law has some illegal discriminatory effect
or political subtext. My job has been to look for exactly any application of the law that was illegal or overburdensome.

Despite the intense scrutiny of the law that has been locally -- local, state, national, and even international, in my impression, Indiana has been -- and our courts who have been very open to giving a fair and complete hearing to anyone feeling agreed or disenfranchised by our voter ID laws. In the five years and eight statewide primary general elections I've been involved with, there's been scant evidence of disenfranchisement or discrimination in Indiana. If the naysayers and conspiracy theorists and armchair social scientists were correct in their prognostications, Indiana would have experienced hundreds of thousands of disenfranchised voters after the laws passed in 2005, but hardly any group or individual or circumstance has been found that has genuinely disenfranchised or inconvenienced a voter beyond what the Supreme Court has held to be the reasonable, orderly regulation of elections.

Did Indiana fix something that wasn't broke? Was it a law in search of a crime? Admittedly, there's been little evidence of in-person voter fraud in Indiana, but that's been of little consolation to
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citizens who have come to Secretary of State's office with concerns about the confidence in our elections. What Indiana has experienced were manipulation of voter registrations with thousands of voter registrations submitted just prior to the closing of registration which have confounded the orderly registration of voters. Indiana has experienced issues with voter list maintenance where -- where partisan activists have refused to update voter registration lists, insisting the U.S. Department of Justice to intervene and require voter list maintenance in Indiana. Indiana has seen inconsistent agency-to-agency cooperation in the sharing of information. There have been times when the Social Security office was unable to provide verifications of voter registrations, times when other state agencies were not able to exchange information that would assist in verifying voter registrations.

There have been reports of people in urban areas being bussed around from poll location to poll location. There is evidence, after the fact, of dead voters having registered or of dead voters having voted. There was also a report of a well-intentioned high school civics teacher who was intent on having every 17 year old that came into her class register to vote and
every 18 year old vote even though there were some students of hers who are not students -- who are not U.S. citizens, but they were shamed into going through the registration process and that resulted in illegal -- an illegal vote being cast and also confounded those students eventual efforts to become naturalized U.S. citizens.

In my position, I am in a position to say that the law has not been applied -- has been applied in the strict and unbending manner that the dissenters have suggested.

After the 2005 photo ID law was enacted but before the first election was held, the Secretary of State and the election division and interested groups developed procedures to deal with the issue of the conformity of names on an ID to voter registration lists. Rules were developed that would allow for a voter named Mary Ellen Smith to -- who might appear on the voter registration in as many as ten different ways to -- to proceed to vote.

Also, Indiana -- rules were adopted by the Election Division in Indiana so that if a voter had married between the time of the voter registration, at the polls on election day, they could update their voter registration by signing the poll book and proceed to
vote. In Indiana, voters can conform their voter registration up through election day to the IDs that they have.

Other state agencies have reached out to anyone identified who has been experiencing problems of obtaining photo IDs. In Indiana, it's not a money issue. And an ID is reviewed by social service agencies in Indiana as key to other social services and other benefits of citizenship, and there's been an interest in working with individuals who had difficulty obtaining photo ID. Also, in the Indiana Election Day Handbook, in bold print, it says, on -- in several locations, that lack of ID or problems with an ID is not a cause for someone -- for a voter to be turned away.

After five busy years of monitoring primary general elections in Indiana, working with deputies, reviewing complaints, I can say that Indiana's photo ID law is not only constitutional as it is written but as it has been applied in routine use -- is applied and become routinely used in good faith and in -- and in an accommodating matter in the state.

Now, keeping to its principal and intent, Indiana's law, subject to all matter of partisan, nonpartisan, state, national scrutiny, has not been applied with the rigid inflexibility and consequences
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predicted by detractors. After exhaustive review in the state and federal courts involving the application of the law as applied -- instance of the law and in -- and in Indiana's informed public opinion, Indiana photo ID has earned broad acceptance, even from skeptics, as become -- as having become integral component of voter confidence and law that honors the privilege and the dignity of American's right to free and equal participation in elections.

So I honor you for the difficult work you're doing here today. I assure you that the work won't be done if and when you pass Senate Bill 14. I can certainly tell you that the sun came up in Indiana after Indiana's photo ID was passed. It continued to come up and continues to come up after each election that we have. So I'm ready to address your questions, please.

CHAIRMAN DUNCAN: Thank you, Mr. Bonnett. So we'll have our first questions.

Senator Van de Putte, you're recognized.

QUESTIONS FROM SENATE FLOOR

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

And thank you very much, Mr. Bonnett, for traveling from Indiana. I know on such short notice.
We appreciate you being here to help us with your expert testimony as we deliberate this very, very important issue.

I had a few questions that -- that I wanted to ask because here in Texas, we looked at the Indiana law, and we're looking toward -- this is -- as our bill author has said, it's kind of a Texas bill, which we think is more restrictive than yours. And we have heard from testimony that there is increased turnout, and you haven't found any instances in where the burden of the new Indiana law was placed upon anybody. And -- and I think in your testimony and in -- said that it is working and even in your Supreme Court case, no party or amicus cited -- well, of course, there were no cases of impersonation at the polls in Indiana.

So I have some confusion because in the bill that you passed, we had reports in Marion County in 2007 that 32 vote -- voters cast ballots that could not be counted because of the voter ID law, and I want to ask you about them because just a couple of them really bring to mind some difficulties, and yet you cited that there were no problems.

In South Bend, Indiana, ten retired nuns were barred from voting in the 2008 Indiana democratic primary. Some of them were in their 80s and 90s. They
no longer had driver's license. They lived at the convent, and the convent actually had the polling place in their convent. The irony was that I believe in that case, the election judges were actually other nuns who lived with these nuns, but they were barred from casting a ballot even though they had previously voted in at least ten elections in Indiana but that these nuns were not able to because they did not have an ID, even though the election judges live with them. And so can you comment? This was in the newspapers, but it was also in Catholic Digest magazine and so wanted to know because we heard --

MR. BONNETT: I can't --

SEN. VAN de PUTTE: -- that there were no instances, yet we had these reports. And so could you tell us? I mean, what happened to these nuns?

MR. BONNETT: I can't speak to the -- the Marion County voters that you referenced to, although I think that was covered in the Indiana League of Women Voters v. Rokita case that was heard by the Indiana Supreme Court.

In the case of the -- the -- the nuns, in Northern Indiana, the -- it's my understanding and that -- that situation was also discussed in -- in the Crawford case -- the -- the nuns did have passports.
They did have a form of ID that was acceptable, but they refused to present that. They were eligible for other exceptions under the law, absentee voting exception, and it was really a media event because the media had been brought to the scene before. And they also refused to go provisionally. I did not -- I believe they were brought in a van to a polling location that was not -- not, I understand, any time that they were voting at the place that they lived.

SEN. VAN de PUTTE: So --

MR. BONNETT: That incident was -- seemed to be discredited as a -- as a legitimate case of disenfranchisement.

SEN. VAN de PUTTE: So you're saying these nuns organized in a -- in a fraudulent matter, that these nuns all got together? But even though they're -- from the report what was reported, they lived at the convent, and they were all in their 80s and 90s. So I don't know. You know, maybe they had passports, maybe they didn't. But you're saying that this was orchestrated by these devious nuns to actually prove up Indiana law, and really, they intended to mess you up purposefully or --

MR. BONNETT: Yes, Your Honor.

SEN. VAN de PUTTE: Oh, thank you.
(Laughter)

SEN. VAN de PUTTE: Well, let me ask you about another case. One of them was Lauren McCallick who was an 18-year-old freshman at Saint Mary's College in South Bend and who was not able to cast her ballot that was due because of the law, and so that was one of the cases that was there. And can you tell me about her? Was she devious, as well, or was it orchestrated?

I mean, from the reports and from what was happened, she was crying and she -- it was the first time that she was going to be able to vote, and she tried to -- she did do a provisional ballot. But since she couldn't get the documentation that she needed within the time requirement, she didn't have a chance to vote because she was in class and she couldn't go back to her -- so can you tell me what happened to Ms. Lauren McCallick in this case?

MR. BONNETT: Unfortunately, I'm not familiar with -- with that case.

SEN. VAN de PUTTE: Oh.

MR. BONNETT: So --

SEN. VAN de PUTTE: Well, then what happened in -- again, in Marion County, when we had some senior citizens that weren't able to? Now, they weren't devious nuns. These were seniors who were living in...
a -- some sort of a -- it wasn't a senior assisted, but it was some sort of a temporary, like rehab, where people go after strokes or after a motor vehicle accident, and that they weren't allowed. I mean, I can understand your story about the nuns because, you know, I'm a Catholic and sometimes they get really organized, and they make their point. But what --

MR. BONNETT: I am too.

SEN. VAN de PUTTE: What -- what about the people who were living in the -- again, in Marion County, in a -- not their full residence --

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: -- but for a certain period of time because they had a disability, they had had a stroke, and they were living in this. What happened to those folks?

MR. BONNETT: Well, and I don't know the specifics without more information, but every -- every reported case has been investigated and reviewed. The state election division, the state social service agencies, and Bureau of Motor Vehicles Division have been quite willing to assist voters who have -- have had difficulties obtaining an ID.

The largest group of voters in Indiana had some form of ID, a -- a -- of what was left over, the
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exceptions covered many of those voters, and the --
ultimately, you know, anyone registered to vote who
didn't have the ID, that group was small and has not
been identifiable in such a way that the state has been
able to even identify them, and certainly efforts have
been made in litigation to try and identify a group.
But I -- I believe the state would develop
administrative procedures to assist anyone having
trouble with an ID faster than the litigation would
proceed through the courts to try and validate the law.

SEN. VAN de PUTTE: Well, I appreciate
your answer, but you can understand my concern.
Particularly in the district that I represent, we have,
that I know of, six convents, the Sisters of Divine
Providence with their mother house with over 120 retired
nuns living there from orders all over; the Society of
Mary, which they're Marianist priests, and after they
finish at the University of Dayton and other Marianist
schools, they come to San Antonio and live right there
at Saint Mary's University. We have over 56 nuns from
Incarnate Word and that community, and they're, you
know, in their 80s, 90s. In fact, we even have a couple
that are over a hundred, and while on and on, you see my
problem.

And when I read things about Indiana and
hanging the religious who don't live outside in homes but
who all have the same residences and who come back to
that convent or retirement home run by the nuns or run
by the priests, it's -- it's very difficult, and so I
have some concerns because I have so many voters that
are retired religious, and that's why I wanted to clear
that up.

But let me ask you about something else.

MR. BONNETT: If I may, before you change
the subject, I will note that Indiana, for example, has
a Mennonite population that objects to being
photographed, and our law provided an exception for
individuals for religious reasons who objected to being
photographed; and there is an exception for disabled
individuals who live within a state licensed
convalescent or care center. So Indiana has developed
exceptions for identifiable groups.

SEN. VAN de PUTTE: Oh, well, I think
that's wonderful that Indiana did that, but you may not
know that that's in our Texas bill.

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: And so why this is
more restrictive than Indiana is we don't have the
protections that you do in Indiana under this bill, for
those who live in religious communities, for those who
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1 are disabled.

And that's the other thing I wanted to
talk to you about because I understand that, you know,
this is about the other thing that you said about
increased turnout. But I really wanted to talk to you
about -- because, I mean, let's face it, isn't the
turnout from 2008 November election because we had a
highly contested primary season, but it was because we
had this wonderful, wonderful, very, very active
electorate in electing between now President Obama and
John McCain. I mean, it was fabulous. I mean, so you
really can't compare turnouts to turnouts because the
turnout was wonderful in November, and we're all very
excited about that. So I wonder a little bit because, I
mean, everybody's turnout went up.

Mr. Bonnett: May I respond to that?

Sen. Van de Putte: Absolutely, please.

Mr. Bonnett: If you compare the turnout
in the 2006 election, which was a nonpresidential
off-election year but -- for statewide primary and
general elections to the 2010 election last year, there
was also an increase between 2006 and 2010 in -- in
voter turnout in Indiana, which would be more comparing
the apples -- apples to oranges.

And you're right, in 2008, Indiana voted
it's electoral votes for a Democratic presidential candidate for the first time in over 30 years. Also, in the 2006 state Congressional races after the photo ID was enacted, three of Indiana's nine Congressional seats switched from Democrat -- or from Republican to Democrat, which tended to dispute the theory of the political subtext of the law.

SEN. VAN de PUTTE: Thank you. There -- there are a couple of other questions that I wanted to -- to --

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: -- check on Indiana law. Can you tell me -- your law has a free voter ID card issued by the state or the county. Are there restrictions or affidavits or a means test for access to a free voter identification card from Indiana?

MR. BONNETT: I don't want to misstate -- misspeak that. It's on the Bureau of Motor Vehicle Regulations. I -- I believe that the person applied for that ID needs to sign an affidavit that they don't have -- have another ID with the state. But beyond that, I'm not -- I can't say about the issue of the means --

SEN. VAN de PUTTE: Well --

MR. BONNETT: -- test.
SEN. VAN de PUTTE: Well, I looked at it, and I didn't think so. It just says that they have to state that they don't have a driver's license and they don't have another.

MR. BONNETT: Uh-huh.

SEN. VAN de PUTTE: But there is no affidavit of indigency or -- or anything required, at least from what I looked at your law. But I'm not sure. That's why I wanted to ask.

MR. BONNETT: That's my understanding.

Now, a related issue is when a provisional ballot is verified, if a voter who has voted provisionally within the ten days after the election signs an affidavit that they don't have an ID and cannot get one without expense and possibly can't afford one -- I'm not sure of the exact language on the affidavit -- then they're entitled to have their vote counted.

SEN. VAN de PUTTE: Well, one of the things that I wanted to look at, and I have the Indiana law and I -- because ours is a little bit more restrictive. But under your section of the -- of the Indiana bill, it has something in here because -- that has me a little troubled because we don't, and I'm going to read it.

But the voter prescribed by -- and it has
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Indiana code that has not complied with -- and I think that Indiana code 3-7-33-4.5 -- on election day must present one of the following documents to the -- and it says, "A current and valid photo ID," or it says, "current utility bill, bank statement, government check, paycheck, government document that shows the name and address of the voter." And yet we've been told that Indiana only has a photo.

So what -- what is this section referring to? Is it a provisional ballot or is it a first-time voter or -- or does Indiana allow for the photo ID, but if they don't have the photo ID, can they use other forms?

MR. BONNETT: I'm not aware that Indiana accepts any alternative than a photo ID. That might -- I'd have to look at the law carefully on that. Might refer to the verification of address or the residency with respect to voters who have moved, but I do not believe that Indiana has any requirement other than -- than that of a -- of a government-issued photo ID with an expiration date for in-person voting.

SEN. VAN de PUTTE: Well, I think that is -- it was very hard to follow, but I think it's under a provisional ballot that has a state's licensed care facility or something. But there is at least that
protection for those who are at a temporary facility; that even if they don't have a photo ID, the exception is not that they're just exempted but I think that they can utilize other forms of ID, which our Texas bill doesn't have.

To your knowledge, was -- since this was from the Indiana Legislature, do you remember any discussions on why they -- they put that in? Was this put in at the same time as the original voter ID legislation, or was this only done after the mess up with, you know, the nuns and the -- the other folks who were at this temporary facility?

MR. BONNETT: I didn't live in Indiana during the time that this legislation was -- was discussed and deliberated, but it's my understanding that the -- the exceptions to the provisions for individuals who live in state-licensed assisted living facilities has always been part of the -- of the scheme -- or the bill, and I think the -- the utility bills and the other documents you refer to might go to the issue of establishing their residency in the state-licensed facility, which is then an exception if the polling place is located in that facility.

SEN. VAN de PUTTE: Thank you. I really appreciate your candid answer; and, again, we thank you.
very much for your travel here to help us on this
important deliberation. Thank you.

MR. BONNETT: Thank you.

SEN. VAN de PUTTE: I don't have any other
questions, Mr. Chairman.

CHAIRMAN DUNCAN: Chair recognizes Senator
Davis.

SEN. DAVIS: Thank you, Mr. Chair.

Mr. Secretary, thank you so much for
traveling to be with us today and to help inform us
about the work that you've done in Indiana on this
issue. I just want to make sure that I clearly
understand because today there's been a great deal of
discussion about your bill, as you can imagine, as the
reason why the bill that's being proposed in the Texas
Senate today would be able to withstand constitutional
scrutiny. So I want to make sure that we have a clear
record in terms of how the bill that Indiana has
introduced, or the law that you've introduced, mirrors
or does not mirror what we are -- are discussing on the
Senate floor today.

So I think I heard you say that you do
allow women who have been married or divorced to come in
to vote and to provide some affidavit that they -- their
name has changed and is different than is on the ID that
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they have because of marriage or divorce. Is that correct?

MR. BONNETT: That's correct. That's by administrative directive. It's not part of the statute. And I'll say that when the Indiana courts and the federal courts reviewed the law, it was reviewed in the context not just of the statutory language but other administrative procedures that were developed after the law was passed, after the framework of the law was passed, for the view of -- as applied, how the law was applied.

SEN. DAVIS: Absolutely. And I think that's terribly important, and I'd like to invite you to please inform us as much as possible both statutorily what was reviewed in terms of what you've done to try to preserve the integrity of someone's right to vote and administratively what's been done.

So you said on that particular one, that was a rule that was instituted administratively, but it was part of what was reviewed by the court system in terms of the implementation of that law?

MR. BONNETT: Yes. That -- that directive clarified procedures for poll workers in -- in viewing IDs for conforming names.

SEN. DAVIS: And then I believe you said
that in the -- the language that's presented to a voter in terms of their right to vote in Indiana, in bold language, you have clarified for voters there that not having a photo ID will not in and of itself be sufficient cause for them not to be able to vote. Is that correct?

MR. BONNETT: Yes. I'll -- I'll just look up the exact -- the exact bold language, one example's are referred to on Page 10 of the Indiana Election Day Handbook. This is the 2008 copy. In bold, "No voter should be turned away from the polls for failing to provide photo ID." That's -- that's instruction to all poll workers.

SEN. DAVIS: And does that wording go to instances where, for example, as you -- as you talked about earlier, if a person comes to the poll and they do not have a photo ID, they can vote a provisional balance -- or ballot -- excuse me -- on the condition that they attest that they do not have a photo ID because there would be a cost to receiving that ID either through having to get the underlying documentation that would qualify them to receive the ID or some other cost that would be associated with receiving the ID?

MR. BONNETT: Yes, there are several
1 alternatives to means to -- to verifying a provisional
2 ID to allow --

SEN. DAVIS: And can you discuss what
3 those several alternatives are, please?
4
MR. BONNETT: Well, generally, providing
5 the -- the ID or providing the -- the -- the voter
6 registration correction or an affidavit that there is a
7 religious exception to being photographed, that an ID
8 cannot be obtained without -- without cost. There may
9 be another. That's provided for in the Voter Bill of
10 Rights which is posted at each poll site, and then
11 voters who vote provisionally are given a paper receipt,
12 so to speak, with the instructions on how to verify
13 their provisional ballot and have it cast, how and
14 where.
15
SEN. DAVIS: Thank you. That's very
16 helpful.

And I believe you also have a provision in
18 Indiana, do you not, that allows for the use of an
19 expired driver's license for a certain period of time.
20 Is that correct?
21
MR. BONNETT: Yes. And I believe if it --
22 if it goes back to the beginning of the -- the opening
23 of registration for the election which is generally 30
24 days from the prior election. So it's generally about a

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year, year past.

SEN. DAVIS: Okay. Have you done any work in Indiana to track or to attempt to track the percentage of persons based on categories, whether it be senior status, whether it be minority status, whether it be indigent status, where people have claimed that somehow their right to vote has been interfered with as a result of this particular law?

MR. BONNETT: I'm not familiar with the state doing that research. Certainly the -- there are interest groups that have -- have made a concerted effort to identify individuals, groups, or characteristics, identify them and locate beyond the theoretical basis; and generally, it's not been something that's been accomplished. There's been a tremendous separation between the theoretical concerns and what's actually been experienced in our elections over the last five years.

SEN. DAVIS: When you started your comments this afternoon, you began by saying that there had been scant evidence of disenfranchisement, and scant to me means that there must have been some. So can you talk a little bit with us about what that's looked like for Indiana?

MR. BONNETT: There -- there was a single
media report prior to the 2010 election, a few days prior to the election. It was not officially reported to the state, but the media account was a gentleman of -- in a particular county of 40-something years, due to some unusual circumstances did not have a birth certificate. I think it involved him having been discharged to foster care through state programs, et cetera. But it also was evident that the Bureau of Motor Vehicles Division has a special group -- team that works with individuals who have particular problems to address those needs. And the -- the report did not result in -- in a complaint, and there was no indication the state got that the person wasn't able to vote under -- under one of the exceptions.

There have been some reports, also, that generally upon investigation, the individuals were able to vote under -- under some provision.

SEN. DAVIS: And you mentioned that -- a moment ago, that through both administrative rule and through the statute itself, in the state of Indiana, you've tried to be cognizant of this disenfranchisement issue through some of the -- the rules that you've enacted along with it. We talked about the fact that you have a religious exception for -- for people who cannot be photographed or refused to be photographed for
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religious purposes. We talked about the fact that if a
person comes to the polling location without an ID, they
can vote a provisional ballot so long as they attest as
one of the -- the reasons for voting that provisional
ballot, that they had to pay a fee in order to -- to get
a photo ID and they were unable to pay that fee. You
talked about the special rule that's been created to
handle the situation where women have been married or
divorced and their -- their name would be different than
what is on their ID.

Are there other -- and excuse me -- you
also talked about the expiration of a driver's license
not being a reason to immediately turn that -- that
voter away so long as it's within that --

MR. BONNETT: Uh-huh.

SEN. DAVIS: -- period of time that you
described earlier.

Are there any other conditions that were
implemented, either through the statute or through
administrative rule, that you feel we should know about
in terms of reflecting a sensitivity to trying to
preserve the enfranchisement of your voters as much as
possible?

MR. BONNETT: Yes. College -- college
students at some state universities have -- it came
about, they have IDs that don't have an expiration date, and through arrangements with -- with state colleges, the universities provided through some type -- I believe it was a secure online facility -- a way for the polling locations to -- to verify the expiration date independent of the actual ID. And so arrangements were made, then, for students with -- with a university ID that did not have the expiration date but where the college was able to provide that information independently to go ahead and vote on election day.

SEN. DAVIS: Very good. Are there any other?

MR. BONNETT: Not that come to mind.

SEN. DAVIS: Okay. Thank you, Mr. Secretary. I appreciate it.

MR. BONNETT: Uh-huh.

CHAIRMAN DUNCAN: There being no further questions, Mr. Bonnett. Thank you for your testimony today and for traveling here.

SEN. WEST: Mr. Chairman?

CHAIRMAN DUNCAN: Senator West, you're a little late on the light there.

SEN. WEST: I thought it was on. I apologize. And I just have a couple of questions, anyway.
And it may have already -- you may have already addressed this, and I just may not have heard it. As it relates to the provisional ballots in your state --

MR. BONNETT: Uh-huh.

SEN. WEST: -- an individual can, in fact, cast a provisional ballot. Is that correct?

MR. BONNETT: Yes.

SEN. WEST: Okay. And they have to -- what's the process? Once they cast the ballot, in order for the ballot to count, they have to come back within a certain number of days?

MR. BONNETT: Within ten days.

SEN. WEST: And what do they have to do?

MR. BONNETT: They can correct any -- any issue with -- with voter registration. For example, if a person appears at a poll and they're simply not registered at all, they can still cast a provisional ballot. You know, there may be some administrative issue in the -- with kind of registration board about why they didn't show up in the precinct where they believe they needed to vote. That -- that can be corrected, and the Election Board is free to correct that through and beyond the election. They can bring in the identification, and they can certainly seek
assistance with obtaining the identification that's required. They can also come and execute an affidavit that -- obviously, we talked about the exception to being photographed for religious reasons. They can execute an affidavit that says they -- they don't have the ID. They cannot get one without cost, and then they're eligible to have that vote counted.

SEN. WEST: Okay. So there's a process in place.

Does the state keep any tally or report on the number of provisional ballots that are cast in the state of Indiana?

MR. BONNETT: Yes. The county election boards submit that information with their -- with their poll results data to the Election Division, and it's -- it's published online for every election. The -- the number of provisional ballots and the disposition and the counties actually are also required to send copies of the affidavits to the Secretary of State's office, which then can be examined for the reason. For example, how many didn't show up on a poll book or there was a challenge raised of some sort so that we can -- we've been able to investigate the status and disposition of provisional ballots.

SEN. WEST: Is that information
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1 disaggregated by ethnicity?
2
3 MR. BONNETT: No. I'm not -- I do not believe that there's an indication on the provisional ballot affidavit.
4
5 SEN. WEST: So you really don't -- I mean, in terms of the provisional ballots, the tallies, in terms of provisional ballots, is it disaggregated by ethnicity; that is, the number of Hispanics, African Americans that are voting?
6
7 MR. BONNETT: It's not, although the copies of the affidavits are -- are -- are public
8 information, and there have been some social scientists who have been studying and attempting to write about provisional ballots and determine if there's any -- any meeting or conclusions that can be gathered --
9
10 SEN. WEST: Has there been any -- any such studies done in Indiana?
11
12 MR. BONNETT: I have looked at one study from a adjunct law professor. It did not appear to provide any -- any academic or statistically sound conclusions. It was more a discourse on the issue of photo ID, in general, but it made some reference to some statistics that were, you know, tallies of the number of provisional ballots.
13
14 The provisional balloting started at the
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1 same time as the photo ID, so we don't have a calculus
2 of the provisional balloting before Indiana's photo ID.

SEN. WEST: Do you happen to have the cite
3 for that particular professor's study or article?

MR. BONNETT: I'll be most happy to --

SEN. WEST: Okay.

MR. BONNETT: -- to get it to you or get
8 it to the committee.

SEN. WEST: To the chairman and the staff?
9 I'd appreciate that.

As it relates to provisional ballots, is
11 there any type of report on the number of individuals or
12 the percentage of individuals that come back and go
13 through the process to make certain their vote count?
14 Is it less than 10 percent of those individuals that
15 cast?

MR. BONNETT: I'm not aware of an
17 aggregated report. The data exists, and it's -- it's
18 online. I'm not aware of an aggregated analysis of how
19 many.

Some provisional ballots, you know, there
21 are some instances where a person would go to a precinct
22 and not be registered to vote a provisional ballot and
23 then be directed to, and the poll workers are advised to
24 have someone go ahead and vote that provisional ballot.
But then they may later in the day be directed to the right precinct, and then the -- you know, so there can be more than one provisional ballot.

There's also some of the scholarship related to the issue that if the outcomes of elections have been determined by substantial margins, then individuals may not feel a need to go back and verify the provisional ballots if the election were not so close that --

SEN. WEST: Right.

MR. BONNETT: -- that the votes were meaningful. So it's not really what -- what -- clear what the meaning of the numbers of provisional ballots and the ones that are verified means, as far as I'm aware.

SEN. WEST: But there's no statewide study or report that's done on an annual basis that looks at the percentage of individuals that cast provisional ballots that actually go back and verify their ability to --

MR. BONNETT: That data is reported in -- but I'm not aware of analysis of it. The number by county of provisional ballots, probably by precinct, that were cast and their ultimate disposition is -- is reported in -- in election return statistics. Analysis
of it is not something that I'm aware of, though.

SEN. WEST: Okay. You indicated that the affidavit was -- is public. Is it a --

MR. BONNETT: Yes.

SEN. WEST: -- public record?

And that's the -- when you say "the affidavit," what do you mean by that?

MR. BONNETT: That's a document that is initially executed by the voter at the time of casting the provisional ballot --

SEN. WEST: Okay.

MR. BONNETT: -- and then later, handled by the Election Board within that ten days to determine whether or not that vote -- the vote is sealed. The vote is sealed in an envelope.

SEN. WEST: All right. I just wanted to make certain we were on the same page.

Okay. Thank you very much, Mr. Chairman.

MR. BONNETT: You're welcome.

SEN. WEST: I would like to get that cite for the study, though.

CHAIRMAN DUNCAN: Senator Gallegos?

SEN. GALLEGOS: Mr. Secretary, let me ask you one question. Is your Indiana driver's license, is it a valid form of ID under Indiana law?
MR. BONNETT: Yes, it is a state-issue ID.

SEN. GALLEGOS: It is valid?

MR. BONNETT: Uh-huh.

SEN. GALLEGOS: And any supplements of that Indiana license, is that also a form of ID? What I mean supplements is, if it -- if a driver's license is confiscated and you get a temporary, is that also a valid -- a valid form of ID?

MR. BONNETT: If the -- I don't believe that the state driver's license is specified in the legislation. It's specified more generically, a state-issued ID with photograph with an expiration date or government-issued ID.

It's my understanding when a driver's license is confiscated that the Bureau of Motor Vehicles will immediately issue another form of ID that is a -- for example, driving is restricted.

SEN. GALLEGOS: And that is a valid form of ID?

MR. BONNETT: Yeah.

SEN. GALLEGOS: Okay.

MR. BONNETT: I don't believe the -- I remember when I lived in Texas and in Louisiana sometimes the police would take away your ID and give you a piece of paper that was sort of -- to cover for
you, and that type of document would not be.

SEN. GALLEGOS: Yeah. But that is a valid
form of ID in Indiana?

MR. BONNETT: It would be required to
have -- the ID would be required to have a picture and
have the expiration date. And so something other than
that would not be allowed for voting. It would still be
required to have a picture.

SEN. GALLEGOS: Thank you.

MR. BONNETT: Does that answer your
question?

SEN. GALLEGOS: Yeah.

CHAIRMAN DUNCAN: Thank you, Mr. Bonnett.
We appreciate your appearance here today.

TESTIMONY BY LUIS FIGUEROA

CHAIRMAN DUNCAN: The Chair calls Luis
Figueroa -- Figueroa, Mexican American Legal Defense
Education Fund, or MALDEF. Would you state your name,
please, and who you represent?

MR. FIGUEROA: Absolutely. My name is
Luis Figueroa. I'm the legislative staff attorney with
the Mexican American Legal Defense and Educational Fund,
MALDEF. Thank you very much for this opportunity to
testify before the Senate on this important legislation.

MALDEF works to promote and protect the
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rights of Latinos, including voting rights and in the
state of Texas and across the nation. We have an
extensive history in the Voting Rights Act and in
protecting voting rights across the nation and, of
course, here in Texas, going back to the case of White
v. Register and most recently in LULAC v. Perry
challenging the redistricting implementation from the
last decade for last -- from the last session.

We stand here opposed to SB 14 because it
lacks the safeguards to ensure that eligible voters will
not be disenfranchised at the polls. If SB 14 was
enacted, it would be the most restrictive photo ID
requirement in the nation, more restrictive than
Indiana, more restrictive than Georgia, more restrictive
than Arizona. They would allow for viewer identity
documents, less time to cure for provisional ballots,
and it would be even more difficult to cure than any of
the other states.

Studies after studies have shown that
voter ID and additional identification requirements at
the polls do have an impact on minority voters and on
other protected classes. The study from voter ID
requirements and disenfranchisement of Latino, black and
Asian voters by Barreto, Nino & Sanchez states
"Controlling for age, income and education, we find the
naturalized citizens and minority voters are significantly less likely to be able to provide multiple forms of identification such as a copy of their original birth certificate or recent bank statements.

Respondents were asked about their ability to provide approximately six unique forms of identification, and naturalized citizens and minority voters were consistently less likely to have each form of identification. Data reflects identification trends of actual voters, not just adult citizens, the findings go far to suggest that photo -- that voter identification laws could immediately disenfranchise many Latino, Asian, African-American citizens."

From the Rutgers study, protecting the enfranchised or restricting it, the effects of voter identification requirements and turnout, by Vercellotti and Anderson, states that "The predicted probability that Hispanics would vote in states that required nonphoto identification was about 10 percent points lower than in states where Hispanic voters gave their names."

In the Wisconsin study, the driver's license status of the voting age population was counted by John Pawasarat. It stated that "Minorities in poor populations are the most likely -- are the most likely
to have driver's license problems. Less than half, 40 percent, of Milwaukee County African-American adults and 43 percent of Hispanic adults have a valid driver's license compared to 85 percent of white adults in the balance of the state."

The Brennan Center, in their report Citizens Without Proof, A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification, stated, "Citizens with comparatively low incomes are less likely to possess documentation proving they are citizens. As many as 11 percent of United States Citizens, more than 21 individuals, do not have government-issued photo identification." It goes on to state that "25 percent of African-American voting-aged citizens have no current government-issued photo ID compared to 8 percent of white voting-aged citizens."

Study after study has shown that Latinos, African-Americans, elderly, the poor, students are less likely -- the disabled community are less likely to have the photo identification requirements required under SB 14.

It's important to note that Texas under current law has a voter ID requirements. It has an ID requirement that -- it requires that you bring a voter registration certificate or additional forms of
identification. The question is, how much stricter can we make the voter identification requirement? The question is not whether to have a voter identification or not have it. The question is, how restrictive do we want to make it?

The current legislation presented before us does not provide for any alternative photo identification. It does not allow for student ID cards, for Medicaid, Medicaid cards, for expired driver's license, for expired military cards or for state-issued employer identifications.

We know that in our other states that have implemented strict voter identification laws that the ability to cure and to come back day to day and fix their provisional ballot, it does not happen with much frequency. Voters do not return within the allotted time period to fix their voter identification.

It's also worth noting that in SB 14 it actually lowers the amount of time from what Indiana requires, from ten days to six days -- six days to return and fix their voter identification. In Arizona, 739 ballots were not counted where -- conditional provisional ballots were not counted, and only 158 were counted after voters cured their identification requirements.
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What we found in Arizona when we litigated was that the most common problem was a driver's license that did not match an address, that did not match a voter registration certificate. We know that Latinos, African-Americans and low income are the most mobile populations often moving from a rental apartment, moving from home to home, and as a result are most likely to have matching -- most likely have identification that doesn't match their voter registration certificate.

We know that providing a free personal identification certificate does not solve the problem if the documents needed to get a personal identification certificate are the same ones that the study show the minorities don't have. And we know that if people are required to bring birth certificates and other documentation that they are unable to get a current driver's license, that they are not likely to get the free personal identification if they lack those same documents.

We believe that there are ways to create -- there are ways to ensure that people who are voting are who they say they are. There are ways to do it without disenfranchising voters. What we need are appropriate safeguards in a photo identification law. We need to expand the current list of documents that are
provided in SB 14, and most importantly we should incorporate a signature affidavit similar to Michigan and Florida to ensure that people who lack the identification requirements are still able to cast a ballot and have their vote count. It's about finding the right balance between security and access.

SB 14 only focuses on voter impersonation fraud while ignoring voter intimidation, deceptive practices and poll worker error. There are ways to ensure that voters who say they are -- are who they say without disenfranchising voters. Finding that right balance includes including two forms of nonphoto identification, requiring signature affidavit attesting to name, address and eligibility, including voter integrity task force, allowing for same-day election voter registration with an ID requirement, free ID that is not limited to the current requirements that require the same documents that are required to get a driver's license right now, training for poll workers and voter education.

When we find the right balance between access and security, we will ensure that we have the voter confidence in our system, a system that is not predicated on trying to disenfranchise voters, a system that is not so unsecure that we don't have faith in our
electoral system, but a system that provides for access and security to ensure that all votes are counted, and that is what we are aiming for.

With that, I'm open for questions, and I thank you again for this opportunity.

SEN. ELTIFE: Members any questions?

(No response)

SEN. ELTIFE: Thank you, sir, for being here today. Hold on one second.

QUESTIONS FROM SENATE FLOOR

SEN. ELTIFE: Senator Rodriguez?

SEN. RODRIGUEZ: Thank you, Mr. Chairman.

Mr. Figueroa, first of all, thank you for coming here to testify this afternoon, particularly on such short notice. I am familiar with MALDEF's work. In fact, I serve on its board. So I know the great work that the organization does to protect the rights of citizens, particularly in the area of voting rights.

I want to ask you just a few questions and mainly for clarification. I believe you started out by comparing the legislation in Senate Bill 14 with the Arizona -- the Indiana law, and I believe you even mentioned the Arizona law. Could you give us specifically in which ways SB 14 is more restrictive than these other laws?
MR. FIGUEROA: Absolutely. Senate Bill 14 has a very limited scope of identification requirements. It only allows for a driver's license, a passport, citizen certification and a military identification. Arizona, which at the time was considered a pretty restrictive identification requirement, allows for photo ID, but also allows for two alternative nonphoto identification. It was most similar to the proposal that was introduced last session.

In Indiana where they do have a photo ID requirement, they do allow for -- when you cast a provisional ballot, you can come back within ten days and you can attest to being indigent or you can attest that you were unable to get the identification, and they'll allow you an opportunity to have your vote counted.

This law in SB 14 does not have any such assertion to ensure the voters are counted. In fact, it lowers the amount of time for you to cure that provisional ballot. We’re going from ten days to six days. -- to six days.

And in Georgia, again, there are also other forms of identification that were allowed that are not allowed under Texas. Even in Indiana, the expiration date, you are allowed to have an expiration
date if you're within the last -- within the last
election. If your driver's license was expired within
the last election, they'd still allow you to vote. This
would be by far the most restrictive ID requirements in
the nation.

SEN. RODRIGUEZ: So given that, is it your
opinion that this law, this bill that we're considering,
would be much more likely to disenfranchise voters than
these other states' laws?

MR. FIGUEROA: I do think the more -- the
more requirements you put, the more limits on
identification, the more likely you are to have an
impact on the working poor and Latinos and
African-Americans and other -- and other voters.

SEN. RODRIGUEZ: Could you go over some of
the implementation challenges or issues that were
confronted when the Arizona law was being implemented to
give us a sense of what we might expect? And
particularly you might -- if you could focus on how it
may have impacted the Latino voters in Arizona.

MR. FIGUEROA: Absolutely. Our studies
did find -- our expert did find a disparate impact in
Arizona on Latino voters, and I grant you this was even
with more broader identification requirements than this
bill. So this bill would even have a stronger impact
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than Arizona. What we found in Arizona was -- the most
significant impact were poll workers who tried -- who
claimed that the address had to match the voter
registration certificate to the driver's license.

Poll worker training has got to be a key
component of this. It's not clear from SB 14 about what
to do if a driver's license doesn't match the voter --
the voter registration certificate, whether that's
because a recently married woman has a different last
name, because there's a misspelling on the voter
registration certificate, because the address doesn't
match or the date of birth doesn't match. There's any
numerous possibilities of a mismatch between the voter
registration and the licenses that are going to be
required. Are poll workers going to use that to
disenfranchise voters? Well, we would hope not, but
we -- in our experience, it has had that impact.

SEN. RODRIGUEZ: All right. Thank you.
You stated the Latino voters are less likely to have the
identification required by the bill. Can you tell us
why?

MR. FIGUEROA: Yeah. I mean, a lot of
this has to do with the difficulty in obtaining a
driver's license right now. So we know that getting a
driver's license has become increasingly more difficult
by DPS under the current rules. Obtaining the -- having
the birth certificate, the documentation that you need
to get a driver's license is sometimes difficult to get.
The cost involved is also somewhat of a problem.

It's also a lot of people live in these
rural counties or don't live near a DPS station and
don't have a driver's license. Also, students who live
with their -- with their parents and don't have a
driver's license or they only have a student ID card may
not have a driver's license or the funds or the time
necessary to go get a driver's license.

SEN. RODRIGUEZ: I see. Finally, let me
ask you just for the record here -- I think we know the
answer -- but have Latino voters generally experienced,
in the history of this state, disenfranchisement when it
comes to exercising their right to vote?

MR. FIGUEROA: Yes. Texas has a long
history of voter discrimination in Texas, which is why
we're a Section 5 state under the Voting Rights Act. It
is precisely because of our history and the all-white
primaries, poll tax, disenfranchising voters through
cracking and splitting and redistricting that we are a
Section 5 state. And I believe that there's going to be
a witness here today that's going to talk about that.

SEN. RODRIGUEZ: Do you feel that this
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long-standing history has engendered mistrust on the part of the Latino voters as far as coming out and voting?

MR. FIGUEROA: Yes. And ironically the voter ID or the photo ID legislation has been touted as a way to install voter confidence in our electoral system, but it's only confidence on the security side. It's not confidence on the access side. And from the Latino community, there needs to be stronger confidence on the access side. There's a long history of discrimination on the voting side of Latinos, and there is this feeling among many Latinos that there is a continual effort to prevent our ability to elect our candidates of choice and our ability to vote. So we need to work on our confidence on the access side, particularly with the Latino community.

SEN. RODRIGUEZ: Could you tell us whether on this last point even those Latinos with the required ID feel a distrust in participating?

MR. FIGUEROA: Yes. I mean --

SEN. RODRIGUEZ: And if so why?

MR. FIGUEROA: Texas has one of the lowest voter turnouts in the nation. I believe it may actually be the lowest in the nation. Latino voter turnout is dismal in comparison to other states. And those are
people who are eligible -- who are eligible to vote, have registered to vote and in many cases may have the identification. But there is this feeling that there's going to be a systematic way for their vote not to count, that their vote won't make a difference. And so we need to make efforts in this state to encourage voting, not discourage it.

SEN. RODRIGUEZ: Thank you.

Thank you, Mr. Chairman.

CHAIRMAN DUNCAN: I think there's another -- Senator Huffman was wishing to ask questions, and I don't know that she's on the floor. Can you hold on just a minute?

(Brief pause)

SEN. ELLIS: Mr. President?

Mr. President, parliamentary inquiry.

CHAIRMAN DUNCAN: State your inquiry.

SEN. ELLIS: You know the time of the State of the Union Address tonight?

CHAIRMAN DUNCAN: It's this evening.

SEN. ELLIS: This evening? I was hoping I could hold hands with some of my Republican colleagues and watch it. So I'm wondering how long are we going to be here tonight?

CHAIRMAN DUNCAN: We have two televisions
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in the lounge, Senator.

SEN. ELLIS: Well, if I really want to
feel the love, I'd like to be -- I'd like to be at home.

(Laughter)

CHAIRMAN DUNCAN: Senator Huffman -- have you finished your inquiry, Senator Ellis?

SEN. ELLIS: (No audible response)

CHAIRMAN DUNCAN: Senator Huffman, you are recognized.

SEN. HUFFMAN: Yes, sir. Thank you. Just a couple of questions.

Sir, you said that this legislation conveniently disenfranchises minority voters. Is that correct?

MR. FIGUEROA: I don't think I used the word "conveniently," but disenfranchises voter -- could potentially disenfranchise voters.

SEN. HUFFMAN: Didn't MALDEF also claim in the Crawford litigation that the Indiana photo ID law disenfranchises minority voters?

MR. FIGUEROA: We actually didn't litigate the Crawford litigation. We did submit an amicus brief related to our Arizona litigation, and we were concerned about the impact of Crawford as well as the Arizona legislation and the potential disenfranchising impact.
SEN. HUFFMAN: And didn't the Supreme Court of the United States reject your assertions that voter photo ID laws unduly burden the right to vote?

MR. FIGUEROA: What the Crawford decision said was it was, one, not a voting rights case. It wasn't a Section 5 case or a Section 2 Voting Rights case. It was a 14th Amendment undue burdens case. And what they essentially held was the burdens that it imposes on voters was not significant enough to cause a violation of the 14th Amendment.

SEN. HUFFMAN: Thank you.

MR. FIGUEROA: I would state that this bill is more restrictive than the Indiana bill, though.

CHAIRMAN DUNCAN: Thank you, Mr. Figueroa.

There's no other questions -- oh, I'm sorry. Senator Gallegos has a question.

SEN. GALLEGOS: Thank you, Mr. Chairman.

Mr. Figueroa, I don't know if you remember my testimony two years ago, and I showed the maps. If we're going to mandate voter ID in Texas, that we should allow the folks that we're mandating access to DPS centers where they get this photo ID. And if you saw inside the 610 Loop in Houston, there are no DPS centers.

MR. FIGUEROA: That's right.

SEN. GALLEGOS: And also -- or inside the
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820 Loop in Fort Worth there's no DPS centers, and there's only one inside the city of Dallas that would, in fact, make getting, number one, a photo ID costly, and time-consuming. I'm concerned that especially in inner-city Houston and Fort Worth and some there in Dallas that don't have vehicles or use mass transit as a means of transportation that there's no bus lines to the DPS centers --

MR. FIGUEROA: That's right.

SEN. GALLEGOS: -- that provide the photo ID that we are fixing to mandate them. I wanted to ask your -- you know, whether MALDEF -- you know, would that be subject to any type of retrogression as far as allowing somebody poor or doesn't have a vehicle or can't afford the transportation to the outskirts to try to get a photo ID, that there would be subject to any Section 5 violations in the civil rights code?

MR. FIGUEROA: Yeah. Ironic -- the Indiana case did make the one reference that we've been talking about, and the Supreme Court did make significant references to the fact of the free ID provided by Indiana, how to eliminate some of these burdens. However, Indiana, like I mentioned, wasn't a Section 5 state.

And that was a larger issue in Georgia
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where similarly the DPS departments were not in the inner city. So I do think it is a factor that they will consider in preclearance about how accessible is it to obtain that free identification. And in the rural counties of Texas, the inner cities, if it shows that it does have extreme difficulties for minorities to access those free IDs because of the inability to get to a DPS office, the amount of time it takes, the money it takes, the documents it requires to get that free identification, I think that does play an important part of it.

SEN. GALLEGOS: So what you're saying is -- your testimony is that it definitely is a factor. And then like -- other than the areas that I mentioned in my district and Fort Worth and Dallas, let's say an area like Senator Uresti's area where in some cases they've got to go 200 miles, you'll have to catch -- you'll have to either rent a helicopter or get a Southwest Airlines flight to go, and even though we're offering free ID, you know, the issue is how to get there.

MR. FIGUEROA: Yeah.

SEN. GALLEGOS: And what I described to you on these instances where, you know, these people cannot provide themselves with -- especially the elderly

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in these areas, you know, with transportation or don't have the money to provide it, I mean, we can tell them that we have free voter ID available to them if they can get there.

MR. FIGUEROA: Right.

SEN. GALLEGOS: Is that -- is that what your testimony is here?

MR. FIGUEROA: Yes. If they can get there, if they have the means to get there, if they have the documents to get the documentation, absolutely.

Free isn't necessarily free.

SEN. GALLEGOS: All right. Thank you.

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

(No response)

CHAIRMAN DUNCAN: All right. The Chair hears none. Thank you for your testimony, Mr. Figueroa.

TESTIMONY BY CHRISTIAN WARD

CHAIRMAN DUNCAN: The Chair calls Christian Ward. Mr. Ward, state your name and who you represent, please. You have ten minutes with a --

MR. WARD: Thank you, Mr. Chairman.

CHAIRMAN DUNCAN: I think it's either a one-minute warning or 30 seconds. I can't remember.

SECRETARY SPAW: One.
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CHAIRMAN DUNCAN: One-minute warning.

MR. WARD: Thank you, Mr. Chairman. My name is Chris Ward. I'm essential here representing myself. I'm an attorney. I'm a partner with the firm of Yetter Coleman. I practice primarily in complex appeals, including regarding constitutional issues and have some expertise and experience in particular in voting rights law, including the 2009 Supreme Court case Northwest Austin MUD v. Holder.

I'm here primarily to testify regarding the general constitutional standard as explained by the Supreme Court for analyzing a facial challenge to the validity of a voter ID bill. Before I go into that, I do want to say, because it's come up, that in my reading of the Texas bill, it has an exemption for elderly nuns and any other Texan over 70 whether or not they reside in a nursing home. So that's something that's come up, and I wanted to bring that out.

With regard to the legal constitutional standard, the Supreme Court in the case Crawford v. Marion County Election Board examined the Indiana voter ID law, and it went through a very careful analysis of that law, and the essential holding of that law is that a voter ID act is not, in general, constitutionally invalid on its face. And the Indiana law that the court
was considering at the time it issued the Crawford
opinion was at that time considered the most restrictive
voter ID law on the books of any state. And so the fact
that the Supreme Court found that law constitutional
says that there is a lot of room for imposing voter ID
laws under the Court's interpretation of the
Constitution.

There were two primary opinions in the
Crawford case. The first one that I'll talk about is
considered the main or controlling opinion of the case.
It was a case decided by a plurality, which means there
were three Justices signed onto one opinion that's
regarded as the controlling opinion by Justice Stevens,
of course who was one of the most liberal members of the
Court. And the other opinion by Justice Scalia also
generated three votes. Justice Stevens' opinion is
regarded as the controlling opinion because it -- it
puts a little more stricter review, but essentially
those two opinions get to the same result by slightly
different analysis, which actually on further
examination turned out to be somewhat the same.

In Justice Stevens' controlling opinion,
he first looked -- he first described what the
appropriate test would be for a constitutional challenge
to an election regulation like a voter ID law, and the
test that the Court will apply, he says, is you weigh
the asserted injury to the right to vote against the
precise interests put forward by the state. So you look
at the alleged injury or impairment of the right to
vote, the alleged burden imposed by the voter ID
requirement, and you compare that with the severity of
the harm that the state is trying to avoid.

That opinion identifies at least three
valid state interests that the state of Indiana was
attacking with its voter ID legislation. Number one,
deterring and detecting voter fraud, Justice Stevens
says that you can't -- nobody can question the
importance of detecting and deterring voter fraud.

Now, he noted that in that case there was
nothing in the record of that case that in-person voting
fraud, showing up and impersonating another person, had
actually occurred or was a big problem in Indiana, but
it was enough that this is a possibility.

He tells a story of an associate,
Boss Tweed, in New York back during the 1860s, and this
associate would send his repeaters. He would recruit
men who had whiskers and send them to vote once with a
full beard and then send them to a barber and get the
chin shaved off and send them back with mutton chops and
a mustache and then send them back with just a mustache.
And then if you needed another vote, send them back skin
face, it said, plain face, and that makes each one good
for four votes.

Now, I mention that both because I thought
it was a little amusing story, but the more serious
point is that the Court looked at this. This is an
anecdote from history. This is not saying that a state
has to have any showing that this a current modern
problem. The Court cites this anecdote as an example of
this is a potential problem that a legislature is within
its rights to attempt to address by this type of law.

Other valid state interests that the Court
identified with regard to a voter ID legislation is the
improvement and modernization of election procedures.
The Court noted that Congress has shown that it believes
that photo ID is an effective method of establishing
voters' qualifications to vote. The National Voter
Registration Act of 1993, also known as the Motor Voter
Act, is the act that says when you go to apply for your
driver's license, you have to be offered the chance to
register to vote. It's also the act -- it also has
requirements that limit the states' abilities to purge
their voter rolls. So that's one reason why voter rolls
tend to have more voters than actually continue to
reside in a particular state or a particular
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1 jurisdiction.

   The Court also noted the Carter-Baker report, which has also been mentioned in earlier testimony today by Former President Carter and Former Secretary of State James Baker. In that report, they identified photo identification as an appropriate step to take to deter voter fraud.

   The Court also mentioned safeguarding voter confidence in the system as another valid state interest that is served by a voter ID requirement.

   Justice Stevens' opinion then looked to the alleged burdens on the right to vote, and he noted that the photo ID requirement imposes some burdens that other identification methods do not. For example, you might lose your driver's license or lose your wallet on the way to the polls and then you'd have a problem. But he noted that these are not serious or frequent enough to cause a constitutional infirmity.

   And he noted that the relevant burden to be considered here is the burden that is on persons who are eligible to vote but who do not happen to possess a valid photo ID. So you look at the fact that that affects, for one thing, a -- probably a small minority of voters -- of eligible voters in the state already.

   The Court noted that if you had to pay a