tax or a fee to get the ID, that would be the equivalent of a poll tax, and that would be unconstitutional. So one important provision which the Indiana legislation had and which the Texas bill has is the fact that free voter ID cards are available.

The Court noted that some people will have heavier burdens and -- but the fact that some people may have heavier burdens does not make the statute itself facially invalid and unconstitutional. It means that perhaps in an individual case an individual might be able to show that the burden -- the specific burden on that individual is so high that it would be unconstitutional to apply the statute to that individual, but that's not the same thing as saying that the statute is facially invalid and unconstitutional as a whole. And that's what we usually think of when we think of the Court striking down a law as unconstitutional. That strikes down the whole law as invalid.

So that was the ultimate conclusion. Justice Scalia, in his opinion concurring, would go a little bit further than Justice Stevens, but he essentially reaches the same result. Justice Scalia says that the voter ID law is a generally applicable, nondiscriminatory voting regulation, and thus individual
impacts on specific voters are irrelevant for determining the severity of the burden. In Justice Scalia's analysis, he said you look at the burden is not severe on anyone. The burden is show a photo ID. That burden could have some different impacts on particular individuals, again, who might have a particular hardship getting that ID. But, again, that's not enough to say that the law, as a whole, is unconstitutional.

SEN. ELTIFE: Members, any questions of the witness?

(No response)

SEN. ELTIFE: No questions.

Mr. Ward, thank you for being here.

MR. WARD: Thank you very much.

TESTIMONY BY GARY BLEDSOE

SEN. ELTIFE: At this time, we'll call Gary Bledsoe forward.

MR. BLEDSOE: Good evening. My name is Gary Bledsoe. I represent the Texas State Conference of NAACP branches, and I am proud to stand before you as a fellow Texan, and indeed I want to emphasize the term "fellow Texans."

You know, the Texas that we have today is very different from the Texas that I grew up in, and indeed I've seen many things occur that have been
CONSIDERATION OF SENATE BILL 14 1/25/2011

extremely positive for me. I grew up in a segregated
Texas when voting was really a luxury, something that
was not to be expected in my community. It was
something very much that people cherished and desired,
desired to occur.

And many of you might even remember back
in 1974 when Frank Robinson, an African-American who was
registering individuals to vote out in Palestine, was
actually killed at his home because of his attempts to
register people to vote. Now, I happened to be a
freshman in law school at that time. So it's not all
that long ago that that actually occurred.

And, you know, when I -- when I look at
the ways that we have had to struggle to get the
opportunity to vote, I want you to know that we cherish
that and know that's extremely important. And in many
ways, our state had become exemplary. When I go around
the country and you -- we understand how we've enabled
people that have been on paper with felony convictions
to vote and things of that nature, that's a good thing.

And, you know, the fact that -- we don't
really have a problem with voter fraud in elections. I
think that all the testimony seems to indicate that,
that indeed people who go to vote are indeed people who
actually are registered to vote. So there's really not
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 a problem in that regard from what we've seen.

2 However, I'm aware that what we're discussing now is whether or not we will have a bill.
3 So I would reach out to each and every one of you and say that if we are going to discuss voter identification, then let's do so in a way to be constructive and to be enabling so that we can try and empower all the people within our state to presume that all people who would be eligible to vote ought to be allowed to vote. And so we should reduce impediments and not present additional impediments that would prevent people from voting.

4 Now, frequently we have come before you and talked about this issue. I know that the last time I came before you we talked about a number of instances of serious irregularities that have occurred in our state, and I don't want to go back and go over all those, but I want to point some of those out to you because I think if we're talking about voter problems that really and truly we ought to be talking about some of the issues that prevent access because we think that's a much more significant problem than the problem with people voting who are not the people who were -- who were actually registered to vote.

5 In just this past year, we had a situation
with elderly citizens up in Bowie County who were harassed by individuals after they had voted absentee, and people were demanding to know how they voted, terrorizing the elderly people who made contact with us because they were very concerned, but it was very obvious it was because of politics, from our observation.

We know that we had so many problems or complaints directed to us out of Harris County this last session where people were intimidated by other individuals who hovered over them, who stared at them and gave very hateful looks towards them, intimidating some people from going forward with actually voting.

So we know these things continue and occur, and it's not just the kinds of things that we've seen in the recent past, such as when an African-American candidate for sheriff in a county outside Houston had -- one of his white supporters had their home catch fire. And so instead of investigating what might have occurred, they ended up investigating the African-American candidate for sheriff.

We know that where they've used off-duty police along with improper uses of mailboxes in Tarrant County to intimidate African-Americans from being able to vote. So it goes on and on, and all these things
have occurred within the last decade and some within the past six months. So we know that indeed we have not arrived to where we have eliminated problems with preventing our having access to be able to vote.

And, you know, I was able to be an election observer for an election down in Venezuela, and that was really quite illuminating to me in that the individuals had to give a fingerprint whenever they voted, and an untrained person had to look at the fingerprint and determine whether or not it was the right person. And we know that the photograph came up on the screen and you had to look and see if this was the right person.

And, you know, they had armed guards around, and I actually had the misfortune of having a gun directed at me by a guard. When I was asked by an official in the Secretary of State's Office to actually go and observe them vote, I actually had to back off when a gun was directed right at my face for -- five or six feet away.

So I think we look at those things, we don't need to move in that direction. We need to be going out and telling people that what we have is really good. What we have is actually working, where we have a democracy, we have people that are engaged that are from
CONSIDERATION OF SENATE BILL 14 1/25/2011

different backgrounds, different races, different ethnicities, and we get there and we debate and we discuss issues.

You know, when they had the birth of a nation years ago and they talked about what would occur in our country with enfranchising African-Americans, we found out just the opposite was true, and that indeed we're moving toward something that's very special, but there are people that are competing against what we've been trying to accomplish.

But, Senators, I really want to say to you that we have a system that I feel is actually a good system.

Now, besides all the other matters that I can talk about, I wanted to visit with you about some of the problems that we see with where we're proceeding with SB 14. You know, I don't understand why, but in many ways I look at SB 14 and SB 14 is much more problematic than the Indiana law and much more problematic than the Georgia law that have been utilized. When we look at the Indiana law, the Indiana law -- we can see where individuals can actually come in and if they are indigent, they can give an affidavit and be allowed to vote by saying that they can't afford to have a voter ID.
CONSIDERATION OF SENATE BILL 14 1/25/2011

We know that under the Texas law in comparison with the Indiana law you've got to come back in a stated period of days, and these six days. And the way that six days is worded and the time that's involved, it's going to require people to come during their workdays from 8 to 5, which is a real problematic thing for individuals to do. And we know that when you have to come in from 8 to 5 and you're a working person, that's going to be something that's difficult for you to do.

We have a law that says if you're voting in an election, that on election day you can go and have time off from your work. There's not a law that says you can come and have that taken care of.

Now, the -- we know, too, that the other thing about an Indiana law -- and I would note that Indiana is not a covered jurisdiction. So Indiana and the Indiana case involved constitutional issues and not the Voting Rights Act.

But, now, Indiana allows you the one free bite. So when you go in and you have an expired identification, you can still use that identification for one election. The idea is that then the person will be put on notice that their identification is expired, and they will go and have that identification come up to
date. So I think that's another distinction.

Now, in Georgia and in Indiana, they did some things that we have not done here. They did diligent inquiries, and they determined that prior to adoption of their laws, they determined that indeed almost every one in those states had DMV identifications. So everyone in Georgia had a DMV identification, and only 43,000 people in Indiana did not have a DMV identification. So that's much different from what we have here.

Also, those states are much smaller. And in Texas with the location of driver's license offices, et cetera, some people have to travel over 100 miles. So even with an indigent's provision, that's not going to allow people who are poor, indigent, impaired, have difficult access to these places to be able to actually register. And I don't know what the implications are for obligations under the NVRA, but we have not complied with our obligations under the law. And that has been a problem in Indiana as well.

And I'd just say, finally, it's very clear that the Texas law will impair and have a clearly disparate disadvantage on people of color. The forms of ID selected are problematic. There would have been something better. The forms of ID selected in Indiana
and Georgia were both superior. The criminal prosecution will discourage. We know that this might impair compliance with the NVRA. We know that there have been so many problems with election officials that this will empower them more so to disadvantage individuals. And we know that because of the time to vote, the problem with identification and especially cross-racial identifications, the issue of the expirations and the types of the IDs selected, those things are going to further reduce the minority vote. So we think this is a covered jurisdiction, and you can look at this in a different way. Thank you.

SEN. ELTIFE: Mr. Bledsoe, thank you. And some members do have questions for you.

Senator West?

QUESTIONS FROM SENATE FLOOR

SEN. WEST: Thank you very much,

Mr. Chairman.

Mr. Bledsoe, thank you also. Now, you've been the President of the NAACP Conference -- state conference for how many years now?

MR. BLEDSOE: Twenty years.

SEN. WEST: Twenty years. Is there a well-documented history of voter suppression that is specifically related to race and ethnicity in this
CONSIDERATION OF SENATE BILL 14 1/25/2011

state? And how would this voter ID law fit into that particular history?

MR. BLEDSOE: Well, I think it's consistent with the history, and that's sad. You know, I think that we've seen Texas really evolve in a lot of ways. And, you know, Texas has had a history where in recent years I had a lot of bipartisan cooperation. And I know that when we've done report cards in the past, we had people in both parties that were doing exceptionally well on our report card.

But we haven't extricated ourselves from the past. And indeed when we look at the past and we look at all the disenfranchisement that's taking place, this is a direct extension of that because indeed if one wanted a voter ID law, there would be a way of having a voter ID law that would be more enabling, that would not suppress the vote. Because what we want people to do is to go out and to compete and to actually say that we will compete for the minority vote and not have a law that we think will have a clear disadvantage in terms of suppressing the minority vote.

SEN. WEST: Would you -- so do you believe that this voter ID law will, in fact, discriminate against people of color?

MR. BLEDSOE: There's no question, again,
CONSIDERATION OF SENATE BILL 14 1/25/2011

The types of IDs that are selected, the time period with
the nature of the jobs that African-Americans have and
the requirement for African-Americans to come in and
actually produce their proof within a certain period of
time. We've had enormous problems in this state with
the cross-racial identifications, and I can just see
enormous problems with that. Especially with the kinds
of things that we've seen in Bell County and some other
places here recently, we know that's going to be a
problem.

And we know, too, that in terms of the
issue of expirations, that's going to be a problem. And
if you look at state data on like voter -- excuse me --
motor vehicle ownership, our access to vehicles, you'll
find there's a big disparity among racial groups. And
so we're talking about the poorest of minority groups
not truly having access to be able to go and access the
identification. So I think it's clearly going to have a
disparate impact.

SEN. WEST: So is it your testimony that
this particular voter ID bill will discourage as opposed
to encourage people to participate in the electoral
system?

MR. BLEDSOE: It will; it clearly will.

And, you know, one of the big things obviously is the
criminal prosecution, but then there are the other provisions as well where you make it so difficult for people. You know, we've had, in numerous instances, Fort Bend, Harris, Bowie Counties, where individuals have been turned away, who weren't even allowed to cast a provisional ballot. And so that's a problem. You know, it's kind of like the thing in Indiana when the 12 nuns were attempting to vote, and they did not allow 12 nuns to vote because they didn't bring their voter identification with them.

SEN. WEST: It was 12 of them?

MR. BLEDSOE: Twelve; 12 nuns, yes.


Now, let me ask this question, sir: You've had an occasion to speak with many African-American elected officials concerning voter identification laws over the last few years. Is that correct?

MR. BLEDSOE: That's correct.

SEN. WEST: Have you found any African-American legislators -- any African-American elected officials in the state of Texas that are in favor of the voter identification laws that are being considered by the Texas Legislature?
MR. BLEDSOE: We've seen none. And, you know, our group is unanimously opposed to it. And, you know, we've got Republicans and Democrats in our leadership. And let me say that one of our folks that I think you even know, Senator -- I don't know that you know this -- but Obie Greenleaf, who is a city councilman now up in Sherman, he just went and tried to renew his registration, and he was pulled out of line, told he had to go home and get -- and get his birth certificate.

SEN. WEST: And he's a city councilman?

MR. BLEDSOE: He's a city councilman. And another African-American male, who is 80 years old, was told to do the same thing. Now, all the whites in line were not pulled out.

And, you know, we've done some surveys around the state, and we're not complying with NVRA. So there is a real problem with our people being registered to vote by our agencies.

SEN. WEST: Well, there have, in fact, been some campaigns that have been launched lately -- or back in 2005, 2006, campaigns against voter fraud. Do you remember those campaigns by the Attorney General?

MR. BLEDSOE: I'm aware.

SEN. WEST: And some of the images that
 CONSIDERATION OF SENATE BILL 14 1/25/2011

1 were used there within the content of those campaigns?

2 MR. BLEDSOE: I think those things became

3 part of litigation, if I'm not --

4 SEN. WEST: All right. So, frankly, the

5 passage of this particular bill will encourage

6 additional litigation in the civil rights area. Is that

7 correct?

8 MR. BLEDSOE: There's no question. Let's

9 look at the PV 19, for example --

10 SEN. WEST: Right.

11 MR. BLEDSOE: -- and the 19 children who

12 bore the names of their fathers, and they were

13 wrongfully prosecuted because they voted in Waller

14 County. And that county still has enormous problems.

15 You know, we had a couple years ago where the county

16 registration officials declined to follow through and

17 tender legitimately completed voter registration cards

18 to be registered, and that was right before an election, and that continues to be a problem. And if it wasn't

19 for the AG's Office telling them ultimately to register

20 those voters, I don't know if they ever would have been

21 registered, but they were not registered before the

22 election. So there was an impact in them not following

23 through and registering those voters.

24 SEN. WEST: Well, sir, I appreciate your
advocacy, and needless to say you're steadfast as it relates to protecting the rights and civil rights of people in this state. Thank you.

MR. BLEDSOE: Thank you.

CHAIRMAN DUNCAN: The Chair recognizes Senator Hinojosa.

SEN. HINOJOSA: Thank you, Mr. Chairman.

Mr. Bledsoe, thank you for your testimony. And I was very interested as you described the history in where minorities for a long time were being kept from voting and exercising their right to vote. You talk about many problems from intimidation, I guess, to the poll tax. Can you name some of those situations, for example, where laws have been passed for the sole purpose of trying to suppress the vote of minorities?

MR. BLEDSOE: Obviously there were -- there were a number of those that occurred. One of the things that we had in our state was the grandfather clause. You know, we had had poll taxes in this state, and ultimately in this state they ended up passing the rule that was used in the Democratic Primary, which at that time there were -- the two parties were the conservative Democrats and the liberal Democrats. And so if you didn't vote in that Democratic primary, you really didn't have a vote.
And that had to go -- the NAACP litigated that case, and we first defeated that system back in, I think, '28 or '29 before the Supreme Court, but they finessed the rule. And so the NAACP had to litigate it again, go to the Supreme Court again in 1944 where it was finally invalidated. So there have been quite a few instances. But if you happened to be African-American or Latino and your grandfather had not been able to vote in 1910, the teens or the '20s, '30s, you couldn't vote either.

SEN. HINOJOSA: And as you well know, Texas right now is under a Voting Rights Act.

MR. BLEDSOE: That is correct.

SEN. HINOJOSA: And they have an actual burden to prove that whatever laws they pass in terms of voting doesn't discriminate or suppress the vote against minorities.

MR. BLEDSOE: And that's one thing they didn't have in Indiana. That's an additional obstacle that they'll have to encounter with the law in this state.

SEN. HINOJOSA: And as you recite history, it seems to me that many times different laws, different methods are used to try to suppress the vote of minorities, and they use different euphemisms and
CONSIDERATION OF SENATE BILL 14 1/25/2011

different names. And it seems to me that the purpose of
the voter ID legislation is, again, to suppress the
vote. Are you familiar with the Carter-Baker Commission
and Federal Election Reform?

MR. BLEDSOE: Yes, I am.

SEN. HINOJOSA: Yeah. Well, one of the
studies they made would show that here in Texas where we
have approximately 13 million registered voters, that if
we pass voter ID, it would disenfranchise approximately
3 million voters, mostly minorities. Are you surprised
at that?

MR. BLEDSOE: I'm not, because I think
this will have enormous implications. And again, if we
wanted to look at Indiana or Georgia, I would have
problems, but those laws -- they are so much less
restrictive than what's being proposed here. This law
would have enormous implications because of the way that
it is written. So it seems like instead of seeking the
least restrictive means, we're seeking the most
restrictive means.

SEN. HINOJOSA: And as you describe the
different problems that exist in terms of sometimes
intimidation, sometimes in placing obstacles to
minorities to vote, have you come across a lot of
instances where there's voter fraud where a person tried
to impersonate a registered voter?

MR. BLEDSOE: I have not seen of such a situation, Senator. I think there are very few situations because you are putting yourself in harm's way when you do that, even under the current laws. So I think there are fail-safes under the current law that would prevent you from doing that. But be that as it is, I think that it's pretty much widely acknowledged today that that's really -- really not a problem.

SEN. HINOJOSA: And, for example, the last ten years, do you know how many prosecutions have taken place in terms of indicting a person for trying to impersonate a registered voter?

MR. BLEDSOE: I think I saw something on the Internet maybe about one in South Texas recently and one person, and there might have been something in Harris County. But in all those years, maybe one or two, and I don't know if they were successful or not.

SEN. HINOJOSA: Well, if you compare the number of people who have been indicted, maybe three or four or five in the last five or six years that try to impersonate a voter, to the negative impact that this piece of legislation would have on minorities by disenfranchising approximately 3 million who do not carry photo ID, don't you think it's a little bit out of
balance and a steep price to pay?

MR. BLEDSOE: It is. Again, if we wanted to have the integrity, there are things we could do to ensure integrity more so than what we're actually doing here. You know, there have been good and great suggestions that have been put forth. And again, the distinctions between Indiana and Georgia is the DMV had IDs on almost all those folks. So when we went to the Department of Justice in Georgia to get preclearance, Georgia could tell DOJ that 100 percent of our people we have IDs on already, and that's something we don't have.

SEN. HINOJOSA: Thank you for your testimony.

MR. BLEDSOE: Thank you, sir. Thank you, Mr. Chair.

CHAIRMAN DUNCAN: Hold on just a minute.

Senator Ellis?

SEN. ELLIS: Yeah, briefly, Mr. President. I just wanted to thank Mr. Bledsoe. I called him last night and asked him to come. I know he had client business and court matters toady, and you've been waiting all day to testify. I think my colleagues asked the questions I would have asked, but I just wanted to publically thank you for staying here all day today.

MR. BLEDSOE: Thank you, Senator. I
appreciate it. Thank you.

CHAIRMAN DUNCAN: Are there any other questions of the witness?

(No response)

CHAIRMAN DUNCAN: Thank you, Mr. Bledsoe.

We appreciate your appearance here today.

TESTIMONY BY ANDRES TIJERINA

CHAIRMAN DUNCAN: Dr. Andres Tijerina.

Dr. Tijerina, state your name and who you represent.

MR. TIJERINA: My name is Andres Tijerina representing myself.

CHAIRMAN DUNCAN: You may begin.

MR. TIJERINA: I'm a citizen of Austin, a citizen of Texas, born in Texas, and I'd like to provide some useful information to give a historical perspective to voting laws and specifically those that have been discriminatory against Mexican-Americans and minorities in Texas.

As I said, I am from Texas. I'm from West Texas. I have a BA from A&M, a masters from Tech, a Ph.D. from The University of Texas at Austin, and I also worked as the liaison officer for the United States Air Force Academy in Colorado Springs. I'm a retired Air Force officer. I'm a member of the Texas State Historical Association among other associations. I'm
also a Fellow of the TSHA, and I've conducted research here at the State Archives, the National Archives, University of Texas and other places in order to write numerous books and publications that I've published through Texas A&M University press and other refereed publications, primarily on Texas history and Mexican-American history that's given me this -- a perspective that I'd like to share with you all this afternoon.

Texas, I think, has a legacy and a history of voter discrimination that is very clearly directed and explicitly directed at Mexican-Americans to specifically and effectively keep them from voting that goes way back to the establishment of Texas right after it was annexed to the United States and goes right on up to the present.

It has a record of establishing and writing laws to create legal devices and to take actions specifically intended to intimidate Mexican-Americans and minorities from voting, to drive them away from the polls; actions to divide and to redistrict their population base, their counties, specifically directed to keep them from voting or to weaken their voting effect in Texas; devices and actions to literally terrorize them through the years, through the decades.
The effect has been to effectively reduce the number of Mexican-Americans who have voted through the years, through the history of Texas, and at the same time to leave an impact or a legacy among their community of distrust of the state government and even a fear of state government and state law enforcement officials. This has been done in many ways that appeared beneficial or that were presented as beneficial even innocuous laws. Many of the people who effected this were people who approached Mexican-Americans innocuously or supposedly to help them.

Political bosses, Texas has some of the most powerful political bosses, or had through history, Jim Wells, Robert Kleberg, George Parr, who used very explicit and physical methods, literally corralling hundreds of Mexican-American voters, thousands of Mexican-American voters, primarily in the years from around 1870 until around 1940, 1950, where they would literally corral hundreds or thousands and direct those votes, either through assistance to them by hiring them to work on the county at election time or literally through intimidation or specific assassinations. In any case, taking hundreds or thousands of Mexican-Americans and then directing them to vote for people who became great Texans, Lyndon B. Johnson, John Nance Garner,
Edward M. House, who benefited from corraling of Mexican-American voters, either through assistance to those voters or intimidation and threats of those voters.

The Terrell Election Law, which was presented as a beneficial law, actually created a poll tax specifically directed at Mexican-American voters to keep them from voting, a 1918 law to explicitly eliminate interpreters; other devices like the white man's primary that required that people take an oath that said that they were a white man and a Democrat; but also violence, violence that is almost unbelievable today, even considering the violence that we see in today's newspapers, even considering the violence you see in Mexico; Texas Rangers, law enforcement officials or vigilante groups in Harlingen, Edinburg, across Texas all the way out to El Paso, riots in which the Anglo-American, 4,000 Anglo-American riders in 1916 in Harlingen chanting, "Keep the Mexicans from voting," literally rioted and lynched several Mexican-American U.S. citizens to keep them from voting; Texas Rangers literally ethnic-cleansing hundreds and thousands of U.S. citizens, shooting them in the back of the head under sworn testimony that we have here in the Texas State library, all of them explicitly to keep them from
voting at election time; going through the barrios in Corpus Christi and Harlingen at election time, riding through and telling them, "Any Mexican-American citizen caught voting would be either killed or sent to prison."

That's the heritage of Texas, and it goes all the way on up to the lynchings in the 1930s, 1940s of Mexican-Americans. And then later all the way up through the 1960s and 1970s, Mexican-American organizations, LULAC, GI forum and voter right -- Southwest Voter Education Project of Woody Velasquez, having to literally engage in lawsuits to try to enforce the 1965 Voter Rights Act that has continued up until last -- well, 2008, in this very county, a group tried to, in effect, limit the extension of the Voter Rights Act and actually had to go up to an appeals court of the U.S. Supreme Court.

So the record of Texas has been specifically directed against Mexican-Americans and minority voters, and it's been very effective, not only in limiting and reducing their votes, but also in creating a legacy among their community of distrust of our state government, distrust of our voting process, distrust of the democratic process and even fear. Thank you.

CHAIRMAN DUNCAN: Thank you, Dr. Tijerina.
Are there any questions?

(No response)

CHAIRMAN DUNCAN: All right. The Chair hears none. We appreciate your testimony.

MR. TIJERINA: Thank you.

QUESTIONS FROM SENATE FLOOR

CHAIRMAN DUNCAN: Oh, I'm sorry. Excuse me. We do have Senator Gallegos.

Excuse me, Senator.

SEN. GALLEGOS: Professor, let me ask you -- I mean, I just heard your testimony and the history, and you've said all that discrimination has been targeted mainly to Mexican-Americans here in the state of Texas. Is that correct?

MR. TIJERINA: Yes, sir, very explicitly to Mexican-Americans.

SEN. GALLEGOS: So let me ask you, in your expertise on history discrimination except as compared to voting rights, how would you compare the present bill that is before us as to some of the intimidation and discrimination factors that you had just described to us in the past and some of the bills that were for like the no interpreters? That was in 1918?

MR. TIJERINA: Yes, sir.

SEN. GALLEGOS: And some of the other
issues that you brought up. How would you compare this Senate Bill to the past history that you described to this chamber?

MR. TIJERINA: That those in history also were presented in a very positive good light. The people who presented these laws and the people who took the action, the rioters who lynched Mexican-Americans called themselves the Good Government League. They had good names. The people who killed and assassinated hundreds, even thousands of Mexican-American/U.S. citizens, called themselves Progressives. The laws that were passed by Terrell himself in the Terrell Election Law of 1903, he explicitly stated that he wanted to "kill the Mexican vote." The candidates during that time period who campaigned for the U.S. Senate -- it's in the Senate record -- campaigned that their intent -- that their intent was to kill the Mexican vote. And yet the way the poll tax was written, the way the Terrell Election Law was written, it was innocuous. It was beneficial. It was written specifically to assure that only those legal voters could vote and to clean up the elections.

So to read the Terrell Election Law itself was very innocuous or beneficial, and yet to hear Terrell himself speak, he was very explicit. He wanted
to "kill the Mexican vote," and that's how I would compare them.

Many of these devices through the years are written to sound beneficial or innocuous, and yet they have just the opposite effect.

SEN. GALLEGOS: Professor Tijerina, what you're describing to me and what I just heard is what I've seen on television recounts of what happened in Mississippi and in Alabama and those southern states that prevented African-Americans from either registering or voting. Is that what you're comparing this to?

MR. TIJERINA: I think it would -- it would have a parallel, yes, sir.

SEN. GALLEGOS: Let me ask you, is there any evidence that old historical discriminatory actions are relevant or applicable today?

MR. TIJERINA: Yes, sir, in the sense that there has been and there is a legacy today in Texas of voter discrimination, voter intimidation and a legacy of fear and distrust; yes, sir.

SEN. GALLEGOS: Professor, let me ask you also, is there any evidence -- well, I think you just answered this -- of innocuous or beneficial election laws that may have actually had the intent to disenfranchise Mexican-Americans -- Mexican-American
voters?

MR. TIJERINA: Yes, sir, those that I just cited.

SEN. GALLEGOS: Okay. I just -- I just wanted to be clear on that fact. Thank you very much, Professor.

MR. TIJERINA: Thank you.

CHAIRMAN DUNCAN: Are there any other questions of the witness?

(No response)

CHAIRMAN DUNCAN: All right. The Chair hears none. The witness will be excused. Thank you.

TESTIMONY BY CHASE BEARDEN

CHAIRMAN DUNCAN: The Chair calls Chase Bearden. Please state your name and who you represent.

MR. BEARDEN: My name is Chase Bearden. I'm with the Coalition of Texans with Disabilities. Good afternoon. Thank you for a chance to speak to all of you.

We have spent some time looking at voter ID, and we feel that there is a portion that will disenfranchise a large number of Texans with disabilities. We've looked at just the logistics of trying to reach a place to get this free ID that
everyone has talked about.

There's a large cost associated for a person with a disability who lives in a rural area or place that's farther out to try and reach a DPS office to try and get these IDs. The majority of people with disabilities, especially that have had one for their entire life, may not have ever gotten a driver's license. They may not have a Texas license. They more than likely don't have a passport. So when you look at trying to get the IDs that you need to go and vote, you're starting off at a large cost.

The majority of people with disabilities that are wanting to get these IDs will have to probably go and get their birth certificate. To find someone who can actually pick them up, drive them there, find an accessible vehicle, if they don't have one, or find a bus line that actually goes to where they can get a birth certificate is going to be very difficult. A lot of people said, "Well, maybe they can go online. They could access and get their birth certificate sent to them online." There's a large number of Texans with disabilities who are living on a very small amount of money each month. They more than likely don't have a computer to even access the Internet much less a provider or a credit card that they could use to access
the birth certificate they need. It also takes quite a
while to get that birth certificate if you were to
access that online unless you were to expedite it.

Then after getting that, you would have to
find a way to get to the DPS office. If you do live in
a very rural area and you have a significant disability,
maybe you're using a power chair and your family doesn't
have an accessible van to be able to get you somewhere,
you have to look at how are you going to be able to make
it to where that person can access these IDs easily.

One of the other areas that we looked at
was people living in nursing homes, state-supported
living centers who might not be able to access the IDs
they need to go and get identification. Do we have
something in place that's going to allow them to be able
to go and more than likely not be able to catch a ride
or hop in their car and drive down to the DPS office.
They are living in a state-supported living center, but
they still have the right to vote.

So looking at how they would get their
identifications, we feel like they would still more than
likely be put in a place where they are not going to be
able to get the identification they need.

One of the other areas that we looked at
was that there's an exemption for a person that's over
And when we thought about that, isn't that similar to the same issues that a person with a disability might be facing, a harder time getting transportation to get in to go get that ID, maybe the cost, living on a fixed income? So we have an inconsistency that kind of keeps the same person from getting the ID they need, that free ID, but we're giving an exemption to someone else.

When we started looking at a person who is traveling to go and actually vote and they get there and they don't have the correct ID or they are missing something, so they have to cast a provisional ballot, trying to get back there within six days can sometimes be logistically impossible for a person. They might have had to get public transportation to go and get there. So they had to set up a ride through one of the kind of disability bus systems, but they might not be able to get a ride again or to get to the place to get the documentation they need to get back and cure their ballots.

Currently right now there are being bills filed that would reduce the accessibility at some of the polling places on nonfederal elections. They wouldn't have to use all the accessible voting machines. We feel like if you end up passing a law like that and then you add voter ID to that and you're kind of putting a burden
CONSIDERATION OF SENATE BILL 14 1/25/2011

on someone trying to force them to get an ID that they
might not be able to get to, and then they get to the
polling place and they don't even have the accessibility
they need to cast a private ballot. It's just recently
in 2001 that we've been able to get the technology we
need to cast that private ballot without someone else
doing it for us. And now we're looking at having that
removed and then being forced to try and find an ID
that's acceptable that might not be obtainable by
everyone.

So we ask that y'all take the time to
really investigate how these IDs will really affect
someone who might not be able to obtain what it is y'all
are asking for. Thank you.

CHAIRMAN DUNCAN: Thank you, Mr. Bearden.

QUESTIONS FROM SENATE FLOOR

CHAIRMAN DUNCAN: Senator Zaffirini?

SEN. ZAFFIRINI: Thank you for being with
us this afternoon, Mr. Bearden. Excellent testimony. I
have several questions for you that will focus on the
needs of persons with disabilities and how they will be
impacted if Senate Bill 14 were to pass.

First, are persons with disabilities less
likely to have a current driver's license, military ID
or passport than the general population of voters?
MR. BEARDEN: I think there's probably a large number of people with disabilities who don't have a current driver's license or who don't have a driver's license. Many depend on the bus system, and they live in areas where they can access buses. Not all the bus systems will access DPS. Not all people with disabilities are going to have a passport. Many of them are living on a fixed income and more than likely are not traveling abroad. They more than likely have not been in the military or are carrying any other type of ID.

SEN. ZAFFIRINI: And what is the reason for this? Why is it that persons with disabilities -- and I'm trying to enter it into the record. Why is it that persons with disabilities are less likely than other voters to have these documents?

MR. BEARDEN: People with disabilities tend to be of the lowest demographics when it comes to having jobs, having income. They are having a harder time trying to get the services they need. So being able to have a driver's license or a passport is a lot of times unobtainable.

SEN. ZAFFIRINI: Thank you. What additional barriers do persons with disabilities have in obtaining the forms of ID requested or required by
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Senate Bill 14.

2 MR. BEARDEN: Could you repeat that again?

3 SEN. ZAFFIRINI: What additional barriers do persons with disabilities have or would have in obtaining the forms of identification required by Senate Bill 14?

4 MR. BEARDEN: I think many of the barriers would be -- I think it was brought up that one of the DPS offices was inaccessible. There's still accessibility issues in Texas. We've had accessibility issues in polling places.

5 When you look at trying to get $22 put together to buy a birth certificate, have to take the time to get that birth certificate, then go to get another ID, I think when you look at the amount of money that that is -- and I know everyone doesn't feel it's a large amount of money -- but someone living on a fixed income, on SSI, that is a large portion of their funds, and a lot of them won't be able to obtain it.

6 SEN. ZAFFIRINI: Would the voter identification required in this bill be sufficient to ensure access to accurate information about the new ID requirement information for the full range of persons with disabilities in our state?

7 MR. BEARDEN: We don't feel it will. The
majority of people who have disabilities are living on a fixed income. They don't have access to a computer. They don't have access to the Internet and more than likely not to have a newspaper to receive the information. So we don't feel that they will be able to get all the information.

SEN. ZAFFIRINI: Thank you. What effect do you believe that Senate Bill 14 would have on the turnout of voters with disabilities?

MR. BEARDEN: The turnout of voters with disabilities has increased up to -- we feel like it will decrease. The majority of people will show up. They'll try and cast their vote. They will have to do a provisional ballot, and I think when they start to look at having to come back, they will have a harder time making it. The journey getting there sometimes is incredibly difficult, trying to find a way to get there, trying to get everything in order to be able to get there. So we do think it will decrease the turnout.

SEN. ZAFFIRINI: Thank you. Now, thinking specifically of persons with disabilities who are registered voters and who do have a photo ID, is there any way that they would be impacted negatively by Senate Bill 14?

MR. BEARDEN: I think they could be if
they do not bring their ID. The majority of people with disabilities, if they had a photo ID and were to show up without it or to have one that has expired, may not have the time to actually go afterwards, get an ID redone or to get a current ID to be able to make it back and have their ballot cured in time.

SEN. ZAFFIRINI: Would part of the problem be that they might have a photo ID that is very old?

MR. BEARDEN: I think that's very possible. There's a lot of people who might have received an injury who were driving before who are not driving anymore, who have held onto an ID that has expired. That's all they've needed. So more than likely if they are not driving and their ID is expired, they probably won't have a current ID.

SEN. ZAFFIRINI: And they might have a driver's license that has expired, too --

MR. BEARDEN: Uh-huh, yes.

SEN. ZAFFIRINI: -- that would have a photo?

What affect do you believe Senate Bill 14 would have on the number of provisional ballots cast by voters with disabilities?

MR. BEARDEN: I think we'll have a lot -- a larger amount of provisional ballots casted, and I
CONSIDERATION OF SENATE BILL 14 1/25/2011

don't think we will be able to -- in the next few
2 elections be able to educate people fast enough to be
3 able to lower that level. We've spent since 2001
4 educating people, that they have the technologies now to
5 make an independent, private vote themselves. And it
6 took time to get people to understand that if they were
7 visually impaired, they didn't have to rely on someone
8 else anymore. They went before, they had a bad
9 experience, weren't able to cast their own ballot, and
10 then once we passed HAVA and they had the technology to
11 cast their own ballot, it took us time to get people
12 educated to know that they can still do that and how to
13 do that. So I think we would be kind of taking steps
14 backwards by doing this.

SEN. ZAFFIRINI: To your knowledge, have
16 HAVA funds been used specifically to increase the access
17 of persons with disabilities to polling places.

MR. BEARDEN: Yes, they have. We've
19 specifically worked with HAVA and the Secretary of
20 State's Office to increase Texans with disabilities
21 voter outreach. We've also worked with them on finding
22 access issues. So I think these funds would be greatly
23 hampered, and the ability for Texans to be able to vote
24 would have problems.

SEN. ZAFFIRINI: Do you have any concerns
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 about the plan or the possibility of diverting
2 $2 million in HAVA funds to pay for this Senate Bill 14
3 instead?
4
5 MR. BEARDEN: Yes. Because right now I
6 believe that's about what they are spending to do all
7 the outreach and to work on accessibility and to
8 maintain some of the voting machines. Right now what
9 they've said, the reason -- I believe one of the House
10 bills that's been filed to not have to have the
11 accessible voting machines is that it's a higher cost
12 during nonfederal elections. If that's the case and the
13 counties are not able to afford to make -- have an
14 accessible machine, the funds that could have helped
15 them are probably now going to be taken away to let
16 people know that they're going to need an ID.
17
18 SEN. ZAFFIRINI: So it is your testimony
19 that if $2 million in HAVA funds are diverted for the
20 purpose of Senate Bill 14, that there could be a
21 negative impact on the accessibility of persons with
22 disabilities to the polling places?
23
24 MR. BEARDEN: Yes.
25
26 SEN. ZAFFIRINI: Thank you. Now,
27 Mr. Bearden, you represent the Coalition of Texans with
28 Disabilities?
29
30 MR. BEARDEN: Yes, I do.
SEN. ZAFFIRINI: And that comprises different member organizations?

MR. BEARDEN: Yes, it does.

SEN. ZAFFIRINI: Who are some of those member organizations?

MR. BEARDEN: We have organizations that are not disability related. We have a majority of disability groups that are out there. I think we have --

SEN. ZAFFIRINI: Do you have veterans, for example --

MR. BEARDEN: We do; we do.

SEN. ZAFFIRINI: -- with disabilities?

MR. BEARDEN: We have veterans' associations. We have organizations that are more specific to single disabilities. We've worked with groups of older Texans.

SEN. ZAFFIRINI: And is your testimony today personal, or are you representing this Coalition of Texans with Disabilities?

MR. BEARDEN: I'm representing the Coalition of Texans with Disabilities.

SEN. ZAFFIRINI: Have they discussed this bill thoroughly?

MR. BEARDEN: Yes.
SEN. ZAFFIRINI: And what is their consensus about this bill?

MR. BEARDEN: We feel it will disenfranchise a portion of Texans with disabilities.

SEN. ZAFFIRINI: And you are speaking for this coalition --

MR. BEARDEN: -- yes.

SEN. ZAFFIRINI: -- when you stand in opposition to this bill?

MR. BEARDEN: Yes.

SEN. ZAFFIRINI: Thank you. Now, you're familiar with the bill, of course, and you've seen different versions of it through the years?

MR. BEARDEN: Yes.

SEN. ZAFFIRINI: Can you think of any amendments that we could propose that would help address the issues that are of concern to persons with disabilities?

MR. BEARDEN: I think an amendment that might be similar to a person who is 70 years old who would be able to say that they have a disability and that maybe they have the registrar -- they have written earlier to the voter registrar and stated they have a disability that would affect them from being able to get the ID to be able to just present their voter
CONSIDERATION OF SENATE BILL 14 1/25/2011

registration card.

SEN. ZAFFIRINI: Are there any other amendments that could cure this bill for you?

MR. BEARDEN: I can't think of any right now, but I could ask more of our groups.

SEN. ZAFFIRINI: Well, I offer you the opportunity to work with my staff today, and we will address those concerns, and we will try to craft some amendments that would suit your issues --

MR. BEARDEN: Sounds good.

SEN. ZAFFIRINI: -- and try to cure them.

MR. BEARDEN: Thank you.

SEN. ZAFFIRINI: Thank you very much, Mr. Bearden.

Thank you, Mr. Chairman.

CHAIRMAN DUNCAN: Thank you, Senator. Are there any other questions of Mr. Bearden?

(No response)

CHAIRMAN DUNCAN: All right. Thank you, Mr. Bearden. I appreciate your testimony.

Members, that concludes the invited testimony for the day. We have been going now for a little over three hours, and so it's time for a short break. We'll take a 15-minute break, and then we'll begin testimony with regard to our resource witnesses.
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 My plan is just to call them up in the order that I've
2 previously announced, and you can ask any questions, and
3 then we'll go into public testimony after that.
4
5 So the Senate Committee of the Whole will
6 stand at ease until 5:45.
7
8 (Recess: 5:30 p.m. to 5:45 p.m.)
9
10 CHAIRMAN DUNCAN: Senate Committee of the
11 Whole will come back to order.
12
13 RESOURCES TESTIMONY
14
15 TESTIMONY BY REBECCA DAVIO
16
17 CHAIRMAN DUNCAN: We have -- Members, the
18 next portion of this hearing will be our resource
19 witnesses. The first resource witness we announced
20 earlier will be Rebecca David (sic) with the Texas
21 Department of Public Safety.
22
23 Ms. David, why don't you come on up, state
24 your name and who you represent, and then we'll open the
25 floor to questions.
26
27 MS. DAVIO: My name is Rebecca Davio. I
28 am the Assistant Director for Driver Licenses at DPS.
29
30 QUESTIONS FROM SENATE FLOOR
31
32 CHAIRMAN DUNCAN: Okay. Senator
33 Zaffirini, you have a light on. Are you -- would you
34 like to ask any questions?
35
36 SEN. ZAFFIRINI: (Nodded)
CONSIDERATION OF SENATE BILL 14

CHAIRMAN DUNCAN: All right. Any other member have a question? Senator Watson, you're recognized.

SEN. WATSON: Yes. Thank you, Mr. Chairman. Ma'am, you may not be the right person to ask this, but I was deferred earlier, and so I thought I would ask a couple of questions and see if you are the right person.

Right now when someone goes in to get an identification, is it your office that provides that identification card?

MS. DAVIO: Yes, sir.

SEN. WATSON: And how much is charged for that identification card?

MS. DAVIO: That card is $15.

SEN. WATSON: All right. So how much does it cost you to produce the card?

MS. DAVIO: $1.67 to produce and mail it.

SEN. WATSON: All right. So if we're looking at it from a budgetary standpoint for the state of Texas, it costs you $1.60, but currently the state collects $15?

MS. DAVIO: Yes, sir. $1.67 is what our costs are.

SEN. WATSON: I'm sorry. $1.67. I
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 rounded that down, didn't I? So now you've made the
2 math completely hard for me and probably impossible.
3
4 MS. DAVIO: I'm sorry.
5 SEN. WATSON: But the bottom line to it is
6 there's a net -- 15 minus $1.67 gives the state of Texas
7 a net return?
8
9 MS. DAVIO: Yes, sir.
10 SEN. WATSON: Now, under this legislation, have you
11 seen that there is no means test for someone
12 that comes in to get an ID card?
13
14 MS. DAVIO: No, sir.
15 SEN. WATSON: You've not seen that, or am I saying
16 that right?
17
18 MS. DAVIO: By "means test," do you mean do they
19 qualify? Do they have to show economic
20 disadvantage?
21
22 SEN. WATSON: That's right.
23 MS. DAVIO: No, sir.
24 SEN. WATSON: There's not a means test, is there?
25
26 MS. DAVIO: No, sir. I didn't see one.
27 SEN. WATSON: And, in fact, it forbids your
28 department from collecting a fee if an eligible
29 voter -- if a person is an eligible voter or submits a
30 registration application. Is that right?
CONSIDERATION OF SENATE BILL 14 1/25/2011

MS. DAVIO: Yes, sir. That's the way that I understand it.

SEN. WATSON: And have you had a chance to look at the fiscal note for this legislation?

MS. DAVIO: Yes, sir.

SEN. WATSON: Have you seen anywhere in that fiscal note where it looks to try to determine what the cost to the state of Texas would be for the state losing the fees if people were able to get these identification cards for free?

MS. DAVIO: No, sir. I don't believe that's covered in the fiscal note. We were unable to estimate that because we didn't know how many people would take advantage of the card -- of the free ID card.

SEN. WATSON: But you would anticipate some would, otherwise it wouldn't be in the bill. Is that right?

MS. DAVIO: I'm sorry. I don't understand that question.

SEN. WATSON: You would anticipate that some people would attempt to get the card for free?

MS. DAVIO: Yes, sir. That would make sense.

SEN. WATSON: Are you familiar with the legislation or the fiscal note that was attached to
Consideration of Senate Bill 14 1/25/2011

House Bill 218 in the 2007 session?

MS. DAVIO: I'm sorry, sir. I am not. I just started this job in June of this year.

SEN. WATSON: Well, I don't -- that's one of the better answers I've heard today. So thank you.

Are you familiar with the fiscal note that was attached to House Bill 2335 in the last session of the legislature?

MS. DAVIO: Again, no, sir.

SEN. WATSON: Okay. Thank you very much.

MS. DAVIO: Thank you.

CHAIRMAN DUNCAN: Senator Williams, you are recognized.

SEN. WILLIAMS: Thank you. I appreciate you being here tonight and staying with us all day. I have several questions that I wanted to ask just to clarify some things that I think have been brought up as we went along here. For the record, can you tell us what the requirements are for someone to receive either -- well, to receive an official identification card from the state of Texas?

MS. DAVIO: Yes, sir. Basically, those requirements are quite simple. You can say that you have to verify that you qualify, and currently that is proving that you are a U.S. citizen or you have lawful
CONSIDERATION OF SENATE BILL 14 1/25/2011

residence here. And the second thing is to demonstrate who you are, to prove who you are by providing various different types of identification.

SEN. WILLIAMS: Okay. Anything else? Do you have to be photographed or fingerprinted or anything like that?

MS. DAVIO: Yes, sir, you do have to be photographed and fingerprinted and provide your signature.

SEN. WILLIAMS: Okay. Can someone have both a Texas driver's license and an ID?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: And if someone had a driver's license and they wanted to come back and get a free ID, if they wanted to stand in line to do that, they could do that. Is that correct?

MS. DAVIO: Yes, sir, as I understand it.

SEN. WILLIAMS: Okay. How long does it take once an applicant has submitted all of their materials to DPS to actually mail out the physical ID?

MS. DAVIO: We issue a temporary receipt that's good for 45 days. The time that it takes varies. We are currently, I believe, running about 35 days production and mailing time. There are times -- we're having some equipment problems right now. There are
times when it's shorter than that.

SEN. WILLIAMS: Okay. And the temporary ID is valid for how long?

MS. DAVIO: Forty-five days.

SEN. WILLIAMS: Okay. About the same amount of time that it takes to get the physical license. Okay.

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: What security features does a temporary ID have?

MS. DAVIO: The temporary ID has a picture of the ID or driver license applicant and also has their basic demographic information that's shown on the license.

SEN. WILLIAMS: Okay. There's been a lot said about how many licenses -- how many license offices -- driver's license offices we have around the state.

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: Can you tell me what the total number of driver's license offices are?

MS. DAVIO: Yes, sir. There are 307 locations. Currently 226 of those are operating. That includes 174 full-time offices, 34 part-time offices and 18 mobile offices that are open.
SEN. WILLIAMS: Okay. And how many counties do not have a driver's license office?

MS. DAVIO: There are 77.

SEN. WILLIAMS: Seventy-seven. Okay.

MS. DAVIO: Yes, sir. And I do have a map that shows the driver license offices if you'd like to have that passed out.

SEN. WILLIAMS: Okay. I think we've had one submitted earlier and -- no, we haven't? Okay. Well, let's -- why don't we go ahead and submit that into evidence.

MS. DAVIO: This map, when you get it, will show the full-time, the part-time and mobile offices that are open and the offices that are temporarily closed.

SEN. WILLIAMS: Okay.

CHAIRMAN DUNCAN: Okay. Ms. Davio, let us first -- this will be Exhibit 9.

(Exhibit No. 9 marked)

CHAIRMAN DUNCAN: And you've just described Exhibit 9 as a map. Driver's License Offices in Texas is what the label is, and that will be distributed. Exhibit 9, is there any objection to receiving that?

(No response)
CONSIDERATION OF SENATE BILL 14 1/25/2011

CHAIRMAN DUNCAN: Exhibit 9 is received.

(Exhibit No. 9 admitted)

SEN. WILLIAMS: Okay. So we have 77 counties that don't have a license office. Is that correct?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: Okay. And could you describe for me briefly -- you mentioned that some offices are temporarily closed. Why are those offices temporarily closed, and what is the department doing to remedy that situation?

MS. DAVIO: Yes, sir. The DPS just implemented our new driver license system, fully implemented in May. Our mobile offices are functioning on equipment from our Legacy system, and that equipment is very, very old. And as it breaks, we are unable to replace it. We simply can't get parts. We can't get replacement pieces even trying to go out and buy things on eBay, and so we have no other choice other than to temporarily close that office.

We have tried to get new equipment -- equipment for our new system to work in these mobile locations. And the way that we've changed -- the way that we have changed the way we do driver license, we're pushing much more data through, and so we find it very
difficult, impossible really, to get the new equipment to work.

SEN. WILLIAMS: So when you say Legacy equipment and the new equipment, you're talking about computers that you use to process the information --

MS. DAVIO: Yes, sir. I'm sorry.

SEN. WILLIAMS: -- that people get in?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: Okay. And so what kind of information is being submitted? I guess what we're trying to do is meet the qualifications of the REAL ID Act, which is a federally mandated program -- right -- and that's why we're switching to this new equipment?

MS. DAVIO: Well, we're switching to the new equipment because our old system was so old.

SEN. WILLIAMS: Right.

MS. DAVIO: There are many safeguards that are built into the new technology. For example, we now scan real-time all the documents that are brought in. So it used to be that we had to make copies and send those back to headquarters for scanning. They are now scanned real-time, and we give the originals back to the customer. We also capture a photo, the fingerprints and the image of the person's signature.

SEN. WILLIAMS: So --
MS. DAVIO: And that's a lot of data.

SEN. WILLIAMS: Yeah. And the issue is -- and have you tried using these mobile phone air cards or anything like that to be able to have --

MS. DAVIO: We have tried using air cards. We have tried using DSL lines. All of our offices, full-time offices, use T1 lines, and that's been the only thing that we can find.

SEN. WILLIAMS: Okay. So you mentioned to me yesterday when we visited that you have an initiative going on. Tell us a little bit about what you're trying to do.

MS. DAVIO: Yes, sir. We realized that closing these offices even temporarily might cause a burden. What we're trying to do is look and be able to provide a more consistent level of service. We found that in some locations we only serve one or two or a very small number of customers, when in our other offices customers experience a very long wait time. And so we're trying to equalize that level of service as much as we can, provide a consistent high quality level of service across the state.

So to do this we are doing a business intelligence analysis project. That actually means that we are looking at our data very carefully to see how
many transactions are conducted at what location, how long those transactions take, that kind of thing, so that we can optimize the use of our resources. We realize this is not a good time to come and ask for additional resources, and so we're trying to make the best use of the resources that we can through this analysis project.

SEN. WILLIAMS: Okay. Can a noncitizen get an ID card from the state?

MS. DAVIO: A noncitizen, yes. If you are an asylee or a refugee or have some other status of lawful presence, yes, sir, you can.

SEN. WILLIAMS: Illegal foreign visitor, for instance. You wouldn't have to be an asylee. Right? You could be a legal foreign visitor?

MS. DAVIO: Yes, sir, a legal foreign visitor.

SEN. WILLIAMS: Okay. And is there anything unique about that card?

MS. DAVIO: The cards do say "temporary visitor" on them.

SEN. WILLIAMS: Okay. How many driver's license holders do we have in this state?

MS. DAVIO: There are a little better than 15 million.
SEN. WILLIAMS: Okay. And how many people hold ID cards?

MS. DAVIO: Approximately 750,000.

SEN. WILLIAMS: And just to clarify, I think I may have -- I'm not sure about the cost of an ID. Is there anything you want to add to what my remarks are? I'm not sure I was actually on the money with everything. Is what I said early, $1.67, is the cost to produce those cards? Is that --

MS. DAVIO: Yes, sir. The cost of producing and mailing, yes, sir.

SEN. WILLIAMS: Okay. And then what is the cost to the state to give those IDs away?

MS. DAVIO: What is the cost to the state to give those away? The loss of the revenue, the $15.00 --

SEN. WILLIAMS: Okay.

MS. DAVIO: -- or the $5 for over 65.

SEN. WILLIAMS: Okay. And have you been able to determine how many people this would apply? You can't tell?

MS. DAVIO: No, sir.

SEN. WILLIAMS: Okay.

MS. DAVIO: We don't have any way of estimating.
SEN. WILLIAMS: So when we talk about cost, there could be a loss of revenue, but really the cost to produce that document is pretty negligible -- right -- $1.67?

MS. DAVIO: Yes, sir.

SEN. WILLIAMS: All right. All right. That's all the questions I have. Thank you very much.

MS. DAVIO: Thank you.

SEN. ELTIFE: Thank you, Senator Williams. Senator Gallegos?

SEN. GALLEGOS: Thank you, Mr. Chairman.

Now, you're representing the DPS. Is that what you said?

MS. DAVIO: Yes, sir. I'm the assistant director --

SEN. GALLEGOS: I'm sorry. I didn't -- I didn't hear your name or --

MS. DAVIO: My name is Rebecca Davio --

SEN. GALLEGOS: Rebecca.

MS. DAVIO: -- and I'm the Assistant Director for Driver Licenses at DPS.

SEN. GALLEGOS: Okay, Rebecca. And you passed out this map right here. Right?

MS. DAVIO: Yes, sir.

SEN. GALLEGOS: Okay. Now, I'm trying to
see real close here. It's got a big green spot right in the middle of Harris County.

    MS. DAVIO: Yes, sir.

SEN. GALLEGOS: Is that correct?

    MS. DAVIO: Yes, sir.

SEN. GALLEGOS: But the maps I have shows nothing within the 610 Loop.

    MS. DAVIO: That actually -- I believe that green -- that big green circle that you commented on is -- indicates that there are seven driver license offices within Harris County.

SEN. GALLEGOS: Yeah, but I'm looking at this one. It says there's nothing within the 610 Loop. Is that correct?

    MS. DAVIO: I'm sorry, sir. I'm not familiar with that map. That point has been made earlier and --

SEN. GALLEGOS: No. I introduced this map two years ago, and I'm introducing it again today. I'm just asking if you're the assistant of DPS, you don't know that there's not a DPS office within the 610 Loop in the largest city in the state?

    MS. DAVIO: I can't claim to be intimately familiar with the layout of Houston. I have been to the offices.
SEN. GALLEGOS: Well, wait a minute. What was your title again?

MS. DAVIO: I'm the Assistant Director for Driver Licenses at DPS.

SEN. GALLEGOS: Okay. Well, then if you don't know the answer, who can give me the answer? I haven't been getting any answers today. And we are told to ask DPS. Now you're before us, and you can't answer that question for me. So who can I -- I mean, who do I ask?

MS. DAVIO: I'll verify that for you, sir.

SEN. GALLEGOS: Before we finish today?

MS. DAVIO: Yes, sir.

SEN. GALLEGOS: All right. And not only that, in Fort Worth, I only see one within the loop. In Dallas, only one inside the city. But you're still -- on your map that you're introducing here, it shows a bunch of green spots. Now, I think it needs to be clarified by cities of how many are there, how many are open, how many are closed, after your 10 percent cut in the agency how many are proposed to be closed and the hours that they open up. You know, that is what I'd like to know.

Now, the other question that I had is -- and Senator Williams brought up a good point. The
problem that I have on temporary license, the
 temporaries -- my son lost his, and he went and got a
temporary license, and its got his photo ID. That's a
temporary license. So what Senator Williams said is
correct.

My concern is on a confiscated license
when the DPS picks up -- or the law enforcement agency
picks up that license and replaces it with this
temporary license. Well, this confiscated license.
Let's not call it temporary because temporaries have a
photo ID. This confiscated license does not have a
photo ID, yet the verbiage on it says this will act as a
valid DPS license and valid ID. That's what it says,
for 40 days. Okay? And the date of it y'all gave us
that we asked for, is in 2010 there's almost 100,000
drivers out there with this license without a photo ID,
yet the verbiage on it has that this will be a valid DPS
license for 40 days. Now, is that correct? Yes or no.

MS. DAVIO: Yes, those are issued --

SEN. GALLEGOS: Okay.

MS. DAVIO: -- by law enforcement. They
are not issued through the DPS offices.

SEN. GALLEGOS: So there's two different
classes. I just wanted to make it clear for Senator
Williams. He's pretty -- he's pretty almost correct. I
just want to make the difference between a temporary and
a confiscated that I just showed you that y'all give
out.

MS. DAVIO: That sheet of paper is
actually given by law enforcement officers at the time
of stop on the street.

SEN. GALLEGOS: I understand, but it has
DPS verbiage on it.

MS. DAVIO: Yes, sir. It's our form, but
we do not issue it.

SEN. GALLEGOS: Okay. Now -- and this is
just one -- one avenue that we looked. That's just
100,000 in one category. There's four other categories
that we have not got a tally on, that confiscated --
that licenses are confiscated for whatever other issue,
nonpayment of child support or some other categories
that you confiscate licenses. And we haven't taken the
tally on those. I'm just going on this one avenue where
licenses are confiscated and that person has not been
convicted yet. He or she is innocent until proven
guilty. But this is the only form of ID that they have,
and it doesn't have a picture on it.

MS. DAVIO: It would be possible for the
people whose license are confiscated to apply for an ID.

SEN. GALLEGOS: It doesn't say that on
here. Nowhere does it say that. I understand what you just told me.

    MS. DAVIO: Yes, sir.

    SEN. GALLEGOS: But when they stop me and take my license and give me this in return, it has nowhere that instructs me that I have an option to go get a license with a picture. It doesn't say that on here. That's why you have almost 100,000 out there with this type of license. And not only that, in just one month, last month -- well, let's see in December of 2010, we have 10,000 out there driving right now with this license without a picture.

    So I just wanted to make that clear that this is -- that this is out there, that it's got DPS language on it. It doesn't tell us that we can -- we have an option to go get one with a picture. It doesn't say that on here. So that's why you have the high number out there driving with this license.

    So I just wanted to make that clear for the record that that's how many drivers that we know of. We haven't gone into the other categories. There could be more that are driving with this license, that's their only form of ID, and I just want to make it sure -- Senator Fraser is not on the floor -- but that he understood that. But Senator Williams is, and I just
CONSIDERATION OF SENATE BILL 14 1/25/2011

wanted to make sure that is understood, the
difference between the two licenses, that one, the
temporary has a photo ID --

MS. DAVIO: Yes, sir.

SEN. GALLEGOS: -- the confiscated does
not, but yet it shows here that this -- by the DPS that
it is a valid ID that you can use.

MS. DAVIO: As I understand that, sir,
it's valid for driving purposes. And because it's
provided by the law enforcement officer on the side of
the street, they don't have any of the equipment to take
a person's picture or do any of that.

SEN. GALLEGOS: I understand that; I
understand that. I just wanted to make the difference
in the two. And I can use this paper ID, you know, go
to Wal-Mart, "Where is your ID?" "Here it is right
here; here it is right here. The DPS gave it to me," or
it's got DPS language that I can use it as a valid ID.
I just wanted to make sure that that's clear. Is that
correct?

MS. DAVIO: Sir, I'm unable to comment on
whether Wal-Mart would accept that as an ID.

SEN. GALLEGOS: Well, it says here -- it
says here that this is valid per DPS language and I can
use as an ID.
MS. DAVIO: I believe it's valid for driving purposes. It's a temporary driving permit, and so I can't speak to whether a bank or retail establishment would accept it for identification purposes.

SEN. GALLEGOS: Okay. Well, let's just say they'll take it because it's got your language on it, but I just wanted to make that point out there to the members that, you know, when you're talking about an ID from the DPS, there are differences, and this one just doesn't happen to have a photo ID on it. I just want to make that clear.

And you will give me those answers before we get through tonight?

MS. DAVIO: Yes, sir. I will work to do that. I know I can give you the answer about the offices within the 610 Loop in Houston. We have the information about the hours that the offices are open, and we'll look into the cuts -- the proposed cuts.

SEN. GALLEGOS: Let me ask you this question: Do you anticipate any other closures per the shortfall that we have now of any DPS office, whether in Houston or anywhere in the state?

MS. DAVIO: Well, there may be some more of the temporary closures because of the equipment
failure because we don't have any other way to replace that failing equipment with new equipment. Because of this need for a higher, larger data pipeline, there may be some additional closures, but we're looking at where our offices are located and how they are staffed through our business intelligence project. And so we plan on coming to all the legislators and the local judges and bringing you that information about office closures and what our recommendations would be to provide the optimal level.

SEN. GALLEGOS: I'm only asking that because if we're going to mandate Texans to obtain a photo ID and we have to go to DPS to get that and you're telling us you anticipate some more closures, I'd like to know where they are at. And then that way we can tell our folks that these particular locations -- that you're going to get a free ID under this bill, that those offices are going to be closed.

MS. DAVIO: Sir, we don't plan to close any more offices unless the equipment breaks. Right now we have no plans to close any of our driver license offices, those mobile locations, unless the equipment fails.

SEN. GALLEGOS: Unless the equipment fails?
CONSIDERATION OF SENATE BILL 14 1/25/2011

MS. DAVIO: Yes, sir, in the short term.

SEN. GALLEGOS: So you have no plans to close any other offices?

MS. DAVIO: In the short --

SEN. GALLEGOS: Is that what you're telling me?

MS. DAVIO: In the short-term, yes, sir.

We want to do the business --

SEN. GALLEGOS: What do you mean "short-term"?

MS. DAVIO: We want to -- we need to do this business intelligence analysis so that we can really look to determine how we can best use our resources to provide the optimal level of service for all Texans when they are trying to get their driver license or an ID.

SEN. GALLEGOS: All right. And you'll get me those answers before we finish today?

MS. DAVIO: Yes, sir.

SEN. GALLEGOS: Okay. Thank you.

MS. DAVIO: Yes, sir.

CHAIRMAN DUNCAN: The Chair recognizes Senator Ellis.

SEN. ELLIS: Ms. Davio, I know you've been here all day, and we're all very appreciative of that,
and we know you don't have a position on the bill. You're just here as a resource.

MS. DAVIO: Yes, sir.

SEN. ELLIS: Including Senator Gallegos, we appreciate you being here and the work you do.

MS. DAVIO: Thank you.

SEN. ELLIS: Let me ask you this: Now, I saw this article in the paper today about the driver surcharges.

MS. DAVIO: Yes, sir.

SEN. ELLIS: Are you familiar with that program?

MS. DAVIO: Yes, sir.

SEN. ELLIS: Does that come under your jurisdiction?

MS. DAVIO: Yes, sir, it does.

SEN. ELLIS: If I'm reading this right, it says it's estimated that a total of about 1.2 million Texans are in default?

MS. DAVIO: Yes, sir. I believe that's the number.

SEN. ELLIS: Okay. Now, how do we get to that? I mean, can you give us some sense -- since we passed that in '03, is it about 100,000 per year, a half? Is it getting better? Worse? I'm just trying to
CONSIDERATION OF SENATE BILL 14 1/25/2011

get a sense of how much -- how many more people may end up in that category between now and when Senator Fraser's bill goes into effect.

MS. DAVIO: You're asking about the number of people that are in default on their surcharges?

SEN. ELLIS: Yeah. About 1.2 million now, and I'm asking how much do you think that will grow between now and January of 2012, next year, a year from now?

MS. DAVIO: We actually hope that the number of people in default will be reduced. There is a program going on now -- that was probably what the article in the paper was -- about the amnesty program. So what this program does is it allows people who are in default, if they've received a surcharge between 2004 and 2008 and are in default on that surcharge, then they can pay 10 percent up to a maximum of $250. And if they pay that reduced amount and their reinstatement fees and do the other things, then they will no longer be in default. That program will run -- the amnesty program will run through -- I believe it's April 17th.

And then we will begin a program for indigent folks that cannot pay their surcharges. And so we will enable those people to pay their surcharges, and so we really do hope the number of people in default
will be reduced.

SEN. ELLIS: Is this your first amnesty program?

MS. DAVIO: Yes, sir, it is.

SEN. ELLIS: Now, you know -- I'm sure you know -- two other states that had a similar program for trying to balance their budgets abandoned the programs. And in those states, I'm told that they tried the amnesty programs, they tried virtually everything you could think of, and it didn't work. So they just abandoned the programs.

So is there any empirical evidence that would make you think that 1.2 million people who have lost their licenses in Texas because they didn't pay on average, I guess, what -- I guess this is a thousand dollars a year if you were drunk, 2,000 if the blood alcohol level was twice the legal limit? Is there any reason why you would think the amnesty program in Texas will work when it didn't work in the other two states that abandoned the program?

MS. DAVIO: We actually have had a pretty good response so far. I'm sorry. Off the top of my head, I can't give you the statistics of the people that have opted in, but I'd be happy to get that information for you.
SEN. ELLIS: Now, I think I heard you say in response to a question from Senator Williams 15 million Texans have a driver's license.

MS. DAVIO: Yeah.

SEN. ELLIS: Or did you mean authorized to have one? Are you counting the 1.2 million who have lost them?

MS. DAVIO: I believe that's active driver licenses.

SEN. ELLIS: Okay. So 15 million have active driver's licenses. And just as a point of reference to Senator Williams, there are 12.6 million registered voters in Texas. So he was correct earlier when he made the point that --

SEN. WILLIAMS: (No mic)

SEN. ELLIS: Yeah, that's right. Probably about 30 percent of them vote. Of course, maybe half of them vote wrong; maybe half of those vote wrong, but about 30 percent of them vote, Senator.

But I just wanted to make the point 15 million people have driver's license in Texas, 12.6 million registered voters. Most people who go to vote do what most of us on this floor do, they show their driver's license. And if the trend of 1.2 million who have drivers -- who had driver's licenses haven't lost
CONSIDERATION OF SENATE BILL 14 1/25/2011

| 1 | them since 2003 continues, if your amnesty program does |
| 2 | not work, if it's not something unique about the Lone |
| 3 | Star State that would make it work here when it didn't |
| 4 | work in those other states, that means that 15 million |
| 5 | figure is going to be going down in terms of the people |
| 6 | who have a driver's license. Correct? |
| 7 | MS. DAVIO: Yes, sir. |
| 8 | SEN. ELLIS: Okay. Now -- |
| 9 | MS. DAVIO: Those people -- |
| 10 | SEN. ELLIS: Those people who owe those |
| 11 | surcharges, is that a felony, or what is it? |
| 12 | MS. DAVIO: I don't believe it's a felony. |
| 13 | SEN. ELLIS: It's a civil offense? |
| 14 | MS. DAVIO: I mean, it depends upon |
| 15 | what -- there's five different things that you can |
| 16 | receive a surcharge for. |
| 17 | SEN. ELLIS: How about drunk? |
| 18 | MS. DAVIO: Yes, sir. Driving while |
| 19 | intoxicated is one of them. |
| 20 | SEN. ELLIS: Wouldn't that be a felony |
| 21 | when they get a surcharge? It's a civil fine. I'm |
| 22 | really making a point to my colleagues. |
| 23 | And can -- what can you-all do to those |
| 24 | folks short of taking a driver's license? You know, can |
| 25 | we -- maybe the finance chair can start building some |
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 more debtor prisons. Can you put them in prison, or do
2 you know? If you don't know, it's okay.

MS. DAVIO: I don't know, sir.

SEN. ELLIS: Okay. I just want to raise
3 that point so my colleagues do realize what we're doing,
4 Senator Fraser, under your bill. 15 million people have
5 a driver's license. 1.2 million have lost them. I
6 don't think we're going to start building debtor
7 prisons. I don't think we're going to get to the point
8 where three times you're drunk and get a surcharge we
9 lock you up. We can't afford to do it, but it's making
10 it more and more challenging, and it is a burden that
11 we're putting on these folks. Thank you.

12 SEN. WHITMIRE: Mr. President?
13
14 CHAIRMAN DUNCAN: The Chair recognizes
15 Senator Whitmire.

16 SEN. WHITMIRE: Briefly. First of all,
17 how long -- how long have you been in your present job?
18 Pretty recent?

19 MS. DAVIO: Yes, sir. I just started
20 June 1st of 2010.

21 SEN. WHITMIRE: So about six months?
22
23 MS. DAVIO: Yes, sir.
24
25 SEN. WHITMIRE: Did you ever envision when
they gave you the job you were going to be here today
and have the opportunity to meet Senator Gallegos?

(Laughter)

MS. DAVIO: The pleasure is all mine.

(Laughter)

SEN. WHITMIRE: No; we appreciate you as we do our other state employees.

MS. DAVIO: Thank you.

SEN. WHITMIRE: A couple of things I want to clarify, Senator Ellis was talking about the folks who have had their license suspended because of the severance. I don't believe he asked if you have no license but we're going to require you to go get an ID at a DPS office, what is the relationship if I come into the office, I don't have a license because it's been suspended because I can't pay the severance, it's a civil penalty. Is there any chance that you're arrested because you haven't paid your back severance? I mean, first I think whether you confiscate the person or handcuff them, it would probably be a huge deterrent for someone to go there knowing they owe you thousands of dollars. Would you not agree?

MS. DAVIO: Yes, sir.

SEN. WHITMIRE: Okay. But going one step further, if someone chose to do that what -- and they apply for a voter ID and the computer is going to kick
CONSIDERATION OF SENATE BILL 14 1/25/2011

out "you owe us" -- and some of these figures are fantastic amounts, thousands of dollars -- what will be the conduct of the DPS? I walk up to your station for voter ID and you say Mr. Whitmire you owe us $20,000 in back severance, is that going to be brought up and you're going to be asked to not leave until you have a payment plan?

MS. DAVIO: No, sir. Those are really handled as separate transactions. If you come in and you say you want to get an ID and you don't already have an ID, then they will determine if you are eligible, and you should be eligible. And they do have the information in the driver license system about the surcharges. But if you aren't asking to get a driver license then that won't be brought up.

SEN. WHITMIRE: Okay. It's your testimony -- y'all have actually discussed this internally. It's going to be the policy, as you state before us today, I come in there, I owe you a surcharge, but I don't want to deal with the surcharge today, they are not going to bring it up or ask me for my intention of paying it, don't leave until you make a payment plan?

MS. DAVIO: No, sir. I haven't witnessed that. I have visited the --

SEN. WHITMIRE: Well, you haven't
witnessed it -- excuse me for interrupting because this is all in the planning stage. So I know you haven't seen it because no one has been in there asking for a voter ID.

MS. DAVIO: No, sir, they haven't asked.

SEN. WHITMIRE: Would it be -- and can you -- has it really been decided or is that just your opinion or you've got to go upstairs to the colonel or the DPS board? I mean, this is a pretty serious matter in my mind because you have no license because you can't afford to pay the surcharge, but we're fixing -- if this law will pass -- require you to go to that location, law enforcement, a pretty intimidating setup anyway to some. You know, they've already run afoul, but they've got to go to that site for a voter ID. Are you telling me there won't be any discussion of the surcharge, or is it really you don't know?

MS. DAVIO: You're right. We haven't discussed voter ID, but I have witnessed numerous transactions where somebody comes in and they request to get an ID. And, you know, they may -- they may make an inquiry about can I -- you know, what about a driver license or something like that, and actually the records come up and show that they are ineligible to get a driver license. But if there --
SEN. WHITMIRE: Because of the surcharge?

Because of the surcharge?

MS. DAVIO: Yes, sir. And so then they can still continue to get an ID, and I haven't witnessed any occasion where there was discussion of the surcharges unless the customer brought that up.

SEN. WHITMIRE: Well, if this passes, and of course none of us are going anywhere, but -- and I understand you're just representing the DPS, but I would think that would be a major policy decision, that you deal with something as important and precious as the right to vote, but we're fixing to require you to come in contact with law enforcement that you owe thousands of dollars with the same personnel. I think someone is going to have to really put some safeguards, Senator Williams, that you can enter one of these sites and not have to deal with the surcharge.

And would you not agree, even though you have an amnesty program and you said it's working pretty good -- in fact, pretty expensive, it's 250 and I think there's a fee schedule. You've still got to pay a fee to the folks that are doing y'all's collection work. So what is the actual cost, 250? I think 150 to the collection agency, and then it's going to run about five or $600 if you want to -- if you want to use the amnesty
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 program. But that -- do you know the amount that's
2 working pretty good? What does "pretty good" to you
3 mean out of a million folks?

MS. DAVIO: I'm sorry. I will work to get
4 you those information.

SEN. WHITMIRE: Yeah, and I'm not trying
5 to pin you down. It's just, you know, you're the best
6 source we've got at the time.

Let me ask you something. You said a
7 while ago if someone confiscated your license, you could
8 apply for an ID. What if they confiscate it the week
9 before the election? What's the processing time to
10 apply for this ID? Say you're unfortunate, you come to
11 Austin before a Saturday election. On Thursday, if
12 you're real unfortunate, they get your license because
13 you have been pulled over. How are you going to get
14 that before Saturday's election? Do you know the
15 turnaround?

MS. DAVIO: You can come into our office,
16 and we -- as long as you qualify, we issue a temporary
17 receipt immediately.

SEN. WHITMIRE: Come in your office, what
18 do you mean by that?

MS. DAVIO: You can go to any driver
19 license office.

KENNEDY REPORTING SERVICE, INC.
512.474.2233
TX_0000759
JA_000758
SEN. WHITMIRE: Any office?

MS. DAVIO: Yes, sir. And as long as you qualify, then you can walk out with a temporary receipt.

SEN. WHITMIRE: Of course under my scenario, you've first got to get out of jail, but that's not mine or your problems tonight.

Let's talk about that office, and then I'll pass. The truth of the matter is, is it not, as you stand before us today, you have no idea what the future budget considerations are going to do to your office locations, do you not? When you were having a question and answer with Senator Williams, that's under today's setup, is it not?

MS. DAVIO: Yes, sir.

SEN. WHITMIRE: Have you been in meetings recently at the command headquarters where you're contemplating a significant, maybe as much as a 10 percent cut in your budget? Have y'all made your plans for how to deal with the shortfall and expected reduction of DPS funding?

MS. DAVIO: Yes, sir. The 5 percent cut.

SEN. WHITMIRE: That you've already been requested to make.

MS. DAVIO: Yes, sir. I believe that that did envision the closing of some -- I believe --
SEN. WHITMIRE: Have you looked at the House proposed budget and the Senate proposed --

MS. DAVIO: I have not.

SEN. WHITMIRE: -- and calculated the impact and reduction of services and maybe troopers and personnel as it relates to the licensing division?

MS. DAVIO: I'm sorry, sir. I have not.

SEN. WHITMIRE: So the truth of the matter is when you were answering Senator Williams' question, that's under current funding levels, is it not, as you understand them? Since you took the job in June and here we are the second week of January, that's really the funding and the resources that you were using to answer his questions. It certainly wasn't going forward. Is that not correct?

MS. DAVIO: That's correct, sir.

SEN. WHITMIRE: You do expect significant reductions in your operating resources, do you not?

MS. DAVIO: I would remain optimistic.

SEN. WHITMIRE: Do you see that guy sitting right in front of you right there? We don't call him Mr. -- we don't call him Mr. Optimistic around here.

(Laughter)

SEN. WHITMIRE: The truth of the matter
is -- and I really understand this position you're in. And, quite frankly, I'm not even sure it's fair that they brought you here to answer our questions, but you're here, and they had the right to do so. But we haven't even written the budget. Our first meeting is next Monday, and the operation of these offices and their hours, their personnel, is yet to be determined as we go and consider this legislation. Is that not correct?

MS. DAVIO: Yes, sir, I think that --

SEN. WHITMIRE: You have no idea what you're going to have after September 1.

MS. DAVIO: I think that's a fair statement, sir.

SEN. WHITMIRE: But we do know that in Houston -- and Senator Gallegos was asking you about the locations -- that's an important factor, but I'm really more important -- or concerned about when you get to one of our locations. Are you familiar with 290 and Tacoma?

MS. DAVIO: Yes, sir.

SEN. WHITMIRE: Gessner and I-10?

MS. DAVIO: Yes, sir.

SEN. WHITMIRE: South Houston? Nearly each of our Harris County sites, you know it takes from two to three hours to enter that office and renew your
driver's license on many days of the week.

MS. DAVIO: Yes, sir, I think that's true.

That is the way it's happened in the past. We are implementing a queuing system which we hope will bring about reductions in wait times at our 50 largest offices.

SEN. WHITMIRE: But today, this week, it's not unusual -- and I've checked -- it can still take you up to three hours. In fact, if we accomplish anything in this discussion with you, I would like to appeal to you to work with your supervisors and Senator Ogden and each of the 31 Senators and fix that problem. That's a very fixable problem that we've been talking about too long.

But you know it takes up to three hours. People cannot take off their lunch hour or expect to go over there before work or after work. It is a major challenge to enter one of those offices today and get your license renewed. But have you had an opportunity to factor in what it's going to be like to get additional people now for voter ID? You really don't know what the demands or the numbers will be --

MS. DAVIO: That's correct.

SEN. WHITMIRE: -- as we talk?

MS. DAVIO: We were unable to estimate the
SEN. WHITMIRE: And then I'll repeat one more time. That's today's circumstances, and we're faced with budget cuts to the DPS going forward that could even compound the current wait at those Houston offices. And I was even told by a colleague of mine that it can happen in other even rural settings in this state, that you would literally wait two and three hours to renew your driver's license. Is that not correct?

MS. DAVIO: It is possible that you can have a two- or three-hour wait in many of our offices at this moment.

SEN. WHITMIRE: Have y'all had much internal discussion about the impact that this proposed legislation will have in detail in terms of personnel required, equipment required? I mean, have y'all had any initial planning?

MS. DAVIO: We have had discussions, yes, sir. It's very, very difficult, we found it impossible, to estimate the impact of this legislation.

SEN. WHITMIRE: I really appreciate you being here tonight and your hard work. And if I was you, I would say -- I'd speak to Senator Ogden before you leave here tonight and make a pitch for your budget.

MS. DAVIO: Okay. Thank you.
Chairman Duncan: The Chair recognizes Senator Van de Putte.

Sen. Van de Putte: Thank you,

Mr. Chairman. Good evening. Thank you for being here. My questions are fairly quick. But I want to follow up with the fiscal impact, and you stated there were how many counties that don't have offices right now?

Ms. Davio: There are currently 77 counties without a functioning --

Sen. Van de Putte: Seventy-seven.

Ms. Davio: Yes, sir -- yes, ma'am.

Sen. Van de Putte: Mr. Chairman, could we have the resource witness look at exhibit -- or Item No. 6, which was the map that was displayed, compiled by the legislative counsel? The map that this expert witness brought shows us dots. And if you could just glance at that, that was prepared by legislative counsel. As you can see, the counties are outlined with closed, temporarily closed, permanently closed, those counties that may have one, but they are there -- would you suggest that since that was compiled by legislative counsel that that document is correct?

Ms. Davio: Senator, this is the first time I've seen this map. Just doing a very quick visual check on the counties that they have in red that say
that there are no offices, I can verify that. I haven't
gone through and done all the others to give you a
completely accurate response. If you could give me a
little bit more time, I'd be happy -- I'd be happy to do
that.

SEN. VAN de PUTTE: We will certainly
allow you to do that because we have another resource
witness.

MS. DAVIO: Okay.

SEN. VAN de PUTTE: Let me ask you, we
have 77 where they are closed, they have no one. We
have temporary ones because of equipment malfunction.
But are you aware of the document that is the
legislative appropriations request that was sent on
August 23, 2010 and printed to us in 2010?

MS. DAVIO: I did not see that document
personally.

SEN. VAN de PUTTE: Well, let me tell you
why I'm a little bit concerned because when Senator
Williams talked to you, you said you had -- the division
had no plans or no intention of closing any more unless
there was equipment failure, and you talked a little bit
about equipment failure. That's correct. Right?

MS. DAVIO: Yes, ma'am. No more offices
unless there were equipment failure until we had
completed our business intelligence analysis.

SEN. VAN de PUTTE: Well, let me tell you why I'm a little concerned.

MS. DAVIO: Okay.

SEN. VAN de PUTTE: On Page 704 of the legislation appropriations request, DPS says, "No. 10, building program and deferred maintenance." The category is under "Program Service Reduction (Other). Item Comment: 11 additional DPS offices would be closed due to lack of funding for utilities." So it's utilities funding, not -- "resulting in 215 FTEs that would be displaced and DPS customers would travel further for any assistance."

Now, this is in a document that was given to the legislature dated August 23, 2010. You said you don't have to plan any more, but somewhere in the agency under this request, they are closing another -- I'm sorry -- they are closing another 11. Do you know where those other 11 are that they plan to close?

MS. DAVIO: I do not have personal knowledge of that. I believe this was for 2012 and the 2013 --

SEN. VAN de PUTTE: Well, yeah, but --

MS. DAVIO: -- legislative appropriation request.
CONSIDERATION OF SENATE BILL 14 1/25/2011

SEN. VAN de PUTTE: This is the legislative appropriations. So right now what you're saying is nothing is going to be closed. But in the document that DPS supplied to us as their legislative appropriations request, on Page 704, they tell us, "Oh, we're closing 11 more." And it's not due to equipment failure. It's due to the reduction in utilities funding as a result of our crisis in our revenue and with the displacement of 215 FTEs where DPS says, "Customers will travel further for assistance."

So I'm trying to figure out -- you say, "Okay. We're not going to," but then we have a document. I just don't know what part of DPS to believe.

MS. DAVIO: I'm terribly sorry. I was imprecise. I should have said this fiscal year we had no more plans to close any offices.

SEN. VAN de PUTTE: This fiscal year. Oh. We just didn't ask the right question then.

MS. DAVIO: I'm sorry.

SEN. VAN de PUTTE: We should have asked --

MS. DAVIO: I don't claim to be --

SEN. VAN de PUTTE: -- do you plan to close any maybe after September 1st of next year?
MS. DAVIO: I'm sorry. I don't claim to be an expert on our legislative appropriation request. I'm not our chief financial officer.

SEN. VAN de PUTTE: Thank you for that clarification.

MS. DAVIO: I'm sorry.

SEN. VAN de PUTTE: And I'm sorry you were caught like this. But, you know, you can understand our confusion when you testify as the expert witness for DPS one thing, and then the budget documents that are turned into us say another. And I am so sorry that you were put in this predicament, but the documents are the documents. So let me, again, ask some other questions since I think that one is pretty well taken care of.

Can you tell me in obtaining an identification card what types of birth certificates are allowed under current DPS guidelines?

MS. DAVIO: What types of birth certificates?

SEN. VAN de PUTTE: Yes.

MS. DAVIO: An original or a certified copy of a birth certificate issued by the appropriate state Bureau of Vital Statistics or the equivalent agency from a U.S. state, U.S. territory, the District of Columbia or a Canadian province, or an original or...
CONSIDERATION OF SENATE BILL 14 1/25/2011

certified copy of a United States Department of State certification of birth abroad.

SEN. VAN de PUTTE: Are any of those documents a Department of Defense hospital or facility?

MS. DAVIO: I don't know for certain if the Department of Defense would be included in a Department of State certification of birth abroad.

SEN. VAN de PUTTE: No, there are two different ones. And this is why I'm asking. Members, this is very, very clear. We have many, many citizens and your constituents who were born on military basis within the United States. And if I right now had to go get an identification card, I don't have -- I wouldn't have a birth certificate. And the reason, I was born in Madigan Hospital, Fort Lewis, Tacoma, Washington. But if you were born before 1960, the records are slowly being updated into the state of Washington as are many of our military hospitals. But my birth certificate is not from the Department of State. It is not from the city. The only birth certificate that I have is from a military hospital on a military installation.

Now, it was valid for me to get my passport, and it was valid for me to get my driver's license when I got my driver's license. But should I have to apply today and what I think might happen under
our current regulations is that the type of birth
certificate that is required for those of us who happen
to be born prior to 1960, which would be anybody, '40s,
'50s, '30s and on, we would not have a birth certificate
that would be recognized by DPS if you were born on a
military -- in a military hospital. Is that correct?

MS. DAVIO: I can't be absolutely positive
of that. I'll confirm, and we will look.

SEN. VAN de PUTTE: If you could, because
I think --

MS. DAVIO: Yes, ma'am.

SEN. VAN de PUTTE: And I don't know how
many would be, but if -- for those that were born when
there was a mandatory draft and there was a mandatory
thing, if you were born in a military hospital, those
are Department of Defense hospitals, not Department of
State. Some states have included them as they start to
update and others haven't because a lot of those
military hospitals are now closed as those bases have
been closed. So I just wanted to make sure. And if you
would check that for us?

MS. DAVIO: Yes, ma'am.

SEN. VAN de PUTTE: And then if it's a
birth certificate, what happens if for many of our
elderly who were born not in a hospital and not -- but
they used baptismal or church records to establish their social security, to establish anything? Right now if there is not a recorded birth certificate in one of the state registries, is a church document that was allowed back then for a driver's license, is that allowed --

MS. DAVIO: There are --

SEN. VAN de PUTTE: -- currently to get --

MS. DAVIO: There are a variety of documents, and we're expanding the list, but we try and work with our customers to -- if you can bring in a variety and demonstrate to us to our satisfaction.

SEN. VAN de PUTTE: Yes, I understand.

What types of birth certificates? Is it only those that --

MS. DAVIO: Typically we would not allow a church or a baptismal birth certificate.

SEN. VAN de PUTTE: So that would affect people like my mother.

MS. DAVIO: She may be able to find other documentation that she can bring.

SEN. VAN de PUTTE: She might be.

Let me also ask you for one other thing. I have a wonderful constituent and she asked that I relate her story and has given me permission. She contacted us last June in that -- Ms. Hardy who needed
to have a DPS identification card. However, she's very, very ill and could not travel to the DPS office. I put in a request to DPS to ask what sort of options she had since she needed an ID but could not travel.

MS. DAVIO: Yes, ma'am.

SEN. VAN de PUTTE: That was on June the 18th, and we were very pleased at least that a week later someone was able to call her and give her some options.

Well, the options included that she had to physically go. And so luckily she was able to go, but not until months later, but it entailed bus trips, a nurse going with her, on public transit, going to the offices.

And so my question is, what sort of -- and it took her months, months to get this. Are there any accommodations currently for those with disabilities if they are unable to physically go to a DMV station to acquire identification documents?

MS. DAVIO: We do have a home bound program where we send an employee out to take their picture and gather their information.

SEN. VAN de PUTTE: Do you know how robust that program is? Is there one in -- and why weren't we told about it when we called last summer?
CONSIDERATION OF SENATE BILL 14 1/25/2011

MS. DAVIO: I can't tell you why you weren't told about it. I apologize for that. I don't -- I don't know how many of those IDs we issue. I could check into that if you'd like me to.

SEN. VAN de PUTTE: Well, I'm a little bit worried because we had several employees of DPS call, including the Chief of the Complaint Resolution Specialty Department, assisting with inquiries of identification cards, who said the only option for my constituent was physical presence.

MS. DAVIO: There may --

SEN. VAN de PUTTE: So within DPS if there's a program, certainly didn't tell a Senator's office and certainly didn't tell the client. And if this is -- I mean, what happened here? We didn't know about a program. Are there plans to make that known in light of -- or publicize it in any way in light of the new additional restrictions?

MS. DAVIO: I apologize that you weren't told about it. There may have been particular circumstances that your constituent didn't qualify for that, but we can certainly make sure that all of our employees know about that and are informed so that there won't be such an oversight in the future.

SEN. VAN de PUTTE: So you mean you have
to qualify? So if you're like undergoing chemotherapy, can't leave the house or an organ transplant, you have certain categories to qualify? So even if you're a person with disabilities, you have to have a person of disabilities with certain qualifications to get the home bound program?

MS. DAVIO: I'm sorry. I can't discuss the detailed reasons why someone would qualify and someone wouldn't, but I will certainly check into that for you.

SEN. VAN de PUTTE: Well, thank you. And I am -- I apologize for my mean tone, but understand how frustrating it is --

MS. DAVIO: I understand.

SEN. VAN de PUTTE: -- when people call our offices, they are trying to do the right thing. They are trying to get an ID card, they have situations, and then the people who are employed and hired from state government to provide the information who are head of the departments of this don't know of their own programs. It's really disheartening.

And then if you would, please find out from someone on the fiscal side so that we don't have two opposing statements from DPS of the additional 11 offices that are scheduled to be closed, not this fiscal
CONSIDERATION OF SENATE BILL 14 1/25/2011

year, but probably starting in 2012 and 2013. And then
if you would, please get back with us with the
information of what types of birth certificates would be
eligible to be used for someone seeking to obtain a
personal identification card.

Thank you very much, Mr. Chairman. I
don't have any other questions.

CHAIRMAN DUNCAN: The Chair recognizes
Senator Zaffirini.

SEN. ZAFFIRINI: Thank you, Mr. Chairman.

Ms. Davio, your title is Assistant
Director for Driver Licenses, Department of Public
Safety. Is that correct?

MS. DAVIO: Yes, ma'am.

SEN. ZAFFIRINI: And were you expected to
testify on all aspects of the bill or only what refers
to driver's licenses specifically?

MS. DAVIO: Only what refers to a driver
license specifically, as I understand it, in DPS.

SEN. ZAFFIRINI: When Senator Fraser laid
out the bill, I asked a number of questions about the
criminal justice impact statement. Is there someone
available from DPS who can answer my questions related
to the criminal justice impact statement?

MS. DAVIO: I don't believe that there's a
resource witness here that can answer that currently.

SEN. ZAFFIRINI: And you cannot?

MS. DAVIO: I'm sorry. I can't.

SEN. ZAFFIRINI: That's all right. I assumed that you could not based on your title. But I would like to have someone answer my questions, if not today, maybe tomorrow.

And just to put a face on the issues that we have been discussing today, I happened to receive a letter from the County Judge of Frio County recently, and he explained to me that the office -- the DPS driver's license office in Frio County has been closed. And he wrote in his letter, "Signage on the door directs drivers needing their services to go to San Antonio, Hondo or Jourdanton."

Now, San Antonio is 55 miles from Pearsall, Hondo is 42, and Jourdanton is 41. That's an average of 46 miles. You said earlier that 77 counties do not have driver's license offices.

MS. DAVIO: Currently, yes, ma'am.

SEN. ZAFFIRINI: Do you know how far those residents of those counties have to drive to get a driver's license?

MS. DAVIO: I do not have the average for every single location. That would probably be pretty
difficult to calculate, but, you know, that is something that we're looking at.

SEN. ZAFFIRINI: Well, certainly because if that's the average distance, double that for a round trip.

MS. DAVIO: Yes, ma'am.

SEN. ZAFFIRINI: That's a lot of mileage, especially for low-income persons, for persons with disabilities who have to get a ride, because that's a one-way distance that I just mentioned to you.

MS. DAVIO: Yes, ma'am. Driver licenses do have to be renewed every six years, once every six years. And if the option to renew online would be used, then they'd actually only have to go to the office once every 12 years.

SEN. ZAFFIRINI: Do you have mobile units that can go to these counties?

MS. DAVIO: We do not presently have mobile units. As I mentioned before, the amount of data that we're collecting with your photo, your fingerprints, your -- all the scans of your documents, we have not been able to get that to work with an air card or a DSL line, and we tried for several months.

SEN. ZAFFIRINI: Now, I can't speak for the 77 counties, but I know that for the ones in my
district that have been closed or temporarily closed --
in fact, I mentioned earlier that in my district there
are -- there is one office that has wheelchair
accessible barriers, there are two counties that have no
offices, four counties in which the offices have been
temporarily closed and one that is open three days or
fewer per week.

Now, in the counties in my district, there
is a digital divide. So it's easy to say "renew
online," but when you're dealing with counties where
there is a predominantly low income, minority population
and there is a digital divide, imagine the impact. Do
you have any data relating to addressing those issues
and how to increase the accessibility of the residents
of those counties to your particular services?

MS. DAVIO: One of the elements of the
business intelligence analysis project that we're doing
is actually to try and get information to understand
where people have connectivity and aren't using that.
Maybe they don't know that they can renew online and
being able to encourage people to do that there, but
that would also give us information about where people
don't have accessibility.

SEN. ZAFFIRINI: Thank you. Judge Garcia
writes, "This has caused quite a bit of inconvenience
and consternation for our drivers and potential drivers
in this county when they need driver's license renewals,
driver's licenses," et cetera, and you can imagine the
consternation and the inconvenience that they are
suffering.

There's been some reference to how long
persons have had to wait to get their driver's license,
and I know that before we got our driver's license in
Laredo, the big joke -- and it wasn't really a joke. It
was a cruelty joke because it was so true -- is that
persons who were waiting for their driver's licenses
could stand in line, order pizza, receive it and eat it
and still be waiting for their driver's license.

Now, there has been some improvement in
that, but I wonder what kind of inconvenience we're
talking about when we're talking about these long, long
lines in the different counties. And if that isn't bad
enough, dealing with the issues related to the counties
that don't have any offices.

And you, I understand from your exchange
with Senator Van de Putte, do expect more offices to
close, at least temporarily -- is that correct -- in the
next fiscal year?

MS. DAVIO: If the equipment fails in our
mobile offices, we will have to close those offices.
SEN. ZAFFIRINI: And have you looked at Senate Bill 1 thoroughly yet?

MS. DAVIO: I'm sorry?

SEN. ZAFFIRINI: Have you looked at Senate Bill 1, the appropriations bill, thoroughly yet?

MS. DAVIO: I have not done any detailed analysis of that, no, ma'am.

SEN. ZAFFIRINI: So you have no idea what -- how that budget will impact you at this point in time?

MS. DAVIO: No, ma'am. I know people at -- the experts at our agency are looking at it now.

SEN. ZAFFIRINI: Well, when you have that information -- I assume that you will -- would you share that us, please?

MS. DAVIO: Yes, ma'am.

SEN. ZAFFIRINI: From your perspective.

Thank you very much.

Thank you, Mr. Chairman.

CHAIRMAN DUNCAN: Senator Williams?

SEN. WILLIAMS: Thank you, Mr. Chairman.

Just a couple of things that I wanted to clarify. And I guess, first of all, I wanted to thank Senator Gallegos and Senator Whitmire because I really wasn't that familiar with people who had their licenses confiscated.
or taken away because of the driver responsibility plan. Now, by the way, if you have your license confiscated, what kind of traffic offense would you have had to have been involved in for law enforcement to take your -- confiscate your license? Do you know? It doesn't have to be an exhaustive list, but just --

MS. DAVIO: The major reason that people give those particular forms apart -- away, that law enforcement issues those, as I understand it, is for intoxication offenses where they've failed or refused to provide a specimen.

SEN. WILLIAMS: Okay.

MS. DAVIO: That's my understanding.

SEN. WILLIAMS: So if you refused to take a breathalyzer test or give blood, then they'll take your license away?

MS. DAVIO: That's my understanding, sir.

SEN. WILLIAMS: Okay. Now, that person can apply for a temporary license, a work permit, you know, to be able to get back and forth to work.

MS. DAVIO: They may be able to, yes, sir.

SEN. WILLIAMS: And they could come and get a state ID -- correct -- at no cost if they wanted to have it to vote?

MS. DAVIO: Yes, sir, they could.
Absolutely.

SEN. WILLIAMS: Okay. And then what about if you had your license taken away because of -- what kinds of things under the driver responsibility? Are those also going to be a lot of speeding tickets? I guess it could be. Or more than likely it's going to involve a DWI since we have one of the worse records of any state in the country on that, I believe?

MS. DAVIO: It could be DWI. It could be driving while your license is invalid. It could be traffic offenses as you mentioned, driving without insurance.

SEN. WILLIAMS: So the bottom line is these law breakers would be inconvenienced by having to go get a free ID so they could go and vote if that's -- if they wish to exercise their constitutional responsibility. Is that correct?

MS. DAVIO: Yes, sir. They would be able to get an ID.

 SEN. WILLIAMS: Okay. And then how often would -- once you had this state ID card and assuming that you were a citizen and you had met all the requirements that it took to get the license or the state ID card, how often would that be renewed? How often are they going to have to appear in person to get
CONSIDERATION OF SENATE BILL 14 1/25/2011

Senator Williams: Okay. So it could be 12 years?  

Ms. Davio: Yes, sir.  

Senator Williams: So they would be able to vote with that ID card at least six and maybe 12 years?  

Ms. Davio: Yes, sir.  

Senator Williams: Okay. That -- okay. I just wanted to make sure that we had cleared that up. Thank you very much. I really appreciate you hanging in here with us tonight.

Ms. Davio: Thank you.

Senator Williams: I did have one last question. Excuse me, Mr. Chairman, if I could. The other thing I wanted to ask is, in a moment when we have the Secretary of State's Office up here, I'm going to talk to them, and I visited with you about it, I'm hoping that we can take your driver's license file and cross-match that with the voter registration files and try to find that group of people who are voting and registered to vote, but they don't have a driver's license or a state ID card so that we can focus our
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 efforts on education on -- especially on that group.
2     Now, would you be able to do that, provide
3 that information to the Secretary of State's Office
4 with -- under the current resources that you have? And
5 I'm not going to ask you about the next biennium's
6 budget. We're just trying to get through this biennium
7 now. But under the current biennium, would you be able
8 to provide that information to the Secretary of State
9 with the resources?
10 MS. DAVIO: They already -- they already
11 have the information, and I believe they are working on
12 the analysis now.
13 SEN. WILLIAMS: Oh, okay. Great. Boy,
14 y'all are quick. Thank you.
15 CHAIRMAN DUNCAN: Okay. Thank you.
16 We have a few more -- a few more questions
17 from -- this witness has been going about an hour and
18 ten minutes.
19 Senator West?
20 SEN. WEST: Thank you, Mr. Chairman. I'm
21 not going to be redundant. I just have a couple of
22 requests. Can your office provide an analysis of how
23 long the average wait in each one of the offices that
24 you have -- what is the average wait in order to get a
25 driver's license? I assume that you have that sort of

KENNEDY REPORTING SERVICE, INC.
512.474.2233
TX_00000785
JA_000784
MS. DAVIO: Actually, sir, currently we do not have that information. We have anecdotal information, but we do not have wait times. We're in the process of installing a queuing system in our 50 largest offices. And so in a matter of months I'd be able to provide that information for you in our largest offices, but I do not have any complete information for wait times in our offices.

SEN. WEST: Give us the best guesstimate that you have. I assume that there are conversations about wait time that you have internally. And, you know just make sure you just qualify it based on what you have. It's not -- it's not a perfect example, a perfect study or anything like that, but get us -- give us the best estimates that you have concerning that. Okay?

MS. DAVIO: The average wait time?

SEN. WEST: Yes.

MS. DAVIO: In all of our offices?

SEN. WEST: Yeah, broken down by office, so I don't just want a global -- to the extent that you can. And what you may want to do is just contact the offices and get an idea from the individuals that are in the offices.

As you go about implementing this
CONSIDERATION OF SENATE BILL 14 1/25/2011

particular identification procedure, have you given an idea as to whether or not you are going to be using troopers or civilian employees to do this?

MS. DAVIO: There really aren't troopers in the driver license division anymore. That was a recommendation from the Sunset Commission. So there are no commissioned troopers in the driver license office.

SEN. WEST: So it would be civilian employees?

MS. DAVIO: Yes, sir.

SEN. WEST: All right. Thank you.

CHAIRMAN DUNCAN: Senator Gallegos?

SEN. GALLEGOS: Let me ask you, Rebecca -- and I'm sorry you drew the short straw. And Senator West asked the question I was going to ask you, but Senator Williams brought up an issue that, you know, I disagree with him. When you're stopped, it's an alleged -- you're not a law breaker, it's an alleged. You know, I'm not the jury, and I'm not the judge. So that person that's stopped is not guilty until he or she has their day in court.

So when you confiscate the license, you have confiscated on an alleged offense. And until he or she has their day in court and they are convicted, then you can call him or her a law breaker. So I disagree
with Senator Williams. Is that correct? I mean, am I wrong? Am I wrong? When you arrest that person, is he or she convicted right then and there?

MS. DAVIO: No, sir.

SEN. GALLEGOS: So you're telling me they are not guilty until they have their day in court. Is that correct?

MS. DAVIO: I believe that's the way the legal system works.

SEN. GALLEGOS: I didn't hear you. I'm sorry.

MS. DAVIO: I believe that's the way the legal system works.

SEN. GALLEGOS: Okay. So that person -- that person that has that temporary license is innocent until proven guilty. Is that correct?

MS. DAVIO: You're asking me to testify on something that's outside my area of expertise, sir. I don't -- I don't know the intricacies of traffic --

SEN. GALLEGOS: The document that your office gives these law enforcement agencies when somebody is stopped either on DWI or whatever issue, whatever issue when you confiscate a license, that person is innocent until proven guilty under the -- under the temporary license that I'm seeing here, that
CONSIDERATION OF SENATE BILL 14 1/25/2011

has your language on it, that you give to these law
enforcement agencies when you stop these people. Is
that correct?

MS. DAVIO: As I understand it, a DWI, if
they get a mandatory suspension, that does not start
until after their conviction.

SEN. GALLEGOS: After a conviction?

MS. DAVIO: Yes, sir, for a --

SEN. GALLEGOS: So when you stop that
person, that is not a conviction?

MS. DAVIO: Or DWI mandatory suspension.

SEN. GALLEGOS: That is not a conviction,
though?

MS. DAVIO: Just shopping them I don't
believe is a conviction.

SEN. GALLEGOS: And you give they one of
these licenses. You have confiscated their license and
have given them a temporary. Is that correct?

MS. DAVIO: Law enforcement does that,
yes, sir.

SEN. GALLEGOS: Well, you gave them the --
(Simultaneous discussion)

MS. DAVIO: We simply give them the form.

SEN. GALLEGOS: You give the law
enforcement this paper. It has your language on it. Is
that correct?

MS. DAVIO: Yes, sir. That is our form.

Yes, sir.

SEN. GALLEGOS: Okay. Thank you.

CHAIRMAN DUNCAN: Senator Wentworth?

SEN. WENTWORTH: I'm going to be very brief and thank you for your testimony this evening and tell you that this probably happened before you arrived here in June of last year. But there were some considerable complaints from people in my district in north Bexar County --

MS. DAVIO: Uh-huh.

SEN. WENTWORTH: -- about a driver license office on Perrin Beitel Road --

MS. DAVIO: Uh-huh.

SEN. WENTWORTH: -- where I can testify anecdotally, as you have, that it was an hour or longer --

MS. DAVIO: Yes, sir.

SEN. WENTWORTH: -- about the wait.

MS. DAVIO: Yes, sir.

SEN. WENTWORTH: And there were enough complaints over the years that you all let the lease expire.

MS. DAVIO: Yes, sir.
SEN. WENTWORTH: And then you found a new location on Pat Booker Road out near Randolph Air Force Base, and my constituents are very pleased with that improvement and were grateful that that improvement has been made.

MS. DAVIO: Thank you so much.

SEN. WENTWORTH: Thank you.

MS. DAVIO: I appreciate that. It's nice to hear a good story.

SEN. WENTWORTH: You bet.

CHAIRMAN DUNCAN: Thank you, Senator Wentworth.

Are there any other questions of the resource witness?

(No response)

CHAIRMAN DUNCAN: All right. Thank you very much, Ms. Davio.

MS. DAVIO: Uh-huh.

CHAIRMAN DUNCAN: All right. The Chair calls Ann McGeehan, Secretary of State's Office. If you'll state your name and who you represent, please.

TESTIMONY BY ANN McGEEHAN

MS. McGEEHAN: Ann McGeehan, and I'm Director of Elections in the Texas Secretary of State's Office.
CONSIDERATION OF SENATE BILL 14 1/25/2011

CHAIRMAN DUNCAN: All right. Thank you, Ms. McGeehan.

The Chair recognizes Senator Davis.

QUESTIONS FROM SENATE FLOOR

SEN. DAVIS: Hello. Good evening. Thank you so much for being here with us to provide answers for our questions. I know you've had a long day.

I just want to ask you a few questions about the current state of voter education as it's taking place today in the Secretary of State's Office. Can you describe for us the use of the HAVA funds and how those are currently being used today?

MS. McGEEHAN: We received -- when Congress passed the Help America Vote Act, the state of Texas received a set amount of funds. And pursuant to the Help America Vote Act, there are certain purpose areas that we can use those funds for, and one of the purpose areas is voter education. So since two -- we have conducted three statewide education -- voter education programs, one in 2006, one in 2008 and one in 2010 using those federal dollars. And they have been -- we've worked with a public education firm to do research, and then they develop creative material. We run PSAs on TV, radio. In this last cycle, 2010, we used the Internet quite a bit as well.
SEN. DAVIS: And how many people do you think you reach through your voter education efforts right now? And how much have each of those cycles of voter education effort cost?

MS. McGEEHAN: The average cost is about $3 million for each one, around that amount. As far as the number of people we've touched through the campaign, we do have some reports on that. I don't have that number at my fingertips, but we have a report for each one of the voter education campaigns that talks a little bit about the effectiveness and how many people saw the media spots and things of that nature.

SEN. DAVIS: And are the Help America Vote Act funds funds that are continually given to the state from the federal government, or was it a one-time disbursement that's been used over the course of those three cycles?

MS. McGEEHAN: It was authorized in that one bill. We've received it in about three or four separate payments. We don't contemplate that we're going to be receiving any more.

SEN. DAVIS: And what was the total amount that was given to Texas?

MS. McGEEHAN: Let me grab that. The total amount for all the purpose areas is $224,092,477.
SEN. DAVIS: That's the amount that was given to the state of Texas?

MS. McGEEHAN: Yes.

SEN. DAVIS: Okay. And so of that amount, how much have we spent so far?

MS. McGEEHAN: Let's see here. We -- I think we have spent $177,798,488.

SEN. DAVIS: Okay. And you described spending about $3 million over the last three two-year cycles. How have we spent the balance of that?

MS. McGEEHAN: Well, I mean, the bulk of the money or about half of the money went to counties to obtain HAVA compliant voting systems, electronic voting systems that made -- that complied with HAVA and allowed disabled voters to vote independently. So let's see. $140 million went to the counties for that purpose.

The other program areas are for developing a statewide voter registration system. We've spent 25 million on that. And then as far as the administrative expenses, we've spent about 2.8 million on that. For voter education, we've spent 9.5 million so far.

SEN. DAVIS: And what are the -- setting aside the requirements of the bill that's being introduced today, what are the intended plans for the
balance of that money? Were this bill not to come forward to your department, what would the intended use for those funds be?

MS. McGEEHAN: I can't speak necessarily for, you know, exactly what would be done in the next general election cycle, but I would contemplate we would do another statewide voter education program in 2012, and if funds remained in 2014.

SEN. DAVIS: Is there a plan for ongoing capital expenditures as you talked about, which was the use of the bulk of the funds that we've received so far?

MS. McGEEHAN: Yeah. There are -- there's 24 -- roughly $24 million left in the -- in the purpose area for grants to counties to obtain voting equipment.

SEN. DAVIS: Okay. And so after you take out that 24 million, what will the balance be that remains for voter education efforts?

MS. McGEEHAN: Well, that's -- that's already frozen as far as the -- in order to draw down those funds, the state had to submit a state plan. We had to meet with stakeholders, publish in the Register and submit it to the Election Assistance Commission. And so pursuant to that state plan, we had to define how we were going to spend the money, and so these -- the
CONSIDERATION OF SENATE BILL 14 1/25/2011

SEN. DAVIS: Okay. And under that state plan right now, what portion of funding remains for voter education?

MS. McGEEHAN: For voter -- okay. And actually to be more precise, what the -- the purpose area for voter education is for voter education and also for election official and poll worker training; that's grouped. And the amount remaining is between 5 and $7 million.

SEN. DAVIS: Okay. And that is expected to extend us or to take us through the next how many years under that plan?

MS. McGEEHAN: It will -- again, it's going to depend how extensive our next few voter education programs are because that's what the bulk of the money has been spent on, voter education programs. The average is about 3 million. So I guess the hope might be for at least two other statewide voter education programs.

SEN. DAVIS: Okay. And I'm sure you've seen the fiscal note that was a part of this bill. And by the way, I think it would be very helpful if you would enter that state plan into the record as an exhibit for our further use.
I'm sure you've seen the fiscal note that came as a part of this bill in terms of the expected expenditures. Part of that note talks about a fiscal impact that's related to researching and developing ways to inform the public of the new ID requirements. That's $.5 million expenditure, an additional cost of 1.5 million for media advertisements, television, radio, print and Internet. That's specifically to educate voters about the new requirements under this bill.

What will go undone that's currently in the state plan -- if we take 2 million of the 5 million remaining, what will go undone that's currently in the state plan in terms of voter education effort?

MS. McGEEHAN: I don't know that I have an exact answer to that. If we're able to incorporate the new voter ID requirements that would be required by this bill into a voter education program, then maybe we wouldn't need 2 million just for the voter ID. We could parlay that into the -- basically the voter education campaigns that we've done or the voter education programs have been to educate voters on the basic rights on how to vote, what you need to vote. So it may not be such an extension to incorporate these new requirements for voter ID, or they may. I mean, depending on the research that we get back from stakeholders and whatnot,
but it's hard for me to say today exactly how much that may take away from future voter education efforts.

SEN. DAVIS: When was the last time in the state of Texas we made any changes of significance to the voter rules?

MS. McGEEHAN: Probably the -- when we had to implement the federal Help America Vote Act. That's when provisional voting became a requirement. There were significant changes to voter registration as to what's required to become a registered voter, and that's why we have these HAVA dollars for voter education.

SEN. DAVIS: And that began in '06.
Correct?

MS. McGEEHAN: Correct.

SEN. DAVIS: Okay. In '06, the Texas voter registration application form changed in accordance with those requirements, it's my understanding, and that's when we began to collect this data that requested a driver's license number or a social security number. Is that's correct?

MS. McGEEHAN: That's correct.

SEN. DAVIS: Okay. So we have data, I guess, only from '06, and that would -- would that only be then for new registrants from '06? If I had already registered to vote prior to that, you wouldn't have that...
CONSIDERATION OF SENATE BILL 14 1/25/2011

information from me.

MS. McGEEHAN: That's right.

SEN. DAVIS: Correct?

MS. McGEEHAN: That's right. It was voluntary before. So we have some TDLs and SSN numbers from -- but it wasn't required until 2006.

SEN. DAVIS: So we've been able to gather that information from that point in time for people who are newly registering to vote in the state of Texas. Of that group, how many people or what percentage of people are answering one or both of those questions in response to No. 8 versus signing the attestation clause in Section No. 9?

MS. McGEEHAN: Are you asking the number of --

SEN. DAVIS: Let me -- let me break it down better.

MS. McGEEHAN: Okay. Okay.

SEN. DAVIS: So under Question No. 8, what percentage of people currently, who are requesting a voter registration card, who are filling out the application starting in '06 with this new form, what percentage of people are providing their Texas driver's license in response to the questions on the application?

MS. McGEEHAN: Okay. I don't have the
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 percent number, but the actual number is 2.3 million
2 since 2006. Since January 1, 2006 through December 31, 2010, 2.3 million, when they registered, provided their
3 driver's license number.

SEN. DAVIS: What's the total number of
4 applications in that time period?

MS. McGEEHAN: And the total number -- I
5 think it's going to be just under 3 million, and I'm
6 doing math on the fly. I might have to -- I'd prefer to
give that --

SEN. DAVIS: Can you provide that
information --

MS. McGEEHAN: Yes.

SEN. DAVIS: -- to us?

MS. McGEEHAN: Yes.

SEN. DAVIS: That would be appreciated.

So what's the number of people who are not
filling out either the driver's license number or the
social security number in Section 8 but instead are
going to Section 9 and signing the attestation clause of
Section 9?

MS. McGEEHAN: And that's the attestation
clause saying they have not been issued either form of
ID?

SEN. DAVIS: (Nodded)
MS. McGEEHAN: Yeah, that number is 34,506.

SEN. DAVIS: Okay. Do we have any -- any estimate of the number of people who are currently registered today? If we've only been gathering that information since 2006, do we have any kind of an estimate of the number of people who are currently registered to vote today who do not have a driver's license number to provide?

MS. McGEEHAN: Well, if we -- if we look at our entire statewide file, we have 5.2 million voters that did provide a driver's license number or an ID number. We have 2.1 million voters that present -- that provided a social security number. 4 million of them provided both. And then the numbers that have neither -- or the voters that hadn't provided either one is 690,887. So it doesn't necessarily mean that those people haven't been issued, but they didn't -- either they don't have those numbers or they registered before it was required, and so they didn't provide them when they registered if it was pre-2006.

SEN. DAVIS: But the question wasn't asked. It was -- I guess as you said, you could voluntarily provide that information prior to '06.

MS. McGEEHAN: Well, it was asked, but it
was optional. It was on the form.

SEN. DAVIS: Uh-huh. Okay. So we really
don't know how many of that group were answering the
question voluntarily because they have the number versus
those who were not answering it, not because they chose
to, but because they did have their driver's license
number?

MS. McGEEHAN: Yes, you are correct.

That's right.

SEN. DAVIS: So when we're putting
together an estimate of what the cost to educate our
voters is going to be and when we think about how
significant the changes are that are addressed in this
bill, what's your -- what's your process been to try to
determine how many people will be impacted and what that
voter education is going to need to look like?

MS. McGEEHAN: Well, we -- I mean, to be
very honest, we haven't done much planning yet. We
prepared this fiscal note on Friday. That would be
obviously a very important component is trying to
identify who the appropriate audiences are, who you need
to get the information out to.

Senator Williams had approached us earlier
today to see if we could do some comparisons to try and
further focus in on who those registered voters are that
CONSIDERATION OF SENATE BILL 14 1/25/2011

1. don't have -- or have not been issued a driver's license
2. or a personal ID number. So we're trying to run some of
3. those numbers right now.

SEN. DAVIS: I guess a confusion for me is
4. how we came up with the $2 million fiscal note for that
5. and yet we don't really know, as you said a moment ago
6. we don't really know how many people will be impacted by
7. it and what that statewide voter education effort is
8. going to need to look like. So where did the $2 million
9. number come from?

MS. McGEEHAN: Well, the $2 million number
10. came from the way the bill is written because the bill
11. simply says "a statewide voter education effort." So
12. there's not too much detail in the bill as to what's
13. required. Our assumption is that our previous voter
14. education programs might be the model, and they've been
15. around 3 million. And plus, we also noticed that last
16. session the Senate put a $2 million fiscal note on it.
17. So we thought, well, maybe that's some representation of
18. legislative intent as to what an appropriate voter
19. education program might cost, but --

SEN. DAVIS: So we've had voter education
20. efforts in the past that have cost about $3 million each
21. time we've engaged in the voter education effort. We're
22. talking today about making some sweeping changes to

KENNEDY REPORTING SERVICE, INC.
512.474.2233
TX_0000802
JA_000802
what's required in order to vote in the state of Texas.

Why is the number to educate -- on such a sweeping
change for what will likely be a much larger group of
impacted people in the state of Texas, why is that
number so much lower than the $3 million number that's
currently being spent for voter education?

MS. McGEEHAN: Well, if the -- if a
$2 million program is added into an existing $3 million
program, then you've got a $5 million program. I mean,
our voter education under HAVA is directed to all
registered voters. And so, you know, a new voter -- a
new photo ID requirement would also need to be directed
to all registered voters because it's a change for all
d voters.

SEN. DAVIS: So we're talking about -- I'm
sorry to interrupt you. We're talking a $2 million
addition to the $3 million that was already intended for
voter education in this next two-year cycle.

MS. McGEEHAN: Possibly, possibly. I
mean, we -- you know, we've got a communications
director that would have some input on that. This
fiscal note represented what we thought might be a
reasonable fiscal note. If we have, you know,
legislative direction to take it a different way or do
additional outreach, that's fine. But based on the way
the bill was written and based on the fiscal note filed last time, we thought that was a reasonable number.

SEN. DAVIS: So let's say we spend about a total of $5 million in the next two years with our intended voter education effort that's already been planned and with an additional cost for educating on the requirements of this proposed new law. That's about the balance of the voter education fund right now. Is that correct?

MS. McGEEHAN: Well, it's about -- we've spent 9 million. I think the balance -- yeah, the balance is between 5 and 7 million. That's correct.

SEN. DAVIS: Okay. So that will take us through about what -- how long of a period of time will that take us through?

MS. McGEEHAN: If we used 5 million to do a voter -- a general voter education plan and then another 2 million to do a detailed photo -- photo identification plan, that might -- that might use it up.

SEN. DAVIS: And if it uses it up, what will we do in future years to educate our voters about these requirements?

MS. McGEEHAN: Well, frankly -- I mean, state law has never appropriated state funds to educate voters. So, you know, these federal funds have been
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 really nice to have them to do that. We never had that
2 kind of funding before. So if there's a desire to do
3 voter education programs of this -- of this type, then
4 we would need state appropriation.

5 SEN. DAVIS: So these federal funds will
6 take us basically through a one-time voter education
7 drive on the requirements of this new law, but it's not
8 going to take us further than that?

9 MS. McGEEHAN: Not if we use it all,
10 not -- it could possibly use up the remainder of the
11 voter education funds.

12 SEN. DAVIS: Okay. So we've talked about
13 the voter education. Talk to us a little bit about the
14 costs of training the poll workers and the registrars.

15 MS. McGEEHAN: We currently have several
16 training programs for -- well, we have training programs
17 for the county election officials and then other
18 training programs for the poll workers. We have an
19 online training program. We have a video. We have
20 handbooks. So we would have to update all of those --
21 all those different formats of training.

22 SEN. DAVIS: And what's the anticipated
23 costs for updating all those forms of training?

24 MS. McGEEHAN: We don't usually put a
25 fiscal note when there's a change in state law and we
have to change and update training like that because at least it's always been considered that is part of our mandate in election administration. So when we get appropriation under the election administration umbrella, our statutory mandate is to train and assist election authorities.

SEN. DAVIS: And what's happened to your -- your budget, not only in this current biennium that we're in, but the proposed budget going forward?

MS. McGEEHAN: We're still digesting that as far as on the House side. I don't know about the Senate side yet. But on the House side, I believe we took about a 14.5 percent budget reduction on the House -- HB 1 bill.

SEN. DAVIS: So we're talking about a fairly dramatic budget cut for your agency while at the same time we are talking about adding some very significant requirements in terms of the changes that you would need to make to your training programs and materials for purposes of educating election workers and county administrators on the new rules that would be implemented in this bill?

MS. McGEEHAN: That's correct.

SEN. DAVIS: And there's no fiscal note currently estimated for what that cost might be?
MS. McGEEHAN: It's my understanding that when we've been asked to prepare fiscal notes for these kinds of issues, we have not added a fiscal impact for something that's already a statutory duty. As we analyze HB 1, maybe we're going to have to revise that, but at least our standing policy was if it was a statutory duty that we're already charged to do, that we don't put an additional fiscal note on it.

SEN. DAVIS: Are you concerned that you're going to find yourselves fairly flatfooted in terms of not being prepared with the resources that you need, to train election workers and to train county administrators on the requirements of this new law facing the budget cuts that you're facing without a fiscal note that's going to add resources to your department for purposes of carrying out these requirements?

MS. McGEEHAN: I think all state agencies in the state have concerns about providing the services they are charged to provide in light of significant budget cuts. But on the issue of training, the analysis was that that was not going to cost anything additional as to what we've already been appropriated.

SEN. DAVIS: And do you agree with that, that it's not going to cost anything additional for your
CONSIDERATION OF SENATE BILL 14 1/25/2011

agency to provide the training for the significant changes in the law that will be imposed if this bill is passed into law?

MS. McGEEHAN: Well, after every session, we have to change all our materials. And, you know, maybe I can talk to our fiscal officer and maybe we'll start putting in fiscal notes for these kinds of things, but it has been our policy not to add a fiscal note for something we're currently doing under state law and funded for.

SEN. DAVIS: And so the change in materials is all that would occur? If I'm an election worker in the state of Texas and I'm facing some pretty significant changes -- and I have to tell you I've read this bill numerous times, and I'm still confused in terms of what it would require of me as an election worker. Is that the only costs that we assume will be incurred, is the cost of the change of the material? Isn't there some training -- active training that has to occur to be able to make sure that the election workers and the county administrators who are tasked with carrying out this new law will understand exactly what's expected of them in terms of its implementation?

MS. McGEEHAN: We do -- we do, I think, pretty extensive training right now. I mean, in an odd
consideration of Senate Bill 14 1/25/2011

1 numbered year, we hold four seminars, and we have very
good attendance from our county election officials. So
I would be certain that our August county election
official seminar will be heavily -- if this passes will
heavily emphasize these new rules.

To go back to the federal funds, which we
know are limited, the grant for voter education also
includes election official training and poll worker
training. So if there are any remaining HAVA dollars in
that category that we don't use on voter education, we
could perhaps use to additional -- to develop additional
training materials.

Sen. Davis: Yes, and we talked about that
a moment ago, and you did state on the record that that
category of $5 to $7 million that's remaining is the
entirety of the federal resource that you have available
to you right now, both for voter education and for
training purposes. And we've also talked about the fact
that the expectation and the demand on that particular
fund for public education is going to take the
significant balance that remains there. Correct?

Ms. McGeehan: Right. Well, just to be
clear, the remaining balance in the HAVA is all we have
for voter education, but there are some state funds -- I
don't think it's a lot -- but that would go towards
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 updating handbooks and video and things likes that that
2 we normally produce as training materials.
3
SEN. DAVIS: When the Help America Vote
4 Act was implemented and in '06, as you said, that was
5 the first significant change that's been made or it's
6 the most recent significant change that's been made in
7 election laws in the state of Texas in terms of the
8 requirements of your agency and the training of your
9 agency, did the costs that your agency realize as a
10 result of the training component for HAVA increase as a
11 result of those new requirements?
12
MS. McGEEHAN: We -- what we did do was
13 develop an online training component. So we used a
14 portion of the HAVA dollars to develop an online
15 training component, which was in addition to our other
16 training. I could get -- I don't know the cost of that,
17 but I could get you the cost.
18
SEN. DAVIS: It would be a helpful number
19 to have.
20
There's also a discussion in terms of the
21 fiscal note on this bill, including a coordinated voter
22 registration drive or other activities that would be
23 designed to expand voter registration. What would the
24 costs of such a registration drive be? It's on Page 2
25 of the fiscal note.
MS. McGEEHAN: Okay. I think that what that is referring to is that at the end of Senate Bill 14, there's a reference that says county voter registrars can use Chapter 19 funds to defray costs in conducting a voter registration drive. But I don't see anything -- and I may have missed it -- but I don't see anything in Senate Bill 14 that requires a voter registration drive. I think it's -- what that section in the bill is doing is trying to make clear that these funds, which are -- go to county voter registrars to enhance voter registration could be used to do voter registration drives, but I don't see anything that requires a voter registration drive in Senate Bill 14.

SEN. DAVIS: What resources currently are expected of our local governments in carrying out the training and the public awareness programs under our election code.

MS. McGEEHAN: The -- there's no state law requirement to do voter education by the county officials. Most of them do it as a public service because they want to, but there's not a mandate under state law to do that.

Under Senate Bill 14, there's required training of poll workers on the new photo ID requirements. And I may have missed part of your
question.

SEN. DAVIS: And that required training is to be done at the county level. It's expected that the county will fulfill that requirement through their own resources?

MS. McGEEHAN: Well, they are required to use the Secretary of State materials. I think that the election code gives them discretion as to how they implement it and how they conduct their training.

SEN. DAVIS: So it's foreseeable that at the county level increased costs will be realized as a consequence of the expectations of this bill?

MS. McGEEHAN: Most counties conduct training today. So they would just be incorporating another component into their training program. Depending on how they handled it would impact how significant the fiscal impact would be in that county.

SEN. DAVIS: If I'm a voter today and I want to go to the bill itself in terms of making sure I understand what would be expected of me under today's rules versus under the rules of the new bill, if I'm a voter today and I come in to vote and I don't have my voter registration card, instead I have an ID, I have a state issued ID, I have a valid driver's license, and my driver's license shows a different name than is
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 currently on the roll because I've married or I've
2 divorced, how is that situation handled today?
3
4 MS. McGEEHAN: State law doesn't directly
5 address it. So I think that as a practical matter
6 what's happening is the poll workers are making judgment
7 calls as they qualify those voters for voting.
8
9 SEN. DAVIS: But they are not being given
10 guidance or rules or requirements in terms of how they
11 are to deal with that situation today?
12
13 MS. McGEEHAN: No.
14
15 SEN. DAVIS: It's within their discretion?
16
17 MS. McGEEHAN: At this point. I mean,
18 state law is silent on it, and our office has not issued
19 any guidance on it. So we're hearing a lot about that
20 today. That's definitely something we'll probably need
21 to look into, but right now there is no rule or statute
22 on that issue.
23
24 SEN. DAVIS: Okay. And today if I go to
25 vote and my identification that I use for purposes of
26 voting has a different address on it than is listed on
27 the precinct roll, I think it's the interpretation today
28 under 2004 Secretary of State opinion that I am asked
29 for my correct address, and I am to be believed if I say
30 that my address is the address that's on the precinct
31 list as opposed to what might be on my ID?
CONSIDERATION OF SENATE BILL 14 1/25/2011

MS. McGEEHAN: I think that's basically correct. The purposes -- you know, showing ID today is only for purposes of proving who you are. It's not to prove where you live. So independent from the requirement to show ID, either certificate or one of the other authorized ID, there's a separate requirement in the code where the election -- where the poll worker has to ask every voter "Have you moved," so regardless of what ID they show. And if they say yes, they've moved, then they have to sign a statement of residence and update their information. If they say no, they haven't, they still live at the address on the list of registered voters, then they are permitted to vote.

SEN. DAVIS: And what is your understanding of whether -- how or whether that would change under the requirements of the new bill if everyone now is going to come in with a state-issued ID or a driver's license? If the address on that ID does not match the address that's on the voter file, how is that to be handled going forward if this bill were to pass into law?

MS. McGEEHAN: My current understanding is that that process wouldn't change, that the purpose of SB 14 is, again, just to prove up ID, not prove where you reside.
SEN. DAVIS: And what steps would the Secretary of State's Office engage in to assure that the ID wasn't being used to establish an understanding of the voter's residency?

MS. McGEEHAN: Would definitely, I think, be included in our training materials to emphasize that.

SEN. DAVIS: Currently, is there any information that the Secretary of State's Office gathers that breaks down by category voters in the state? And when I say "by category," I mean by race, by gender, by disability, by age.

MS. McGEEHAN: We have some information. We have -- we have age for sure. On gender -- we have some information on gender, but it's not conclusive because gender is now -- it used to be a required element on the voter registration application. In 1995, it was taken -- or it became optional after the National Voter Registration Act. So we have some data on gender, but, again, it's not complete.

Regarding ethnicity, we really -- we don't have any information like that because it's not collected when a person applies to register to vote. The only data that we do have is we do have the number of voters that have an Hispanic surname. And so we can run the list of registered voters against this list of
CONSIDERATION OF SENATE BILL 14 1/25/2011

Hispanic surnames that is provided by the census department.

SEN. DAVIS: I'm sure you understand that one of the sensitive issues that will arise as a consequence of this legislation will be a question as to whether the implementation of this law creates a disproportionate impact on minorities, on seniors, on the disabled, on women. How will the Secretary of State's Office work to be able to answer those questions when they are asked if we currently don't track that data? And is there an intention to track it going forward?

MS. McGEEHAN: When we changed the voter registration application in '94, '95, due to the National Voter Registration Act, there was a long discussion regarding this issue of whether the state application should request a voter's race. The determination at that time, based on feedback from all the stakeholders, was not to do it because the thought was that might be intimidating to a minority voter, "Why are you asking, you know, what my ethnicity is? It doesn't impact whether I can register or not."

We can revisit that issue because in order to provide data, you know, if the legislature wants data like that from the Secretary of State's Office, we have
to have some way to collect it. So we could revisit putting that question or adding that as a question to the voter registration application. I'd be happy to visit on ways where we could try and collect that, but right now we would not have the tools that we would need to be able to collect that data.

SEN. DAVIS: It seems rather important as implementation of this law advances that that information be made available for the Justice Department review as well as any judicial review that might occur in terms of the impact of the implementation of the law.

I believe that's all the questions I have for you. Thank you so much.

MS. McGEEHAN: Thank you.

CHAIRMAN DUNCAN: The Chair recognizes Senator West.

SEN. WEST: Thank you very much, Mr. Chairman. Many of the questions Senator Davis has already asked, but have you had a chance to look at the bill as introduced?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. Do you happen to have it there in front of you?

MS. McGEEHAN: Yes, I do.

SEN. WEST: Okay. Great. Before I get
into it, does this bill provide you any rulemaking authority?

MS. McGEEHAN: No.

SEN. WEST: Okay. So in interpreting the -- let me back up. Are you often called upon by county registrars to answer questions concerning issues that arise in local counties?

MS. McGEEHAN: Yes.

SEN. WEST: How do you normally decide those questions? Do you just look at the black and white law? Do you issue opinions? How is that -- what's that process?

MS. McGEEHAN: We issue opinions in a couple of different ways. We have a toll-free number. One is dedicated just for county officials. So if it's a fairly straightforward, simple question, we give a quick answer over the phone. If it's a -- if it's a less involved question, we might get an email. We'll give a response via email. If it's something that's hard or we're really interpreting several different laws or it's a new law and we feel like it has statewide impact, we want to make sure that everyone is operating under the same understanding, we'll issue an advisory.

SEN. WEST: Okay. And so an advisory or just depending upon the circumstances maybe an email.
opinion or something like that?

MS. McGEEHAN: Well, advisories are usually a little more -- it's like the most formal that we do.

SEN. WEST: Right.

MS. McGEEHAN: Yeah. Okay.

SEN. WEST: All right. Let me ask you to go to Page 4 of the bill.

MS. McGEEHAN: Okay. Can you tell me the section? Because I think I have a different format.

SEN. WEST: Okay. It's Section 7, and Section 7(c) and (d).

MS. McGEEHAN: Okay.

SEN. DAVIS: Let me know when you get there.

MS. McGEEHAN: Yes.

SEN. WEST: Okay. It's my understanding that the election officer that's being referred to in Section (d) is -- is the individual working at the poll. Is that right?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. That person will be called upon in Section (d) to determine if the voter's name is on the precinct list of registered voters, and the voter's identity can be verified from the
CONSIDERATION OF SENATE BILL 14 1/25/2011

documentation presented. Is that correct?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. In advising on that, will that be a strict interpretation? Let me -- this is what I mean. I think that some of the hypotheticals that were provided by Senator Davis may be illustrative of what I'm asking. My last name is West, W-e-s-t. And say that there's a typographical error where my name is spelled W-e-s on the voters' roll, precinct list, and then my -- but my identity I'm using my driver's license and it has "t" on it. How does a poll -- an election officer in that situation resolve that problem?

MS. McGEEHAN: That's a good question, and I don't think the bill necessarily defines what verification --

SEN. WEST: I know. Senator Fraser said I'd have to ask the Secretary of State that question. That's why I'm asking you that question.

MS. McGEEHAN: I think -- you know, based on the way the bill is written now and if we had to develop training materials for the poll workers on how to implement this, we would look to the best practices of the states that have implemented. I heard Indiana testify earlier today that they have written some guidelines. We'd look to that and try and incorporate
CONSIDERATION OF SENATE BILL 14 1/25/2011

1. the best practices on reasonable methods to verify the
   ID document against the list of registered voters.

   SEN. WEST: Okay. But you would agree

   with me that in interpreting Section (c) and (d) without
   some sort of guidance would lend itself to a great deal
   of subjectivity; thus inconsistent application

   throughout the state?

   MS. McGEEHAN: It could, yes.

   SEN. WEST: Okay. As it relates to --

   let's see. What page is it on? The next page, which

   will be (h), it's in the same section.

   MS. McGEEHAN: Okay.

   SEN. WEST: Would you read Section (h) and

   tell me how you interpret that as the chief

   administrator of the election laws in the state of Texas

   next to, needless to say, Secretary of State?

   MS. McGEEHAN: (h) reads, "The

   requirements for identification prescribed by Subsection
   (b) do not apply to a voter who: (1) presents the
   voter's voter registration certificate on offering to
   vote; and (2) was 70 years of age or older on January 1,
   2012, as indicated by the date of birth on the voter's
   voter registration certificate."

   The way I had -- until earlier this

   afternoon when Senator Ellis asked the question, I had
CONSIDERATION OF SENATE BILL 14 1/25/2011

assumed that anybody that is 70 years of age or older
would not have to provide the photo ID. I think the
wording is less than perfect. I think that's the
intent, and I heard Senator Fraser, I think, answer that
his intent is it would apply. You know, even if a
person became 70 after January 1, 2012, they could still
take advantage of this exception.

SEN. WEST: Okay. But would it be your
suggestion that we need to reword that language to make
certain that whether you're there or someone else -- I
understand that you're here and you heard the
discussion, but if for some reason you're not in the
same position you're in right now, there's going to be
someone else, and they won't have -- they will not have
had the benefit of this discussion. So, therefore, do
you think it would be advisory to -- advisory to reword
that to make certain it's perfectly clear?

MS. McGEEHAN: I think so. If people are
reading it inconsistent, it would probably help it if it
were.

SEN. WEST: Okay. Now, a couple of other
questions. As it relates to the counties, it's my
understanding that you -- that your agency and maybe
either yourself or someone working for you put together
the fiscal note. Is that correct?
MS. McGEEHAN: Yes. Our agency put it -- I helped.

SEN. WEST: Okay. Did someone under your supervision contact local governments to determine the impact, the fiscal impact, that implementation of this will have?

MS. McGEEHAN: No, we did not.

SEN. WEST: That was done by someone else?

MS. McGEEHAN: I think LBB does that. We just -- we just --

SEN. WEST: Provided the information?

MS. McGEEHAN: Yeah. Right.

SEN. WEST: And based on your experience when these types of changes -- let me back up. How much experience have you had in this particular area, that is, the election laws, in administration of election laws?

MS. McGEEHAN: I have been working in the elections division for 21 years.

SEN. WEST: So you've had a little experience, huh?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. All right. As it relates to when changes are made in state law of this nature, is there an impact, a fiscal impact, on local
units of governments when they have to make changes to comply with these types of changes or laws that are being suggested?

MS. McGEEHAN: I think it really depends on what the change is. You know, if there's a new mandate for a county or if the county has to do something different, then obviously there would be a fiscal impact.

SEN. WEST: Well, will -- and, again, drawing on your expertise, will counties have to do something different to implement this particular law?

MS. McGEEHAN: They will have to -- they are going to have to post information on their website notifying the public what the new photo ID requirements are.

SEN. WEST: Right.

MS. McGEEHAN: When they issue voter registration certificates, they are going to have to mail out -- which they have to mail out every two years under current law. The new certificates will have new language, but -- informing voters of the voter ID requirements, but that should be cost neutral because they are already mailing out the voter registration certificates.

The piece that I think might have a fiscal
impact is the training. If the counties have to change up their training procedures much or do more training because they want to make sure the word is out to all their -- that might increase their training costs.

SEN. WEST: Okay. So there are some factors that need to be taken into consideration as to whether or not counties will be burdened with additional cost to implement this law. Is that correct?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. And would it be a fair statement to say the larger the county, the more of the burden -- of the financial burden -- well, that's not a fair question.

Would it be a fair statement to say that the larger the county, the larger the potential financial obligation that they would have to encounter in order to implement the law?

MS. McGEEHAN: I think that's true, but I can hear small counties say that it might be proportional, you know, since their budgets are -- I mean --

SEN. WEST: Right. It's all relative to what your budgets are.

MS. McGEEHAN: Yeah.

SEN. WEST: But the fact is that that --
do you -- is there any -- you've read the fiscal note
associated with this bill?

MS. McGEEHAN: Yes.

SEN. WEST: The $2 million that's in the
fiscal note, does any of that go to the county to --
counties in order to implement this legislation?

MS. McGEEHAN: No.

SEN. WEST: So any cost that is not
covered by the state for counties would be -- have to be
borne by the counties. Right?

MS. McGEEHAN: Yes, yes.

SEN. WEST: Okay. Now, as it relates
to -- is there any way that the Secretary of State's
Office can give us -- do an analysis or get with the
various counties to determine exactly what the fiscal
impact of implementing this legislation would be?

MS. McGEEHAN: We could -- we could
certainly solicit that information from counties and ask
them what -- how they see this impacting them fiscally.

SEN. WEST: You could do that for each and
every one of the counties?

MS. McGEEHAN: We can do it.

SEN. WEST: Mr. Chairman, I'd like to
request that the Secretary of State's Office provides
the Senate an analysis of -- I shouldn't say an

KENNEDY REPORTING SERVICE, INC.
512.474.2233
TX_0000827
JA_000826
CONSIDERATION OF SENATE BILL 14 1/25/2011

1. analysis -- at least solicit from the various counties what the fiscal implication is going to be in order to implement this bill.

   CHAIRMAN DUNCAN: Okay. I think, Senator, that will be an individual request from you, and then it can be distributed to all members of the Senate --

   SEN. WEST: Okay.

   CHAIRMAN DUNCAN: -- whenever it's done. You know, I doubt that that will be done by the time we rise and report to the Senate.

   SEN. WEST: Okay. We can't get it tonight?

   (Laughter)

   SEN. WEST: I'm just joking with you.

   CHAIRMAN DUNCAN: You won't be a very popular guy if the --

   SEN. WEST: I'd like --

   (Laughter)

   SEN. WEST: I'd like to get it as soon as possible, though.

   Let's see. No further questions. Thank you very much.

   MS. McGEEHAN: Thank you.

   CHAIRMAN DUNCAN: Thank you, Senator West.

   Senator Gallegos?
SEN. GALLEGOS: Let me ask you, I don't know if you heard my question earlier to Senator Fraser and he referred to you or the Secretary of State's Office to answer it. My concern was in the fiscal note that we ranked number two in the country in population. And Missouri ranks number nineteenth, and to implement their voter ID program, they came up with -- they only have 5.9 million people. We have 25 million. They came up with a fiscal note of 6 million in the first year and then 4 million in the second year for a total of 10 million second and third. That's $10 million. And you just -- I think earlier testimony with Senator Davis, you said once the 2 million runs out, that's it. Is that what you said?

MS. McGEEHAN: For -- yeah, the amount of money we have for voter education is limited. So when that runs out, that's all we have.

SEN. GALLEGOS: I guess my concern is if Missouri only has 5.9 million people, just to implement their voter ID program they start with 6 million in the first year and 4 million in the second and third year for a total of $10 million, for just 5.9 million folks, what are they -- you know, I don't -- what are they doing as far as when they are reading the bill? I heard that you said you're going by the bill, and that's how
you came up with your fiscal note. Is that correct?

MS. McGEEHAN: Yes.

SEN. GALLEGOS: Okay. Well, then what are they doing that we're not or, you know, how can you -- you know, for $10 million for 5.9 million people and we're only going to spend 2 million, I mean, what's the difference?

MS. McGEEHAN: I am not familiar with the Missouri voter identification bill, and I did hear you ask that earlier today, but I've been trying to listen to all the questions. So we can -- we can research it and see. Some states actually provide more to their local county governments and print ballots and things like that. I don't know if that's the situation in Missouri, but I honestly don't know the answer to that question because I don't know what the Missouri voter ID law requires.

SEN. GALLEGOS: Well, it's a substantial more amount of money than we're looking --

MS. McGEEHAN: Yeah.

SEN. GALLEGOS: -- at the fiscal note that you have -- that you've given this committee on Senate Bill 14. And I just -- it concerns me that that amount of money, if somebody is doing -- in the formula or methodology that you came up with that number -- I mean,
is that a true number? I mean, you know, as far as are
we really doing voter education that should be done, you
know, on 25 million people as opposed to what Missouri
is doing with only 5.9? I mean, it just -- I mean, that
would send up a red flag to me. Wouldn't it you?

MS. McGEEHAN: Sure. I would like to
understand those numbers because they are very
different.

SEN. GALLEGOS: You know, I -- if we're
going to mandate to Texans, you know, and then do it --
do a good educational program and Missouri is spending
$10 million on their folks and we're only spending
2 million on ours, I'd like to know what the -- what the
difference is. Are their people better than ours? You
know, do they deserve, you know, more education? You
know, I just -- you know, with the population as opposed
to our population, you know, I don't -- you know, I'm a
little concerned there. You know, are we cutting our
folks short? Are we really going to do what you're
telling us that you're going to do as far as educating
the public out there on this bill?

And it just concerns me that, you know, we
see -- and I haven't even taken a comparison of the
other states. And we're number two, and Missouri is 19,
and they are spending 10 million bucks. You know, that
would concern me, and I would hope it would concern any
of the other Senators on this floor. Are we, you know,
really going to do -- in implementing this bill, are we
going to educate those folks out there?

Now, you know -- and I'd like that answer.
I mean, you can't answer it now, I understand, but I
would like an answer to that.

MS. McGEEHAN: We'll get you an answer.

SEN. GALLEGOS: And a comparison on what
really your states that have implemented voter ID, how
much are they paying, you know, to implement the program
and what they do.

Now, on the fiscal note, it says you're
going to do TV and radio and some other things. I mean,
can you explain to this body the process on TV, or is it
going to be in different languages, or how are you going
to -- how are you going to split up the money? Who gets
the most? You know, I mean, it's not -- it's not
explained to us in the fiscal note how you're going to
spread the money around. And is that going to be
accessible to us or how the process is going to be, or
how much money are you going to spend in Harris County
as opposed to Lubbock, Texas or wherever?

MS. McGEEHAN: Yes, that would be
available. And, you know, the programs that we've done
CONSIDERATION OF SENATE BILL 14 1/25/2011

previously, we have detailed records that show, you
know, where the media ran, and so we would -- that would
be a part of any program going future.

The way -- the way it has worked thus far,
the three statewide voter education programs that we
have done, is we've gone out for bid for a public
education firm. And then the first thing that firm does
is research, and they meet with stakeholders, and then
they craft the creative proposal. And then they turn
that into the actual media and do the media buys for TV,
radio and cycle, Internet and also print.

For the PSAs -- and I'm not the expert on
this -- but I understand that we pay for a certain
amount, and then we get some earned credit where TV
stations will run them for free. If you pay them, you
know, to run it once, they'll run it three times and
only charge you for once, something along those lines.

SEN. GALLEGOS: And is that going to be --
is there going to be access as far as different
languages in than budget?

MS. McGEEHAN: Oh, yes. We -- our current
programs are in English and in Spanish, and in Harris
County, we've had a component for Vietnamese.

SEN. GALLEGOS: Okay. Now, on Page 2 of
the bill under what y'all are going to do under voter --
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 under 31.012, Voter Identification, Senator West brought
2 it up about -- it says here you and -- your office and
3 the voter registrar of each county that maintains it
4 shall provide notice of the ID requirements as
5 prescribed by this change.

6 Now, my concern there is, is at the county
7 level -- you know, I think Senator West brought it up --
8 is how much is going to be incumbent on each county, you
9 know? I and others here on this floor represent the
10 largest county, Harris County, and Harris County is
11 already starting to lay off, and they have a shortfall,
12 and they are laying off as we speak right now. So, you
13 know -- and I see what it says in the bill, you know,
14 that you're going to get together with them. I mean,
15 are they going to have the money? Or where is the -- if
16 they don't have the money, where is the other money
17 going to come from? Other than the 2 million you
18 already have prescribed here and any federal matches
19 that come in, where is that money going to come if those
20 counties cannot provide?

21 MS. McGEEHAN: I think that the bill
22 presumes that counties have a website, and so this
23 requirement is that they post, you know, the information
24 about the new photo ID requirements that the Secretary
25 of State's Office will actually prescribe. So we will
CONSIDERATION OF SENATE BILL 14 1/25/2011

send that out to the counties, and then they'll have to post it on their website.

Now, in light of the fiscal circumstances -- and Senator West has asked us to do a survey -- we'll probably get some very detailed information, you know, as far as the counties' fiscal circumstances, if they are going to have to take down their websites or, you know, where they are going to have to cut.

SEN. GALLEGOS: Well, you know, with all due respect, I mean, we can presume a lot of things, and I could presume a lot of things, you know, just on anything, but I can tell you right now -- I'm not presuming -- I know that they're laying off in Harris County right now. That's not a presumption. That's a fact; that's a fact. And they're also furloughing in the City of Houston.

So, I mean, it just concerns me that this section here that says you're going to work hand-in-hand with each registrar in each county, and if those counties are already going through a budget shortfall like we are, then how can you presume that they're going to have -- I'm just saying that this bill presumes that they're going to have a website and they're going to have people to handle the education.
You can't presume anything if they're laying off right now as we speak, and that's a fact. Like I said, that's not a presumption. That concerns me. And what I'm asking is that if that can't happen in Harris County or any other county in this state, where is the extra money? If they don't have, obviously, the funds to provide what is prescribed under Senate Bill 14, where is that money going to come from?

MS. McGEEHAN: Well, you know, Senate Bill 14 doesn't make an appropriation to the county, so I don't know the answer to your question on that because, like I said, the bill -- I think the assumption is that counties have a website. So if they're not going to have a website --

SEN. GALLEGOS: But the bill prescribes that you will work in conjunction with the county registrar. Is that what I'm reading --

MS. McGEEHAN: Yes.

SEN. GALLEGOS: -- or am I reading the wrong bill?

MS. McGEEHAN: Maybe I'm not -- the way I read that was that we would provide them the wording, the language that they would put up on their website.

SEN. GALLEGOS: Well, you're going to provide them with that. But what about the bodies and
any other education that's prescribed by this bill? If
they don't have the bodies -- they're laying off bodies
right now.

MS. McGEEHAN: Yes.

SEN. GALLEGOS: Okay. And you see where
I'm going here?

MS. McGEEHAN: No, I understand.

SEN. GALLEGOS: And if you provided a
fiscal note, you know, that we're going by and that's on
every website in the State of Texas, everybody that has
a computer, then really what I'm asking you, is this a
ture fiscal note or is it misleading to the voters out
there, that it's going to cost more than what you're
showing here if other counties are having budget
shortfalls like we are?

MS. McGEEHAN: Well, when we're asked to
submit a fiscal note to LBB, they want to know what the
state impact is. So generally we don't solicit what the
impact is to local government. And I'm not exactly sure
who within LBB does that, if that's LBB or the
Comptroller. But I can tell you -- and maybe we've been
doing them wrong, but the way we've understood our
requirement in responding to a fiscal note request was
to state what the state impact was. It's specifically
for the agent -- you know, like for our agency for the
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Secretary of State's office.
2
3 SEN. GALLEGOS: Okay. So what you're
4 telling me is that outside of the $2 million that's in
5 the fiscal note and that under this section that you're
6 going to work with the registrar in each county, then we
7 just have to roll the dice and hope that the money is
8 there. Is that what you're telling me?
9
10 MS. McGEEHAN: Well, I think this fiscal
11 note that LBB did put -- does indicate that there may be
12 some county costs. You know, they did put some numbers
13 in for Tarrant County and for Bexar County. So, you
14 know, it's not -- I don't think it's the number you're
15 looking for. It's not a comprehensive number, but I
16 think that the fiscal note does indicate that there may
17 be a fiscal impact on counties.
18
19 SEN. GALLEGOS: There may be a fiscal
20 impact. You don't know how much?
21
22 MS. McGEEHAN: No, I don't.
23
24 SEN. GALLEGOS: So what we're looking at
25 in your fiscal note is just an open-ended fiscal note.
26 Is that what you're telling me?
27
28 MS. McGEEHAN: The fiscal note is really
29 showing the impact on the Secretary of State's office.
30 I can't really speak to how the portion of the fiscal
31 note that concerns impact on local government, how
LBB -- you know, what their process is. I don't really know.

SEN. GALLEGOS: All right. Then let me rephrase my question.

MS. McGEEHAN: Okay.

SEN. GALLEGOS: So the $2 million that you're showing is what the state is going to be impacted. And the language that is showing you're going to work in conjunction with the counties, you know, you cannot speak to that, so we really don't know. Is that what you're saying? It could or could not be impacted for a million, two million, three million, whatever the number. I don't know the numbers that you gave Bexar County and Tarrant County. I have not been privy to those numbers. But what I'm saying is, I really would like to know that if my county is going to be impacted, if at all, it's going to be in here, you know. Do you see what I'm saying?

MS. McGEEHAN: Well, yes, I understand what you're saying. And we are going to be sending out a survey to try and gather that data from all the counties.

SEN. GALLEGOS: You know, I don't like the mandate to my county, something that this bill said that they will do and then find out that they don't have the
funds to do it. You know, to me, that's an unfunded mandate in really telling Texans that are looking at this debate on computer and that are looking at this bill online, that this $2 million fiscal note that you've provided is only an impact to the state, not the counties, not each county. Is that correct?

MS. McGEEHAN: That's correct.

SEN. GALLEGOS: Okay. Thank you very much.

CHAIRMAN DUNCAN: Thank you, Senator Gallegos.

Senator Van de Putte.

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

Ms. McGeehan, you've been an excellent resource witness for us, and there are just two questions that I need to ask to get into the record with regard to a survey.

Does Texas participate in the Election Administration and Voting Survey?

MS. McGEEHAN: Yes.

SEN. VAN de PUTTE: When was this survey completed, the last survey was completed? Was it after the 2008 election?

MS. McGEEHAN: Yes.
SEN. VAN de PUTTE: So we have that survey available?

MS. McGEEHAN: Yes.

SEN. VAN de PUTTE: Okay. The question that I have goes to the data on the survey that goes, I think, to all -- and this is the federal commission dealing with the number of provisional ballots in the State of Texas. As far as you know, how do we rank in the number of provisional ballots that are used with regard to our voting population?

MS. McGEEHAN: My general recollection is that as far as the total number cast, we're on the lower end. But as far as the number of provisional votes, meaning that not as many people cast a provisional vote in Texas as in some other states, but as far as the number of provisional ballots that are counted --

SEN. VAN de PUTTE: Yes.

MS. McGEEHAN: -- we have one of the lower rates among the states as to the number of provisional ballots that are counted. It is my understanding that in the state chart, that we have very high rejection provisional ballot rates. So, in other words, even right now under this system that we have, that the number of provisional ballots that are cast, we have some of the highest rejection rates for those
provisional ballots in all of the country.

MS. McGEEHAN: Yes.

SEN. VAN de PUTTE: At least that's what I understand from the report.

MS. McGEEHAN: That's correct.

SEN. VAN de PUTTE: Thank you. I know that we have the datasets that were put in for 2008, and so hopefully that we will be able to get this and make sure that as we monitor the bill as it progresses and the bill as it's implemented, we certainly don't need to get to the bottom of the bottom of the bottom on rejection of provisional ballots.

Thank you.

CHAIRMAN DUNCAN: Thank you, Senator Van de Putte.

Senator Fraser.

SEN. FRASER: Thanks for being here today and waiting all day.

I would like to clarify a point before you sit down. I think you're aware this morning that we had entered into a record -- the Secretary of State had a letter addressing the $2 million in the HAVA funds that was put into the record. Our understanding, from talking to the Secretary, the way the HAVA funds work, and also her relationship with the county, that she has
very broad discretion, assuming that the HAVA people approve the using of this.

The $3 million that you're talking about in voter education, it doesn't necessarily mean that it's three plus two. It's possible that there's an overlap, that this two million could be folded in -- possibly into the three. But that discretion goes back to the Secretary and they make a determination. Is that not true?

MS. McGEEHAN: That's exactly right.

SEN. FRASER: The other thing that I want to clarify that there is a lot of discussion about, what expense might go to Houston or what expense might go to Bexar. Right now there is not clear, because I think there's a lot of discussion going on of whether is that Bexar expense or is that Secretary of State expense?

And we've got to determine what those dollars are being spent on. Can we use Secretary of State dollars and HAVA funds for that? So I think we're premature of a county saying they've got "X" amount of expenses, because it's possible that some of those expenses flow from the Secretary of State's office, they do not flow to the county, and they could handle that with available people within the county and budget. Is that not correct?
MS. McGEEHAN: That's correct. And just an example of that, the cost that Bexar County put in the fiscal note was -- I think their assumption was that the certificate, the voter registration certificate would have to increase in size. And I don't see anything in the bill that requires that. And the Secretary of State prescribes the form. So once that's explained to the county, they might withdraw that fiscal --

SEN. FRASER: I want to make sure that that's clear, is that some of these assumptions are possibly the-sky-is-falling assumptions that this is -- you know, this expense is going to be put on us, and I don't think that's been discussed. And some of this, I think, can be done by ruling of the Secretary of State, directing them. And there is a real good chance that a lot of these expenses go away that can be absorbed through the Secretary of State. And that is correct, isn't it?

MS. McGEEHAN: Yes.

SEN. FRASER: Okay. I wanted to clear that up. Thank you so much.

CHAIRMAN DUNCAN: The Chair recognizes Senator Williams.

SEN. WILLIAMS: Thank you, Mr. Chairman.
Ms. McGeehan, I want to add my thanks for you hanging in here with us all day. There's about three things that I would like to clear up with you. I just want to understand unequivocally, HAVA funds can be spent for things like training poll workers. Is that correct?

MS. McGEEHAN: Yes.

SEN. WILLIAMS: Okay. Thank you. Then are you familiar with the voter ID bill that went into -- in Utah recently? Have you taken a look at that?

MS. McGEEHAN: No, I have not looked at that.

SEN. WILLIAMS: Okay. I just think it's noteworthy, in light of Senator Van de Putte's comments, because the Salt Lake County Clerk's office -- I've got a news report here -- it's confirmed that there were only 13 cases of voters having to pick up their provisional ballots because they didn't have the proper identification to vote when they put this new law into effect. So it seems like it's had a great -- again, one more state where the impact has been really minimal. I'm not sure why we're having these other issues, but I don't think it's because of this.

And then finally I wanted to ask you, we
CONSIDERATION OF SENATE BILL 14 1/25/2011

had talked earlier about the project that I asked you to
do, to cross-reference the driver's licenses and the
voter registration. How is that coming along? I know I
only asked today, but I just --

MS. McGEEHAN: Yes.

SEN. WILLIAMS: -- but what is a
reasonable expectation for us to get that information?

MS. McGEEHAN: I would hope by the end of
the week. One thing that our IT folks and our election
experts are trying to struggle with is like matching
criteria --

SEN. WILLIAMS: Right.

MS. McGEEHAN: -- you know, which we won't
have a TLD number, so we're working through some of
that. But I would expect by the end of the week we
would have it, if not earlier.

SEN. WILLIAMS: Okay. So do you need any
further direction from us? For instance, if we wanted
to target that universe of people that we know are out
there and maybe make a little extra effort to make sure
that they understood they were going to have a new
requirement when they went to vote as far as getting a
photo ID, if they didn't already have one -- and we've
identified who they are -- if we gave legislative intent
as a part of the bill tomorrow, would that be sufficient
for you-all and the Secretary of State's office to take that direction and know that that's something that we wanted to have done in your training plans and voter education plans?

MS. McGEEHAN: Yes. I think if there were a statement of legislative intent, we would certainly follow that.

SEN. WILLIAMS: That would be sufficient. Okay. Thank you very much. Appreciate your help.

CHAIRMAN DUNCAN: All right. Members, are there any other questions of Ms. McGeehan?

Okay. The Chair hears none. Thank you, Ms. McGeehan.

The Chair calls David Maxwell, Deputy Director of Law Enforcement, Texas Attorney General's Office.

Mr. Maxwell, would you approach and state your name and who you represent, and then we'll open it up for questions.

TESTIMONY BY DAVID MAXWELL

MR. MAXWELL: I have a written statement that I would like to put into the record, sir.

CHAIRMAN DUNCAN: Well, we haven't been doing that.

MR. MAXWELL: Okay.
CONSIDERATION OF SENATE BILL 14 1/25/2011

CHAIRMAN DUNCAN: If you would just go ahead and --

SEN. WEST: Mr. Chairman?

CHAIRMAN DUNCAN: We'll see. There is a proper way to get that in. And if --

MR. MAXWELL: My name is David Maxwell. I'm a resource witness.

CHAIRMAN DUNCAN: Would you state your name and who you represent.

SEN. WEST: Mr. Chairman?

CHAIRMAN DUNCAN: Just let him state his name, and then I'll take your inquiry.

Mr. Maxwell.

MR. MAXWELL: My name is David Maxwell. I'm the Deputy Director of Law Enforcement for the Texas Attorney General's office.

CHAIRMAN DUNCAN: All right. Senator West, for what purpose?

SEN. WEST: Mr. Chairman, I would like to introduce an exhibit. I think it's Exhibit 10.

CHAIRMAN DUNCAN: Oh, okay. Exhibit 10.

Do we have Exhibit 10 up here? Do you have copies ready for distribution?

SEN. WEST: Yes, I think you have the exhibit up there. And, members, what Exhibit 10 is, is
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 a letter from the members of the Congressional
delegation: Sheila Jackson Lee, Eddie Bernice Johnson,
Charlie Gonzalez, Lloyd Doggett, Gene Green, Rubén
Hinojosa, Sylvestre Reyes and Al Green, asking that
we -- opposing Senate Bill 14 and stating the reasons
why they oppose Senate Bill 14.

So I would introduce that into the record.

CHAIRMAN DUNCAN: Members, any objections?
The Chair hears none. It will be received in the record.

(Exhibit No. 10 marked and admitted)

CHAIRMAN DUNCAN: Okay. Are there any
questions for Mr. Maxwell?

All right.
The Chair hears none.

(Off-the-record discussion)

CHAIRMAN DUNCAN: All right. Are there
any questions of Mr. Maxwell?

(Brief pause)

CHAIRMAN DUNCAN: All right. The Chair
hears none.

Thank you, Mr. Maxwell. Appreciate you.
CONSIDERATION OF SENATE BILL 14 1/25/2011

PUBLIC TESTIMONY

CHAIRMAN DUNCAN: Okay. We are now ready to go into the public witness phase of the hearing today. According to our pre-set procedure, I'll call the names of the first five witnesses and they will be brought down to the Senate floor, and then we'll call them in their order.

First is John Patrick, Anita Pruitt, Jessica Gomez, Terri Burke, and Clifford Gay.

(Brief pause)

SEN. VAN de PUTTE: Mr. Chairman?

CHAIRMAN DUNCAN: Yes.

SEN. VAN de PUTTE: Inquiry, Mr. Chairman. I have a statement here from one of our constituents representing the Southwest Voter Registration Education Project to put into the record. What appropriate time would you accept this or would it be appropriate to put this into the record? This is someone who wants to put something into the record but is not here to testify.

CHAIRMAN DUNCAN: It can go in at your request as a part of the record. But it's not a sworn statement. Is that correct?

SEN. VAN de PUTTE: That's correct.

CHAIRMAN DUNCAN: I think the process that we discussed earlier on was that any senator could put
anything in the record that was -- you know --

SEN. VAN de PUTTE: Mr. Chairman, may I be allowed to enter into the record the statement prepared and presented by Lydia Camarillo, Southwest Voter Registration Education Project Vice President?

CHAIRMAN DUNCAN: As exhibit what? Number what? Be number 11?

SEN. VAN de PUTTE: No. 11.

CHAIRMAN DUNCAN: Is there any objection?

The Chair hears none. It will be received.

(Exhibit No. 11 marked and admitted)

CHAIRMAN DUNCAN: Okay. And while our first five public witnesses will be approaching, let me go ahead and announce the names of the next five witnesses.

Catherine Engelbrecht, Carol Kitson, Placido Salazar, Roman Pena and Rosa Rosales.

Okay. If you'll approach. The first witness that we have is -- I don't have those cards -- here we go -- witnesses and panel of -- you will have three minutes. You'll get a -- I guess a 30-second warning, is a yellow light, that it comes on. We will not interrupt you. And then after you're finished, then the members may ask you questions.
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 All right. Go ahead and approach the
2 bench, Mr. Patrick. State your name and who you
3 represent.

4 TESTIMONY BY JOHN PATRICK
5
6 MR. PATRICK: My name is John Patrick.
7 I'm the Secretary-Treasurer of the Texas AFL-CIO.
8 Members of the Senate, Mr. Chairman, as an
9 officer of the Texas AFL-CIO, I talk to workers we
10 represent around the state. Those employees include
11 refinery workers, teachers, plumbers, nurses,
12 steelworkers, theatrical workers, correctional officers,
13 firefighters, flight attendants, state workers, rubber
14 workers and countless other trades and professions.
15 From my experience at this point in time, three issues
16 concern our Texas union members above all others.
17 First, jobs; second, jobs; third, jobs. Quite frankly,
18 from my perspective and from the perspective of the
19 AFL-CIO, jobs should be the emergency issue before this
20 legislative session, not the voter ID bill.
21 Senate Bill 14 will be the first bill
22 considered by a committee in the Texas Senate during
23 this legislative session. The Governor has designated
24 this bill as an emergency item. Unfortunately, I'm not
25 aware of any mention of the word "jobs" or "employment"
26 in Senate Bill 14. Senate Bill 14 would no longer allow
CONSIDERATION OF SENATE BILL 14 1/25/2011

someone to vote with a voter registration certificate alone but would require an official photo ID. The stated reason for the issue is alleged voter fraud.

Thousands of education employees around this state, as well as state employees and other local government employees, are concerned about budget cuts being considered by this state legislature. Those individuals would prefer that this body consider legislation that addresses our budgetary concerns rather than debating voters' photos.

Thousands of private sector employees are also concerned about jobs, as well they should be. Rather than obsessing about voters' photos, they would probably prefer that you consider legislation that establishes a preference for state and local governments to buy American products and services.

CHAIRMAN DUNCAN: Thank you, Mr. Patrick. Your time has expired.

Members, are there any questions of the witness?

All right. The Chair hears none. We appreciate your appearance. The Chair calls Anita Pruitt -- or "Privitt."

Ms. Pruitt.
TESTIMONY BY ANITA PRUITT

MS. PRUITT: I'm Anita Pruitt. I represent the League of Women Voters of Texas.

For the 90-plus years since women gained the right to vote nationally, LWV has educated and agitated for active, informed participation of all citizens in government. No form of participation is more important than voting. We oppose any requirement that imposes needless difficulties on voters or tends to discourage legitimate voters from going to the polls and casting a ballot.

Texas voters know that identification is already required. To close what is characterized as a potential loophole for fraud, SB 14 would restrict acceptable identification a voter must present to a limited list of photo IDs and provide for criminal penalties. The real voting problem in Texas is not potential voter impersonation but low voter turnout. Texas was 46th among the states in turnout of the voter-eligible population for 2008 and 50th for the 2010 general election. No state had a lower turnout.

In each election cycle, League of Women Voters fields hundreds of questions from voters around the state. These questions show that Texas voters are often confused about requirements and discouraged from
voting when they don't understand the process. SB 14 would add uncertainties for voters and for election workers. The bill would make it more difficult for many legitimate voters to cast a ballot and tend to discourage many more legitimate voters from even going to the polls.

Student voters would be among those adversely affected. Many students registered to vote in Texas or eligible to register to vote under Texas law might not have any of the voter IDs specified for SB 14. Those who register to vote where they attend school may fear that they will be turned away at the polls because their documents don't match.

In a few years we will celebrate the 50th anniversary of landmark civil rights legislation. Now we wonder how it could be so hard to have gotten that legislation passed. I'm wondering now, if we pass this legislation in Texas, how future generations will look back at us. Will they wonder why we did this or was it a legitimate thing that we did?

The League of Women Voters of Texas believes that this legislation is a backwards step, and we ask you to oppose it.

CHAIRMAN DUNCAN: Thank you, Ms. Pruitt. Are there any questions of Ms. Pruitt?
All right. The Chair hears none. We appreciate your appearance here today. The Chair calls Jessica Gomez. Please state your name and who you represent.

TESTIMONY BY JESSICA GOMEZ

MS. GOMEZ: Thank you, Mr. Chairman. My name is Jessica Gomez, and I'm here as a voting rights specialist with Advocacy Incorporated, the protection and advocacy system for people with disabilities in the State of Texas.

I'm here today testifying in opposition on behalf of Advocacy Incorporated, as well as the Disability Policy Consortium, because of the large and onerous burdens Senate Bill 14 would place on the number of Texans with disabilities that do not have the photo identification required by this bill.

An estimated 10 percent of people with disabilities do not have photo identification. In Texas, that equals 257,800 voting age persons with disabilities who do not have the photo identification required by this bill. People with disabilities are less likely to have photo ID because many do not drive and rely on others to assist them with activities such as banking, that requires photo ID.
I will not go through all of the burdens upon people with disabilities to obtain an ID, since my colleague, Chase Bearden, already outlined those for you. But I did want to urge all of you to consider an exemption for people with disabilities in the State of Texas who do not have an ID.

And this bill will likely pass, in light of the burdens that it places on people with disabilities. I would urge you all to consider throughout this session other ways that you might ease the voting process for people with disabilities. For instance, a permanent mail-in ballot application, enforcement of the National Voter Registration Act which requires all state agencies, not just the Department of Public Safety, to offer voter registration opportunities, and expansion of the number of people a person can assist in filing a late ballot on the basis of a disability.

I stand ready to assist all of your offices in thinking about the ways that this bill might impact people with disabilities and ways that it can be revised to benefit them.

Thank you.

CHAIRMAN DUNCAN: Thank you, Ms. Gomez.

Are there any questions for the witness?
CONSIDERATION OF SENATE BILL 14 1/25/2011

All right. The Chair hears none.

We appreciate your appearance here today.

Oh, I'm sorry, Senator Zaffirini. I didn't see it.

QUESTIONS FROM SENATE FLOOR

SEN. ZAFFIRINI: That's all right. Thank you, Mr. Chairman.

Thank you so much for your testimony. Did you hear Mr. Bearden's testimony earlier?

MS. GOMEZ: Yes, ma'am, I did.

SEN. ZAFFIRINI: And you heard my question when I asked him if he had specific amendments for this particular bill that would help us cure it and make it more positive, have a positive impact on persons with disabilities who want to vote?

MS. GOMEZ: Yes, I did.

SEN. ZAFFIRINI: Do you have additional suggestions or only the suggestions that you just articulated?

MS. GOMEZ: Well, those are suggestions that would be in addition to this bill. These would be separate bills filed by senators. In terms of an exemption or an amendment for this bill, I would suggest an affidavit that people with disabilities could sign that would provide criminal penalties if they were to
CONSIDERATION OF SENATE BILL 14 1/25/2011

lie on that affidavit.

To further secure that process, you could also require a fingerprint so that if that person did vote fraudulently and then another person, the real voter came in, you could run the fingerprints and prosecute the original voter.

I would not support any amendments that would require verification of the disability status, because that would just again place another burden on people with disabilities to prove their status in order to vote.

SEN. ZAFFIRINI: It would also add an expense, wouldn't it?

MS. GOMEZ: Sorry?

SEN. ZAFFIRINI: It would also add an expense?

MS. GOMEZ: Absolutely. And for many of the reasons that Mr. Bearden outlined in his testimony, because of the expenses of traveling and obtaining the necessary documentation.

SEN. ZAFFIRINI: Well, how do you respond to the person who will say, well, persons with disabilities don't have to drive or get a ride to a driver's license office or to DPS in particular, the agency itself, to get a voter -- I mean, a photo ID,
they can simply register on-line? How do you respond to that suggestion?

MS. GOMEZ: I don't believe that there is a process to make that readily available. And, in addition, there is such a high number of people with low income who have disabilities that many of them might not have access to computer or the Internet that would be required to do that on-line.

SEN. ZAFFIRINI: So you would worry about a digital divide for persons with disabilities?

MS. GOMEZ: Absolutely.

SEN. ZAFFIRINI: Okay. Thank you very much.

MS. GOMEZ: Thank you.

CHAIRMAN DUNCAN: Thank you, Senator Zaffirini.

Are there any other questions of Ms. Gomez?

The Chair hears none.

Thank you very much.

The Chair calls Terri Burke.

TESTIMONY BY TERRI BURKE

MS. BURKE: Good evening, senators. I'm Terri Burke. I'm the Executive Director of the ACLU of Texas.
I'm here to talk about SB 14 in the context of provisional ballots. But I want to be certain you know that we believe that Texas is overdue for an overhaul of its election law, and we would certainly support a comprehensive look at that.

More than two years ago, Attorney General Abbott pledged to root out what he called an epidemic of voter fraud in Texas. He established a special unit in his office. He tapped $1.4 million in federal crime-fighting grant money and dispatched legislators -- "legislators" -- yes, maybe that, too -- investigators.

In '08, the last time we heard about this, General Abbott had prosecuted 26 cases, all involving blacks or Hispanics. All were committed by absentee ballot, not in-person voting. So how would photo voter ID have addressed those lives? SB 14 is still as it was in '09. It is still a solution in search of a problem.

Provisional ballots are one of the legislative priorities of the ACLU of Texas this session. We believe that these ballots were developed to give the opportunities to voters to cast a provisional ballot. They were envisioned as fail-safe voting protection for the voter to remedy faulty voter lists. What we've discovered in researching those in Texas is that we have an extremely high rate of ballot
rejections. The average rate of rejection nationally is 20 percent; yet, in Texas, it's nearly 80 percent of the provisional ballots cast, as least in the '08 election. In other words, 42,000 Texas voters who cast provisional ballots in 2008 saw most of those were not accepted. 9,400 were counted.

If passed, SB 14 will no doubt increase the number of provisional ballots that are cast at the polls and also will increase the number of votes that are rejected, due to new identification requirements. This bill would cost more Texas voters their legitimate right to vote. 32,000 Texas voters were rejected in 2008. That so many were rejected is a threat to our representative democracy. Texas ranked, as you've heard, 50th in registered voter turnout for 2010. We cannot continue placing undue burdens on eligible voters and keep a healthy democracy.

Thank you for your attention and thank you for what you're doing for the State of Texas.

CHAIRMAN DUNCAN: Thank you, Ms. Burke. Are there any questions for Ms. Burke?

Okay. The Chair hears none. We appreciate your appearance here today.

All right. The next group of persons who will need to be called into the chamber are Alfredo
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Esparza, Marcelo Tafoya, Barbara Baxter, Hector M.
2 Flores and Sergio Castillo.
3
4 All right. Our next witness is Catherine
5 Engelbrecht.
6
7 Ms. Engelbrecht, state your name and who
8 you represent.
9
10 TESTIMONY BY CATHERINE ENGELBRECHT
11
12 MS. ENGELBRECHT: Hi. My name is
13 Catherine Engelbrecht. I'm with King Street Patriots
14 and True the Vote. Thank you-all, senators, for the
15 privilege of being able to speak with you this evening.
16
17 I stand before you today to testify in
18 support of Senate Bill 14. I'm President of King Street
19 Patriots, and I said earlier True the Vote, two
20 non-profit groups, both based out of Houston. King
21 Street Patriots is a volunteer organization of concerned
22 citizens, and True the Vote is a citizen-led initiative
23 to protect the right to vote and the integrity of the
24 election process.
25
26 True the Vote volunteers work to educate
27 citizens and train other citizen volunteers to be poll
28 workers and poll watchers for their party, candidate or
29 issue. Now, the reason that that is important is
30 because in the last election cycle, we put out trained
31 volunteers over 1,000 volunteers. And through the
CONSIDERATION OF SENATE BILL 14 1/25/2011

course of the election cycle, they turned back in over 700 what we call incident reports. Those incident reports categorically were indications of election laws being broken. But many of the abuses stemmed from the lax and ambiguous forms of identification currently accepted at our polls.

These types of abuses would have been mitigated had we had benefit of legislation like SB 14. We witnessed numerous instances in which voters were in possession of more than one registration card. For example, a voter came in with a registration card and turned it over to the election judge, who looked at the poll book and said, "Oh, I'm sorry. You're already voted." And he reached into his other pocket and said, "Oh, well, how about this card?"

"That's a good card. You can vote that one."

Another instance where a woman came in to vote and was told she had already voted. And she said, "Well, that's not the case. I haven't." And she looked at the poll book and there was staring back at her a signature that she did not recognize.

Without photo identification, there is no way to verify that a person is who they say they are, if they are that person on the registration card, a utility
CONSIDERATION OF SENATE BILL 14 1/25/2011

bill or the check. These examples are clearly violations of election code law, but there is no realtime recourse for a poll worker. Poll workers are obliged to allow these individuals to vote, to cast a regular ballot, because the system does not prevent it. Without photo identification, the evidence of impropriety is limited only to a signature comparison, which is typically considered insufficient to warrant any further review. And so when we often ask, "Well, where are the prosecutions?" it's because more often than not, they end with the signature comparisons, and that's all we have.

So as these scenes play out in polling places across our communities over and over again, election cycle after election cycle, the message communicated to both poll workers and to voters is: The rules don't really matter. And if the rules don't really matter, then how do we know that our election results are right? We are on a very slippery slope. And the surest way to regain our footing is to restore common sense to our election code.

CHAIRMAN DUNCAN: Thank you,

Ms. Engelbrecht.

MS. ENGELBRECHT: Thank you so much.

CHAIRMAN DUNCAN: Senator Williams, do you
have a question?

QUESTIONS FROM SENATE FLOOR

SEN. WILLIAMS: No. I just wanted to
thank her for being here and for all the effort that her
group put into the last election cycle. I really
appreciate what you guys are doing.

MS. ENGELBRECHT: Thank you.

CHAIRMAN DUNCAN: Thank you.

Any other questions?

Senator Patrick.

SEN. PATRICK: Yes. Thank you,

Mr. Chairman.

Catherine, thank you. Senator Williams
said you did what so many people really wanted to have
done, and that was to put eyes on the election. You
trained poll workers. They stood there -- poll
watchers -- they identified; they reported. You-all
stood up as citizens, fair and unbiased, and we
appreciate your work and your effort.

I met you just about a year ago, and you
were just a citizen, just a mom who, with your husband,
own your own business, that said, "I want to make a
difference," and I appreciate you and all the work that
those unheralded volunteers did. Thank you very much.

MS. ENGELBRECHT: Thank you. Thanks to
CHAIRMAN DUNCAN: Hold on a minute. We've got another question.

Seventeen, did you have a question?

SEN. VAN DE PUTTE: I sure did. Thank you, Mr. Chairman.

Thank you very much for coming and especially for waiting so long. But I wanted to understand, because I'm from Bexar County and not from Harris County where --

MS. ENGELBRECHT: Sure.

SEN. VAN DE PUTTE: -- we love the people to be involved. But on the reports that we had from -- at least from the press, the group that you represent, the King Street Patriots, it was an article about voter intimidation. And so I wanted to ask you, were the districts, were the voting polling places that your group believed were having the numerous amount of fraud, where you were accusing several places of having voter intimidation, mainly occur in minority district that have been directed at Latinos and African-Americans, as reported in the press?

MS. ENGELBRECHT: That is all unequivocally incorrect.
SEN. VAN de PUTTE: And so there --

MS. ENGELBRECHT: May I? I'll explain very quickly. When we started the early election, within just a few hours of the polls opening, we were informed that a conference call, a press conference call had been called by the Texas Democrat party, already charging that there were 14 counts of voter intimidation, with no backing whatsoever. Well, the press ran with that, and it was all over the place.

The county attorney later said -- and, unfortunately, that didn't make it out to the press -- that there was, in fact, no voter intimidation. And our efforts were equally served over all 37 of the early election polling places, so we did not single out any community.

SEN. VAN de PUTTE: So this was at all -- you had groups at all of the early voting places, it wasn't just in the places that had minority, mainly Latino or African-American?

MS. ENGELBRECHT: That's correct. We had --

SEN. VAN de PUTTE: Thank you for the clarification.

MS. ENGELBRECHT: Thank you.

CHAIRMAN DUNCAN: Thank you, Senator Van
Are there any other questions of the witness?

All right. Ms. Engelbrecht, thank you for your testimony today.

The Chair calls Carol Kitson.

Ms. Kitson, please state your name and who you represent.

TESTIMONY BY CAROL KITSON

MS. KITSON: My name is Carol Kitson, and I basically represent myself and, quite frankly, my daughter.

This past November election, I was appointed as an alternate judge in Harris County precinct. And we had the presiding judge, two clerks. We did have two poll watchers at that location, and a translator.

In the late afternoon, the presiding judge's husband, who was acting as election clerk and responsible for giving each voter a numerical code, to allow activation of a voting machine, commented to the poll watcher that the voter he had just given this code to had voted earlier in the day at our location. The poll watcher agreed with this.

And I, too, had noted this same particular
gentleman, because he had some very distinguishing characteristics. He had a very distinctive scar and limited use of one arm. I remembered seeing him earlier in the day as a voter. Of course, I don't remember what name or what voter card he used. And because we could not possibly identify him -- we're not allowed to ask for a photo ID -- he was able to vote for a second time.

This man was recognizable, but most people would not be. We would have no way of knowing during a busy election how many people were coming back through. It's absolutely impossible.

Requiring all voters to present a photo ID would prevent individuals from voting more than once. This is important because even a few votes per precinct passed fraudulent can affect the outcome in an election. In Falls County where there's 9,392 registered voters, they had a 42 percent turnout. In the Governor's race, the difference was only 86 votes.

In Val Verde County, where they have 27,801 registered voters, they had a 26 percent turnout, and the difference was only 377 votes.

And in Bexar County, a very large county, registered voters of 905,859, they have 622 precincts, and they had a 34 percent turnout. The difference was 1,671 votes between the two candidates for Governor.
That's less than three votes per precinct. Each fraudulent votes cast diminishes all of the valid votes cast. Every legal voter in Texas deserves to know that his or her vote was counted correctly, and we need to know that the winner of our elections is truly the winner and not elected because some voters used illegal means to get their candidate elected. We owe this to ourselves and to the future generations of Texans.

Thank you very much for letting me be here today.


Thank you, Mr. Salazar. You have three minutes. State your name and who you represent, please.

TESTIMONY BY PLACIDO SALAZAR

MR. SALAZAR: Yes, sir. Good evening, first of all, to all of you and thank you for serving our state. My name is Placido Salazar. I'm a Vietnam veteran, 20-year man, and I'm the Civil Rights chair for the Dr. Hector P. Garcia American GI Forum Organization of Texas.
And I would like to say that this whole thing about voter ID as well as other measures currently trying to be pushed through the state and federal legislation is xenaphobia at its worst, fearing that immigrants will vote. And I'm also a present chair in Universal City, and we have enough trouble getting even the registered U.S. citizen voters to the polls. Last election, out of a city of almost 20,000, and mostly veterans who you would think would appreciate the privilege to vote, like myself, we had 60 Democrats and 75 Republicans, and we are worried about illegal immigrants coming to vote. That's ludicrous.

The Dr. Hector P. Garcia American GI Forum Organization of Texas, let it be known for the record that we are totally opposed to the artificial emergency grandstanding by Governor Rick Perry regarding the non-issue of the Texas voter ID and other conveniently selected self-promoting legislation. This senseless and costly voter ID legislation will not just affect Hispanics but also students, seniors and others who are unable to get around; people living in nursing homes, for example.

This is nowhere nearly as important nor affecting every citizen of our Great State of Texas as the ballooning budget deficit of up to $27 billion and
the ridiculous cuts in education funding, especially when Texas is almost at the bottom of other states in the education ratings and cannot afford to fire any teachers. Our teachers invested too much time and money to fulfill their dreams of teaching our children. Stop playing politics with our students' and our teachers' lives and funding. Governor Perry, you were elected to be governor of Texas. Be a sensible, responsible governor of Texas.

Some schools in Texas have a drop-out rate of 70 percent; yet, our governor is running around the country promoting his book, Fed Up. Rick Perry, we are fed up with the shameful number of student drop-out. He can't even take care of business in Texas; yet, he wants to promote himself to Washington D.C.? Give me a break! We already had enough of that nonsense with your predecessor. He left Texas' financial situation in shambles, then he really fixed our wagon in D.C.

Too many of our Hispanic-American troops gave their lives and too many MIAs may never come home, fighting for the democracy and the freedom, or so-called freedom, of other peoples in other countries around the world for this great veterans organization, the AGIF, to allow Rick Perry or any other political leader to trample over our civil rights.
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 CHAIRMAN DUNCAN: Mr. Salazar, your time
2 has expired. I'll give you a little bit --
3 MR. SALAZAR: Get rid of this legislation.
4 Thank you.
5 CHAIRMAN DUNCAN: Thank you for your
6 testimony and for your wait here today. Wait a minute.
7 There may be some questions. I don't know.
8 Are there any questions of the witness?
9 All right. The Chair hears none.
10 Thanks again for your appearance and your
11 testimony.
12 MR. SALAZAR: Thank you, sir.
13 CHAIRMAN DUNCAN: The Chair recognizes
14 "Riman" Pena.
15 Roman. Okay. It looks like an "i" to me.
16 State your name correctly, please, and who
17 you represent.
18 TESTIMONY BY ROMAN PENA
19 MR. PENA: Mr. Speaker, thank you for your
20 kindness.
21 Senator Uresti -- my senator -- Senator
22 Van de Putte and senators and ladies and gentlemen, good
23 afternoon -- well, it's good night now.
24 My name is Roman Pena, also known as Vic
25 Pena. And I am here today -- rather tonight --
representing LULAC and the American GI Forum, who was born of LULAC to represent soldiers returning from World War II and wars thereafter.

As Vice Commander of the American GI Forum, C.P. Garcia Chapter, and Texas LULAC Veterans Affairs Chairperson, I'm very saddened as I sit here listening to the author of this bill, Senator Fraser, responding to your questions that he knows nothing of how this new law will impact voters in Texas. Many years ago, then Senator Navarro wrote Sam Houston about the Know Nothing party, and it wasn't nice.

Mr. Speaker, what is the real reason behind this legislation? To disenfranchise voters? Which voters? Fifty years ago, my generation -- and some of you included -- had a vision to make Texas and the United States of America a better place to live and be happy and share the American dream. And, my fellow Texans, we succeeded, because we walked in the valley of darkness and feared no evil, for great men and women like yourselves said, "Enough is enough," ya basta!

Today some members of your generation are trying to return Texas back to those dark ages. I beg of you to defeat this mean-spirited legislation, let not the flesh overcome the spirit for it is said that the fulfillment of the prophecy is at hand.
Thank you, and have a good day. And tear down this bill, Mr. Speaker.

CHAIRMAN DUNCAN: Well, thank you, Mr. Pena.

Sen. Van de Putte, do you have a question?

CONDOLENCES FROM SENATE FLOOR

SEN. VAN de PUTTE: Just for the witness. Mr. Pena, we understand that you have just experienced a personal loss.

Ms. Pinzur: Yes, I sure have.

SEN. VAN de PUTTE: So on behalf of the Texas Senate, let me offer condolences on the death of your wife, and so recently, and your patriotism and belief in your government to come and testified when you yourself had such a personal loss so quickly. Please note our condolences on the passing of your beautiful wife.

MR. PENA: I accept your condolences, Senator.

Thank you very much. Is there any questions?

CHAIRMAN DUNCAN: Any more questions? The Chair hears none.

Thank you, Mr. Pena. Appreciate it. And sorry for your loss.
MR. PENA: Thank you.

CHAIRMAN DUNCAN: The Chair calls Rosa Rosales, National Alliance for Education and Equity, and LULAC.

State your name, please, and who you represent.

TESTIMONY BY ROSA ROSALES

MS. ROSALES: Honorable senators, ladies and gentlemen, my name is Rosa Rosales. I'm here today representing the National Alliance for Education and Equity -- and Equality -- and, of course, as an immediate past national president of the League of United Latin American Citizens, the oldest and the largest Latino organization in the nation that was founded to eradicate discrimination of any shape and form.

I am here today to voice strong opposition to SB 14, voter ID. At a time when the State of Texas is having to deal with a $27 billion deficit and, therefore, having big cuts in social services, health care, education -- and higher education, this voter education bill should not be a priority. This is not a quality-of-life legislation for the State of Texas for all of us.

As a matter of fact, the bill will
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 actually create unnecessary barriers for the elderly, minorities and the working poor. Texas has a history of voter discrimination, as you have heard it here by many that have testified. If the law is enacted, it would primarily affect minorities and the elderly. The bill would actually regress the State of Texas to the days of the poll tax. Voters, especially the working poor and the elderly and women, will return -- or not return to the county department, the voter registration county, to provide the required identification within six days to cure the provisional vote and the problem that we've had with provisional votes here in the State of Texas. Most of them, a very high percentage, are rejected to begin with.

The implementation of this bill will cause the State of Texas a substantial amount of money. It's been estimated $2 -- $2 million. That money could actually be put to a better use, to address the immediate needs of the State of Texas where every single dollar is put into education. You know, higher education, health care, nursing homes, social services, instead of a voter ID bill, especially the State of Texas, I have been told, is in the last place of all the states in the United States when it comes to education. What a shame.
Finally, this SB 14, voter ID, is most likely to violate Section 5 and Section 2 of the Federal Voting Rights Act. LULAC is ready and prepared to take any action, whether it be legal action tomorrow, if it does violate the Voting Rights Act.

Thank you so much.

CHAIRMAN DUNCAN: Thank you very much.

Are there any questions for Ms. Rosales? The Chair hears none.

Thank you for your testimony.

All right. We're ready for our next panel. But before that, let me announce the last group. Amalia Martinez, Fidel Acevedo, Ray Rodgers, Gordon Quan, Rachel Delgado and Sandra Crenshaw.

Okay. The Chair calls Alfredo Esparza with LULAC.

State your name and who you represent, please.

TESTIMONY BY ALFREDO ESPARZA

MR. ESPARZA: My is Alfredo Esparza. I'm for LULAC, District 15, San Antonio, Texas. I'm on behalf of senior citizens in Bexar County, which I represent.

And the reason that I'm here today, I think this SB 14 is a bill that's very bad for senior
CONSIDERATION OF SENATE BILL 14 1/25/2011

citizens. And the reason, can you imagine if your mother is 70 or 80 years old, trying to go and get an ID? Are you going to take her or your son or your daughter or his grandson? I don't believe so, because I work with seniors citizens every day. And you know what? It's a hardship just to go to get their needs and their groceries or their medications.

And we come in as LULAC to help our senior citizens. Now, just think, there is a hardship for senior citizens to go and get a new ID just to vote. A lot of senior citizens vote, but this bill will make it a real hardship problem to senior citizens, especially those that are on disability or SSI. It's hard for them to get around.

After you pass 60 or 65 like me, you think about where you're going and where you need to be. And I don't know about you, but I know as a fact that here in Texas, it's not proper for bills like this to pass, and that's why I'm here to testify about it.

Thank you very much.

CHAIRMAN DUNCAN: Thank you, Mr. Esparza.

Are there any questions for Mr. Esparza?

The Chair hears none.

Thank you for your testimony today.

The Chair calls Marcelo Tafoya.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000880

JA_000879
Mr. Tafoya, please state your name and who you represent.

TESTIMONY BY MARCELO TAFOYA

MR. TAFOYA: My name is Marcelo Tafoya. Good afternoon. I am the District 12 director for LULAC, the League of United Latin American Citizens. I also represent the CCC, the Coalition of Community Concerns. And the biggest concern we have is discrimination, especially in voting.

A couple of years ago, I was pleased to join some gentlemen that came down from the Justice Department looking into voter fraud and voter discrimination. They found no voter fraud, but they found six cases of voter discrimination against the Hispanic community. In cases where an Hispanic individual came up, and they gave them 45 minutes, because they had nobody there, to interpret for them on the voting process. A lady sat there for 45 minutes in a wheelchair waiting for somebody to come down from the county.

This is only one. There were several others that were turned away because they said that they had broken in front of the line. You know, I don't understand a lot of the issues that was brought up at the time, but it just happened to be a Spanish when all
these things were occurring.

Now, as far as being handicapped, I find an issue with cost. Okay? I'm on a fixed income. I'm pretty fortunate that I have my driver's license for a long time ago so I get it through the mail. Okay? I don't have to go take a test anymore. Maybe later on, they find out that I testified, they will probably call me in to go take a test, check my eyes, do the whole process. Right? But I don't care. I'm willing to do that or whatever it takes to defeat a bill that is unnecessary. Why do you have to try to fix something that is working?

No. 2, why do you take this bill on today when our children are failing in school? Look, I'm worried about my grandchildren, my great-grandchildren that are not getting educated, that we're lacking the money that it takes to educate our children properly. Why don't you take something up like that instead of worrying about somebody getting you elected again in this process? So please defeat this bill, let's get busy with the rule, let's get some money into the caucus. Let's don't be spending it uselessly, spending it for no reason whatsoever and start putting it where it belongs, the education of our children and the welfare of our community.
CONSIDERATION OF SENATE BILL 14 1/25/2011

I want to thank y'all very much. God love!

CHAIRMAN DUNCAN: Thank you, Mr. Tafoya.

Hold on just a second.

Are there any questions for Mr. Tafoya?

All right. The Chair hears none.

Thank you for your testimony.

The Chair calls Hector M. Flores.

Mr. Flores, please state your name and who you represent.

TESTIMONY BY HECTOR M. FLORES

MR. FLORES: Governor, Mr. Chairman, members of the Senate, my name is Hector Flores. I'm from Duncanville, Texas, and I'm here to represent the Texas League of United Latin American Citizens known as LULAC, and I'm here to give opposition to this bill.

With a budget shortfall and many other issues confronting Texas during these hard economic times, we cannot understand why voter ID is such an urgent matter for the Texas Legislature. LULAC has voted unanimously to oppose this bill, and we ask you also to protect the voting rights of all citizens of Texas but also ask you to protect the voting rights of the Latino voters, as mandated by Section 5 and Section 2 of the Voting Rights Act.
Specifically, LULAC argues against the passage of any voter identification bill until such time as Texas can guarantee zero tolerance of voter discrimination and implement all protection of the Civil Rights Act as ordered by the Supreme Court. Given the history of Texas, this will be a long time in coming.

In 2005, 2006 and 2007, the Voting Rights sections of the Department of Justice filed 10 separate lawsuits against Texas. All 10 suits were for discrimination against Mexican-Americans, and one of the suits involved discrimination against Mexican-Americans and African-Americans combined.

There was also a separate lawsuit in Harris County for discrimination against Vietnamese-Americans. All suits were successful against Texas, and Texas entered into consent -- agreements to correct discriminations.

During the same period, several suits were brought by LULAC and MALDEF against Texas and also against several government entities, in particular in my hometown of Dallas, in Farmers Branch and in Irving, Texas. And, obviously, in LULAC vs. Perry, the Supreme Court found that Texas purposely discriminated against Mexican-Americans in Congressional District 23 in San Antonio where I come from.
I have five pages, but I will only try to synopsize. In light of the fact that the proposed bill brought forward by the Texas Legislature--the Senate, it's likely to violate both Sections 5 and Section 2 of the Federal Voting Rights Act. LULAC urges you not to adopt the proposed bill as is.

And, as you know, LULAC has participated in over 400 court-ordered elections in Texas since adoption of the Voting Rights Act, and we will vigorously challenge any voter ID bill. We're also, as has been mentioned earlier, ready to pursue an objection before the Voting Rights section of the Department of Justice, if necessary. But we hope that there are many options that you can take, but the first one you can take is not to support this bill.

I thank you very much for listening to me tonight, and I hope you will do the right thing.

CHAIRMAN DUNCAN: Senator Gallegos, do you have a question?

QUESTIONS FROM SENATE FLOOR

SEN. GALLEGOS: Yes.

Mr. Flores, let me ask -- and then I heard you when you testified in Dallas and you were on the redistricting hearing, and you were knowledgeable about voting rights and all that. I heard your testimony
today. I was wondering, were you in the chamber when Prof. Tijerina testified?

MR. FLORES: Absolutely.

SEN. GALLEGOS: You heard his testimony?

MR. FLORES: Yes, I did.

SEN. GALLEGOS: Okay. Let me ask you, hearing his testimony and the history of discrimination against Mexican-Americans as far as voting here in the State of Texas, do you agree with his testimony?

MR. FLORES: Yes, I do. In fact, the first time that I voted, I had to go get a poll tax to vote, when I turned of age. And so I had to decide whether I was going to go to the movies that weekend or go vote. And so, you know, it's a way to keep people from voting, in my opinion. And, of course, that's one of the reasons we did away with the poll tax in Texas.

SEN. GALLEGOS: So in your opinion, the incidents that Prof. Tijerina pointed out in his testimony -- and you've heard all of them; you heard all of them -- that it leads up to discrimination that is part of the history of the State of Texas to present. How would you compare that to Senate Bill 14 that's on the floor today?

MR. FLORES: Well, I'm not only expert on the bill, but I understand that there's still much
CONSIDERATION OF SENATE BILL 14 1/25/2011

desired to be done to fix this bill so perhaps it might comply into the future. Obviously, this is going to be just an obstacle for the elderly, for handicapped people, but also for minorities who may not have an ID to begin with. And I would venture to say that both my grandmothers -- and I'm a fifth generation Tejano -- both of my grandmothers didn't go around with their ID. And, you know, this is going to be a problem and it's going to keep people from voting. I don't think it's the right way to go for Texas.

SEN. GALLEGOS: Mr. Flores, thank you for coming to testify. Thank you.

MR. FLORES: Thank you, Senator.

CHAIRMAN DUNCAN: Senator West, for what purpose?

SEN. WEST: Just one question.

Hector, how you doing?

MR. FLORES: I got up at 4:30 this morning. They sequestered me over there. They told me I might be here till 8 o'clock in the morning like the last time. I said, "Absolutely not. I got to go work in the morning."

SEN. WEST: Well, thank you very much for coming down. I really do appreciate it.

MR. FLORES: My pleasure.
SEN. WEST: You know, during the earlier conversation that I was having with Senator Fraser, he was saying that people in our district are supportive of this voter ID bill. Now, you've lived in that district for as long as I have.

MR. FLORES: Thirty-eight years.

SEN. WEST: In fact, we kind of live pretty much around the corner from one another?

MR. FLORES: Yes, sir.

SEN. WEST: And you have worked in that district as an activist for years. Is that correct?

MR. FLORES: Yes, sir.

SEN. WEST: So you have opportunities to talk to people in the district. Is it a fair statement -- is that a fair statement that was made by my friend, Senator Fraser, that the bulk of people in the 23rd senatorial district favor this voter ID bill?

MR. FLORES: I don't think so.

SEN. WEST: Okay. Thank you very much.

MR. FLORES: Thank you, sir.

Mr. Chairman.

CHAIRMAN DUNCAN: Thank you for your testimony.

Are there any other questions of the witness?
All right. The Chair hears none.

Appreciate your testimony today.

MR. FLORES: Thank you very much.

CHAIRMAN DUNCAN: Fidel Acevedo.

TESTIMONY BY FIDEL ACEVEDO

MR. ACEVEDO: Thank you, Mr. Speaker, senators. My name is Fidel Acevedo, and I'm here to testify on Senate Bill 14. It seems like a long way from the last time we had to do this, but we have to do it all over again. It seems like history repeats itself. We can't just get away from it right away. We just have to keep right on doing it until we do the right thing.

I think the GOP has the right idea about doing some things repeatedly. Certainly this senate bill is not one of them. I have to tell the senate chamber here today that I have to excuse myself from -- refrain from using some harsh language that's coming from San Antonio District 14, the Fighting 14, and my senator, they're listening to me, I have to be respectful to each and every one of you.

However, it does merit saying that this bill, as the gentleman testified earlier as an expert, it is discriminatory to say the least. It will continue the tradition here in the State of Texas of doing just
CONSIDERATION OF SENATE BILL 14 1/25/2011

that. "Some way, somehow, we're going to keep Mexican-Americans from voting." It is not like if, over there in Horseshoe Bay, that the Mexicans are just getting ready to go over there and remove Senator Fraser. Huh? I don't think so. That's not going to happen.

But as I slow down just a little bit, just to think of what tremendous work you guys do, let's put the priorities right. I have to tell you -- and I must say this -- that our priorities are wrong here in the chamber right now. Education, education, jobs, jobs, the economy. The photo ID can wait if we must have to go that route. But it's jobs, education for our children. That is the priority.

I think maybe somebody had heartburn and the Governor had to say, "We have to have an emergency session for this particular one," or maybe perhaps the Lt. Governor had to follow up and say, "Hey, look! This is a valid emergency. We ought to put it in the priority first time out, first thing out, have to come out of the chute is this bill."

Please help defeat this bill. I know that's an impossibility, but at least it's -- I'm an optimist, and I hope that you guys can do the right thing. Thank you.
CONSIDERATION OF SENATE BILL 14 1/25/2011

CHAIRMAN DUNCAN: Thank you.

Are there any questions for the witness?

All right. The Chair hears none.

We appreciate your appearance here today.

MR. ACEVEDO: Thank you.

CHAIRMAN DUNCAN: Members, we have some cards of some persons who registered that they would like to testify but did not respond to the call, but I'll read their names once again. Ray Rodgers, Gordon Quan, Rachel Delgado, Sandra Crenshaw, Clifford Gay, Barbara Baxter, Sergio Castillo, Amalia Martinez of Austin, Texas, LULAC 12.

The doorkeeper will check once again.

These cards will be placed in the record, that they have appeared and they have registered their position.

Is there anyone else who would wish to testify on, for or against Senate Bill 14?

All right. The Chair hears none.

Senator West?

SEN. WEST: Mr. Chairman, I would like to put in Exhibit No. 13, which is the League of United Latin American Citizens' objections and arguments against the voter identification bill.

CHAIRMAN DUNCAN: What's the exhibit number?
CONSIDERATION OF SENATE BILL 14 1/25/2011

SEN. WEST: Twelve.

CHAIRMAN DUNCAN: Twelve. Exhibit 12. Is there any objection?

Exhibit 12 will be received.

(Exhibit No. 12 marked and admitted)

CHAIRMAN DUNCAN: There being no public testimony coming forward -- or no additional public testimony coming forward, the public testimony is closed.

Senator Fraser, you're recognized for a motion.

MOTION BY SENATOR FRASER

SEN. FRASER: Mr. President, I would now move that Senate Bill 14 be reported to the Senate, with a recommendation that it do pass and be printed.

CHAIRMAN DUNCAN: The Secretary will call the roll.

ROLL CALL FOR VOTE ON SENATE BILL 14

SECRETARY SPAW: Birdwell?

SEN. BIRDWELL: (Indicated "yea" vote)

SECRETARY SPAW: Carona?

SEN. CARONA: (Indicated "yea" vote)

SECRETARY SPAW: Davis?

SEN. DAVIS: (Indicated "nay" vote)

SECRETARY SPAW: Deuell?
CONSIDERATION OF SENATE BILL 14 1/25/2011

SEN. DEUELL: (Indicated "yea" vote)
SECRETARY SPAW: Duncan?

CHAIRMAN DUNCAN: (Indicated "yea" vote)
SECRETARY SPAW: Ellis?

SEN. ELLIS: (Indicated "nay" vote)
SECRETARY SPAW: Eltife?

SEN. ELTIFE: (Indicated "yea" vote)
SECRETARY SPAW: Estes?

SEN. ESTES: (Indicated "yea" vote)
SECRETARY SPAW: Fraser?

SEN. FRASER: (Indicated "yea" vote)
SECRETARY SPAW: Gallegos?

SEN. GALLEGOS: (Indicated "nay" vote)
SECRETARY SPAW: Harris?

SEN. HARRIS: (Indicated "yea" vote)
SECRETARY SPAW: Hegar?

SEN. HEGAR: (Indicated "yea" vote)
SECRETARY SPAW: Hinojosa?

SEN. HINOJOSA: (Indicated "nay" vote)
SECRETARY SPAW: Huffman?

SEN. HUFFMAN: (Indicated "yea" vote)
SECRETARY SPAW: Jackson?

SEN. JACKSON: (Indicated "yea" vote)
SECRETARY SPAW: Lucio?

SEN. LUCIO: (Indicated "nay" vote)

KENNEDY REPORTING SERVICE, INC.
512.474.2233
TX_0000893
JA_000892
CONSIDERATION OF SENATE BILL 14 1/25/2011

1  SECRETARY SPAW: Nelson?

2  SEN. NELSON: (Indicated "yea" vote)

3  SECRETARY SPAW: Nichols?

4  SEN. NICHOLS: (Indicated "yea" vote)

5  SECRETARY SPAW: Ogden?

6  SEN. OGDEN: (Indicated "yea" vote)

7  SECRETARY SPAW: Patrick?

8  SEN. PATRICK: (Indicated "yea" vote)

9  SECRETARY SPAW: Rodriguez?

10 SEN. RODRIGUEZ: (Indicated "nay" vote)

11 SECRETARY SPAW: Seliger?

12 SEN. SELIGER: (Indicated "yea" vote)

13 SECRETARY SPAW: Shapiro?

14 SEN. SHAPIRO: (Indicated "yea" vote)

15 SECRETARY SPAW: Uresti?

16 SEN. URESTI: (Indicated "nay" vote)

17 SECRETARY SPAW: Van de Putte?

18 SEN. VAN de PUTTE: (Indicated "nay" vote)

19 SECRETARY SPAW: Watson?

20 SEN. WATSON: (Indicated "nay" vote)

21 SECRETARY SPAW: West?

22 SEN. WEST: (Indicated "nay" vote)

23 SECRETARY SPAW: Whitmire?

24 SEN. WHITMIRE: (Indicated "nay" vote)

25 SECRETARY SPAW: Williams?
CONSIDERATION OF SENATE BILL 14 1/25/2011

SEN. WILLIAMS: (Indicated "yea" vote)
SECRETARY SPAW: Zaffirini?
SEN. ZAFFIRINI: (Indicated "nay" vote)
SECRETARY SPAW: Wentworth?
SEN. WENTWORTH: (Indicated "yea" vote)
SECRETARY SPAW: West?
SEN. WEST: (Indicated "nay" vote)
SECRETARY SPAW: Whitmire?
SEN. WHITMIRE: (Indicated "nay" vote)
SECRETARY SPAW: Williams?
SEN. WILLIAMS: (Indicated "yea" vote)
SECRETARY SPAW: Zaffirini?
SEN. ZAFFIRINI: (Indicated "nay" vote)
SECRETARY SPAW: Governor Dewhurst?
PRESIDENT DEWHURST: (Indicated "yea" vote)

CHAIRMAN DUNCAN: There being 20 ayes, 12 nays, Senate Bill 14 will be favorably reported to the Senate, with the recommendation that it do pass and be printed.

The Chair recognizes Senator Wentworth for a motion.

SEN. WENTWORTH: Mr. President, I move that the Committee of the Whole Senate rise and report -- Mr. Chairman, I should say.
CONSIDERATION OF SENATE BILL 14 1/25/2011

CHAIRMAN DUNCAN: Is there any objection to the motion?

The Chair hears none. It's so ordered.

PRESIDENT DEWHURST: Good job. Thank you.

(Conclusion of hearing before Committee Of the Whole at 9:19 p.m.)
CERTIFICATE

STATE OF TEXAS )
COUNTY OF TRAVIS )

WE, Kim Pence, Aloma J. Kennedy and Lorrie A. Schnoor, Certified Shorthand Reporters in and for the State of Texas, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

WE FURTHER CERTIFY THAT the proceedings of such were reported by us or under our supervision, later reduced to typewritten form under our supervision and control and that the foregoing pages are a full, true and correct transcription of the original notes.

IN WITNESS WHEREOF, WE have hereunto set our hand and seal this 7th day of February 2011.

Kim Pence
Certified Shorthand Reporter
CSR No. 4595 - Expires 12/31/11

Firm Registration No. 276
Kennedy Reporting Service, Inc.
8140 North Mo-Pac Expressway
Suite II-120
Austin, Texas 78759
CONSIDERATION OF SENATE BILL 14 1/25/2011

Aloma J. Kennedy
Certified Shorthand Reporter
CSR No. 494 - Expires 12/31/12
Firm Registration No. 276
Kennedy Reporting Service, Inc.
8140 North Mo-Pac Expressway
Suite II-120
Austin, Texas 78759

Lorrie A. Schnoor
Certified Shorthand Reporter
CSR No. 4642 - Expires 12/31/11
Firm Registration No. 276
Kennedy Reporting Service, Inc.
8140 North Mo-Pac Expressway
Suite II-120
Austin, Texas 78759

KENNEDY REPORTING SERVICE, INC.
512.474.2233
TX_00000898
JA_000897
TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-SECOND LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE:  
CONSIDERATION OF  
SENATE BILL 14

COMMITTEE OF THE WHOLE SENATE
TUESDAY, JANUARY 25, 2011

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

VOLUME 2  PAGES 20 - 542

PROCEEDINGS
TUESDAY, JANUARY 25, 2011
(8:05 a.m.)
CHAIRMAN DUNCAN: The Committee of the
Whole will come to order.
OPENING INSTRUCTIONS BY CHAIRMAN DUNCAN
CHAIRMAN DUNCAN: Members, we talked
yesterday a little bit about the process, and I thought
I would go through that once again so that we'll all
kind of know what the plan is.
First of all, I intend to recognize
Senator Fraser in just a moment to lay out the specifics
of Senate Bill 14. And then after he lays the bill out,
then members will be recognized for questions of the
author or co-authors. Then after that is finished, then
our invited testimony will begin. It's the Chair's
intend to place a 10-minute limit on invited testimony.
And then there will be no questions to interrupt the
invited testimony as they're laying out their positions
or their testimony. Then once they're finished, members
will be recognized for questions.
When that's done, we'll have a resource
witness panel that will be available for you. I'm
advised that we have David Maxwell, Deputy Director of
Law Enforcement with the Office of the Attorney General;

and Ann McGeehan, Director of Elections, the Secretary of State's office; and Rebecca Davio, Assistant Director for Driver's License with the Department of Public Safety.

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

Then we'll open up for public testimony. You will recall last session, we would announce the names of those who were in line, and you are in line in order of your registration at the front desk. We will have those persons escorted down to the well, and then they will be allowed to begin their testimony.

It's the intent of the Chair to impose a three-minute time limit on the public testimony as well, and I will not recognize anyone to interrupt someone giving public testimony until their time has run. There is a timer at the front at the secretary's desk. There will be a warning; I think it's a 30-second warning.

Members, we do have a court reporter, Ms. Kennedy.

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

Remember Ms. Kennedy from last time. I think she went 12 or 13 hours.

Because we're making a record here, obviously we need to be mindful that the court reporter only has two hands and can only type one person at a time. So the Chair will be careful to help you remember that we cannot have people talking over each other.

Also we need to try to identify each other so that -- or identify yourself when you're speaking or I'll try to do that so that the record will be clear as to the source of the comments being recorded.

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

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

Once we have completed the public
testimony -- and, obviously, we're going to be
interrupted by our Senate session which begins at 11:00.
Once we finish the public testimony, then it will be
appropriate for you to lay out any amendments that you
may wish to have considered by the body.
And once that's completed, then,
obviously, we will vote on our resolutions to rise and
report back to the full Senate.
That is basically the layout of the
procedure. Any questions?

Senator Van de Putte.

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

CHAIRMAN DUNCAN: Thank you, Senator Van
de Putte, an excellent question.
We do have a wireless mic that will be
available for those who cannot access the mic -- at the
secretary's desk.

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

CHAIRMAN DUNCAN: Senator, we can
accommodate that.

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

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

Any other questions?
All right. The Chair hears none.
Senator Fraser, you're recognized to
explain Senate Bill 14.

LAYING OUT OF SENATE BILL 14

SEN. FRASER: Thank you, members.
Obviously this is an issue that we know a lot about, we had a lot of experience with two years ago. The issue I think has been defined and talked about a lot. I think we all recognize the dangers of voter fraud has threatened the integrity of the electoral process for the entire history of the United States. The threat continues today. In 2005, there was a Commission, a bipartisan commission, the Carter-Baker Commission, that was appointed by the Election Commission. Of course, President Carter, a past president; James Baker, Secretary of State, they reaffirmed the dangers by saying, "Elections are at the heart of democracy. Americans are losing confidence in the fairness of elections. And while we do not face a crisis today, we need to address the problem of our electoral system."

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

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

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

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

The bill that we're laying out today is in compliance with the U.S. Supreme Court Decision which upheld the Indiana voter ID legislation because it, No. 1, deters and detects fraud; 2, it protects the confidence in elections; and, 3, it counts only eligible voters' votes.

It also complies with the Supreme Court decision, because it offset burdens on voters by providing access to free ID cards, allowing for provisional ballots and absentee ballots, ensuring that obtaining photo ID is no more inconvenient or burdensome.
than the usual act of voting and providing an exception
for elderly voters.

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

Senate Bill 14, what we're doing with this bill, Senate Bill 14 would require a voter to show a
photo ID except that people 70 or older on January 1,
2012, may continue to vote with just a registration
card, under current law.

Acceptable ID will include an unexpired
card issued by the Department of Public Safety, a
military ID, a passport or a citizenship certificate
with photo. Voters who cannot produce an acceptable
form of photo identification will be allowed to cast a
provisional ballot. That ballot will be counted if the
voter returns within six days to show a photo ID.

It would also provide for statewide
training and notification of the changes required for
the individual to vote with the photo ID. It would
provide for a free DPS-issued identification card to any
registered voter who requests an identification card.

Every fraudulent vote effectively still is
a legitimate vote. Elections are too important to leave
unprotected when the Legislature could take proactive
steps to prevent fraud and protect our democracy.

Mr. President, that is what Senate Bill 14
does. And if there's no questions, I would move
passage.

SEN. WHITMIRE: Mr. President --
SEN. VAN de PUTTE: Yes.
SEN. WHITMIRE: -- could we slow down?
Will the gentleman yield?
CHAIRMAN DUNCAN: I think Senator Van de
Putte was first on the list, Senator.

SEN. VAN de PUTTE: Thank you,
Mr. Chairman, I think. Mr, Chairman, inquiry. At what
point in the proceedings today would a motion be in
order to move that all of the testimony and record from
this issue from the 2009 legislative session be made

into the record? Would that be done -- would that
motion be proper at the point of original testimony or
at the beginning of these questions at this point?
CHAIRMAN DUNCAN: Senator, at any time
that one would want to make that motion, it would be
recognized.