A BILL TO BE ENTITLED
AN ACT
relating to requiring a voter to present proof of identification.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 63.001, Election Code, is amended by
amending Subsections (b), (c), (d), and (f) and adding Subsection
(g) to read as follows:

(b) On offering to vote, a voter must present to an election
officer at the polling place the voter’s voter registration
certificate and either:

(1) one form of identification listed in Section
63.0101(a); or

(2) two different forms of identification listed in
Section 63.0101(b) [to an election officer at the polling place].

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

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

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

(g) If the requirements for identification prescribed by
H.B. No. 218

Subsection (b) are not met, the voter may be accepted for
provisional voting only under Section 63.011.

SECTION 2. Section 63.006(a), Election Code, is amended to
read as follows:

(a) A voter who, when offering to vote, presents a voter
registration certificate indicating that the voter is currently
registered in the precinct in which the voter is offering to vote,
but whose name is not on the precinct list of registered voters,
shall be accepted for voting if the voter's identity can be verified
from the proof presented.

SECTION 3. Section 63.007(a), Election Code, is amended to
read as follows:

(a) A voter who, when offering to vote, presents a voter
registration certificate indicating that the voter is currently
registered in a different precinct from the one in which the voter
is offering to vote, and whose name is not on the precinct list of
registered voters, shall be accepted for voting if the voter's
identity can be verified from the proof presented and the voter
executes an affidavit stating that the voter:

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

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

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

(4) is voting only once in the election.

SECTION 4. Section 63.008(a), Election Code, is amended to read as follows:

(a) A voter who does not present a voter registration certificate when offering to vote, but whose name is on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for voting if the voter executes an affidavit stating that the voter does not have the voter's voter registration certificate in the voter's possession at the polling place at the time of offering to vote and the voter's identity can be verified from the proof presented [voter presents proof of identification in a form described by Section 63.0101].

SECTION 5. Section 63.0101, Election Code, is amended to read as follows:

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

(1) a driver's license or personal identification card issued to the person by the Department of Public Safety that has not expired or that expired no earlier than two years before the date of presentation [or a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired];

(2) a United States military identification card that contains the person's photograph [form of identification containing the person's photograph that establishes the person's
(3) a valid employee identification card that contains the person's photograph and is issued by an employer of the person in the ordinary course of the employer's business; birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;
(4) a United States citizenship certificate issued to the person that contains the person's photograph;
(5) a United States passport issued to the person;
(6) a student identification card issued by a public or private institution of higher education located in Texas that contains the person's photograph; or
(7) a license to carry a concealed handgun issued to the person by the Department of Public Safety.

(b) The following documentation is acceptable as proof of identification under this chapter:

(1) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter;
(2) official mail addressed to the person by name from a governmental entity;
(3) a certified copy of a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;
(4) United States citizenship papers issued to the person;
H.B. No. 218

(5) an original or certified copy of the person's marriage license or divorce decree;

(6) court records of the person's adoption, name change, or sex change;

(7) an identification card issued to the person by a governmental entity of this state or the United States for the purpose of obtaining public benefits, including veteran's benefits, Medicaid, or Medicare;

(8) a temporary driving permit issued to the person by the Department of Public Safety;

(9) a pilot's license issued to the person by the Federal Aviation Administration or another authorized agency of the United States;

(10) a library card that contains the person's name issued to the person by a public library located in this state; or

(11) a hunting or fishing license issued to a person by the Parks and Wildlife Department [or

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

SECTION 6. Section 63.011(a), Election Code, is amended to read as follows:

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

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

(2) is eligible to vote in the election.
SECTION 7. Section 521.422, Transportation Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

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

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

(d) The department may not collect a fee for a personal identification certificate issued to a person who executes an affidavit stating that the person is financially unable to pay the required fee and:

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

SECTION 8. This Act takes effect September 1, 2007.
TO: Honorable Leo Berman, Chair, House Committee on Elections

FROM: John S. O’Brien, Director, Legislative Budget Board

IN RE: HB218 by Brown, Betty (Relating to requiring a voter to present proof of identification.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB218, As Introduced: an impact of $0 through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

<table>
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<tr>
<th>Fiscal Year</th>
<th>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</th>
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<td>2008</td>
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<tr>
<td>2011</td>
<td>$0</td>
</tr>
<tr>
<td>2012</td>
<td>$0</td>
</tr>
</tbody>
</table>

All Funds, Five-Year Impact:

<table>
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<tr>
<th>Fiscal Year</th>
<th>Probable Revenue Gain/(Loss) from TEXAS MOBILITY FUND 365</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
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<tr>
<td>2009</td>
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<tr>
<td>2010</td>
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</tr>
<tr>
<td>2011</td>
<td>($177,060)</td>
</tr>
<tr>
<td>2012</td>
<td>($177,060)</td>
</tr>
</tbody>
</table>

Fiscal Analysis

The bill would amend Chapter 63 of the Election Code to require a voter to present qualifying identification, as described in the bill, in addition to a voter’s registration certificate.

Qualifying identification would be one form of photo identification or two forms of proof of identification. Among the items that would constitute acceptable photo identification would be: a driver’s license or personal identification card issued by the Texas Department of Public Safety (DPS) that had not expired, or expired no earlier than two years before the date presented.

The bill would amend Chapter 521 of the Transportation Code to prohibit DPS from collecting a fee for a personal identification certificate issued to a person who executed an affidavit stating that the person was financially unable to pay the required fee, and the person was a registered voter in the state or would be eligible for registration and would submit a registration application to DPS.
The changes in law made by this bill relating to additional requirements for a registration application would apply only to an application for voter registration submitted on or after the effective date of the bill. This bill would take effect September 1, 2007.

The Department of Public Safety estimates that the provision of the bill that would exempt certain applicants from payment for an identification card would result in an annual revenue loss of $177,060 each fiscal year out of the General Revenue Fund. Additional costs to implement the provisions of the bill are expected to be minimal and could be absorbed within current resources.

**Methodology**

The revenue loss is determined by applying the percentage of the population below poverty level (16.2%) to the estimated number of persons that would register to vote (72,864), the estimated number of persons eligible to execute the affidavit that they are financially unable to pay the fee for an identification card would be 11,804 (72,864 X 16.2% = 11,804). If the fee were waived for these persons, the estimated revenue loss for the Texas Mobility Fund would be $177,060 for each fiscal year (11,804 x $15 = $177,060).

**Technology**

No significant impact to technology is anticipated.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

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

**LBB Staff:** JOB, MN, MS
HOUSE OF REPRESENTATIVES
NOTICE OF PUBLIC HEARING

COMMITTEE:   Elections
TIME & DATE:  2:00 PM or upon final adjourn./recess
               Wednesday, February 28, 2007
PLACE:       E2.028
CHAIR:       Rep. Leo Berman

HB 101       Riddle / et al.
Relating to the procedures for registering to vote and
accepting a voter at a polling place.

HB 218       Brown, Betty
Relating to requiring a voter to present proof of
identification.

HB 265       Anchia
Relating to the registration of voters at a polling place and
related procedures.

HB 266       Anchia
Relating to the designation of certain election days as state
holidays.

HB 626       King, Phil
Relating to the procedures for registering to vote and
accepting a voter at a polling place.

HB 1290      Macias
Relating to the appeal of a decision of the Texas Ethics
Commission.

Bills will not necessarily be heard in the order that they are
posted.
The House Committee on Elections
80th Legislature
February 28, 2007
2:00 p.m. or upon final adjourn./recess
E2.028

CORRECTED MINUTES

On March 14, 2007, the House Committee on Elections authorized the correction of the minutes for the meeting of the House Committee on Elections held on February 28, 2007. The following are the corrected minutes for that meeting:

Pursuant to a notice posted on February 23, 2007, the House Committee on Elections met in a public hearing and was called to order by the chair, Representative Berman, at 5:00 p.m.

The roll was answered as follows:

Present: Representatives Berman; Bohac; England; Farias; Howard, Charlie (5).

Absent: Representatives Anchia; Burnam (2).

A quorum was present.

(Representative Anchia now present.)

(Representative Burnam now present.)

HB 265

The chair laid out HB 265.

The chair recognized Representative Anchia to explain the measure.

Representative Bohac offered a complete committee substitute.

Testimony was taken. (See attached witness list.)

The chair recognized Representative Anchia to close on the measure.

The committee substitute was withdrawn without objection.

The bill was left pending without objection.

(Representative England now present.)
HB 1290

The chair laid out HB 1290.

The chair recognized Representative Macias to explain the measure.

Testimony was taken. (See attached witness list.)

The chair recognized Representative Macias to close on the measure.

The bill was left pending without objection.

(Representative Farias now present.)

HB 266

The chair laid out HB 266.

The chair recognized Representative Anchia to explain the measure.

Testimony was taken. (See attached witness list.)

The chair recognized Representative Anchia to close on the measure.

The bill was left pending without objection.

(Representative Bohac now present.)

HB218, HB626, HB101

The chair laid out HB218, HB626, HB101.

The chair recognized Representative Brown, Betty to explain HB 218.

The chair recognized Representative King, Phil to explain HB 626.

The chair recognized Representative Riddle to explain HB 101.

Testimony was taken. (See attached witness list.)

(Representative Bohac now present.)

The chair closed on HB 626.

The chair recognized Representative Brown, Betty to close on HB 218.
The chair recognized Representative Riddle to close on HB 101.

The bills were left pending without objection.

At 10:40 p.m., on the motion of Representative Anchia and without objection, the meeting was adjourned subject to the call of the chair.

_________________________________________
Rep. Berman, Chair

_________________________________________
Patrick Dudley, Clerk
WITNESS LIST

Elections Committee

February 28, 2007 - 2:00 PM or upon final adjourn./recess

HB 101

For: Benkiser, Tina (Republican Party of Texas)
Borden, Bill (Self)
Johnson, Ed (Self)
Wallace, Skipper (Texas Republican County Chairman's Association
State Legislature Chairman)

Against: Camarillo, Lydia (SVREP)
Courage, John (True Courage Action Network)
Figueroa, Luis (Mexican American Legal Defense & Education Fund (MALDEF))
Flippin, Kenneth (Self)
Santana, Sonia (ACLU-TX)
Smith, Bryson McCall (Coalition of Texans with Disabilities)
Sperry, Teri (True Courage Action Network)
Vanhoose, Laurie (Advocacy, Incorporated)

On: McFarland, Adrienne (Texas Attorney General's Office)
McGeehan, Ann (Texas Secretary of State - Elections Division)

Registering, but not testifying:

For: Collins, Mary Ann (Self)
Colyandro, John (Texas Conservative Coalition)
Duerstine, Russ (Tom Green County G.O.P.)
Galloway, Carolyn (Texas Eagle Forum
Citizens for Immigration Reform)

Against: Arthur, Joy (People for the American Way)
Bailey, Ken (Texas Democratic Party)
Barrick, Susan (Self)
Champion, Mario (Latinos for Texas)
Cody, Debra (City of College Station)
Dean, Kathryn (ACLU)
Dorren, Perry (Self)
Finch, Mary (League of Women Voters of Texas)
Gutierrez, Ysidro (Self)
Harrell, Will (NAACP of Texas)
Hooks, Connie (City of College Station, Texas)
Jones, Johnnie (Self)
Littles, Paula (Texas AFL CIO)
Milam, Toni (City of Buda)
Morstad, Tim (AARP)
Pacheco, Rosa E. (Self and Gray Panthers)
Park, Jodi (Coalition of Texans w/Disabilities/CTD)
Tafoya, Marcelo (Self and Lulac (League of Latin American Citizens))
Woodford, Suzy (Common Cause Texas)

On:  Forte, Marty (Self and Dallas County Republican Party)
      Raborn, Steve (Self and Tarrant County Elections)

HB 218

For:  Benkiser, Tina (Republican Party of Texas)
      Borden, Bill (Self)
      Johnson, Ed (Self)
      Wallace, Skipper (Texas Republican County Chairman's Association
      State Legislature Chairman)

Against:  Camarillo, Lydia (SVREP)
          Courage, John (True Courage Action Network)
          Figueroa, Luis (Mexican American Legal Defense & Education Fund (MALDEF))

Against:  Flippin, Kenneth (Self)
          Santana, Sonia (ACLU-TX)
          Smith, Bryson McCall (Coalition of Texans with Disabilities)
          Sperry, Teri (True Courage Action Network)
          Vanhoose, Laurie (Advocacy, Inc.)

On:      McFarland, Adrienne (Texas Attorney General's Office)
          McGeehan, Ann (Texas Secretary of State - Elections Division)
Registering, but not testifying:

For:  
Collins, Mary Ann (Self)
Colyandro, John (Texas Conservative Coalition)
Duerstine, Russ (Tom Green County G.O.P.)
Galloway, Carolyn (Texas Eagle Forum Citizens for Immigration Reform)

Against:  
Arthur, Joy (People for the American Way)
Bailey, Ken (Texas Democratic Party)
Barrick, Susan (Self)
Champion, Mario M. (Latinos for Texas)
Cody, Debra (City of College Station)
Dean, Kathryn (ACLU)
Dorren, Perry (Self)
Finch, Mary (League of Women Voters of Texas)
Gutierrez, Ysidro (Self)
Harrell, Will (NAACP of Texas)
Hooks, Connie (City of College Station)
Jones, Johnnie (Self)
Littles, Paula (Texas AFL CIO)
Milam, Toni (City of Buda)
Morstad, Tim (AARP)
Pacheco, Rosa (Self and Gray Panthers)
Park, Jodi (Coalition of Texans w/Disabilities/CTD)
Tafoya, Marcelo (Self and LULAC (League of Latin American Citizens))
Woodford, Suzy (Common Cause Texas)

On:  
Forte, Marty (Self and Dallas County Republican Party)
Raborn, Steve (Self and Tarrant County Elections)

HB 265 - Committee Substitute (Bohac)

For:  
Courage, John (True Courage Action Network)
Debeauvoir, Dana (Self)
Figueroa, Luis (Mexican American Legal Defense & Educational Fund (MALDEF)
Flippin, Kenneth (Self)
Harrell, Will (NAACP of Texas)
McCall Smith, Bryson (Coalition of Texans with Disabilities)
Santana, Sonia (ACLU-TX)
Vanhoose, Laurie (Advocacy, Inc.)

Against:  
Benkiser, Tina J. (Self and Republican Party of Texas)
Borden, Bill (Self)
Duerstine, Russ (Tom Green County G.O.P.)
Forte, Marty (Self and Dallas County Republican Party)
Wallace, Skipper (Texas Republican County Chairman's Association State Legislative Chairman)

On:  
Martinez, Ray (Tx. Conference of Urban Counties)
McGeehan, Ann (Texas Secretary of State - Elections Division)
Raborn, Steve (Self and Tarrant County Elections)

Registering, but not testifying:

For:  
Bailey, Ken (Texas Democratic Party)

For:  
Barrick, Susan (Self)
Brooks, Jeffrey E. (Texas Public Interest Research Group)
Camarillo, Lydia (SVREP)
Champion, Mario M. (Latinos for Texas)
Dean, Kathryn (ACLU)
Finch, Mary (League of Women Voters of Texas)
Gutierrez, Ysidro (Self)
Isaacson, Nathanael (People for the American Way)
Jones, Johnnie (Self)
Littles, Paula (Texas AFL CIO)
Park, Jodi (Coalition of Texans w/Disabilities/CTD)
Sperry, Teri (True Courage Action Network)
Tafoya, Marcelo (Self and Lulac (League of Latin American Citizens))
Woodford, Suzy (Common Cause Texas)

Against:  
Collins, Mary Ann (Self)
McElveen, Kenneth (Self)
HB 266
For:  Debeauvoir, Dana (County & District Clerks Legislative Cmte)
Harrell, Will (NAACP of Texas)
Littles, Paula (Texas AFL-CIO)

Against:  Borden, Bill (Self)
Galloway, Bruce (Self)
Wallace, Skipper (Texas Republican County Chairman's Association
State Legislative Chairman)

On:  Martinez, Ray (Tx. Conference of Urban Counties)
McGeehan, Ann (Texas Secretary of State - Elections Division)

Registering, but not testifying:
For:  Bailey, Ken (Texas Democratic Party)
Barrick, Susan (Self)
Champion, Mario M. (Latinos for Texas)
Dean, Kathryn (ACLU)
Figueroa, Luis (Mexican American Legal Defense & Education Fund)
Flippin, Kenneth (Self)
Gutierrez, Ysidro (Self)
Isaacson, Nathanael (People for the American Way)
Jones, Johnnie (Self)
Reeves, Stephen (Christian Life Commission)
Santana, Sonia (ACLU-TX)
Sperry, Terri (True Courage Action Network)
Tafoya, Marcelo (Self and Lulac (League of Latin American Citizens))
Woodford, Suzy (Common Cause Texas)

Against:  Collins, Mary Ann (Self)

HB 626
For:  Benkiser, Tina (Republican Party of Texas)
Borden, Bill (Self)
Johnson, Ed (Self)
Wallace, Skipper (Texas Republican County Chairman's Association
State Legislature Chairman)
Against: Camarillo, Lydia (SVREP)
        Courage, John (True Courage Action Network)
        Figueroa, Luis (Mexican American Legal Defense & Education Fund (MALDEF))
        Flippin, Kenneth (Self)
        Santana, Sonia (ACLU-TX)

Against: Smith, Bryson McCall (Coalition of Texans with Disabilities)
        Sperry, Teri (True Courage Action Network)
        Vanhoose, Laurie (Advocacy, Inc.)

On: McFarland, Adrienne (Texas Attorney General's Office)
     McGeehan, Ann (TX Sec. of State - Elections Division)

Registering, but not testifying:
  For: Collins, Mary Ann (Self)
        Colyandro, John (Texas Conservative Coalition)
        Duerstine, Russ (Tom Green County G.O.P.)
        Forte, Marty (Self and Dallas County Republican Party)
        Galloway, Carolyn (Texas Eagle Forum Citizens for Immigration Reform)

Against: Arthur, Joy (People for the American Way)
        Bailey, Ken (Texas Democratic Party)
        Barrick, Susan (Self)
        Champion, Mario (Latinos for Texas)
        Cody, Debra (City of College Station)
        Dean, Kathryn (ACLU)
        Dorren, Perry (Self)
        Finch, Mary (League of Women Voters of Texas)
        Gutierrez, Ysidro (Self)
        Harrell, Will (NAACP of Texas)
        Hooks, Connie (City of College Station)
        Jones, Johnnie (Self)
        Littles, Paula (Texas AFL CIO)
        McElveen, Kenneth (Self)
        Milam, Toni (City of Buda)
Morstad, Tim (AARP)
Park, Jodi (Coalition of Texans w/Disabilities/CTD)
Tafoya, Marcelo (Self and Lulac (League of Latin American Citizens))
Woodford, Suzy (Common Cause Texas)

On: Raborn, Steve (Self and Tarrant County Elections)

**HB 1290**

On: Ashley, Natalia Luna (Texas Ethics Commission)

Registering, but not testifying:
For: Courage, John (True Courage Action Network)
TEXAS HOUSE OF REPRESENTATIVES
COMMITTEE ON ELECTIONS
FEBRUARY 28, 2007

(EXCERPT OF HEARING REGARDING
HB 1290, HB 266, HB 101, HB 218 AND HB 626)

Transcribed by Jean Thomas Fraunhofer, CSR

April 30, 2012
(TIMER: 1:10:28 to 4:36:31)

CHAIRMAN BERMAN: The chair calls Russ Duerstine. Russ, would you state your name and who you're representing? And you're showing as being against House Bill 265.

MR. DUPERSTINE: Thank you, Mr. Chairman.

Russ Duerstine, Tom Green County Republican Party chairman located in San Angelo, Texas. And I do rise to speak against the committee substitute. I -- My primary concern is voter fraud. It is the ability to move large amounts or even small amounts of voters in a short period of time. I do believe the ability for somebody to vote, even if they're living in the YMCA, is something they should be able to do. And because they can do that, it would be very easy to move a significant number of people for one night to the YMCA, register to votes that day and effect an election.

I have three county districts or three precincts that are very Republican in county. I have one that's really close, 50/50. Conceivably, I could convince a handful of people to move to that one precinct where it's really close between Democrats and Republicans, get them to register at the YMCA that's in that precinct that's close, and they're all going to vote for people on the ballot they like anyways, so we
could affect a commissioner's race in that one precinct.

I would never do that -- never consider doing that, but I can imagine it being done at a county level. I can imagine it being done at a congressional district, and God forbid we have state races where people are imported from other states to affect who Texans pick as their governor, lieutenant governor, senator, what-have-you. So I'm very concerned about the ability to affect an outcome by having people to register to vote in a temporary living facility such as the YMCA.

CHAIRMAN BERMAN: Members, any questions?

Mr. England?

REPRESENTATIVE ENGLAND: Are you aware that if they lived at the YMCA, they'd have to have a utility bill addressed to the person dated not earlier than the 30th day before the person seeks to vote? Is that right, Mr. Anchia?

REPRESENTATIVE ANCHIA: We would deny a person living at the YMCA who does not have a utility bill in their home.

REPRESENTATIVE ENGLAND: I sure hope so. I sure hope so according to -- Again Mr. Anchia, can you help me there? Would I want to deny somebody --

CHAIRMAN BERMAN: Mr. Anchia, if you could
answer the question.

REPRESENTATIVE ANCHIA: Thank you, Mr. Chair. The bill reads you as follows. You either have to present a driver's license to prove you're -- a valid driver's license to prove your residency at a particular precinct or in the absence of that, you could provide a -- a utility bill that had your address on it that was valid for an -- and I'll read the language specifically for you, but it would be utility bill, address of the person, dated not earlier than 30 days before the date the person seeks to vote. So not earlier is the key language there. And a Texas driver's license or state Voter ID that was out of date potentially that, for example, at your old address. So you'd have the utility bill from your current address, the driver's license with the photo ID or the state ID at the old address or a passport or a -- a US military identification card.

So the key is to determine the address, your current address and that could be done through a valid driver's license, a valid state ID or a utility bill plus the other form of identification. So, I mean, the scenario -- Well, I'll speak in my closing to -- to the -- to some of the concerns about voters coming in and voting on or being imported from other states.
MS. EDELMAN: It just seems to me relatively easy to establish residence and/or you have to deny people who are legitimately in that situation the ability to vote and neither seemed probable to me.

CHAIRMAN BERMAN: Members, any other questions? Russ, thank you for your testimony.

REPRESENTATIVE ENGLAND: Thank you, Mr. Chairman.

CHAIRMAN BERMAN: The chair calls Tina Benkiser?

MS. BENKISER: Thank you, Mr. Chairman.
My name is Tina Benkiser on -- here on behalf of myself as well as the Republican party of Texas where I serve in a voluntary capacity as its chairman. I think there's one point that needs to be made in considering this particular bill. Under the provisions of HAVA, a voter registration must be checked against the Social Security database or the DPA driver's license database. At this time no county has the ability to do that check. Only the Secretary of State does, so -- so no county could voluntarily choose to participate unless it has an expensive contract with DPS or the Social Security Administration.

CHAIRMAN BERMAN: Members, any questions?

Mr. Anchia?
REPRESENTATIVE ANCHIA: Yes, ma'am.

Thanks, Ms. Benkiser. If the Secretary of State gave a county the -- the ability or contracted with the county -- gave the county the ability to access its -- its files to verify the very information that you suggested, do you believe that that would be HAVA compliant?

MS. BENKISER: I'm not an expert in HAVA. I understand -- What I would say is I'm sure the Secretary of State would be able to give you that -- that information. I think we also had an expert -- a former Federal Elections Commission expert that would be better able to answer that question than I would.

REPRESENTATIVE ANCHIA: And you are aware that the bill provides the Secretary of State the opportunity to create rules to implement the temporary pilot program, and those rules certainly could include access to the Secretary of State's database to check the very information that you are concerned about, correct?

MS. BENKISER: Again, I'm simply saying that under the provisions, currently there is no county that can do that, and, in fact, if you look at the counties that are already on line with the Secretary of State's office, there are only 126 out of 254 and none of those are large counties. There's probably pretty
good reason for that. We're still in the developmental
stage, so I think we really shouldn't get the cart
before the horse in this.

REPRESENTATIVE ANCHIA: And you realize
that this is a voluntary program so that --

MS. BENKISER: That's --

REPRESENTATIVE ANCHIA: -- a county
that -- that --

MS. BENKISER: I realize that.

REPRESENTATIVE ANCHIA: -- that would be
interested in participating would have to have the
ability to implement the program?

MS. BENKISER: Right. And, currently,
they could not do that unless they had an expensive
contract. I know there's been some testimony that there
was no fiscal note. I think there's probably been
testimony just recently that there was indeed a very
huge fiscal note. I'm simply saying this is one more
element of that. Thank you.

REPRESENTATIVE ANCHIA: Thank you,
Ms. Benkiser.

CHAIRMAN BERMAN: Members, any other
questions?

UNIDENTIFIED SPEAKER: Question for you.

Any concern with voter fraud?
MS. BENKISER: I'm always --

UNIDENTIFIED SPEAKER: Just curious.

MS. BENKISER: -- concerned about voter fraud. Unfortunately, it is still alive and well in Texas, but, again, I think the point here -- and I will be addressing some things later, but certainly with any of these issues, there is -- and I never cease to be amazed at the creativity of people out there who want to keep every -- every qualified citizen from having their one vote and having their one vote counted. Yes, there are always voter fraud concerns.

UNIDENTIFIED SPEAKER: Any concern that this particular bill would increase voter fraud cases?

MS. BENKISER: I have not sat down and given that a great deal of thought. I will tell you I served as election judge for many years, and every time there's a system devised to minimize, there are people who found ways around it. I've seen many, many things, and I certainly can see that this would provide that opportunity as well.

UNIDENTIFIED SPEAKER: Any idea how many voter fraud cases were prosecuted in Texas last year?

MS. BENKISER: I know that the Secretary of State forwarded about 50 cases of voter fraud to the Attorney General for action since 2004. That certainly
does not include any and all cases that may have been sent to district attorneys across the state. Of course, the Attorney General only has jurisdiction in multi-county race races. So I don't know that particular number, if that -- if that answers your question.

UNIDENTIFIED SPEAKER: No idea how many cases outside of the AG's office?

MS. BENKISER: I know lots of specific instances, but I do not know of a solid number outside of the AG's office. No, sir, I don't.

UNIDENTIFIED SPEAKER: Thank you.

CHAIRMAN BERMAN: Ms. Benkiser, thank you.

Mr. Burnam?

REPRESENTATIVE BURNAM: I just wanted a clarification on the fiscal note. I think what you were talking about was the fiscal note on the original bill which would have -- because it wasn't voluntary had an extension. This is strictly voluntary, and so it will be a fiscal note for the individual county which means whatever election administrator is in charge, they'd have to go justify it to their county judge or the appropriate administrator; is that right?

MS. BENKISER: Well, my primary point here was that under the current provisions of HAVA and given
that those voter registrations have to be checked against either the Social Security database or the DPS driver's license base, that no county has the ability to do that, and so, in fact, any of those counties who voluntarily chose to participate would in fact have to have a contract with DPS or with the Social Security Administration or something of that nature in order to even do what you're -- you're giving them the ability to voluntarily do.

REPRESENTATIVE BURNAM: So you're really kind of putting people on due notice. If you do do this, it's going to cost you more than you might be thinking a county.

MS. BENKISER: I'll just say you guys have 5,000 bills or so that will probably be filed before the end of the session. There are numerous things that are truly important for the State to do. I'm simply up here to point out that in this particular bill, it's really sort of nonsensical, if you will.

REPRESENTATIVE BURNAM: So in answer to my question, my question to you was about your giving notice that the fiscal note to a county might be higher than what they were thinking?

MS. BENKISER: Absolutely. That is one notice, but they cannot voluntarily participate unless
they take an additional step. They do not in their own
right as it stands under this bill have the ability to
do what you're giving them the opportunity to do.

REPRESENTATIVE BURNAM: I appreciate your
warning to my election administrator. Thank you.

MS. BENKISER: Thank you.

CHAIRMAN BERMAN: Thank you, Ms. Benkiser.

Chair calls Mario Champion. Mr. Champion?

THE CLERK: He had to leave.

CHAIRMAN BERMAN: Okay. We show
Mr. Champion as being for the bill. Are there any other
witnesses that would like to testify for, on or against
the bill? Do you have a registration form, sir? What
is your name, sir?

MR. BORDEN: Bill Borden.

CHAIRMAN BERMAN: Borden, b-O-R-D-E-N.

Let me look through this here. Mr. Borden, I'm going to
ask you to come up and testify, and we'll complete
another form for you just as soon as you're finished.

MR. BORDEN: And I'll certainly fill it
out first.

CHAIRMAN BERMAN: Okay. Mr. Borden, just
one second, please. You have to sign the affirmation
form first before you testify.

MR. BORDEN: I have to sign that. Okay.
Sure. Be happy to.

CHAIRMAN BERMAN: The affirmation form is your --

MR. BORDEN: Signed it on some other bills. I can sign it on this one if you want.

CHAIRMAN BERMAN: Yeah. Give him another affirmation form, please.

MR. BORDEN: I'm sorry. Okay. Can I fill out the rest of the form address after I testify?

CHAIRMAN BERMAN: Well, just sign that in the case -- that you swear that the testimony you are about to give is true and is truth and nothing but the truth. That takes place at a oath -- takes place at a oath. And you're testifying on committee substitute House Bill 265?

MR. BORDEN: Right. I'm testifying against.

CHAIRMAN BERMAN: All right. Would you state your name, sir, and who you're with?

MR. BORDEN: Yes, sir.

CHAIRMAN BERMAN: I'm with myself. My name is Bill Borden, B-O-R-D-E-N, like Borden Ice Cream, milk, cottage cheese. Good food. I'm from Harris County. Mr. Anchia asked a question earlier about anybody getting heartburn from some of the things that
have been missing here, and I am, bad.

Mr. Chairman, I am the former -- first of all, I've been an election judge, election clerk, member of an early ballot board, member of the signature verification committee, a primary director and chairman of a ballot security committee for the Republican party since the mid-'60s. That's before many of you were born. I've had a little experience with elections, and I question when I hear information from other states about the integrity of the process of same day voter registration. I seriously question the veracity of that information just based on my own experience here in the State of Texas.

Let me -- Let me just mention a few things to you about this. First of all, I think this is a slippery slope in the direction of same day voter registration, and we some sub information from a number of voter registrars around the State of Texas that will tell you that the integrity of the voter registration on same day voter registration just absolutely cannot be verified with any significance -- significant accuracy, and I think that the -- that the testimony that's been previous here has indicated some of that.

I've got a three page list in 9 and a half point type on war stories of voter fraud that's occurred
in the State of Texas. I want to tell you about one -- one to two cases that we've dealt with. We have one case in suburban Harris County area where a person was registered to vote in two counties, and the reason he was is because he lived in two counties. How did he live in two counties? The county line split his house. He made the -- He made the case that -- that when he slept in the bedroom, he was -- one bedroom, he was in one county. When he slept in another bedroom, it was another county. His -- When he got caught, he said, well, I'm a taxpayer in both counties. I ought to be able to vote in both counties. Well, I -- that's hard to argue with except that he was registered to vote twice and voters license, and this is not uncommon.

We've caught a number of other people that have been registered to vote twice because the county line split their house in suburban areas of major cities. In -- In the suburban -- one suburban area, we found 300 -- over 300 ballots by mail that were avoided by proxy for advanced Alzheimer's patients at a nursing home. Another case, we found -- at an early location, we found over 200 ballots that were cast by people voting and appearing at polling places in alphabetical order. When they were questioned by the election judge and the election clerk, said, well, the people just
happened to show up that way.

Ladies and gentlemen, the problem we have with voting in the State of Texas is that we need to make sure that everybody's right to vote is protected and equally as important. We need to make sure that the integrity of the process is also protected, and right now, we have serious problems with the integrity of the voting process in the State of Texas and that needs to be addressed. At the present time, 18 year olds can register to vote at 17 years and 10 months of age. As a deputy voter registrar, ever since the deputy voter registrar law went into effect, I've registered a number of those people because I've gone to my church that has a school with it, and I've registered some of those students that have just turned or going to be 18 before the next election.

We had a -- We had a case in Harris County where we had 113 percent voter turn out folks. That's 13 percent more than there are registered voters. The -- the -- The issues that we deal with and I think this committee ought to be dealing with are issues to protect the integrity and the veracity of elections in the State of Texas more so than -- engage more people to participate in the elections because the participation is available. Now, the people who don't participate are
the ones who just don't show up to vote. Thank you, Mr. Chairman.

CHAIRMAN BERMAN: Mr. Borden, let me see if there are any questions. Mr. Anchia?

REPRESENTATIVE ANCHIA: Thanks for testifying, Mr. Borden. I appreciate your testimony. I appreciate you being here today. I -- You mentioned a couple of things I just want to clarify.

MR. BORDEN: Okay.

REPRESENTATIVE ANCHIA: You talked about -- talked about substantial information that had been presented about -- from across the state about how same day voter registration creates fraud. Can you document that for me?

MR. BORDEN: I don't have that all with me. I can't --

REPRESENTATIVE ANCHIA: Do you have any of it with you?

MR. BORDEN: I don't have any of it with me.

REPRESENTATIVE ANCHIA: Okay.

MR. BORDEN: I don't have any of that with me. I tell you -- I want to tell you this a substantial -- I was formerly in a private investigation business, and some of the issues that we dealt with in
voter fraud involved some of the investigation that we did. I will tell you -- and, by the way -- Well, my second point. I will tell you that much of the information that we have on that is intuitive and empirical rather than having the concrete information to show that it's -- that to show you all that we have it here.

I will tell you this. I was involved in 2000 down in the State of Florida counting chads, and we found -- we were sitting there in rooms with multiple people counting chads of observing voting fraud -- voter fraud taking place in our presence with at least two people who had fingernails sharpened to a point so as they counted punch card ballots, they were punching holes in the ballots.

REPRESENTATIVE ANCHIA: Can I ask you what hanging chads has to do about same day voter registration?

MR. BORDEN: Just has to do with the fact that there is some voter fraud that is associated with --

REPRESENTATIVE ANCHIA: Okay.

MR. BORDEN: -- the integrity of the process. My -- One of my concerns with same day voter registration is a slippery slope that we're looking at.
We're looking at -- We're looking at moving into the
direction of same day voter registration. We're looking
at making it more possible for people -- for more people
to be registered voters, which I have no problem with,
providing we can verify the veracity of voters.

REPRESENTATIVE ANCHIA: Are you aware that
seven states have same day voter registration?

MR. BORDEN: I'm very aware of that.

REPRESENTATIVE ANCHIA: Would you
classify Idaho as a state that -- where there's a
lots of voter fraud or a state that is --

MR. BORDEN: No, sir.

REPRESENTATIVE ANCHIA: -- not -- not
conservative or not protective of its -- of its election
system?

MR. BORDEN: I knew that question was
coming. I would -- I would say this about it. You
know, I don't know.

REPRESENTATIVE ANCHIA: About Idaho?

MR. BORDEN: Yeah. It's in this, but I
don't know that -- I don't know -- I don't know what
kind of problems they have, if they have any at all.

REPRESENTATIVE ANCHIA: Okay.

MR. BORDEN: But I do know this. Based
upon my own experience in having dealt with issues in
the State of Texas, I do know that there is no possible way that they could confirm the veracity of voters registered on election day. No possible way. It can't be done.

REPRESENTATIVE ANCHIA: You said you know of no situation in Idaho. Do you know of a situation in Wyoming?

MR. BORDEN: I don't know --

REPRESENTATIVE ANCHIA: Do you know --

MR. BORDEN: If the state --

REPRESENTATIVE ANCHIA: Do you know the situation of New Hampshire?

MR. BORDEN: I don't know the cases in any of those states.

REPRESENTATIVE ANCHIA: Of Maine, Minnesota --

MR. BORDEN: Don't know any of them.

REPRESENTATIVE ANCHIA: Wisconsin? Okay. I just wanted to check.

MR. BORDEN: No, I haven't checked those.

CHAIRMAN BERMAN: Because you talked about war stories and war stories sometimes are like fish stories. They're not true, so -- so when you -- when you -- when you talk about sort of widespread substantial information and widespread voter
fraud related to same day voting, I just would like to know if you have anything to substantiate that claim.

MR. BORDEN: Do I have such? I have three sheets, three pieces of paper here with nine point type, three columns, with the issues that have occurred in the State of Texas.

REPRESENTATIVE ANCHIA: On same day voter registration?

MR. BORDEN: Not on same a voter registration.

REPRESENTATIVE ANCHIA: Oh, okay. I just -- I just --

MR. BORDEN: Not on same day.

REPRESENTATIVE ANCHIA: I'm checking.

Just checking.

MR. BORDEN: Registration, I'm not -- I'm not talking about that. What I'm telling you is that this is a slippery slope direction of the inability to verify the accuracy of the people who are registered to vote.

REPRESENTATIVE ANCHIA: Thanks for your testimony.

CHAIRMAN BERMAN: Mr. Borden, we found your witness affirmation form for another bill, but you have to fill one out for each bill.
MR. BORDEN: I did. I -- I -- I did

after.

CHAIRMAN BERMANN: Yeah. Well, you can

finish that one right there, Bill.

MR. BORDEN: I will.

CHAIRMAN BERMANN: And we'll take care of

that. Thank you.

MR. BORDEN: Thank you very much, sir.

CHAIRMAN BERMANN: You bet. Did you find

it? All right. Can we have your form? You will be

shown voting in favor of the bill. Thank you very much

for bringing it to our attention. Ladies and gentlemen,

is there anyone else who wishes to testify on, for or

against the committee substitute to House Bill 265?

Seeing none, the chair calls on Mr. Anchia to close.

REPRESENTATIVE ANCHIA: Thank you,

Mr. Chair. I appreciate the testimony of all the

witnesses and the dialogue that we've been able to have

related to this bill. It seems like most of the people

that have testified against were concerned about voter

fraud. The reality is that there's no evidence of voter

fraud in any of the states that have -- there's no

evidence of voter fraud related to same day registration

in any of the states that -- that currently have it.

What it has shown is that it's an
increased turn out substantially in all those states, and I will point out, you know, Charlie just said you may have a partisan bill. This has nothing to do with red or blue, nothing to do with Republican or Democrat. Idaho's a Republican state. Montana's a Republican state. Wyoming's a Republican state. They all have same day voter registration. This is about access. This is about giving the opportunity -- giving the opportunity to people to come register to vote on the same day that they want to vote because of whatever circumstances. There are very conservative provisions in this pilot program that prevent voter fraud.

It was suggested that people might come from other states in bus loads to vote. That can absolutely not happen under this pilot program because people would actually have to reside in the precinct where they said they live, and they would have to show identification to prove that. So the suggestion is absolutely absurd that people would come from other states and immediately be able to register and have the opportunity to vote, to say that is to not read the committee substitute, not understand the bill.

Mr. Chairman, I would hope for your favorable consideration of this bill and that we have the opportunity to vote it out post haste. Thank you
for the opportunity, Mr. Chairman, to lay it out, and --
and I especially appreciate, Mr. Chairman, your
constructive dialogue on this bill and your giving me
the ability to improve it. Thank you.

CHAIRMAN BERMAN: Thank you, Mr. Anchia.

Members, we have three other witness forms that just
came in. Mary Hatfield does not wish to testify, but
she's shown as being against House Bill -- committee
substitute to House Bill 265. Susan Barrick being shown
as being for committee substitute to House Bill 265, and
Johnnie Jones, no testimony, but she's being shown to be
for committee substitute to House Bill 265.

Members, if there's no objections, the
chair at this time withdraws the committee substitute to
House Bill 265 and will leave House Bill 265 pending as
is the custom of the committee.

The Chair lays out House Bill 1290 by
Mr. Macias. Mr. Macias, will you please tell us about
your wonderful bill? I didn't sign those last three.

REPRESENTATIVE MACIAS: Well, good
evening, Mr. Chairman. Thank you so much for the
opportunity, and my esteemed colleagues and members of
the committee. I'm here today to lay out House Bill
1290. It's a very simple bill, and I will not be asking
any questions of our esteemed committee. I will receive
any questions that you might have.

The clarification of the bill that defines
the parties who can appeal an ethics commission final
decision. The current code on Section 5733 of the
Government Code says that -- allows a person to file a
petition for appeal and that idea of person is not
defined, so it can be a person unrelated to the
complaint. For example, if I was to have rendered --
there was a decision rendered by the ethics commission,
a decision on a complaint that I filed against another
member, if you will. Our current law allows any
unrelated person, any person in this room or any other
person would be able to file an appeal of that decision.
And the bill would -- This bill, as I've laid out, would
limit the appeal process to just the complainant and the
respondent. And it helps to define and clarify which is
currently in the law as fairly broad and just the word
person. So we're just trying to make sure that we can
clean this up.

The Texas Ethics Commission Task Force had
generated a report, and this is one of the
recommendations that was in that report to help clarify
from this point forward this idea of who in fact can
file for an appeal of a final decision by the
commission. With that, I will be open to any other
questions, Mr. Chairman.

CHAIRMAN BERMAN: All right. Mr. Macias, thank you very much. Members, do you have any questions for Representative Macias?

REPRESENTATIVE ANCHIA: I'm just curious how many bills you've presented before committees today.

REPRESENTATIVE MACIAS: This is my third bill.

REPRESENTATIVE ANCHIA: This is your a good. All right. I had my first today, and so I was just wondering if you've been down this road before.

REPRESENTATIVE MACIAS: Yes, I have. Yes, I have.

CHAIRMAN BERMAN: Members, any other questions? No other questions. We show John Courage? No testimony, being for the bill, and we have Natalia Luna Ashley as -- Mr. Burnam? We have Ms. Ashley as a witness for the Texas Ethics Commission, if any of you have any questions for her.

Okay. Ms. Ashley, will you please come forward? Natalia? Thank you. State your name and who you are with.

MS. ASHLEY: Natalia Ashley, Texas Ethics Commission.

REPRESENTATIVE ENGLAND: Hi, Ms. Ashley.
The testimony earlier was that this was one of the recommendations for the Texas Ethics Commission; is that right?

MS. ASHLEY: Just a recommendation for clarification of the law, yes, sir.

REPRESENTATIVE HOWARD: Okay. So clarification. Was your clarification that you only wanted these two claimant and/or the respondent or was it you just wanted to say some definition of who the person was?

MS. ASHLEY: When the commission set out its request for clarification, it presented three options, and the commission is not taking any position on any one of the options. One of the options was just the respondent being able to appeal. The other option was the respondent and the complainant and that the other option was any person. Basically, the commission was just seeking a clarification as to what the legislature would want in this area of law.

REPRESENTATIVE HOWARD: Well, current law -- As we I read this, current law says any person could appeal. Is that not right?

MS. ASHLEY: That's correct.

REPRESENTATIVE HOWARD: So that was one of your options.
MS. ASHLEY: The law says a person, and so we were unclear as to whether the legislature wanted -- intended that to be any person.

REPRESENTATIVE HOWARD: Okay. So if I hire a political consultant and I'm paying them money and they're supposed to keep up with these things, they've been involved by hiring an attorney to help me, if I'm a respondent, whatever, or complainant or if one of my constituents comes to me and wants me to file a complaint to whatever, and they want to follow up, and they want to appeal under this bill, they would not be able to do that; is that correct?

MS. ASHLEY: That's correct.

REPRESENTATIVE HOWARD: So --

MS. ASHLEY: It would only be the person against whom the complaint was filed and the person who filed the complaint.

REPRESENTATIVE HOWARD: That the person that I'm paying -- I being an attorney or a political consultant to follow this for me would not be able to do that?

MS. ASHLEY: If that person was not a respondent or a complainant, that's correct.

REPRESENTATIVE HOWARD: Whether the -- Most of the complaints are filed against the person
running for office typically or person who's given a
gift or whatever; is that correct.

MS. ASHLEY: Most of the respondents are
candidates or officers for an elective office.

REPRESENTATIVE HOWARD: All right. So
your -- your -- your question was clarification about
who a person is.

MS. ASHLEY: Yes.

REPRESENTATIVE HOWARD: Okay. And what I
have suggested to you is a person could be a consultant,
could be an attorney, could be a constituent who is
interested in the case.

MS. ASHLEY: That's right. And I think
that the law could be interpreted to mean that and it
would and that is the desire of the legislature adding
the word any person would make that clear.

REPRESENTATIVE HOWARD: Okay. So -- So
all you really were asking for was clarification.

MS. ASHLEY: Yes, sir.

REPRESENTATIVE HOWARD: You weren't saying
we wanted to be the complainant and the respondent only.
You were just asking for a clarification --

MS. ASHLEY: That's correct.

REPRESENTATIVE HOWARD: -- who a person
is.
MS. ASHLEY: That's right.

REPRESENTATIVE HOWARD: Okay. How would you define who a person is?

MS. ASHLEY: I think the way that the law is currently written, it would be any person.

REPRESENTATIVE HOWARD: Okay.

MS. ASHLEY: It could probably mean that.

REPRESENTATIVE HOWARD: I am very confused. You'll have to help me, and I apologize. If we're saying the current law says a person, and you are asking for clarification of who's the person.

MS. ASHLEY: Well, what we are -- May I give you an example?

REPRESENTATIVE HOWARD: Yes, ma'am.

MS. ASHLEY: If -- Let's say that a -- an individual files -- a complainer files a complaint against an official. The commission deliberates and makes a determination that a violation occurred, reaches a resolution with the official. The official signs the order. The commission pays the fine, whatever the case may be, and the law as currently written would allow anyone potentially to appeal that decision.

REPRESENTATIVE HOWARD: Is that a bad thing?

MS. ASHLEY: I mean, I don't know. That
has never happened. I mean that's -- We have had situations where respondents appeal a commission decision to this report. In the 1,700 complaints filed with the commission, that has happened three times. The number of complaints increase on a yearly basis. Last year we had 270. We started off the first year with 49. So this is not an issue -- a light issue that we've ever dealt with. We -- Because the number of complaints are increasing, the likelihood for this situation to arise increases, so because the law currently says a person, we wanted to try to seek some clarification. I think that if the law is left as currently written, it could mean any person.

REPRESENTATIVE HOWARD: Is there a problem with that?

MS. ASHLEY: No. And that's -- that's -- No. I mean the commission is not in -- its recommendation -- it's not saying we have a problem. We're just saying this is an area of the law that we think may create a problem. So to the extent that the legislature wishes to clarify it or limit it to just a respondent involved in a complaint or -- or the respondent and the complainant, then that's something that the commission thought --

REPRESENTATIVE HOWARD: You think the
commission would be open to having it to anyone who
represents a respondent or a complainant?

MS. ASHLEY: I think that the commission
is happy to do whatever the legislature would ask the
commission to do, and I think that this is just a -- an
area that the commission has addressed that may need
some clarification and perhaps not. Maybe what the
legislature intended was for any person to appeal a
commission decision regarding this one complaint matter,
and if that is the desire of the legislature, well,
that's really what the commission would do with the
current language of the law.

REPRESENTATIVE HOWARD: Thank you very
much.

CHAIRMAN BERMAN: Mr. Bohac?

REPRESENTATIVE BOHAC: Maybe this will
help maybe, Charlie. I don't know if this is the
direction you're going, but listening to the dialogue
here. What if it said a complainant, if any, or
respondent or agent of the complainant or respondent?

REPRESENTATIVE HOWARD: That -- She's just
looking for clarification. She doesn't have a problem
about it being in person, if that's what she --

MS. ASHLEY: Right.

REPRESENTATIVE HOWARD: If that's what we
meant. I think what you're saying is what you want to know is what -- whoever relative law, that's us at this present time, what we meant by that.

MS. ASHLEY: That's right.

REPRESENTATIVE HOWARD: And you don't really care what we meant.

MS. ASHLEY: No.

REPRESENTATIVE HOWARD: Whatever we say you're going to --

MS. ASHLEY: That's right. That's right.

REPRESENTATIVE HOWARD: -- follow.

MS. ASHLEY: And I.

REPRESENTATIVE HOWARD: You all are really good about that, so --

MS. ASHLEY: Thank you.

REPRESENTATIVE HOWARD: You are just trying to decide -- You want us to tell you what you want -- what we want you to do.

MS. ASHLEY: That's right. We just thought that perhaps this would be a good opportunity to get feedback from you before we are faced with a situation where the commission perhaps considers a complaint, dismisses it and then you have an ordinary -- you have just any person appeal that to District Court or reaches a resolution with a respondent and then
appeals that to District Court. Again, this has never happened, but it may, and so we were just trying to stay a step ahead of the situation and try to seek clarification.

REPRESENTATIVE HOWARD: Thank you.

CHAIRMAN BERMAN: I'll tell you, would you be a lot more comfortable if we clarified that in the law instead of just telling you? I think you'd like to have it in writing.

MS. ASHLEY: Yes. I think our commission would -- would prefer that.

CHAIRMAN BERMAN: Okay. Thank you very much.

MS. ASHLEY: Thank you. Any other questions?

CHAIRMAN BERMAN: No other questions. Thanks, Natalia. Is there anyone else who would like to testify on for or against House Bill 1290? Seeing none -- Mr. Macias? Mr. Macias, let me ask you a question.

REPRESENTATIVE MACIAS: Yes, Mr. Chairman.

CHAIRMAN BERMAN: I know you heard the dialogue and you heard the words of Mr. Bohac. If we just add in language concerning an agent of both the client -- the complainant and the respondent --
REPRESENTATIVE MACIAS: Yes, sir.

CHAIRMAN BERMAN: -- could you do that with a substitute or a committee substitute?

REPRESENTATIVE MACIAS: No doubt. In fact, Representative Bohac read my mind as I was getting ready for close that I'd be more than happy to address the issues that Representative Howard brought up. As we -- as we -- As we work this, we saw these options. We were looking at some sort of way to clarify. I, as the author of the bill, chose to use this option as the way to get some clarification in, so I'm more than open, Mr. Chairman, to amending this to get you a substitute that we can add this idea of the agent.

CHAIRMAN BERMAN: Complainant or respondent?

REPRESENTATIVE MACIAS: With that, I -- I close and ask you to just leave this open pending.

CHAIRMAN BERMAN: Mr. Macias, you did a great job.

REPRESENTATIVE MACIAS: Thank you.

CHAIRMAN BERMAN: As Mr. England said, we really do appreciate your testimony, and we'll be waiting to hear from you with your committee substitute.

REPRESENTATIVE MACIAS: Thank you.

CHAIRMAN BERMAN: Thank you very much.
REPRESENTATIVE MACIAS: Thank you.

CHAIRMAN BERNAN: Members, we're now going
to take up three bills. Well, before we do that, let me
take up one other bill. Mr. Anchia, are you ready with
House Bill 266? The chair calls up House Bill 266 and
calls on Representative Anchia to provide information on
the bill. Do we have any testimony?

REPRESENTATIVE ANCHIA: Thank you,
Mr. Chairman. HB266 is a very simple bill. It
acknowledges the importance of voting and giving people
the opportunity to vote, and it honors with the creation
of a state holiday, the -- the days of an election and
state-wide elections. Since it adds to the list of
state-wide holidays, every day on which an election,
including a primary election, is held throughout the
state. Texas traditionally ranks near the lowest in the
nation in voter turnout. In the 1998 midterm elections,
Texas ranked 45th in voter turnout with just 39 percent
of registered voters. In 2000, it ranked 34th with
62 percent of registered voters. Excuse me. And in
2002, it ranked 43rd out of 50 states with just
44 percent of registered voters. In 2004, it ranked
48th in terms of voter turnout. A way to increased
turnout would be to declare a state-wide holiday where
state offices were closed, and it would give the
opportunity for people to come out. The bipartisan Ford/Carter commission recommended in 2001 that Federal elections be held on national holidays in order to increase turnout, provide additional poll workers, to increase -- excuse me -- to assist at the polls. This would be a gateway to make sure we had more people available to work the polls. I know a lot of people have articulated concerns about the availability of poll workers, and this would help solve that problem. With that, I will take questions.

CHAIRMAN BERMAN: Mr. Anchia, I guess I'll start. I'm looking at the fiscal note, and I just can't believe the fiscal note when it says no significant fiscal implications to the state is anticipated. When you get the entire state off for one day, we lose a day's productivity of every single employee of the state. And they're saying that there is no -- no fiscal implication.

REPRESENTATIVE ANCHIA: Yeah. It not only says no fiscal implications to the state is anticipated, but it also says no fiscal impact to local government. So I take -- I take the comptroller's office at their word on that, Mr. Chair.

CHAIRMAN BERMAN: This comes from the legislative budget board. I may have to ask the
comptroller for their fiscal --

REPRESENTATIVE ANCHIA: I take the LBB at their word, Mr. Chair.

CHAIRMAN BERMAN: I don't. I know that we all get -- we all get paid -- as state employees, we don't get paid very much, those of us on this dais, but a state employee does get paid and when they're not working on the job, the state loses that much productivity, so there just has to be a fiscal note.

REPRESENTATIVE ANCHIA: Well, the fiscal note wouldn't -- wouldn't change because you're paying those employees anyway, but the --

CHAIRMAN BERMAN: But would not get any productivity though.

REPRESENTATIVE ANCHIA: But the net cost -- but the net cost would not be any greater than it is now, and I'm sure that's why the -- the analysis shows no -- no fiscal implication to the state because those costs continue to be those costs.

REPRESENTATIVE BURNAM: Mr. Chair?

CHAIRMAN BERMAN: Mr. Burnam?

REPRESENTATIVE BURNAM: I'd just like to ask a philosophical question of the chair. Except for possibly child protective services and adult protective services, wouldn't we be better off if there was
additional holidays and state employees weren't working?

CHAIRMAN BERMAN: Mr. Burnam, I think there's a lot of state employees that will disagree. Thank you for the question. I'll check with the comptroller because there has to be some cost of people not producing on their jobs and just staying at home. Are there any other questions, members? If not, I'll call on witnesses starting with Stephen Reeves. No testimony, shown for the bill. Okay. Start handing them over. Susan Barrick, no testimony shown for the bill. Mary Hatfield, no testimony shown for the bill. Johnnie Jones, no testimony shown for the bill. Kathryn Dean, no testimony shown for the bill. Luis Figueroa, no testimony shown for the bill. Ken Bailey, no testimony shown for the bill. Teri Sperry, no testimony shown for the bill. Mary Finch, no testimony shown for the bill. Ysidro Gutierrez -- Gutierrez, no testimony shown for the bill. Marcelo Tafoya? Marcelo Tafoya? Is Marcelo here? All right. He's shown for the bill. Dana DeBeauvoir without the gun.

MS. DE BEAUVOIR: Good evening, Mr. Chair and members of the committee. My name is Dana DeBeauvoir. I'm the Travis County Clerk, and I am representing the county and district clerk's legislative committee. So what we would like to share with you is a
couple of points that are really important about this bill. County clerks are in favor of it.

The first point that we'd like to make is we just get all aflutter at the idea of all of those wonderful state employees and banking employees and, you know, all of those folks who might be able to work the election. That's -- That's a very exciting crop of people who recruit. We're thrilled with that. But more seriously, I think we're reaching a point where we're going to have to contend with an issue that's evolving, and the issue that I'm referring to is many, many of our polling places are, in fact, public schools.

The public schools are crowded for space. It's often difficult to have the polling place itself with its workers plus the voters coming in, plus the teachers, plus the children, and there has been growing concern about mixing the population, especially smaller children, middle school aged children, with just incoming voters. And I -- I -- we -- we kind of sympathize with parents who are concerned that, just the general public in a precinct just walking into a school that day. If the schools were closed because it's a holiday, then we could have that separation between the children and the voting population. And, also, we would have facilities that would be much larger and could much
more accommodate what is also becoming an issue of long
lines forming, especially late in the day at the polling
place.

While our turnout might not be great
compared to other states, we certainly do experience
lines especially forming late in the day. So we would
just like to make that point to the committee that
separating the children from the voters might be
something we really should think about.

CHAIRMAN BERMAN: Do you think
superintendents would want to close their schools six
extra days a year?

MS. DE BEAUVOIR: We'll be glad for just
one extra day a year, if I could just have one. I don't
know. I don't have a position for -- for the school
boards. We do indeed need to ask them.

CHAIRMAN BERMAN: I didn't think you did.
MS. DE BEAUVOIR: I did suggest that we
would want to work and talk with -- with them.

CHAIRMAN BERMAN: Mr. Bohac?
REPRESENTATIVE BOHAC: Dana, how are you?
MS. DE BEAUVOIR: I'm doing great. Thank
you.

REPRESENTATIVE BOHAC: Welcome to
elections this year.
MS. DE BEAUVOIR: Thank you. I see new faces here.

REPRESENTATIVE BOHAC: Good to see your smiling face again.

MS. DE BEAUVOIR: Thanks.

REPRESENTATIVE BOHAC: Just real quick, really voting now is already a season. It's really not just an election day anymore. In fact, what are the statistics in your county of folks who do go vote early?

MS. DE BEAUVOIR: Oh, it's about 50/50. About half of my voters will take advantage of early voting.

REPRESENTATIVE BOHAC: And do you see that increasing year over year as people become more accustomed to early voting?

MS. DE BEAUVOIR: I think that statistic varies from county to county depending on the kind of program you run and how many polling places you have. But, yes, certainly as people have gotten accustomed to the convenience of early voting, it does seem to be very popular.

REPRESENTATIVE BOHAC: And then, secondly, as -- as we move to what I hope is more to the super precinct concept, that also makes voting easier as well. And I'm just trying to balance the need between making
the polling locations available for more than just one
day, but, also, not asking the state and other companies
to necessarily take the cost of -- of giving people a
holiday. I think there's -- that's kind of old school
thinking. I think new school thinking is perhaps moving
more towards the super precinct concept and, also,
educating voters that voting is a season. It's no
longer a day.

So for us to argue that voting is just a
day and people don't have any other day to go vote when
they have weekends and evenings, and, I mean, truly
early voting is a season. Perhaps our job is to just
make sure people are as educated as they can be that
voting is no longer a day. That may be the better route
to go. I'm just kind of thinking along those lines.

MS. DE BEAUVIOR: Representative, we
concur with your concerns about the number of days, and,
you know, how we might perhaps not have to deal with an
additional cost so much as a lost productivity. It
seems like the question is a different question.

But I am so glad you brought up the idea
of super sites because we're going to run into a
problem. What's happened with super sites is they're
gaining in popularity. It looks like it's going to be a
terrific tool for the future. However, for the inner
city, older parts of town, the dense, you know, center city parts, it is going to be very difficult to find a suitable structure that will hold enough people to be able to serve as a super site. We promised Wal-Mart. We can't very well deliver a 7-Eleven. It's just not going to work, and, certainly, Colorado felt the bite of that problem.

If we were to be able to use the schools though, then we don't have to worry about -- some parts of town have good infrastructure, some don't. The school's very equitably distributed, and we would have that facility and perhaps the entire school doesn't have to shut down. Perhaps only if we were going to super sites, just the gymnasium or something large like that. We appreciate this tie-in with super sites.

REPRESENTATIVE BOHAC: Sure. And not to get off on a rabbit trail, I mean, that will be a discussion for a different day on this committee that -- the super precincts, but I think your point is well taken. It's not just a direct cost of paying the labor force at all. There's the -- There's the indirect cost of lost productivity, so this would be a huge financial impact. I don't know if I much agree with the -- the LBB's concept of no fiscal impact to the state. I would have to look at the way they're measuring that. Maybe
just direct cost, but there's certainly some substantial indirect cost in terms of lost productivity that would have to be -- that would be paid for by somebody, and I just think about elections being a season.

Now, this may not be as forward thinking as it is. I think we just -- we just need to look -- I think the super precinct concept and then the election season is addressing what -- what this bill is attempting to solve.

CHAIRMAN BERMAN: Members, witnesses, before we go on, I want to caution you, we have three major bills that are coming up in just a few moments, and I want to ask that when you testify, don't repeat what other witnesses have said. We have it all on tape and on television. Just please add anything new that you want to add. Dana -- Oh, I'm sorry, Mr. Anchia. Did you have --

REPRESENTATIVE ANCHIA: Yeah. Just really quickly in response to Mr. Bohac's and Mr. Burnam's concern. I wasn't crazy -- I actually did take the comptroller out there. What I have before me dated January 29, 2007, the comptroller public accounts fiscal note estimate which says that this bill -- let's see -- this bill would have no fiscal impact on the state or units of local government.
So in addition to LBB, we have a determination by the comptroller of public accounts and their fiscal note estimate dated January 29, 2007 that it would have no fiscal impact on the state or units of local government. This bill would have no effect on the state's cash flow. There would be no administrative cost to the comptroller's office, and their methodology said because state agencies are required to maintain sufficient staff on duty to conduct business during state holidays, state agencies and institutions of higher education would continue to function on these election days, thereby, allaying some of the concerns both the chairman and the vice-chairman have with respect to this. I wanted to read that into the record before we wasted too much time thinking about those concerns.

And, Mr. Bohac, you pointed out that we don't -- in addition, during the testimony, you pointed out that we do not want to require companies to do things. This bill does not require companies to do anything. Companies can choose one way or the other whether they want to stay open or closed, and I just want to make that clarification before Ms. DeBeauvoir finished her testimony. Thank you.

CHAIRMAN BERMAN: Thank you, Mr. Anchia.
You haven't relieved my concerns. When you allow a whole staff of people to go with a payroll of a half billion dollars in doing absolutely nothing but going to the polls, a half billion dollars worth of productivity is wasted, I'm sorry to say, and I'll be speaking to the comptroller about that and, also, to the legislative budget board, but let's not — let's not —

REPRESENTATIVE ANCHIA: Well, I'd just like to point out entire staffs would not be sent to the polls. It would say —

CHAIRMAN BERMAN: I didn't say that.

REPRESENTATIVE ANCHIA: It would say state -- And I'm reading from the comptroller, and, again, I take them at their word. State agencies are required to maintain sufficient staff on duty to conduct the business of the state during state holidays. State agencies and institutions of higher education would continue to function on these days.

CHAIRMAN BERMAN: Thank you. Thank you, Dana.

MS. DEBEAUVOIR: Thank you very much.

CHAIRMAN BERMAN: The chair calls Will Harrell. Mr. Harrell, are you here? Mr. Harold indicated no testimony for the bill. The chair calls Suzy Woodford. No testimony for the bill. The chair
calls Ray Martinez.

MR. MARTINEZ: Thank you, Mr. Chairman.

Ray Martinez with the Texas Conference of Urban Counties. We are neutral on this bill. Mr. Chairman and members, there is -- not a fiscal notification to local governments has been discussed already. I would simply amplify -- and I know that we're not supposed to repeat previous testimony, but, obviously, the -- the job of being a poll worker is increasingly complex, and we need bilingual poll workers. We need poll workers that are comfortable with technology. Any time there is a new pool of potential poll workers, we're -- as a county government, we're certainly excited about that possibility.

CHAIRMAN BERMAN: Questions, members?

Thank you.

MR. MARTINEZ: Thank you, Mr. Chairman.

CHAIRMAN BERMAN: The chair calls Bruce Galloway. Bruce, welcome.

MR. MARTINEZ: Mr. Chairman and members, I'm opposed to the bill for a couple of reasons. Number one, I think your down pressure on your employers is going to be fierce. Well, the state employees are off. We need to be off, and now you are going to cost everybody a lot of money. I don't think it's fair. I
don't think it's fair for you to pressure them and
that's what's going to happen.

Now, in regard to the schools closing,
this is a lot of nonsense. I have been an election
judge since 1980. We've held it at University Park
Elementary School every time, and we have never had a
problem. We have never had an issue. The school makes
money because they have bake sales and they have about
1,800 people to buy all this stuff. They bring the kids
down by classes, and we let them observe the election
process. What a better learning tool can we have? The
bill just -- we don't need this bill.

CHAIRMAN BERMAN: Bruce, before you leave,
will you state who you represent?

MR. MARTINEZ: Myself.

CHAIRMAN BERMAN: Thank you. Members, any
questions? Hearing none, the chair calls Bill Borden.

MR. BORDEN: Mr. Chairman, I'm -- I'm
going to be brief.

CHAIRMAN BERMAN: State your name.

MR. BORDEN: I'm Bill Borden. I represent
myself.

CHAIRMAN BERMAN: Okay.

MR. BORDEN: I oppose the proposal, I
oppose the bill, and I don't have anymore to say. Thank
you.

CHAIRMAN BERMAN: Thank you. The chair calls Nathanael Isaacson. Mr. Isaacson?

MR. ISAACSON: I have no testimony, but I just want to be on the record.

CHAIRMAN BERMAN: The record is being for the bill?

MR. ISAACSON: Right. (Inaudible.)

CHAIRMAN BERMAN: Okay. Thank you very much. The chair calls Paula Littles.

MS. LITTLES: I'm going to -- I promise, Mr. Chairman, that I will not repeat to what anyone else has said. My name is Paula Littles, and I'm with the Texas AFL-CIO, and we represent the very hard working state employees in the State of Texas. They are one of the unions that are affiliated with the Texas AFL-CIO, and I indeed feel as if they're very hard working people. We support this bill for a number of reasons.

One is, we generally believe that election day is a holiday, even if it is just for the state employees, will indeed increase voter participation in the state. Unfortunately, we do have quite a lot of avenues for people to vote early, and since that has occurred, the very unfortunate thing about that is it has really not increased our voter participation in the
state. We -- It is our opinion that we have to look at every mechanism possible to increase people coming to the polls and participating in the one thing that should be important for everyone in this room as well as every person in this country.

And just a little history. The reason that election day is in November is actually because when Congress looked at it, they realized that they needed to pick a time when the harvest was in and that people weren't working, so that they actually could go and vote. And that is the reason election day is in November, and I won't go into why it was picked that day, but I basically felt compelled to speak instead of just saying I was in favor of the bill. And are there any questions? And thank you for your testimony.

CHAIRMAN BERMAN: Thank you so much for your testimony. The chair calls Sonia Santana.

MS. SANTANA: I don't have any -- I won't testify, Mr. Chair, but I would like to say that I'm speaking for ACLU Texas. No testimony.

CHAIRMAN BERMAN: All right. Thank you.

The chair calls Mary Ann Collins. Mary Ann, are you here?

UNIDENTIFIED SPEAKER: She had to leave.

CHAIRMAN BERMAN: All right. Mary Ann is
shown against the bill. No testimony. The chair calls
Ken Flippin. No testimony for the bill. The chair
calls Mr. Champion. Mr. Champion, are you here?
Mr. Champion will be shown for the bill. The chair
calls Skipper Wallace. Mr. Wallace, state your name and
who you are with, please.

MS. LITTLES: Skipper Wallace. I
represent the Texas Republican County Chairmans
Association. We oppose this bill, and I understand what
you have from the comptroller's office, and I think that
they need to go back and look at their figures. I was a
city manager for 14 years, and every time the state took
a holiday, the city took a holiday, I didn't get the
trash picked up. I didn't get the roads paved. I
didn't get anything else done, and it had to be done
sometimes, so we did it on overtime or we worked extra
days, and the counties do the same thing. When the
state declares another holiday, the county gets another
holiday. They don't get any work done. It may not be
in dollar cost, but it's in productivity which equates
to cost. Any questions?

CHAIRMAN BERMAN: Thank you. Any
questions, members? Thank you, Mr. Wallace. We have
Ann McGeehan here from the Texas Secretary of State's
Office. Anyone like to hear Ann, please?
MS. McGEEHAN: Ann McGeehan with the Secretary of State's office.

CHAIRMAN BERMAN: Mr. Burnam?

REPRESENTATIVE BURNAM: Thank you, Ann. I'd like maybe the three and a half minute version of the growing difficulty in recruiting people to work what in essence is a minimum of 14 or 15-hour workday and what this might gain us in the ability to conduct our elections all across the state.

MS. McGEEHAN: Well, because the state doesn't recruit election workers, I can only speak to what I've heard anecdotally --

REPRESENTATIVE BURNAM: Right. I understand.

MS. McGEEHAN: -- from the counties and cities, and I think some communities have a harder time finding folks to work the polls than others. It's definitely a problem, but folks that work the polls tend to be -- are older citizens, and it's been repeated to me that counties have had a hard time getting people interested.

REPRESENTATIVE BURNAM: Is that a worse problem in the urban areas maybe?

MS. McGEEHAN: I really don't know.

REPRESENTATIVE BURNAM: I know it's been a
A growing problem in Tarrant County, and I really hadn't thought about this until we heard other testimony, but we are having a growing problem in recruiting enough people to work it, and this would certainly be a savings for us.

CHAIRMAN BERMAN: Ann, thank you very much.

MS. McGEEHAN: Thank you.

CHAIRMAN BERMAN: Is there anyone else who wishes to testify on, for or against House Bill 266? Hearing, none, Mr. Anchia to close.

REPRESENTATIVE ANCHIA: Thank you, Mr. Chairman, and, once again, thank you for giving me the opportunity to lay out these bills in committee. I appreciate you working with me on -- in proving these bills and just -- just want to speak to a question that was asked earlier by the chair or a comment, I guess, that was made where it was articulated that there might be six extra days. The reality is that there would only be two pursuant to this bill, a day on which the primary's held and a day on which the general election is held and that's stated at the bottom of the bill in Section 662.033B9, which would be the new section which reads, "Everyday on which an election, including a primary election, is held throughout the state," so this
would be state-wide elections which typically happen in November and the primary election. So I just wanted to clarify that for you. It would not be, in fact, six extra days, but, rather, only two days.

Once again, I reiterate that the fiscal note from the LBB and from the comptroller's office, whichever the only two sources that we have to rely on, show no impact. The reality is that despite the suggestions by witnesses to the contrary, is that this only impacts the state, does not impact business, does not impact local government, and in its requirement to have a day off to the extent the local governments felt pressure, they could elect to do one of two things. Either declare the day off for their local either employees, if it's a private corporation, or public employees, if it's a municipal entity or not. And that would be -- that would continue to be within their purview.

This only affects state employees, and as we suggest -- as we discussed earlier, the methodology used by the comptroller's office in their fiscal note estimate points out clearly that because state agencies are required to maintain sufficient staff on duty to conduct business during state holidays, state agencies and institutions of higher education would continue to
function on these election days. And I close,

Mr. Chair. Thank you.

REPRESENTATIVE BURNAM: May I ask?

CHAIRMAN BERMAN: Yes, Mr. Burnam.

REPRESENTATIVE BURNAM: Mr. Anchia?

REPRESENTATIVE ANCHIA: I'm not taking any further questions. No I'm kidding. I'm kidding.

REPRESENTATIVE BURNAM: I'm noticing that the way it's stated, it's election day and primary election, so it doesn't even include runoffs the way it's worded.

REPRESENTATIVE ANCHIA: That's correct.

REPRESENTATIVE BURNAM: And so we're really talking --

REPRESENTATIVE ANCHIA: It's only for state-wide on a day in which elections are conducted state-wide.

REPRESENTATIVE BURNAM: And we don't know for sure. There may be runoffs in certain places, and I understand. So what we're really talking about is two days out of the two-year budget cycle for the state.

REPRESENTATIVE ANCHIA: Well, I don't know if it's only two days in the two-year budget cycle because there may be a November election, a constitutional election in off years that would also be
covered by this.

REPRESENTATIVE BURNAM: So there could
be --

REPRESENTATIVE ANCHIA: A third. There
could be a third.

REPRESENTATIVE BURNAM: -- three in the
two year cycle.

REPRESENTATIVE ANCHIA: That's correct, sir.

REPRESENTATIVE BURNAM: Thank you.

CHAIRMAN BERMAN: We're going to change
the procedure just a little bit. I'm going to call up
each of the authors of the bills on identification and
let them lay out their bills and then we'll hear
witnesses testifying on all three bills. So, at first,
I will call -- call up House Bill 218 and call Chairman
Betty brown to lay out House Bill 218, and I'll call
Chairman Phil King to lay out House Bill 626 and then
Representative Riddle to lay out House Bill 101. Betty,
it's good to have you.

REPRESENTATIVE BROWN: Thank you,
Mr. Chairman. Appreciate your giving me this
opportunity. There's been so much said about voter
registration, and so I'll try to make this very brief
and not repeat anything else. There are presently --
there are -- There are no statutory standards to verify the identity of individuals at the polling place when they present a voter registration certificate. HB218 modifies provisions requiring a voter to present proof of identification when offering to vote. The bill requires that in offering to vote, a voter must present either one form of photo identification or two different forms of non-photo identification. If the person fails to meet these standards, they may still vote upon completion of a provisional ballot affidavit.

HB218 adds proof of identification to the existing qualifications required for our provisional ballot to being accepted by the early voting ballot board. Voting is the most important right in America. And as I have said before, I consider this a very personal thing because I think when someone votes who's not qualified and shouldn't be voting, it diminishes the rights that the rest of us have and this great privilege that we have to vote.

The government requires voters to register before receiving a ballot, therefore, verifying the information they provide on their registration application is not a measure designed to prevent any citizen from voting. It is instead a measure designed to keep illegal aliens, noncitizens and people otherwise
not qualified from voting and diluting the legitimate votes cast by citizens. So that pretty well covers what my bill addresses. I could go into a lot of instances that I've seen happen at the polls because I've worked a lot of elections myself, but I will save that for another day.

CHAIRMAN BERMAN: I will allow members to question. Do you have a question?

UNIDENTIFIED SPEAKER: Yes.

CHAIRMAN BERMAN: Lon?

REPRESENTATIVE BURNAM: Thank you, Chairman Brown, in your closing comments just then, you mentioned a concern about illegal aliens and noncitizens voting. They can't register to vote at this, time can they?

REPRESENTATIVE BROWN: All it takes to register to vote if you are a noncitizen is to check a box. It presently is not -- there's no one verifying that that person is a citizen. There's a little box that says check here if you're a citizen, and so that's all it takes. We know that this is happening, that people are registering to vote because they're showing up in the jury pools. As people are called in, you know, those people who are called in to serve on a jury are taken from the registered voter list, right?
Representative Burnam: No. I thought they were taken from the driver's license list. Back when you first learned that fact, that was true.

Representative Brown: Okay.

Representative Burnam: But that's one of those facts that has changed over time.

Representative Brown: Okay. Let's say it's from the driver's license list. There are still people showing up to serve on juries because they've been summoned, and when they get there admit that they're not citizens because as, again, when you go to get a driver's license, all you have to do is say yes, check a box or whatever, and say you're a citizen or if it's even asked.

Representative Burnam: I don't believe it's asked --

Representative Brown: Okay.

Representative Burnam: -- in acquiring a driver's license. I don't believe you have to indicate your citizenship status.

Representative Brown: Okay. So you --

Representative Burnam: So -- So in the jury pool, you are in increasing numbers --

Representative Brown: Assumed.

Representative Burnam: -- going to be
drawn from a population base that -- with noncitizens
because --

REPRESENTATIVE BROWN: Correct.
REPRESENTATIVE BURNAM: -- because we made
a conscious decision to change where we draw our jury
pool from. We used to do it from the --

REPRESENTATIVE BROWN: Okay.
REPRESENTATIVE BURNAM: -- registered
voter list.

REPRESENTATIVE BROWN: And my story --
REPRESENTATIVE BURNAM: -- and it was
determined that --

REPRESENTATIVE BROWN: -- came from a
judge -- a court at law judge who shared with me that
they had more and more people showing up because they've
been summoned to serve on juries --

REPRESENTATIVE BURNAM: Right. So but --
REPRESENTATIVE BROWN: -- and assuming
they were -- they were citizens and they weren't.

REPRESENTATIVE BURNAM: You know, we all
learn things at different times, and it's amazing to me
how many people in our community are in responsible
positions and they don't know that we've changed that.
A number of years ago, I think it's been over
10 years -- There's a reason why we draw the jury from
the driver's license pool because, frankly, you were
having people not registering to vote because they
didn't want to risk this responsibility of citizenship.
We wanted to be able to capture a larger audience of
eligible people serve. Unfortunately, which is -- we
had a growing population that has both a driver's
license and are not citizens, so it's -- really, isn't
it up to the responsibility of the court administrators
to distinguish between those who are eligible to serve
on a jury and those who simply have a driver's license?

REPRESENTATIVE BROWN: What we need is
people to have to prove citizenship in order to register
to vote, but that's not going to happen immediately.

REPRESENTATIVE BURNAM: Okay.

REPRESENTATIVE BROWN: I hope that -- this
session, but immediately, we could have in our very next
election requiring our citizen -- our registered voters
when they show up to vote to prove they are who they say
they are, and that's not difficult to do.

REPRESENTATIVE BURNAM: But the example of
the problem that you've offered up is not accurate, am I
correct? The problem that you offered up is related to
jury pools, not related to people that are going to
vote.

REPRESENTATIVE BROWN: You may be true --
That may be true.

REPRESENTATIVE BURNAM: I believe it is, and what can I say?

CHAIRMAN BERMAN: Mr. Burnam, if I may intervene, driver's licenses are controlled by DPS and our voter registration is controlled by counties and the district clerk who actually calls juries, and I still believe that they're called by voter registration card, and I think Mr. King has a comment on it.

REPRESENTATIVE KING: Yeah, and it is kind of confusing and Lon is right. About six years ago, they did decide -- six, seven years ago, they did decide that you could use driver's licenses as a jury pool, but it was never deleted that you could also use the registered voter, so most counties draw from both. They will have a registered voters' pool and it's merged with a driver's license pool, and they will draw from both.

There was just a Supreme Court special task force that looked -- that looked at this for the state bar. In fact, the ABA has had a recommendation out that you merge as many lists as possible from which to draw so you get a larger jury base, and the -- the Supreme Court just had a task force that has come out and recommended, if I understand it right, full merger votes for every county so that you're drawn from...
driver's licenses and from voter registration, but, currently, it is still law that you can draw from both and many, if not most, counties do that.

REPRESENTATIVE BROWN: Well, that explains why my county court at law judge -- I know it's been less than two years ago that she shared that story because that increasingly they were seeing these people show up that say I don't know why I was summoned.

REPRESENTATIVE KING: And, in fact, in Bexar County in between 2003 and '05, they had 41 different instances where people came from jury service and it was identified that they were not a US citizen, but they were a registered voter and that's what had drawn them there. There were 300 -- actually, were 300 instances of people being registered that were not yet citizens. 41 of those were discovered at jury duty and from the registered voting, but the voters registration --

REPRESENTATIVE BROWN: Well, this is a privilege that should be protected.

CHAIRMAN BERMAN: Thank you Chairman King. Any other questions, Chairman Brown? Yes. Mr. Anchia?

REPRESENTATIVE ANCHIA: Just a technical question. You said voting is a privilege. Is it not a right?
REPRESENTATIVE BROWN: It is a right.

REPRESENTATIVE ANCHIA: Okay.

REPRESENTATIVE BROWN: But I also consider it a privilege, absolutely.

REPRESENTATIVE ANCHIA: Okay. Thank you. Be.

CHAIRMAN BERMAN: Okay. Thank you, Betty.

REPRESENTATIVE BROWN: It's a right for a citizen, and it should be for a citizen only.

CHAIRMAN BERMAN: Thanks, Betty.

REPRESENTATIVE BROWN: Thank you, Mr. Chairman. Thank you.

CHAIRMAN BERMAN: The chair lays out House Bill 626 and calls on Chairman King to present the bill.

REPRESENTATIVE KING: Thank you. Thank you, Mr. Chairman and members. My bill's probably a lot like Betty's. In September of 2005, the bipartisan Carter/Baker commission on election reform issued a big long report -- I've got a copy of it here -- entitled Building Confidence in Elections, and it made a number of recommendations, and HB626 drives a fork right to those recommendations for Texas. One is to require a confirmation of US citizenship at the time you register to vote and the second is to require a photo ID at the time that you are voting.
I mean, clearly, the fraud of noncitizens participating in our election system flies in the face of both the US constitution and the Texas constitution which reserves that right to vote only to citizens, and, moreover, on election codes, state election code requires you to be a US citizen to vote.

In a couple of -- We looked to see for a couple of examples where this was occurring, and I know on June 22nd, 2006 in Harris County, the tax assessor/collector and voter registrar testified before the US House Administration Committee that in 2005 he identified at least 35 foreign nationals who either applied for or -- or received voter registration cards. More concern between 2003 and '05 -- I misstated this a minute ago, and I apologize Mr. Burnam.

In Bexar County, 303 people were removed from the voter rolls in Bexar County because they were not US citizens, and before being canceled they found that 41 of those had actually cast ballots in bond elections, runoff primaries and general elections that were not US citizens. Sometimes say, well, but it's such a small number. Does that really make a difference? And, you know, I just draw your memory back to the Talmadge Heflin/Herbert Vo election, which Herbert Vo -- sorry -- a year ago election which was
held here, and we had an election contest that rose all
the way to the level of the Texas House. That election
was decided by 33 votes initially, and if I remember
right, after the house review and dropping down to, I
think, 30 votes difference, so every vote counts.

Also, Todd Baxter and Kelly White in a --
in a primary -- neither one of them are with us, but in
a primary there was out of 34,000 votes cast Republican
and approximately 34,000 votes Democrats, almost 70,000
votes, the election was decided by a mere 147 vote
difference.

REPRESENTATIVE BURNAM: You meant in a
general election?

REPRESENTATIVE KING: In a general. I'm
sorry. Did I say primary? I'm sorry. I wish primaries
would elect it, but, anyhow, 147 votes out of almost
70,000, and so every vote does count. We saw on our own
last election cycle how most of the races -- how some of
the races were.

HB626 proposes to require citizenship
verification starting on all new registrations that take
place after September '07. Verification will be done by
submission of either a certified copy of a birth
certificate or US passport being submitted with
registration application. Currently, the DPS doesn't
check citizenship when issuing a driver's license as
Mr. Burnam pointed out, but effective January '08, when
the Federal Real ID Act applies to Texas, the DPS will
begin verification of citizenship when you get your
driver's license and that will in essence require
citizenship to register to vote under our motor voter
statute already in place, will also provide anyone
that's taking registered voters with an automatic way to
verify citizenship when they are registering someone,
simply check their -- their Texas driver's license which
most -- most Texans of voting age have.

Additionally, as recommended by the
Carter/Baker commission, HB626 would require voters to
show a picture ID when they appear to vote and
implements it in such a manner that it will avoid the
legal challenges that other states have faced in
implementing the recommendation. The requirement to
show a picture ID under 626 for -- will not require a
specific type of ID. I think that IDs are just a part
of our society today at all levels for simple
transactions. It's prevalent throughout any commerce in
our society. For example, you have to show an ID to
rent a DVD, to check out a library book or an airplane,
buy tobacco. Even to join a retail Sam's Club you have
to have some kind of ID that you show, and I think it's
and to purchase certain cold medications, now you have got to present a valid ID, and I think it's -- if -- if voting as -- it rises at least to the level of buying a decongestant at the drugstore in terms of determining who someone is.

CHAIRMAN BERMAN: I think that was my fault, Chairman King.

REPRESENTATIVE KING: I do --

CHAIRMAN BERMAN: House Bill 163.

REPRESENTATIVE KING: I -- My Drixoral is still a issue, but I forgive you. Our election system cannot inspire public confidence if no safeguards exist to deter or protect fraud or to confirm the identity of voters. Bottom line, this is a recommendation of a bipartisan commission. It incorporate in a manner that is legally defensible. It simply requires proof of citizenship when you register to vote and then -- and simply requires a Voter ID of some type when you come to vote.

CHAIRMAN BERMAN: Members, questions?

Mr. Bohac?

REPRESENTATIVE BOHAC: Phil, I have a question for you. Are you aware that Alabama, Arizona, Colorado, Delaware, Florida, Georgia, Kentucky, Louisiana, Hawaii, Montana, North Dakota and South
Dakota all require proof of identification to vote and that the voter registration card is not considered an acceptable form of ID?

REPRESENTATIVE KING: Do tell.

REPRESENTATIVE BOHAC: Well, they are. My point is that we would not be -- this is not new ground-breaking land that we're treading on, so I think we'll be joining the company of other states, and, by the way, of the -- of the states I just mentioned, six of them are covered by Section 5 of the voting rights act. So, anyway, I think -- I think Voter ID is a good bill.

REPRESENTATIVE KING: I was very concerned about this being legally defensible, and -- and I relied a lot on my chief clerk and general counsel in the regulated industries committee who is formerly the general counsel to the Secretary of State and knows the -- knows the election law backward and forward, and we spent a lot of time under his consultation with -- and he actually drafted this bill initially, and, in fact, he probably would be a good expert witness if anybody wanted to call him up here. But -- But I'm convinced it's legally defensible. We've looked at the other places where there have been challenges around the country, and we believe we have -- we have drafted
around those.

CHAIRMAN BERMAN: Members, any other questions? Mr. Anchia?

REPRESENTATIVE ANCHIA: Mr. -- Mr. -- Chairman King. Excuse me. Thank you for bringing this bill to the committee. I noticed one thing that was interesting in your testimony. You said this would only apply to new voter registrations.

REPRESENTATIVE KING: Right.

REPRESENTATIVE ANCHIA: Can you -- Can you talk about that and just point out to me in the bill where that is?

REPRESENTATIVE KING: I'll have to read where it is, but it -- oh, it would be the effective date portrayed here. Okay. I think -- I think the logic works like this. You do not have to present proof of citizenship until you register beginning 2007, so there is no requirements date. Any time anybody registers after September 1st, 2000 -- Sorry it took me a while to get this. Any time anyone registers after September 1st, 2007, when they go to register, they -- they are going to have to present a -- a valid proof of citizenship.

REPRESENTATIVE ANCHIA: Okay. I -- I thought -- I thought the -- the new voters related to
people being grandfathered in who have, for example, previously --

REPRESENTATIVE KING: For example, you'll never have to show unless you've got a reregistered voter -- If you have to register to vote again, you'll have to still prove citizenship.

REPRESENTATIVE ANCHIA: But I thought this related to the Voter ID requirement that people who have been previously registered, by the time certain would not have to present Voter ID at a -- at a polling location. That was my understanding of -- of --

REPRESENTATIVE KING: If -- Two parts. If you register to vote after September 1st, 2007, you got to show proof of citizenship. Hopefully that will be by simply showing your driver's license under the Real ID Act.

REPRESENTATIVE ANCHIA: Right.

REPRESENTATIVE KING: When you go to vote, you are going to have to present your voter registration card as we all do, and along with it some form of photo identification.

REPRESENTATIVE ANCHIA: Do you have to present both or can you just present a -- a --

REPRESENTATIVE KING: Well --

REPRESENTATIVE ANCHIA: -- a picture ID?
REPRESENTATIVE KING: You would have to present a picture ID. Now, we all know that if you don't have your Voter ID there, they'll let you show your driver's license today, just some form of photo ID to show who you are, and I'm assuming that was to continue.

UNIDENTIFIED SPEAKER: (Inaudible.)

REPRESENTATIVE KING: But if -- But if you appear and you have your photo ID, as you always have, you'll be able to vote.

REPRESENTATIVE ANCHIA: One of the --

REPRESENTATIVE KING: What you are supposed to do is present your voter card registration, and then if you don't have your registration today, they'll check your photo ID.

REPRESENTATIVE ANCHIA: Would you be --

Would you be amenable to an amendment to the bill that would grandfather people in from having to show a photo identification, for example, people who are used to voting just with their voter registration card for 30, 40, 50 years?

REPRESENTATIVE KING: No.

REPRESENTATIVE ANCHIA: Okay.

REPRESENTATIVE KING: I just think that --

and I -- And I appreciate the -- where you're coming
from, but I -- a photo ID in 2007, some form of photo
ID, is just required for everything. And I think it's a
very, very, very small thing to ask if someone wants to
exercise the amazing right we have to votes. I just
think it's a very small sacrifice to have to get one, if
you don't -- if you don't have one, which is rare in and
of itself.

REPRESENTATIVE ANCHIA: We'll probably
hear testimony today that upwards of about 2 million
Texans are in a position that they don't have it, but I
do appreciate --

REPRESENTATIVE KING: Is a fact that is
greatly in dispute.

REPRESENTATIVE ANCHIA: Okay. Okay. And
one final question. One of the things with respect to
proving citizenship that is -- it's just difficult. And
I like you in trying to balance sort of expansion of the
franchise versus integrity of the system. I think
that's your goal in doing that in this bill, and in --
in requiring people to prove citizenship when they
register to vote, I worry that -- that the laundry list
of things that you have here, the three things
specifically, would make it difficult for people to
register. I don't -- I tend to think that people
usually don't carry around their passport, their --
their birth certificate or citizenship papers. I would venture to say that that's probably the exception rather than the rule. Do you worry at all about curtailing the franchise?

REPRESENTATIVE KING: No. In fact, I had -- you know, I just got went through losing my Social Security card, and I had to go get a birth certificate to -- to even get a Social Security card. And if someone can get a Social Security card and it's required to have a birth certificate, it's not that much more difficult to have one available when you register to vote.

REPRESENTATIVE ANCHIA: But you think people carry them around like when they go and get --

REPRESENTATIVE KING: No, but, you know --

REPRESENTATIVE ANCHIA: -- and -- and get registered to vote at voter registration drives and stuff like that?

REPRESENTATIVE KING: No. But, you know, I didn't carry mine around when I had to get a Social Security card, but I needed to go get a Social Security card, so I went and got a birth certificate, which is really easy to get from your county clerk's office now because they just -- you just give them your name and they print it out. It's not a search and find thing,
and, you know, just like I had to go get a birth certificate to -- to get that Social Security card, and I had to get one to get my passport a while back. I've got to go get a -- get a birth certificate to register to vote. It's a minor thing.

Representative Anchia: Okay.

Chairman Berman: Members, any other questions? Chairman King, thank you.

Representative King: Thank you, and for better or worse, my Republican women are in town tonight, and I was supposed to be at dinner with them a little while ago, and if you don't mind, I will go ahead and leave and then would you mind closing for me?

Chairman Berman: I'll be very happy to do that.

Representative King: Thank you, Chairman.

Chairman Berman: Thank you. Sorry we've kept you this long. The chair calls -- calls up House Bill 101 by Representative Riddle, who's had a very busy day today.

Representative Riddle: Thank you, Mr. Chairman and members of the committee, and I think that we've all had a very busy day today. House Bill 101, we're talking about Voter ID, and we've got three bills before us, all of which are quite similar.
I would like to start out by saying that I've got a ton of anecdotal stories I'm not going to tell my husband who is chairman of the Ballot Security Committee or the Harris County Republican party for a while, and we do need ballot security. In 1989, the US Supreme Court wrote that, "A state indisputably has compelling interest in preserving the integrity of its election process." This is the basic purpose behind House Bill 101. The attempt to protect every citizen's right to vote. The operative word here is citizen. The other operative here is right. I would also add privilege.

Of course, throughout the process it is important to make sure that no one is disenfranchised by the voting process. It may be slightly less convenient, but the power of the vote is worth protecting and it is certainly worth taking 10 minutes to find the proper ID to go before you vote.

I would like to add as a daughter of a Marine that there are those who have fought and died and continue to fight and die for our freedom to vote. It would be disrespectful to their courage and to their memory if we allow our ballot box to be compromised, and I don't apologize for the passion that I feel regarding that.
This bill does two things. First, it requires that you must prove citizenship when you register to vote. Ways to prove citizenship, one, provide copy of a birth certificate. Again, not hard to get. US citizenship papers and unexpired US passport issued to the applicant. Second, it says that in order to vote, you must submit one form of photo ID or two forms of non-photo ID. Let me give you a few examples of photo ID. Driver's license, can even be from an out of state if it's valid and unexpired, a military ID, employee ID card that has your picture on it, US certificate that contains the person's photograph, student ID with a picture on it, concealed handgun license and others.

The bill also mandates that the DPS issue a free photo ID for those who sign an affidavit saying that they are indigent. If they're registered to vote, are they eligible to be registered to vote. If you don't have your ID, you can still submit a provisional ballot and that ballot will be counted and confirmed if you provide proper ID to register within a 5-day period.

Other states have similar laws. 19 states currently have laws requiring either a -- a photo ID or a non-photo ID to vote. Arizona is one of them. Two states, Florida and Indiana, have states mandating only
a photo ID. Georgia and Missouri have both had their ID laws struck down. However, Georgia's was because they charged for their ID and that was an obvious oversight that we here in Texas have corrected. It was considered tantamount to a poll tax. But that is not going to be a situation in any of the these -- three bills which are going before you.

Arizona's law was enjoined by the Ninth Circuit Court of Appeals that they issued no finding or reasoning, and as a result, the US Supreme Court -- they headed that ruling. US Supreme Court did not make any final decisions on the issue, but they did seem to indicate that they felt like Arizona's law provided plenty of outs for those who did not have a photo ID and our bill does the same. Our bill is actually patterned after Proposition 200 in Arizona.

It also is basically patterned after the bill that our good friend State Representative -- former State Representative Mary Denny presented last session. My bill replicates her bill to a large extent with the various amendments that she accepted to that bill. I feel like that her bill was quite a good one, and I think that it is incumbent on us as elected officials to preserve the integrity of our ballot box, and it would be irresponsible to allow that ballot box to -- to be
compromised in any way. That has everything to do with our freedoms.

CHAIRMAN BERMAN: Members, any questions?

Mr. Bohac?

REPRESENTATIVE BOHAC: Debbie, you know, you were saying it takes about 10 minutes to find the driver's license or whatever. I think the harder part of voting is finding that cotton-picking voter registration card. I think keeping your driver's license handy is the easy part. I don't know about you, but I have to run around the house or rifle through my car looking for that voter registration card. I think we're getting -- we've got this out of whack. I wouldn't mind not even having to present a voter registration card and making the driver's license the voter registration card. I mean, then you wouldn't have to find two forms of things because, really, I don't know of anyone including my parents, especially who know where they keep that voter registration card, but 99.9 percent of us know exactly where we keep our driver's license or TDL license.

REPRESENTATIVE RIDDLE: I think there's a lot to be said for that. However, there -- with the Real ID -- Federal ID Act that has come in regarding our driver's license, I think that this is going to have a
lot to say in showing proof of citizenship.

CHAIRMAN BERM AN: Members, any other

questions? Mr. Anchia?

REPRESENTATIVE ANCHIA: Thank you, Madam

Chair. I had a -- a quick question.

REPRESENTATIVE RIDDLE: Thank you for the

promotion, but I'm not a chairman.

REPRESENTATIVE ANCHIA: Oh, well --

REPRESENTATIVE RIDDLE: But I am on

appropriations.

REPRESENTATIVE ANCHIA: I do -- I do it

and I do it because -- because everybody is kind of in a

current chair or past chair or something like that, so I

err on the side of safety.

REPRESENTATIVE RIDDLE: Thank you very

much.

REPRESENTATIVE ANCHIA: I think I'm the

only guy who never had been one or the other, but -- but

I had a quick question about the bill. What are

citizenship papers? What would qualify?

REPRESENTATIVE RIDDLE: Well, if you have

acquired citizenship, and I think that there's -- I

don't know about me or, Mr. Chairman, if there --

CHAIRMAN BERM AN: Birth certificates and

naturalizations.
REPRESENTATIVE RIDDLE: Yeah.

Immigration, naturalization, I think does give you some type of papers. I've not gone through that, so I don't --

REPRESENTATIVE ANCHIA: Do you know what it's called? I mean, because here you have -- you have a birth certificate which qualifies clearly, and you have a passport. I just don't know if --

REPRESENTATIVE RIDDLE: Basically --

REPRESENTATIVE ANCHIA: -- if citizenship papers had a particular name or anything like that.

REPRESENTATIVE RIDDLE: Basically --

Basically anything that would give you a passport.

REPRESENTATIVE ANCHIA: Okay. Okay. What percentage of people have passports in Texas; do you know?

REPRESENTATIVE RIDDLE: I don't know. I would suspect quite a few. Quite a few here in Texas, I would guess.

REPRESENTATIVE ANCHIA: The numbers I've seen nationwide are anywhere between 7 to 21 percent of the entire population, and I don't know which one of those two numbers is good. Do you worry at all about restricting the ability of people to -- to register to vote?
REPRESENTATIVE RIDDLE: Absolutely not.

REPRESENTATIVE ANCHIA: Okay.

REPRESENTATIVE RIDDLE: And let me tell you why if you're interested.

REPRESENTATIVE ANCHIA: I am. I am.

REPRESENTATIVE RIDDLE: I believe that the right to vote is also a privilege. People have gone to war. They have fought, they have died in order to preserve our freedom and to preserve our right to vote. For us to complain and say that it's a little too inconvenient to do this or it's a little too inconvenient to do that, well, exactly how inconvenient has it been for our men and women who have fought, bled, died and for those that survived come home with massive injuries? Are we going to tell them it's just too inconvenient? I don't think so. And our freedom is too valuable. It is too significant. It is too precious for us to be big old babies and whine and complain about a little bit of inconvenience.

As for me, let me tell you, I think that there's no amount of inconvenience that is too much trouble for us to maintain the integrity of our ballot -- of our ballot box because when this ballot box is compromised, then your freedom is compromised and the freedom of my grandchildren, and I'm not going to
sacrifice that.

REPRESENTATIVE ANCHIA: I appreciate that.

That was a terrific analysis, and I totally agree with you that the sacrifice here of our young men and women in active duty and those who have lost lives is important. I also believe that the right to vote is an important right, and I hope you didn't think I was whining about inconvenience because that wasn't the purpose of my question.

My question was, do you think it will be harder for people to vote when you make it harder for people to prove citizenship? Do you think --

REPRESENTATIVE RIDDLE: I think it's going to be harder for noncitizens to vote.

REPRESENTATIVE ANCHIA: But do you think -- you think US citizens who need to provide these documents might have a tougher time voting? That really is the essence of my question, and, again, I do respect you very much and I respect our men and women who have served, including the chairman, but I'm just trying to get at a fundamental tension that we have between exercise of the franchise, which as you correctly suggest is a right that we have and that men and women have died for, and that right is very, very precious and what kind of restrictions we place on the exercise of
that franchise for US citizens that want to -- that want to exercise it, and that really --

REPRESENTATIVE RIDDLE: Let me share.

REPRESENTATIVE ANCHIA: -- that really is the -- the crux of my question.

REPRESENTATIVE RIDDLE: Let me share with you -- And your question is a fair question, and I respect you as well, and I certainly didn't mean to imply that you were whining. The -- And especially after you called me madam chairman, I sure don't want to be doing that.

REPRESENTATIVE ANCHIA: Madam double chairman, triple chairman.

REPRESENTATIVE RIDDLE: Before the rubber hits the road, this is about real people, real freedom, real life, real America. The people in my district -- And that's the ones I know the best who are part of our greatest generation, when this discussion -- when they have become a part of this discussion -- and those are our World War II veterans, and my dad passed away, but may dad was one of them. My dad fought on Iwo Jima. If my daddy were here today, he'd probably make mince meat out of anybody that disagreed with him. But the -- But they want to make sure that that ballot is secure. They are also the ones that would likely as not be the most
inconvenienced.

So the people who are our greatest
generation, those that would be -- would find it the
most difficult and be most inconvenienced are the very
ones that are adamant about securing our ballot, about
having photo ID, about not compromising the integrity of
the ballot box and for dead sure making sure that only
American citizens are the ones that are casting the
vote, and they're the people that I think that we should
hold in highest distinct and honor their wisdom, honor
their sacrifice and honor the legacy that they have
given to us.

REPRESENTATIVE ANCHIA: And I appreciate
that, madam triple chair. That -- I have constituents
who also fought in World War II. My late father-in-law
was a tail gunner on a B26. He flew an inordinate
number of missions over Italy and Germany. I --

REPRESENTATIVE RIDDLE: And tell him thank
you from us.

REPRESENTATIVE ANCHIA: Well, he's passed
away, but, yes, I certainly do hold him in high regard,
and I hold the World War II veterans and the Vietnam
veterans and the Korean veterans that I -- that I
represent in District 103 in very high regard. Many of
them have been voting for 40 and 50 years with -- with
their voter registration card, and they've expressed to me concern about this type of -- this type of requirement because many of them don't drive. Many of them don't have utility bills in their name because they live with persons who, for example, may be their siblings. They live in homes. It makes it a little bit more difficult for them, so that's why I'm asking you these questions, and I believe you have sincere -- sincere intentions in your bill, and I have sincere intent in trying to articulate some of the concerns of the World War II veterans, the Korean veterans, Vietnam veterans, Desert Storm veterans that I represent. So I appreciate -- I appreciate this dialogue.

REPRESENTATIVE RIDDLE: Thank you, and I appreciate the dialogue as well, and I appreciate your concerns.

REPRESENTATIVE ANCHIA: Thank you.

REPRESENTATIVE RIDDLE: Thank you, Mr. Chair. If there's not any other questions --

CHAIRMAN BERMAN: I don't see any.

REPRESENTATIVE RIDDLE: -- I will close.

CHAIRMAN BERMAN: We'll start calling on our witnesses. Thank you, Chairman Riddle.

REPRESENTATIVE RIDDLE: Oh, should I reserve the right to close after the witnesses?
CHAIRMAN BERMAN: I'm going to let you close.

REPRESENTATIVE RIDDLE: Thank you.

CHAIRMAN BERMAN: You don't have to reserve it with me.

REPRESENTATIVE RIDDLE: Thank you.

CHAIRMAN BERMAN: I'm going to let you close. All right. The chair calls Russ Duerstine. Is it Duerstine? Duerstine. He is for the bill, all three bills and he will not testify. The chair calls Jodi Park. Jodi, are you here? Jodi is not going to testify. She registers against all three bills. The chair calls Tina Benkiser. Tina, will you state your name and tell us who you are representing?

MS. BENKISER: Yes, sir, I will. My name is Tina Benkiser. I'm here on behalf of myself as an individual and, also, in my capacity as chairman of the Republican party of Texas, which is a volunteer position. Thank you, Mr. Chairman and thank you members. I know that it's been a long day, and I'll try to keep my remarks short. I do appreciate the opportunity to testify.

I'm here to talk about election integrity, specifically, safeguarding the people's right to govern themselves. I think America's strength is our people
and their right to choose leaders of their government. I think requiring a photo ID to vote will go a long way in helping ensure fair elections. I know you are considering several bills here that would require a voter to present a photo ID in order to vote, to make sure that the person casting the vote in the voting booth is the same qualified registered voter that's actually listed in the poll book.

In this age, there are 40 million Americans who move every year. Here alone in Texas, we have 12.9 million registered voters. Election judges just simply cannot know everyone that comes to the polls, especially in urban areas. So it's just common sense that presenting a photo ID to vote that matches the poll book will better protect voter's rights.

What makes no sense is that I'd be required to have a photo ID to rent Animal House at my local video store and, yet, I can present the envelope from -- for my water bill to vote. Isn't voting on who runs our government at least as important as my ability or any citizen's ability to rent a movie?

Photo ID legislation really should be a bipartisan slam dunk. One national poll showed that 82 percent of all voters, including three of every four Democrats, support using a government issued photo ID at
the polls. In the last primary election, Texas Republicans overwhelmingly passed a ballot initiative of calling for photo ID to vote by 88 percent. Moreover, in a bipartisan commission on Federal election reform co-chaired by former President Jimmy Carter and former Secretary of State James Baker, the third recommended requiring a photo ID to vote, and I think that's probably been put into testimony or evidence by Representative King earlier.

So I'll just say that to ensure public confidence in the election process, every qualified citizen must be allowed to vote, and they must be allowed to have their vote counted. Supporting Federal ID legislation is the only responsible thing to do, and I think is indeed necessary to protect liberty and justice for all. Thank you so much.

CHAIRMAN BERMAN: Members, questions?

Mr. Anchia?

REPRESENTATIVE ANCHIA: Ms. Benkiser, thanks again for your testimony. I appreciate you waiting as long. I'll be very, very brief. You just stated and I think very appropriately that every qualified citizen should have the right to vote. I agree with you. I think that's among the most important rights. Again, the intention of my concern is whether
we're restricting the franchise, and, specifically, my
concern is about -- is about the voter registration,
having to prove you're a citizen to be a registered
voter, and you'll probably agree with me that your
testimony here today is an important right. I think it
forms part of your right to address the government,
right? I mean, that is an important right.

MS. BENKISER: Absolutely.

REPRESENTATIVE ANCHIA: Yeah. In your
right to speech. You would also agree that the right to
register to vote -- to vote is at least a co-equal right
with what you're doing here today, correct? It's at
least as important.

MS. BENKISER: Absolutely. The right to
vote and to self-govern is the underpinning foundation
to our American system of government.

REPRESENTATIVE ANCHIA: And in order --
And the requirement in these bills for registration is
that you prove you are a citizen, correct?

MS. BENKISER: I believe not only is that
a requirement in these bills, but it is indeed a US
constitutional requirement that one be a citizen in
order to vote.

REPRESENTATIVE ANCHIA: And I totally
agree with that. I totally agree with that. My concern
is how do you prove it? Can you prove today that you are a citizen?

MS. BENKISER: Yes, sir, I can.

REPRESENTATIVE ANCHIA: Okay. Do you have your passport with you?

MS. BENKISER: Not with me in this room.

REPRESENTATIVE ANCHIA: Citizenship papers?

MS. BENKISER: I certainly could get it.

REPRESENTATIVE ANCHIA: But do you have them right now? If I was going to register you to vote, could you prove that you were a US citizen right now?

MS. BENKISER: Mr. Anchia, I appreciate what you're trying to say, but the point is if I were here to register to vote, yes, sir, I could prove that I was a citizen. It wouldn't be very much trouble.

REPRESENTATIVE ANCHIA: But if you weren't registered and I was trying to register you now and you weren't registered and this -- and we were voter registrants and you had the opportunity, could you right now prove that you are a citizen?

MS. BENKISER: It would depend on what you required from me as proof.

REPRESENTATIVE ANCHIA: Under -- Under the bill. Under the bill. Do you have your passport with
you?

MS. BENKISER: I do not have my passport with me.

REPRESENTATIVE ANCHIA: Do you have citizenship papers with you?

MS. BENKISER: No, I don't.

REPRESENTATIVE ANCHIA: And do you have, I guess, the third -- what is the third thing in the bill? A -- In order to register to vote, there's a thing in the bill. A birth certificate. Do you have your birth certificate with you?

MS. BENKISER: Not with me.

REPRESENTATIVE ANCHIA: Okay. Okay. That's -- That's the reason I'm trying to articulate this intention about whether we're really restricting and having a tough time or giving people a tough time in order to register to vote because that -- I agree with you, as you said, it's -- every qualified citizen should have the opportunity to vote, right?

MS. BENKISER: Absolutely.

REPRESENTATIVE ANCHIA: And -- And I worry that this bill creates a problem, and I appreciate you walking through that exercise with me because I like you -- I mean, look, I don't want voter fraud. I agree with you a hundred percent. The voter fraud that we're
trying to deal with here is kind of a voter impersonation, right? People going to vote say --

MS. BENKISER: Absolutely.

REPRESENTATIVE ANCHIA: -- that they're -- and voter impersonation, I think, is a bad -- is a bad thing.

MS. BENKISER: Yes, sir. I think they should go to jail for that, but that's a different matter.

REPRESENTATIVE ANCHIA: I agree with you. I agree with you. And if these bills said that if you impersonate a voter, you shall go to jail and this could be a felony. I'm right there with you that I think it is a bipartisan deal. I just worry about restricting people's access and --

MS. BENKISER: I do -- and I -- And I certainly appreciate your giving me the opportunity to talk about this because I think at the end of the day, it's about ensuring the integrity of election and keeping the public's confidence that in fact every citizen can -- who is qualified, who is properly registered be allowed to vote and they have their vote counted, and every single instance where that does not happen, it takes away your right and my right to govern ourselves, and I'm sure that you would all agree that's
just not acceptable.

REPRESENTATIVE ANCHIA: Thanks for answering my questions. I really appreciate it.

MS. BENKISER: Yes, sir.

CHAIRMAN BERMAN: Mrs. Benkiser, I have a couple of questions too, if you don't mind.

MS. BENKISER: Yes, sir.

CHAIRMAN BERMAN: Before earlier tonight, we heard House Bill 265 concerning registration on election -- during early election days. And Mr. Anchia listed a number of items that people should have with them when they do register. He said to have proof of identification with you, you need a Texas driver's license, including a temporary license and utility bill, a Texas driver's license or a temporary license, a US passport, a United States military ID. In fact, these are all in Mr. Anchia's requirements for registration.

So if you were going to register and you knew the registration date, could you at all not find any of these documents and prepare to go to register with just about every one of these documents?

MS. BENKISER: You're right.

REPRESENTATIVE ANCHIA: Mr. Anchia listed all these things as part of registration.

MS. BENKISER: Yes, sir. Mr. Chairman, I
believe that's correct.

CHAIRMAN BERMANN: Okay. So you can find any of these documents if you need -- if you knew when you had to register.

MS. BENKISER: I know where all of those documents are for myself, yes, sir.

CHAIRMAN BERMANN: You don't carry a birth certificate with me, do you?

MS. BENKISER: No, I don't.

CHAIRMAN BERMANN: I don't carry a passport with me until -- unless I'm traveling overseas.

MS. BENKISER: Right.

CHAIRMAN BERMANN: I don't have any of those documents with me, but if I needed them, I know exactly where to go and get them.

MS. BENKISER: Yes, sir.

CHAIRMAN BERMANN: And they're very easy to get.

MS. BENKISER: Yes, sir.

CHAIRMAN BERMANN: Thank you, Chairman Benkiser.

MS. BENKISER: You're very welcome. Thank you so much for allowing me to testify.

CHAIRMAN BERMANN: The chair calls Luis Figueroa. Is Mr. Figueroa in the room? Oh, I'm sorry.
Just your testimony, Mr. Figueroa, will be on all three bills.

MR. FIGUEROA: Okay.

CHAIRMAN BERMAN: They're all pretty simple.

MR. FIGUEROA: Sure. Thank you very much, Mr. Chairman. My name is Luis Figueroa, and I'm the legislative staff attorney for the Mexican American Legal Defense and Educational Fund, MALDEF, and I just handed to you all a bunch of documents. I apologize. I wasn't sure how we were going to break down the bills, but I handed you some fact sheets on Voter ID on proof of citizenship, the testimony on the proof of citizenship bill, the two proof of citizenship bills and testimony on the Voter ID bill, and I think there are two separate issues so I separated them out. I hope that's acceptable to the committee.

We as a -- You, as a committee and state legislators, have a commitment to kind of do a cost benefit analysis of how we can keep the integrity of the vote while maintaining access, and that's really what this issue is all about. How do we maintain access to voting so that every eligible voter has access to be able to vote while at the same time keeping the integrity of the voting system? And I think that the
voter -- And for the reasons that the Voter ID is proof of citizenship swing that pendulum too far in favor of denying access, we oppose all three bills.

CHAIRMAN BERMAN: If I might interrupt, Mr. Figueroa. How?

MR. FIGUEROA: Sure. The first reason that we have in terms of -- We've got to look at the benefits and the cost. First of all, the benefits on Voter ID Texas already has a Voter ID requirement. Right now under current law, you have to present a voter registration certificate card. One of the things that representative Anchia's bill earlier talked about was same day registration. At that point, you don't have a voter registration card because you haven't registered to vote, which is why you have to present some identification.

Under current law, when you go vote, if you don't have a voter registration card, you have to present identification. That is the current law when in the current law we have a voter identification provision. What these bills do is add a multiple voter identification criteria, and the only benefit it solves is a problem of voter impersonation. When we questioned the Attorney General, the Secretary of State, the only type of fraud they talk about is mail fraud or other...
types of fraud of stuffing the ballot box. Voter impersonation is a nonissue, and we can't find any credible findings of voter impersonation.

CHAIRMAN BERNAN: May I interrupt again?

MR. FIGUEROA: Yes, sir.

CHAIRMAN BERNAN: Have you talked to the elections clerk in Harris County, Mr. Paul Betancourt?

MR. FIGUEROA: I absolutely have. In fact, we had a debate at the Texas -- Conservative Coalition of Texas, and we kind of hammered these issues out, and we talked the discussion, and you know what we talked about was -- and he mentioned what is mentioned before, anecdotal evidence of people in the jury box saying that they were registered to vote and yet weren't citizens, but there wasn't any real proof of a voter intentionally voting or impersonating a voter, I should say. There's a difference between impersonating a voter and voting.

And let's talk about what impersonating a voter means. That means I registered to vote with a card -- acquire a voter registration card, but that's not actually who I am, so I'm going as somebody else and taking that voter registration card as a false person and saying I'm Mr. Joe Smith, when, in fact, my real name is Louis Figueroa. This is a very rare occurrence,
and when we hear incidences of dead people voting or
stuffing the ballot box, the voter identification
provisions don't address that in any way or shape. So
we have a -- very little benefit from the voter
identification.

Let's look at the costs, and these are the
costs. There's a big cost on nondrivers. Nondrivers
are going to have to acquire a different form of
identification. They are going to have to acquire the
utility bill, that many people don't know about these
requirements when they go vote, and will have to go back
home, which pretty much represents an additional
barrier. It's an impact on people who newly moved. For
instance, I just moved to -- about a mile away from my
current -- my current condominium, and when I moved, it
took a long time for my driver's license to arrive. So
I have an old driver's license with a different address.
If someone's identity is stolen, they may not have a --
or they recently moved or they got married, their
driver's license name and address may not match where
they actually live.

It has an impact on the election judge.
The election judge now has to get training on new
identification procedures, what forms are acceptable,
which forms aren't. When we saw this in Arizona, it had
a huge impact on the Native American community because they had to travel extreme distances to come to the polls, and most of them only had a travel identification card. If they forgot the travel identification, they had to vote what's called a conditional provisional ballot. It was a very complicated process where they had to come back and set up a provisional ballot process, and it was a very confusing and costly process, not only for the voter, but for the election judge and the election officials.

The last challenge is that of MALDEF's specialty is and that's the impact on the constitution and the litigation costs. We identify in the bill as the particular legal objections we have to Voter ID and to date, there have already been successful challenges in Albuquerque. In Arizona, MALDEF is -- is litigating that case right now. Like I said, it went up to the Ninth Circuit. It went up to the Supreme Court. It's currently pending again in the Ninth Circuit, and it's been a very extensive and exhaustive litigation process. In Georgia, it was struck down, and, in fact, the reality is nearly every state has an ID regulation. The question is how onerous is the ID regulation. When Georgia went too far, they struck it down. When New Mexico -- Albuquerque went too far, they struck it down,
and I think these bills that are in Texas are going to also swing the bill as going too far.

Now, I also wanted to talk about proof of citizenship to register to vote because we think that is a much more onerous provision in the election process. Again, when we talk about the benefits, we have had no instances of undocumented voting in an election. There have been no instances that the -- that any election official can point to of an undocumented immigrant voting an election. Proof of citizenship, what happened in Arizona in the first month, 79 percent of them were rejected and only a handful of those people reflected foreign born. Mostly, those were naturalized citizens. So the impact on this wasn't on immigrants or on undocumented. The impact was on eligible voters.

The fact of the matter is the proof of citizenship requirement is again duplicative of current law. Current law, you have to mark the box and say that you are a US citizen, and if you lie on that, you are committing a felony of perjury. You are exposing yourself to extreme immigration consequences.

CHAIRMAN BERMAN: Mr. Figueroa, may I interrupt and ask you a quick question?

MR. FIGUEROA: Yes, sir.

CHAIRMAN BERMAN: Did you support House
Bill 265?

MR. FIGUEROA: Yes, I did.

CHAIRMAN BERMAN: It requires proof of citizenship for registration. It requires a lot of different identification.

MR. FIGUEROA: That's correct. That's right, it does, and what I was stating earlier is the reason for that is because it is a prime example of our current law. Under current law, you don't have a voter registration certificate. You have to present an ID card. You have to present an additional identification card. If you haven't registered to vote, you don't have that voter registration card. So that is actually pretty much repeat of our current law.

CHAIRMAN BERMAN: But isn't that what you're speaking of right now, people who don't have a voter registration card and were going to vote and you are saying it's onerous for them to have to present information saying you are a US citizen?

MR. FIGUEROA: No. Actually, what this bill does is for people who are registered to vote and have their voter registration card. So if you register to vote, you've got your voter registration card. You've got yourself to the point place. You still need to present additional identification under this bill.
Under current law, you're good once you have that voter registration card.

CHAIRMAN BERMAN: But you have that identification at the time you register. Why can't you use it at the time you vote?

MR. FIGUEROA: Why can't you use your voter registration card?

CHAIRMAN BERMAN: No, no, not the voter registration. You need identification at the time you register to vote; is that correct?

MR. FIGUEROA: Under -- Under current law?

CHAIRMAN BERMAN: Under 265.

MR. FIGUEROA: Oh, under 265.

CHAIRMAN BERMAN: The one you supported before, yeah.

MR. FIGUEROA: Under 265, in order to register at the same time, the same day as you register to vote and the same day you vote, yes, you need to present identification.

CHAIRMAN BERMAN: To register.

MR. FIGUEROA: To register and vote.

CHAIRMAN BERMAN: Why can't you use the same identification then to vote?

MR. FIGUEROA: The reason for that is because on a same day election card, you don't have your
voter registration card. You have no proof of anything saying who you are. When we go vote at regular places --

CHAIRMAN BERMANN: Is the voter --

MR. FIGUEROA: -- we have voter --

CHAIRMAN BERMANN: Is the voter registration card in your mind an identification card?

MR. FIGUEROA: Yes, yes, absolutely. It shows who you are. It has your name. It has your -- your -- you know, your precinct. It has a lot of information about you and today that is a sufficient identification for a voter, and at the point we start adding a picture ID or other forms of identification, we're basically asking for multiple identification.

CHAIRMAN BERMANN: And you object to someone showing one other document that showed that they are the person on the voter registration card?

MR. FIGUEROA: We have.

CHAIRMAN BERMANN: Is that what you're saying you object to?

MR. FIGUEROA: That's right. That's what we object to, and the reason we object to it because it will affect people who have recently moved whose names don't match. It will affect people whose recent addresses don't match, and it will reflect people who
don't have driver's license, who may be disabled or elderly or for whatever reason don't have a driver's license on them.

CHAIRMAN BERMAN: I'm sorry. Mr. Anchia?

REPRESENTATIVE ANCHIA: Thank you, Mr. Chairman. Mr. Figueroa, thank you for testifying today. I just want to make sure that we don't go down any rabbit trails indeed. You heard the exchange between the chairman and -- and Chairwoman Benkiser, correct, earlier?

MR. DUERSTINE: Yes, sir.

CHAIRMAN BERMAN: And the inference was made that HB265 was the same in its requirement as this bill, correct?

MR. FIGUEROA: Right.

CHAIRMAN BERMAN: That was the inference that was made.

MR. FIGUEROA: That was the inference.

CHAIRMAN BERMAN: Is it not true that HB265 just states current law with respect to voter registration?

MR. FIGUEROA: That's right. I mean, basically what it's saying is you fill out the voter registration card, and in order to -- to identify that -- you have some provisions in there that talk
REPRESENTATIVE ANCHIA: So HB265 creates no new requirement under current law with respect to voter registration; is that correct?

MR. FIGUEROA: That's basically correct. I mean, it's -- it's slightly different in the sense that when you mail a voter registration card, you don't have to present that identification, but yes.

REPRESENTATIVE ANCHIA: But for in-person --

MR. FIGUEROA: For in-person voting, it's a direct match, yes.

REPRESENTATIVE ANCHIA: Which would be the same -- Which would be the same thing that you would be doing if you had -- if you're participating in that pilot program. You would be providing the same information, and HB265 does not create any different standard for in-person voter registration, correct?

MR. FIGUEROA: That's right.

REPRESENTATIVE ANCHIA: Okay. Okay. Thank you. I just wanted to make sure. It sounded like there was some confusion between Chairwoman Benkiser and the chairman of the committee, but, in fact, there is no new standard under HB265. We took current law for in-person voter registration, so there's just no
CHAIRMAN BERMAN: I understand that. So you shouldn't object to showing same identification when you go to vote.

REPRESENTATIVE ANCHIA: Except that this is a higher standard. You've created a higher standard to prove citizenship.

CHAIRMAN BERMAN: Is there something wrong with -- with that?

REPRESENTATIVE ANCHIA: Well, that's --

CHAIRMAN BERMAN: Does it preserve our right to vote and --

REPRESENTATIVE ANCHIA: That's the debate we're having today. I just wanted to point out because the inference is made, Mr. Chairman, that -- that 265 was the same as the voter ID bill when, in fact, the registration requirements under 265 are those found in current law. Thanks.

MR. FIGUEROA: And for us --

CHAIRMAN BERMAN: Wait a second.

Mr. Bohac?

MR. FIGUEROA: Yes, sir.

REPRESENTATIVE BOHAC: Just a quick question for you. What if there was no Voter ID card that was required, but you had to show just a driver's
license or a -- or a valid Texas ID card? Would that be okay?

MR. FIGUEROA: That's what card instead of -- I think that's a restatement of current law.

REPRESENTATIVE BOHAC: What I'm saying is what if -- what if we didn't require at all -- we didn't even have a voter registration card. Would it be cumbersome for a person to just show their driver's license or a valid -- or a valid state ID, whatever it is? Would that be too cumbersome using your logic that you are presenting here today? Is that -- Would that be too cumbersome?

MR. FIGUEROA: Well, in a way, that's how a lot of people vote, right? A lot of people don't remember to bring -- In fact, you stated earlier a lot of you always don't know where your voter registration card is, so you just go and you show your ID. Our problem is that there are some people who do use the voter registration card without the ID, and, usually, those are the disadvantaged or particular segments of our population. The disabled who don't drive, the elderly who have voted with their voter registration card for a long time, people who use the bus and have never applied for a driver's license, people who are students and haven't got their card yet and haven't got
a driver's license yet. So this -- What Texas law
currently provides is that for those instances, those
special populations, they can use their voter
registration card.

Now, I think you're a right. For the mass
majority of people, they use their -- their ID card and
they use their other identification identified that they
have, their picture ID, and I think that's why it works
so well. And we don't see a -- necessarily a problem
that needs to be fixed. But the -- the high end
standard that Chairman Burnam stated is what we have a
problem with. The higher standard in our opinion swings
the pendulum too far and only solves the problem of
voter impersonation, which we haven't seen to be an
actual problem, and, instead, has the potential of
disenfranchising a segment of population even if it's a
small population where one of those fact sheets shows is
that even 2 percent that were affected in Arizona with a
proof of citizenship count for thousand and thousands of
voters, which is -- that are more than the -- you know,
the even -- the most conservative numbers -- Texas
conservative coalition.

The most conservative numbers have only
been able to say 50 or 60 voters are affected, you know,
have -- you know, have -- may have committed fraudulent
voting. If you compare that to the number of people who'll be disenfranchised by Voter ID and proof of citizenship, it's not even close. If you compare it to the total number of votes cast, it's a significantly insignificant number. It's like .00001 percent of the electorate out there. So the costs are astronomical when you include proof of citizenship.

It has an impact on women whose names may have changed and their proof of citizenship don't match. Their birth certificates aren't going to match their new name. It's going to have an impact on naturalizations because a naturalization's certificate itself says do not copy, do not duplicate, do not make a copy of which is going to deter voters in actually making a copy of that naturalization certificate. It's going to kill third party voter registration drives at the mall or at the college campuses because, as we've stated, nobody carries their documentation with them when they walk around, and it's -- we believe it's -- it's a clear violation of the law under the 24th Amendment which the poll tax, the National Voter Registration Act and the Voting Rights Acts particularly are pertaining to proof of citizenship to register to vote.

CHAIRMAN BERMAN: I had another question.

MR. FIGUEROA: Yes.
CHAIRMAN BERMAN: I appreciate your testimony, but I had another question related to my previous question. In your documentation -- In your testimony that you provided to us, you make two statements here. It says -- He doesn't have it. We'll put page numbers on it. It's four. Page 4 of it says 218. The one that says House Bill 218. You use two sentences. You say -- I want to read them to you and just for some clarification. You said "voting is a fundamental right of every American." Do you follow me?

MR. FIGUEROA: Yes.

CHAIRMAN BERMAN: Are you with me? You said, "Every time we place a restrictions on this right, we are undermining it." Are there any restrictions in the past that have undermined or are we just talking about restrictions on a go-forward basis that would be undermining this process?

MR. FIGUEROA: Oh, Texas has a long history of putting unfair restrictions on voters. The poll tax was for one. All white primaries for a long time.

CHAIRMAN BERMAN: That's not what you said. You said, "Every time we place a restriction," not some or a few.

MR. FIGUEROA: That's right.
CHAIRMAN BERMAN: You said, "Every time we place a restriction" -- that would include any -- "on this right we are undermining it."

MR. FIGUEROA: That's right. And I think the -- the premise of that a mark is there was an article by the New York Times that talked about every restriction you put on a voting has an impact on voter turnout and voter accessibility. Now, obviously, there are going to be some requirements to vote. You have to fill out a registration certificate. You have to bring your voter registration card, and I think even those ones are going to have small impacts. The question is how far are you going to go about undermining the right to vote in order to you make sure that you have that secure election? And we think once you start going into the requirement under 218 and proof of citizenship requirements, you have swung that pendulum too far.

CHAIRMAN BERMAN: Okay. Thank you. What percentage of these -- You spoke about a number of different populations that may be disenfranchised. What populations are you talking about?

MR. FIGUEROA: Sure. We kind of laid out a little bit in our fact sheet. We talked about low income, the elderly, people who have recently moved to Texas, disabled citizens, college citizens, and those
are on the Voter ID side. On the proof of citizenship, I think you have a tremendous impact on the elderly because they are going to have a hard time locating proof of citizenship. Documents that may have been lost over time or may have been damaged, fires have damaged over time.

Naturalization, it's going to have an impact on naturalized citizens for proof of citizenship because that document says do not make a copy of it. It's also very expensive to acquire those documents, and we laid that out in the committee -- in the testimony. To get those naturalization certificates, it costs hundreds of dollars. I think the cost is $200. But it's laid out in the testimony, so it has a significant cost on a naturalized citizens. So these are some of the -- the populations that are impacted. It also says that --

CHAIRMAN BERMAN: Of these populations that are impacted, what percentage of those populations are actually registered to vote and what percentage actually voted in the last election?

MR. FIGUEROA: Well, I know that you -- there was a study done by the Brennan Center that said 11 percent or 21 million United States citizens do not have government issued "identification." That was in
November of 2006. How many of those people are actually registered right now? I'm not sure, but we could try to locate that. It's very difficult to kind of determine these numbers because, you know, it's difficult to estimate the number of people who have identification and who don't. But we know that 11 percent based on a poll by the Brennan Center do not have government issued full identification.

CHAIRMAN BERMAN: I think all three of these bills indicate that these populations can get free identification from counties or from the state government.

MR. FIGUEROA: Well, they can to a certain extent. To get a driver's license, you still need to present some --

CHAIRMAN BERMAN: Not a driver's license. Just an identification card.

MR. FIGUEROA: Yes. To get an identification card in Texas, Texas requires that you bring some documents with you to prove who you are to get a driver's license. So there is some -- a little bit of cost to get that even if you give it out free. But, certainly, we agree that making it a free process is making than having to pay for it, sure.

REPRESENTATIVE BURNAM: Mr. Chairman, I'm
glad you brought that back up because I was surprised --
As I was going through my folder, I was not able to find
any cost estimates on that, and, you know, while there's
a good argument for the state pays for everybody to be
able to have some sort of photo ID, ordinarily, when we
have bills laid out, we have that information. You --

COMMITTEE CLERK: (Inaudible.)
CHAIRMAN BERMAN: Is it these right here?
This is -- Okay. Okay. Thank you.

COMMITTEE CLERK: I'm sure it's here
somewhere. We're just going to find it.
CHAIRMAN BERMAN: You can continue,
Mr. Figueroa.

MR. FIGUEROA: Pretty much then the only
thing I want to lay out is -- and I think this might
address the question that Representative Burnam is
talking about, is the costs to acquire some of this
document, and it's laid out on the second page on HB 101
and 266. A birth certificate costs $23 in San Antonio.
If you want to get it faster, it costs additional money.
A naturalization certificate will cost $210, and it can
take up to six months from the Department of Homeland
Security. So if someone is trying to register in a --
in a reasonable amount of time, it may take them as much
as six months to register to vote, which will likely affect their ability to register on time.

CHAIRMAN BERMAN: So you don't think it's absolutely necessary then for a person to prove they're a US citizen in order to register to vote? Is that what you just said?

MR. FIGUEROA: No. What we're saying is that by marking that box that says you are a US citizen and under penalty of perjury law and under the penalty of immigration law and under the penalty of the State of Texas, that's sufficient documentary proof.

REPRESENTATIVE BOHAC: What if we had a document like that to board a plane?

MR. FIGUEROA: A document such as what?

REPRESENTATIVE BOHAC: Such as that, that we just promised that we were not caring any bombs.

MR. FIGUEROA: Sure. Well, actually, this is an interesting question. It came up incidentally with my mother who is a US citizen by the basis of her mother who's a US citizen is, but wasn't born in the United States, and she doesn't have a valid driver's license, and she would be severely impacted by this bill, and so when she travels, she presents a --

CHAIRMAN BERMAN: Let me ask you this. Your mother would be severely impacted by this bill?
MR. FIGUEROA: Yes, because she's a US citizen, but doesn't have the documentation.

CHAIRMAN BERMAN: You couldn't get her an identification card or you wouldn't go and get her an identification card?

MR. FIGUEROA: We've tried. It's not --

It's right now very difficult to acquire because her mother's birth certificate was lost in a fire, and so she doesn't actually have that documentation at the moment, and when she travels, she presents her government card that doesn't have a picture on it and sometimes a Sam's card, and what they do is they screen her through the x-ray and she goes through a more intensive search, but they don't deny her access to that plane, and so there are ways to get around this.

And I think that Texas has that exact requirement. If you don't have your voter registration certificate, you present your identification. There are ways to get around the identification costs. And Texas currently has an ID identification process that works, and so I think that that's -- that's what we're getting to the heart of.

CHAIRMAN BERMAN: I'm sorry. Mr. Burnam?

REPRESENTATIVE BURNAM: Thank you.

Mr. Anchia is being asked to be recognized also. I want
to ask a couple of kind of small specific questions, I think. In your fact sheet, you talk about Maricopa County, 2 percent of the voters were unaware of the new ID requirements on election day, and that would be kind of like the example of the -- our first colleague that laid out the bill, a gentleman named Gramm, who was not aware of some of the changes in the law. So approximately 2 percent of Maricopa County people showed up not aware of the requirements, and I don't know what that led to in the number of voters turned away in Maricopa County, but you're estimating that that could translate into 80,000 potential ballots. In the governor's election in 2006 when we had an extraordinary low voter turnout may have had approximately 88,000 turned away.

My question is about isn't there a greater problem with people being turned away from the polling place for frequently unexplainable excuses than there is a problem of people voting impersonating somebody else?

MR. FIGUEROA: That's exactly --

REPRESENTATIVE BURNAM: I mean, statistically, we can walk through -- and I personally have had the experience because I've done a number of election day troubleshoots in my county where people are inappropriately turned away, and because of timing.
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They've got to go to work. They've got to go pick up the kids. They're denied the right to vote. Is it your experience at MALDEF in monitoring these things over the years that this occurs just proportionately to people of color?

MR. FIGUEROA: We certainly have had our, you know -- Of course, most of our calls come from Latinos, and it's certainly a problem within the -- the Latino community at a particularly low income may not have the driver's license. We've had problems with provisional voting where they won't get offered provisional voting.

But I think we get to the heart of the matter, right? The question is the cost benefit analysis. You're talking about voter impersonation, which is a very infrequent, rare problem. When we're talking -- When we add Voter ID through a provision to the mix, you can affect as much as 2 percent of the vote. 88,000 versus a highly inflated number that some people put out of maybe 50 of people committing some type of wrongful voting. The numbers don't even come close.

If you look at the cost benefit analysis, it doesn't make sense. Disenfranchise large segments of our population, thousands of voters to protect a
problem, that rarely, if ever, occurs.

    REPRESENTATIVE BURNAM: Luis, in bills
being laid out, there was a great deal of discussion
about people who have died for our right to vote and
secure it and that sort of thing. Is it your experience
that since 1950 a number of people have died in the
southern states of the United States trying to secure
the right to vote for people of color?

    MR. FIGUEROA: Absolutely.

    REPRESENTATIVE BURNAM: And so shouldn't
we give as much respect to the people that have
struggled and died in this country to secure the right
to vote as we give to those who have served in the
military?

    MR. FIGUEROA: Absolutely.

    CHAIRMAN BERMAN: They both have been
fighting for the same thing.

    MR. FIGUEROA: That's right. Every vote
counts.

    REPRESENTATIVE BURNAM: But isn't it your
experience that every general election since you've been
involved with MALDEF and maybe before that, there's been
active voter repression activities at numerous polling
places throughout the south? Isn't that --

    MR. FIGUEROA: Yes.
REPRESENTATIVE BURNAM: I mean, isn't that one of the reasons we fall under the Voter Rights Act.

MR. FIGUEROA: That's right. That's what I was about to mention. We fall under Section 5 of the Voting Rights Act because of our history of discrimination, and we -- when we went through the renewal process right now in Congress, we documented -- MALDEF presented continuing widespread discrimination against the voters and voter suppression efforts, and, frequently, it was the same places they were doing it back when the Voting Rights Act was passed in the first place. We had one county in Seguin that continuously violates Section 5 of the Voting Rights Act every time we redistrict them. We find continuous efforts to try to prevent them from electing candidates of their choice.

REPRESENTATIVE BURNAM: Do you know how many thousands of African-Americans were turned away from the polls in Florida in the year 2000 because of issues over identification at the polling place?

MR. FIGUEROA: Yeah. It was certainly -- I don't know the exact number, but I know it was a tremendous issue, and the reason why we passed the Help America Vote Act was because of the widespread problems we had in Florida. Many people think it was because of
the hanging chads, but it had much more to do with the
wrongful purging of African-American voters in Florida.

REPRESENTATIVE BURNAM: Thank you.
CHAIRMAN BERMAN: Mr. Anchia?
REPRESENTATIVE ANCHIA: Thank you,
Mr. Chairman, and since -- since I asked Chairman
Benkiser this, and I respect her very, very much, I'd
like to ask you the same question. Do you have your
passport with you? Can you prove today that you are a
citizen?

MR. FIGUEROA: No, I don't.
REPRESENTATIVE ANCHIA: Okay. Do you have
any citizenship papers?
MR. FIGUEROA: Not with me.
REPRESENTATIVE ANCHIA: And I can't
remember the third.
MR. FIGUEROA: Birth certificate.
REPRESENTATIVE ANCHIA: Do you have your
birth certificate with you?
MR. FIGUEROA: No, I do not.
REPRESENTATIVE ANCHIA: I couldn't
remember twice. We've like sort of killed the effect.
But I wanted to ask that of all the people who were
going to testify to this. I certainly believe that your
right to free speech and your right to address
government is at least a co-equal right with that of voting, and if we had a rule on the committee today that you could only come -- you had to prove your citizenship in order to address this body, I think so far the two -- the two witnesses that we have would be unable to prove that, and so I'm -- I am -- I'm not prepared to make that rule or to suggest that rule, members of the committee, but I think it's illustrative of the difficulties that people might have in proving those -- in providing those documents.

MR. FIGUEROA: Absolute. It's going to have a tremendous impact on voter registration drives for that reason.

CHAIRMAN Berman: Mr. Figueroa, you mentioned in the response to questions from Mr. Burnam that you know of people turned away from the polls.

MR. FIGUEROA: Yes, sir.

CHAIRMAN Berman: And -- And that you also have knowledge of voter repression activities. Can you provide this whole committee --

MR. FIGUEROA: Yes, sir, we can provide --

CHAIRMAN Berman: -- with documentation --

MR. FIGUEROA: Yes, we can provide.

CHAIRMAN Berman: -- in Texas?

MR. FIGUEROA: Yes, sir. We have a --
CHAIRMAN BERMEN: Show them to me.

MR. FIGUEROA: We have a -- We've submitted a report to Congress with the renewal of the Voting Rights Act and highlighted all the voter suppression efforts in Texas since the last time we authorized, which was 1986, I believe, and we can submit that to you so you can see the history of section -- of objections under Section 5 that the Department of Justice objected to.

CHAIRMAN BERMEN: When's the last time that you -- what -- What election were you talking about?

MR. FIGUEROA: Well, the most current election where we saw it was the -- was the last state-wide election. We had some voters who have problems not being offered provisional ballots even though they weren't -- you know, they weren't -- they were at the polls and asking for a provisional ballot. They weren't allowed to -- We had about -- I would say about 30 problems in the 2004 presidential election that we documented on our voters when doing election protection and voter --

CHAIRMAN BERMEN: 30 in the whole state?

MR. FIGUEROA: 30 that came to our office.

You know, of course, we only really work in Bexar
County. 30 calls that we received that were clear efforts of people being denied the ability to vote. There's one instance of an election judge telling a voter to take that do-rag off presenting a reference to an African-American voter that -- and totally embarrassed a voter and prevented them from voting.

We had instances in Harris County where they were asking for identification of people in lines, even though there was no requirement, asking for identification and only carding African-American (inaudible) and people from the America Way Election Protection and MALDEF all have this documented.

CHAIRMAN BERMAN: I'd like to have copies of that.

MR. FIGUEROA: Absolutely.

CHAIRMAN BERMAN: Any other questions?

MR. FIGUEROA: Okay.

REPRESENTATIVE BOHAC: One more just to follow up. I've -- I've tried to focus on just a Voter ID. That's really all my discussions have been, you know, that I've only shared those discussions with you. I want to stay on just the Voter ID for just a minute because I really want to grasp this.

If there were no voter registration card, that Texas made a decision that we were no longer --
were to save time and money, we were no longer going to
do voter registration cards and it was only through a
Texas driver's license or a valid form of Texas ID,
would this be unacceptable to you as a method of --
of -- as something that would be required to go vote?

    MR. FIGUEROA: Yes. We think the voter
registration certificate is a good enough identification
as is, so, yes, we would have problems with there being
a requirement that only the driver's license be the only
requirement for the reasons that we stated.

    REPRESENTATIVE BOHAC: Even an ID -- a
Texas ID card?

    MR. FIGUEROA: A Texas -- Like a
nondriver's license identification card? Yes. I mean,
I think that a lot of people don't -- most people don't
have this. Most people have a driver's license or that
state identification card, and if you had -- don't have
a driver's license, you know, most people don't think to
go get an identification card, even though that option
may be available to them.

    REPRESENTATIVE BOHAC: What if the ID card
were free?

    MR. FIGUEROA: I mean, we certainly agree
that that makes it better, but, again, in order to get
that ID card, you have to present identification to get
the ID card. You have to present -- You know, particularly if the Real ID is implemented in Texas, you are going to have people who have legal residence in the United States unable to acquire a driver's license because the Real ID doesn't count for all the immigrant categories. There are significant problems under the Real ID, and there was significant problems of acquiring driver's license in Texas that may impact people's ability to get them.

So we think a voter registration certificate is a -- is a great form of identification. It's rare that anyone will forge a registration certificate. It's difficult to acquire a false voter registration certificate. We think the system works in that regard. There are certainly areas where we can improve upon our elections process, but we don't think Voter ID solves any of those problems.

REPRESENTATIVE BOHAC: Okay. Thank you for your testimony. Mr. Anchia?

REPRESENTATIVE ANCHIA: Yeah. Just one final question. And -- And riffing off the scenario that my esteemed colleague, Representative Bohac, just set out, I mean, I have a problem if -- if we allowed the -- the -- if we only allowed people to vote with a driver's license or a state ID because that would --
that would actually open the gates for potential noncitizen voting because as we know, you can be a noncitizen and get a driver's license and a state ID. So if that was the only standard, we'd actually open the flood gates and we don't want to do that. We just want to make sure citizens are able to vote.

MR. FIGUEROA: That was an issue. That did come up in Arizona as well.

REPRESENTATIVE BOHAC: Just to take off of my esteemed colleague's comments, Mr. Anchia, what if we push the ID -- the -- the citizenship -- the production of citizenship to the driver's license office rather than the voter registration office? Would that make it more palatable?

MR. FIGUEROA: If we did -- We do do voter registration at the DPS under the --

REPRESENTATIVE BOHAC: No. What I'm saying is what if we check for citizenship rather than putting it at the front end of voting, what about we put it at the front end of getting your driver's license or an ID card? Would that be palatable?

MR. FIGUEROA: No, absolutely not.

REPRESENTATIVE BOHAC: It would destroy the economy.

MR. FIGUEROA: No. We would have to
respond to that.

REPRESENTATIVE ANCHIA: Let me ask this.

Dwayne, are you just suggesting that we have two separate driver's license, one for noncitizens and one for citizens?

REPRESENTATIVE BOHAC: No. I was just wondering, he was -- you know, he said it's difficult to produce those documents when you are registering to vote, and I was just exploring conceptually whether it would make more sense to you to put it when you're -- to -- to require those documents when you're getting a driver's license or an ID card at the DPS office.

MR. FIGUEROA: I mean, the big problem about that is that you don't need to be a citizen to drive. You need to be a citizen to vote. So adding that requirement to drive would pretty much nullify every documented immigrant's ability to get a driver's license in Texas.

REPRESENTATIVE BOHAC: Well, no, what if you just put the set -- the status on the driver's license?

MR. FIGUEROA: Well, we've -- we've had -- Okay. I mean, this goes into a separate bill that was last session, and we are definitely concerned about labeling people's immigration status on their driver's
license in the sense that it opens the door to profiling and opens the door to what's required to get that stamp. There are certain documents that people have that the Department of Public Safety may not understand provides you a -- a status in the United States, even though it's not citizenship status, and I think it puts the (inaudible) in a difficult position of trying to ascertain what a person's immigration status is, and that's a -- a difficult process that should only be left to the Department of Homeland Security because they're the only ones really with the expertise to ascertain the multiple levels of immigration status.

There's over a (inaudible) of Visas. There's legal primary residence. There's people here with temporary protective study. Their are (inaudible). You are putting the DPS in a very difficult position by requiring that.

REPRESENTATIVE BOHAC: Okay. Thank you.

CHAIRMAN BERMAN: Mr. Figueroa, thank you very much for your testimony.

MR. FIGUEROA: Thank you.

CHAIRMAN BERMAN: Thanks for spending your day with us. The chair calls Mr. Ed Johnson. Mr. Johnson, are you here? Mr. Johnson, would you state your name and tell us who you are, please? Mr. Johnson
is here testifying for the bill -- for all three bills.

MR. JOHNSON: Yes. And I need to make a
clarification Mr. Chairman and members. I am here
today, but -- and wrote that I'm with the Harris County
tax office. I'm an employee of the Harris County tax
office, but I'm actually here on my personal day. I'm
not officially here with the county. So what I would
like to do is just tell you some of the experiences I
have seen in the tax office, but I'm not officially
speaking for the tax office because today is actually a
vacation day for me. What a way to spend a vacation.

In the Voter ID thing, I guess the main
concern that I would have personally is in the ID theft
market. I have seen numerous cases in our office where
people's ID or people's voter registrations were stolen
from them. People will vote for them falsely on
election day. They fill out false voter registration
applications and actually move a voter. Last primary,
it was in the Democratic primary, there were two
candidates and one of the candidates started
reregistering voters into the district he was running
in. Hundreds of them, not just one or two. Hundreds,
and then proceeded to vote for them on election day, and
these people were coming down into the office yelling
and screaming someone has voted for me, why did you
change my address on my voter registration card? And we
came to find out when we started preparing all the
signatures that this was all filled out by one person,
and he moved hundreds -- and we're still working on
cleaning that whole mess up -- hundreds of people out of
their current registration address to a place within his
district so he could vote those cards.

We also see cards come in, unfortunately,
from third party voter registration drives that -- and I
think the law has changed, but they still have
incentives for this, but where they were getting paid to
do voter registration, and these people will sit down
with phone books and just start filling out voter
registration cards and turning them in, and we can tell
because they're alphabetical when they come in with
them, you know, and they also actually list the person's
phone number, but if they will -- if their address is
not in the phone book, they will make the address up.
They will give them (inaudible) which ends up sometime
reregistering somebody in a different district or a
different precinct where when they show up on the
polling location that day, their name is not on the poll
book and they do not get to vote. These people are all
truly disenfranchised because their vote was stolen from
them, and it's not just one, two, it's hundreds, and
it's happened several times.

    Now, on the -- the citizenship issue, in fact, I was just having lunch with someone out of our county clerk's office and gave me some statistics, and I'm going to have to repeat them by memory because I don't have the things with me, but it was over in Harris County over 10,000 this last year, jury summons that they had received that were noncitizen. I wish I had the email -- In fact, I'll forward it to you when I get back to my office to all you all.

    CHAIRMAN BERMAN: And where do you get your pools from?

    MR. JOHNSON: Our jury pool comes from a combination of the voter roll and the Texas driver's license.

    CHAIRMAN BERMAN: Right.

    MR. JOHNSON: That jury department does give us those when their summons comes in, and it is marked as being a noncitizen. They do turn them over to the voter registration department as part of the law, and we do try to validate if they are a registered voter or not to then have to send them other documentation, once again, questioning their citizenship status. We're still following up making sure that they didn't misread the jury summons when they marked it or something like
that.

So -- but -- And what you referred to earlier, Mr. Betancourt, actually my boss, in a couple months time period, we just actually collected those jury summons and had 35 of those people that were noncitizens or a registered voter. On that same issue, our Homeland Security -- I think it's the department of ICE or I've lost names -- They changed the names so many times lately, but I will tell you about at least one or two, I guess, people trying to obtain their citizenship come to our office with an affidavit from this department, and they are asking for us to sign that they have never registered, and I will tell you at least 75 percent of these people that come in that are trying to obtain citizenship have registered and voted and the -- This ICE department actually has a link to our website where they're -- just before they're processed for citizenship, they are checking to see if they are a registered voter, and if they find their name that matches the birthday come up, they have them come down and fill out a statement saying that, you know, either this is or isn't the person.

So I will tell you weekly we see people coming in that had filled out a voter registration card, and I will tell you half of them have histories of
someone voting that name, and sometimes it's actually fraudulent voting. Someone will have registered.

CHAIRMAN BERMAN: Hey, let me -- let me make this clear, if I can, so I fully understand what you're saying. Are you telling this committee that you've actually had noncitizens trying to register and vote?

MR. JOHNSON: Yes.

CHAIRMAN BERMAN: Did you tell that committee that?

MR. JOHNSON: Yes, I did.

CHAIRMAN BERMAN: Thank you very much.

MR. JOHNSON: Yes.

CHAIRMAN BERMAN: Any other questions members?

MR. JOHNSON: Well, I have a -- a couple of other --

CHAIRMAN BERMAN: All right. Let him finish.

MR. JOHNSON: I have -- I'm sorry. I can go (inaudible), but try two more stories.

CHAIRMAN BERMAN: All right.

MR. JOHNSON: One of them that also is bothering to me in the list -- by these whole long list of IDs that you can present to vote on election day and
to register, one of them is actually a statement from a
government office, a letter, a canceled envelope from a
government office. So if you send me a voter
registration card and it's missing, the ID thing -- ID
statement, we will mail you back a letter saying that
you didn't qualify, and you can take that letter and
return it back to us as now proof of a government
document that you do live where you say you live, which
I think is kind of a big loophole in the system, and you
all really need to look at the list of certified
documents that you will accept as being a valid voter
registration card. That's probably all the good
stories. I have a lot more besides those.

CHAIRMAN BERMAN: Mr. Anchia?

REPRESENTATIVE ANCHIA: Thank you. And I
appreciate your testimony today. Give me your name
again, please?

MR. JOHNSON: It's Ed Johnson.

REPRESENTATIVE ANCHIA: Mr. Johnson, thank
you. And I know you are not testifying -- you are only
testifying as yourself and not as part of the tax
assessor/collectors.

MR. JOHNSON: Right.

REPRESENTATIVE ANCHIA: But -- But would
you as an individual have any sort of documentation from
the office that would suggest --

MR. JOHNSON: I do not have my birth

certificate or my --

REPRESENTATIVE ANCHIA: No, no, no.
MR. JOHNSON: -- or my --
REPRESENTATIVE ANCHIA: No, that was --
MR. JOHNSON: I'll go ahead and answer
those questions (inaudible).
REPRESENTATIVE ANCHIA: That was the next
question.

MR. JOHNSON: I need my voter registration

with me today. I'm in real trouble, you know.
REPRESENTATIVE ANCHIA: No. Mr. Johnson,
that was going to be the next question. The question
I'm asking now is did the -- has the office done a study
to document the hundreds of cases that you've testified
to today that we could have as a committee?

MR. JOHNSON: I'll have to check because,
actually, those cases were all turned over to the DA's
office, so the DA's office is still having an active
investigation of those records now, so --

REPRESENTATIVE ANCHIA: Have there been
any prosecutions from the DA's office; do you know? I'm
asking this of the witness who's actually up here. We
don't want to create a point of order on the bill by
having someone else testify, so --

MR. JOHNSON: Yes. There have been a
couple of cases that I can think of.

REPRESENTATIVE ANCHIA: Okay. Okay.

How -- how do people -- How do you think that people who
are on the jury pools who are noncitizens get
registered? How does that happen?

MR. JOHNSON: The ones -- the -- Most of
them that I had seen investigated are done through
volunteer deputy drives, what I call third party, you
know, registration drives that have gone out into
community areas and registered.

REPRESENTATIVE ANCHIA: Have any people
have been prosecuted from those community drives? Have
you turned those over to the DA's office? Have you
complained to the Secretary of State about those drives,
and has anybody ever crossed you?

MR. JOHNSON: Well, it's not an offense of
the volunteer deputy that's actually collecting the
registration if the card is filled out completely.
Where the offense occurred is by the person that they
were a citizen when they signed the card.

REPRESENTATIVE ANCHIA: Correct. Have
there been any prosecutions of those individuals?

MR. JOHNSON: I do not know. We turned
those cases over to the DA, but I do not call up and see how, if they may have, prosecuted.

REPRESENTATIVE ANCHIA: Could you forward a list of the different cases that you've turned over to the DA to this committee?

MR. JOHNSON: With the DA's permission, yes, I can.

REPRESENTATIVE ANCHIA: Because that would be -- I mean, I imagine you've -- you have a list of people who have done this. I think it would be very interesting for this committee to see that. Do some people get registered -- some noncitizens get registered to vote through the Motor Voter Program, do you think? Has that been your experience?

MR. JOHNSON: I've seen some cases where, yes, some noncitizens have been registered through the Motor Voter processing.

REPRESENTATIVE ANCHIA: And they end up in jury pools?

MR. JOHNSON: Yes.

REPRESENTATIVE ANCHIA: And then -- And then what do you do when -- when you find out citizens in the jury pools, you go ahead and --

MR. JOHNSON: Our -- our -- Our act there is when we get a jury notice and we find that they are a
registered voter and they have said that they’re not a
citizen, we send them a letter asking them if they are a
citizen and then to send us some proof that they are a
citizen so that we can keep the registration. If they
do not reply to that letter, then their voter
registration is purged.

REPRESENTATIVE ANCHIA: You purge them
from the rolls, correct?

MR. JOHNSON: Yes.

REPRESENTATIVE ANCHIA: Okay.

MR. JOHNSON: Well, cancel, not purge
them.

REPRESENTATIVE ANCHIA: Well, I'm sorry.
You cancel -- You cancel them from the rolls.

MR. JOHNSON: Yes.

REPRESENTATIVE ANCHIA: Okay. Okay.

Let's see. That's all I have for now. Just a request
if you could -- if you could -- Because you already
answered the other question I was going to ask that I'm
going to ask every witness and then thank you for
answering that.

MR. JOHNSON: I'm sorry.

REPRESENTATIVE ANCHIA: If you -- If you
could furnish the list of -- of -- of noncitizens who
have voted, that would be something I think very
interesting to this committee, and the noncitizens who have been registered or the hundreds of noncitizens that have been registered to vote, I think that would also be very interesting to this committee.

UNIDENTIFIED SPEAKER: Are you allowed to forward names like that?

MR. JOHNSON: I'm going to have to talk to the DA's office. I'm not really sure on the law what their --

UNIDENTIFIED SPEAKER: If the names are turned over to the district attorney, are you allowed to send that name (inaudible) --

MR. JOHNSON: What we've been requesting the forms and in that investigation, they will not release the (inaudible).

UNIDENTIFIED SPEAKER: Mr. Anchia, you're an attorney. You probably could --

REPRESENTATIVE ANCHIA: Sure. Absolutely. That's public. I mean, that should be accessible whether it's the subject of an investigation, the fact that somebody would have voted who was a noncitizen, that those would be public HCFA records subject to the Public Information Act and certainly relevant to this committee.

CHAIRMAN BERMAN: Mr. Bohac?
REPRESENTATIVE BOHAC: Mr. Johnson, I have a question for you. You said that you typically find these voter registration schemes, for want of a better word, typically perpetrated by third parties.

MR. JOHNSON: Correct.

REPRESENTATIVE BOHAC: Yeah. And are there any third parties that are more egregious or is there any third party that jumps out at you regarding these type of more egregious voter registration drives or is it just -- is it just all of them would?

MR. JOHNSON: There are some that are more than others, and it's usually, you know, select individuals within those groups. I will tell you we started meeting in the -- in the Harris County tax office this last election cycle, we started meeting with these organizations, all of them, especially if we find fraud, and they were doing a very good job of trying to police their own agency to make sure that they were trying to get valid, you know, applications turned in, and I do know that they did let some volunteers go that were not following the letter of the law.

REPRESENTATIVE BOHAC: Okay. Good. And just for the for the record, Harris County, Texas Tax Assessor Paul Betancourt did testify before the US House Administration Committee, and he testified in person --
I'm sure this was under oath. He said in 2005, he identified at least 35 foreign nationals who either applied for or received voter registration cards, and it also goes on to say Mr. Betancourt told the committee that a Brazilian woman registered -- had a registration canceled, reregistered claiming to be a citizen and had her registration canceled again. He also went on, while registered, she voted at least four times in a general and -- in general and primary elections and since 1992, according to Paul Betancourt, his office has canceled 3,742 registered voters for non-citizenship. 683 of those non-citizenship cancellations have occurred from the year 2000 to the present.

So I know you are not here testifying on behalf of the Harris County tax assessor/collector, but if this document is correct and he -- you know, he testified under oath, I think these would be very interesting statistics that he has.

MR. JOHNSON: I have seen the document for it. Yes, it is correct.

CHAIRMAN BERMAN: Mr. Johnson?

MR. JOHNSON: Can I -- Can I one more time?

CHAIRMAN BERMAN: Sure. Go right ahead.

MR. JOHNSON: I will let one of my points
out. You all were talking earlier about, you know, how
to tie them up about the proof of ID? On the new or
under the Help America Vote, when you fill out a voter
registration application, one of the first things that
that's on the ID part that's requested is to ask if you
have a Texas driver's license. You are supposed to list
that and then if you don't have a Texas driver's
license, you are supposed to list your Social Security
card. All these voter registration applications are
turned over to the Secretary of State now where they
match them with the Department of Public Safety's list.
If the Department of Public Safety had the list of
citizens and noncitizens, they could make that match on
the front end when a voter registration card actually
came in very easily without having to make any kind of
notation on a driver's license because that list is
bounced up against theirs before you are registered now.

CHAIRMAN BERMAN: Mr. Anchia?

REPRESENTATIVE ANCHIA: Yes. And just one
other question. Do you think it would be a good system
to have our -- and do you think it would accomplish the
goal that you want to accomplish to have our -- our
state database for state IDs and driver's license merged
with voter registration cards so that the person's
photograph appears on the voter registration card that
is issued by the county? Do you think that would be a good solution?

    MR. JOHNSON: Yeah. I've actually studied to see what the cost effect was, and I think that would be an acceptable solution, but there is cost factor to the county to do this. It would -- In Harris County if we were to put a color photo on a birth certificate card, these are just rough ballpark estimates for printers, it would double the cost of our mailing. We would go from 150,000 to 300,000 to produce those cards.

    REPRESENTATIVE ANCHIA: Do you think that cost is inordinate in order to protect the franchise?

    MR. JOHNSON: No, it's not. It's -- It would be another unfunded mandate, but, you know, if the State could somehow come up with extra money to help that, I guarantee you, you know, it would be a good thing to do.

    REPRESENTATIVE ANCHIA: And did you run the cost for a noncolored photograph? That was just --

    MR. JOHNSON: A noncolored photograph --

    REPRESENTATIVE ANCHIA: -- that was just ink jetted onto the -- onto the piece of --

    MR. JOHNSON: Yes.

    REPRESENTATIVE ANCHIA: -- paper?

    MR. JOHNSON: That would -- I think that
would increase it -- it was like 5 cents more per print
by -- would be about another $100,000.

REP: Anchia: Okay. 5 cents
more per card basically.

MR: Johnson: Yeah.

REP: Anchia: Okay.

MR: Johnson: And color (inaudible) is
more (inaudible).

REP: Anchia: Okay. Thanks.

CHAIRMAN Berman: But, Representative
Anchia, where would we get -- where would DPS get its
photograph from if our contention is that some people
don't have an ID card or don't have a driver's license?

REP: Anchia: That's a great
question. One -- One of the things that -- that we
proposed when we debated this bill last time was to
merge -- merge the databases that we have -- wasn't
me -- to merge the databases and then also give people a
waiting period. Back when we were debating in 2005, we
suggested that this would take effect in 2008 so people
could go out and get the relevant documentation to do a
massive Secretary of State sort of education campaign
that this would be the requirement at some future date
and allow people to go through at least a biennial cycle
of elections so that they could receive information when
they would go to vote, and the people who were concerned
about it are people who have been testifying -- or
excuse me -- voting for decades just with their voter
registration card, and we'd be unaware of this
requirement, and it would give them opportunity, for
example, to go to -- to take a photograph that could
then be sent to the -- to the Secretary of State's
office so they could then appear at no cost to them,
but, rather, on their voter registration card. That
might be a workable solution that we could discuss.

CHAIRMAN BERMAN: Or maybe, you know,
pushing out the -- Just to kind of think back on what
you were saying, what if we, you know, did the driver's
license or some type of valid ID and just push that out
a year or two so that we could give people ample
education that this was coming, that this was, you know,
something that was coming in future elections, so,
therefore, they had more than enough time to go out and
get a driver's license or an ID card so that they could
comply with the new Voter ID law?

REPRESENTATIVE ANCHIA: I think that's
worth discussion. That was an amendment to
Representative Denny's bill during the last session, and
I think you voted against my amendment, but I'm open to
discussing it again.
CHAIRMAN BERMAN: If I knew it would get your -- If I knew you'd support the bill, maybe I would go for it. Ed, thank you so much for hanging with us all day, and we sure do appreciate it.

MR. JOHNSON: Thank you all.

CHAIRMAN BERMAN: The chair calls Lydia Camarillo. Lydia, state your name and who you represent.

MS. CAMARILLO: Gosh, I hope I'll remember who I am.

CHAIRMAN BERMAN: It's been a long time.

MS. CAMARILLO: Good evening, Mr. Chairman, members of the committee on elections. I am Lydia Camarillo, vice-president for Southwest Voter Registration Education Project, the largest and oldest nonpartisan, nonprofit organization of its kind, with a simple mission to increase the number of Latino and other ethnic communities who are registered to vote and, more importantly, who participate in America's democracy at school and partners.

Founded in San Antonio, Texas by the late William C. Velasquez, Southwest Voter has registered over 2.3 million Latino voters throughout Texas, the southwest, and since 2000, the southeast. Southwest Voter has won over 80 voting rights lawsuits and has
prepared over a hundred thousand leaders to organize their communities. In the Supreme Court of the United States versus Gonzalez, MALDEF challenges the Federal court -- the Federal court on voter registration and identification provisions of Arizona, Proposition 200. Southwest voters is one of the plaintiffs in this case.

I am here to advise you of Southwest Voters' strong opposition to HB 101, HB 218, and HB 626. Southwest voters opposes these bills because they would have a negative impact on the Latino voter registration and potentially violate Federal election laws including the Voting Rights Act, the National Voting Rights Registration Act and the Help America Vote Act. These bills will only serve to depress voter registration of Latino, other ethnic communities and the poor.

For these reasons, Southwest Voters opposes HB 101, HB 218 and HB 626 and urges your opposition. Texas legislators must take affirmative steps to promote the participation of American citizens in voting and participating in America's democracy and sure can in its wisdom oppose legislation that only serves to confuse citizens, contradict Federal law, create undue financial burden to -- to poor white, Latino, African-American citizens who register to vote and create undue burden to Texas counties. HB 101, HB
218, HB 626 are redundant bills requiring additional and multiple identification for voters. SVREP believes that Texas law provides for proof of identification, and these bills will only recite confusion, create a more burdensome voting experience for both voters and poll workers.

Texas law requires that voter registration applicants must affirmatively mark the United States citizenship under penalty of perjury and submits their application, which is an affidavit, either in person or by a business replied postcard. Election Section Code 13.102 states that. In our extensive experience in registering voters over the last 32 years, it is rare for a voter to have their naturalization passport or birth certificate on hand when a voter registration -- when they register to -- to vote. Many eligible United States citizens have trouble accessing those documents at all, including senior citizens that have lost or their documents damaged over time. Any extra steps in the registration process will only serve to needlessly disenfranchise voters.

Once the voter is registered, the voter should be able to vote and uphold with either a voter registration card or a range of (inaudible) -- there goes my accent -- range of identification documents.
Election code 63.0101 so states. The range of identification is meant to be broad, that includes a person's utility bill, a bank statement, because different voters have access to different documents. A voter that has had his or her wallet stolen, a voter that does not drive or a newlywed who just got married might not have a new license or has not updated their license should not be prohibited from voting.

Southwest Voters' analysis of HB 101, HB 218 and HB 626 clearly reveals that these bills would only contradict the spirit of the author's intent, which we believe is to ensure that voter's rights are protected, facilitate the voting process and increase the universe of eligible voters who are voting and participating in America's democracy. The intent of these bills could only be to decrease the number of American citizens who would take the opportunity to vote in Texas elections, and it would be harmful to Latino voters.

Mr. Chairman and committee members, we urge you not to support these bills. They would only suppress Latino, African-American and poor white voters' registration and contradict Federal election laws. Thank you so much.

CHAIRMAN BERMAN: Questions, members?
Thank you very much.

MS. CAMARILLO: Questions?

REPRESENTATIVE BURNAM: Yes, please. Ms. Camarillo, in reading your testimony, there's a line here that says these bills will only serve to depress voter registration of Latino or ethnicities and the poor. Would you elaborate on that?

MS. CAMARILLO: Yes. We have seen already through Arizona -- and as I stated, we are plaintiffs on the case that -- If I fail to say something right, my lawyer is right here. We have seen that in fact voters are asked to provide additional ID and information that then not allowing them to vote. We saw that not only with the Native Americans, but a lot of Latinos might not have with them the information, and the IDs that are required after they were again registered to vote. This goes also for individuals, and I don't know if that's what you are thinking in this particular bill for Arizona individuals who had already registered, but might have moved and have to reregister. So during the first time that they provided the information, now they're required to provide additional information.

REPRESENTATIVE BURNAM: Thank you.

Further in your testimony you say that these bills will only create confusion, create a more burdensome voting
experience for both the voters and the poll workers. Would you care to elaborate on that for me?

   MS. CAMARILLO: Well, it's our experience first from the poll workers' side that they have a lot of discretion, and so to be very frank with you, it seems to me that when a Latino shows up to vote, they automatically assume that a Latino is not necessarily an American citizen, and as I stated, it's our experience over the last 32 years when a Latino's registered to vote, they are signing an affidavit and they understand, first of all, that it's perjury if they lie, that it's a Federal offense, and most of them if they were truly undocumented, which is the whole argument that we were discussing before -- before these bills, is that they're not interested in being discovered as being undocumented. So they wouldn't in any way, shape or form be registering unless they're American citizens, first of all.

   REPRESENTATIVE BURNAM: So are you suggesting that the undocumented worker has a clear and obvious vested self-interest in not bringing attention to it that the legal system --

   MS. CAMARILLO: That is correct. That's our experience.

   REPRESENTATIVE BURNAM: That's an
interesting thought.

MS. CAMARILLO: It's a very important point because we're talking about protecting the right of all citizens. We're talking about the right of Latino citizens having the right to vote, and we're also discussing in this bill implicitly and not that it's fraudulent undocumented folks who might be the ones registering to vote. I assure you they are not interested in coming before the light because they're working hard to stay underground.

REPRESENTATIVE BURNAM: Thank you. In the last paragraph you say -- you are referring to three bills would only suppress Latino, African-American, poor white voter registration and contradict Federal election laws. Would you remind us how many times -- since you've been in your organization how many you've been involved in litigation trying to defend voter rights?

MS. CAMARILLO: Eight. That's as we are our lawyers and then several times as plaintiffs.

REPRESENTATIVE BURNAM: Thank you.

CHAIRMAN BERMAN: What did you think of the information presented by the gentleman from Harris County? We talked about the tax assessor/collector and the number of individuals who were found to be undocumented on jury duty, not US citizens -- perhaps
not undocumented, but not US citizens, yeah.

MS. CAMARILLO: Well, that's the point. I don't know if -- First of all, I must apologize. I have to step out. I have a 7-year old who's being watched by my 16-year old.

CHAIRMAN BERMAN: All right. You don't have to answer that question.

MS. CAMARILLO: So I'm not sure I heard the whole testimony, but -- but I think that the point -- there's two points that I heard over the testimony of various folks, which is we are called to serve on jury duty if we are -- if we have our driver's license or if we are registered to vote. When you're called to jury duty, I don't know -- I don't remember whether the law states or not that we must be citizens. The whole point about extending the poll to jury duty so that lawyers, depending on which side of the fence they're defending, they have a right to have diversified jury individuals. So that I don't think is really an issue for us, and if someone's breaking the law, well, then that's up to you to decide how you want to handle it.

For us at Southwest Voter, it's our responsibility to make sure that every voter has a right to vote if he or she decides to vote because it is -- it
is a privilege and a right, but not anyone is exercising their right.

Second, we believe that if you register to vote, you must have your vote counted if you vote, and we saw in Florida there were over a million voters whose vote was not counted, yet they voted.

REPRESENTATIVE BURNAM: So are you suggesting that the real problem was not about voter impersonation, but, rather, in fraud and in the management of the elections themselves?

MS. CAMARILLO: There's lots of weaknesses in our system. I don't have -- And I haven't seen any real evidence of anymore than a few folks who have been fraudulent in saying that they have the right to vote when they don't have the right to vote. They're not citizens, and we have seen that over the last 10 years at best 50 or so certainly in the State of Texas. I haven't seen not many more of that, but I think -- I think the real question is if we're serious and honest about democracy working its best, that we cannot create anymore barriers to allow folks to have a right to register to then vote, and your proposals -- your bills are going to create -- there's my son probably saying where are you mom? Sorry. It's probably going to create barriers for individuals to participate in this...
process, and any time you delay someone's right to vote
either by outright bills in this case that are being
redundant -- by redundant, I mean, the law already is
asking us to provide ID and information. Why are we
doing it again?

CHAIRMAN BERMAN: Just one final question.
Do you believe that you should prove your US citizenship
at the time of registration?

MS. CAMARILLO: You know, that is a
question I'm not ready to go through because I'm not
ready to compromise on this issue. I'm opposing these
three bills, and I urge you to oppose these bills.

CHAIRMAN BERMAN: I think it's a very
important question. Do you or do you not believe that
you should show proof of your US citizenship when you
register to vote?

MS. CAMARILLO: When I went to get my
driver's license, I was required to provide a birth
certificate, therefore, I was able to identify myself as
an American citizen. When I signed my voter
registration, which I'm a perfect voter in Texas, I
clearly indicated by signing an affidavit that I was an
American citizen prepared to vote and was willing to
vote and always vote.

CHAIRMAN BERMAN: Did you show a driver's
license then?

MS. CAMARILLO: No. It doesn't require that. The law clearly states -- by -- by the way, you all passed it -- says that all I have to do is sign under perjury of law that I'm an American citizen, which, by the way, when I do go vote, on occasion I forget my famous little card because I too could not find it, I will have to produce my driver's license and my driver's license in order for me to produce a driver's license and to have one accessible to me, I had to produce a birth certificate.

CHAIRMAN BERMAN: Thank you very much.

MS. CAMARILLO: Thank you.

CHAIRMAN BERMAN: The chair calls Suzy Woodford in opposition on all three. Okay. Thank you, Suzy. The chair calls Mary Finch.

REPRESENTATIVE BURNAM: She submitted legal testimony for the League of Women Voters.

CHAIRMAN BERMAN: Okay. And she is against all three bills.

UNIDENTIFIED SPEAKER: Would you repeat that, Mr. Chairman? The representative for the State League of Women Voters is against all three bills?

CHAIRMAN BERMAN: That's correct.

UNIDENTIFIED SPEAKER: Thank you.
CHAIRMAN BERMAN: M-hm. Okay. The chair calls Teri Sperry? Teri, are you here? Oh, there you are.

MS. SPERRY: Thank you, Mr. Chairman. I'm Teri Sperry speaking on behalf of The True Courage Action Network, a nonprofit, nonpartisan group. From our perspective, the present problem today in American democracy and particularly in Texas is not noncitizens clamoring to vote and finding devious ways to do so, but, rather, that millions of qualified citizens fail to vote. We agree with the many speakers today who would call voting a right and a privilege. We would go even farther and call it a responsibility. I personally have been involved in numerous grassroots voter registration drives, and we look for every opportunity to encourage people to register to vote. We often use a friendly peer pressure approach and a no excuses policy. So you don't have your driver's license, but that's okay? Do you know the last four digits of your Social Security number? And can you sign and affirm that you're an American citizen? That's enough.

We believe in giving people the benefit of the doubt. We have so many people come up and thank us at these grassroots voter registration events for giving them the opportunity because they admit they
procrastinate. People procrastinate. People are lazy. People are tuned out until the last minute. And so they put off registering to vote or changing their registration after they've moved in the same way that they might put off making that appointment for the dentist that they -- they know is the right thing to do. And so sometimes seeing the voter registration table at a public event or outside their grocery store, at the 4th of July event in their neighborhood, makes the difference between them voting and not voting. And, again, people are often grateful that that little reminder, that little bit of peer pressure, made them do what they know is their responsibility.

So, again, we do believe in giving people the benefit of the doubt and not letting a small insignificant number of people who may abuse the system make it harder for the rest of Americans to take advantage of the system in a positive way.

CHAIRMAN BERMAN: Thank you very much. Members? Thank you for your testimony. Thank you for being with us all day. The chair calls Joy Arthur? Joy, are you here? She registered votes against all three bills, People For The American Way. Chair calls Tim Morstad. Tim Morstad with AARP? Against all three bills. The chair calls Laurie Vanhoose representing
Advocacy, Incorporated?

MS. VANHOOSE: Thank you. My name is Laurie Vanhoose. I'm the Help America Vote Act specialist at Advocacy, Incorporated, and we are Federally mandated under the Help America Vote Act to ensure the voting rights of the 4.6 million people with disabilities in Texas.

When HAVA was debated in Congress, the number one contentious --

REPRESENTATIVE BURNAM: Before you get going, Laurie, the 4.6 million that you represent in Texas, how many of them don't have driver's license? Do you have any idea?

MS. VANHOOSE: I don't have that number, and I wish I did because I --

REPRESENTATIVE BURNAM: You can understand why I'm asking.

MS. VANHOOSE: -- because I speak with a lot of them -- Yes. We speak with a lot of them who are concerned about this because they don't -- and I'm going to definitely get into that issue.

When Congress was debating the Help America Vote Act, the number one most controversial provision was identification requirements, basically, because the authors of this bill saw identification
requirements as an avenue to disenfranchise minority
voters, disability -- people with disabilities.

CHAIRMAN BERMAN: I'm sorry. Who saw that
as an avenue to disenfranchise them?

MS. VANHOOSE: If you look at the record,
as the debate for the Help America Vote Act, the authors
and several other people who supported this bill, there
was a -- there's a lot of debate around what specific
identification requirements we need to ensure people's
identity, but not to disenfranchise them. And that's
how they came up with a comprehensive list under HAVA,
which is what we have now currently in Texas. Also,
what they found was that to reduce the pretense for
election fraud, what we need to do is implement the
state-wide database and that's what we have done in
Texas.

What this database does is it integrates
local lists so that duplicates can be easily removed
from a database from the voter rolls. It also
coordinates records with other state agencies. They
take Social Security numbers and match them with the
Social Security Administration. They take driver's
license numbers and verify that with Department of Motor
Vehicles, and they also get death records. So what this
does is ensures that the voter risks are correct.
There's also lots of -- Every single report out there talking about election fraud states -- and I can forward those to your offices -- state that the way to defer election fraud is through this database, and I think tonight we've heard a lot of testimony that's showing that the database in Texas is working. As a matter of fact, Representative King had a statement of the numbers of people that had been taken off the list because they have found to be registered illegally. That shows that we have processes in place that are working.

We've also had several other people testify as to people registering illegally, are trying to vote illegally, and then being caught because of processes that are put in place and that is specifically why HAVA put these provisions in place.

Also, on January 1, 2006, your Secretary of State, Roger Williams, at his kick-off of the Voter Education Program, and I'm quoting him now, said that "Perhaps sometimes in the past, lists of this type" -- referring to voter registration lists -- "have been relatively easy targets for those seeking to commit voting fraud by using the names of duplicate, fictional invalid or deceased voters. We now have a new state-wide voter database that significantly reduces..."
such opportunities and provides us the ability to
maintain secure, accurate and up-to-date information on
all voters in the State of Texas." Also --

CHAIRMAN BERMAN: Just one second.

REPRESENTATIVE ANCHIA: Laurie, I'm a
little bit disturbed by this. Didn't we just hear
testimony from the gentleman before who was referring to
hundreds of cases of people who may have been registered
who were noncitizens and who may have voted in the past,
but you are telling me we have a system to deal with
that? As of when?

MS. VANHOOSE: January 1st, 2006 --

REPRESENTATIVE ANCHIA: Okay.

MS. VANHOOSE: -- was the Federal
deadline. I think ours got pushed back a couple of
months.

REPRESENTATIVE ANCHIA: So if there were
cases in the past that where people had been noncitizens
and voted, whether they have registered a motor voter or
some other way, we have a system in place to deal with
that now?

MS. VANHOOSE: Yes. That was -- that
was -- The whole part of HAVA was that these voter lists
are wrong and not to point that people are voting
fraudulently, but people are not being allowed to vote,
so let's get these lists accurate as they can be.

REPRESENTATIVE ANCHIA: And what happens if -- if I registered in -- in Motor Voter and I'm a noncitizen? Let's say I'm a legal permanent resident, so I'm eligible to get a driver's license, and I register to vote, make a mistake, I don't speak the language right, whatever. What happens to my voter registration at that point?

MS. VANHOOSE: You'll have to -- I want to tell you to verify this with the Secretary of State, and we have Ann in here --

REPRESENTATIVE ANCHIA: Yeah.

MS. VANHOOSE: -- but it's my understanding in the implementation of HAVA and the state-wide database is that that database is supposed to interact with other databases to verify you have the correct address, they have the correct Social Security number. That was the intention of it is to make sure there aren't duplicates on lists, and I know at the county level, at the state level, this database that's being used to check duplicates to make sure the lists are accurate.

And specifically regarding citizenship, you'll have to ask Ann about that, but that's the whole point of the database, and in my understanding, that was
the reason -- if you look at the record in HAVA -- I was in DC. I worked for a national organization when HAVA was being debated, and the major reason of having this database is to verify that the voter lists are accurate.

REPRESENTATIVE ANCHIA: Thank you.

CHAIRMAN BERMAN: Well, isn't it possible though for someone to vote with somebody else's voter registration card? They could steal it. They can find it. They can collect a number of voter registration cards in -- you know, from a senior citizen's home and go use them to vote? There's no way to show that they're not the person who's on the card, is there?

MS. VANHOOSE: I guess it's possible, but where is the evidence of this is happening? And I'm going to get into that. We don't have evidence of this happening, and -- and you get your registration card, what is it, every two years? I don't know. I just don't see evidence of this happening, and we haven't seen evidence of it happening in -- any widespread evidence and -- that would change election results anywhere in the country, and I'm going to get into that in just a second as well.

REPRESENTATIVE BURNAM: Can I ask a question before she does?

CHAIRMAN BERMAN: Yes.
REPRESENTATIVE BURNAM: So far I'm getting the thrust of your legislation is the three bills that are before us are trying to address a problem that was solved January 1st, '06.

MS. VANHOOSE: Yes.

UNIDENTIFIED SPEAKER: Okay. Thank you.

MS. VANHOOSE: Yes. Actually, you know what? I'll go ahead and jump to that. Real quick (inaudible) once I was going to give you, you asked about who doesn't have access to that or how many people in Texas with disabilities don't have access to a driver's license. We don't have that specific number. But the Brennan Center at NYU Law School did a survey of the 2006 election, and what they found based on the 2005 census estimates and answers that they got from their survey was that about 18 percent of elderly and disabled do not have government issued photo identification.

CHAIRMAN BERMAN: And how much of that 18 -- how many of those 18 percent would -- would actually go to the polls and vote?

MS. VANHOOSE: Well, that is the whole point of the Help America Vote Act is to ensure accessibility. We've given so much money to the states to make sure that voting places are accessible at their voting equipment. This statement that I read to you by
Roger Williams was a statement that he made an education effort to make sure -- based on money from HAVA to make sure people go out and vote. That's the whole issue is that these people have been disenfranchised.

CHAIRMAN BERMAN: I realize that's a whole issue. I don't think they've been disenfranchised. Give me a break here.

MS. VANHOOSE: No. There's a long history of people with disabilities being disenfranchised.

CHAIRMAN BERMAN: Well, I understand that. I understand that, but look at the voting record of Texans in the last -- in the 2006 election. What percentage of Texans actually voted in the 2006 election?

MS. VANHOOSE: I think that's the whole point is to increase that participation and people with disabilities.

CHAIRMAN BERMAN: No matter how hard we're trying, you just can't seem to increase them, can we?

MS. VANHOOSE: But I don't think this would increase it by any means. I think it would reduce it, actually. I think the Arizona statistics have shown that in Arizona, it did reduce voter participation, and, actually, traditionally people with disabilities have stopped going to polls because they are not accessible.
They're fed up of going and not being able to vote.
It's a long process.

CHAIRMAN BERMAN: Well, accessibility is a whole different (inaudible).

MS. VANHOOSE: But this is accessibility as well because if you do not have documentation, you do not have access to vote, documentation of people with disabilities and accessibility issues.

CHAIRMAN BERMAN: Do your people with disabilities visit doctors?

MS. VANHOOSE: Yes.

CHAIRMAN BERMAN: Do they visit rehab centers?

MS. VANHOOSE: Yes.

CHAIRMAN BERMAN: Do they have any kind of identification to show like insurance cards or anything else? Are you telling me there are no documents that they have with your name on it, with their address on it?

MS. VANHOOSE: There are, but that's the issue is whether -- what's in place right now in Texas. When you go vote, a lot of these people with disabilities are taking utility bills. That's it. They didn't take the three other forms of identification they needed. They take one form that they've been voting
with historically.

CHAIRMAN BERMAN: All right.

MS. VANHOOSE: And that is -- that is currently in state law, and is under HAVA, HAVA says what is needed to verify identity and to also keep disenfranchisement down.

REPRESENTATIVE BURNAM: Before you proceed --

MS. VANHOOSE: Yes.

REPRESENTATIVE BURNAM: -- getting back to that 18 percent of the population, you kind of moved over into what I think might have been Tim's testimony representing AARP.

MS. VANHOOSE: Right.

REPRESENTATIVE BURNAM: These two groups, obviously, the disabled community being represented, plus a senior citizen population that may have less and less mobility --

MS. VANHOOSE: Right.

REPRESENTATIVE BURNAM: -- are the very ones that would be most burdened by this legislation.

MS. VANHOOSE: Right. From what I've seen in the community and the people I work with -- And we do represent a lot of the elderly community as well because a lot of them do have disabilities. What I've seen is,
yes, stats from other states just talking with our clients, that, yes, this will be heavily burden -- have a heavy burden on be them.

REPRESENTATIVE BURNAM: And it's your testimony that 18 percent of the eligible voters don't have any type of state ID.

MS. VANHOOSE: It was 18 percent of individuals with disabilities and the elderly community and that's an NYU Justice of Law or NYU School of Law survey, and I can bring that to you tomorrow.

REPRESENTATIVE BURNAM: So this bill is talking about -- or these bills are talking about making it harder for 18 percent of the population to access the opportunity to vote.

MS. VANHOOSE: That is correct.

REPRESENTATIVE BURNAM: Thank you.

MS. VANHOOSE: Also, they said that at least 15 percent of voting age American citizens earn less than $25,000 a year do not have valid government issued photo ID, and I will bring those reports to you tomorrow.

CHAIRMAN BERNAN: Laurie, how long have you been in your current job?

MS. VANHOOSE: I have been -- I was with our national office, the National Disability Rights
Network in DC in 2000.

CHAIRMAN BERMAN: How long have you been here now?

MS. VANHOOSE: In here -- I've been here three years.

CHAIRMAN BERMAN: Three years. Thank you.

MS. VANHOOSE: Okay. The other issue is just access to -- I understand that this bill would allow for identification, I think, anything (inaudible) regarding this that has to be in there. The issue though is -- and we saw this in Georgia -- is that transportation and accessing those places to obtain identification is a big issue, especially in rural communities that do not have public transportation. So the majority of people that don't have a driver's license, can't drive, are going to need some way to access these places to obtain identification.

REPRESENTATIVE BURNAM: And in that point you're talking about, in my community, it would be arranging permits and there's a charge for that use.

MS. VAN HOUSEN: Right.

REPRESENTATIVE BURNAM: So when considering whether or not this would be unconstitutional, this legislation, you in fact are in effect imposing a poll tax on the disability community.
because they may be homebound. They may never leave different -- people with different types of disability. But even then in a place such as Tarrant County where less than half of the population has access to public transportation because of previous bad public policy decisions, you are going to have whole other universe of people that can't even theoretically use public transportation to get to the opportunity to get their pictures taken, to show the burden of proof.

CHAIRMAN BERMAN: Isn't transportation available for the disabled to get to their doctors?

MS. VANHOOSE: Yeah, but that -- that goes through different agencies that won't necessarily take somebody to get identification, who won't take someone to go to the polls. Transportation is the number one issue across the board, whether it comes to every single area of accessing services to people with disabilities, especially in Texas, the size of a state or ability of rural communities, so --

REPRESENTATIVE BURNAM: They have limited public transportation.

MS. VANHOOSE: Yeah. Furthermore, another issue is in order to get this free ID, I'd have to show a birth certificate, another material that proves my identity, which requires time, money and effort, and I
think there should be an effort made definitely. I'm not saying you don't have to make an effort to vote, but the issue is with the time constraints with having five days to prove your identity, I don't know -- if someone casts an official ballot and lived in a rural area and did not have access to this documentation and had to go through avenues to access this, that's not enough time frame for them to return that information back to county.

Another issue is that our agency has required a national voter registration Motor Voter Act and HAVA to help people register to vote, basically, because when they pass a National Voter Registration Act, they were appalled by the number of people with disabilities who are not registered to vote. So when they pass that law, they charge us with helping people with disabilities to register to vote. My clients don't come to my office with the three forms of citizenship -- proof of citizenship that is requested in some of these bills, and accessing them and going through the process of getting that is going to be very burdensome.

Finally, let me close on the main point. The main point is that there is no widespread evidence of election fraud in the context of a voter impersonating another voter. Actually, the Election
Assistance Commission had bipartisan consultants come in and do some studies, and they reported with widespread agreement that very little evidence exists of voter impersonation at the polls. There have been several regional reports. In Ohio, there's a state-wide survey that found four instances of an eligible person's voting -- attempting to vote in 2002 and in 2004. That was out of 9,079,728 votes cast. That's .000004 percent of people voting.

Also, in Georgia, you have your Secretary of State who has been an election official for more than 10 years stated that she could not recall one documented case of voter fraud relating to impersonation of a registered voter at the polls. And, also, I'll refer to -- I handed out a document which is a public information request that was submitted to the Attorney General's Office by Common Cause, and what that is is its information on all of the claims related to voter fraud in Texas because, as I'm sure you all know, the AG of Texas created a special unit in his office to investigate voter fraud.

And in that document you'll see as of January 6 -- or January 10, 2006 they spent $1,541,848 on investigation of voter fraud, and I think it was 13 or 14 -- I'm not for sure it's on the record as saying
it was 13 or 14 -- individuals were found out of the 4 million votes that were cast of voting illegally, but it was not impersonating another individual at the poll and that's actually .001 percent -- the 40 ballots that are in question is .001 percent voters in Texas.

(End of Audio Transcription)
IN THE COUNTY OF TRAVIS  

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STATE OF TEXAS  

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I, JEAN THOMAS FRAUNHOFER, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the Audio from the February 28, 2007, Texas House of Representatives Committee on Elections, 1:18:28 to 4:36:31, was transcribed at the request of Anne Wilson, 209 West 14th Street, Attorney General's Office, Austin, Texas, 78701, and the amount due is $________________.

That the aforementioned Audio was transcribed to the best of my ability to hear and understand the Audio;

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I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and, further, that I am not financially or otherwise interested in the outcome of the action.
Certified to by me, this 30th day of April, 2012.

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House Elections Committee Hearing  
February 28, 2007

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