TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-SECOND LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE: CONSIDERATION OF SENATE BILL 14

COMMITTEE OF THE WHOLE SENATE
TUESDAY, JANUARY 25, 2011

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

1. PROCEEDINGS
2. TUESDAY, JANUARY 28, 2011
3. (8:05 a.m.)
4. CHAIRMAN DUNNAN: The committee of the
5. Whole will come to order.
6. OPENING INSTRUCTIONS BY CHAIRMAN DUNNAN
7. CHAIRMAN DUNNAN: Members, we talked
8. yesterday a little bit about the process, and I thought
9. I would go through that once again so that we'll all
10. kind of know what the plan is.
11. First of all, I intend to recognize
12. Senator Fraser in just a moment to lay out the specifics
13. of Senate Bill 14. And then after he lays the bill out,
14. then members will be recognized for questions of the
15. author or co-authors. Then after that is finished, then
16. our invited testimony will begin. It's the Chair's
17. intent to place a 10-minute limit on invited testimony.
18. And then there will be no question to interrupt the
19. invited testimony as they're laying out their positions
20. or their testimony. Then once they're finished, members
21. will be recognized for questions.
22. When that's done, we'll have a resource
23. witness panel that will be available for you. I'm
24. advised that we have David Maxwell, Deputy Director of
25. Law Enforcement with the Office of the Attorney General.

21. I can see you.
22. Remember Ms. Kennedy from last time. I
23. think she went 12 or 13 hours.
24. Because we're making a record here,
25. obviously we need to be mindful that the court reporter
26. only has two hands and can only type one person at a
27. time. So the Chair will be careful to help you remember
28. that we cannot have people talking over each other.
29. Also we need to try to identify each other
30. so that -- or identify yourself when you're speaking or
31. I'll try to do that so that the record will be clear as
32. to the source of the comments being recorded.
33. We will take periodic breaks in order to
34. allow the court reporter a little time, but we will move
35. expeditiously as we move through the process.
36. There is a document -- like last session,
37. we will have an orderly process for admitting documents
38. into the record. They will be labeled as exhibits and
39. be referred to in the record and will be received in the
40. record by exhibit number. So when you have an exhibit
41. that you want to introduce into the record, well, then,
42. you'll need to have it marked. And the secretary's desk
43. up here will have a procedure for marking your exhibits
44. and receiving them in the record.
45. Once we have completed the public
46. testimony -- and, obviously, we're going to be
47. interrupted by our Senate session which begins at 11:00.
48. Once we finish the public testimony, then it will be
49. appropriate for you to lay out any amendments that you
50. may wish to have considered by the body.
51. And once that's completed, then,
52. obviously, we will vote on our resolutions to rise and
53. report back to the full Senate.
54. That is basically the layout of the
55. procedure. Any questions?
56. Senator Van de Putte.
57. SEN. VAN DE PUTTE: Thank you,
58. Mr. Chairman. Thank you for outlining the process
59. and the procedures that we will be using today. My question
60. is specifically with those members of the public who
61. wish to testify sometimes today who have
62. disabilities. To my knowledge, we have people coming to
63. the floor who are in wheelchairs and will not be able to
64. use the podium. I wanted to ask what sort of amenities
65. or accommodations we will have so that they will be able
66. to have that, but some sort of a table so they can refer
67. to their documents when they're testifying.
68. CHAIRMAN DUNNAN: Thank you, Senator Van
69. de Putte, an excellent question.
70. We do have a wireless mic that will be

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LAYING OUT OF SENATE BILL 14

SEN. FRASER: Thank you, members.

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

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

The Commission concluded at the end of the day, "There is considerable national evidence of in-person voter fraud. And regardless of whether one believes that voter impersonation is widespread or relatively rare, there can be no serious dispute that the real effect can be substantial because in a close election, even a small amount of fraud could make the
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1 margin of difference."
2 Texas today has a legitimate interest in
3 protecting elections. It is imperative that we protect
4 the public's confidence in elections by deterring and
5 detecting voter fraud.
6
7 In upholding the Indiana photo ID law, the
8 U.S. Supreme Court stated, "Confidence in the integrity
9 of our electoral process is essential to the functioning
10 of our participatory democracy. Voter fraud drives
11 honest citizens out of the democratic process and breeds
12 distrust of our government. Voters who fear the
13 legitimate votes will be outweighed by fraudulent ones,
14 will feel disenfranchised."
15
16 On October 10, Lighthouse poll, which I
17 have here and be entering into the record -- it's the
18 newest poll that is out -- shows that 86 percent of
19 Texas voters -- that's both Republican and Democrats --
20 favor voter photo ID laws.
21
22 The bill that we're laying out today is in
23 compliance with the U.S. Supreme Court Decision which
24 upheld the Indiana voter ID legislation because it,
25 No. 1, deters and detects fraud; 2, it protects the
26 confidence in elections; and, 3, it counts only eligible
27 voters' votes.
28
29 It also complies with the Supreme Court
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decision, because it offset burdens on voters by
providing access to free ID cards, allowing for
provisional ballots and absentee ballots, ensuring that
obtaining photo ID is no more inconvenient or burdensome
than the usual act of voting and providing an exception
for elderly voters.

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

Senate Bill 14, what we're doing with this
bill, Senate Bill 14 would require a voter to show a
photo ID except that people 70 or older on January 1,
2012, may continue to vote with just a registration
card, under current law.

Acceptable ID will include an unexpired
card issued by the Department of Public Safety, a
military ID, a passport or a citizenship certificate
with photo. Voters who cannot produce an acceptable
form of photo identification will be allowed to cast a
provisional ballot. That ballot will be counted if the
voter returns within six days to show a photo ID.

   It would also provide for statewide
training and notification of the changes required for
the individual to vote with the photo ID. It would
provide for a free DPS-issued identification card to any
registered voter who requests an identification card.

   Every fraudulent vote effectively still is
a legitimate vote. Elections are too important to leave
unprotected when the Legislature could take proactive
steps to prevent fraud and protect our democracy.

   Mr. President, that is what Senate Bill 14
does. And if there's no questions, I would move
passage.

   SEN. WHITMIRE: Mr. President --
   SEN. VAN de PUTTE: Yes.
   SEN. WHITMIRE: -- could we slow down?

Will the gentleman yield?

   CHAIRMAN DUNCAN: I think Senator Van de
Putte was first on the list, Senator.

       Senator Van de Putte.
   SEN. VAN de PUTTE: Thank you,

Mr. Chairman, I think. Mr. Chairman, inquiry. At what
point in the proceedings today would a motion be in
order to move that all of the testimony and record from
this issue from the 2009 legislative session be made
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into the record? Would that be done -- would that
motion be proper at the point of original testimony or
at the beginning of these questions at this point?

    CHAIRMAN DUNCAN: Senator, at any time
that one would want to make that motion, it would be
recognized.

    SEN. VAN de PUTTE: Mr. Chairman, would
you recognize me for that motion at this time?

    SEN. FRASER: Mr. Chairman --

    CHAIRMAN DUNCAN: Before we do that, we do
have a motion in writing that Sen. Huffman intends to
introduce with the record, so why don't we do that first
and then we'll do everything else. And it would be my
suggestion to -- and what I had hoped to do was finish
the testimony or at least the question and answers on
the bill and then start at that point in time putting
evidence into the record. So if that's suitable with
everyone, it just makes a little more sense to me to
keep it in order that way.

    SEN. VAN de PUTTE: Thank you,

Mr. Chairman.

And then I would like to ask my colleague,
the author of the bill, to yield.

    CHAIRMAN DUNCAN: Okay.

    SEN. FRASER: Mr. Chairman, before we --
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CHAIRMAN DUNCAN: Senator Fraser, why don't we approach the chair; approach.

(Off-the-record discussion at bench)

CHAIRMAN DUNCAN: The Chairman recognizes Senator Huffman for motion in writing.

SEN. HUFFMAN: Thank you, Mr. Chairman.

At this time I move that the entire record and transcripts of the hearing related to Senate Bill 362 heard by the Committee of the Whole during the 81st Legislative session be included in the record and would move that it marked as Exhibit No. 1.

Exhibit No. 1 includes all the invited, public and written testimony, in addition to all of the exhibits submitted by the members during the hearing on Senate Bill 362. The previous testimony and debate on Senate Bill 362 is relevant, because then and now the objective is to create legislation that protects the integrity and reliability of the electoral process.

It includes 870 pages of transcribed testimony. There were 13 invited witnesses plus two resource witnesses, 36 public witnesses and 29 written articles presented. So it includes all the exhibits as well, submitted by members during the 81st legislative session on the Committee of the Whole, which totals 55 total exhibits.
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At this time I move for introduction of Exhibit No. 1 into the Committee of the Whole's records.

(Exhibit No. 1 marked)

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

SEN. DAVIS: Question.

CHAIRMAN DUNCAN: Senator Davis, do you have a question?

SEN. DAVIS: Yes.

Senator Huffman, during the debate on the Senate floor last session, a number of questions could not be answered by some of the resource witnesses at the moment that they were asked; and, instead, there was a follow-up. For example, the Secretary of State's office and the Attorney General's office wrote follow-up answers to some of the questions that they were not prepared to ask during the hearing. Does your motion in writing include the inclusion of those written responses that were provided to the Senate after the hearing took place?

SEN. HUFFMAN: I am not advised on that, but I would certainly have no objection and would move for all of that to be included in the record, because I think it would certainly make it, you know, more complete and certainly would be relevant.
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1 The record has been certified by Patsy
2 Spaw, the Secretary of the Senate, and so we might check
3 with her to see if that was done. If not, we could
4 certainly make sure that it was placed in Exhibit No. 1
5 as part of the record.
6
7 SEN. DAVIS: Thank you. I would
8 appreciate that.
9
10 CHAIRMAN DUNCAN: I suggest that it be
11 Exhibit 1A, if there are additional information, so that
12 it can be kept separate from what you are going to
13 introduce in your motion in writing as Exhibit 1.
14
15 SEN. HUFFMAN: Yes, sir.
16
17 CHAIRMAN DUNCAN: Okay. Is there any
18 objection to Exhibit 1 being included in the record?
19 All right. The Chair hears none. Exhibit
20 1 will be included in the record.
21 (Exhibit No. 1 admitted)
22
23 CHAIRMAN DUNCAN: All right. Sen. Van de
24 Putte.
25
26 SEN. VAN de PUTTE: Thank you,
27 Mr. Chairman.
28
29 QUESTIONS FROM SENATE FLOOR
30
31 SEN. VAN de PUTTE: Would the gentleman
32 yield, the author of the bill yield?
33
34 SEN. FRASER: I would yield.
SEN. VAN de PUTTE: Thank you. Thank you, Mr. Chairman.

And thank you, Senator Fraser.

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

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

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

SEN. VAN de PUTTE: Well, my question has to deal with -- I understand that since last we met, there are two years and different court cases. And the bill that was before this body last legislative session was modeled on a Georgia law and used the template. And
I understand it, this year's model is fashioned after the Indiana law?

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

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

SEN. VAN de PUTTE: Thank you.

Mr. Chairman.

And a few other questions. With the Carter-Baker Commission, they felt very strongly about encouraging the maximum participation in voter and suggested the type of strategies that we're using. But the addendum for both gentlemen and the members of the commission were that they, as I recall, and entered into the record during last legislative session, was that the conclusion of the commission was that we should not implement the type of photo identification until you had...
universal registration, and I believe that was one. But
given that or not, what I really wanted to ask you is --

SEN. FRASER: Hold on a second. I'm

sorry. I disagree with that. That is not what the
commission said. And if you would like to correct that,
but I disagree.

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

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

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

SEN. FRASER: To my knowledge, they are

not.

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

(Brief pause)

SEN. FRASER: I'm sorry. I was asking for

some data. Would you reask the question, please.

SEN. VAN de PUTTE: The State of Indiana,
which your bill is modeled after, without two alternate
forms of identification; whereas, the Georgia bill that
we talked about last legislative session had two --
certainly had a photo identification, but if the voter
was unable to produce a photo identification, they could
produce for the election judges two forms of
identification without, and it was utility bill and --
in fact, the things that you struck here.

But in Indiana that requirement is not
there, so we went with the Indiana bill. But my
question is, Indiana is not subject to Section 5 of the
Voting Rights Act. So their legal hurdle to the
Department of Justice challenge is very different than
what happened in the State of Georgia. Is that correct?

SEN. FRASER: The Indiana law has been
approved by the U.S. Supreme Court, the Georgia law was
precleared by the Department of Justice, and both of
those have gone through that challenge.

SEN. VAN de PUTTE: Senator Fraser, when
this legislature passes the voter identification bill --
and there is no doubt that this bill will pass -- it
will have to proceed to the Department of Justice for
clearance?

SEN. FRASER: As a Section 5 state, we are
subject to Section 5 rules.

SEN. VAN de PUTTE: So, yes, it will
proceed to the Department of Justice?
SEN. FRASER: We are a Section 5 voter rights state, and we will be subject to those laws.

SEN. VAN de PUTTE: And do you have any concerns that a Section 5 state as Texas would offer to the Department of Justice a voter identification bill that mirrors a non-Section 5 state rather than something that has already been upheld in the Georgia law, a Section 5 state?

SEN. FRASER: We are offering a bill that has been approved by the U.S. Supreme Court. And the parameters that the Supreme Court set, we meet all of those tests.

SEN. VAN de PUTTE: However, in the Indiana court and in the Supreme Court case on Indiana, what they said was, the undue burden was -- did not be demonstrative because they did not have the level of minority voters, that was never a check point, because they did not have to go through the Department of Justice. Is that correct?

SEN. FRASER: I'm sorry. I'm having equipment failure here. Just a second.

(Brief pause)

SEN. FRASER: Senator, I'm sorry. I'm asking for data, backup data, because the information that you're addressing, my information doesn't agree
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with that, is that the Georgia law that I have in front
of me said it is a photo ID. Do you have something that
shows differently?

SEN. VAN de PUTTE: Yes. In the Georgia
bill, you have to have a photo ID. However --

SEN. FRASER: I realize you're saying
that, but do you have -- you know, do you --

SEN. VAN de PUTTE: The bill that you
introduced last year had the two alternate forms of ID,
which was exactly the Georgia bill. We used the model
of the Georgia bill.

SEN. FRASER: And that bill is not before
us today; Senate Bill 14 is before us.

SEN. VAN de PUTTE: That's correct. And
so my question is --

SEN. FRASER: And I would ask you, did you
vote for that bill last year?

SEN. VAN de PUTTE: No, sir, I didn't.

SEN. FRASER: Okay.

SEN. VAN de PUTTE: But my question is, do
you have any concerns that we will offer to the
Department of Justice a bill, a voter identification
bill that is modeled after a state law that does not
have to go through Section 5, rather than a Georgia
model which already has been proven and has been

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1 affirmed, both in the court case and the Department of
2 Justice? That was my question. Do you have any concern
3 that we will have done all of this debate and work, and
4 certainly to ensure the ballot security, only to be shut
5 down at the Department of Justice, because we are a
6 Section 5 state and what we're offering in your bill is
7 not something that has been approved by the Department
8 of Justice?

9 SEN. FRASER: I have no concern about
10 Senate Bill 14, both going before the U.S. Supreme Court
11 or going before the Department of Justice.

12 SEN. VAN de PUTTE: Thank you, Senator
13 Fraser. I wanted to ask a little bit of your thinking.
14 And in the bill that you have before us, the student
15 identifications were omitted from your list of
16 acceptable documentation. And could you give me the
17 rationale why a student photo identification is not
18 acceptable form of identification?

19 SEN. FRASER: The types of identification
20 we've included are one from a government entity that
21 would identify that person as who they are, that they
22 say they are, they're a valid voter and a citizen of the
23 United States, and these are the ones that we have
24 suggested that would be acceptable.

25 SEN. VAN de PUTTE: So the rationale for
not having student identification cards on the list, since you omitted them, is because they aren't issued by a governmental entity?

SEN. FRASER: I didn't say that.

SEN. VAN de PUTTE: I'm sorry. Can you repeat your answer.

SEN. FRASER: I said I did not say that.

SEN. VAN de PUTTE: So why were the student identifications -- you explained that the student identifications were omitted from the list of acceptable documentation, because it was not a government entity.

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

SEN. VAN de PUTTE: And, Senator Fraser, one of the provisions in your bill also omits birth certificates from the list of acceptable forms of identification, even though that does come from government entities. And so why is it that birth certificates were omitted?
SEN. FRASER: This is requiring a photo ID, current photo ID.

SEN. VAN de PUTTE: Senator Fraser, are there any provisions in the bill to accommodate a voter that has a different address on their photo identification and their voter registration card?

SEN. FRASER: The Secretary of State is here as a resource witness, and I'm sure they will be glad to answer that.

SEN. VAN de PUTTE: No, I'm not asking the difference. I'm asking, is there any provision in Senate Bill 14?

SEN. FRASER: It is not addressed, because that is taken care of by the Secretary of State, that we don't address that in the bill. That would be by an interpretation of rule of the Secretary of State. They will be here, and you can ask them that question.

SEN. VAN de PUTTE: So also you would prefer that we ask the Secretary of State what sort of provision, since your bill is silent on different last names?

SEN. FRASER: Again, that's a question that --

SEN. VAN de PUTTE: So, for example, women that got married?
SEN. FRASER: We've actually got two different -- you know, kind of an overlap here. We've got the Department of Public Safety that I believe Senator Williams is going to be answering questions, because that's his area. And then we also have the Secretary of State available as a resource that I think you can ask that question.

SEN. VAN de PUTTE: Senator Fraser, under Senate Bill 14, your voters can cast a provisional ballot. Under the Indiana bill, that is set at a 10-day cure. Why is it that you chose a six-day cure?

SEN. FRASER: And you'll remember, the Georgia law is only 48 hours, two days. They went 10 days; the Georgia law went two days. We decided that six days should be sufficient to come back.

SEN. VAN de PUTTE: And as I understand it, the Georgia law does have a 48, but they can use two alternate forms of ID which are not in your bill. So what sort of --

SEN. FRASER: I'm sorry. You know, you keep saying that. You need to pull up the data to show me that, please.

SEN. VAN de PUTTE: So to prove their provisional ballot is correct and the six-day cure, what documentation does your bill have that is acceptable?
SEN. FRASER: Photo ID.

SEN. VAN de PUTTE: So only a photo identification. So they would have to --

SEN. FRASER: The acceptable photo IDs that are outlined in the bill would be an acceptable form, yes.

SEN. VAN de PUTTE: Senator Fraser, do you know right now in the State of Texas, we're able to cast provisional ballots? That's correct, isn't it?

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

SEN. VAN de PUTTE: Current election law allows Texas voters to cast a provisional ballot. Is that correct?

SEN. FRASER: I'm sorry. That is another question I think you should ask the Secretary of State. It is my belief that, but I'm sorry, I don't want to answer that. You can, if you don't mind, ask the Secretary of State.

SEN. VAN de PUTTE: Thank you, Senator.

Since it's based on Indiana law, do you believe that the State of Texas has a greater minority population than the State of Indiana?

SEN. FRASER: I'm not advised.

SEN. VAN de PUTTE: To your knowledge, have any studies been done to determine if there has
been, under current Texas voter laws, any impact that it
would have on affected class of Latino and
African-American voters?

SEN. FRASER: The bill that I'm laying out
today is a model that has been approved by the U.S.
Supreme Court, it has been precleared by the Department
of Justice in Georgia. It will deter fraud. We're
providing free access of cards. And, yes, we believe
this will protect confidence in election in making sure
only eligible voters are counted.

SEN. VAN de PUTTE: Senator Fraser, on the
availability of free identification cards, is there a
means test, or what sort of proof do citizens have to
give to the Department of Public Safety to be able to
get a free identification card under your bill?

SEN. FRASER: The Department of Public
Safety is here as a resources witness. Senator Williams
is also here. That's his area of expertise. If you
have a question about that, if you would like, I will
yield to Senator Williams now or you can wait and ask
the DPS when it comes up.

SEN. VAN de PUTTE: Well, right now the
DPS I don't think gives free IDs. But in your bill,
what sort of process or documentation can voters use to
get a free identification card, in your bill? What are
SEN. FRASER: If you would like I can yield to Senator Williams or we can wait and have the DPS. Our instruction is the bill, is that they will issue an ID card and they will not charge. That is very clear to the DPS. And if you want to ask how that will be done, they will be coming up, and you will be able to ask that question. Or if you would like for me to yield to Senator Williams, we'll let him answer that.

SEN. VAN de PUTTE: No, Senator. Thank you. I appreciate this is just a different bill from last legislative session, and I was trying to get at least some of your thinking of why you went with a different bill than last year, a more restrictive, a far more restrictive bill than what we debated last legislative session. And I look forward to the questions, I look forward to the testimony today, but I don't have any other further questions.

And I'm sure some of my colleagues have questions, both of the author of the bill and any of the other senators that have certain sections that they have got expertise on.

But thank you very much, Mr. Chairman. I don't have any other further questions.

CHAIRMAN DUNCAN: Senator Watson?
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SEN. WATSON: Thank you, Mr. Chair.

Will the senator yield for a couple of questions? Oh, I'm sorry.

SEN. FRASER: One second, please. Are you wanting me to yield?

SEN. WATSON: Yes --

SEN. FRASER: Hold on a second, please.

SEN. WATSON: -- if you don't mind.

(Brief pause)

(Senator Whitmire speaking without mic)

SEN. FRASER: Do you have the floor now?

(Senator Whitmire speaking without mic)

SEN. FRASER: No, you're asking questions over here.

(Senator Whitmire speaking without mic)

SEN. FRASER: Making sure I get the answers correct.

I will yield now.

SEN. WATSON: Thank you, Chairman Fraser.

I want, if you don't mind, to ask about the fiscal note for just a second. The fiscal note that was attached to your bill, Senate Bill 14, indicates that the fiscal implication to the state is anticipated to be $2 million. Is that correct?

SEN. FRASER: Could you hold one second.
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SEN. WATSON: Sure.

SEN. FRASER: I need to pull the data here.

(Brief pause)

SEN. FRASER: Senator, I was just verifying. We spent a lot of time last night talking about this. I think you're aware that the HAVA funds that come from the federal government, which I believe are Help America Vote Institute, I guess it is, Help America Vote, the HAVA, there are funds that come to every state to the secretary of state. We have a fund that is setting in the Secretary of State's office that would be more than sufficient to handle this.

In other states like Indiana and Georgia, the HAVA funds have been used before. We have requested that those funds be available for this. They advised us back, until the passage of the bill, they can't approve the funds. But the assumption is that those funds are before the Secretary of State, and they will be here at some point. You can ask them about those funds, the parameters, but it is our belief that the HAVA funds will be available for this and would offset the fiscal note.

SEN. WATSON: I appreciate that answer.

My question was, it's a $2 million fiscal note. Right?
SEN. FRASER: Right now the fiscal note that was delivered is $2 million, yes.

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

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

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

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

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

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

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

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

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

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

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

SEN. WATSON: Yes.

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

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

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

SEN. WATSON: Senator, if you would answer
that question.

SEN. FRASER: I now yield to Senator
Williams.

SEN. WILLIAMS: I just want to be sure
I've got your question right:

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

SEN. WATSON: Sure. Okay.

SEN. WILLIAMS: -- at value.

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

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

SEN. WATSON: Okay.

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

9 But the cost, I think we're all pretty
10 comfortable that it would be fairly negligible. When
11 you look at the universe of registered voters, which is
12 somewhere around 13 million people, I think, and you've
13 got about 15 million people that have either a driver's
14 license -- and I can get you the exact numbers. I have
15 them here -- there are a lot of people that already --
16
17 SEN. WATSON: Right.
18
19 SEN. WILLIAMS: -- have state ID cards.
20 And a lot of the folks that don't have those would be
21 using a mail-in ballot, and there is no requirement to
22 present any kind of photo identification for a mail-in
23 ballot, and this legislative doesn't touch that. So we
24 think that the chances that there's going to be somebody
25 who is going to want to avail themself, there will be

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

7 SEN. WILLIAMS: And, Senator Watson, I
8 understand, and there are a lot of things -- I'm not
9 familiar with those bills. And what I would tell you is
10 that each -- the LBB comes up with their methodology
11 based on what each bill's requirements are. And not
12 being familiar with that --
13
14 SEN. WATSON: Sure.
15
16 SEN. WILLIAMS: -- I can't tell you what
17 the difference between that and this is. But we did
18 specifically sit down and talk to DPS, and they really
19 don't expect that this is going to be any big burden on
20 the agency that they're not going to be able to handle.
21
22 SEN. WATSON: Thank you for your answer.
23
24 SEN. WILLIAMS: Yes.
25
26 SEN. WATSON: I have a couple more
27 questions for Senator Fraser, if that would be all
28 right.
29
30 SEN. FRASER: I'm back with you.
31
32 SEN. WATSON: Okay. Great! Thank you,
Senator.

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

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

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

SEN. FRASER: I'm not advised.

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

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

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

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

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

SEN. WHITMIRE: Will the gentleman yield?

SEN. ELTIFE: Senator Fraser yield?

SEN. FRASER: Be glad to.

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

SEN. FRASER: I am not advised.

SEN. WHITMIRE: -- based on --

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

SEN. WHITMIRE: Well, but it's an
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1 indication, if the public is really concerned,
2 particularly based on your polling data, which I'm sure
3 you would join with, we don't govern in the state by
4 polls normally, do we?
5 SEN. FRASER: Well, other than I find it
6 interesting, whenever they asked the people of your
7 district that you represent --
8 SEN. WHITMIRE: Sure.
9 SEN. FRASER: -- of whether they're in
10 favor, the polls continue to show that the public, both
11 Republican and Democrat --
12 SEN. WHITMIRE: Well --
13 SEN. FRASER: -- you say, "Will you
14 support a person voting with a photo ID?"
15 SEN. WHITMIRE: And did you include in
16 that question and would you be for it if it would
17 disenfranchise senior citizens, students or others? You
18 and I know it's all in how you ask the question. In
19 fact, the way you're stating it, I'm surprised you
20 didn't get 100 percent. If you ask people, "Are you
21 against vote fraud?" I would assume you would get
22 100 percent.
23 SEN. FRASER: Here's the question --
24 here's the question --
25 SEN. WHITMIRE: It's the unintended
consequences that we're concerned about.

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

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

The bottom line is, Senator Fraser, and
we'll have -- and let's have this ballot: Would you
concede that we're all, all 31 of us are against
election fraud?

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

SEN. WHITMIRE: Well, let me go ahead and
speak for the 12 of us that are probably going to vote
"No." We're all against election fraud. And I would
suggest we've actually seen an election process since we
took this up two years ago. Let's look at the most
recent election. What fraudulent activity this past
November are you so concerned about? I think it's the
election -- and maybe I should be more concerned.

If you look at the election results, it
was an overwhelming victorious day for Republicans in
November. You replaced 34 Democrats in the house. Now,
are you suggesting there was significant fraud on that
election day?

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

SEN. WHITMIRE: Sure.

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

SEN. WHITMIRE: Except, Senator Fraser,
the unintended consequences that you're going to
disenfranchise people that have not been able to acquire
these cards, and that's what I want to spend a few
moments on. Walk me through a real life example of how
a senior citizen in my district is going to acquire that
card. Do they do it by mail? Do they have to do it in
person? What's the process?

SEN. FRASER: Senior citizens over --

SEN. WHITMIRE: Give me a real life.

Don't say, "We're going to provide it." Let's break
down what an 86-year-old lady in my district, never been
required to have one, how is she going to get her card?

SEN. FRASER: She would vote under current
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law because she's exempt.

SEN. WHITMIRE: You've given her an exemption. Does she have to prove, that day, her age?

I mean, Troy --

SEN. FRASER: You can ask that question of the Secretary of State. But I'm assuming --

SEN. WHITMIRE: Well, you're the author. And let me just tell you, like I said, we're all against fraud. As elected officials, it's in our own personal self-interest to have honest elections with the highest integrity. We're doing it for the people that we represent as well. So that's not the issue, are we for or against fraud? It's the implementation, it's the disenfranchisement, Troy, that we're fighting for and what we've been fighting for, for the last couple of years. Tell me how we're going to address the unintended consequences of someone not being able to vote on election day, because I know you don't want that. And I --

SEN. FRASER: I was sent down here by the people of my district to represent their views. The polling of my district shows that it's almost 90 percent of the people in favor of it.

SEN. WHITMIRE: Okay.

SEN. FRASER: The district that you
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represent, I think if you poll in that district -- and I have used some polling that shows close to the same number -- that say that when they're asked, "Do you think you should have to show a photo ID?" and they say yes.

SEN. WHITMIRE: And my --

SEN. FRASER: So my answer is, we need to pass this, because the people in our district --

SEN. WHITMIRE: Well --

SEN. FRASER: -- believe that they should show a photo ID.

SEN. WHITMIRE: First of all, I don't govern by poll. And if I was at a town hall meeting and I walked through, after they've said they're for voter ID, then I start talking about the implementation of it, they start being just as concerned as I am. So I want to know how people are going to acquire these cards. Forget the 86-year-old. Let's go to a 56-year-old person. How do they acquire the card? Are you familiar in Houston it takes two to three hours to get a driver's license at the DPS office?

SEN. FRASER: John, I was about to ask you, you know, ask you your age, but I know your age. We're both 61. A 61-year-old person in our age group, is it going to be a real problem for you and I to drive

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down to the DPS to get --

SEN. WHITMIRE: Well, see, that's what's so sad about this discussion. You're not putting yourself in the shoes of someone who doesn't have the means that you and I have, they have to depend on someone else for transportation. They may not have any resources. How is a 56-year-old person in Houston, Texas, going to acquire this card --

SEN. FRASER: We are not changing --

SEN. WHITMIRE: -- no driver's license.

SEN. FRASER: We are not changing the mail-in ballot. And if someone has a reason that they need to vote by mail --

SEN. WHITMIRE: On a mail-in ballot, how do you prove -- that's early voting. How do you verify who you are in that instance?

SEN. FRASER: I'm sure the Secretary of State would be glad to answer that.

SEN. WHITMIRE: Okay. But that's not what we're talking about. We're talking about on election day, a person in Houston wants to vote, how do they acquire the voter ID, photo ID?

SEN. FRASER: The DPS and the Secretary of State will both be here, and I'm sure they will be glad to answer that question.
SEN. WHITMIRE: Troy, you're proposing this. And before we go forward, I would like to know, do you have to go to the DPS office? Do you order it by mail? That's a critical concern of all of us that are voting "No" against this bill. And I don't --

SEN. FRASER: Senator, did --

SEN. WHITMIRE: -- think you want to disenfranchise anybody, but I'm afraid that there's unintended consequences that you have not envisioned.

SEN. FRASER: Did another senator advise you of what you had to do to go down to the DPS office to get your driver's license?

SEN. WHITMIRE: Well, we're not talking about me. We're fortunate; you and I are fortunate. We probably don't have to wait in lines. In Houston, Texas --

SEN. FRASER: There are 15 million drivers in Texas. Of the 31 Senate districts, I think that would mean there's about 500,000, I believe, in my district. And I don't think I've got a one of them that I instructed on how to go down and get a photo ID.

SEN. WHITMIRE: Okay. Well, let me just tell you about the DPS operations in Harris County. A working person cannot go by and get their license renewed on their lunch hour, before work or after work,
because literally it's a two to three-hour wait. So how
do you add this new group of participants that have to
show up at a DPS office to get a voter ID.

SEN. FRASER: We have someone coming from
the DPS. I think you can ask that question or
I'll yield to Senator Williams.

SEN. WHITMIRE: I'm not sure if they're --
I think you as the sponsor ought to explain that.

SEN. FRASER: The bill that I'm laying out
is very clear, that it complies with the Supreme Court
ramification and it also has been cleared by the
Department of Justice.

SEN. WHITMIRE: Okay. So you don't know.
Is that your answer?

SEN. FRASER: I said we've got resource
witnesses that are coming. I'm not an expert in that
area. We do have an expert coming, and they'll be glad
to answer your question.

SEN. WHITMIRE: The DPS folks will have to
publicly say at Gessner and I-10 or at Tacoma and 290,
two sites in my district -- and I complained and asked
for more resources -- it's a two- to three-hour wait,
Governor Dewhurst, to get your driver's license renewed.
So you can't even go over there on your lunch hour and
get a driver's license, and now you want the folks to go
over there and, I assume, wait in line to get a voter ID.

Let me ask you another question about the education that you're going to provide. Is it going to be done in bilingual materials with a --

SEN. FRASER: I'm sure the Secretary of State will be glad to answer that question.

SEN. WHITMIRE: Well, you're the sponsor.

SEN. FRASER: And as the sponsor, I invited the Secretary of State as a resource witness, to make sure we have someone that knows the answer to that particular question.

SEN. WHITMIRE: One also is, your bill provides same-day registration. Now, according to you, you're going to have a fail-safe system that you'll know who is showing up to vote. Are you open to the idea that someone who has gotten motivated in the last 30 days, maybe the days just leading up to the election, with this secure form of ID can show up on election day, prove who they are and ask to vote?

SEN. FRASER: The bill does not provide for same-day registration.

SEN. WHITMIRE: I'm sorry. What?

SEN. FRASER: The bill does not provide for same-day registration.
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SEN. WHITMIRE: Would you be amenable to us proposing it and --

SEN. FRASER: The bill does not provide, as I -- I filed the bill, and the bill does not provide for same-day registration.

SEN. WHITMIRE: Okay. Thank you for your answers.

CHAIRMAN DUNCAN: Senator Uresti.

SEN. URESTI: Thank you, Mr. Chairman.

Would the gentleman yield for some questions?

SEN. FRASER: I would love to yield.

SEN. URESTI: Thank you, Senator Fraser.

I want to ask you a few questions, kind of to follow on what Dean Whitmire asked you specifically regarding the DPS offices. And I don't know if they're here yet or not. But particularly about my district, you know how large it is. It goes from San Antonio all the way to El Paso, and it has 23 counties, as I'm sure you're aware, Senator Fraser.

And one of the concerns that I have is that between here and El Paso -- and you may know this. If not, I would like to let you know and the other members know -- well, let me ask you this: Do you know how many of my 23 counties do not have a DPS office?
SEN. FRASER: Senator, you know, the start of your description of this, I'm very familiar with the district, because I used to represent a lot of it. And that area between -- going out toward El Paso, I've had that when I was a state rep. It was in my state representative district. And then part of your other district was when I was a senator. So, yes, I'm very familiar with it.

The answer to your question that you're asking about driver's license location, we'll have somebody from DPS here, and I'm sure they'll be glad to answer that question for you.

SEN. URESTI: Well, in the meantime, Senator Fraser, let me let you and the members know. There are eight counties in my district out of the 23 that do not have a DPS office. Loving County has no office, Crockett County, Hudspeth County, Jeff Davis County, Kinney County, Real County -- we had some good folks here yesterday representing Real County -- and Terrell County have their offices temporarily closed. And, Senator Fraser, do you know how many people live in those counties? There are 47,000 people that live in those counties in my district that don't have a DPS office.

SEN. FRASER: Do you know how many in
those counties drive that have a license?

SEN. URESTI: No, I don't. Do you know, Senator?

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

SEN. URESTI: Well, it makes it even more difficult if they don't have a driver's license and they need to get a driver's license or a photo ID to vote. How are they going to drive long distances in order to retrieve that -- or obtain that ID?

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

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

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

Well, if you can't get off of work that
one month -- that one Tuesday and that's the only day
it's open, what are my constituents supposed to do,
Senator Fraser?

SEN. FRASER: I think that's probably a
question you would want to ask the DPS. Or, if you
would like, I will yield to Senator Williams.

SEN. URESTI: But this isn't their bill;
this is your bill, Senator Fraser.

SEN. FRASER: And that's the reason I
bring in, you know, knowledgeable witnesses, expert
witnesses that can answer these questions. We have
someone from DPS that will be here. Or Senator
Williams, that's in the area of his committee.

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

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

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

SEN. URESTI: Sen. Fraser, in addition to those counties that have no DPS offices, many of my constituents in several other counties are going to have to travel long distances in order to get an ID. For example, my constituents in Crockett County, Ozona, will have to travel 163 miles round trip to San Angelo to get to the nearest DPS office. And if you live in Sanderson in Terrell County, you will have to travel 170 miles round trip to get to Fort Stockton. If you live in Sierra Blanca in Hudspeth County, you have to travel 176 miles to get to El Paso in order to get to the DPS office. Did you know that, Sen. Fraser?
SEN. FRASER: I'm very aware of that, that, you know, the district I represented, there were bus routes that were 80 to 90 miles each way for kids to attend public school, because the people lived out in the country.

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

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

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

SEN. FRASER: By mail? Again, you can ask the Secretary of State. We're not addressing the mail-in ballots. The Secretary of State will be here. Someone from their office, you can ask that question.

SEN. URESTI: Well, let me just mention a few more of my counties. If you live in Van Horn in Culberson County, you have to travel 200 miles round trip to Marfa, which is the nearest DPS office. If you live in Pecos, which is in Reeves County, you have to travel 143 miles to Fort Stockton. If you live in Rocksprings in Edwards County, it's 152 miles round trip to Del Rio, Sen. Fraser. And finally, if you live in
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Medina, which is in Hondo, if you live in Hondo, which
is in Medina County, you have to travel 84 miles.

And so again my question; Sen. Fraser --
if you can't answer it, just let me know -- what am I
supposed to tell my constituents -- because this is your
bill; it's not my bill -- how are they supposed to get
their Texas ID if their DPS office is --

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

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

SEN. FRASER: Well, you're assuming the
answer before you ask the question of the DPS.

SEN. URESTI: Well, you're assuming that
they're going to say that they will be able to do it.
SEN. FRASER: No. I'm assuming that the DPS is going to come up and you'll have the opportunity to ask them.

SEN. URESTI: Okay. So then let's assume the DPS spokesperson says, "Great idea that Senator Fraser has. We can do that," there's going to be a cost associated with that. Isn't that correct? That's not included in the fiscal note of $2 million?

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

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

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

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

SEN. FRASER: Actually, you don't -- if
you go in and you're on the voter roll and you have a
driver's license, they'll allow you to vote, because I
know that's -- you know, I do that now.

SEN. URESTI: So you don't need your voter
registration card, is my real question? If you have a
valid Texas ID or a valid Texas driver's license, then
you do not need --

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

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

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

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

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

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

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

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

SEN. FRASER: That is my understanding.

But, again, I would ask the Secretary of State.

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

Thank you, Senator Fraser.
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CHAIRMAN DUNCAN: Thank you, Senator.

Senator Gallegos.

SEN. GALLEGOS: Senator Fraser, the questions that you're being asked and are asking us to wait for resource witnesses, I'm concerned that we're not getting answers from the author of the bill. Now, Senator Huffman just showed us a box with testimony and questions and supposedly answers that were asked two years ago. And a lot of the questions that you're referring to that we get answers from resource witnesses weren't answered at that time.

I mean, we just want an assurance here that whatever was in that box that Senator Huffman had did not have all the questions answered. I heard what she told Senator Davis, but a lot of the questions that you're being asked today were the same questions that were asked two years ago and have never been answered.

SEN. FRASER: Senator, I stayed up very late last night reading the deposition of the questions that were asked, that you asked me last year, the answers. And I guess if you're concerned about that, maybe you should get that deposition and you read it and that way you can feel more comfortable about what was asked and what was answered. Have you read the deposition?
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SEN. GALLEGOS: There will be plenty of time for that. But I'm just asking you, as the author of the bill. You know, I mean, you are laying it out, and you're trying to explain it. And you're asking us to ask resource witnesses on questions, especially the questions that Senator Uresti had. And it concerns me that before we even, you know, lay it out and go forward with a bill, that the people that are here listening, at least they have the right to -- they leave, they have the right to know these questions, especially those questions that Senator Uresti just got through asking you. And it concerns me that we cannot get answers at the time that the bill is laid out, before we even go forward with the witnesses. And that just concerns me, that we're not getting answers.

SEN. FRASER: I think you can take a lot of comfort in the fact that we will not ask you to vote for the bill until we bring up an expert witness and you will be allowed to ask those question and get the answer you're looking for.

SEN. GALLEGOS: Well, I mean, we did that two years ago. And some of the questions that the box that Senator Huffman had still doesn't have answers in that box that she had that's going to be introduced as Exhibit No. 1.
SEN. FRASER: Have you read all the data that was in the box?

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

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

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

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

SEN. GALLEGOS: You know, Senator, I'm concerned here that this number that has been laid out in this bill -- you know, and we do have -- and I don't know if the rules if we have the Ogden amendment on this bill where you're looking at one number and then all of a sudden, before we start implementing the bill, it's going to cost us $30 million to implement the bill by the numbers -- if we use the formula being used by Missouri that has only 5.9 in population. Now, that
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really concerns me. $30 million, Senator Watson could use that here and stop the closure of those Austin Independent School District schools that are being closed. They could use that $30 million that I see as opposed to what I'm seeing as the formula in math that Missouri used.

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

You know, I mean, that concerns me, and that should concern you, when you're given a number, and we're telling the people in the audience here, the taxpayers, it's only going to cost us $2 million. And we have 25 million in population; Missouri only has 5.9 million, and it's costing them $6 million to implement voter ID. Now, you know, that really concerns me. And I don't want to mislead the public in any form or fashion that it's only going to cost us $2 million to upstart voter ID when that is a misleading number. And
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that concerns me, Senator, and it should you. If this number is misleading, now who can answer that question for me?

SEN. FRASER: I think you're very aware of the fact that this number comes from LBB. I believe they probably called the Secretary of State and asked for that number. So if you have a concern about it, probably you should ask the LBB and/or the Secretary of State. I believe the Secretary of State is going to tell you there are HAVA funds that they're requesting that would possibly even eliminate that $2 million.

SEN. GALLEGOS: Well, I mean, I heard you tell Senator Watson about the HAVA funds. I'm just saying on straight-up, straight-up implementation, that $2 million as opposed to $6 million in Missouri, you know, that's without HAVA funds, too. I'm saying that when you come down to it, if that number -- if, when the implementation starts, instead of $2 million it's $30 million, then, you know, I'm concerned.

I believe that the Ogden amendment should go on there and say, you know, if it's going to be over, over what you're showing on the fiscal note, that it shouldn't be implemented if it's going to cost that type of money. That's a lot of money; that's a lot of money to implement voter ID when you're just saying -- well,
not you -- but the fiscal note on this bill is saying
only two million bucks. Now, you know, that just
concerns me, Senator. And I guess I'll ask that
question when the proper resource witness comes up.

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

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

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

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

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

SEN. FRASER: I'm with you.

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

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

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

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

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

And, you know, in more detail, we could get the Department of Public Safety to give you some more detail on that. But now the temporary licenses actually have a photo on the paper license that you're referring to.

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

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

SEN. GALLEGOS: Well, I agree.

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

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

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

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

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

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

SEN. GALLEGOS: Sure.

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

SEN. GALLEGOS: Sure.

Thank you, Mr. Chairman.
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CHAIRMAN DUNCAN: Senator Davis.

SEN. DAVIS: Senator Fraser, will you
yield for some questions, please?

SEN. FRASER: If you will allow me one
second to get some better headsets on.

SEN. DAVIS: I was going to ask you if you
could hear me.

(Laughter)

(Brief pause)

SEN. FRASER: I will now yield.

SEN. DAVIS: Can you hear me okay, Senator
Fraser?

SEN. FRASER: Right now I am.

SEN. DAVIS: All right. A couple of
questions for you. You've talked earlier this morning
about both the Supreme Court opinion in the Indiana case
and also the Justice Department review of Georgia. Are
you aware that in each of those, there were particular
instances that made the acceptance of those particular
laws different than yours might be interpreted by those
same bodies?

SEN. FRASER: If you don't mind, we've
got, you know -- Senator Huffman, I think, is prepared
to, you know, answer legal questions. If you've got a
question about a -- do you have specific examples --
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SEN. DAVIS: Well, I would --

SEN. FRASER: -- that you would like to --

and we also, I believe, are going to have someone from Indiana here this afternoon, and we're also going to have an invited -- an attorney that will address that.

So if you have specific questions about that, that might be the appropriate place.

SEN. DAVIS: Well, I'll read to you from those in a moment. But let's start just by talking about what's required on the Texas voter registration application right now. Right now a person may put their driver's license number or their social security number on their registration application to become a voter in the State of Texas. Correct?

SEN. FRASER: You've got the data. And I think probably the best person to ask, and that's the Secretary of State.

SEN. DAVIS: Well, I have it right here. And there are some people who can't provide that information, and there's another opportunity for that person to attest to whom they are, to attest to the fact that they're a legal citizen and not a felon who would be prevented from voting. And I'm sure the Secretary of State probably has a number that shows to us -- and we will ask for this on the record today -- how many people
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1 fill out Section No. 9, the attestation clause, versus
2 the people who are able to fill out Section 8, and
3 what's the gulf between that. Are you aware what the
4 gulf is between those two numbers?

5 SEN. FRASER: I believe I know the section
6 you're talking about, but I actually would prefer you
7 ask that of the Secretary of State's office.

8 SEN. DAVIS: Okay. But I'm asking you.
9 Are you aware -- under your bill that you're proposing,
10 are you aware of what the gulf is, the gap is between
11 those two numbers, the people who are able to provide
12 their driver's license or social security number versus
13 those that fill out the attestation clause, because they
14 don't have either?

15 SEN. FRASER: When you ask the Secretary
16 of State that question, I will be listening very
17 carefully to make sure that I hear what they say.

18 SEN. DAVIS: And would you agree that it's
19 probably the case that if I fill out Section 9, the
20 attestation clause, because I can't fill out Section 8
21 with either a social security number or my driver's
22 license number, that I will probably be impacted by a
23 bill that's going to require what your bill requires in
24 order for me to vote?

25 SEN. FRASER: Again, that would be a good
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second of the Secretary of State.

SEN. DAVIS: Well, I'm asking you as the bill's author. Are you concerned that there will be an impact to those people who currently cannot fill out Section 8 but can only fill out the attestation clause in Section 9?

SEN. FRASER: And again, you're making a reference to Section 8 that -- you know, I'm sorry. I don't -- I'm not -- I don't know what you're referring to. The Secretary of State is the expert in that area. And when you ask that question, I'll be listening and will, you know, listen to the response.

SEN. DAVIS: Earlier you talked about the Executive Director from the Carter-Baker Commission, and you cited a statistic, that only 1.2 percent of Americans would be affected by a requirement that a photo ID be required. Correct?

SEN. FRASER: I did make that reference, yes.

SEN. DAVIS: Are you aware that that was limited to a study of only three states, and Texas was not one of them?

SEN. FRASER: Yes, because at that time the Carter-Baker was looking at the states that had issued a photo ID.
SEN. DAVIS: And would you agree that it may be the case that if I live in one of those three states and it's easier for me to get a driver's license in that state, then I may have a lower percentage of citizens who don't have a photo ID than another state might have where it's more difficult to get a driver's license?

SEN. FRASER: I'm not advised.

SEN. DAVIS: Are you aware that even in those states, in the 1.2 percentage number, there was a disparate impact that was found on elderly and women and African-Americans in terms of people who actually had the eligible photo ID that's counted in that percentage?

SEN. FRASER: I'm not advised.

SEN. DAVIS: Does it concern you at all that the bill that we are looking at today, the bill that you filed, might have a disparate impact on women, minorities and senior citizens, possibly disabled people in the State of Texas?

SEN. FRASER: The bill that we're filing today I believe will be approved by the U.S. Supreme Court, and also the bill in Georgia was precleared by the Justice Department. So I believe our bill will comply with both of those.

SEN. DAVIS: Okay. Well, I'm going to
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read to you from the Supreme Court opinion, the U.S. Supreme Court opinion when it was reviewing the Indiana law.

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

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

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

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

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

SEN. FRASER: The bill that I'm moving forward I believe will be approved by the U.S. Supreme Court and will be precleared by the Department of Justice.
SEN. DAVIS: Okay. Let's look at the things that are required in your bill in terms of a photo ID. And I appreciate what you said earlier. I think it's true. I think if you ask anybody on the street that you might walk up to at this moment in time whether they think it's a good idea for someone to show a photo ID in order to vote, they would probably agree. What they might not understand in agreeing with that, though, are what the requirements are going to be in the State of Texas in order for them to comply with that particular requirement, and they also might not appreciate the challenge and the difficulty that some people may have in supplying that.

SEN. FRASER: Senator, this is not rocket science. The people of your district understand very clearly that when they walk into that voting booth, they have to show a photo ID proving they are who they say they are. The people in Fort Worth, that area, I have the polling data -- I believe the number is about -- around 90 percent. And of that, that's Republicans and Democrats. So I believe the people that elected you, sent you down here, have said, "We believe that when you go in to vote, you should show identification to prove you are who you say you are." It's a very, very simple concept.
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SEN. DAVIS: Are you aware that in the Indiana law and also in the Georgia law, people are allowed to come and vote with a state-issued student ID if they're attending a state university?

SEN. FRASER: I'm not advised.

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

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

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

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

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

SEN. FRASER: And I would ask you, what would happen if you were driving to the polling place...
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1 with an invalid driver's license? What would happen?
2    SEN. DAVIS: I would get a ticket, but I
3 wouldn't be denied my constitutional right to vote as a
4 legal citizen of the United States.
5    SEN. FRASER: You would not be denied your
6 right to vote. Under this law and under this bill, as
7 you know, if you walk in with an invalid driver's
8 license, you would be allowed to vote. It would be a
9 provision vote, and you would be allowed six days to go
10 back to the place that issues driver's license, get a
11 valid license and come back, and your vote would be
12 counted.
13    SEN. DAVIS: Well, we had a conversation
14 about that earlier in terms of how difficult and
15 challenging -- for some people it actually is -- to be
16 able to comply with that requirement. But let me ask
17 you for a moment, if I bring in a state-issued Texas
18 driver's license and it expired 30 days ago or 60 days
19 ago or a year ago, how does that fail to prove that I'm
20 the person on the card, simply because it has expired?
21    SEN. FRASER: Well, I would ask you the
22 same question. If your driver's license expired 30 days
23 ago, is it acceptable to the patrolman that just stopped
24 you? It's expired.
25    SEN. DAVIS: I'm asking you the question.
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1 The reason that we are advocating or you are advocating
2 for photo ID is so that the person who is receiving my
3 ballot can verify that I am the person casting it.
4 Correct?
5
6 SEN. FRASER: Yes.
7
8 SEN. DAVIS: And if my driver's license is
9 expired but it's a state-issued driver's license and it
10 has my name and it has my picture on it and my name
11 matches what's on the registrar's -- the precinct rolls,
12 how does that fail to prove that I'm who I am?
13
14 SEN. FRASER: I think we go back to the
15 word "valid," do you have a valid Texas driver's
16 license?
17
18 SEN. DAVIS: How does it fail to prove
19 that I am who I am?
20
21 SEN. FRASER: You don't have a valid Texas
22 driver's license.
23
24 SEN. DAVIS: And as I said earlier, in
25 Georgia and in Indiana, under the laws that were deemed
26 acceptable by the Supreme Court and the courts in
27 Georgia received preclearance by the Department of
28 Justice, each of those allows some acceptance of expired
29 IDs.
30
31 I want to talk a little bit about how
difficult if is, because I really think every one of us
in this room needs to appreciate the burden that people
have when they're being asked to supply some of the
documentation that's required in your bill. And I've
put together a little chart that I just want to go over
very quickly. I won't belabor the point.

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

Thank you.

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

Senator Fraser, I came from a fairly
challenged background before I arrived on the floor of
the Texas Senate. I had the opportunity to receive an
incredible education that ultimately allowed me the
privilege of standing here and having a conversation
with you today. But there was a time when I was
indigent, there was a time when I was a single mother
and I was working a full-time job during the day in
Dallas, from which I had to leave my house at 6 o'clock
in the morning every morning to arrive at, and I worked
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a part-time job four nights a week waiting tables.
If I had been required during that point
in time to show some of the ID requirements that are
being proposed under your bill, I have to admit to you
that I would have been quite challenged in being able to
accomplish it. I had gotten divorced, so my name was
different on my state ID than was on the registration
rolls. And so because of that, I would have had to go
through the process of trying to get a new state ID.
And, honestly, with my schedule, it would have been
fairly impossible for me to achieve it.
I think it's pretty easy for us to stand
on the Senate floor where we are today and the shoes
we're in today and say, "Why should that be a problem?"
But for people who have to take time off of work and for
whom that's an unaffordable idea, it can be a very, very
real problem.
The other issue, in trying to receive a
state ID in the State of Texas is, it's almost a
circular process. In order to get the state ID, you
have to have underlying ID that provide you with the
opportunity to get that ID. And I know we're talking
right now in the State of Texas about giving free ID to
people who come in to the Department of Motor Vehicles
and ask for that ID, based on the fact that they want to
But if I can't provide underlying documentation, I'm going to have to go get that underlying documentation, and it's going to cost me money, and I'm concerned about that person. I'm concerned that if I need a birth certificate in the State of Texas, it's going to cost me $23. I'm also concerned that I might have a really hard time getting that birth certificate. And if you look to see what you can show in order to get it, you see the circularity of the problem. You can show a driver's license or you can show a state ID. Well, the reason I need the birth certificate is so I can get my driver's license or my state ID.

In order for me to get a birth certificate, I can show a social security card as one of my underlying two documents that are required. But in order to have a social security card, I've got to have a driver's license or a state ID, so it puts me right back at my original problem. To get my driver's license or my state ID, I might be able to use a passport. But in order to use my passport, I'm going to have to have a birth certificate, but I couldn't get my birth certificate because I didn't have a driver's license or a state ID to get my birth certificate.
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You see the problem? It's not just the problem of the time one has to take off of work in order to comply with this requirement, it's not just a problem of how much money it costs. Sometimes it can be a problem of almost a near impossibility for a person to be able to provide the underlying documentation in order for them to go and vote.

And my concern about that is, we will disparately impact persons who find greater challenges in fulfilling the underlying documentation requirements; and, yet, we haven't provided anywhere in the bill, as was done in Indiana, a provisional opportunity for someone to come and cast a ballot and say that they were unable to comply with the requirements for a photo ID. Why is that?

SEN. FRASER: Senator, I appreciate the story you just gave. And I would advise you of the other 31 members here. There's a lot of people that can tell like stories. When I was 16 and working on a potato picker in California or when I was 17 working picking cucumbers in Rising Star or when I was 18, picking cotton in West Texas, I figured out a way to have time after work to go get a driver's license, because I really wanted one. I worked that into the schedule, as I think a lot of people do.
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1 I think what I would ask you is to give
evidence, either in Indiana or Georgia, of a single
person that has come forward and said that they were
denied their ability to vote because of these
provisions, because in my knowledge, there has not been
a single person that came forward.

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

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

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

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

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

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

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

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

SEN. FRASER: And that is a correct statement.

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

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

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

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

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

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

SEN. FRASER: Senator, I'm sure you're
aware through -- the past session, you were here.
You're reading current law. There is one change there
where we insert "presented by the voter under Section
63.001," which is the description I think of the photo
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1 ID. But basically that is current law, and I think it
2 would be a good thing to ask the Secretary of State.
3 Everything you've read is current law.
4
5 SEN. DAVIS: Well, it's not current law,
6 because it changes it from the difference being on the
7 voter registration certificate versus being on the
8 person's ID. What I'm concerned about is that if I come
9 in with an ID and my address has changed and I have the
10 correct address on the precinct list that's different
11 than what's on my ID, that a poll worker might actually
12 reject my opportunity to vote, because the address on my
13 ID is showing differently than is showing on the
14 precinct list.
15
16 SEN. FRASER: And the good thing about
17 that is, these HAVA funds that we're going to request
18 will also train poll workers to make sure they
19 understand it. The ruling would be made by the
20 Secretary of State, and they will train them how to do
21 that, and I feel very comfortable that you would get to
22 vote.
23
24 SEN. DAVIS: Well, I'm glad you feel very
25 comfortable, Senator Fraser. I remain very, very
26 concerned about the number of people under the very
27 severe restrictions that are imposed by the bill you
28 have proposed. I'm very concerned about the number of
people who may be impacted by it. And I understand and
agree with you, that assuring that voter fraud is not
occurring is very, very important, and it's a
conversation we should be having and a cure we should
all attempt to find.

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

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

Thank you.

SEN. DAVIS: Thank you.

CHAIRMAN DUNCAN: Senator West.

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

Senator Fraser, good morning, sir.

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

SEN. WEST: That was actually Billy Ocean,

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which both of us like.

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

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

SEN. FRASER: This bill?

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

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

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

SEN. FRASER: I had my largest county, Bell County, in my office last week, and I told Judge Burrows at that time that I'm opposed to unfunded mandate and, you know, we'll do everything we can to
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1 keep them off the counties.

2 SEN. WEST: So you're telling county
3 officials there are no unfunded mandates coming from
4 this bill?

5 SEN. FRASER: I didn't say that.
6 SEN. WEST: So there may be unfunded
7 mandates coming from this bill?

8 SEN. FRASER: Not advised.
9 SEN. WEST: So let me back up. And I want
10 to pursue this just a minute now. You philosophically
11 are not for unfunded mandates. Right?

12 SEN. FRASER: That's a correct statement.
13 SEN. WEST: That is a correct statement.
14 And you, by your action in previous legislatures, have
15 made certain that you have not passed any bills that
16 would provide for unfunded mandates on the counties.
17 Right?

18 SEN. FRASER: I have made an effort not to
19 vote, if possible.

20 SEN. WEST: Okay. Now, in this particular
21 bill, it is your objective to make certain that there
22 are no unfunded mandates on any county in this entire
23 state. Is that correct?

24 SEN. FRASER: I'm not advised.

25 SEN. WEST: You're not advised as to what
your objective is?

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

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

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

SEN. WEST: It was your bill, though.

This is your bill. You don't know --

SEN. FRASER: My bill says that --

SEN. WEST: I'm just --

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

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

SEN. FRASER: I'm not advised.

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

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

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

SEN. FRASER: I'm sorry?

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

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

SEN. WEST: Did you review the fiscal
note?

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

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

SEN. FRASER: Yes.

SEN. WEST: Okay. Second paragraph,
"According to Texas Association of Counties, Tarrant
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1 County anticipated a one-time cost to reprint
2 provisional balloting materials and provides new
3 notices, of $8,000. Bexar County stated that due to
4 limited space on current registration certificate, large
5 cards would be necessary, resulting in additional costs
6 for cards, printing and postage of $381,000," et cetera.
7
8 Is that a cost that is going to be picked
9 up by the state or is that going to be a cost that's
10 going to be occasioned by the counties?
11
12 SEN. FRASER: Senator, you're on the
13 Finance Committee. You helped with proposing the draft
14 bill, and then you will be voting on the bill coming out
15 of the committee that you send to us, so I think you
16 would be better to answer that. My job is to pass the
17 bill. The implementation of the bill, then, and the
18 cost will have to be considered by the Finance
19 Committee.
20
21 SEN. WEST: So let me make sure that I
22 understand this, then. The answer to that question is,
23 you don't know. So if we don't appropriate that
24 money -- that being the Legislature doesn't appropriate
25 that money -- then that's an unfunded mandate. Correct?
26
27 SEN. FRASER: My job is to bring the bill
28 forward, put it before the membership, advise what the
29 bill will do. And then if there's a fiscal impact --
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SEN. WEST: Advise what the bill will do?

SEN. FRASER: The bill is going --

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

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

(Simultaneous discussion)

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

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

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

SEN. FRASER: Not advised about unfunded mandates.

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

(Simultaneous discussion)

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

SEN. WEST: Do you know -- then let me ask this question. Do you know where the county will get the money from, counties will get that money from? Under the local government impact, do you know where the counties will get that money from?
SEN. FRASER: You're asking me a question.

No, I do not know --

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

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

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

SEN. FRASER: Federal funds.

SEN. WEST: Okay.

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

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

SEN. FRASER: You are the member of
Finance.

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

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

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

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

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

SEN. FRASER: Mr. Chairman?

CHAIRMAN DUNCAN: Senator Fraser.

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

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

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

CHAIRMAN DUNCAN: You may.

(Brief pause)

SEN. FRASER: Mr. President?

CHAIRMAN DUNCAN: Senator Fraser, if you'll hold on just a minute. I'm going to allow -- we're already premarked a couple of exhibits. And so just in order to keep the record flowing correctly, I'm
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1 going to recognize Sen. Van de Putte at this point to
2 introduce a motion in writing.
3
4 Senator Van de Putte.
5
6 SEN. VAN de PUTTE: Thank you,
7 Mr. Chairman. And thank you, Chairman, and the bill
8 author, to yield so that I can move that all actions
9 taken by the Senate on the 81st Legislature on Senate
10 Bill 362, as contained in the official Senate Journal,
11 be included in the record as Exhibit 2. The Senate
12 Journal excerpts shall include motions, remarks, written
13 responses, exhibits and any other material directly
14 related to Senate Bill 362.
15
16 Mr. Chairman, I move this motion in
17 writing.
18
19 CHAIRMAN DUNCAN: Members, you've heard
20 the motion. Is there any objection?
21
22 The Chair hears none. Exhibit 2 will be
23 received into the record.
24
25 (Exhibit No. 2 marked and admitted)
26
27 CHAIRMAN DUNCAN: Now, Senator Fraser,
28 you're recognized on Exhibit 3, I believe.
29
30 SEN. FRASER: And, members, just to
31 clarify, what we're entering here is the answer to the
32 question that we've been discussing. It is a letter
33 from the Secretary of State, Hope Andrade, saying that
the $2 million we're discussing, there is sufficient
HAVA funds allocated to voter education and poll worker
training that would cover this expense that is
available.

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

And I would request this be entered into
the record.

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

(Exhibit No. 3 marked and admitted)

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

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

SEN. WEST: Thank you, Mr. Chairman.

Senator Fraser?

SEN. FRASER: Yes.

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

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

SEN. WEST: It's not general revenue?

SEN. FRASER: Yes.

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

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

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

SEN. WEST: And then --

SEN. FRASER: To handle this.

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

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

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

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

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

SEN. FRASER: Well, I guess that's something you should consider in the Finance Committee.

They have a huge budget, and in --

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

SEN. WEST: I'm sorry?

SEN. FRASER: The large counties.

SEN. WEST: They have huge budgets?

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

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

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

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

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

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

SEN. FRASER: From the sheet here. If you'll follow, Comal County reported the cost associated with the provision of the bill should be absorbed within existing revenues.
SEN. WEST: But that's Comal County.
That's not Travis County, that's not Harris County,
that's not Bell County or any of the other counties.
That's Comal County. Comal County is not indicative of
all of the counties in the State of Texas, is it?
SEN. FRASER: I think what you should do,
then, is get 254 counties, if you'll call them all and
get that number and --
SEN. WEST: Okay. Well, I mean, it's your
bill.
(Simultaneous discussion)
SEN. FRASER: -- Finance.
SEN. WEST: And the reality is, if it's an
unfunded mandate, you're responsible for it if this bill
passes. Now, let me ask you this: The $2 million, the
$2 million that you're talking about, if it does not
come from HAVA funds, then it's going to have to come
from general revenue. Is that correct?
SEN. FRASER: I'm not advised. I'm not a
member of Finance; you are. And I think that would be a
decision of Finance.
SEN. WEST: Let's talk about just sections
of the bill. Specifically, the issue concerning -- and
I think you and Senator Davis have gone over this. And
I'm on page, in Section 7 of the bill, specifically (c)
and (d). Let me know when you're with me on it.

SEN. FRASER: What page are you on?

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

SEN. FRASER: That's Section 11.


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

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

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

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

I've got an expert person you can ask.

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

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

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

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

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

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

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

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

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

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

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

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

SEN. WEST: Well, let me --

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

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

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

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

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

SEN. WEST: Under those circumstances, what would be your intent, as the author of this bill? If my name is W-e-s-t but there is a typographical error someplace and it's W-e-s, what is the intent. Give the
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 record your intent as the author of this bill.

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

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

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

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

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

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

SEN. FRASER: I intend to --

( Simultaneous discussion)

SEN. WEST: You've got to manifest your
CONSIDERATION OF SENATE BILL 14 1/25/2011

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

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

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

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

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

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

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

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

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

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

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

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

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

SEN. FRASER: We don't have it.

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

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

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

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

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

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

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

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

What was the question?

SEN. WHITMIRE: Lubbock.

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

Go ahead.

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

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

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

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

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

SEN. FRASER: I have made references a
couple of times of things that they mentioned in their
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report.

SEN. WEST: Of the recommendations that they mentioned, did you incorporate any of those in your bill?

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

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

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

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

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

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

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

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

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

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

SEN. FRASER: I'm not advised.

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

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

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

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

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

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

SEN. WEST: Okay.

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

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

SEN. FRASER: I didn't reference that.

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

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

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

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

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

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

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

SEN. FRASER: I think probably when the --

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

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

SEN. WEST: Sure.

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

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

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

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

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

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

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

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

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

SEN. WEST: What did you say?

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

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

SEN. FRASER: I'm probably not going to
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1 work in hypotheticals right now. Let's wait until we
2 hear from them. Then we'll determine that.
3
4 SEN. WEST: Okay. Well, I'm going to make
5 sure and I'll put that down.
6
7 I want to talk about seniors just for one
8 second. How did you come up with 70 years old? Well,
9 hold on. Let me ask you this: Is there a definition, a
10 federal definition under any of our laws, U.S. laws or
11 either state laws, that defines a senior citizen?
12
13 SEN. FRASER: It was really actually a
14 very complicated system that we came up with this. It
15 actually was recommended by a democratic member that
16 said, "If you'll put that in the bill, that would help
17 five or six of us vote for the bill." So that was
18 recommended originally to be put in the bill. But the
19 answer to your question is, I'm 61 years old, and I
20 think you're just about as old as I am.
21
22 SEN. WEST: No, I'm younger; I'm younger
23 than you are. I'm younger.
24
25 SEN. FRASER: Oh, you're 60 -- 59?
26 SEN. WEST: I'm younger than you are.
27 SEN. FRASER: How old are you, sir?
28 SEN. WEST: I'm 58 years old.
29 SEN. FRASER: Okay. Of the people
30
31 (laughter) --
SEN. WEST: Ask the Secretary. We're not going to --

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

SEN. WEST: And what community?
SEN. FRASER: You want me to answer the question?
SEN. WEST: I just didn't hear. You said you lived in a retirement --
SEN. FRASER: I live in an area where there's a lot of retired people.
SEN. WEST: People. Okay.
SEN. FRASER: Yes, like myself.
SEN. WEST: Yes.
SEN. FRASER: Those people that I know, people that are up to that age, it would not be an
inconvenience for them, and they're still very, very active. Actually, I've got numerous people that I play golf with often that are above 70 and up to 80. So, actually, the number probably could have been higher, but that number we thought was a fair number and represented a number that we could offer up as a very fair number for an exception to this bill.

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

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

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

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

SEN. WEST: Don't you think that a better
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 definition would be 65? Why wouldn't you use 65? And
2 let me give an example.
3
4 In the Human Resource Code, elderly person
5 means a person 65 years of age or older. Why wouldn't
6 we use that as an age? Our Penal Code uses elderly
7 individual means a person 65 years of age or older. Our
8 Utility Code means an individual who is 60 years or
9 older. Our Human Resource Code means an elderly person,
10 means a person who 60 years or older. And now we're
11 going to have our election code basically saying a
12 person of 70 years or older. Don't you think -- I'm not
13 going to vote for your bill anyway, but just in case.
14
15 SEN. FRASER: You actually were one of the
16 ones that was asking if I would put it in the bill.
17
18 SEN. WEST: No, no, no, no, no, no, no,
19 no. Let's get it straight. I didn't ask you that --
20 okay? -- for the record. Okay? I didn't ask you that.
21
22 SEN. FRASER: Okay.
23
24 SEN. WEST: But if you're going to put it
25 in there, it seems as though you should have one of a
26 consistent definition with some of the other statutes.
27 You're making an elderly individual for voting purpose
28 more onerous than it is under these other statutes, like
29 in our Penal Code where it says an individual -- elderly
30 person is 65 years old.
Case 2:13-cv-00193   Document 739-8   Filed in TXSD on 11/17/14   Page 119 of 152
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SEN. FRASER: I actually believe that the number probably could easily be higher, because --

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

SEN. FRASER: I'm sorry?

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

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

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

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

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

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

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

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

SEN. WEST: Let me --

SEN. FRASER: -- exception.

CHAIRMAN DUNCAN: Senator West --

SEN. WEST: Yes.

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

SEN. WEST: No objection.

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

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

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

Senator Zaffirini is recognized for an announcement.

(Announcement by Senator Zaffirini)

CHAIRMAN DUNCAN: Thank you, Senator.

The Chair recognizes Senator Seliger for a motion.

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

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

Chair hears none. It's so ordered.

(Recess: 10:43 a.m. to 12:38 p.m.)
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AFTERNOON SESSION

TUESDAY, JANUARY 25, 2011

(12:38 p.m.)

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

ROLL CALL

SECRETARY SPAW: Birdwell?

SEN. BIRDWELL: (Indicated presence)

SECRETARY SPAW: Carona?

SEN. CARONA: (Indicated presence)

SECRETARY SPAW: Davis?

SEN. DAVIS: (Indicated presence)

SECRETARY SPAW: Deuell?

SEN. DUELL: (Indicated presence)

SECRETARY SPAW: Duncan?

CHAIRMAN DUNCAN: (Indicated presence)

SECRETARY SPAW: Ellis?

SEN. ELLIS: (Indicated presence)

SECRETARY SPAW: Eltife?

SEN. ELTIFE: (Indicated presence)

SECRETARY SPAW: Estes?

SEN. ESTES: (Indicated presence)

SECRETARY SPAW: Fraser?

SEN. FRASER: (Indicated presence)
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1. SECRETARY SPAW: Gallegos?

2. SEN. GALLEGOS: (Indicated presence)

3. SECRETARY SPAW: Harris?

4. SEN. HARRIS: (Indicated presence)

5. SECRETARY SPAW: Hegar?

6. SEN. HEGAR: (Indicated presence)

7. SECRETARY SPAW: Hinojosa?

8. SEN. HINOJOSA: (Indicated presence)

9. SECRETARY SPAW: Huffman?

10. SEN. HUFFMAN: (Indicated presence)

11. SECRETARY SPAW: Jackson?

12. SEN. JACKSON: (Indicated presence)

13. SECRETARY SPAW: Lucio?

14. SEN. LUCIO: (Indicated presence)

15. SECRETARY SPAW: Nelson?

16. SEN. NELSON: (Indicated presence)

17. SECRETARY SPAW: Nichols?

18. SEN. NICHOLS: (Indicated presence)

19. SECRETARY SPAW: Ogden?

20. SEN. OGDEN: (Indicated presence)

21. SECRETARY SPAW: Patrick?

22. SEN. PATRICK: (Indicated presence)

23. SECRETARY SPAW: Rodriguez?

24. SEN. RODRIGUEZ: (Indicated presence)

25. SECRETARY SPAW: Seliger?
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SEN. SELIGER: (Indicated presence)
SECRETARY SPAW: Shapiro?
SEN. SHAPIRO: (Indicated presence)
SECRETARY SPAW: Uresti?
SEN. URESTI: (Indicated presence)
SECRETARY SPAW: Van de Putte?
SEN. VAN de PUTTE: (Indicated presence)
SECRETARY SPAW: Watson?
SEN. WATSON: (Indicated presence)
SECRETARY SPAW: Wentworth?
SEN. WENTWORTH: (Indicated presence)
SECRETARY SPAW: West?
SEN. WEST: (Indicated presence)
SECRETARY SPAW: Whitmire?
SEN. WHITMIRE: (Indicated presence)
SECRETARY SPAW: Williams?
SEN. WILLIAMS: (Indicated presence)
SECRETARY SPAW: Zaffirini?
SEN. ZAFFIRINI: (Indicated presence)
SECRETARY SPAW: Lieutenant Governor Dewhurst?
PRESIDENT DEWHURST: (Indicated presence)
CHAIRMAN DUNCAN: Quorum is present.

(Pause)
QUESTIONS FROM THE SENATE FLOOR (CONTINUED)

CHAIRMAN DUNCAN: Senator Fraser, are you ready?

SEN. FRASER: I am ready.

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

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

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

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

SEN. WEST: Okay.

CHAIRMAN DUNCAN: -- if you forget.

SEN. WEST: All right. Thank you.

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

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

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

SEN. FRASER: You are being redundant.

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

(Laughter)

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

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

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

SEN. FRASER: And I very much appreciate
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1 how valuable our schoolteachers are to the state of
2 Texas. Without a doubt, I'm very, very aware of that.
3 And, again, the discussion we had prior to
4 us breaking, we believe very, very strongly that there
5 is sufficient funds in the Secretary of State's budget
6 from HAVA funds that would -- that the letter says they
7 have enough funds to cover this. They are going to
8 request of the federal government. It is not
9 unprecedented. They have allowed that to be used
10 before, so we have every reason to believe it will be
11 done. And so the discussion of whether that money would
12 deprive some -- the rest of the budget is speculative us
13 not knowing because we believe very strongly that --
14 that that money is going to be available.
15 SEN. WEST: And this may very well be a
16 technical question for the Secretary of State.
17 If for some reason --
18 SEN. FRASER: I would never refer anything
19 to --
20 SEN. WEST: If for some reason the bill is
21 not precleared by Justice, will those HAVA funds be made
22 available?
23 SEN. FRASER: I'm sorry. That one I, for
24 sure, do not know the answer to that. That would be a
25 great question for the Secretary of State.
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SEN. WEST:  For sure?

SEN. FRASER:  For sure.

SEN. WEST:  Okay.

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

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

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

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

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

SEN. WEST: Regard --

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

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

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

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

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

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

SEN. WEST: Okay. All right.

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

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

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

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

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

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

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our wonderful schoolteachers across the state.

SEN. WEST: What decision would you make?

SEN. FRASER: I'm sorry?

SEN. WEST: What decision would you make?

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

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

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

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

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

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

(Simultaneous speaking)

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

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

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

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

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

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

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

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

SEN. WEST: How does your bill detect fraud?

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

SEN. WEST: How does your bill detect fraud?

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

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

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

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

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

Okay. You're good with that. Right?

SEN. FRASER: I'm sitting here listening.

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

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

You're --

SEN. WEST: We are Texans.

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

SEN. WEST: We're Texans.

SEN. FRASER: Keep going.

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

SEN. FRASER: The bill that I'm bringing forward today will clearly say that when you walk in the voting booth, you identify yourself as who you say you are, and the bill that we're bringing forward we believe will pass the Supreme Court of the United States and be
approved by Department of Justice.

SEN. WEST: I notice you keep on saying that in terms of you believe that the bill is going to pass muster at the Department of Justice and also the United -- the Supreme Court of the United States. Are you anticipating any -- let me -- let me ask this: If the Department of Justice decides not to preclear this legislation, are you anticipating any type of court challenge by the state of Texas?

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

(Pause)

SEN. FRASER: Are you there?

SEN. WEST: Yes.

SEN. FRASER: Would you say something?

SEN. WEST: Testing, testing, testing.

SEN. FRASER: Okay. I got you.

SEN. WEST: One, two, three.

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

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

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

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

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

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

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

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

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

SEN. FRASER: No, they are not.

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

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

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

SEN. FRASER: Probably the best evidence that I could bring forward, that the latest poll that was conducted of Texans, including the people in your area. Of the -- there were 86 percent of the public
that in favor of that. Of that, 82 percent were black, 83 percent were Hispanic.

So I would say the answer to your question is: If you ask someone that is either African American or Hispanic, do they believe that -- "Do you favor/oppose requiring a valid photo ID before a person is allowed to vote?" and you have 82 percent of the public that says that --

SEN. WEST: Right.

SEN. FRASER: -- pretty -- pretty straightforward.

SEN. WEST: You keep referring to that poll. What poll is that, sir, and who was it conducted by?

SEN. FRASER: It was conducted -- this is one of many we had. I've got a whole series of polls. This just happened to be the latest one that was conducted January the 10th, 2011. This one was by the Lighthouse Opinion Polling & Research, LLC.

SEN. WEST: Lighthouse Opinion.

SEN. FRASER: Lighthouse Opinion Polling, LLC.

SEN. WEST: Okay. And --

SEN. FRASER: One that was --

(Simultaneous discussion)
SEN. WEST: Were you finished?

SEN. FRASER: Yeah.

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

SEN. FRASER: But what --

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

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

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

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

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

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

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

What research have you done --

SEN. FRASER: I just explained --

SEN. WEST: -- to make that determination?

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

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

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

SEN. WEST: Well, the --

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

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

SEN. FRASER: Good.

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

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

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

SEN. FRASER: Not advised.

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

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

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

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

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

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

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

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

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

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

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

SEN. WEST: Well --

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

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

SEN. FRASER: Ask him, then.

We're trying to figure out if this is a
filibuster.

SEN. WEST: Is it a what?

SEN. FRASER: A filibuster?

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

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

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

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

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

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

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

SEN. FRASER: I'm not advised.

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

Do you agree that African Americans and Hispanics are disproportionately affected by poverty in the state of Texas?
SEN. FRASER: Not advised.
SEN. WEST: Okay. Do you --
SEN. FRASER: I grew up in a pretty poor family, so --
SEN. WEST: Well, that's what I know, and correct me if I'm wrong because we've had our conversations. Your father was a minister, too. Right?
SEN. FRASER: Minister and --
SEN. WEST: Okay. He went to a lot of African American churches?
SEN. FRASER: Yes, he did.
SEN. WEST: Did a little singing and stuff like that?
SEN. FRASER: Yes.
SEN. WEST: Okay. And do you represent a district that has a high poverty level -- or excuse me -- a high ethnic minority population?
SEN. FRASER: Interestingly -- well, and what you call high, it is not one of the highest percentage wise of ethnic minority. But the last figure I was shown, my district is the third poorest district in the state, right behind Senator Uresti's. That that -- that number is a couple of year's old, but I'm -- you know, the --
SEN. WEST: Okay.
SEN. FRASER: -- people in my district
are -- are the working poor.

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

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

SEN. WEST: Okay. Comparatively speaking.

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

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

SEN. FRASER: Well, Senator, if --

SEN. WEST: Oh.

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

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

Do you know whether or not the elimination
of the government documents that have hereto before been
utilized by voters for identification purposes at the
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    polls --

SEN. FRASER: Issued before?

SEN. WEST: Yeah, I mean, under current

law. Let me back up, then.

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

SEN. FRASER: Let me -- let me tell you

that the people in my district voted -- or they're
polling that they -- 92 percent of them say that they're
in favor of this -- this requirement.

SEN. WEST: Okay. So you don't -- and

that's your response to my question?

SEN. FRASER: My response is, is that I

think the people of the state of Texas, which makes
up -- I think it was 83 percent of -- of African

Americans and 85 percent of Hispanics, said that they're

in favor of it. I'm sorry. It's 82 percent Hispanic --

I'm sorry -- Hispanic, 80 -- 83 percent Hispanic, the

African American, which is -- it's listed as a black

vote, is 82 percent say they are in favor of asking for

a photo ID.

    So it's -- it's -- this is a pretty easy

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

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

SEN. FRASER: Yes.

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

SEN. FRASER: Thank you, Senator.

CHAIRMAN DUNCAN: Chair recognizes Senator Lucio for questions.

SEN. LUCIO: Thank you, Mr. Chairman.

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

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

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

Now, I got a question.

SEN. FRASER: Is there a question coming?

I'm looking for the question.