

# SENATE JOURNAL

EIGHTY-SEVENTH LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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## ADDENDUM

(FORTY-EIGHTH DAY — Saturday, May 29, 2021)

The following remarks regarding **SR 547** and **SB 7** were ordered reduced to writing and printed in the *Senate Journal*.

(Remarks regarding **SR 547**)

**Senator Hughes:** Thank you, Mr. President. Members, the resolution now before this house, 547 is the out of bounds resolution for Senate Bill 7. As you know, we had a long debate on Senate Bill 7, and this body sent it over to the House and they made some changes to it and, of course, we went to conference and most of what you'll see in the Conference Committee Report was in the Senate version or the House version. There are certain elements that were not contained in either version and that's what the out of bounds resolution is for. Many of the elements in the out of bounds resolution were in other bills that we passed but not in Senate Bill 7. That's the purpose of the resolution and you've seen these before. After each section that's added, there's an explanation for each one. You've seen this, and I'm happy to go through it with you. I move adoption of Senate Resolution 547.

**President:** Senator Menéndez, for what purpose?

**Senator Menéndez:** Mr. President, questions of the author of the resolution.

**President:** Do you yield?

**Senator Hughes:** I'll yield for a question.

**Senator Menéndez:** For a question. Thank you, Mr. President. Thank you, Senator Hughes. Senator, this resolution was just dropped on our desk. As a matter of fact, it's still warm from the copier, printer, or whatever it is. I was wondering if you could help me, explain to me, this resolution's to explain legislation that was not in either version of Senate Bill 7 or the House version. Is that correct?

**Senator Hughes:** Senator, that's right and you know the process when we have that conference committee, we look at what was in each bill and many times there are items that were not included in either bill, and so, that we're going through the right process and doing everything properly, this sets out those items that were not contained in either bill. And many times, and you've seen this before, many times the idea there is there or the concept is there, but just in an abundance of caution, all those elements are put in the out of bounds resolution. So, that's what this is about, you got it. You described it correctly.

**Senator Menéndez:** So, what could you tell me that's in this, what bills would I find in this resolution? You said that there was some legislation we debated earlier.

**Senator Hughes:** For example, Senator Creighton had a bill that provided voter ID for mail ballots. Of course, we're familiar with voter ID and the Senate had a bill that provided voter ID for mail ballots, and it says that in a provision whereby with your application for a ballot by mail, you list your driver license number or your state ID number or the last four digits of your Social Security number, and if you don't have any of those you check, I don't have any of those. So, that's your reasonable impediment affidavit just like we have for in-person voter ID. So, that's a provision that was not in Senate Bill 7 when it left the Senate. It was in a separate bill, and you'll find that in the Conference Committee Report, and that's one of the larger items that's in the out of bounds resolution.

**Senator Menéndez:** So, would you agree that many of the people who vote by mail do so on a ground of disability?

**Senator Hughes:** Oh, yes, I believe that's right. As you know, yes, I believe you're right, many do.

**Senator Menéndez:** So, in Section 5.01 on page 26 of your bill, you have a provision that's going to impose a higher standard to be eligible to vote by mail.

**Senator Hughes:** Yes, Senator. I apologize, are we on the—

**Senator Menéndez:** Well, I—

**Senator Hughes:** —are we on the resolution of the bill? I just want to make sure I'm in the right place.

**Senator Menéndez:** So, let me, let me see if that's, that's a question that I had because you—

**Senator Hughes:** Oh, I'm sorry. I interrupted, you go ahead. I'll let you finish.

**Senator Menéndez:** No, the question that I was asking is because you're now talking about having a photo ID to vote by mail. I'm, question has to do, does this have to do with raising the impediments or the standard because my understanding that the bill changes the standard from requiring some probability of needing personal assistance, suffering, or personal injury to requiring that a voter be certain that they would need personal assistance, suffering, personal injury if they went to the polls? So, I'm curious is that in the resolution or is that in the actual bill?

**Senator Hughes:** Oh, thank you. So, in the resolution, I'm referring only to that portion that talks about listing one's Texas driver license number, Texas state ID number, or the last four digits of the Social Security number. So, in the out of bounds resolution, since that was not in either version of the bill, that's in the out of bounds resolution. I think what you're describing is in the—

**Senator Menéndez:** Actual bill.

**Senator Hughes:** —was in the bill. Yes, Sir. That's if I understood your question correctly.

**Senator Menéndez:** Alright. So, let me ask a parliamentary inquiry real quick. Mr. President.

**President:** Yes.

**Senator Menéndez:** I'd like to ask questions on the bill. We'll still have the ability to ask questions on the bill once we adopt the resolution. Is that correct?

**President:** Yes, Sir. Of course.

**Senator Menéndez:** Okay, thank you very much. Thank you for answering my questions.

**Senator Hughes:** Thank you, Senator.

**President:** Senator Powell, what purpose?

**Senator Powell:** Thank you, Mr. President. Questions of the author of the resolution.

**President:** You yield for a question?

**Senator Hughes:** Of course I'll yield for a question.

**Senator Powell:** Chairman Hughes, I want to talk about this in a little greater detail.

**Senator Hughes:** Okay.

**Senator Powell:** I made a note when I received this on my desk it was 10:35 p.m., just minutes ago. And there are 20 pages of items that are in this out of bounds resolution. And I just heard you say to Senator Menéndez that this includes bills, amendments, and other things that were not included in the Conference Committee Report. Is that correct?

**Senator Hughes:** Well, I want to make sure I said it right. So, this includes elements that were not in the Senate version of Senate Bill 7 or in the House version. These are all in the Conference Committee Report, but they are included in this resolution because they were not in the Senate Bill 7 we passed or the Senate Bill 7 that the House passed.

**Senator Powell:** Right. So, these were—

**Senator Hughes:** They're in the, oh, go ahead.

**Senator Powell:** —okay, so I guess the question is do you know how many of these are bills and how many are amendments and how many are just other things that were added to the bill?

**Senator Hughes:** No, Senator, as a practical matter many of them are pretty self, most with, are all pretty self-explanatory, but many of them are just put here out of abundance of caution to make sure that people know these specific words were not in either version or the idea was already there, the concept was there, but there are provisions like the one Senator Menéndez and I spoke about, it's on page 10, and it talks about giving your driver license number, state ID number, and that was in a bill that the Senate passed that Senator Creighton carried. So, there are some elements in here that were in other bills that the Senate passed and then some were not in bills and

so, but to be precise, these are those elements that are not in the Senate passed version of the bill or the House passed version of Senate Bill 7. Now, the side-by-side document covers this information as well, but this is the out of bounds resolution.

**Senator Powell:** Okay, so in this 20-page resolution, is all the language included in the conference report here or in this resolution, are these the items that have been either heard in the Senate, House committees or in the Senate committees or the House committees, and were these items all vetted in the public?

**Senator Hughes:** Some of the matters, some of the items in the out of bounds resolution were contained in other legislation passed by the House and Senate. Some were developed, came up in the process of harmonizing the House bill and the Senate bill.

**Senator Powell:** And do you not believe that we should be vetting consequential election legislation before voting on it within 48 hours of the end of our session?

**Senator Hughes:** Well, the rules of the Senate and the House provide the out of bounds resolution process. And so, we're following those rules.

**Senator Powell:** And you think those rules make it alright for us to just add some things into this bill that we've never vetted before the public? That we've never allowed any public input, that we've never allowed the transparency of having vetted this information before our voters.

**Senator Hughes:** Well, both the Senate and the House would have to approve this resolution before we could consider the Conference Committee Report. So, that's part of the process we're going through now.

**Senator Powell:** So, you know, I respectfully disagree with some of the elements of that process that don't allow for the scrutiny of many Members of the conference committee, and I couldn't in good faith vote to pass a bill the size of this one that will affect the voting rights of every single Texan of voting age, when they've been deprived of the opportunity to voice their opinions on the final package of this bill, either personally, in committee hearings, or through the voice of their legislators. And I fear that a bill like this that refuses to listen to those voices and understanding the beliefs of the Texans that it is affecting has an ominous future for the voters of the State of Texas that will result from the passage of this bill. Mr. Chairman, thank you for your time.

**Senator Hughes:** Thank you, Senator.

**President:** Senator Hinojosa, what purpose?

**Senator Hinojosa:** Will the Senator yield for a couple of questions?

**President:** Do you yield?

**Senator Hughes:** Of course I'll yield for questions.

**Senator Hinojosa:** Senator Hughes, without getting into the merits of the resolution on the issues, could you just list the number of changes that you made or that are going outside of the bounds because I see a mandamus by the Court of Appeals, I see

counting late ballots. So, I mean, it really would be helpful to know what we're doing with this resolution, in terms what is outside the bounds that you're trying to get a vote on.

**Senator Hughes:** Sure. So, Senator, so, and for the, I know you understand the rules better than I do, but for the benefit of those watching, so, everything in this document, in Senate Resolution 547, these are those matters that were not in the Senate version or the House version. So, these are those matters we're asking to go outside the bounds of the Conference Committee Report on.

**Senator Hinojosa:** And I'm asking what are those matters?

**Senator Hughes:** Would you, I'm, I can, would you like me to just, I'm happy to go through if it's, if it's helpful to you.

**Senator Hinojosa:** I would like to have a list of at least what it is that we're doing here with this resolution.

**Senator Hughes:** Of course. And respectfully, the list is the, is the resolution. It, each item is listed there and then there's an explanation after each one, and the first one talks about referral to Attorney General. Before, it said referral of complaint to Attorney General, and now it says, I'm on page 1, if after receiving or discovering information indicating criminal conduct in connection with election has occurred, Secretary of State, and it goes on to explain how the Secretary of State can send that information to the Attorney General's office. And as you can see, some text is underlined, some is struck. This section was already there but it's changing, rewording some of it and then it explains this change is necessary to require the Secretary of State to take certain actions upon the receipt or discovery of information indicating criminal conduct in connection with an election has occurred.

**Senator Hinojosa:** I don't really need to get into the weeds of it, but you, what I would like to, I'm more, trying to focus more on the different sections that are being added here from other bills and from probably other amendments that maybe were not approved by the Senate or the House, for that matter, that were added in conference committee. That's what I'm trying to identify those issues that are placed in this out of bounds resolution.

**Senator Hughes:** So, the one I shared was the first one and then the next one, on page 2, talks about enforcement of voter roll maintenance provisions. And it says in order to ensure compliance with voter roll maintenance provisions, the Secretary of State shall monitor each county's list of registered voters to ensure that no county has a number of registered voters in the county equal to or greater than the number of people eligible to register to vote in the county. If the Secretary of State determines that the county has a number of registered voters equal to or greater than the people eligible to vote, to register to vote in the county, Secretary of State shall notify the appropriate registrar in writing. And so, we've seen those situations before where the voter rolls don't make sense based on the number of eligible voters in the county. So, this is a procedure for the Secretary of State to work with the local officials to find out what the problem is. And so—

**Senator Hinojosa:** And what would be the—

**Senator Hughes:** —and there's details—

**Senator Hinojosa:** —penalties?

**Senator Hughes:** —oh, I'm sorry. Go ahead, Senator.

**Senator Hinojosa:** Yeah, I guess you have a civil penalties in that section, 1,000—

**Senator Hughes:** So, there's that—

**Senator Hinojosa:** —dollars a day or—

**Senator Hughes:** —that's right. So, Senator, so the, so that maintenance of the voter rolls, making sure the information's correct, if someone has moved, they're in another county, we want to make sure that they're not going to get confused about voting in two different counties or that sort of thing or if they've left the state. So, there are provisions in the bill to make sure that the county officials that maintain those voter rolls are keeping them current, keeping them updated. So, that's what that section's about.

**Senator Hinojosa:** And there's no penalties involved.

**Senator Hughes:** In this out of bounds resolution there is not. When we get over into the bill, well, I'm sorry, there is a civil penalty here, under Subsection (f) and it says the county's liable to the state for civil penalty of \$1,000 for each day after the 14th day following the receipt of the list, under Subsection (d)(4) that the voter registrar fails to take action. So, that's here and if we get over to the bill there are similar provisions where we're making sure that election officials are following the law.

**Senator Hinojosa:** And I guess it will be the taxpayers who will be paying that fine.

**Senator Hughes:** Yes, Sir. If the county officials are not following the law, then there will be a consequence.

**Senator Hinojosa:** And what about Section 66.004, closing polling places?

**Senator Hughes:** And so, Senator, that's talking about at the end of the day, at the end of the day when the election has ended, the polls have closed, there's certain procedures the election judge has to go through. And so, that's clarification on what you have to check off, making sure everything was done right. So, it, that's, the idea there is not depriving folks or changing where they vote but whatever that polling place is at the end you have to close it out, make sure the numbers are right. So, that's what that's about.

**Senator Hinojosa:** And the other one is that Section 33.063, relief. A watcher or the appointing authority for a watcher who believes that the watcher was unlawfully prevented or obstructed from the performance of the watchers' duties may seek injunctive relief.

**Senator Hughes:** That's right.

**Senator Hinojosa:** What is that about?

**Senator Hughes:** That's right. So, as you know, those watchers, those are the eyes and ears of the public. There are watchers from the Democratic Party, from the Republican Party, parties from candidates, and so, this says that a watcher who has

been legally appointed to that work, they have to be allowed in to do their jobs. Now, there's, you'll find in the bill there's limitations on what they can do, all they can do is observe. But this says an election judge, they can't just keep that watcher out because those are the eyes and ears of the public.

**Senator Hinojosa:** Are there guidelines as to the, what the watcher can do and not do?

**Senator Hughes:** Yes, there are. And when we get over into the bill itself, we can look at those or I'm happy to talk about them now, and what you're going to find in the bill is the watcher's allowed to get close enough to see and hear what the election workers are doing, but they're not there to observe how the voter's voting. They can't interfere, they can't say anything or get in the way but they're there to observe.

**Senator Hinojosa:** And these watchers are partisan watchers?

**Senator Hughes:** Partisan from mult– from each party, Democrat, Republican, and different candidates as well.

**Senator Hinojosa:** So, we'll probably end up with quite a bit of litigation. Article 5, they talk about voting by mail. What are you doing there?

**Senator Hughes:** Yes, Sir. So, as you know that one of the reasons for voting by mail is based on disability. And so, this section will clarify the definition of disability and it does a couple of things. It says, a qualified voter's eligible to vote for early voting by mail if the voter is not capable of appearing at the polling place on election day without needing personal assistance, injuring the voter's health due to one of the following: illness, injury, medical confinement ordered by a healthcare professional, or mental or physical disability. And then it goes on to explain what is not, what is not sufficient cause to entitle a voter to, under Subsection (a), and so that voters aren't being misled about what a disability is. So, that's what that's about.

**Senator Hinojosa:** Are you supposed to go to a doctor or get some kind of letter, certificate with Social Security if–

**Senator Hughes:** No.

**Senator Hinojosa:** –you're disabled or–

**Senator Hughes:** No, Sir. You don't, you just have to swear that based on one of those bases, you can't go to the polls and vote. No letter from a doctor is required. No documentation's required, nothing like that at all. This is just the voter saying here's the reason I can't, I need to vote by mail.

**Senator Hinojosa:** And I'd assume there'd be a notice there that it will be in violation or penalty or comi–

**Senator Hughes:** Well, Senator, in 20–

**Senator Hinojosa:** –commission of perjury.

**Senator Hughes:** –oh, I'm sorry. In 2017, this body, the House and Senate passed a law that the Governor signed, and that's been a law since 2017, that it's a state jail felony to claim a disability that does not apply, and that's been the law since 2017. What we're doing here is spelling out what disability means, and it's going to be on

that application to vote by mail so the voter will see what it means when they check that box. There's been testimony that these vote harvesters will stick stuff in front of the voter, say sign here, check this box, without the voters knowing what it really means. So, it's already a crime to claim a disability you're not entitled to. This is giving voters information on what that means.

**Senator Hinojosa:** Well, I just, overturning elections? What is that about? Section 232.063 of page 15.

**Senator Hughes:** Yes, Sir. As you know, there's already a provision for overturning elections in Texas law, over in section 221, but the way it's written, the court's not giving a lot of guidance and also not a lot of discretion. So, when we get to that section of the bill, you'll see that we're letting, setting out specific bases the court can follow in determining whether to order a new election. Of course, already have that power, but we're giving them some guidance, some more details here.

**Senator Hinojosa:** And I'll probably get into the substance of that change in terms of mandamus—

**Senator Hughes:** Yes, Sir.

**Senator Hinojosa:** —and decide some rules of civil procedure.

**Senator Hughes:** Yes, Sir. And most of that is going to be in the Conference Committee Report because of the House passed a bill, in the House version they put, they put these changes. And, but so we can talk about them now or when we get over there. Whatever, I'm going to do my best to answer your questions.

**Senator Hinojosa:** Thank you, Senator Hughes.

**Senator Hughes:** Thank you, Senator.

**President:** Senator Eckhardt, what purpose?

**Senator Eckhardt:** To ask questions of the author, Sir.

**President:** Do you yield for a question?

**Senator Hughes:** Of course I'll yield for a question.

**Senator Eckhardt:** Thank you so much, Senator Hughes. And again, I am learning this process.

**Senator Hughes:** Me, too.

**Senator Eckhardt:** So, as I look at this document that I just received, and I tried to rifle through it as quickly as I could, I do note that there are two pretty substantial sections, one with regard to enforcement of voter roll maintenance that Senator Hinojosa was speaking of.

**Senator Hughes:** Yes.

**Senator Eckhardt:** That does create some fairly interesting burdens on elections clerks, the commissioners court, as well as the Secretary of State. Was there any public hearing to which local elected officials who do manage elections or members of commissioners courts could come and opine on how this section affects them?



**Senator Hughes:** So, Senator, this topic was in the Senate passed version of Senate Bill 7, but the language here is different and that's why it's in the out of bounds resolution. There's been a lot of testimony about this and you'll appreciate this, as the people of Texas decide what approach to take. Do we want to have local elected officials maintain those voter rolls locally or do we want a statewide voter roll? And so, as you know, we don't have a statewide voter list but we have local counties that maintain those lists. So, the challenge is how do we make sure that each county are keeping them up to date and accurate without having the Secretary of State just take over everything. So, the language before you represents a balance between those two, those two positions. And so, the topic was discussed, it was in Senate Bill 7, but the language here is different and so, that's why it's in the out of bounds resolution.

**Senator Eckhardt:** And would you—

**Senator Hughes:** So, yes, there was testimony on the topic in the committee on Senate Bill 7 in the Senate.

**Senator Eckhardt:** But would you agree with me that the issue of a comparison against a list of registered voters against a, the number of registered voters in the county has not been discussed in a public hearing?

**Senator Hughes:** I don't know if it was discussed in a public hearing. I know that the issue of maintenance of the voter rolls and making sure that the county rolls are being kept up to date was discussed. We could go back, and we could go back and look. I know the general topic was brought up, but I don't remember if this particular issue came up and I'll defer to you. You may have checked. I don't—

**Senator Eckhardt:** I would be surprised because my phone's been blowing up from county representatives going what is this, how is it defined, we've never seen this before. The other provision that strikes me as, and again, Senator Hinojosa already raised it so I'm not going to go into it too much, but we'll probably go into it when we question the bill specifically, is the overturning of elections.

**Senator Hughes:** Yes.

**Senator Eckhardt:** And also the guidance that you suggest in this bill, has there been a public hearing where judges could opine on the effects of this guidance or the timing requirements?

**Senator Hughes:** Well, judges already have authority to overturn elections and as far as the timing with the election contest and how that works, those timetables are not altered by Senate Bill 7. This issue was discussed, I think, more broadly over in the House than it was over here. But again, those, most of those changes are in the Conference Committee Report and I'll do my best to go through them with you. I think you'll find they make sense and they, and they're consistent with the Election Code, just giving courts some guidance.

**Senator Eckhardt:** I, of course, would feel a lot more comfortable if the actual judges had had time with the document, but thank you for answering my questions.

**Senator Hughes:** No, thank you, Senator.

**President:** Senator Whitmire, what purpose?

**Senator Whitmire:** Will the gentleman yield?

**President:** Would you yield for a question?

**Senator Hughes:** Of course I'll yield for questions.

**Senator Whitmire:** Senator Hughes, first would you tell the body why these items were not in the Senate or House version, based on the fact we've been here 138 days. So, why weren't they vetted and included in one of the Chambers' versions?

**Senator Hughes:** Well, thank you, Senator. Some of these matters were vetted in one or both houses in different bills but didn't make it to the—

**Senator Whitmire:** But you are going outside the two bills then.

**Senator Hughes:** I—

**Senator Whitmire:** I mean, you're really, you're really, that's a nice spin. I've heard you use it several times tonight that's, it's just a different way to write them. You're asking us to go outside the boundaries because they were not included in the bills that passed either Chamber.

**Senator Hughes:** Per the Senate Rules, yes, Sir.

**Senator Whitmire:** Simple question is why weren't they included?

**Senator Hughes:** Senator, some of these matters were included in other bills and were heard in the Senate or the House and some were not. And as you'll see, some, in many cases these are issues that were addressed in the Senate and/or the House, but this specific language was not in the final version and that's why we're here.

**Senator Whitmire:** Now, you're saying the content was there but not the language or the verbiage that you're using tonight.

**Senator Hughes:** In many cases that's true. That's exactly right. We were talking about county voter roll maintenance that's in—

**Senator Whitmire:** Asked you about—

**Senator Hughes:** —in both bills but—

**Senator Whitmire:** —couple of specific—

**Senator Hughes:** —not this particular approach.

**Senator Whitmire:** —items. If you were a Member that was not on the conference and had the opportunity to learn about this night before last, when Mr. Cain, what would scare you the most? Particularly if you're prepared to vote for this, what would concern you the most because you and I know you never get beat voting no and a group of us are voting no, so if you're someone that is seeing this for the first time, what would concern you the most looking out for those that are going to vote yes?

**Senator Hughes:** Senator, I think if someone were to read through the out of bounds resolution, they would find this is common sense language, consistent with Election Code. I don't find anything scary in it and then please tell me if I'm missing something, but it's pretty straightforward stuff.

**Senator Whitmire:** Except, do you not agree, the implementation of these matters would lead you to some questions? For instance, the request for a ballot, mail in ballot, you've got to have the DPS license, identification card, if you have neither and, take my word, there are seniors with neither. Would you not agree?

**Senator Hughes:** Senator, the bill says driver license, DPS ID card, or last four—

**Senator Whitmire:** Last four Social Security.

**Senator Hughes:** —digits of social.

**Senator Whitmire:** And if you don't have any of those three, which some seniors do not, what then?

**Senator Hughes:** You check the box that says I don't have any of those three and you send your application.

**Senator Whitmire:** But who's, have you ever visited with senior citizens maybe in a nursing home—

**Senator Hughes:** I have.

**Senator Whitmire:** —or have someone. I took a 94-year-old stepfather to vote up to the year he passed. He depended on me for advice.

**Senator Hughes:** Yes, Sir.

**Senator Whitmire:** Which one of the requirements are going to be explained to seniors like they can understand? For instance, the application I think has to be done in ink and not pencil. What becomes of the applications that's actually in pencil because the senior just didn't understand that, or maybe even a young person far as that goes? I'm just asking you to slow down and think about individuals that have voted a certain way, their own practices for 50, 60, or more years. Who's going to explain this to them?

**Senator Hughes:** Senator, if someone is filling out a legal document in pencil, then we, that's a problem because someone could edit that document after it leaves the hands—

**Senator Whitmire:** But one could—

**Senator Hughes:** —of the person filled it out.

**Senator Whitmire:** —but if they don't, and I've got a senior that is living by themselves, someone tells them to apply and they use a pencil who's going to tell them. How's the word going to get out the details and the requirements of this statute if it passes?

**Senator Hughes:** Well, Senator, so on, to answer your question on ballot by mail, under current law when you request your ballot by mail if you're 65 or over, you get a ballot by mail, so these disability questions we're discussing would not apply to your 90, to our 94-year-old friends or folks in nursing homes. If you're 65 or over, you're still entitled a ballot by mail no disability required. So, our seniors, their rights are not affected at all as far as the disability definition goes.

**Senator Whitmire:** Well—

**Senator Hughes:** Because they're—

**Senator Whitmire:** —except—

**Senator Hughes:** —entitled a ballot because they're 65 or over.

**Senator Whitmire:** —except they've got to have that ID.

**Senator Hughes:** I'm sorry.

**Senator Whitmire:** They've got to have the ID that we discussed a moment ago.

**Senator Hughes:** No, Sir. They can check the box that says I don't have one. And that's all they got to do.

**Senator Whitmire:** Well, you and I might be able to do that, and I will almost qualify as a senior but I'm talking about folks that have never witnessed this before, they're going to be intimidated. Would you not agree? Maybe not everyone, but some.

**Senator Hughes:** Well, Senator, they've got—

**Senator Whitmire:** New practice for them. They've been voting 50 years.

**Senator Hughes:** The form has changed quite a bit in the last 50 years, Senator, and they've got to fill out the form like they always had to and now this just they, if they don't have a driver license or state ID or Social Security number, they just check the box that says I don't have one. And you'll recall our discussion on voter ID. I was not in the Senate, but about 10 years ago we had this same discussion about voter ID and you remember accommodation was made for those folks that don't have a driver license or a state ID or a Social Security number. That's that reasonable impediment affidavit. So, that's built in to this same process.

**Senator Whitmire:** Well, don't make it sound like, and certainly in some, everyone's mind that voter IDs worked so well. You still can use a concealed weapon permit but not a student ID. Are you familiar with that restriction?

**Senator Hughes:** Well, the concealed weapon permit's issued by the Texas Department of Public Safety.

**Senator Whitmire:** Well, if you've got an official student ID, you can't use that at Prairie View or TSU—

**Senator Hughes:** Or UT Tyler.

**Senator Whitmire:** —or University of Texas so—

**Senator Hughes:** Or Baylor.

**Senator Whitmire:** —we, I think, in my judgment, we know the element of suppression in those requirements, but that's another discussion on another day, which actually we've already debated on this floor. Let me ask you something. Did you, so you've already said earlier this evening that you and Mr. Cain came to your agreements on the language and the terms night before last. Have you had an opportunity to run this by the AARP, or can you tell me any stakeholders or folks that are going to have to discuss this with seniors or the general public, you had a dialogue

with anybody other than maybe you and Mr. Cain? And I saw the conferees signed the report but actually a couple did not. Have you reached out to any stakeholders or how about Smith County election officials? Have you talked to any of them?

**Senator Hughes:** Senator, we've talked to election officials all through this process.

**Senator Whitmire:** No, I'm talking about since night before last when you and Mr. Representative Cain came up with these outside the boundary ideas.

**Senator Hughes:** Well, Senator, night before last is when the major issues that have been points of contention were pretty well resolved. The paperwork had to be generated. We had to see the document so we could sign it and as soon as that document became available from Legislative Council, we emailed it to all the Senate conferees, and I believe they did the same thing over in the House, and then this morning we emailed it to the staffs of every Senator. Now, since that time, as you know, the side-by-side document had to be redone, but the draft of the Conference Committee Report with this draft number has been the same one we sent out as soon as we received it.

**Senator Whitmire:** And we discussed that earlier this evening. Twenty-six of us, and I won't speak for everyone, but we all received it on our desk about 5:30.

**Senator Hughes:** It was emailed to your office this morning, but go ahead.

**Senator Whitmire:** Well, unfortunately, we've been on the floor or waiting on the floor most of today. So, it was not the best scenario for us to have the opportunity to study it and today is Saturday, Memorial weekend. I haven't been able to call my county officials or my precinct judges or my Senatorial chair or SDEC or your SREC. Probably, you hadn't probably even talked to your party chair have you? Or did he help you write this?

**Senator Hughes:** I haven't talked to the party chair in a while, no, Sir.

**Senator Whitmire:** One last question. Has it, these new items, have they been heard in a committee where the public might have some input?

**Senator Hughes:** The one you and I have been discussing mostly tonight that driver license, voter ID for mail ballot, yes, that was in a bill Senator Creighton filed, heard before State Affairs Committee, passed, went, passed through the Senate, didn't make it through the House, but it was heard in public hearing in the Senate.

**Senator Whitmire:** You and I have discussed legislative history and procedures, and I think you've heard me say in my career I've never seen anyone get beat voting "no" because it's so accurate to say you didn't have time to get fully briefed and have enough time to discuss it with stakeholders. It's only, have you not heard me say, it's when you vote "yes" on something that you're not as current on as you probably should be? Are you familiar with that legislative experience?

**Senator Hughes:** I've heard you say that, yes, Sir.

**Senator Whitmire:** Thank you.

**Senator Hughes:** Thank you, Senator.

**President:** Senator Zaffirini, for what purpose?

**Senator Zaffirini:** To ask the author some questions.

**President:** Do you yield for a question?

**Senator Hughes:** Of course I'll yield for questions.

**Senator Zaffirini:** Thank you, Mr. President. Senator Hughes, I believe it was in 2017 that I had a resolution to go outside the bounds of my debtors prison bill, and the Lieutenant Governor, if I recall correctly asked three times if anybody needed more time because it wasn't the usual resolution, it was 10 pages. And Senator Bettencourt, as I recall correctly and one other Senator asked for at least an hour, and we had almost two. Your resolution is 20 pages, twice as long as mine was. Do you believe we should ask for extra time to study this resolution?

**Senator Hughes:** Senator, I was here in 2017, I'm embarrassed, I don't remember the details of the bill. But I believe you, I'll take your word for it. Again, as soon as the Conference Committee Report was prepared, we shared it with the conferees late that night, then the next morning we shared it with every staff member, and it's been, my goodness, the reporters have been asking us questions about it all day. It's been out. But as far as this goes, I think that's what we're doing now is going through it, and I'll do my best to answer questions, and they did a good job of drafting it. It's pretty self-explanatory, and after each change it even says here's why this is in it. So, I think that the process is working like it's supposed to.

**Senator Zaffirini:** Thank you. Also, I was informed that the resolution was not available online but a few minutes ago, in fact at exactly nine minutes after 11, I received a note that the resolution was now available online for the public to see. Are you concerned at all that this was not available online for the public to see as we debate it?

**Senator Hughes:** Senator, I'm told it's available online, but I know that we have been widely distributing it and it has been, we've shared it ever since it came into our hands.

**Senator Zaffirini:** Well, I was told that it was not, so we can check that, of course. I know that Senate Bill 7 and the Conference Committee Report has unfunded mandates. Does this resolution have any additional unfunded mandates?

**Senator Hughes:** Senator, I have, I don't know that it does. But if you have something in mind, please let me know. Again, this is, as you know, the out of bounds resolution. You've obviously dealt with, I know you've dealt with them before. You know their purpose and if there's an unfunded mandate that you see, please let me know. I haven't, I haven't flagged any in here.

**Senator Zaffirini:** I will give you a list.

**Senator Hughes:** Thank you, Senator.

**Senator Zaffirini:** One last question. Do you feel threatened by us in any way, the 13 who oppose it?

**Senator Hughes:** I'm sorry, one more time.

**Senator Zaffirini:** Do you feel threatened by the 13 people who oppose this report in any way?

**Senator Hughes:** Do I, do I feel—

**Senator Zaffirini:** Threatened?

**Senator Hughes:** —threatened?

**Senator Zaffirini:** Yes. I just wondered—

**Senator Hughes:** No, Senator. Should I? I don't think I do.

**Senator Zaffirini:** Well, I wondered why all the DPS troopers were up there, they're just a few observers in the gallery, and I hope you're not feeling threatened by us.

**Senator Hughes:** I feel, I always feel safe at the Capitol.

**Senator Zaffirini:** Good. I hope we don't look dangerous. Thank you, Mr. President. Thank you, Senator Hughes.

**Senator Hughes:** Thank you, Senator.

**President:** Thank you, Senator Zaffirini. Senator Lucio, what purpose?

**Senator Lucio:** Will the gentleman yield, please?

**President:** You yield for a question?

**Senator Hughes:** Of course I'll yield for a question.

**Senator Lucio:** Chairman Hughes, my approach is going to be a little different. Okay?

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** I always look at tradition in the things that I do and consistency. I do that in legislation I vote on. I do that in how I approach what I should be doing for everyone—

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** —all along the way, before people are born until people die.

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** Conception to natural death, I should say.

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** I have never, not the four years in the House, that I can remember, vote against any resolution to go outside the bounds by a Democrat or Republican. And I'm not going to start now. When your bill came up for hearing, though, I was out in an emergency situation. And I didn't get an opportunity to vote on it. I did, though, oppose it on the floor.

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** I'm saying this because I want the people that I represent to understand how I operate as their representative here in the Senate floor. Four years in the House and the rest of the time since 1987, here, I've never voted, and I'm going to give you an opportunity I've given everyone else to bring forth those issues and may, and allow you to discuss the merits of those issues as they will affect the people in our state.

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** You deserve that and I deserve that and Senator Zaffirini deserves that. I would have voted for her, you know, resolution to go outside the bounds whether it was 10, 20, or 30 pages long. That's the way I operate, and I want everyone listening to make sure there'd be only 12 votes against you on this resolution, because of that. It's tradition. It's just like a local bill that a Member comes to me on, it doesn't affect me, I will always support that Member on their local legislation. We don't get the same treatment sometimes, I don't, and I, little disgusted over that because that's tradition, and that's something that I hold very dear to my heart. I do appreciate the fact that you, in your briefing, and I have to say that I truly appreciate the fact that you made it possible for us for a period of time in the Betty King room to brief us on your legislation that you were going to be recognized on tonight. I think that was very important for us to have that opportunity to ask questions and get information prior to coming on this floor. And I'm disappointed, quite frankly, that very few people showed up, as you know.

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** Yes, I'm critical of that, because when someone gives us an opportunity, whether it's a Democrat or Republican, it doesn't matter. The leadership for us to be able to come together and discuss an issue that we might have concerns with, I jump at that opportunity. But you had, you shared with us some of the controversial issues that were taken and now, obviously, you've been discussing some of the issues that you intend to put back in, and we're going to be here for quite some time because I know some of the Members will be asking you about those issues and you're going to have to address them. I am not going to discuss any of the merits or the merits of those new items right now because I think at the proper time people will be given an opportunity that, I am voting to allow you to go outside the bounds because that's what I've done since I've been a Member of the Legislature, 1987 on. And I just want you to know that I respect all Members and the leadership in this Chamber and I hope that we can comport ourselves in a proper manner because the people out there in our great state, my constituents, yours, and all the people of this state are awaiting for us to do the right thing and to approach this issue where there's fairness and there's honesty in the process.

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** Thank you, Mr. Chairman.

**Senator Hughes:** Thank you. Thank you, Senator. Thank you.

**President:** Senator Bettencourt, for what purpose?

**Senator Bettencourt:** Ask questions of the author.

**President:** Do you yield for a question?

**Senator Hughes:** Of course I'll yield for a question.

**Senator Bettencourt:** Thank you, Senator Hughes. And I've been studying the resolution and there's already been questions about this, but I just want to read it to you and get your comment on it. Page 2, you'd already mentioned this if the Secretary



of State determines that a county has a number of registered voters equal to or greater than the number of people eligible to register to vote in the county, Secretary of State shall notify the appropriate voter registrar, and they have 30 days and all of that. That formula seems to be, you know, having Senator Eckhardt's phone ring but that's actually a substantial number. When I was voter registrar in Harris County, 2008, there was 1.959 million registered voters. Twelve years later, this is under Democrats and Republicans because that office was partisan until it was recently absorbed into a, an elections administrator, in 12 years the voter roll is only 2.43 million, three, one million. It means that in 12 years there's been 472,000 more voters added to this, to the state's largest county, third largest county in America. Four hundred and seventy-two thousand, it seems like a big number. But it took 12 years to get there. Now, my point, my question to you, would you be surprised to know that the number of voting age population in Harris County's substantially higher?

**Senator Hughes:** Well, that makes sense so the number of people who could be registered to vote is higher than the number of people who are registered to vote.

**Senator Bettencourt:** That is the logic of it. And as I have always tried to do as a, you know, as the numbers person, is to just lay the numbers out. That's approximately 3.5 million people in Harris County that are above 18 years of age. Now, not all of them are eligible because they're not all citizens, some choose not to register to vote. Are you shocked that people don't register to vote?

**Senator Hughes:** It's sad. We wish, we wish every eligible voter would register and vote but a lot of folks don't do it.

**Senator Bettencourt:** But this formula which has already caused quite, you know, the question tonight, if you decide that, oh, let's say that roughly half of that extra increase are folks that are not voting eligible, that's over 500,000 voters. So, because that means that your formula, okay, that you've used here, it would take an error by the voter registrar of 500,000 voters to trigger this clause. Are you surprised by that magnitude?

**Senator Hughes:** That's right. That's a pretty big deal.

**Senator Bettencourt:** It's a pretty big deal because it's higher than the growth of the whole voter roll in the nation's third largest county for 12 years in a row. So, we're worried, Senator Miles, about a formula that takes 12 years to produce the number that triggered. So, by any objective measurement I understand, Senator Gutierrez, Senator Eckhardt, if we have a county, and I want to read this again, the Secretary of State shall monitor each county's list of registered voters to ensure that no county has a number of registered voters in the county equal to or greater than the number of people eligible to register to vote in that county. This is a huge warning sign that something is wrong. This is maybe Duval County in the modern era. Okay? Except that they're not voting from the cemetery in these days. But that's how big of an error it takes to trigger this clause. And I'm sure, you know, that's certainly substantial by any measurement. Wouldn't you agree, Senator Hughes?

**Senator Hughes:** By any measure. As you, as you can see, it says equal to or greater than. So, obviously, if there are more registered voters on the rolls than there are people who could be registered to vote, that's a problem and need to take a look at it.

**Senator Bettencourt:** Right. So, we don't have to necessarily take a tremendous amount of testimony about this because if we do have counties, and of course, rural counties will have a tighter variance than urban counties and suburban counties lay in between but this is certainly a significant problem. In fact, it's, as a former voter registrar, it's nearly an unattainable problem if you're actually doing voter roll maintenance.

**Senator Hughes:** Senator, that's right, and you know we were discussing earlier whether any of these elements had been heard in a committee, in a bill, and as we know Senator Creighton had the bill on voter ID that Senator Whitmire and I discussed. This one that we're talking about now, on the SOS voter roll process, that was heard in a bill over in the House. So, like so many things it was in a different bill and heard and, but didn't make it all the way through the process and so, made sense to put it here.

**Senator Bettencourt:** Well, and it certainly makes sense mathematically because that's, if we have counties that are in that condition that is an absolute out of bounds situation. And, of course, from there there's all sorts of ways that the county voter registrar can respond and there is civil liability if they don't do something about it, but they've already made, they have so many outs at that point in time to make a change. It's almost, you know, I can't even imagine how if somebody is doing their job, how they could possibly get in that condition. Now, you had mentioned earlier, I think there's important point on page 8. As a former election official, I want to point this out. I'll just read it to you because I think you read it before but it's very important for the for people listening to understand. We're, by voting by mail because you have to have a disability, the qualified voter's eligible for early voting by mail if the voter appearing at the polls on election day without needing personal assistance or injuring the personal's health is due to the voter's illness, injury, medical confinement ordered by a healthcare professional, and mental or physical disability are the, and then it goes into the following, does not constitute a lack of transportation, et cetera. But again, just like that first formula, this is all common sense. Is it not?

**Senator Hughes:** Senator, it is and again, the voter's not required to have any documentation, anything from their doctor, they just have to tell us this is the reason they're seeking a ballot by mail. And you know disability has been that condition for a long time. This is just making it clear what we're talking about.

**Senator Bettencourt:** No, and I think this goes back to a point that Senator Whitmire asked you was, you know, what happens if effectively there's an error on a voter registration application. The voter registrars regularly send out, you know, letters that when they receive incomplete applications, they're trying to get people to register to vote. They want people to register to vote and they're trying to actually fix those problems. And, again, I see a very common sense assignment of logic here. Do you not agree?

**Senator Hughes:** It just makes sense. It's, as we go through this out of bounds resolution and then the bill, as you know, Senator, we find common sense reforms based on testimony we've heard from election administrators, from law enforcement, prosecutors, candidates Republican and Democrat, based on problems that have arisen around the state.

**Senator Bettencourt:** And you mentioned the Senator Creighton's bill, 1509, it passed out of the Senate, was debated, that's on page 10. That's clearly part of this out of bounds resolution, so it's really not that out of bounds.

**Senator Hughes:** That's a good point.

**Senator Bettencourt:** Because it's already been scored once. We've already had a vote—

**Senator Hughes:** We have, that's right.

**Senator Bettencourt:** —on that, which I believe is 18 to 13. And I read through, again, on page 15, okay, again a formula, okay, overturning election. If the number of votes illegally cast in election is equal to or greater than the number of votes necessary to change the outcome of election, this court may declare the election void without attempting to determine how many individual voters voted. And the fact that the number of illegally cast votes is greater than the outcome, again, another common sense way to solve a problem by using a simple formula.

**Senator Hughes:** Senator, that's right. Pretty basic math.

**Senator Bettencourt:** Well, I just wanted to say that after, you know, reading this extensively during the questioning, I find a lot of common sense math and as a former elections official, the common sense of this is that to trigger that first formula of having more registered voters than the amount of the voting eligible population is a substantial error. It's an error of almost 20 percent, in Harris County's case a half a million. And so, I find that to be a situation that, quite frankly, would be intolerable to the voters or the taxpayers because it means that somebody's not doing their job or they're certainly not watching their voter roll, and they're not maintaining it, and without a voter roll with integrity you can't have an election process with integrity. You agree?

**Senator Hughes:** Senator, that's right, fundamental.

**Senator Bettencourt:** Thank you for bringing this resolution, Senator Hughes.

**Senator Hughes:** Thank you, Senator.

**President:** Senator West, what purpose?

**Senator West:** First of all, I'd like to do parliamentary inquiry.

**President:** State your inquiry.

**Senator West:** What rule as it relates to this resolution, well, let me ask you this. Is there a specific rule, as relates to this particular resolution, that requires a layout and distribution before its consideration? May I, in distribution—

**President:** There is no rule on the layout for committee—

**Senator West:** –for committee?

**President:** –for a resolution to suspend. I want to get the verbiage right, the conference committee limitations on a general bill.

**Senator West:** I'm sorry, would you repeat that?

**President:** Okay. I'm going to write it down so I can say it just right.

**Senator West:** Okay.

**President:** Alright, I want to get it right. There is no layout requirement for a resolution suspending conference committee limitations on a general bill. I told you it was a lot.

**Senator West:** Alright. Parliamentary inquiry.

**President:** State your inquiry.

**Senator West:** Is this a resolution that has to be approved by the Governor?

**President:** No, it's a simple resolution.

**Senator West:** Simple resolution? So, this does not have to be approved?

**President:** It's a suspension of the rules.

**Senator West:** I understand that, but I'm just saying is this resolution, does it also have to be approved by the Governor?

**President:** No.

**Senator West:** No.

**President:** It's a simple resolution of the Senate.

**Senator West:** Okay. This does not fall under Senate Rule 8.01. And I'm, this is my first time arguing this particular point, so I'm trying to make certain that I understand it.

**President:** Good, it's the first I've had to answer the argument on the point.

**Senator West:** Well, that's just like the recede last night. That was the first time. Under Rule 8.01, under procedural rules, I'm just trying to understand what makes this resolution different from any other resolution that's not a congratulatory or, you know, a resolution. And I've been looking for this type of resolution in the rules to determine what rules apply to it. And I don't see anything in the rules. Could someone point me to what those rules are?

**President:** This, it's just a resolution–

**Senator West:** It's a–

**President:** –suspending conference limitations.

**Senator West:** And that, there's no specific rule–

**President:** And it's privileged.

**Senator West:** –I'm sorry.

**President:** And it's privileged.

**Senator West:** And there are no specific rules dealing with suspension of the rules to go outside the bounds for a conference committee report, as it relates to the resolution. I understand the bill, yes. And if there's not, you know, just, I hadn't found one, any rules in the, in the rule book concerning these types of specific resolutions, where we have specific resolutions that are detailed in the rules.

**President:** It's a standard practice for suspending conference committee limitations.

**Senator West:** Is it a standard prac—

**President:** It's been done, it's been done for a long time.

**Senator West:** —well I know, parliamentary inquiry.

**President:** State your inquiry.

**Senator West:** Even though it's a standard practice, we have a lot of standard practices that are governed by rules. And I'm wondering whether this standard practice is governed by any rules.

**President:** You're welcome to come forward and discuss it with the Parliamentarian if you'd like.

(Discussion at President's desk)

**President:** Senator West, do you have any other further questions for Senator Hughes?

**Senator West:** I do.

**President:** Okay. Do you yield for a question?

**Senator Hughes:** Yes, of course, I yield for a question, thank you.

**Senator West:** And I only have one question at this time. On page 6, lines 1 through 8—

**Senator Hughes:** Yes, Sir. I got it.

**Senator West:** —more specifically as it relates to Sundays.

**Senator Hughes:** Yes, Sir.

**Senator West:** Okay? I notice on line 8 you struck on the last Sunday of the early voting period. Correct?

**Senator Hughes:** Which page are we on now?

**Senator West:** I'm on page 6.

**Senator Hughes:** Yes, Sir.

**Senator West:** Line 8.

**Senator Hughes:** Yes, Sir.

**Senator West:** On the last Sunday of the early voting period, struck.

**Senator Hughes:** That's right.

**Senator West:** Okay. Now you know that in the African American church we have what we call "souls to the polls."

**Senator Hughes:** Oh, I'm familiar with it, yes, Sir. It's big in East Texas.

**Senator West:** Okay, you realize how big it is, right, in terms of African Americans going to, going to the polls?

**Senator Hughes:** Yes, Sir. So, as I've, as I've experienced and seen, we, after church we all, we go eat and then we go vote and encourage people to vote, and that's how I've seen it done.

**Senator West:** So, why, whose brilliant idea was it to limit the beginning time, be able to do a "souls to the polls" project on Sundays?

**Senator Hughes:** Well, Senator, this actually increases the number. Right now, it says it's got to be at least five hours. The current law says at least five hours on that Sunday, but now this one before us says at least six hours. So, it adds at least, it requires an extra hour. Of course, counties can do more but it requires instead of least five, at least six hours. And—

**Senator West:** Counties can do more on Sundays?

**Senator Hughes:** I beg your pardon.

**Senator West:** You're saying counties can do more on Sundays?

**Senator Hughes:** Well, it's talking about on the last, the last, I'm on line 6, last Sunday of the early voting period. Right now it says, this new language says, for at least six hours, but you see the after six, five was there before and five is struck and six is added. So, I'm sorry, you know this. So, it went from five hours to six hours at least. Now, they can do more than that, but it has to be at least six hours.

**Senator West:** Okay.

**Senator Hughes:** Now I, honestly, I think it's an increase but help me if I'm missing—

**Senator West:** Well let me, let me go back. Did you say that counties, irrespective of the language that you have here, if counties wanted to have voting on other Sundays there, they'd be able to do that? That solves my problem right there. If that's—

**Senator Hughes:** Oh, yes, Sir. So, on line 8, on the last Sunday of early voting period is struck, but then on line 5 and 6 it says on the last Sunday of early voting period. So, they just rearranged the words, but they went from a minimum of five hours to a minimum of six hours.

**Senator West:** Oh, I understand that but I'm talking about other days. I mean, other days during early voting it, is, did you just say that on Sundays, on other Sundays during early voting can counties have an early voting project, "souls to the polls"?

**Senator Hughes:** Oh, yes, Sir.

**Senator West:** It's, you're certain about that, because I want to make sure when I go home and I meet with my ministers and I'm going to tell them that on the floor of the Senate, you said that they can have "souls to the polls" on more than one Sunday. It's just not limited to the last Sunday during early voting.

**Senator Hughes:** Well, Senator, so, this isn't, is not changing the number of Sundays, but right now, under current law, on that last Sunday it's got to be at least five hours, but this conference, this says it can up, be at least six hours. So, it's increasing the minimum that a county has to offer. I think I'm answering your question. Right?

**Senator West:** Well, I just want to make certain that we tie it down very tightly.

**Senator Hughes:** Okay.

**Senator West:** What you're saying as the author of this bill—

**Senator Hughes:** Yes, Sir.

**Senator West:** —that churches can, on Sundays, if they decide to have "souls to the polls," they're not just limited to the last Sunday during early voting.

**Senator Hughes:** No, here's what I'm trying to say, and I'm glad you ask it that way. The language we're looking at it applies only to that last Sunday. So, that's all. So, the language, the struck language and the underlined language is only about that last Sunday. And on that last Sunday of early voting—

**Senator West:** Oh, I understand that, I understand the time frame. But what I'm trying to make certain is they can do it on other Sundays, other than the last Sunday during early voting, they being the churches. If they want to have a voting project, they can do it on other Sundays other than the last Sunday during early voting.

**Senator Hughes:** Oh, yes, Sir. Again, nothing here limits that. I got you now.

**Senator West:** Alright, that's fine.

**Senator Hughes:** Thank you. I'm sorry I didn't understand.

**Senator West:** Alright and then—

**Senator Hughes:** You're right.

**Senator West:** —here's the other deal. Why limit when they can start on Sundays? Whose idea was that?

**Senator Hughes:** Well, Senator, as you know, those election workers want to go to church, too, and so that's why it says 1 p.m., later than 9 p.m. You can make Sunday evening service and go vote after that. But I think, if we're thinking about Sundays and respecting everybody's Sundays.

**Senator West:** You know, Senator, you know what my next question's going to be. You know what my next question's going to be.

**Senator Hughes:** I usually do but I don't this time.

**Senator West:** Did you talk to election workers to make that determination?

**Senator Hughes:** I didn't. I didn't, no, Sir.

**Senator West:** Did Cain talk to election workers to make that determination?

**Senator Hughes:** I know election workers in general like to have—

**Senator West:** So, how can you say—

**Senator Hughes:** –I'd like to ha–

**Senator West:** –how–

**Senator Hughes:** –I'd like to have sen– oh, I'm sorry.

**Senator West:** I'm sorry, I interrupted you.

**Senator Hughes:** No, I apologize, go ahead.

**Senator West:** So, how can you make the determination that you're doing this for the best interest of the election workers?

**Senator Hughes:** Well, Senator, it's Sundays and normally Sunday mornings are traditionally reserved for matters like this and souls to, now, you can correct me, but "souls to the polls," I thought we went to church and ate lunch and then voted. And–

**Senator West:** No, currently in my community, we go to church and I attend eight o'clock service. Okay?

**Senator Hughes:** Alright.

**Senator West:** We have eight o'clock, 10 o'clock, you know, and people get out early and then they go to the polls.

**Senator Hughes:** Okay.

**Senator West:** Then they go get something to eat.

**Senator Hughes:** Okay.

**Senator West:** And so, what you're doing is restricting that. Would you take an amendment to this resolution to put back in, on that language that you struck as relates to the last Sunday?

**Senator Hughes:** Well, Senator, as you know at this stage in the process, the Conference Committee Report is before us for an up or down vote. No one, I couldn't amend it if I'd like to make some changes to it, but the rules don't allow us to amend the Conference Committee Report at this stage.

**Senator West:** So, then we're going to be able to, we're going to be able to buy beer at 10 o'clock in the morning. Right? If Springer's bill pass, yeah, so we're going to be able to buy beer at 10 o'clock in the morning, but we can't vote until one o'clock. Is that right?

**Senator Hughes:** But the election workers get to go to church before they have to show up to work on Sunday.

**Senator West:** You would agree though, you would agree that we can buy beer at 10 o'clock in the morning–

**Senator Hughes:** I didn't vote for that bill, Senator.

**Senator West:** –well, whether you voted for it or not, it passed. But under the law now, if this particular bill is signed by the Governor, we'll be able to buy beer at 10 o'clock in the morning, but we won't be able to vote until one o'clock in the afternoon.

**Senator Hughes:** And the election workers will get to go to church if they want to.



**Senator West:** So, I'm correct. And you don't find that kind of disingenuous? I mean the greatest number of people that vote on Sundays are African Americans. At least that's what the numbers show. And we're cutting back the time that those particular programs can start. And I can assure you, my friend, that there won't be people going to the polls at nine o'clock at night. Those persons that I'm involved in, those "souls to the polls," you know by about five, six o'clock, it's over with. Okay? Because they start early. And by doing this, you inhibit the ability to have those types of programs to run the length of time as they normally would, early in the morning to the afternoon, in this particular language.

**Senator Hughes:** That, and I'll defer to you, Senator, but again, we're going from a minimum five hours to a minimum six hours. So, the counties are required to give more time and, respectfully, I believe the intent was to keep this a Sunday afternoon activity. I don't think the intent was to keep anybody from—

**Senator West:** Did you talk to Nicole Collier on the conference committee about this particular change?

**Senator Hughes:** On the House side, I know that the House conferees talked, I haven't visited with her about the details of the bill.

**Senator West:** Did you talk to Senator Beverly Powell about this change?

**Senator Hughes:** This particular provision came in the out of bound resolution so as soon as we had it, we shared it with everyone and we emailed the report to all the conferees, emailed it to Senator Powell late that night as soon as we got it back from Legislative Council. Then the next morning we sent it to all the other staff—

**Senator West:** So—

**Senator Hughes:** —before it was officially released through the process.

**Senator West:** —okay, so—

**Senator Hughes:** We wanted to be as transparent as we could.

**Senator West:** —sure, that's fine. So, purpose of the record, the only African American on the conference committee, you don't know whether or not she was briefed on this particular change.

**Senator Hughes:** I know—

**Senator West:** Had any input into the process. Correct?

**Senator Hughes:** —I know that the House conferees worked on this. I don't know what they discussed because I don't know what they discussed.

**Senator West:** The only Democrat here in the Senate that was on the conference committee, as it relates to this particular resolution, she was not briefed or asked her particular position on this issue. Correct?

**Senator Hughes:** So, well as soon as we had this language, we sent it to all the conferees.

**Senator West:** As soon as you had the language.

**Senator Hughes:** Yes, Sir. When it came back from Legislative Council with all the, with all, in this form, this Legislative Council draft, is when we shared it with all the conferees.

**Senator West:** And then, and when did this resolution, when was this resolution first shared with the conferees?

**Senator Hughes:** I want to say it was 11:30—

**Senator West:** On what date?

**Senator Hughes:** —around 11:30 the night we got it back. We got it from Lege Council about 11:15, we read through it—

**Senator West:** Okay.

**Senator Hughes:** —and sent it to all the conferees.

**Senator West:** On what date?

**Senator Hughes:** That—

**Senator West:** What's the date?

**Senator Hughes:** —Senator, it was, the out of bounds resolution, it was within the last day. What day is it today?

**Senator West:** May 29th.

**Senator Hughes:** Alright, thank you. I beg your pardon. It was last night, thank you, Senator. Last night, and then this morning we emailed it to all staff members that are in the Senate.

**Senator West:** So, May 28th is when the conferees received it.

**Senator Hughes:** If that was last night, that's correct.

**Senator West:** Last night.

**Senator Hughes:** That's right.

**Senator West:** Well—

**Senator Hughes:** Yeah, this one, this document. Yes.

**Senator West:** Okay, it's not 12 yet, okay. Alright, thank you very much.

**Senator Hughes:** No, thank you, Senator.

**President:** Senator Johnson, for what purpose?

**Senator Johnson:** A few brief questions of the author, if I may?

**President:** You yield for a question?

**Senator Hughes:** Of course I'll yield for a question.

**Senator Johnson:** Thank you, Senator Hughes. Promise to be brief. It's not often that we go out of bounds on these things. Right?

**Senator Hughes:** Senator, I don't have the statistics. I know that there are out of bounds resolutions every session.

**Senator Johnson:** Would you call it often?

**Senator Hughes:** I'll defer to you. I don't know what the—

**Senator Johnson:** Do you know how many times we've done it this session?

**Senator Hughes:** I don't know. I believe you, if you tell me, I'll trust you. I don't know—

**Senator Johnson:** And I'm not sure either, I think the answer is one and it has to do with the budget. You would agree that it's not customary, that it's, it's less than half the time that we go out of bounds.

**Senator Hughes:** I bet it's less than half the times but I'm just guessing, but I bet it's less than half the time.

**Senator Johnson:** Are you—

**Senator Hughes:** I bet you're right.

**Senator Johnson:** —are you aware of any this session other than this one?

**Senator Hughes:** Well, Senator, conference committee reports are just now coming back, so I think we're going to, we're going to see these again.

**Senator Johnson:** Are you aware of any this session other than this one?

**Senator Hughes:** Well, you mentioned the one on the budget.

**Senator Johnson:** Right.

**Senator Hughes:** And there may be others, I'm not sure—

**Senator Johnson:** Are you aware of any others?

**Senator Hughes:** —if you know, I believe, you tell me—

**Senator Johnson:** I don't know of any others so what I'm getting at is this is, this is something that we do in this, in this Chamber. Right? We do go out of bounds—

**Senator Hughes:** Yes, Sir.

**Senator Johnson:** —from time to time. But it's not a normal thing to do so if we're going to do it, I'd like to just kind of take a look at, see what, what exactly we're doing because you mentioned that, for example, Senator Creighton's bill is stuffed into here, out of bounds. There are other things stuffed into here out of bounds.

**Senator Hughes:** I don't think I said stuffed in, but go ahead.

**Senator Johnson:** No, you did not say stuffed in, yes, you mentioned that it's in here, though, I, pardon the characterization. It's a visual, helps us think.

**Senator Hughes:** It's effective.

**Senator Johnson:** Ordinarily, oh, well actually, just first of all what happened to Senator Creighton's bill? What happened to it in this whole legislative process prior to today?

**Senator Hughes:** Senator Creighton's bill passed the Senate—

**Senator Johnson:** Yes.

**Senator Hughes:** —went over to the House and it was in the House committee and I don't recall if it died on the calendar, but I know it did not make it all the way through the process in the House.

**Senator Johnson:** So, it died.

**Senator Hughes:** I beg your pardon.

**Senator Johnson:** For lack of a better word, it died in the House.

**Senator Hughes:** Okay, it died over in the House, yes, Sir.

**Senator Johnson:** As many bills do. It's a graveyard of Senate bills in the House.

**Senator Hughes:** So it, so it would seem.

**Senator Johnson:** And frequently what would you do as an experienced legislator if one of your bills doesn't make it through and it dies in the House? Would you look for some other way to get that passed?

**Senator Hughes:** That's right. If we—

**Senator Johnson:** What's one of the ways that you would look to get that passed?

**Senator Hughes:** So, what you're asking if I had a bill that didn't make it through the House—

**Senator Johnson:** Yes.

**Senator Hughes:** —and I still wanted to get it passed.

**Senator Johnson:** Yes.

**Senator Hughes:** So, I would look for other bills along the same subject matter where it would be appropriate to amend onto that bill and I've, and try to proceed that way.

**Senator Johnson:** And I'm not, and—

**Senator Hughes:** Is that, is that how you would do it? I think that's the answer.

**Senator Johnson:** Well, I'm not at your level of experience, but that's what I understand most of us try to do. And it's, so, that's a really more typical route than going out of bounds. So, it seems to me that what we've got here, after a bill of extraordinary length and complexity in the House, and extraordinary length and complexity in the, and I'm sorry, in the Senate, and extraordinary length and complexity in the House, and an extraordinary lengthy debate, a thorough involved process and then opportunities to amend, oh, let's see, how many election bills do you think we had in the Senate this session? Let me go there for a second and we'll come back on.

**Senator Hughes:** I bet there's been several, and again, you tell me the number. There've been several.

**Senator Johnson:** Well, I don't know. It just seems like there's one for every Republican Member of the Legislature of the Senate seems to have had at least two election bills at this point. I'm making up a number but it seems to me there's been a lot of times to pass election reform through a lot of vehicles. And so, now, quite

relevant to what we're doing here, we're being to, asked to adopt a resolution adding one more stage after dozens of election reform bills, after five months of opportunities to move it through. Now we're being asked at the last minute, with very little time, and I know this is all carefully thought out, I know some of it's well intended. I think some of it, I don't know of how it would define well intended. Some of it's quite substantive like overturning elections. Some of it just kind of comes out of nowhere. For example, page 9 of this resolution, we're no longer accepting applications, I think is for mail-in ballots with a photocopied signature. I mean, how many election bills did we have to get that done? If it didn't get done, why should I vote to adopt this resolution to allow it to get down here? We've already been there.

**Senator Hughes:** Well, Senator, respectfully, I believe we should evaluate these elements on the merits and vote based on that. And if we don't feel like they're good policy, then we shouldn't vote for it.

**Senator Johnson:** Is the process worth anything? The normal process of moving something through, where we would no longer allow photocopied signatures would be for someone to file a bill like the dozens of bills that were filed in this Chamber that didn't make it, and they didn't make it for a reason because the Legislature rejected them. And now at the last minute, on the 100 and almost 39th day, we're being asked to suspend the rules to do everything from inconsequential things to highly consequential things that didn't make it previously. Isn't the process worth something?

**Senator Hughes:** Senator, this process of suspending limitations on the conference committee is part of the Senate and the House procedure. This is, this happens every session—

**Senator Johnson:** It's not normal, though.

**Senator Hughes:** —people following the rules.

**Senator Johnson:** We established at the beginning it's not normal.

**Senator Hughes:** Did we say it happens in less than 50 percent of the time, or did we, that it's not normal?

**Senator Johnson:** I think we said that between—

**Senator Hughes:** I, and—

**Senator Johnson:** —the two of us, we could only identify twice that it's happened so far in this session.

**Senator Hughes:** —as conference committee reports are only now beginning to come back.

**Senator Johnson:** I'll be counting to see how many of them in this resolution. I think you get where I'm going, and I don't think I can support your resolution because I have a great deal of respect for what this Chamber does and what the House does and the legislative strategies we all have to get stuff on here. And I consider going out of bounds to be something extraordinary that we may do in the budget in light of changed circumstances. We got more money, we got less money, we have more needs, so we adopt a resolution to accommodate those changes. Or perhaps there's a complex

thing we learn more about all of a sudden, but this seems more like you're just trying to get in bills that you couldn't pass or you thought up some other way to do some things that many of the Members of this Chamber don't want you to do. And so, out of, out of respect for the process and the affront to the process that I consider this resolution, I'll be voting against it.

**Senator Hughes:** Thank you, Senator.

**Senator Johnson:** Thank you.

**President:** Members, the motion is on the adoption of the resolution, Secretary will call the roll.

(Remarks regarding **SB 7**)

**President:** Chair lays out the Conference Committee Report for Senate Bill 7. Secretary will read the caption.

**Secretary:** Conference Committee Report Senate Bill 7, relating to election integrity and security.

**President:** Chair recognizes Senator Hughes on the Conference Committee Report for Senate Bill 7.

**Senator Hughes:** Thank you, Mr. President. I present the Conference Committee Report on Senate Bill 7. We've been discussing these matters already. This, of course, is the work of two Chambers, each prioritizing critical reforms and then working together to decide how to strike the balance and how to, how to get to the right place. We want elections to be secure and accessible. Many of us studied Senate Bill 7 closely and are familiar with its provisions. The House obviously added a few things and then several provisions were in one or the other passed and separate standalone bills and were removed from Senate Bill 7. You had the bill all day today and I know you have a lot of questions about this important bill, and I'm going to just hit the high spots and then, of course, I'll yield for your questions. Here's a few things the bill does. It requires that all voting systems have a verifiable paper trail by or before 2026. Funding's provided to counties who do not currently comply with this requirement. They may need to retrofit current machines or buy new machines and to achieve compliance before the 2024 general election. They're encouraged to do that so that the state helps with that funding. There's also uniform early voting hours throughout the state and specifically voting must occur between 6 a.m. and 9 p.m. And it's interesting, Senate Bill 7 extends voting hours for over 60 counties which are currently allowed to keep locations during business hours only, also mandates cameras and livestreaming inside the central counting station where the votes are brought from the various polling places, also the Early Voting Ballot Board meetings and the signature verification proceedings in large counties. And again, this is going to be those stationary cameras that are livestreaming. These will not be cameras held by individuals but cameras mounted, placed in the rooms, mandated for large counties and for smaller counties it's allowed, and poll watchers will not have cameras inside the polling place. We also deal with election fraud and we deal with ballot harvesting for the first time in statute, and I know we'll have discussion about that. I think we're all aware of what a problem that is and so, this bill seeks to deal with that. It also

makes it clear that ballots by mail, if you want to turn in your mail ballot rather than mailing it, you need to deliver it to a live person. We don't want ballots left in a box somewhere with them given to a live person to an election worker, also clarifies that a poll watcher is able to observe, to be close enough to see and hear the worker's activity but not to interfere or anything like that, also makes it clear, and this is important, that someone who is standing in line when the polls closed will be allowed to vote. Now this has been the law in Texas for election day since the 1980s. So, on election day if you're in line when the polls close, they've got to let you vote, even if it means staying however long it takes. They've got to let you vote if you're in line when the polls close. That has not been the law for early voting, and as we know since the 1980s, now more people vote early in person than they do on election day. So, Senate Bill 7 will extend that same protection to folks who vote early. Also, as we've discussed, it clarifies the definition of disabled for purposes of a mail ballot and it makes sure that voters know what that means when they make that affirmation. And again, that ID number, state, Texas driver license, DPS ID, or last four digits of a social, if you have one of those, be included in the application. Number of other provisions are in place to make things work more smoothly. I'm sure we'll discuss as we go through, but you've probably heard enough from me at this point. And so, that is the Conference Committee Report, and I move its adoption and yield for your questions.

**(President Pro Tempore Birdwell in Chair)**

**President Pro Tempore:** Senator Menéndez, for what purpose?

**Senator Menéndez:** Thank you, Mr. President. Would Senator Hughes yield for questions?

**President Pro Tempore:** Senator, do you yield for a question?

**Senator Hughes:** Of course I'll yield for a question.

**President Pro Tempore:** You're recognized, Senator Menéndez.

**Senator Menéndez:** Thank you, Mr. President. Senator Hughes, you know, in your explanation, your layout of the Conference Committee Report, you've appropriately and accurately said that we've had quite a bit of discussion on this. And I think you would agree—

**Senator Hughes:** I'm listening to you.

**Senator Menéndez:** —I think that you would agree that the reason we have to have extensive discussion and debate is because we take someone's right to vote as something that's one of the most critical, important, I mean people have given their lives for democracy, for our, the way that we govern ourselves, and therefore, this should be something that we debate extensively. Wouldn't you agree?

**Senator Hughes:** Senator, that's right. It's important.

**Senator Menéndez:** I've had constituents who've requested, spoke to me and said, you know, there are many people, you know, many of us are blessed to have been born in this country. And we don't know anything else. Would you agree with that? This is a—

**Senator Hughes:** Yes, Sir.

**Senator Menéndez:** –wonderful–

**Senator Hughes:** Great place.

**Senator Menéndez:** –country and where it's a blessing. But there are many immigrants who've come to this country, who've come from countries where their government has not always been respectful of rule of law, their governments have not always been respectful or held fair and honest elections. And then they come here, they naturalize and they become citizens of this country. Would you think, how sacred and how deeply do you think they would feel about their right to vote?

**Senator Hughes:** Well, Senator, again, a great blessing to be born here. And that was my experience, but we know many, many folks who came here as adults or as children in many ways, Americans like that who have experienced a different system and have come here, become Americans, in many ways the rights of being in this country are even more precious to those folks.

**Senator Menéndez:** And the reason I bring this up is because, you know, I feel blessed to be the child of immigrant parents who can tell me how the difficulty and the injustice that they and their families went through and how they believe in this country, if you play by the rules and you work hard that you can, anyone can get ahead, anyone can make it.

**Senator Hughes:** That's right.

**Senator Menéndez:** And that's why I'm willing to be here with you asking questions any day of the week, at any time. Because this is critically important for so many people.

**Senator Hughes:** Yes, Sir.

**Senator Menéndez:** And I agree with you when you talk about maintaining the integrity of the, of the ballot and maintaining integrity, but my concern with this legislation that it goes way beyond your intentional goal and it, and I would hope that it's unintentional, but the ultimate effect is the potential for suppression of votes in communities. And let me explain where my concerns are because I see the question on your face. Why do you have in SECTION 6.01, on pages 37 through 38, you have here a section where it will require a driver of three or more voters to fill out a form, some new form, I don't even know what that form is or who produces the form, but the driver and their passengers, if requested, must exit the vehicle, unless they're assisting a voter, no matter what the weather is or conditions, while a poll watcher may be allowed to enter the vehicle. Is that accurate?

**Senator Hughes:** Senator, there's a couple of things here. Let me you walk through it with you–

**Senator Menéndez:** Please do.

**Senator Hughes:** –step-by-step. And so, under this provision if you're driving three or more voters not related to you, and they are requesting curbside assistance, in that case then the driver's name and address would be gathered. You may recall the reason for that. There's testimony before the committee and we also had reports from the



Attorney General's office of situations where vote harvesters or whatever you call them will go through a neighborhood and offer people a ride to the polls. And they'll bring the people in and then the voting machines are brought out, the voters, are put in front of the voters, the driver tells them how to vote, and then the voters go home and they say that I didn't get to vote the, wanted to and the, call the county, end up talking to the Attorney General's office, the Secretary of State, and they say, and they say what happened. And so, there's no way to know who these people are. And so, when those reports come in, when voters complain that their will was overcome, that they weren't given a right to vote the way they wanted to vote, in this situation we would have some idea of who the people were who were doing that so they could be contacted. So, that's the basis for getting the driver's name and address if they drove three or more people not related to them and those people all requested curbside assistance or in many cases—

**Senator Menéndez:** So—

**Senator Hughes:** —the driver requested on their behalf. And so, that's aimed a specific situation. And so, you know, I'm glad you asked because we want to make sure—

**Senator Menéndez:** —so, so—

**Senator Hughes:** —this is clear.

**Senator Menéndez:** —if the driver's related to the three people then you don't have to go through the process you described.

**Senator Hughes:** That's right. Because obviously, if you're helping your family with something like that, that's not, no one's concerned about that. This is about vote harvesters, folks who are trying to steal votes or improperly influence votes.

**Senator Menéndez:** So, I understand the part of the forms, but is it true that, or explain to me, what is the purpose of the passenger's exiting their vehicle and some poll watcher entering the vehicle? What's the purpose of that?

**Senator Hughes:** Senator, that's about, that's about the right of secret ballot. So, if someone needs curbside assistance and so the election workers are going to bring them the equipment out to the car for that person to vote, that person who needs help has the right to vote a secret ballot without someone looking over their shoulder. And so, and again, as far as poll watchers go, you know those are the eyes and the ears of the public and so just like in the polling place, the poll watcher's there to make sure the election workers are doing what they're supposed to do, they're observing. When there's a voting taking place curbside, we want those same protections in place.

**Senator Menéndez:** Senator Hughes, how will we define secret ballot? I'm just curious. What is the definition for you of secret ballot?

**Senator Hughes:** Well by, perhaps I should use the term private ballot when I say secret ballot so that, so that the voter can cast her ballot without anyone knowing how she's, no one's business how that voter chose to vote.

**Senator Menéndez:** Is your language crafted tightly enough so that we don't have the unintended consequence in your desire for the voter, which I agree with, to have a private ballot? But now a poll watcher gets to enter the car, what keeps the poll watcher from invading the voter's privacy?

**Senator Hughes:** So, the poll watcher is not, the poll watcher is not allowed to see how the voter is voting. In fact, the only time the poll watcher would be, would be entering is if the person is receiving assistance. And as you know, under the law, you can receive assistance with your ballot if you have trouble, if you cannot read the ballot, you can't see the ballot. And so, if that's the case, if someone claims to be assisting that voter, we want to know if they're really assisting the voter or if they're overcoming the voter's will or influencing or trying to squeeze them to vote in a certain direction.

**Senator Menéndez:** So—

**Senator Hughes:** And again, these are aimed not at the voter but at the folks who claim to be assisting the voter.

**Senator Menéndez:** —understood. And how do we make that determination? Let's give an example. My mom's 85 and immigrated to this country as an adult to be a nurse, and many, many times, like many of our family member, they'll call and they'll ask, hey, what does this constitutional amendment about, I don't really understand or the city ordinance that's being propositioned—

**Senator Hughes:** Right.

**Senator Menéndez:** —that's on the ballot, and she said, can you help me. And sometimes we'll go to the vote together or, you know, a family members, this is not an unusual circumstance. So, how does the poll watcher determine whether I'm explaining something to my mother or I am influencing her vote?

**Senator Hughes:** Well, Senator, based on the definition of disability and what it means to receive help with casting your ballot, it's only for those situations where you can't see it or can't understand the language. So, if that's the situation, then that person gets help casting the ballot, but it would be pretty rare, I would think, for one of us to be assisting a loved one, an elderly loved one when they're literally casting their ballot. And so, if that's the case, we want to make sure that it's the voter's expressing their will and not me or you or someone else. And again, this provision about driving people to the polls is triggered three or more non-family members needing curbside assistance. So, that wouldn't apply in this situation.

**Senator Menéndez:** You understand—

**Senator Hughes:** Your mother or to my mother.

**Senator Menéndez:** —sure, you understand my concern?

**Senator Hughes:** I do, I do.

**Senator Menéndez:** Question about the section for people who could vote by mail. What if just recently, as we're coming out of the pandemic, what if we had something and, in reading your language on voting by mail, I had a concern, what if there were

someone who had COVID but was asymptomatic, otherwise they felt fine, but they might be able to, they, their doctor's not confining them, are they ineligible to vote by mail or would this bill require them to show up even though they have COVID?

**Senator Hughes:** So, let's, so let's walk through that and walk through what current law is, and I think it might be helpful. So, current law says a qualified voter is eligible for early voting by mail if the voter has a sickness or physical condition that prevents the voter from appearing at the polling place on election day without needing personal assistance or injuring the voter's health. So, that's what the law is today on disability and you're familiar with that.

**Senator Menéndez:** Sure.

**Senator Hughes:** And so, the situation you're describing I don't believe would qualify under the law today of disability for the mail ballot. And so, under the current law today or under what's in Senate Bill 7, I don't believe, I don't think the situation you chose—

**Senator Menéndez:** So—

**Senator Hughes:** —if I understood you correctly.

**Senator Menéndez:** —and maybe I think it's sad that with an opportunity to go outside the bounds that with us going through and still just coming out of the pandemic that we didn't envision a scenario where someone could be potentially a transmitter of a disease and that we would not take that under consideration. So, well—

**Senator Hughes:** Well, Senator, I—

**Senator Menéndez:** —I'll move on.

**Senator Hughes:** —will say, as you'll recall, when the election was going last year with concern, with so many concerns about the pandemic, as you recall the Governor extended by a full week the time for early voting in person, and we also took steps to make sure that our counties had PPE, had help with workers, had everything in place we could do to deal with those pandemic challenges. So it's, I understand what you're saying.

**Senator Menéndez:** On your, this legislation that you're proposing today, you are outlawing the use of drive-through early voting. My understanding is that drive-through early voting has been used for years in rural communities, but most recently it was used in urban communities because of the fact that it would make it safer for people to drive. What was the rationale to get away from drive-through voting?

**Senator Hughes:** Senator, I'm not aware of drive-through voting existing anywhere in Texas anytime except for one county in the last election, that was in Harris County. By the way, may I correct something I said earlier? Forgive me, let me jump back, we were talking about poll watchers and talking about people who are being driven to the polls. There's no provision in this bill about the poll watcher getting in the car. That is not, if I didn't say that right, please forgive me.

**Senator Menéndez:** Alright.

**Senator Hughes:** There's nothing here that says the poll watcher can get in the car with, that's not, that's not in this bill.

**Senator Menéndez:** That's a good thing.

**Senator Hughes:** But to answer your question about drive-through voting, I'm only aware of it being used in Harris County in the November 2020 election. That's the only time I'm aware, but you, you help me out if I've missed something.

**Senator Menéndez:** I—

**Senator Hughes:** I've never seen it done in rural Texas.

**Senator Menéndez:** —earlier today I heard that it had been used in other communities, but you know what, it's, that's neither here nor there. The question is what was the rationale for limiting something that helped many people. And my understanding when the analysis was done of people who voted by mail and people who voted late that it typically happened to be working class folks, it was people of color, people who had long hours at work who were availing themselves of a safe way to vote. And I don't understand what the rationale was to take away something that helped people vote safely at a time when it was easier for them, when they weren't working, when they had the opportunity to express at what we already established as a sacred right.

**Senator Hughes:** Now we do have some help there. As you know, for a long time it's been a law that on election day if your work schedule conflicts with election day that they're required to let you off work. That same protection will now be extended to early voting. So, there is a provision in Senate Bill 7 that says if your work hours do not give you time to vote, they've got to give you time off to go vote, it applies to early voting or election day. So, there is an accommodation there acknowledging that and as you and I know, a lot of stereotypes about voting that used to apply maybe don't anymore. As you know, people of, my goodness, if you look at people's, the kind of job that they do and the level of education they have, numbers are showing us now that folks with higher degrees and higher, tend to vote more Democratic than working folks tend to vote Republican now. So, we shouldn't assume that the, that the old stereotypes apply here. But these rules apply across the board to everyone. And there's language in this bill that says for election day and early voting you've got to be allowed to get off work to go vote.

**Senator Menéndez:** Does your bill specify how much time they get to go vote?

**Senator Hughes:** Yes, two hours. You get two hours.

**Senator Menéndez:** They get two hours. Very good. Does the employee have any recourse if their employer refuses to give them the time off?

**Senator Hughes:** Well, the employer wouldn't be following the law. They should report it to the district attorney and Attorney General's office or call me and I'll take care of it, 512-463-0101.

**Senator Menéndez:** That your cell phone?

**Senator Hughes:** No, Sir. That's the number here that gets answered quicker.

**Senator Menéndez:** I was just checking.

**Senator Hughes:** Alright.

**Senator Menéndez:** Let me see here, I think Senator West already covered the why people should or are not allowed to vote on Sunday. I found that interesting. You can't vote on Sunday before one o'clock now. Even though we can, we're going to pass a law—

**Senator Hughes:** Senator, and—

**Senator Menéndez:** —go ahead.

**Senator Hughes:** —and I may not have fully answered—

**Senator Menéndez:** Please.

**Senator Hughes:** —the previous question. May I jump back one more time?

**Senator Menéndez:** Yeah, go right ahead.

**Senator Hughes:** Thank you for being patient with me. You asked me about that voter who had a limitation because of COVID-19. And I read to you the existing disability definition.

**Senator Menéndez:** Umh hmm.

**Senator Hughes:** And said it wouldn't apply to them. I would submit to you that the new, that the new disability definition would help in that situation because the definition of disability to qualify for a mail ballot, under Senate Bill 7, and we're on page 26, I bet you have it.

**Senator Menéndez:** I do.

**Senator Hughes:** Twenty-six of the bill, it lists the vote, lists these conditions, illness, injury, medical confinement ordered by healthcare professional, or mental or physical disability. So, if the physician has told you, voter, you've got COVID-19, you stay home. That would trigger under this Senate Bill 7, not under current law but under Senate Bill 7, that situation would be covered so if I missed it, that would be an improvement to the law in the situation you described.

**Senator Menéndez:** I'm glad you brought that up.

**Senator Hughes:** And I had missed that before, and I apologize.

**Senator Menéndez:** No, don't, you don't need to apologize. It's a big bill, it's late at night. I do have a question about one of the things you just mentioned. You mentioned a mental disability. Is there a definition for mental disability? I don't, I don't think I've found one and I'm not sure that, thank you.

**Senator Hughes:** Well, Senator, of course, that list is modifying, again, disability, the new definition says a qualified voter's eligible for early voting by mail if the voter's not capable of appearing at the polling place on election day without needing personal assistance or injuring the voter's health due to the voter's, those topics, so anything in those broad categories that says you cannot appear at the polling place on election day without needing personal assistance or injuring your health. So, anything in those

categories. So, they're very broad. They're intentionally broad because if a voter has a condition that prevents them from being able to do this, we want them to be able to vote by mail.

**Senator Menéndez:** Could you go with me to page 37 of your bill?

**Senator Hughes:** Yes, Sir.

**Senator Menéndez:** Under assistance to voters, on Section (b), one, it says a person other than a voter is only permitted to be inside a motor vehicle while a voter votes from the motor vehicle if the person would be entitled to accompany the voter to the voting station under a law.

**Senator Hughes:** Yes, Sir.

**Senator Menéndez:** And the next line it says (e) except as provided by Section 33.075, a poll watcher is entitled to observe any activity conducted under this section.

**Senator Hughes:** Yes, Sir.

**Senator Menéndez:** I'm not a lawyer, but doesn't that mean that the poll watcher's entitled to see what the voter is doing?

**Senator Hughes:** Well, 33.057 is the exception there. But to make sure we're clear, as far as who's in the car, this goes to that private ballot thing we mentioned.

**Senator Menéndez:** Correct.

**Senator Hughes:** If someone—

**Senator Menéndez:** That's right.

**Senator Hughes:** —is entitled to be assisting the voter, because the voter can't see or can't read the ballot then that person should be in the car with the voter. Otherwise, that voter should have privacy inside the car when they're casting their ballot.

**Senator Menéndez:** Okay. Alright. I'm going to, my understanding is that this committee substitute removes some House amendments and that had decriminalized unintentional mistakes and in your Committee Substitute to Senate Bill 7, we're criminalizing again unintentional mistakes and the rejecting and the accepting of ballots. Is that correct?

**Senator Hughes:** Senator, I have a list here of the criminal provisions in the bill. When the Senate Bill 7 left the Senate, left the Senate, there was not much of that. There was a limitation on preventing a poll watcher from entering and one other. And over in the House, the House's big bill, House Bill 6, had a whole lot more of criminalizing conduct, and so this conference committee is, of course, a merging of the House and Senate bills. So, coming back from conference there is more, there are more criminal offenses committed, created than we voted for coming out of the Senate. But I've got the list here. Help me with which one you're, I'll do my best.

**Senator Menéndez:** My understanding is that there was a, the section about unintentional mistakes in the rejection of the accepting of balance, ballots, that that has now been made a criminal offense. And I mean, I'm just saying how is it that we're going to criminalize an unintentional mistake.

**Senator Hughes:** Well—

**Senator Menéndez:** And I hope that that's a mistake that I have on my notes. But you can tell me.

**Senator Hughes:** Well, I want to be clear, we're not talking about activity by the voter. So, we're not talking about any activity by the voter.

**Senator Menéndez:** Correct.

**Senator Hughes:** The elements here apply to folks who are charged with following the law. They apply to election workers and to people—

**Senator Menéndez:** Sure.

**Senator Hughes:** —like that and to public officials. So—

**Senator Menéndez:** Correct.

**Senator Hughes:** —there's no place, there's nothing in this bill that has to do with a voter checking the wrong box—

**Senator Menéndez:** No, no.

**Senator Hughes:** —or, this—

**Senator Menéndez:** No, not a voter—

**Senator Hughes:** —this is about the people—

**Senator Menéndez:** —I'm talking about—

**Senator Hughes:** —who are supposed to know the law and follow the law.

**Senator Menéndez:** Correct. But did we or did we not criminalize an unintentional mistake?

**Senator Hughes:** Senator, I believe that there is an intent requirement in each of these matters and, I'm, if you, if I miss something you tell me, but as I read this there's an intent requirement in each one of the criminal matters that are, that are affected by this bill.

**Senator Menéndez:** Does, did the committee substitute, did the, does the report that you're bringing before us, the CCR, does it remove the amendments the House had put on for curing mail ballots that, did it take that away? The curing process for mail ballots.

**Senator Hughes:** I don't know. I know that, let me tell you this, I know that we passed Senate Bill 1018, which was Senator Zaffirini's bill, with a mail ballot cure process which, which made sense, bipartisan, did not make it through the House. I don't think the final version of Senate Bill 7 has a ballot cure process, and I wish it did. I don't believe it made it into this Conference Committee Report.

**Senator Menéndez:** Well, we definitely need to know about that because that's a, something that's important. My understanding is that the issue has to do with the signatures, and if I'm not mistaken, this CCR has signatures that can be as old as 10, you can go back a decade. Is that, is that correct?

**Senator Hughes:** Senator—

**Senator Menéndez:** To verify signatures.

**Senator Hughes:** —well, Senator, the way we sent Senate Bill 7 out of here it was to give more opportunities to look at signatures so, as you know with that, with that ballot, with that signature verification process, you've got the signature on your application for a mail ballot and then you've got your signature on the security envelope where you return your ballot. They compare those signatures. And so, if there's a question about those, whether those signatures match, allowing them to look at other signatures gives them a way to see if that's in fact valid. Otherwise, if they're limited to those two and the person was having a bad day or messed up their signature, it would appear this is not valid. So, by allowing them to look at more signatures, the idea there is inclusion not exclusion.

**Senator Menéndez:** You know I—

**Senator Hughes:** And that's how the—

**Senator Menéndez:** —I—

**Senator Hughes:** —that was in the bill that left here, when we voted it out.

**Senator Menéndez:** —I hear your explanation and it has such a positive, you know, feeling to it. The problem that I see is that it can be taken and used in the exact opposite way. And the reason is this, that if you have the signature on the ballot and you have 10 years worth of signatures you can compare to, you can pick one that doesn't match and say, no, this isn't the same person. And my concern is that people over the years, their signatures change due to different, a variety of things. It could be onset of Parkinson's, it could be arthritis, it could be a stroke, it could be so many things that that concerns me that we have that large a window to be, to choose from.

**Senator Hughes:** I see what you mean. I would only humbly remind that those folks that are looking at those signatures are Republicans and Democrats. So, you can advocate for or against, but they're, this isn't just one party making these decisions.

**Senator Menéndez:** Did we, did this Conference Committee Report, does it increase penalties, does, my understanding it reverts to state jail felonies for election officials and third-degree felonies for newly, poorly defined the, on the vote harvesting services? There was an increase in the penalties. Is that correct?

**Senator Hughes:** Well, Senator, I think the vote harvesting is defined pretty clearly. And I, if we need to, we can go through it but vote harvesting had not been defined in statute before except for one place when it talked about how if you're getting paid to get a certain number of ballots and if you meet this goal you get more money. It was pretty narrow, the language a little confusing.

**Senator Menéndez:** Sure.

**Senator Hughes:** But now, vote harvesting is defined and so that we know what it is and so that folks can order their conduct.

**Senator Menéndez:** This will be my last couple of questions for this, for this section. In SECTION 2.05 of your bill, on the number of registered voters in a county, does it include the voters on the suspense list? And the reason I bring this up is, my concern is that you're trying to target counties for Secretary of State oversight sanctions if the



number of registered voters exceeds the number of eligible voters. I heard the exchange between you and Senator Bettencourt, and my concern is because there are many voters who are on the suspense list because they may have moved but under state and federal law they cannot be removed from this list of registered voters until two federal election cycles have passed. So, by including the suspense list in this voter, voters in this calculation, the provision then would artificially inflate the number of registered voters and make it seem like something unseemingly is happening. So, do you include the suspense list?

**Senator Hughes:** Well, Senator, I, here's how I would read this. Once that provision is triggered, then the burden is upon the county to refute that the number of registered voters is equal to or greater than, have a remediation plan, and go through the process. So, the county would tell the Secretary of State, hey, we have these voters on the suspense list. Now again, it's hard to imagine a situation where the registered voters, active ones and the ones on the suspense list, outnumbered the total potential list of registered voters.

**Senator Menéndez:** I agree.

**Senator Hughes:** Wouldn't you say?

**Senator Menéndez:** I agree, I agree that it is but I think it's, we need to be careful that we don't start creating a system by which we start looking for things that aren't actually there. Alright. I want to thank you for taking my questions. I appreciate your genuine effort to address all of these. I'm still very, very concerned that we are creating a system by which we may actually be suppressing people's ability to vote. And I think that this bill has also, by creating the criminal and civil liabilities, that we may be creating some unintended consequences. Thank you for taking my questions. Thank you, Mr. President. Thank you, Members.

**Senator Hughes:** Thank you, Senator.

**President Pro Tempore:** Senator Lucio, for what purpose?

**Senator Lucio:** Will the gentleman yield for a question?

**President Pro Tempore:** Do you yield?

**Senator Hughes:** Of course I'll yield for questions.

**President Pro Tempore:** You're recognized, Senator Lucio.

**Senator Lucio:** During the briefing, you and I exchanged some comments back and forth, and I brought up curbsiding which Senator Menéndez very eloquently addressed. My mother, I can remember taking her on several occasions to vote after she was, we placed her in assisted living there in Brownsville. She didn't need much assistance because she always voted, but the assistance she did need was to take her to the polls.

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** Make sure that even though she was not mobile anymore, she could vote right there by the curbside.

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** And that was something very special, as Senator Menéndez alluded to. People, especially the generation that brought us into this world, the greatest generation—

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** —understood how important it was and how responsible it was to vote. So, you know, I miss my mother, I miss my dad, I miss those in that generation who taught me that we needed to participate in the process. And I wanted to, for you to once again, if you don't mind, briefly tell the people who are listening and who are going to be affected—

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** —by curbside voting, exactly what to expect. I personally, if I was to ask my brothers and sisters, most of them, if they would like to go, for me to take them to vote, I would fill up the car—

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** —because so many out of the 10 already passed 65. I think there's about four or five of us, maybe six. And what I'm, I was hoping you would have in the bill, unless I missed it, was to have a cutoff type of age, like 65 and over, that could hopefully be able to vote curbside with or without, you know, any disabilities or illnesses of any kind because they're seniors and because we need to accommodate them because they don't move as fast—

**Senator Hughes:** Right.

**Senator Lucio:** —as they used to—

**Senator Hughes:** Right.

**Senator Lucio:** —when they were 40 or 45 years of age. So, talk to me about that one more time because that's something that really concerns me. So many people that I know rely on that type of assistance on the curbside. And you didn't take it up this session, but hopefully the next session in terms of distance, same for electioneering. You and I spoke about that.

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** It's 100 feet, I believe, from the door or the entrance of the poll, polling place—

**Senator Hughes:** Yes, Sir.

**Senator Lucio:** —to where they're supposed to be standing or electioneering or whatever you want to call it. And yet, if they're voting curbside, those individuals are much closer—

**Senator Hughes:** Right.

**Senator Lucio:** —than that 100 feet. Is that correct?

**Senator Hughes:** In many cases that's right.

**Senator Lucio:** And nothing here—

**Senator Hughes:** Because—

**Senator Lucio:** —really addresses that. Correct?

**Senator Hughes:** —you're correct. That's right.

**Senator Lucio:** And it's an issue, it is an issue.

**Senator Hughes:** It is, you're right, it is.

**Senator Lucio:** So, for those that have depended for, on, you know since they were able to vote curbside, what are we, what are they to expect with this bill?

**Senator Hughes:** Well, Senator, thank you for asking. So, the reasons that your, that your, get curbside voting that hasn't, that wouldn't be changed by this bill. So, you know, if someone's unable to enter the polling place without needing assistance or harming or causing them physical harm, then they get curbside voting. That has not changed. Here's what would be different in some cases. If you're, if I'm driving three or more people to the polls, they're not related to me, and they need curbside assistance, then I, as the driver, would give my contact information. There'd be a form, I give my contact information. Doesn't make it against the law for me to do that, but I'd give my contact information. Now, if I'm driving less than three people or if they're my family, or if they don't need curbside assistance, would not be triggered at all. But if I'm driving three or more people not my family that need, request curbside—

**Senator Lucio:** Curbside.

**Senator Hughes:** —then they still have the right to do that, but the driver's got to give their contact info.

**Senator Lucio:** What other questions will be asked of those drivers in the form that they're filling out? Are there certain questions they'll be asked—

**Senator Hughes:** No, Sir.

**Senator Lucio:** —about their driving people who are not related to them to the polls?

**Senator Hughes:** No, Sir. Just their contact information. And again, that's because we've had situations where the voters complained later, hey, somebody offered me a ride and then they told me how to vote, I didn't get to vote the way I wanted to vote. And so, when that happens, we like to know who those people are so we can find out.

**Senator Lucio:** Thank you very much. Thank you, Mr. President. Thank you.

**Senator Hughes:** Thank you, Senator.

**Senator Lucio:** Thank you, Chairman Hughes.

**President Pro Tempore:** Senator Blanco, for what purpose?

**Senator Blanco:** Questions for the author.

**President Pro Tempore:** Do you yield, Senator?

**Senator Hughes:** Of course I'll yield for question.

**President Pro Tempore:** You're recognized, Senator Blanco.

**Senator Blanco:** Thank you, Senator Hughes. I want to talk a little bit about poll watchers. You and I covered poll watchers last time we had this conversation and—

**Senator Hughes:** Yes, Sir.

**Senator Blanco:** —did some speed-reading. If we come from the House, we usually have time to read through these, but it's been an interesting transition for me. But I want to go into poll watching a little bit. So, who appoints poll watchers? And I want to see if anything has changed between the original bill in the Senate and the Conference Committee Report.

**Senator Hughes:** And you and I spoke about this and I think you educated me some last time, but political parties, candidates, as far as who's entitled to appoint poll watchers, nothing has changed from current law into this bill. No—

**Senator Blanco:** There's—

**Senator Hughes:** —change—

**Senator Blanco:** —nothing—

**Senator Hughes:** —whatever.

**Senator Blanco:** —so, political parties can appoint poll watchers. A candidate can appoint poll watchers. That doesn't change in this report?

**Senator Hughes:** No change to current law on that.

**Senator Blanco:** Okay, so who can be a poll watcher?

**Senator Hughes:** There's no change to the, there's no limit or expansion of who can be a poll watcher in this bill. So, there's no change from current law on that provision. There's some of the language about where they can be, some of that is reworded to make it clearer, but as far as who can serve, that is not changed from current law.

**Senator Blanco:** Okay, there are, and the qualifications. Well, talk to me a little bit about the qualifications to be a poll watcher.

**Senator Hughes:** Well, so none of that, none of that is going to be in this bill. That's not addressed at all so whatever current law is, and if there's a particular one you're concerned about, it's not, there's no change to current law, from current law in this.

**Senator Blanco:** And does this report provide any information on training? Does it change anything about training for poll watchers?

**Senator Hughes:** No, Sir—

**Senator Blanco:** Alright.

**Senator Hughes:** —no, Sir. As you know, there's language now that talks about what they can do and the law, even if this bill passes, it's going to say they can observe and they're allowed to be close enough to see and hear what the election workers are doing, still not allowed to see how the voter is voting and not allowed to interfere. They're just there to observe.

**Senator Blanco:** Okay. I want to turn to SECTION 4.01 of the bill, and it says, the poll watchers shall observe, quote, without obstructing the conduct of an election. That's SECTION 4.01.

**Senator Hughes:** Okay. Yes, Sir.

**Senator Blanco:** How are we defining obstruction in this bill?

**Senator Hughes:** Well, as I understand it, you know, with construing a statute, if a term is not defined, then we use its normal and customary meaning. So, obstruct, to get in the way, to block, to interfere, that's how I would read it.

**Senator Blanco:** Okay, so, to block and to interfere is your interpretation of, in the bill, of obstruction.

**Senator Hughes:** Yes.

**Senator Blanco:** And who will determine if there's obstruction?

**Senator Hughes:** Like anything else we put in law, we pass the law and expect those to follow the law. If they don't, then ultimately a court would answer those questions. But, of course, there's an election judge. If there's a problem, the election judge can call law enforcement if they want to. So, whatever the normal recourses that exist today wouldn't be limited at all by Senate Bill 7.

**Senator Blanco:** Can a poll watcher determine whether or not there's been obstruction?

**Senator Hughes:** Well ultimately, the determination, I guess, would be made by a court if there was litigation about it, but—

**Senator Blanco:** Okay.

**Senator Hughes:** —we expect people to act reasonably and to follow the law. The election workers, poll watchers, if that's what you're talking about.

**Senator Blanco:** Yeah, I'm asking, you know, on-site, you said that there's an election judge who can say this, there's obstruction, we've got to do something about this here, but can a poll watcher, can determine that? Can a poll watcher say, this is obstruction, I need to report this to the, to the election judge?

**Senator Hughes:** No. Oh, I see what you're saying. So, the poll watcher's there to observe the process, make sure that the objection, the election workers are following the law. If they observe something, then they can report that.

**Senator Blanco:** Okay.

**Senator Hughes:** But they don't interfere, they don't, they don't take action, they—

**Senator Blanco:** Just observe.

**Senator Hughes:** —just observe. The poll watchers.

**Senator Blanco:** Okay and under the bill, specifically to the poll watchers, are they required to know election law? Are they required to take any kind of course in election law? I mean, we're giving, this bill gives them a lot more authority. Are they taking any courses? What are the requirements for them to understand election law?

**Senator Hughes:** Okay, so that we're clear, this bill does not expand a poll watcher's authority—

**Senator Blanco:** Okay.

**Senator Hughes:** —at all. Originally filed, Senate Bill 7 got in some of that, but the, the Conference Committee Report does not expand a poll watcher's authority. What it does do is add the requirement of an oath and, you know, on page 16, line 8, the watcher has to take this oath, I swear or affirm that I will not disrupt the voting process or harass voters in the discharge of my duties. So, that's going to be an added protection that is not in current law today with regard to poll watchers.

**Senator Blanco:** Okay.

**Senator Hughes:** Is that kind of what you're talking about?

**Senator Blanco:** That makes it clear for me. Thank you.

**Senator Hughes:** Yes, Sir.

**Senator Blanco:** Regarding the folks that are serving as poll watchers, are persons convicted of election offenses, are they prohibited from serving as poll watchers?

**Senator Hughes:** Senator, there's nothing in this bill that changes current law as far as who's qualified to be a poll watcher, so that's not, there's nothing in here about the qualifications. Current law is left untouched on that.

**Senator Blanco:** So, the bill does not prohibit a convicted person or someone who is a, has been, who's a criminal from serving as a poll watcher.

**Senator Hughes:** Unless there's a provision I've missed, nothing in this bill talks about the qualifications. Current law remains in place on that. This talks about how close they can be and again it requires, adds this oath, so that they promise not to disrupt as they're watching, but there's nothing in the bill I'm aware of, you tell me if I've missed it, about their qualifications.

**Senator Blanco:** Okay. So, a violent offender under this bill could qualify to be a poll watcher.

**Senator Hughes:** Only if they could under current law, because this bill doesn't speak to the qualifications.

**Senator Blanco:** Okay. Sticking to the same section of the bill, 4.01, a poll watcher's going to have a duty to call to the attention of an election officer any observed or any suspected irregularity or any kind of violation of law in the conduct of the election. So, if a poll watcher is not required to have any kind of training, is not required to know election laws, how are they going to know what's a violation? How are they going to know what an irregularity looks like?

**Senator Hughes:** Well, those entities and people who appoint poll watchers, as you and I discussed, are going to have an incentive to have a poll watcher that knows the law and is able to observe what's going on and so, sort of a market aspect there. Each political party and each candidate has an incentive to have a poll watcher who's able to do the job and, of course, all they do is report it, of course, to the election worker under this bill.

**Senator Blanco:** Okay, so—

**Senator Hughes:** Poll watcher doesn't—

**Senator Blanco:** –so the bill doesn't list any, what, what those irregularities may be. Doesn't give any guidance to the poll watcher.

**Senator Hughes:** Well, it doesn't list out every possible irregularity, but if it's not following the law or not following the, the proper procedures, just to make sure, observe without obstructing the conduct of an election and call to the attention of the election officer, observed or suspected irregularity or violation of the law. So, they're just to observe and report. They don't interfere, they don't try to fix anything or correct anything.

**Senator Blanco:** Okay, so there's no training, there aren't any courses. The bill doesn't describe what an irregularity could look like, so just really leaving it to the, to the poll watcher's discretion on what a, an irregularity may be.

**Senator Hughes:** No change to current law on that.

**Senator Blanco:** Okay. So, when does an election officer have to accept a poll watcher? In, specifically in the bill.

**Senator Hughes:** And so, we were talking about that and I want to make sure that I get this right because that's on page 16 and it says, an election officer commits an offense, I'm on page 16, line 2, an election commits an offense if the officer intentionally or knowingly refuses to accept a watcher for service when acceptance of the watcher is required by the section, an offense under this subsection is Class B misdemeanor. And then, we talk about that oath. Right? Before accepting a watcher, the officer presented with a watcher certificate of appointment shall require the watcher to take the following oath. And the officer is the one who administers the oath. Right?

**Senator Blanco:** Umh hmm.

**Senator Hughes:** I swear or affirm I will not disrupt the voting process or harass voters in the discharge of my duties. So, the process of appointing poll watchers, and you and I were talking before who could do it, that's not changed at all by this section. So, there's no change to current law on that.

**Senator Blanco:** Okay, so what if someone shows up, a poll watcher who's an instigator, who could potentially be inebriated? Does the bill allow an election officer to turn that poll watcher away?

**Senator Hughes:** Well, Senator, the offense mentioned here is about not admitting the poll watcher. Once the poll watcher comes in, if they start breaking the law and messing up, current law is still in place. They can be dealt with. This just says, if a properly appointed poll watcher shows up and takes the oath, they got to be admitted. Now, as soon as they step across the threshold, if they're breaking the law, current law is still in place. It just says they can't be barred from entry if they're legally qualified.

**Senator Blanco:** And in that situation, when you said they will be dealt with, can you explain that a little bit?

**Senator Hughes:** They will be–

**Senator Blanco:** Dealt with.

**Senator Hughes:** –what I'm saying is the election judge's, the election official's authority in the polling place is not affected here. Once that poll watcher comes in, they've got to follow the law. Remember they've taken an oath. They're not going to disrupt or harass voters in the discharge of their duties, and so the current law on what they can is not changed. This just says you can't keep them out.

**Senator Blanco:** Okay. Even in those instances if they're, if they're instigating something or they're creating some kind of ruckus, the election judge or the election officer can't do anything about that?

**Senator Hughes:** Well, as a practical matter until they're admitted to the polling place, they're not poll watchers yet, but once they're admitted, then they've got to follow the law. And so, in a situation like you're describing, as soon as they set foot inside and begin to do something like that, the election judge's rights are not limited at all by this bill–

**Senator Blanco:** Okay.

**Senator Hughes:** –in what they can do or do with that. So, if I understand your, the question.

**Senator Blanco:** That's helpful. And if, what if they're doing that stuff outside?

**Senator Hughes:** Well, Senator, this is about admitting them to the polling place and so, as a practical matter I don't think that would, I think we're talking about the same thing.

**Senator Blanco:** Okay. You'd mentioned the Class C misdemeanor in SECTION 4.02. So, we're creating a Class C misdemeanor if an election officer refuses to accept a watcher. Why are we creating this offense?

**Senator Hughes:** So, the poll watchers are the eyes and ears of the public. And so, sunshine we know is the best disinfectant. And so, if I'm the election official and the poll watcher from the opposing party shows up and I don't let them in, that opposing party would have good reason to wonder what's going on inside that polling place. And so, if a poll watcher is qualified, appointed as you and I described by one of those people qualified to and takes that oath, they've got to be admitted. Now, at that point, of course, they've got to follow the law, and nothing in this bill limits the election judge's remedies if there are problems, but if a poll watcher is being kept out at the outset that should make people nervous–

**Senator Blanco:** Okay.

**Senator Hughes:** –regardless of the party they're from and regardless of the party who the election official happens to be from.

**Senator Blanco:** Right. Okay. You brought up the oath, SECTION 4.02. It requires a poll watcher to take an oath swearing not to disrupt the voting, not to disrupt the process, not to harass voters. Does the bill require poll watchers to take a pledge to comply with election laws? Talk to us a little bit about the oath.

**Senator Hughes:** So, the oath is, I want to make sure I'm getting it right, the oath is this, I'm quoting, I swear or affirm that I will not disrupt the voting process or harass voters in the discharge of my duties. Now, of course, the election judge has certain



authority and that's not touched by this bill about what goes on inside the polling place. Whatever remedies exist today are still there after Senate Bill 7 passes, if Senate Bill 7 passes. But that's what the oath says.

**Senator Blanco:** And so, you just said the judge will be the individual that determines whether or not a poll watcher keeps or breaks the oath.

**Senator Hughes:** That's the idea and, of course, as you know, the election judge doesn't have absolute authority but has a lot of authority over that polling place, and so that's not changed by Senate Bill 7.

**Senator Blanco:** What kind of guidance are we giving these judges on determining when a poll watcher breaks the oath?

**Senator Hughes:** So, election judges are, have a fair amount of training already, and we expect them to know all the election codes, especially to follow the law, and so even without this oath, if a poll watcher is interfering, disrupting, is creating a problem, the election judge has remedies under current law and those are not limited, not touched by Senate Bill 7. This oath, the idea is to make sure that the poll watcher is reminded of what their responsibilities are and what they're, what they're not supposed to be doing.

**Senator Blanco:** Okay. So, an election judge and an election officer can remove a poll watcher who breaks their oath under this bill?

**Senator Hughes:** Yeah, Senate Bill 7 does not limit the election judge's authority to deal with poll watchers that are acting improperly in the polling place. That's, Senate Bill 7 does not touch that at all. Whatever remedies the election judge has under current law, they would still have after Senate Bill 7 passes. This doesn't limit any of that.

**Senator Blanco:** Okay. I see that we're creating a Class B misdemeanor for an election officer who refuses to accept a poll watcher. Can you describe what a Class B misdemeanor is?

**Senator Hughes:** And so, that's the provision we were talking about before and so a Class, it's a misdemeanor, it's not the, a Class C would be the lowest level, a Class B would be a little bit higher than that. So, obviously there's some provisions in the bill that are much stiffer, but a Class B misdemeanor, the idea, this is more serious than a speeding ticket or something like that, but it's not a felony. It's nothing like that. So, it's a, more than a minor offense.

**Senator Blanco:** Okay, so it's not, I'm looking at—

**Senator Hughes:** I can give you more detail if it's helpful.

**Senator Blanco:** Sure.

**Senator Hughes:** Up to 180 days in jail. A fine—

**Senator Blanco:** Correct.

**Senator Hughes:** —of about \$2,000 or both.

**Senator Blanco:** So, a fine not to exceed \$2,000.

**Senator Hughes:** Yes, that would be the top. Not to exceed—

**Senator Blanco:** Or 180 days in jail. So, they could potentially be in jail for 180 days.

**Senator Hughes:** That's the maximum, that's right.

**Senator Blanco:** Okay.

**Senator Hughes:** And, of course, the judge, a judge in that case, not the election judge, but the trial judge—

**Senator Blanco:** Okay.

**Senator Hughes:** —would weigh all the evidence and determine what's appropriate.

**Senator Blanco:** And—

**Senator Hughes:** And it—

**Senator Blanco:** —and this could—

**Senator Hughes:** —might be probation and it might be a dismissal. But that's the most it could be under a Class B.

**Senator Blanco:** —and this could be for an election officer.

**Senator Hughes:** Yes, Sir.

**Senator Blanco:** Okay. So, are there any criminal offenses for poll watchers if they break their oath or disrupting the process?

**Senator Hughes:** So, there's, so nothing in Senate Bill 7 limits the election judge's authority in the polling place once the poll watchers accept it. There's no change to the law on that. There's no new offense created, I'm sorry, if that's what you're asking.

**Senator Blanco:** Right. So, that we're creating an offense for those that are judges, and we're creating an offense punishable not to exceed \$2,000 and a jail term not to exceed of 180 to election officers—

**Senator Hughes:** Yes.

**Senator Blanco:** —and to election judges. But there aren't any in this bill, any misdemeanors or punishments specifically for poll watchers related to the duties that they're doing, performing in, at the location.

**Senator Hughes:** Not in this bill, specifically the poll watchers election code still applies to everyone. The Penal Code still applies. But in this bill, no specific ones for poll watchers and again, admitting the poll watcher, it's important because they're the eyes and ears of the public.

**Senator Blanco:** Okay. I want to turn to SECTION 4.03 where it talks about free movement of the poll watcher within a polling place. What does that mean? You know, are there places poll watchers, that they're not able to go? Can you explain that a little bit?

**Senator Hughes:** Yes, Sir, and so, and I bet we'd agree that the language in the Senate Bill 7 Conference Committee Report is clearer than current law, but we can go through it and see. And so, and as you say, SECTION 4.03, on line 16, current law says a watcher's entitled to sit or stand conveniently near the election officers conducting the observed activity. That's what the law says today. So, they're allowed to sit or stand conveniently near the election officers conducting the observed activity. The language in Senate Bill 7 would say this, a watcher's entitled to sit or stand near enough to see and hear the election officers conducting the observed activity except as otherwise prohibited. And so, I think that clarifies a little bit. So, they're there to observe, so they get to, they can see and hear what's happening. The idea is that if voting is taking place in a room the size we're in, the poll watchers couldn't be cloistered over in the corner where they couldn't see what was happening if I was voting or if the election worker was giving me a hard time about voting over here at Senator Powell's desk. The poll watchers wouldn't, couldn't be over there where they would need binoculars to see and hear what's happening. Of course, they can't interfere, but they've got to be able to see and hear what the election workers are doing.

**Senator Blanco:** Okay, so when you say they can't interfere, are they allowed to shadow voters?

**Senator Hughes:** They are not allowed to harass voters, to interfere with voters. They're not allowed to look and see how the voters are voting. You know, that's specifically in the law as well.

**Senator Blanco:** Okay, but they're allowed to walk with the voter.

**Senator Hughes:** Well, Senator, I, under the law, I don't believe they could do that, because again, they are there primarily to observe what the election workers are doing, not what the voters are doing. And I know you see the theme as we look at Senate Bill 7. We talk about the penalties and the directions. They're largely targeted at vote harvesters and at election workers. The voters themselves are the victims in these cases, and you'll see there's not much in this bill limiting what a voter can or cannot do, but it's about vote harvesters, folks claiming to offer assistance, election workers who might not be following the law.

**Senator Blanco:** Okay, I just want to be clear what we're talking about here because it seems like the bill gives the poll watcher discretion. They'll able to walk or monitor voters and I want to, you know, find that balance, I mean, we're, we don't want voters to be harassed—

**Senator Hughes:** That's right.

**Senator Blanco:** —by poll watchers—

**Senator Hughes:** No, your—

**Senator Blanco:** —which—

**Senator Hughes:** —that's correct.

**Senator Blanco:** —which is why I'm asking the question. I want to get a little more clarity on that.

**Senator Hughes:** No, I'm, that's exactly right.

**Senator Blanco:** SECTION 4.06 of the bill, it says that if the watcher believes they've been unlawfully prevented or obstructed from the performance of their duties that they can seek injunctive relief, a writ of mandamus and any other remedy available under law. Do you think that this allows a poll watcher to threaten litigation if they don't get their way or even if they may be harassing election workers or voters? Can you talk to us a little bit about what we're trying to do here?

**Senator Hughes:** You bet. Senator, if I'm the election judge and you're the poll worker from the Republican Party, Libertarian Party, Democratic Party and you're the poll worker, you're the whole watcher wanting to come in and I don't let you in—

**Senator Blanco:** Umh hmm.

**Senator Hughes:** —and that vote, there's voting taking place in there and I'm not letting you in, this says, in particular, injunctive relief. You can go to the judge and get an order that says, hey, election judge, let this guy in. He has a right to come in. So, that's the idea, because as you know, when the election is taking place, time is ticking and time is of the essence. Injunctive relief, as you know, is often called extraordinary relief. It's unusual for a judge to order someone to take an action but it's done in unusual situations where time is of the essence and when there's no way we can solve the problem after the fact. If voters are being mistreated, mislead, whatever inside the polling place, and you the poll watcher can't come in and see what's happening, it's a serious problem so I would say, yes, the election judge need to know. If he's, if the election judge is forbidding a poll watcher from coming into the polling place, they need to know that the poll watcher can get an order from the court to let them in.

**Senator Blanco:** Okay.

**Senator Hughes:** Of course, anyone can threaten litigation at any time, but this is a specific provision that says the poll watcher needs to be admitted, if they're legally entitled to be there.

**Senator Blanco:** Okay. Earlier in the discussion, you had mentioned recording devices. Does this report still allow poll watchers to enter into a polling place, record voters and any kind of election activity?

**Senator Hughes:** No, Sir.

**Senator Blanco:** It does not. Okay.

**Senator Hughes:** It does not. As you know, there's the general prohibition on cameras, recording devices in polling places and that is in place in this bill. There is no exception for poll workers, so poll watchers, so nothing here about poll watchers taking pictures, recording. That's not in this bill.

**Senator Blanco:** Okay. Senator Hughes, thank you so much for answering these questions. I do have concerns of the consequences, the bill, the foreseeable consequences, and, quite frankly, the unintended consequences of this bill. It's a major concern. I do fear that this bill is, particularly with Black voters and Latino voters, I think, it's a step backwards, and I feel that promoting access to the polls for voters is

something that we should protect and my concern is that we're going to invite, you know, federal scrutiny into Texas elections once again, as we've had historically in this state. But I want to thank you for taking my questions.

**Senator Hughes:** Thank you, Senator.

**Senator Blanco:** Thank you.

**President Pro Tempore:** Senator Hall, for what purpose?

**Senator Hall:** To ask the author some questions.

**President Pro Tempore:** Do you yield, Senator Hughes?

**Senator Hughes:** Of course I'll yield for questions.

**President Pro Tempore:** You're recognized Senator Hall.

**Senator Hall:** Thank you, Senator Hughes, and thank you for your hard work, diligent work on this and very thorough work. A lot of effort went into this. We had a lot of testimony from people. A lot good information that came about what's happening that's right and what's happening that's wrong out there, and we learn from that and incorporated that in these bills as they've been working through. Would you not agree with that?

**Senator Hughes:** Well, thank you, Senator. That's right. And we hear testimony from folks about problems and we try to find a way to solve them, so thank you for that. And you've obviously been involved in that for a long time, bringing these things to light, where there's gaps in the law, where there's cheating going on and again, not by voters, but by vote harvesters, by folks not following the law, so yes, so thank you for doing this. Many things you brought to the light, as you know, are in this bill and that's important part of the process. Thank you.

**Senator Hall:** Now, what I'd like to do is, a couple of sections here to talk about what you intended. The legislative intent—

**Senator Hughes:** Yes, Sir.

**Senator Hall:** —that's behind us to make it absolutely clear of what we intend to have here.

**Senator Hughes:** Yes, Sir.

**Senator Hall:** So, if I could take you to Section 129.003, paragraph (f), it's on page 25.

**Senator Hughes:** Thank you, Senator. I got it.

**Senator Hall:** Okay. Now, I believe this section as we talked about and as I discussed also reviewing this with the Secretary of State's office, that this paragraph is applicable to both early voting and to election day. Is that correct?

**Senator Hughes:** That's right, Senator.

**Senator Hall:** Okay, and that when we talk about the counter being set to zero, what we mean there is that counter being set to zero for each candidate and measure that's on the ballot.

**Senator Hughes:** That's right, Senator Hall.

**Senator Hall:** That's the zero tape that's taken before the polls are open and what they're looking for is to make sure that there are no votes for any candidate that's on the ballot or any measure that's on the ballot.

**Senator Hughes:** Senator, that's right.

**Senator Hall:** Okay, and then once the polls close, they'll run what they call the tally tape and what they're looking for there is to determine exactly how many votes there were for each of the candidates that are on the ballot and each measure that was on the ballot.

**Senator Hughes:** That's right. Yes, Sir, that's the intent.

**Senator Hall:** And that the, when that's done, that tally tape gets signed and where it says each election judge present shall sign a tape, what we mean there is the election judge and the deputy judge.

**Senator Hughes:** That's right.

**Senator Hall:** Do you agree with that?

**Senator Hughes:** Yes, Sir. That's the intent. That's what that means.

**Senator Hall:** Okay. And so, this is a process that would take place, the tally tape, zero tapes would be run in early voting just before the polls are opened, not back at the warehouse, not the week before, but at the polling location just before the polls open.

**Senator Hughes:** Senator, that's right. That's the intent of this language.

**Senator Hall:** And then, the tally tapes would be like we've been traditionally, is, are run, generally on election day for early voting.

**Senator Hughes:** Yes, Sir, that's right.

**Senator Hall:** And then, the tally tapes for election day get run right after the, immediately after the polls are closed on election day before the machines are moved, relocated.

**Senator Hughes:** That's exactly right.

**Senator Hall:** Okay, and then right after they're run, say it again, they are then signed by the judge and the deputy judge.

**Senator Hughes:** Yes, Sir, that's exactly the intent.

**Senator Hall:** Okay. Thank you, Senator. I just make sure that's very clear, that it's very, very close to what we've always been doing and just to make sure that we know that those machines start with no preset votes for any of the candidates or measures that are on the ballot. And then before the machines are moved at the end of election day, that those tally tapes are run so that we have an accurate count on a hard copy, paper copy, what the votes were for each candidate and each measure at that precinct. This is for every location where a machine is located.

**Senator Hughes:** That's exactly right.

**Senator Hall:** Okay. Thank you, Senator. Appreciate it.

**Senator Hughes:** Thank you, Senator Hall.

**President Pro Tempore:** Senator Alvarado, for what purpose?

**Senator Alvarado:** Thank you, Mr. President. To ask the author some questions.

**President Pro Tempore:** Do you yield, Senator?

**Senator Hughes:** Of course I'll yield for question.

**President Pro Tempore:** You're recognized, Senator Alvarado.

**Senator Alvarado:** Senator Hughes, the last time that this bill was up, I asked if you had reached out to stakeholders from various communities, from the elderly, the disabled, and you said, no. Do you recall that conversation?

**Senator Hughes:** As I recall, we talked about testimony before the committee, and I mentioned that we had worked with a number, with disability rights groups and many other groups that testified before the committee, but, yes, I do remember the conversation we had. I'm trying to remember the details.

**Senator Alvarado:** Okay. And so that in the process of finalizing this, here we are again, you know, at almost two o'clock in the morning on a Saturday, Sunday morning now. We've had very little to absorb this big document here, and you saw fit to have a last minute briefing, if you will. Is that right?

**Senator Hughes:** Well, we offered to go over the measure with those who were interested and answer questions. Of course, the document was emailed to the Senate conferees when we received it, and then, of course, this morning it was emailed to the staff of every Member of the Senate.

**Senator Alvarado:** And why would you not see fit to reach out to election administrators, county officials, who this will impact directly?

**Senator Hughes:** Well, Senator, election administrators and officials testified in the Senate and in the House. Also that input as this—

**Senator Alvarado:** But, but—

**Senator Hughes:** —process—

**Senator Alvarado:** —the bill—

**Senator Hughes:** —was going—

**Senator Alvarado:** —has—

**Senator Hughes:** —all the way through.

**Senator Alvarado:** —it's changed. There's some changes that have occurred.

**Senator Hughes:** Many of the changes as a result of what we heard from some of the very parties, the election officials, administrators, folks back home that you're talking about.

**Senator Alvarado:** So, in March, I noted that League of Women Voters, NAACP, MALDEF, LULAC, ACLU were all opposed to this bill and all of these organizations still oppose this bill. Are you aware of that?

**Senator Hughes:** Well, Senator, I know that some of the suggestions made by some of those groups are reflected in the Conference Committee Report. Senator Blanco and I were talking about cameras and whether poll watchers would have cameras. That has been removed from the bill and as, I think, a number of the groups you mentioned testified against that provision and so, you know how the process works, at every step the bills hopefully get better based on input, based on criticisms we've heard from groups all across the spectrum.

**Senator Alvarado:** Let's talk about the big elephant in the room, and I'm not talking about party mascot. I'm talking about Harris County.

**Senator Hughes:** Alright.

**Senator Alvarado:** Okay. This is about Harris County. Would you agree?

**Senator Hughes:** So then, particular, the provisions about 24-hour voting and drive-through voting, to my knowledge, it was Harris County in one election in 2020 that created those processes, so it was actions in Harris County that gave rise to those two provisions of the bill, and all, and I'm sorry, one more. It was in Harris County where the, there was an attempt to mail applications for mail ballot to folks who were not legally entitled to vote by mail, so those three provisions, I know, were the result of what happened in Harris County in the 2020 election cycle that just passed.

**Senator Alvarado:** Do you know how many people in Harris County voted in the past November election?

**Senator Hughes:** I don't have the numbers with me, I've seen them, but I trust you—

**Senator Alvarado:** Well—

**Senator Hughes:** —if you have the numbers, I'll take your—

**Senator Alvarado:** —okay—

**Senator Hughes:** —word for it.

**Senator Alvarado:** —so 1.68 million people voted in November 2020. Thirty-eight percent were Black, Latino, or Asian, 128,302 voted in the drive-through voting. Of that pool of people, 53 percent were Black, Latino, or Asian, 17,425 voters during the expanded hours, 56 percent of those were Black, Latino, or Asian. Were you aware of that?

**Senator Hughes:** I heard numbers from a political group that came up with those estimates. To my knowledge, there is no official record of the racial makeup of the voters, but there was a political group that reported those since, so I did hear that. Yes.

**Senator Alvarado:** Okay. So, let's talk about the drive-through voting. This bill would eliminate voting in tents or garages, those type of structures, or anything else that could be considered drive-through voting. Is that accurate?

**Senator Hughes:** I believe that's fair. The idea is that drive-through voting was not specifically provided for in the Election Code before and so this is clarifying that's not what's in the code.

**Senator Alvarado:** Okay. Drive-through voting comes up quite a bit in the bill. When did you first learn about drive-through voting in Harris County?



**Senator Hughes:** I read a, something in the news from the elections administrator who said, we stopped drive-through voting before election day because we were concerned that all the votes wouldn't count. That's the first I remember reading about it, and, of course, I've read a whole bunch about it since then.

**Senator Alvarado:** Okay. Did you have any conversations with Harris County officials, election officials, as you were going through this process?

**Senator Hughes:** We had some testimony before the committee from election officials. I don't think I had a personal conversation with any Harris County election officials.

**Senator Alvarado:** Don't you think that would be the smart thing to do since you are basically trying to address something in your bill that primarily impacts Harris County and is the driving reason behind your bill?

**Senator Hughes:** Well, Senator, those portions of the bill we talked about came out of the Harris County in 2020. A number of the provisions in this bill are from testimony we heard in the State Affairs Committee, in the select committee on election integrity over the last two or three sessions, so those provisions about drive-through voting and 24-hour voting and unsolicited mail ballot applications came from Harris County, but there's a whole bunch more in the bill.

**Senator Alvarado:** Did you seek any input from any of your colleagues here in Senate from the Harris County delegation?

**Senator Hughes:** Well, Senator, you and I have talked about the bill a number of times. Various Senators have, even on the floor of the Senate, we've had some conversations, and those have resulted in changes to the bill.

**Senator Alvarado:** So, are you saying you made some changes based on a conversation you had with me or Senator Miles or Senator Whitmire?

**Senator Hughes:** Yes.

**Senator Alvarado:** What is that change?

**Senator Hughes:** Senator, you and I had a lengthy discussion when we were discussing Senate Bill 7 when it was in the Senate originally, and we talked about those early voting locations in urban counties, and you'll recall the provision that was going to require them to be distributed evenly based on population.

**Senator Alvarado:** Umh hmm.

**Senator Hughes:** We had a, and I'm not sure—

**Senator Alvarado:** Yeah, we had—

**Senator Hughes:** —and I'm sure—

**Senator Alvarado:** —we had—

**Senator Hughes:** —you remember—

**Senator Alvarado:** —quite an exchange on that. Yes. Umh hmm.

**Senator Hughes:** —and as you probably noticed, that provision is not in this Conference Committee Report.

**Senator Alvarado:** Right, okay, so on the drive-through voting, are you aware that it was a bipartisan working group that came up with drive-through voting?

**Senator Hughes:** I didn't know, but I believe you. I didn't know that, but I believe you.

**Senator Alvarado:** Okay. Well—

**Senator Hughes:** This—

**Senator Alvarado:** —Democrats—

**Senator Hughes:** —isn't really a partisan issue.

**Senator Alvarado:** —Democrats and Republicans thought it was a good idea. The former County Clerk, Chris Hollins, called it part of his S.A.F.E. initiative, which stands for Safe, Accessible, Fair, and Equitable elections. So, again, bipartisan group working on it and I just, you know, I wonder why did Republicans support drive-through voting then, but not now.

**Senator Hughes:** Well, I remember reading where the election official in charge of this in Harris County said that we stopped doing it before election day because we were concerned the votes wouldn't count. That sounds like a real problem.

**Senator Alvarado:** Do you know how many people in Harris County used the drive-through voting?

**Senator Hughes:** I'm, seen the numbers. I don't have them in front me, but I trust you, if you have them.

**Senator Alvarado:** Okay, well, in, for example, in my Senate district, there were 15,617 people that used the drive-through voting. In Senator Creighton's, 2,789. In Senator Bettencourt's district, 11,443 people used the drive-through voting and Senator Whitmire's district, over 38,000, Senator Huffman district, over 29,000. So, it was, it was used quite a bit. Would you agree with that?

**Senator Hughes:** No, I believe you. I'm sure those are the right numbers. If that's what you say, I believe you.

**Senator Alvarado:** Okay. Have you read the report from Rice University on the drive-through voting that was recently released?

**Senator Hughes:** Senator, I believe I've seen it, but I don't have it in front me.

**Senator Alvarado:** Okay, well if you had, you would've learn that voters of color, Black, Latino used the drive-through more than anyone else. Are you surprised to hear that?

**Senator Hughes:** Oh, no, I believe you.

**Senator Alvarado:** So, if this bill as it claims in ARTICLE 1 is not meant to impede suffrage or voter access, how do you justify taking away a form of voting that, backed by hard numbers, numbers that I just rattled off, supports voters in Black and Latino communities.

**Senator Hughes:** Well, Senator, for voters across the board, wherever they live and whatever their demographics, as Senator Menéndez and I discussed, that private ballot is a big deal. And there has been testimony that with drive-through voting, we have people, multiple people in a car, people looking over each other's shoulders, seeing how they voted, questions about whether the poll workers, poll watchers were able to do their job. So, drive-through for fast food is one thing, voting is so much more important and that private ballot is so important that there's some real problems with how drive-through voting was done based on what I read.

**Senator Alvarado:** Were any of those substantiated? Did you, did they lead to any convictions or anything?

**Senator Hughes:** Well, it wouldn't be a violation of the law to look over someone's shoulder and see how they voted, but it's not something we want to encourage. As you know, when you vote in a voting place, you're in that booth by yourself and no one's looking over your shoulder, even your closest friend and family doesn't know how you voted. It's a private ballot, and that's important.

**Senator Alvarado:** So, where did you hear about these concerns on the drive-through voting? Did you talk—

**Senator Hughes:** There were—

**Senator Alvarado:** —to people that actually experienced them?

**Senator Hughes:** —there were media reports and there's also at least one or two claims that have been filed suggesting that the number of people who voted did not equal the number of votes that were cast. And I don't know what the final outcome has been. I know there were a lot of questions around it, because again, this never been done before. This was invented in one county for one election.

**Senator Alvarado:** Well—

**Senator Hughes:** It wasn't in the Election Code.

**Senator Alvarado:** —you're a very smart person. I know you always do your homework. Did you, did you research a little more to see where these complaints, where, what it led to?

**Senator Hughes:** I don't know of any final outcome. As you know, the courts have been pretty slowed down because of COVID-19, and if you have information, I believe you. You've shared with me, but I don't know of any final outcome yet of any investigation. I think they're still pending.

**Senator Alvarado:** Alright. Back to the drive-through voting, were you aware that 60 percent of women used the drive-through voting?

**Senator Hughes:** I hadn't heard that. I believe you.

**Senator Alvarado:** Okay. Would it surprise you to hear that the Rice University study found that voters were willing to drive a longer distance than to go someplace closer that was in person?

**Senator Hughes:** I hadn't heard that, but I believe you.

**Senator Alvarado:** And then, they, it was noted that a voter drove 30 miles to get to a drive-through voting place. Let me ask you a few questions about the extended hours. Can you talk about that a little bit? In the bill, extended hours?

**Senator Hughes:** You bet. Under the bill that's before us, the, so early voting, 12 hours of early voting each day is the minimum and the maximum voting anytime between 6 a.m. and 9 p.m. for 12 hours. Now, under current law in smaller counties, they're required only to vote during regular business hours. But under this bill, they'll be required to honor this, at least 12 hours, between 6 a.m. and 9 p.m. And so, it standardizes that and it brings more counties into the extended early voting hours, but it does have to take place between 6 a.m. and 9 p.m. So, it wouldn't be allowed for hours outside 6 a.m. to 9 p.m.

**Senator Alvarado:** Okay, so then what we had in Harris County with the extended hours, that would no longer be allowed.

**Senator Hughes:** Twenty-four hour voting would not be, would be anytime in a 12-hour period, between 6 a.m. and 9 p.m.

**Senator Alvarado:** So, you're, you're wanting to do away, prohibit Harris County from doing the 24-hour voting.

**Senator Hughes:** Well, no—

**Senator Alvarado:** Is that correct?

**Senator Hughes:** —this would prohibit any county from doing it outside 6 a.m. to 9 p.m.

**Senator Alvarado:** But it's really about what took place in Harris County.

**Senator Hughes:** Harris County is the only county I'm aware of that did 24-hour voting, because it's not in the Election Code, never been suggested before.

**Senator Alvarado:** Are you—

**Senator Hughes:** There may be others, I don't, you may—

**Senator Alvarado:** —okay.

**Senator Hughes:** —know, but Harris County is the one I'm aware of.

**Senator Alvarado:** Are you aware of how many people in Harris County utilized the 24-hour voting period?

**Senator Hughes:** I'm, seen the numbers, but I don't have them. I can—

**Senator Alvarado:** Well—

**Senator Hughes:** —flip over there, but if you have them, I'd love to hear it.

**Senator Alvarado:** —okay, so in the November 2020 election in either the voting that went to 10 p.m. or the 24-hour voting period, for example, in my district a little over 2,500 people took advantage of that. In Senator Bettencourt's district, he was the top voter, his district was the top go-getter. In that one, over 4,500 people took advantage of that, Senator Whitmire's, over 3,400; Senator Huffman's, over 2,300; Senator

Miles', over 2,400. So, and in that same report, Rice University, did you know that the majority of those voters were also either Black or Latino voters like the drive-through voting?

**Senator Hughes:** Yes.

**Senator Alvarado:** Okay, so you were aware of that. So, how—

**Senator Hughes:** I think—

**Senator Alvarado:** —do you—

**Senator Hughes:** —I think I saw that was in that study.

**Senator Alvarado:** —how do you justify getting rid of voting options that Black and Latino voters use?

**Senator Hughes:** Well, Senator, 24-hour voting has never been in the Election Code in Texas, never been suggested that we're aware of until this one election in Harris County, and I know you're aware of current law without 24-hour voting, and if Senate Bill 7 passes, Texas will still have more in-person early voting than many states. More voting, more in-person early than the President's home state and more than many blue states, and so, when it comes to early voting, in-person early voting, Texas has a robust system, and that's going to be true if this bill passes.

**Senator Alvarado:** Well, that's, I think as the Dean said, that, that's a really nice spin there, but the fact is that what you're doing in this bill is going after various ways in which Black and Latino voters utilize the drive-through voting, the extended hours. How many times has Texas been in the courts because of violations of the Voting Rights Act?

**Senator Hughes:** I don't know exactly. Now, no one has suggested that early voting hours are part of that, but I don't know how much litigation has been. I know that whenever laws are passed that make changes, they often end up in court. You may know the number, I don't know.

**Senator Alvarado:** Well, it's a lot and, I mean, are you concerned that many provisions in your bill violate Section 2 of the Voting Rights Act?

**Senator Hughes:** Senator, this bill contains common sense reforms based on reports and testimony taken in by the Legislature. As far as the partisan effect goes, if I heard you correctly, Senator Bettencourt's district had much higher utilization of some of those provisions than other districts. This applies equally across the board to all voters.

**Senator Alvarado:** Section 2 of the Voting Rights Acts, this is what really concerns me because we, every time the Legislature passes something to do with elections and voting, it's not making it easier and more accessible. Do you know that I have filed bills numerous times for online voter registration, just to be able to register online? Are you aware of that?

**Senator Hughes:** Senator, I am, and Senator Buckingham also had an online voter registration bill this session, and those provisions were in Senate Bill 7 as it left the Senate. And so, that issue's been discussed quite a bit. And as you know, if we're talking about making it easier to vote, Senate Bill 7, the Conference Committee

Report before us and the version that left here, for the first time says that in early voting in Texas if you're in line when the polls close, you get to vote no matter how long it takes. Also says you're going to have a paper backup for the electronic voting—

**Senator Alvarado:** Umh hmm.

**Senator Hughes:** —also a way to track your ballot, also a way to make sure the votes are counting accurately. There's many provisions here that are along those lines.

**Senator Alvarado:** So, I'm pretty sure you're aware of parts of the Voting Rights Act, Section 2, but let me just read it to you. Section 2 of the Voting Rights Act of 1965 prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in one of the language minority groups identified in Section 4(f)(2) of the Act. And I think that your bill goes after Harris County and the mechanisms of drive-through voting and the extended hours which were utilized by communities of color. And I think once again, Texas is going to find itself in the courts and being challenged, because every election bill that this body has passed ends up being challenged. Are you concerned about that?

**Senator Hughes:** Senator, the provisions of this bill apply equally across the board. They all are based on a complaint that is arisen based on cheating, not based on voters cheating, but based vote harvesters, based on election workers not following the law. This is across the board for everyone.

**Senator Alvarado:** Well, respectfully disagree with you. I do thank you for your time in answering my questions.

**Senator Hughes:** Thank you, Senator.

**President Pro Tempore:** Senator Powell, for what purpose?

**Senator Powell:** Thank you, Mr. President. To ask questions of the author.

**President Pro Tempore:** Do you yield, Senator?

**Senator Hughes:** Of course I'll yield for a question.

**President Pro Tempore:** You're recognized, Senator Powell.

**Senator Powell:** Well, thank you, Chairman, for answering these evening, it's regarding our Conference Committee Report and the process that we've used to arrive at this legislation before us tonight at two o'clock in the morning.

**Senator Hughes:** Yes, Senator.

**Senator Powell:** So, considering the magnitude of this bill, I'm going to ask you to walk us through the major changes in this bill as it differs from what was passed out of the Senate and what was passed out of the House.

**Senator Hughes:** I'd be happy to, Senator, and I believe we have hit all the major areas in the discussion we've already had. If there's, let me make sure I'm not missing anything, but I believe all the major changes we've already discussed tonight or this, last night and this morning to be precise.

**Senator Powell:** So, in the 35- or 40-minute briefing that we had back in the Betty King room at eight o'clock to cover this 67-page bill and the 112 pages of analysis.

**Senator Hughes:** No, Senator, what I meant was in the questions and answers from our colleagues we've discussed those major changes to the bill, but again, I'm happy to go over anything else, but I believe in the discussion with each Member who's come up, we've hit the highspots.

**Senator Powell:** Well, since the public has basically been denied the opportunity for a voice in this conference process, at a minimum, I was hopeful that we could provide the public to, provide our voters with a clear, full picture of what this legislation does. And would you agree that as a conferee, I was the lone majority minority representative in the Senate.

**Senator Hughes:** As far as the folks in your—

**Senator Powell:** In—

**Senator Hughes:** —that you—

**Senator Powell:** —in the Senate conference committee.

**Senator Hughes:** I, now, Senator, I'll take your word for it. I confess I know my district pretty well. I don't know every other Senator's district, but if, I believe you, if that's what you say, I believe you.

**Senator Powell:** And was I ever invited to participate in that process to attend a single conversation or meeting about what we're doing here tonight?

**Senator Hughes:** Senator, the Senate conferees never sat down for a meeting. You and I spoke. You gave me some information in writing, we talked about it, various Members talked about it, but I can certify to you, there was never a meeting of the Senate conferees. You—

**Senator Powell:** And you—

**Senator Hughes:** —didn't miss anything.

**Senator Powell:** —you and I actually spoke walking down the hallway on the way to a committee meeting. Didn't we?

**Senator Hughes:** And you gave me a letter with some, with specific concerns, which was, which is a good idea, so we don't miss anything, and as you and I discussed, some of the matters you raised are reflected in this Conference Committee Report.

**Senator Powell:** Well, for the sake of all Texans, all of our Texas voters, I would certainly hope so. And as you said, this was heavily debated bill in the House and in the Senate, and we've spent some time discussing it on the floor, discussing it in committee. And I'm sure that we both remember that Lieutenant Governor Patrick and Speaker Phelan placed three Members on the conference committee who represent majority minority districts in both the House and the Senate, who represent constituencies and are the candidates of these minority communities that we represent, and as one of those Members, I hope you understand tonight and that everyone in this room understands how important my constituents' voices are to me, especially on these issues around their voting rights.

**Senator Hughes:** Of course, of course, Senator.

**Senator Powell:** So, as you mentioned, I sent you the letter on May 21st after having been named to the conference committee and, with my thoughts and my request that at the very least the conference committee respect communities of color by keeping the House amendments that passed unanimously.

**Senator Hughes:** Yes, Senator.

**Senator Powell:** And during the State Affairs Committee testimony we heard over and over and over for many hours from witnesses, from voting rights experts on how Senate Bill 7 undermines the fundamental right to vote for Texans and as Senator Alvarado just said, particularly those rights that are protected in the Constitution and in federal law for minority voters, for elderly voters, and for our veterans voters.

**Senator Hughes:** Yes, Senator.

**Senator Powell:** And so, Mr. Chairman, could you tell us tonight how the conference committee addressed those concerns of our minority voters, our elderly voters, and our veterans?

**Senator Hughes:** Well, Senator, the Conference Committee Report is a stage in the process, as you know, and at every stage, this bill has changed based on input, based on criticism from folks from all sides and so, in particular, you remember there was a big discussion about the distribution of early voting locations in urban counties, counties of a million or more, one of those you represent, big discussion about that. In fact, as I recall, when we were here some weeks ago discussing Senate Bill 7 when it left, that may have been the biggest topic of discussion that you and I talked about, and Senator Alvarado talked about it at length. As you see in the conference committee before you, that has been removed. That was in the Senate passed version, but in the Conference Committee Report, that provision is not there. I'm sorry, I don't want, go ahead.

**Senator Powell:** So—

**Senator Hughes:** That's not the only thing, but go ahead. Go ahead.

**Senator Powell:** —so, my question really here is were those unanimously approved amendments from the House all included in this final product?

**Senator Hughes:** Some House amendment, no Ma'am. Some House amendments are in and some House amendments didn't make it through.

**Senator Powell:** Even if they unanimously approved?

**Senator Hughes:** That's correct. In fact, refresh my memory. As I recall, they accepted a bunch of them in quick succession with, you—

**Senator Powell:** Really?

**Senator Hughes:** —may have the numbers. But some of the House amendments are in and some of House amendments are out.

**Senator Powell:** Okay, and so if not, why would they specifically be left out of this—

**Senator Hughes:** Well, Senator—

**Senator Powell:** —Conference Committee Report?



**Senator Hughes:** –course the Conference Committee Report is a compromise between the two Houses' versions of the bill and it reflects the will of the majority of the conferees and, of course, it still got to be approved by both Houses of the Legislature, but it's a negotiation, so I get everything I want. Nobody gets everything they want.

**Senator Powell:** Well, Mr. Chairman, in the interest of transparency for all of us and for all of our citizens, I want to drill down just a little bit on that process that you and Chairman Cain employed to develop this Conference Committee Report. Did the conference committee discuss or consult with anyone outside of the Legislature while putting together this report?

**Senator Hughes:** Well, the Senate conferees never sat down for a meeting and so, I'm not aware of that happening, and so, I don't know what each Member did. I don't know who you may have spoken to or who Senator Buckingham or Bettencourt may have or Kolkhorst may have spoken to, but there was never a time where the Senate conferees sat down and consulted anybody outside. Is that what you're asking? I want to make sure I've–

**Senator Powell:** I just want to be sure–

**Senator Hughes:** –got the right question.

**Senator Powell:** –that I understand how this was crafted.

**Senator Hughes:** Okay.

**Senator Powell:** Did you have any kind of an outsider involved in the development of this committee report? Any attorney? Any organization? Anyone?

**Senator Hughes:** The Senate conferees that I'm aware did not have anything like that.

**Senator Powell:** So–

**Senator Hughes:** I can't speak for what the House did, but as far as on the Senate side, I'm not aware of that.

**Senator Powell:** –so was LULAC or MALDEF or the NAACP or any other representative of a minority voting rights organization contacted in the consideration of this 67-page committee report?

**Senator Hughes:** Well, as you know, at each stage of the process, there's input and those groups testified before the Senate committee and those groups also testified before the House committee. So, if you want to isolate one stage in the process, the preparation of the Conference Committee Report, I'm not aware of any groups that were contacted. But, of course, but, of course, since we're combining that House and Senate bills that's the culmination of all the input from all the groups at every step from filing all the way through. But as far as preparation of this report, I'm not aware of any outside groups that were contacted. And you may know, you tell me, but I'm not aware of any.

**Senator Powell:** So, if–

**Senator Hughes:** Any groups on the left–

**Senator Powell:** –let me back up–

**Senator Hughes:** –or the right.

**Senator Powell:** –just a second here, and say as we worked on this bill in the House and in the Senate, not specifically maybe this one, but as we worked through this process on voter rights, was any private attorney or any private party outside of the House or the Senate staff or Legislative Council staff contacted by you or by the conference committee staff?

**Senator Hughes:** I didn't consult with any outside counsel on this bill. I don't know what other conferees wouldn't have done and I don't, what the House did.

**Senator Powell:** Well, thank you, Mr. Chairman. So, you are assuring the Members of this body that no one consulted with any private interest during the consideration of the conference report on SB 7?

**Senator Hughes:** I'm assuring you that I didn't and I'm not aware that any Senate conferees did.

**Senator Powell:** Members, I want to be sure you're hearing this and, Mr. Chairman, I just want to confirm this, the conference committee worked with individuals, did or didn't outside of the Legislature, just one last time.

**Senator Hughes:** So, I don't know what every conferee did. There was never a time where the Senate conferees sat down together. There were individual conversations and, of course, you–

**Senator Powell:** Umh hmm.

**Senator Hughes:** –and I had conversations and correspondence, but I'm not aware of that. If there's something I don't know, please tell me, but I'm not aware of that.

**Senator Powell:** And we're not aware of who or why the conference committee didn't officially convene and the Members representing the minority interest were not consulted in the compilation of this report.

**Senator Hughes:** Senator, the letter you gave me influenced what was in the report. The questions we had on the floor of the Senate from Members of both parties affected what was in the report. If that's what you're asking, I want to make sure I–

**Senator Powell:** Just–

**Senator Hughes:** –I follow you.

**Senator Powell:** –I just want to be clear here this evening that the Democratic Members of the Senate conference committee and the Democratic Members on the House side were not contacted to attend any conference conversations, any meetings.

**Senator Hughes:** I don't know what the House conferees, I do know, I understand that once the report came back from Legislative Council, the one that we emailed to you when it came back, that all of the House conferees sat down and went through it, but I wasn't there, but I'm told that happened. But the Senate conferees never had any kind of a meeting. We had discussions, but unless there was a meeting I wasn't invited to, the Senate conferees did not meet.

**Senator Powell:** Well, I can understand that. The original bill we were presented had some pretty disastrous economic implications associated with it. According to The Perryman Group, if this bill passes, the Texas gross domestic product will experience a \$14.7 billion loss and 73,000 Texans may lose their jobs by 2025.

**Senator Hughes:** I don't recall if the report said it will or it could happen, and I saw the report, I don't have it in front of me, but there were a number of variables and conditions that had to happen. I think the report said that's what could happen, not what will happen. And you correct me, but that's how I read it.

**Senator Powell:** I think that's how I read it as well and it may have a stronger meaning for me because I represent an area of North Texas that's extremely dependent on tourism and entertainment for its, for the economic development of our region and that could cause an aggregate additional \$16.7 billion in annual gross product, which would, could mean an additional loss of jobs for North Texans. Did your team do any research about the economic consequences of this bill?

**Senator Hughes:** I saw the reports you're referring to. I don't think there was any other, I don't think there was analysis done. I do know that there were generalized statements made by a number of companies. Only one or two companies made a specific reference to Senate Bill 7 and even then it wasn't about provisions of the bill. In fact, when a poll was taken about this specific provisions of the bill, like standardization of early voting hours for statewide, that polled in excess of 80 percent and again, there were generalizations based on what other states were doing, based on what other states are talking about doing, but as far as the provisions of Senate Bill 7, there was very little, very little real objection raised.

**Senator Powell:** Would you say then also that sometimes the results of polling has an awful lot to do with how questions are asked?

**Senator Hughes:** Kind of like economic analysis.

**Senator Powell:** I—

**Senator Hughes:** I believe that's right—

**Senator Powell:** —guess that's true—

**Senator Hughes:** —I believe that's right.

**Senator Powell:** —I'll give you that one. Before I wrap up my questions, I want to ask you, I think it was Senator Johnson raised this question earlier when we were talking about the resolution, and I just want to ask you, my office received a draft copy of this Conference Committee Report at 11:35 p.m. last night.

**Senator Hughes:** That's the one. That's right. We got it back from Lege Council and since you're on—

**Senator Powell:** The draft.

**Senator Hughes:** —yes, Ma'am, since you're on the Conference Committee Report, on the committee, you got it.

**Senator Powell:** At 11:35 last night.

**Senator Hughes:** That's right.

**Senator Powell:** And then, this morning at 9:31 we received the 67-page bill and 112 pages of section-by-section analysis, very complex bill, this morning at 9:31.

**Senator Hughes:** And that should have been, that's the one that was received by every Senate office. The one at 11:35, you and I got—

**Senator Powell:** Right—

**Senator Hughes:** —because we're on the conference committee. Everybody else got it the next, this—

**Senator Powell:** So, we—

**Senator Hughes:** —the next morning—

**Senator Powell:** —had all night long last night—

**Senator Hughes:** —I beg your pardon.

**Senator Powell:** —in the middle of the night, to review that.

**Senator Hughes:** You know how it goes at the end of session, when we get it, we try to—

**Senator Powell:** I do now.

**Senator Hughes:** —send as quick as we can.

**Senator Powell:** I sure do now. And then tonight we got the outside the bounds resolution at 10:35 p.m.

**Senator Hughes:** If it, if that's what the time stamp says, I believe you. I don't have it in front of me, but I believe you.

**Senator Powell:** And then we had a 35-minute briefing in the Betty King room on the 67-page bill and 112 pages of section-by-section analysis.

**Senator Hughes:** Well, Senator—

**Senator Powell:** Is that true?

**Senator Hughes:** —it lasted as long as people were asking questions, and when people were done with questions, then that's when we quit. So, nobod— would you agree with me, no one was cut off or—

**Senator Powell:** No, I would—

**Senator Hughes:** —questions?

**Senator Powell:** —I totally would agree with that.

**Senator Hughes:** Okay, thank you—

**Senator Powell:** I totally would agree that.

**Senator Hughes:** —I appreciate that.

**Senator Powell:** So, I want to cover one more thing before we get through with my line of questioning, but I want to go to page 26, starting on line 11. This new legislation has changed the disability provision that we've used in Texas for many years and we've talked a little bit about this, I think tonight, where a voter who can't vote in person due to sickness or physical condition can easily cast a ballot by mail.

**Senator Hughes:** Yes.

**Senator Powell:** That's how we've done it.

**Senator Hughes:** And that's how we'll still do it. Yes, that's important and I agree with you.

**Senator Powell:** But this legislation changes the disability section to state that only voters who are, quote, not capable, unquote, of appearing at a polling place are eligible to cast their ballot by mail.

**Senator Hughes:** Well, it says—

**Senator Powell:** Why is that—

**Senator Hughes:** —well, it—

**Senator Powell:** —change necessary?

**Senator Hughes:** —well, Senator, I want to be clear. So, current law it says, if the voter has a sickness or physical condition that prevents the voter from appearing without assistance, without injuring themselves, and the new language says, the voter is not capable of appearing at the polling place. So, we went from prevents the voter from, to not capable of. So, in fairness I don't think that's a significant change. It's worded differently, but still it says they've got to have a condition that keeps them from being able to appear at the polling on election day without assistance or injuring their health. So, the operative term—

**Senator Powell:** Okay.

**Senator Hughes:** —and again, I want to listen, but in fairness I don't think that's a change in effect.

**Senator Powell:** So, under this bill, a voter can claim that they're not capable of appearing at a polling place because of, quote, medical confinement ordered by a healthcare professional, unquote.

**Senator Hughes:** Or illness or injury or mental or physical disability, any one of those. It's not all those four, it's any one of those.

**Senator Powell:** Is a doctor's note required to be submitted?

**Senator Hughes:** No, Ma'am, absolutely not.

**Senator Powell:** No doctor's note is required to be submitted to request a mail-in ballot.

**Senator Hughes:** No, Ma'am, absolutely not and I'm glad you said that. We want to make sure that is clear. No doctor's note, no documentation, just the voter's affirmation.

**Senator Powell:** So, and you mentioned this, I just want to be sure that we've covered it. Further down on the page 26, it says that a, quote, illness, injury, or disability that does not prevent the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or injury to the voter's health—

**Senator Hughes:** Yes, Ma'am—

**Senator Powell:** –unquote–

**Senator Hughes:** –that's right.

**Senator Powell:** –does not qualify a voter to request a mail ballot.

**Senator Hughes:** That's right, that's right.

**Senator Powell:** Would this provision preclude someone with diabetes, for example, from voting by mail during a global health pandemic, when the likelihood of their preexisting condition could make them more likely to succumb to a disease?

**Senator Hughes:** No, Ma'am, in that case, then they could not appear without injuring their health, and so they would clearly, they would definitely qualify, and I'm glad you, let's do talk about this because we want folks to know. The condition you described would qualify under current law and under Senate Bill 7 and that's important.

**Senator Powell:** And again, that doesn't require a doctor's–

**Senator Hughes:** Does not. Does not.

**Senator Powell:** Mr. Chairman, then on page 26, line 26, it listed someone with a mental disability qualifies to vote by mail.

**Senator Hughes:** Yes, so if any of these conditions means they could not appear at the polling place on election day without assistance or without injuring their health due to any of those conditions, they qualify.

**Senator Powell:** And I think maybe I heard Senator Menéndez mention this earlier, but I want to be sure that we understand the intent of this language–

**Senator Hughes:** Yes, Ma'am–

**Senator Powell:** –because–

**Senator Hughes:** –yes, Ma'am.

**Senator Powell:** –when I go to the Texas Health and Human Services website, I'm unable to find any resources on what constitutes a mental disability. I can only find the definition of developmental intellectual disability. And since this isn't a recognized term by Texas HHS, would you mind defining this terminology for us this evening?

**Senator Hughes:** Certainly.

**Senator Powell:** I'm not opposed to the intent of the provision, but I think that clarification on the record is important–

**Senator Hughes:** Well–

**Senator Powell:** –especially since the term, mental disability used in this bill differs from the terminology that Texas HHS uses.

**Senator Hughes:** –well, thank you for the question. So, I want to make sure we're comparing it to what current law is. So, current law says, qualified voter's eligible for early voting by mail if the voter has a sickness or physical condition that prevents the voter from appearing at the polling place on election day without needing personal assistance or injuring the voter's health. So, current law says they've got to have

sickness or physical condition, that's current law. The definition in front of us is expanding the reasons, giving a voter more opportunity to qualify under disability. So now, under this provision it says, not only that physical condition, but it says, illness, injury, medical confinement ordered by healthcare provider, or mental or physical disability. So let me be clear, whatever that means, it's more than we allow under current law because current law, it says physical condition. So, the idea there is to let the voter know, if you have a condition that means you can't appear at the polling place on election day without needing personal assistance or without injuring your health, you qualify for a disability. So, that's the intent. It's to broaden, not to narrow, the basis for claiming a disability.

**Senator Powell:** But would you agree that maybe we need to know what that is?

**Senator Hughes:** Well, Senator, it's broader in the current law, so it gives voters more opportunities to claim disability, not less.

**Senator Powell:** Alright, I'll accept that response. Mr. Chairman, on page 32, line 8 and 9, lines 8 and 9, the section of the bill that deals with the envelopes containing the ballots states that no record associating an individual voter with a ballot may be created.

**Senator Hughes:** Yes.

**Senator Powell:** And so, this prohibition ensures the government will respect the privacy of the ballot and I absolutely agree with the—

**Senator Hughes:** No.

**Senator Powell:** —the provision here—

**Senator Hughes:** Yes, Ma'am.

**Senator Powell:** —but I'm curious what protections have we put in place to ensure that any single piece of private data will not be linked to a specific ballot.

**Senator Hughes:** Awesome, I'm so glad you brought it up because you're right, we all agree on this. This is important and so you know how it works under current law, you don't vote by mail. But, you know, if you have friends that do, you request that ballot, ballot application, you request. You file the application for ballot by mail and you sign your name and then you receive that mail ballot, and they also send you that security envelope to return it in. Right? And so, you prepare your ballot and you put it in that security envelope and you sign that, send it back, and then they compare the signatures. Once that signature comparison is done, then that ballot is removed from the envelope and it goes over there in the sea of ballots, that's not an official term, but it goes over there with the ballots, and so there's never any way to go back and find out whose ballot that was. And so, that's the current practice, that's already the law. This does a couple of things. This makes sure it clear that there's no way that that ballot can be tied back to that person. So it, I want to, but I may not have answered the question. Is that what you're talking about?

**Senator Powell:** Yes, but does it have a specific provision in there about how we're going to achieve that? What steps have we put in place to ensure that that isn't inadvertently going to happen?

**Senator Hughes:** Well, that's a good point. This does rely on them to follow the law and to be serious about it, and so, it sounds like something we better get with Secretary of State up on about to promulgate rules and this may have already been done, but you're right. Let's, if the bill passes, let's get with the SOS and make sure there's a procedure in place, because this is important. And so, I don't know how it's handled now or how it will be changed under this bill, but we want to make sure that's happening.

**Senator Powell:** On page 32, lines 23 and 24, I have concerns with the original amended scope of the signature committee and their review of signatures.

**Senator Hughes:** Okay.

**Senator Powell:** The original code allowed for two signatures within the past six years to be used for verification. I believe this is allowed for a clear rolling snapshot that accurately reflects relevant signatures, and you may remember that we talked about this a lot in committee because of the fact that my father late in life lost all the fingers on his right hand, and so overnight—

**Senator Hughes:** The veteran, as I recalled.

**Senator Powell:** —that's right—

**Senator Hughes:** Yes, Ma'am, go ahead, I do remember this.

**Senator Powell:** —so overnight, his signature changed from this beautiful cursive handwriting to barely a scribble.

**Senator Hughes:** Yes, Ma'am.

**Senator Powell:** Under this new bill, any signature can be used in this verification process with a limitless window, at least this is how I understand it, and I fear that partisan members of that signature committee would be able to go back in time and cherry-pick signatures from a decade or more ago to try to invalidate votes. I think that's a grave concern, and you and I know because, you know, we've both had older parents. We know that signatures change with time, that just old age and Parkinson's, any number of ailments that elderly folks will acquire and a plethora of issues will cause our signatures to change. Should we not maintain the narrow window that we have in place today and guide this committee by that standard as opposed to just opening this up to signatures that have existed over decades?

**Senator Hughes:** Thank you, Senator, and I can tell you what the intent is here, and as you know, there's that application for ballot by mail and then there's a signature there. They keep your application and then when you return your ballot in that security envelope, it's got a signature and they compare those two. And so, the idea here is if there's a problem, if those two signatures don't look alike for some reason, maybe there's been an injury or maybe I'm having a bad day, maybe it's not a good signature, this allows them to look at more signatures. The idea is to give them more opportunities to be inclusive and not exclusive. But again, I would stress that that ballot board is made up of Republicans. That Signature Verification Committee is Republicans and Democrats. But one more thing I may have failed to mention, we talked about that driver license number, state ID number, or social or last four digits of your social. This bill also says that if the voter provides that driver license number,



state ID number, or last four digits of social and they match up, then the signature is presumed valid and they've got to find a way to knock it out. So, it's actually an incentive. It actually bolsters the signature, but again, the intent here is to have more signatures to look at, to include. But I don't understand why—

**Senator Powell:** To be fair—

**Senator Hughes:** —I totally understand what you're saying.

**Senator Powell:** —like some of the other conversation, this bill's a little, a little bit like spin, and in practice I fear that it is a Pandora's box of problems for Texas voters. Just the last thing here that I want to talk about is on page 36, lines 19 through 22, creates that electronic record that you're talking about. Both sides of the mail-in ballot application envelope, the ballot recorded and all of those records shall be provided to the Early Voting Ballot Board, the Signature Verification Committee, or both. Under current law, an early voting clerk can already create electronic records, but there's not a requirement that the records are provided to all these committee people. Why is that change necessary?

**Senator Hughes:** Well, Senator, the idea of having both sides of the application and envelope and ballot is because there's information on both sides and there was testimony that sometimes both sides don't get, don't get scanned, don't get recorded. And the purpose of capturing that information is make sure that we're doing it right, make sure that it's accurate. And so, the reason those records are there are for the benefit of the Early Voting Ballot Board and the Signature Verification Committee. So, it's making sure that if I'm the election official working on that, I've got to not just collect it but provide it to the folks who need it to do their jobs and, if that's what we're talking about.

**Senator Powell:** So, just to close this up. As part of the provision there on page 36, the signature committee and the ballot board now have access to electronic copies of the ballot recorded. What does that mean, a ballot recorded? My team did a search through the Election Code, and they were not able to find that term used anywhere else. So, if the ballot recorded is the completed ballot, help me understand what we're talking about there. Is there any chance that that ballot, that ballot recorded is stored anywhere on a government server?

**Senator Hughes:** Oh, I think I understand what you're asking now. So, line 19 says electronic records made under this section shall record both sides of app, so then application, envelope, or ballot. So, I think it's saying both sides of the application recorded, of the envelope recorded, of the ballot recorded. It goes back to electronic records, I think, as I read it. That's just within that sentence where it says electronic records so it's not creating a new type of ballot called the ballot recorded, and I, that is, I see, if that's what's you're talking about.

**Senator Powell:** Yeah, that page goes on to say in lines 25 through 27 of the bill that adds a section to the Election Code stating that members of the Signature Verification Committee, quote, shall be entitled to take and keep whatever notes any member may feel is reasonably necessary. And I guess my question here is, what would possibly necessitate the need to take votes or take notes of our voters casting their ballots?

**Senator Hughes:** Well, again, this is about the verification process and the members of those committees, of course both parties, Republicans and Democrats, this says they can, any notes reasonably necessary to perform their duties under the chapter, so only what's required for them to do their jobs. So, it's pretty tight and it does say reasonably necessary, and so I think that's a pretty good guardrail on that.

**Senator Powell:** So, are there any parameters in the bill in that section within that note taking provision that prevents private information of our voters from being recorded, kept, or released?

**Senator Hughes:** So, Senator, the only private information that we're talking about would be the name and address that's on the envelope and the voter ID number and that's public record already. That's already available to the general public, so to be clear, the information on the envelope and on the application is already public information that's available to anyone. So, there's nothing.

**Senator Powell:** There should be nothing.

**Senator Hughes:** That's right. That's right.

**Senator Powell:** There should be nothing, but doesn't necessarily mean that that happens, that people don't take inappropriate notes. Well, I'm going to leave this here and I appreciate you answering my questions. I think that everybody in this room can agree that Texas has a pretty tragic past of suppressing voters. We've been in the courts for decades. I have grave concerns about any bill that was crafted in the shadows or passed late at night. Here we are again at two o'clock, headed toward three o'clock in the morning, and I believe that this is a bill that concerns the rights of every single Texan. It's one that we all take and hold and cherish deeply so it deserves the scrutiny in the light of day. Thank you, Chairman.

**Senator Hughes:** Thank you, Senator.

**(President in Chair)**

**President:** Members, before we continue questioning we're going to take a five minute break. Senator Hughes and our ladies as well, so it's, let's come at quarter of. It's about, that means about six minutes it looks like, so come back a quarter of. Let's take a quick break. Stand At Ease for six minutes.

(Pause)

**(Senator Kolkhorst in Chair)**

**Presiding Officer:** Senator Miles, for what purpose?

**Senator Miles:** Madam President, Chair, questions for—

**Presiding Officer:** Senator Hughes—

**Senator Miles:** —Brother Hughes.

**Presiding Officer:** —do you, do you yield for questions?

**Senator Hughes:** Of course I'll yield for questions.

**Senator Miles:** Thank you, Brother Hughes, Senator Hughes. Let me, before I get started, let's establish a couple of things before we get into the question part. Okay?

**Senator Hughes:** Alright.

**Senator Miles:** Last year, FBI Director Christopher Wray said we had not seen any historical, any kind of coordinated national voter fraud efforts in major elections whether it's by mail, or otherwise. Did you see that statement? Have you heard that statement?

**Senator Hughes:** I think I've heard that, yes, Sir.

**Senator Miles:** Do you agree with that statement by the Director of FBI?

**Senator Hughes:** I'm sure he knows what he's talking about, and as you know, this bill is not about national coordinated—

**Senator Miles:** I'm getting there—

**Senator Hughes:** —campaigns, I'm sorry, I'm—

**Senator Miles:** —let me, let me milk—

**Senator Hughes:** —just listening—

**Senator Miles:** —this cow—

**Senator Hughes:** —I apologize. Alright, go ahead.

**Senator Miles:** —I'm getting there. Okay? But do you agree with that statement?

**Senator Hughes:** I think I read that, yes, Sir. I'm sure you read it right.

**Senator Miles:** Let's go with this one. Last November, Trump's Department of Homeland Security issued a statement that said, the November 3rd election was the most secure in American history. There is no evidence that any voting system deleted or lost votes, changed votes, or any way was compromised, or any way compromised. Are you familiar with that?

**Senator Hughes:** I do remember reading that, yes, Sir.

**Senator Miles:** You agree with that statement?

**Senator Hughes:** I believe that's what he said, and he probably has more information than I do, but I—

**Senator Miles:** Well, let me—

**Senator Hughes:** —I remember he said that.

**Senator Miles:** —let me bring, let me bring it closer to home. Ruth, namesake, Hughs, our outgoing Secretary of the State, said that despite the challenges presented by COVID-19, the November 2020 election was a resounding success and turnout among registered voters was the highest in 28 years as Texas exercised their right to vote. Did you hear that statement?

**Senator Hughes:** Yes, Sir—

**Senator Miles:** Were you familiar with that?

**Senator Hughes:** —I do remember that. Turnout—

**Senator Miles:** Do you agree with that statement?

**Senator Hughes:** —was good. High turnout is good. I do remember that.

**Senator Miles:** Do you agree with statement?

**Senator Hughes:** High turnout is very good. I do remember that.

**Senator Miles:** So, basically from the federal courts, from the federal Washington, D.C., FBI Director, Homeland Security, and even our state secretary, no evidence of any type of voter fraud was found. We're on the same page with that?

**Senator Hughes:** As I recall, they were talking about voting systems and hacking electronics things like that, but yes, Sir—

**Senator Miles:** No.

**Senator Hughes:** —the 2020 elections in Texas went a lot better than most places.

**Senator Miles:** Solid and secure.

**Senator Hughes:** Yes, Sir.

**Senator Miles:** Solid and secure. We can establish that. Solid and secure.

**Senator Hughes:** As far as the—

**Senator Miles:** As far as fraud of any type.

**Senator Hughes:** —now, well are you asking if there's any fraud at all or if there were—

**Senator Miles:** Yeah, yes, Sir.

**Senator Hughes:** —it went well?

**Senator Miles:** If you could tell me, what fraud existed in the 20, November 2020?

**Senator Hughes:** Well, Senator, you know, November 2020 is not the only election that we have records of. There was 2018, and there was elections—

**Senator Miles:** Okay.

**Senator Hughes:** —before that, and many of the provisions here come out of the—

**Senator Miles:** Well—

**Senator Hughes:** —2018 election cycle.

**Senator Miles:** —well, brother, I'm glad you said that. Okay, because in July of 2020, everything that you're trying to undo here with SB 7 was agreed upon by Republicans as well as Democrats, and you didn't have any problems with it in July of 2020, but for some reason in November of 2020 all things changed.

**Senator Hughes:** Well, Senator, you remember Senate Bill 9 in the 2019 session—

**Senator Miles:** Umh hmm.

**Senator Hughes:** —that you and I debated—

**Senator Miles:** Umh hmm.

**Senator Hughes:** –Senate Bill 9 dealt with many of these measures and, of course, that was well before the 2020 election cycle. It's based on testimony that the Senate committee heard and that the select committee on voter integrity heard and so, the provisions of this bill, you know, this is not about Georgia or Pennsylvania or, this is about Texas elections.

**Senator Miles:** I agree with you 100 percent. Okay, but again in July of 2020, everybody agreed to what took place in July of 2020 as far as drive-through voting was just fine, drive-up voting was just fine, but in November of 2020, things changed. Can we establish that?

**Senator Hughes:** I wasn't aware of drive-through voting until November, but I believe you. I didn't know what–

**Senator Miles:** There was drive-through voting in July of 2020.

**Senator Hughes:** –I believe you. I wasn't aware of that, but I believe you.

**Senator Miles:** Okay. Thank you. Then in July of 2020 and in November of 2020, nobody cared for drive-through voting. So, let's, let me, believe me when I tell you that.

**Senator Hughes:** Oh, I believe you. November's when I heard about it, but I trust you.

**Senator Miles:** So, let me tell you a little bit why this is really, really personal for me. SB 7 bans drive-through voting, which we know was a huge success in Harris County. And there's no doubt in my mind, as my colleague, Carol, has already stated, SB 7 was about the success that Harris County had. There's no doubt. You don't have to, I'm not going to even ask you to confirm that because I know that. It's knowledge, I mean it's written all over the place, and the facts will speak for themselves. Even my brother, Senator Bettencourt, knows it, that SB 7 was designed for Harris County. Harris County, more than half of the voters who used drive-through voting were Black and Latino. You've heard that before.

**Senator Hughes:** There was a testimony before the committee as some political group made those estimates, and I don't know where they come from, but I've heard that, yes, Sir. I don't think there–

**Senator Miles:** Let me just–

**Senator Hughes:** –I don't think there was any official record made, but I heard there was the estimates.

**Senator Miles:** –there were numbers officially made and I can assure you that, and I would hope that Senator Bettencourt would assure you of that, too, the majority of the drive-through voting was Black and Latino in Harris County. Does it concern you that the ban on drive-through voting was disproportionately affected minorities, will disproportionately affect minorities?

**Senator Hughes:** Well, Senator–

**Senator Miles:** Does that bother you at all?

**Senator Hughes:** —the provisions are by, apply equally to everyone across the state. They're not limited to a particular group or a particular area.

**Senator Miles:** Well, the facts are that drive-through voting was a major hit and more than 50 percent of the people in Harris County that used it looked like me or was brown. Okay? That's the facts?

**Senator Hughes:** Well, Senator, the testimony before the committee was some—

**Senator Miles:** That's the facts.

**Senator Hughes:** —political that were estimates—

**Senator Miles:** That's the facts.

**Senator Hughes:** —by political group. There was no official record of that.

**Senator Miles:** Let me just, once again, that was the facts, brother. Thirteen percent of those voters in Senate District 13 used drive-through voting last November. I represent Senate District 13.

**Senator Hughes:** Oh yes, Sir, and well.

**Senator Miles:** And that was the highest percentage of drive-through voters of any state or any Senate district in Harris County. So, when I say it's personal for me, because I represent a major majority African American district, and we benefited from drive-through voting that you're trying to ban now. I feel like you're coming for my district.

**Senator Hughes:** Well, Senator, the—

**Senator Miles:** I feel like—

**Senator Hughes:** —the election administrator—

**Senator Miles:** —you're coming for my district, which is a majority Black district, when you decide to ban drive-through voting. Any comment?

**Senator Hughes:** The elections administrator said that they stopped drive-through voting before election day because they were afraid the votes wouldn't count. That doesn't sound like a good system.

**Senator Miles:** We ban drive-through voting, we, Harris County decided to ban drive-through voting right before election day, as I told you when we debated this once before, because Election Code says on election day you have to be within brick and mortar. So, we decided to ban it because we didn't want the dispute to ever, to come and votes to be thrown out. It wasn't something y'all forced upon us. We made the decision, when I say we, Harris County—

**Senator Hughes:** Well, I just—

**Senator Miles:** —Chris Hollins and his team.

**Senator Hughes:** —well, I'm speaking of the quote from the county election official, we're aware the votes won't count.

**Senator Miles:** We decided, we came up with that, yes, you're right. We decided we didn't want to give you the opportunity to throw out our votes because on election day, it clearly states in the Election Code, on election day, elections have to place between brick and mortar. Okay? The bill also bans late-night 24-hour polling. Much fraud accusations were associated with this during the past election. But it drove our numbers up, especially in urban communities. It makes me think that because we did drive our numbers up in urban communities, is one of the reasons why you're trying to ban this now. Do you have any comment on that, Sir?

**Senator Hughes:** Well, Senator, turnout was up across the state in 2020 and that's good. But we need to debate what the state policy should be, but I think we agree that one county can't just change the law.

**Senator Miles:** So, I'm glad you asked that. You made that statement, too. So, if voting was up across the state and you view that as good, then why are we banning all the things that made the turnout higher and made it good—

**Senator Hughes:** Well, 24-hour voting—

**Senator Miles:** —with SB 7?

**Senator Hughes:** —24-hour voting was in one county in one election, turnout was up across the state in 2020 for a number of good reasons, but really, come on, one county doesn't get to make up the rules. The state decides what the Election Code is and then the counties have to follow that.

**Senator Miles:** Well, aren't third shift workers, don't they have the right to vote as well? And are, most of the time, most likely aren't they, facts show that they're of the Democratic Party.

**Senator Hughes:** It's interesting. Historically, I know a lot of folks think of Democrats as being working folks and Republicans being upper income folks. As you've probably seen the numbers—

**Senator Miles:** Think of?

**Senator Hughes:** —Senator, as you have seen the numbers—

**Senator Miles:** I have to say we are, but go ahead.

**Senator Hughes:** —as you have seen the numbers, look at the last couple of presidential elections, and folks with higher education and income levels tended to vote more Democratic and working folks and blue collar folks tended to vote Republican, interesting how those decks get reshuffled sometimes. Of course, you and I represent a lot of folks from across the spectrum of economics, but those old stereotypes don't always apply.

**Senator Miles:** Well, I'm going to respectfully disagree with your findings there. I know in my district, which is majority minority, that we're mostly laborers and third shift workers. I can't speak for what goes on in the rural areas of Texas because I'm not, I'm not from the rural areas of Texas, but I can speak for a urban city like Houston and Senate District 13, respectfully.

**Senator Hughes:** Oh, yes, Sir. Of course.

**Senator Miles:** Let me go to the bill and ask a few questions and then I'll close out. I really, and I asked Senator Bettencourt the question earlier, ARTICLE 1, line 22, if the Secretary of State determines that a county has a number of registered voters equal to or greater than the number of people eligible to register to vote in the county, the Secretary of the State should notify the appropriate registrar in writing. Can you please, please explain to me the origin of this in ARTICLE 1 of this—

**Senator Hughes:** No, thank you.

**Senator Miles:** —formula?

**Senator Hughes:** No, thank you, Senator. The idea is to make sure the voter rolls are accurate, because if there are more people registered to vote than people who are eligible to vote, then there's something wrong with one of the lists. And so, this is telling the local county, take a look at that and respond to us, tell us what the problem is—

**Senator Miles:** Have we seen—

**Senator Hughes:** —because those numbers, those numbers don't make sense.

**Senator Miles:** —have we seen that, though? Has there been a case of that, except for in that small one county of, what's the name of it? Duval County. Have you seen it beside anywhere but Duval County?

**Senator Hughes:** I don't know how common it is, but I think we would agree that's a problem if it's happening. If there's more registered voters than there are eligible voters, that would be a problem.

**Senator Miles:** Do you represent Duval County?

**Senator Hughes:** No, Sir.

**Senator Miles:** Okay. That's down south, brother, your way? So, has it existed anywhere else in the State of Texas but Duval County? Have we seen this?

**Senator Hughes:** I'm not sure if Senator Bettencourt was making a historical reference to Box 13 and George Parr or if he meant in particular Duval County, but I think we can agree that if there were more registered voters than there were eligible voters, we'd want to look at that, who, wherever it is, urban or rural or north or south.

**Senator Miles:** Senator Zaffirini says she represents it. But we haven't, it hasn't been an ongoing thing across our state, has it?

**Senator Hughes:** I don't know. I know that, I know that if there is a county that shows more registered voters and eligible voters, we need to know about it and—

**Senator Miles:** I don't disagree with, the question is, have we seen, have we, I agree with your, you know, if that happens, but have we experienced that in Texas?

**Senator Hughes:** I don't know what the exact numbers are? I don't know the answer to that. I don't believe—

**Senator Miles:** Then why would we—

**Senator Hughes:** —it's happened, I don't believe it's happened in my district, but—



**Senator Miles:** –then why is it in your bill, if you don't even, if you don't know if it even existed, then why is it in the bill?

**Senator Hughes:** –Senator, this is in the Conference Committee Report. This is the compromise between the House and the Senate. This was not in what we sent out of the Senate before.

**Senator Miles:** Okay, but you accepted it back when it came from the House.

**Senator Hughes:** Nobody gets everything they want, you know, it's a compromise. Or at least–

**Senator Miles:** Let me–

**Senator Hughes:** –I don't get everything I want. I shouldn't say–

**Senator Miles:** –let me–

**Senator Hughes:** –nobody does, but I don't get everything I want.

**Senator Miles:** –let me go to ARTICLE 6 and let me just read line 15 through 20. A person who simultaneously assists three or more voters, voting under the section by providing the voters with transportation to the polling place must complete a signed, a form provided by an election officer that contains a person's name, address, and whether the person is providing assistance solely under this section or under both this section and Subsection (b). Did I read that right?

**Senator Hughes:** Yes, Sir.

**Senator Miles:** You want to comment before I comment? It's like you want to say something.

**Senator Hughes:** Oh, no, I'm sorry. I just, I got the, I'm on page 37, I'm with you, so I'm, I just want to make sure we're looking at the same place.

**Senator Miles:** Again, again, can you act, tell me the origin–

**Senator Hughes:** You bet, you bet.

**Senator Miles:** –of what I just read?

**Senator Hughes:** You bet. So, this is the situation where you're driving three or more voters not related to you, and they need curbside assistance. They need to have the election machines brought out to the car, and you're providing them assistance. So, that's what this is about. And again, the Attorney General's office has told us there's been testimony that you'll have these voters and they'll call at the end of election day and they'll say, hey, this guy offered me a ride to the polling place and I went with him and they brought me this machine and he told me how to vote and that's not how I wanted to vote and I didn't know who he was, if he was official. What do I do? This happens–

**Senator Miles:** Senator–

**Senator Hughes:** –let, I'm answering your question. This happens, and so the point of this provision is, if you're driving three or more people not related to you, and they all need curbside assistance, then we want to know your name and address. So, if we get those complaints, we know who to call.

**Senator Miles:** –Senator Hughes, let me say, respectfully, you really have no idea and no realistic vision of how things work in my neighborhood and in neighborhoods like mine. Okay? Everybody doesn't have access to cars. The entire block will help one another get to polling places because that's how–

**Senator Hughes:** Good.

**Senator Miles:** –important it is to us. What you're putting in this bill and trying to pass for the State of Texas is going to cause mayhem at polling places because I can assure you, there's nobody in my community going to go through this red tape and all these problems to get Ms. Betsy to the polling place. To get, you know, they may have three generations of, in one household, and the neighbor from down the street may be the one who's taking three different generations in that same household. It's not going to work, it's not reality. It's just not reality, Senator.

**Senator Hughes:** And, Senator, this is only if they need curbside assistance, all of them need curbside assistance and none of them are kin.

**Senator Miles:** Yes, yes that happens in our community. And you're taking that privilege away from us.

**Senator Hughes:** No, Sir–

**Senator Miles:** You're making it hard–

**Senator Hughes:** –no, Sir–

**Senator Miles:** –yes, Sir, yes, Sir, yes, Sir–

**Senator Hughes:** –it's not forbidden.

**Senator Miles:** –you're making it harder for people to get, of color, to cast their vote.

**Senator Hughes:** No, Sir, we're not.

**Senator Miles:** Yes, you are. Have you ever discriminate, have you ever experienced racism or discrimination?

**Senator Hughes:** Have I ever experienced–

**Senator Miles:** Have you ever, racism or discrimination, you personally, of any kind?

**Senator Hughes:** –I don't know that I have–

**Senator Miles:** Okay–

**Senator Hughes:** –I don't know that I have–

**Senator Miles:** –let me ask this–

**Senator Hughes:** –I think there are people that–

**Senator Miles:** –let me ask you this–

**Senator Hughes:** –might treat me differently but I'm not aware of.

**Senator Miles:** –obviously, you haven't then. Let me ask you this. If you had to, have, if you had a transportation bill or had questions about transportation, who on this floor would you go to?

**Senator Hughes:** On transportation?

**Senator Miles:** Transportation?

**Senator Hughes:** So, Senator Nichols is normally—

**Senator Miles:** Perfect, Senator Nichols—

**Senator Hughes:** —the transportation guy.

**Senator Miles:** —if you had a prob— if you had a question about education, what Senator would you go to on this floor?

**Senator Hughes:** Well, he's not, Senator Taylor is—

**Senator Miles:** Senator Taylor—

**Senator Hughes:** —is the Chair of that committee—

**Senator Miles:** —Senator Taylor, that's right. And if you had a problem about, if you had a question dealing with anything with veterans or the Constitution, who would you go to on this floor?

**Senator Hughes:** Now, that's a tough one, because we got a Chair—

**Senator Miles:** Veterans—

**Senator Hughes:** —that veterans committee—

**Senator Miles:** —or Constitution—

**Senator Hughes:** —we got a Chair, veterans committee, Senator Campbell, and then we got some veterans like Senator Birdwell—

**Senator Miles:** —there you go.

**Senator Hughes:** —Senator Blanco. I'm missing some veterans.

**Senator Miles:** Okay.

**Senator Hughes:** I'm missing some veterans, I apologize.

**Senator Miles:** I guess we can call them subject experts.

**Senator Hughes:** Alright—

**Senator Miles:** Correct?

**Senator Hughes:** —alright.

**Senator Miles:** Why didn't you talk to any of the minority Members of this body before you wrote and filed this bill?

**Senator Hughes:** Senator, there was—

**Senator Miles:** Because the same way you go to them on special issues, because you just admitted, you don't know anything about racism or discrimination.

**Senator Hughes:** —you asked me if I had experienced it personally. I don't think—

**Senator Miles:** And you said no—

**Senator Hughes:** —I have. I don't believe I have.

**Senator Miles:** Okay. So, why didn't you convey or talk to any one of us that this bill's really going to affect?

**Senator Hughes:** Senator, in my district, in my district, I have a county commissioner under criminal indictment for mail ballot fraud. He happens to be a Democrat. The claim was brought against him by a Democrat. They happen to be African American, but it doesn't matter, because this applies to everyone across the board. Senator, I'll say this—

**Senator Miles:** But, but Senator—

**Senator Hughes:** —we had testimony before the committee from Hispanic folks, we had a district attorney elected—

**Senator Miles:** —Senator Hughes—

**Senator Hughes:** —Democrat, a district attorney testified about this very thing with mail ballots, so, respectfully, Senator, this is coming from complaints from people across the board of all races, of all parties, of all parts of the state.

**Senator Miles:** —but, Senator Hughes, respectfully—

**Senator Hughes:** This is my district—

**Senator Miles:** —respectfully, my brother, as a body when we're making, when we're drafting bills, we're putting something together as important as this, we rely on the expertise a lot of times on expertise we have on this floor. But in this particular incident, in this particular bill, SB 7, we weren't even part of the conversation.

**Senator Hughes:** Senator, there's a hearing that takes place, there's testimony on the floor, changes were made to this bill based on discussions you and I had and Senator Alvarado and I had. Of course—

**Senator Miles:** I heard you tell Senator—

**Senator Hughes:** —you're a part of this discussion.

**Senator Miles:** —I heard you tell Senator Alvarado that, but I can't think of one thing that I mentioned to you that's been changed. Can you?

**Senator Hughes:** Senator, you and I talked about the polling places, about the early voting locations, and that is, that has been completely removed from this bill.

**Senator Miles:** We talked about the early voting locations? What did we talk about the early voting locations?

**Senator Hughes:** Well, you may recall when Senate Bill 7 left here, there's a requirement then in counties of a million or more, some of those are Republican, some are Democrat, but counties of a million or more of those early voting locations had to be evenly distributed based on voting population. And there were a lot of concerns from Members about that. Senator Alvarado and I discussed it probably at greatest length, but a number of other Members mentioned as well, and that is not in the Conference Committee Report. That's been completely removed. We also talked about poll watchers and poll watchers having cameras and making recordings. But, in fact, several Senators had questions about that and what effect that might have. That provision has been completely removed in this Conference Committee Report. Those

are a couple of big examples. Senator, I would say, respectfully, of the matters we debated, those were two of the biggest ones and two of the greatest concern from our colleagues and those are out of the bill.

**Senator Miles:** And I'm going to say, I respectfully do not recall having a conversation with you about early voting locations. You may have had it with my colleague, Senator Alvarado, but you did not have it with me, Sir, respectfully.

**Senator Hughes:** Did we, did we talk about poll watchers and cameras? I thought we did and if you say we didn't, I believe you.

**Senator Miles:** Thank you, Sir. You know, Senator Hughes, every day we walk into this Chamber with all these so-called Confederate heroes hanging. And over and over again, this session, legislation has been passed that is harmful to people of color, Black and Brown. And you can disguise it and say, frame it any way you want to, but I'm sure everyone in this room is familiar with the old saying, no matter what color of lipstick you put on a pig, it's still a damn pig. SB 7 is nothing more than a suppression piece of legislation. That's all it is. And I take honor representing my district and I take honor, Royce, in being a voice for my district. And I'm going to tell you what my district considers SB 7, and y'all are going to disagree, including Lieutenant Governor, but my district, where I'm from, where I'm elected to be a voice in this Chamber, they do call and refer to it as Jim Crow 2.0. And they do ask me, every time I'm in the neighborhood, is this 2021 or is this 1961, and why are we allowing people to roll back the hands of time? So again, Brother Hughes, I'm going to close by saying, thank you for bringing SB 7, this horrible bill forward, and I want everybody that can hear me, that's watching this morning, especially the Black and Brown, old, but especially our young folks, especially our young folks, we're not going to let this bill deter us. We're going to get motivated by this bill. We're going to know more than ever that it's time for us to fight, to push ourselves and each other to show up and show out at the ballot box in spite of this legislation. And, Brother Hughes, as I close, you kicked the bear, as I said earlier this session, and now you're about to hear the bear roar. So, thank you for bringing this horrible bill to the voters of the State of Texas. Thank you. Thank you, Madam President.

**Senator Hughes:** Thank you, Senator.

**Presiding Officer:** Senator Zaffirini, for what purpose do you rise?

**Senator Zaffirini:** To ask questions, Madam Chair.

**Presiding Officer:** Thank you, Senator Zaffirini. Do you yield, Senator Hughes—

**Senator Hughes:** Of course I'll yield—

**Presiding Officer:** —for questions?

**Senator Hughes:** —for question.

**Senator Zaffirini:** Thank you, Madam President. Senator Hughes, my first question relates to the Texas District and County Attorneys Association, who said via Twitter that they count 60 new and expanded crimes in Senate Bill 7. Why, for example, did you choose to make it a state jail felony to violate the oath required of voter assistance?

**Senator Hughes:** Senator, we spoke earlier about the importance of the private ballot, and so that the voter is, has, enjoys that privilege, enjoys that right if they want it. If there is someone assisting a voter, under Texas law, to assist them in the polling place, that's because they can't read the ballot, because they can't see it, can't understand the language. And in that case, anyone helping them has got to take an oath that they're not influencing the voter, the voter is exercising their own will, and that helper has got to promise not to share how that voter voted. That's important fundamental stuff, and so that's why we want to make sure that oath is serious.

**Senator Zaffirini:** Did any local officials encourage you to increase this penalty?

**Senator Hughes:** I don't know there was any testimony in the Senate. This came over from the House. I don't know the answer to that. I know it's an important matter and needs to be taken seriously.

**Senator Zaffirini:** Are you concerned at all that increasing criminal penalties and the numerous other new crimes in this bill would intimidate voters?

**Senator Hughes:** Well, Senator, you'll notice that the criminal penalties in this bill are aimed not at the voters, but at the vote harvesters and at those election workers who might be tempted to violate the law. If we go down this list, the voters themselves are not affected by these provisions so much as vote harvesters and election workers, election officials who don't follow the law.

**Senator Zaffirini:** Thank you. The Conference Committee Report removes language from the legislative finding section so the bill, as passed by the House, that stated, quote, enhancing opportunities to vote strengthens our constitutional democracy. Why was this language deleted, especially considering how many critics of the legislation have ascribed to this voter suppression?

**Senator Hughes:** And, Senator, I don't know the answer to that. That was not in the Senate bill when it left over here. The findings do say that full, free, and fair elections are the underpinnings of a stable democracy and language similar to that is here, but I don't know. What you're describing was in the House bill, wasn't in the Senate bill, so—

**Senator Zaffirini:** That's correct.

**Senator Hughes:** —I don't know why it didn't make it in the final version. It's just to compromise.

**Senator Zaffirini:** Well, here's the other side of that question, the report removes a provision added by House that would allow persons to cure defects to mail-in ballots including a mismatch between information on voters' applications to register and their carrier envelopes. Why in the world was this provision removed, especially since the Senate passed my identical Senate Bill 1018, which you co-authored, that also died in the House?

**Senator Hughes:** Senator, I strongly support your Senate Bill 1018, for a mail ballot cure process. The hope was that bill was going to make it through the House. I don't know what happened over there. That was not a controversial bill, it was an important bill, and it should have passed. And I'm not sure. I believe the House Members may

have removed that from Senate Bill 7, thinking your bill was going to pass, but I'm speculating. I don't know, I don't know for sure. I'm for mail ballot cure process, and I hope, your bill should have passed.

**Senator Zaffirini:** I wish it had. Thank you. The conference committee went outside the bounds to add language requiring Early Voting Ballot Boards to request signatures from DPS when determining whether mail-in ballot carrier envelopes were signed by the voter. Was the fiscal impact of the department locating and supplying these boards with a signature of every questionable signature on a carrier envelope analyzed at all?

**Senator Hughes:** I don't know if it was. I know there's a fiscal note on the bill prepared through the normal course on the Conference Committee Report, so that'll be reflected in the fiscal note if there is a cost to it.

**Senator Zaffirini:** Thank you. The bill would require a person who assists three or more voters with transportation to the polling place to vote curbside to complete and sign a form provided by an election officer that contains name and address and the type of assistance they are providing. Persons who give voters without disability rides to polling places, however, are not required to fill out any documentation. How do you respond to the concern that imposing additional requirements on persons who provide rides to voters with disabilities who are voting curbside would violate the federal Americans with Disabilities Act, which requires persons with disabilities to be treated equally under the law?

**Senator Hughes:** Senator, this is about protecting the private ballot of those voters and again, making sure that folks are not, are not overpowering the voters' will, not coercing and not unduly influencing. It's making sure the voter is the one casting the vote and not someone who's claiming to help them. And again, it's only if there's three or more people, not related to the driver and only if they all request curbside assistance.

**Senator Zaffirini:** The report also changes the qualifications for person with disabilities to vote by mail, including eliminating language regarding a likelihood of needing personal assistance or injuring their health. How will this change impact persons with disabilities whose condition can change rather unexpectedly?

**Senator Hughes:** Well, Senator, the new, the new definition of disability gives the voter more opportunities to qualify, not less, and I think that's clear. I'm glad you asked because we don't, folks to be confused about that. The new disability language is broader to cover the possible areas where a voter might have a disability that keeps them from being able to vote in person and qualifies them for a mail ballot.

**Senator Zaffirini:** If voters are unsure whether they can vote in person on election day, would they be allowed to fill out an application to vote by mail?

**Senator Hughes:** Well, Senator, under current law, under current law the rule says this, a qualified voter is eligible for early voting by mail if the voter has a sickness or physical condition that prevents the voter from appearing at the polling place on election day without the likelihood of needing personal assistance or of injuring the voter's health. That's the current definition. The new definition in Senate Bill 7 would say, qualified voters are eligible for early voting by mail if the voter is not capable of

appearing at the polling place on election day without needing personal assistance or injuring the voter's health due to, and it lists: illness, injury, medical confinement order by healthcare professional, or mental or physical disability. So, broad categories that would cover definitions, in fact, Senator Menéndez raised a concern about whether a certain disability would qualify. It would not qualify under the current definition, but under the expanded definition in this Senate Bill 7, it would. So, we believe this is more helpful with folks with disabilities than the current language.

**Senator Zaffirini:** Would they be committing a crime if they believe they could not vote in person when filling out the application, but their condition improved by election day?

**Senator Hughes:** Well, Senator, at the time one makes the affirmation, let me back up. This bill does not make it crime to claim a disability that you're not entitled to. That was done in 2017, that was Senator Hancock's bill that was passed by the House and Senate, signed by the Governor. So, it is currently a state jail felony to claim a disability, but again, it's based on the facts at the time you make the claim. This bill doesn't change that. It's already against the law to claim a disability that you don't, are not entitled to. But this law does not change that. But to answer your question, it's about your condition at the time, the facts you know at the time you make the claim.

**Senator Zaffirini:** Thank you so much. You'll be happy to know that that's about a fourth of the questions I had, but because my colleagues did such a good time, I went through and folded pages as they asked the questions.

**Senator Hughes:** Thank you—

**Senator Zaffirini:** So, those are all I have today. Thank you, Senator, for your time.

**Senator Hughes:** —thank you, Senator Zaffirini.

**Presiding Officer:** Senator Hinojosa, for what purpose do you rise?

**Senator Hinojosa:** Will the Senator yield for a couple of questions?

**Presiding Officer:** Senator Hughes, do you yield for questions?

**Senator Hughes:** Of course I'll yield for questions, thank you.

**Presiding Officer:** He yields.

**Senator Hinojosa:** Senator Hughes, I'll focus a little bit more on the criminal aspects of Senate Bill 7. I assume that this bill would apply to both Republicans and Democrats.

**Senator Hughes:** Yes, Sir. Absolutely.

**Senator Hinojosa:** And a—

**Senator Hughes:** Libertarians, too. Everybody.

**Senator Hinojosa:** —and this Senate Bill 7 criminalizes many of the practices that both Democrats and Republicans have practiced for many years in campaigns.

**Senator Hughes:** Well, I hope not. Are you referring to the ballot harvesting provisions?



**Senator Hinojosa:** I'm referring to ballot harvesting. I'm referring to officials that talk about counting ballots that are valid and those that are not invalid or not counting ballots. And I'll go through that in a minute, but I think that the welded, the way this bill is written has a lot of practices that are being, that right now are legal and you are criminalizing those practices from families taking neighbors to the polls. They have to now, have to sign in and register if there's more than three. I mean, that's a lot of problems there. But let me, let me focus—

**Senator Hughes:** Nope, now, Senator, there's no criminal penalty assigned to that provision that you're talking about.

**Senator Hinojosa:** —well here, let me, let me ask, I think Senator Menéndez talked about if intent was required on some of this, parts of the Senate Bill 7 that has criminal penalties.

**Senator Hughes:** Yes, Sir.

**Senator Hinojosa:** And I'll refer you to page 43, SECTION 7.03 where it talks about a person commits an offense if the person knowingly or intentionally makes any effort to count votes that are invalid or should otherwise not be counted, failed to count votes that were lawfully cast or alter a report to include invalid votes. And Senator Menéndez asked you if intent was required or knowingly was required and you said, yes.

**Senator Hughes:** So, knowingly or intentionally, so if you didn't know, then that conduct would not trigger, but if you know that the ballot should be counted and you don't or if you know that the ballot should not be counted and you do or if you intentionally alter a ballot, alter a report, then, yes, Sir. Now again, negligence is not covered here, it requires knowing or intentionally.

**Senator Hinojosa:** Well, I disagree with you, I think you're incorrect on that, Senator Hughes. In criminal law, because if you remember House Bill 574 that Senator Taylor carried, he also tried to amend this same section of the Election Code, and I'm reading from the bill that he passed, which was amended here on the Senate floor. It says, a person commits an offense if a person knowingly or intentionally makes an effort to count votes that person knows are invalid or alter a report to include votes that person knows are invalid. So, the way you drafted that statute, that part where Election Code in Senate Bill 7, you left out the knowingly part of that requirement.

**Senator Hughes:** Well, oh, I see what you mean, but Senator, but the knowingly is on page 43, line 20, that applies to the whole section that a person commits offense if the person knowingly or intentionally makes an effort to. And so, the knowing requirement is there at the beginning of the section.

**Senator Hinojosa:** Well, but that only applies to counting the votes. It doesn't apply to whether he, the count, the official knows whether they are invalid or valid.

**Senator Hughes:** I, that's not the way I read it, but I think I see what you're saying. But knowingly is at the beginning to apply to whole, to the whole description of the offense.

**Senator Hinojosa:** Well, I disagree with that interpretation, I guess, and Senator Huffman may agree with you, I don't know. But the reality is that you are, removed the part of knowingly or intentionally knowing that those ballots are invalid and that makes a huge difference in terms of prosecuting an official. And I think you make that a what, a state jail felony?

**Senator Hughes:** A Class A or a state jail felony, depending on the circumstances. Yes, Sir.

**Senator Hinojosa:** If it's an official, it's a state jail felony.

**Senator Hughes:** I believe that's right. Yes, Sir.

**Senator Hinojosa:** And that's two years.

**Senator Hughes:** Yes, Sir.

**Senator Hinojosa:** And up to \$10,000 fine.

**Senator Hughes:** It's a serious matter, yes, Sir.

**Senator Hinojosa:** Well, let's talk about vote harvesting. How do you define, what do you mean by vote harvesting?

**Senator Hughes:** I want to make sure I get the definition right, because as you know, it's never been defined in statute before. The only thing we had before was this section that talked about if you're trying to get a certain number of ballots and you get a bonus if you get a certain number. That was really the closest thing we had, and I'm looking for the particular section of the bill where vote harvesting is addressed, where there's a definition. I want to make sure I get the right language. So, on page 45, on page 45, line 2, vote harvest, vote harvesting services means in-person interaction with one or more voters involving an official ballot, a ballot voted by mail, or an application for ballot by mail intended to deliver votes for a specific candidate or measure. So, if you read the whole thing, it says if someone is being paid to interact in person with a voter involving a ballot, ballot by mail, or application for ballot by mail and they're advocating for a particular candidate or ballot measure, that's vote harvesting. So, that would mean if a political party sends out information, no problem. If a candidate sends out information, sends out mail ballots, no problem. If a candidate or volunteers knock on doors to get out to vote, no problem. But if someone is being paid to go to that in-person interaction with a voter involving an official ballot, an application for a mail ballot, or a mail ballot, they're getting paid for it to help a particular candidate, that's vote harvesting.

**Senator Hinojosa:** Well, you know, usually you have sometimes a family that lives in a certain part of town in a neighborhood and they will try to get all the neighbors to go and vote—

**Senator Hughes:** Yes, Sir.

**Senator Hinojosa:** —would that be vote harvesting?

**Senator Hughes:** No, Sir, not at all.

**Senator Hinojosa:** Even if their meals were paid for by the candidate?

**Senator Hughes:** No, Sir. Unless the, unless the vote, unless the person is interacting with the voter in person and it involves an official ballot, like at a polling place, an application for ballot by mail, or a mail ballot and they're advocating for a particular candidate or ballot measure. So, if it's get out to vote, no problem, but if I'm at your door and I'm saying let me help you with this application for mail ballot so you can vote for Bryan Hughes and I'm getting paid to do that, that's vote harvesting.

**Senator Hinojosa:** Well, this is not about mail ballots. This is about vote harvesting.

**Senator Hughes:** Yes, Sir, so I'm and I want to make sure we're talking about the same definition on line 44, on page 45, line 2, voting harvesting services means in-person interaction with one or more involving an official ballot, a ballot voted by mail or an application for ballot by mail intended to deliver votes for a specific candidate or measure. So, it's only if I'm doing all those things and getting paid, that's vote harvesting.

**Senator Hinojosa:** Well, I look at, right under section 2 on (b), says a person commits an offense if a person directly or through a third party knowingly provides or offers to provide vote harvesting services in exchange for compensation or other benefit. It's not saying anything about mail ballot, I mean, mail ballots could be part of vote harvesting, but that means you can also, you cannot go and gather neighbors to take them to vote for a particular candidate.

**Senator Hughes:** Oh, no, Sir. So, to be clear, up in section 2 where it, vote harvesting services, in-person interaction with one or more voters involving an official ballot, a ballot voted by mail, or an application for ballot by mail. So, it's not about taking people to vote or encourage people to vote or even helping them vote by mail, but if you're doing all those things for a particular candidate or measure and you're getting paid for it, that's vote harvesting.

**Senator Hinojosa:** Even though it's not by mail? That's why I want to clarify.

**Senator Hughes:** So, under the definition up on lines 2 through 5, it involves an official ballot or an application for voting by mail or a mail ballot and it's for a particular candidate and it's in-person interaction with the voter and you're getting paid, it's going to meet all those conditions. So, many campaign activities have pieces of that, but if you're doing all those things, that's vote harvesting.

**Senator Hinojosa:** Well, let me ask you, you have benefit. You define benefit, a political favor. What does that mean, political favor?

**Senator Hughes:** So, benefit is defined, it tacks back to the Penal Code about what benefit is, what compensation is. Is that what you're talking about?

**Senator Hinojosa:** I'm a, well you told, you discuss in, under page 44, line 25, benefit means anything reasonably regarded as a gain or advantage, including a promise or offer of employment, a political favor, and I'm trying to figure out what that means—

**Senator Hughes:** Oh, yes.

**Senator Hinojosa:** —or an official act of discretion—

**Senator Hughes:** So—

**Senator Hinojosa:** —those are pretty broad.

**Senator Hughes:** —well those, Senator, so that's the idea and as you know and that often have this analysis in bribery statutes where if there's something that's being offered, some kind of a benefit like that's what, that's covered here.

**Senator Hinojosa:** And then you also provide for a civil liability for vote harvesting.

**Senator Hughes:** Yes, Sir. So, if the, if you, crime is committed as described here and the district attorney for whatever doesn't choose it, a person who is harmed can still bring a claim. And so, there's elements of damages. It says that whatever the vote harvester was paid, they have to disgorge that, also damages, and also attorney's fees. Damages up to \$35,000 plus attorney fees, what a court could award. A court wouldn't have to, but those are some of the damages that a court could award if there was a proof that vote harvesting was committed.

**Senator Hinojosa:** Well, let's go back to, I guess, under criminal penalty, if someone is convicted of vote harvesting, that's a third degree felony.

**Senator Hughes:** Yes, Sir. That's a big deal.

**Senator Hinojosa:** And that's from two to 10 years.

**Senator Hughes:** Yes, Sir. This is a big deal. Vote harvesting.

**Senator Hinojosa:** Well, I think it's a big, huge change to the common practices that we have right now. Well, on the civil remedies, you were talking about, I guess the candidate who loses, who may file a lawsuit and have a civil remedy. What are, what are the remedies that person has?

**Senator Hughes:** So, I make sure I get everything right. So, there's different elements that a court can go by. One is whatever the vote harvester was paid, whatever they were paid to do the illegal work. That can be disgorged. It also provides for damages of \$35,000 and attorney's fees. Of course, you know, a court has discretions, but those are the elements of damages that would be allowed.

**Senator Hinojosa:** You have, well, a penalty in the amount of \$35,000?

**Senator Hughes:** Yes, Sir.

**Senator Hinojosa:** Reasonable and necessary attorney's fees, court costs, witness fees, discovery costs, a party's campaign expenditure, property filed on a campaign finding report in connection with the election, or any fees and expenses incurred by the party in filing and securing place on the ballot?

**Senator Hughes:** Yes, Sir.

**Senator Hinojosa:** So, just about any candidate that loses now is going to be filing lawsuits.

**Senator Hughes:** Oh, no, Sir. Only, well, they wouldn't prevail in a lawsuit unless they can prove the specific elements of vote harvesting.

**Senator Hinojosa:** But you don't think that it's going to happen more often now with this provision in the Senate Bill 7?

**Senator Hughes:** Well, anybody with \$150 can file a lawsuit, you know that. But the specific provisions here are only if vote harvesting is present.

**Senator Hinojosa:** Well, if you look at page 48, it says a party to an action under this section may compel a voter to reveal that voter's vote in the same manner established under Section 221.009 to compel a voter to reveal the voter's vote in an election contest. And a while ago when you were responding to several other Members' questions, you said that the privacy of the ballot was protected, but yet under a discovery in this remedy section, you have to reveal who you voted for.

**Senator Hughes:** So, Senator, Section 221, that it's describing, that's the current law, Section 221, that's the current law on election contest and overturning election. So, that's already in the law and I can, I can point you to it. I'm in the Election Code, Title 14, Election Contests, Chapter 221. That's what this is about and so the provision says, make sure I got it right. You said a person can be, make sure I got it, in the same manner under Section 221.009. And here's what 221.009 says, I want to make sure I get this right. In 221.009 of the current law, it says, compelling voter to reveal vote. A voter who casts an illegal vote, now this is current law I'm reading to you, Section 221.009 of the Election Code. A voter who cast an illegal vote may be compelled after the illegality has been established to the satisfaction of the tribunal hearing the contest, to disclose the name of the candidate for whom the voter voted or how the voter voted on a measure if the issue is relevant to the election contest. And so, that's current law, 221.009 of the Election Code. If it's been found the vote was illegal, then the court can ask that person who did you vote for because they want to know how it affected the outcome. So, that's current law. And so, the provision you were referring to says, we're adopting that same provision, so just like you can be required to under 221.009 if it's found to be an illegal vote, then, only then, can the voter be compelled to tell us who it was for. It's got to be first found to be an illegal vote. So, I'm glad you asked, because that's an important threshold.

**Senator Hinojosa:** So, we have an election contest. That means that in the election contest, where you're contesting the election, that means you don't have to disclose who you voted for.

**Senator Hughes:** Only if the court finds it was an illegal vote. And that's current law, that's 221.009 of the Election Code. If the court finds it was an illegal vote, only then would you have to disclose who you voted for. It's like a kind of a bifurcation.

**Senator Hinojosa:** Well, let me ask you. How many, you asked about another section dealing with the distribution of early voting ballots, that it says, the early voting clerk or other election official commits an offense if the clerk or official knowingly mails or otherwise provides an early voting ballot by mail to other early voting by mail ballot materials to a person who did not submit application for a ballot to be voted by mail under a Section 84.001–

**Senator Hughes:** Yes, Sir.

**Senator Hinojosa:** –my question is this, does that mean that the election official cannot mail ballots to those who are 65 or older?

**Senator Hughes:** If they request them. As you know, there's that application for ballot by mail and that they, if anybody can request that and if they do then, of course, they're supposed to send them to them. But it says, they don't send them unsolicited, the voter requested.

**Senator Hinojosa:** So, you register to vote and you're over 65 and you can vote by mail. This Senate Bill 7 prohibits the election officials from sending them a mail ballot if they don't request it.

**Senator Hughes:** Well, if they don't request it, yes, Sir. Now again, now private parties can do, campaigns can still do, candidates can still do it, but as far as official documents coming from the county, this testimony, that's confusing to voters, they don't know what that means. This came from the county. What is this about? So, they have to request and it's pretty easy to request and it's pretty easy to request and once they request, there's a duty to send them, but you don't send them, the government doesn't send them unsolicited. That's correct.

**Senator Hinojosa:** Well, I thought we were trying to encourage people that are over 65 to vote and protect them from having to go to the polls.

**Senator Hughes:** Anybody who wants to, as you know, if you're 65 or over or disabled or you're going to be outside the county, then you're entitled to vote by mail. That hasn't changed.

**Senator Hinojosa:** Well, let me ask you, I mean, how many provisions in Senate Bill 7 criminalize certain practices?

**Senator Hughes:** So, the criminal provisions here do not, do not go to individual voters, they go to vote harvesters and they go to election workers, public officials, and so, let me make sure, I'm looking now. I believe there are 10 provisions, I believe there are 10 provisions that have to do with criminal penalties that I've got here. And if—

**Senator Hinojosa:** And what other—

**Senator Hughes:** —I've missed some, you tell me.

**Senator Hinojosa:** —what other provisions are criminalized?

**Senator Hughes:** So, we talked about if the election officer refuses to accept a valid poll watcher, then there's also a problem, there's also a problem if you compensate, again we talked about vote harvesting. If you're paying someone to do these things that we described, those elements that's in there as well. Also, if the election judge pre-populates information, like you ask for a form, maybe you ask for a provisional ballot, election judge fills that out with false information, puts in front of you to sign, that's a problem, because when the voter gets a document from the election judge, they assume they can rely on it, so that's in there as well. And then, we already talked about altering a ballot, counting invalid votes, not counting valid votes. And we talked about vote harvesting, and then you just asked about unlawful solicitation of vote by mail. And then there's, if there's perjury in connection with the election procedures, if you claimed, if you violate that oath about assisting a voter and that's covered. And then, as you know, under this bill, there's an expedited appeal process. If an issue comes up three months before the election or less, needs to be addressed,

there's an expedited appeal process, there's a three-judge panel, and if anybody tries to interfere with that, then that's a state jail felony, if you try to interfere with the court. And then, if you try to communicate with the county or district clerk to influence a judge, we know that's a bad idea, that's also a Class A or a state jail felony. Those are, that's the ones I've got. You and I talked about most of those, but that's the ones I've got here, and if I've missed something, you please tell me, but those are the ones I have.

**Senator Hinojosa:** And I guess of those appeals of you, there's part of a bill, Senate Bill 7, I can't remember the section where you pretty much set aside the rules of civil procedure. They don't apply.

**Senator Hughes:** It provides an expedited process because as you know, if an election is coming up and there's a problem, it needs to be dealt with before the election so we can fix it because time is of the essence in a case like that.

**Senator Hinojosa:** You know, Senator Hughes, I guess I just, I've been around a lot of campaigns and I really think that Senate Bill 7 will discourage and suppress the votes, not only of Democrats but also Republicans. And some of the Republican activists that work out during campaigns, once they read the fine print in Senate Bill 7, they're going to ask you, what were y'all thinking about? It is a real serious issue when you criminalize so many aspects of voting that it really scares people off and they would rather just stay home and not vote instead of taking a chance of having criminal charges filed against them.

**Senator Hughes:** Well, Senator, I would say, we just went over that list and nothing in there is where the voter is charged with criminal, with criminal acts. The voters are being protected here. This is ballot harvesters and election officials not following the law. None of those things we read are where the voter has any criminal liability. It's people who are trying to influence the voter. This is protecting voters.

**Senator Hinojosa:** Well, you know, Senator Hughes, the last election from observation, the Republicans did very well statewide.

**Senator Hughes:** Well, Senator, if, this isn't about being unhappy with election results. This is about making the system better for everybody. And you know how it goes, we're only here every other year, so when we hear testimony during the interim, we come back into session and try to address it.

**Senator Hinojosa:** You know, I, it's, in this political climate, in this political climate we find ourselves in, I'm always amazed at terminologies being used like "alternative facts." When you talk about accessibility and security and it has the opposite impact, reminds me of *1984*, George Orwell. Right? We are all equal, but some are more equal than others. The terminology you're using really doesn't reflect what Senate Bill 7 does and impact, and the negative impact it will have on our elections. But thank you anyway for answering my questions.

**Senator Hughes:** Thank you, Senator.

**Presiding Officer:** Senator Bettencourt, for what purpose do you rise?

**Senator Bettencourt:** Ask questions of the author.

**Presiding Officer:** Do you, does, Senator Hughes, do you yield for questions?

**Senator Hughes:** Of course I'll yield for questions—

**Presiding Officer:** He yields.

**Senator Hughes:** —thank you, Madam President.

**Senator Bettencourt:** Thank you, Madam President. You know, Senator Hughes, I want to say that few people could be as eloquent, as cheerful, as direct, as forthright, as transparent, as what I've seen over the last, I guess, at least five hours, and I want to thank you for that disposition. You mentioned, there's been a lot of question, where a lot of this bill came from. Just from my perspective, I think you know that, I think I've got elements of five bills in SB 10, Senate Bill 208, 1110, 1112, 1113, 1115. A lot of good ideals from other Senators as well—

**Senator Hughes:** That's right, Senator.

**Senator Bettencourt:** —and I think Senator Blanco mentioned several hours ago now, a lot of questions about poll watchers, but you made a comment. You said poll watchers are sunshine. Great term that you used.

**Senator Hughes:** Senator, that's important. Right? It's been, I guess it was those really good Supreme Court quotes that sunshine is the best disinfectant. And so, if something's going on in there, we need to have poll watchers from Republican Party, Democratic Party, all the different candidates, because they're the eyes and ears of the public.

**Senator Bettencourt:** In fact, I've been a state election inspector. I've observed poll watchers in the Democrat primary and poll watchers in a general election as well and there's a, Secretary of State has a poll watchers' guide, actually, which I expect to be updated dramatically upon passage of SB 7, but there was particular testimony that I think you'll remember in Harris County about a problem where poll watchers were denied access to the central count.

**Senator Hughes:** Yes, Sir.

**Senator Bettencourt:** And, actually, the person that denied the, that access is the new election administrator.

**Senator Hughes:** I read about that.

**Senator Bettencourt:** And, actually, we had testimony from Al Vera at the time and it took the intervention of the Deputy Secretary of State, who happened to be in town, Senator Miles, happened to be in town, to overrule Ms. Longoria to allow poll watchers into the central count at NRG.

**Senator Hughes:** Senator, that's right and as you know, that central count, when the polling takes place in individual precincts, individual polling places, then they're brought into central counting. That's where that tabulation takes place. Hard to imagine why you would want to keep poll watchers out. It would, it would sure tend to make voters suspicious, if you were trying to hide—

**Senator Bettencourt:** It would—

**Senator Hughes:** —what's going on in central counting.



**Senator Bettencourt:** —it seemed to be a bad trait for an elections administrator, but I digress at this point. Let's talk about a lot of comments today about drive-through voting. And I want to read from the *Houston Chronicle*. Let's put this into evidence, November the 3rd, it's very important. Harris County Clerk, then Christopher Hollins, I'm paraphrasing that, has shut down nine of 10 election day drive-through voting sites over concern that the votes would later be thrown out through an ongoing legal challenge filed by Republicans, not by the Republican Party, but by Republican individuals. He reversed course at 10:30 p.m. stating on Twitter, the risk was too great that votes would later be challenged or thrown out specifically, this is Clerk Hollins, was concerned that Hanen, that's the federal judge, had expressed doubts that nine of the tented sites did not meet the Election Code requirement that polling places be inside a building. In fact, actually, the last time we debated, Senator Huffman referenced this ruling. Judge Hanen had a footnote, because he didn't rule on it because of standing. He ruled that he would've probably not of allowed drive-through voting at all. Now—

**Senator Hughes:** That's what he said.

**Senator Bettencourt:** —and it's because the law is quite clear, especially given the then-County Clerk's acknowledgement of it. But this is not the first time the County Clerk has had an issue. County Clerk Hollins attempted to mail over two million absentee ballot forms. He lost that all the way to the Texas Supreme Court and then appealed to the Fifth Circuit, losing it every time, costing the county somewhere between \$100,000 and a million dollars because all those ballots were shredded on the dock, because they weren't mailed. Sounds like a good use of taxpayer dollars, do you think?

**Senator Hughes:** I read about that Senator. That's pretty scary.

**Senator Bettencourt:** And it's interesting that the nine out of 10 number comes up because per the early sites, their geographic center, Senator Miles, in the I-45, I-59 corridor, as it turns out. There's only one site that was actually out of that area, which is the Kingwood. The other sites were either inside Precinct 1, Harris County Precinct 1, or near it, very close. And these are very, this is the most majority minority district of all the precinct commissioner districts in Harris County, so it's not surprising that there'd be a majority minority usage of those drive-through sites. Would you agree, geographically, being geographically centric?

**Senator Hughes:** So, then if the sites that allowed drive-through voting were placed in those areas, one would expect voters from those areas to take advantage of them more than voters of other areas where they didn't have those sites available.

**Senator Bettencourt:** That's right. Now there were sites—

**Senator Hughes:** Seems logical, seems logical.

**Senator Bettencourt:** —there were sites downtown that obviously, that attracted people from all over the county as they moved, you know, through work and through their day. In fact, Precinct 4 personnel tell me that as a report that Senator Alvarado referenced that the vast majority of people that use those sites were surprised to hear that it was from 7 a.m. to 7 p.m. Or was it from 7 p.m. to 7 a.m, a vast majority of

people use those sites? It's the former, 94 percent of those drive-through sites, Members, were used during the regular day shift, the 12-hour day shift, not the night shift. Now, why is all that important? There is a tremendous error rate in these statistics, because Harris County, if this is all about Harris County, Senator Gutierrez. It's because they did it on the fly. And, in fact, there's a complaint filed by Rachel Hooper, Esquire, we talked about this last time we had a debate, where there's difference in counts. Still today, six months after the election, they can't reconcile the JBCC VR and the vote roster of 1,775 votes from the Eastlake CVR to the daily record, 1,884. And this problem started, coincidentally during early vote and actually The Texan covered it at one point in time, I'm quoting The Texan from the 27th of October, the Secretary of State's website, which reflects data submitted by the county had reported 1,081,000. The daily record of early voting by Clerk Hollins was 1,090,000. A third report, the Harris County early voting site had 1,092,000. There was a difference of 9,000 and 10,000 votes on that day, then after myself, several other people, including Lieutenant Governor, questioned these numbers, shockingly, they were changed in two days, but they still reflected a difference on October the 29th of 1,539 votes, and those vote totals have not changed. So, my question to you, Senator Hughes, are you surprised that there's still almost 1,884 votes in Harris County that are unaccounted for?

**Senator Hughes:** Senator, it is remarkable when we hear the generalization about how great this worked and now we're talking about several hundred, almost 2,000 votes that are still unaccounted for. That 2,000 voters whose votes—

**Senator Bettencourt:** In fact, it's—

**Senator Hughes:** —are unaccounted for.

**Senator Bettencourt:** —one and a half percent error rate. Senator Eckhardt, wouldn't you like to hold an election, Senator Buckingham, with a one and a half percent error rate that you can't verify who voted. You don't know who the names are and you're not even sure that your vote totals match your own figures, much less what you sent Secretary of State. That's what the record of Harris County is. It's not a record, Dean, of success, it's a record of failure, because they had a one-half percent error rate in that drive-through voting system. Now, you don't see this in the Rice University study or any other academic study because they're not recognizing what's in the paper, what's in the complaint to the Secretary of State, what's in Clerk Hollins' own words. But it's there, nonetheless. Now, that means that drive-through voting didn't work because we can't run elections with one and one-half percent error rates. And look, Harris County is the third largest county in America. Nearly one of the most, I think, almost diverse county in America, maybe Fort Bend is slightly more diverse, 43 percent Hispanic, 30 percent White, 19 percent Black, 7 percent Asian. And that means your voting age population is also diverse, even your voting eligible population and your registered voter file. Because all this is about the integrity of the voter roll. But when you have people claiming that drive-through voting was a success, Senator Blanco, one and a half percent error rate wouldn't be a success in El Paso. It's not a success anywhere in the country, and that's why they were over their skis. They weren't following the Election Code. True, Senator Hughes?

**Senator Hughes:** Weren't following the Election Code, no question about that.

**Senator Bettencourt:** So, what Senate Bill 7 is doing is codifying best practices. Now, we haven't talked about one great positive tonight. We've had all sorts of interesting questions, but we're missing one obvious question. Senator Hughes, why does Senate Bill 7 have a fiscal note? A negative fiscal note of \$35 million. Why does Senate Bill 7 have that?

**Senator Hughes:** Senator, there're a lot of things in this bill that involve spending and the state is stepping up and doing her part. As you know, that paper backup for electronic voting, which folks have clambered for, Republican, Democrat, left, right wanted that for a long time. And now under this bill, the state will be helping our counties that don't yet have those machines either retrofit or get new machines and make sure that's put in place. So, areas like that just make sense. Of course, there's more to the fiscal note, I want you to expound on, but that's one we want to make sure and talk about.

**Senator Bettencourt:** It's a great thing because you had actually said Senate Bill 7 is about making the system better. It is, Members, making the system better. Let me read from the fiscal note. The Secretary of State assumes 47 counties that have purchased direct-recording electronic voting systems, DRE, would be subject to reimbursement under the provisions of the bill. The county using these systems, 9,492 voting machines would be retrofitted at a cost of \$21,635,000. Another 628 machines would be replaced at a cost of \$2,584,000. The total cost of replacement or retrofitting these machines would be \$24 million. Oh wait, it sounds like we're making things better in SB 7. Would you agree, Senator Hughes?

**Senator Hughes:** Senator, for the voter to know that when they cast their vote, it's going to be counted accurately and to know that there's a record for a recount. It's hard to put a price on that, and Texas is doing the right thing by making sure that every Texas voter will be able to have that confidence.

**Senator Bettencourt:** Better, faster, by new equipment.

**Senator Hughes:** That's right.

**Senator Bettencourt:** In fact, because you've had an audited paper trail, we've got testing in here. Protocols, you know, there would be a least one polling place for each, you know, additional for over 1,400 precincts. Additional scanners would be required, 220 early voting locations, a list of \$6,000 a scanner, \$6,100, estimate these reimbursements realize an additional \$10 million. The bill would require SOS to collect information from 1,400 school districts, 1,200 cities, 5,000 water districts, and an unknown number of libraries, et cetera. This sounds like a bill that's trying to make things better. We haven't spoken about this at all tonight.

**Senator Hughes:** Senator, you're right. This is a state coming along inside those counties and helping and about making the system work better, making elections run smoother, more opportunities and so the folks can have confidence in the results. If people have confidence in the results, they're more likely to vote, more likely to take the time to vote, and make their voices heard.

**Senator Bettencourt:** If you have a voter roll with integrity, you'll have an election with integrity.

**Senator Hughes:** Yes, Sir.

**Senator Bettencourt:** And if you have new equipment that's modern DRE, with a paper trail and testing and things like, you know, no Internet access so it can't be hacked. You know—

**Senator Hughes:** That's right.

**Senator Bettencourt:** —there's a lot information here.

**Senator Hughes:** That's right.

**Senator Bettencourt:** And, but I want to end with that isn't a one and one-half percent error rate. We're not paying \$35 million of state money for one and one-half percent error rate. That's the error rate in drive-through voting experiment beyond the law in Harris County. We're not paying for that.

**Senator Hughes:** No, Sir.

**Senator Bettencourt:** And that's what SB 7 makes sure we don't pay for.

**Senator Hughes:** That's right.

**Senator Bettencourt:** And that's what the federal judge was going to do anyway.

**Senator Hughes:** That's right.

**Senator Bettencourt:** So, Members, we've heard a lot, but facts are stubborn things and these are the facts of what the real Harris County experiment is. Even today, we've got 1,884 unaccounted for votes. And why does that matter? Well, two election cycles ago, we had a state rep win by 47 votes and another one lose by 117. This last election cycle we had win by 300 and the same, in the same race, the other guy lost by 300. So, 1,884 votes mean something. An error rate of one, one-half percent affects the outcome of these elections. And the public won't tolerate it. And that's why I support SB 7. Thank you for your leadership.

**Senator Hughes:** Thank you, Senator.

**Presiding Officer:** Dean Whitmire, for what purpose do you rise?

**Senator Whitmire:** Will the gentleman yield for a couple of questions?

**Presiding Officer:** Senator Hughes, do you yield for questions?

**Senator Hughes:** Of course, I'll yield for questions.

**Senator Whitmire:** Senator Hughes, did you hear Senator Bettencourt name anybody that was on the ballot, Republican or Democrat, that opposed to the results of their election from the processes that were used last fall? Just tell me, Paul, who complained? Congressman Crenshaw, Schofield, Hull? Nobody on the ballot expressed any objection or even appealed the decision from the November election that he's making a case that justifies this statewide bill. Can you tell me one person in Harris County that was on the ballot, a stakeholder, that had an objection to any of the provisions that you're trying to remove that Harris County successfully carried out? Name me a candidate that opposed it.

**Senator Hughes:** Senator, this bill applies statewide. It's not just in Harris County.

**Senator Whitmire:** I know it, but we just had to hear about 10 minutes of a dialogue attacking Harris County. The spokesman was using his justification for us to be here at five o'clock in the morning. And it just occurred to me, who complained, Paul, that was on the ballot, the stakeholders? No one, no one. Couple of things, the reason I rose, patiently listening, some great dialogue. I think Senator Miles very eloquently pointed out how he represents the Black community, he's the voice for the Black community. If you haven't walked in the shoes of the people that have to depend on someone else to go to the polls, then you really are uninformed. Let me ask you—

**Senator Hughes:** Senator, I hope you're not saying, I hope you're not saying that African Americans in my district who raise complaints aren't entitled to be heard. I hope you're not saying that.

**Senator Whitmire:** You're certainly—

**Senator Hughes:** Because the measures—

**Senator Whitmire:** —but I represent a significant number of African Americans—

**Senator Hughes:** —in this bill are based on testimony from what happened in my district.

**Senator Whitmire:** —but I just think that gentleman has a better perspective on the results of the ballot in his community than you and I ever will. And he spoke very eloquently about how you're about to disenfranchise some people by this suppressive measures that you're putting forth. But the precinct judges will be very hesitant to accept the responsibility because you're fixing to criminalize some honest mistakes. Are you aware of that?

**Senator Hughes:** No, Sir, that's not true.

**Senator Whitmire:** So, I don't think you listened to the comments. A couple of points I want to clarify. You have mentioned several times, and you're very effective by just kind of saying repeatedly that Bettencourt has said that you didn't know the location, and that's the reason I got up here tonight to ask you where. And we'll take as long as is necessary for you or Senator Bettencourt to tell us who had more registered voters than eligible voters possible. Where? You've said that over and over. And if you keep repeating it, it's going to become the truth unless one of us stand up. What county, what jurisdiction, Paul, has got more registered voters than eligible voters? You can't name one. If you can, we ought to go to the U.S. Attorney's office Tuesday morning and have them prosecuted. But you're going to keep saying it and saying it, and you're going to repeat it and think at some point we'll believe it.

**Senator Hughes:** Senator, I have repeated it when I have been asked the question, and I have read what's in the bill. I've said it more than once because I have been asked more than once. I would, should I just not respond to the question?

**Senator Whitmire:** Said it might even be the Parrs and the stolen boxes that the Parrs did on Johnson. You just throw these facts around until they stick on the wall, and it's too late in the morning, this is too serious. Let me ask you another one that you threw around loosely, that the AG told you about a lady that complained that she

got a ride to the polls, which is very common, and someone made her vote for their, for the driver's candidate. Where, what's the lady's name, the date? We, you owe it to us if you're going to try to document incidences that bring about this legislation.

**Senator Hughes:** Senator—

**Senator Whitmire:** Where was General Paxton talking about?

**Senator Hughes:** Senator, there was sworn testimony before the Senate committee on election integrity, and let me tell you what it was about. There was testimony that in the Rio Grande Valley, folks who claimed to be helping voters will wait outside the polling places and when vulnerable looking voters approach, they'll come alongside them, say, Ma'am, let me help you, let me assist you. I am answering your question. And they walk them in the ballot and say, oh, I'm assisting this lady, and they walk her through the process, and then she gets all done and she goes home and she calls because she says, I didn't know who that guy was, I didn't know if he was an official, and he told me how to vote, and I voted like he told me to, and that's not what I wanted to do. I'm answering your question. There was testimony that that happens in, from a district attorney and from his investigator, testified, sat right over there—

**Senator Whitmire:** I understand.

**Senator Hughes:** —when the tables were there. Alright? Do you, do you—

**Senator Whitmire:** But think what you're doing—

**Senator Hughes:** —do you want me to answer your—

**Senator Whitmire:** —right this minute, you're saying—

**Senator Hughes:** —do you want me to answer your question?

**Senator Whitmire:** —somewhere in the Rio Grande Valley. Where, Senator Hughes? Were they prosecuted? What was the outcome of that conversation?

**Senator Hughes:** Well, we were told by this prosecutor that voters made these complaints. And they—

**Senator Whitmire:** But did they prosecute them?

**Senator Hughes:** —they told us that voters made these complaints and they were investigating. It was difficult to track down who these people were, thus the provisions in Senate Bill 7, so that we can identify who these people are so when these complaints arise they can be identified.

**Senator Whitmire:** Certainly sounds like the system is working if that prosecutor is pursuing it. Just like in your hometown, tell us about, you keep referencing the fraud that's under indictment now of your county commissioner on early voting. We don't get the privilege—

**Senator Hughes:** Voting by mail.

**Senator Whitmire:** —of those circumstances. But would you not say that that's evidence that the system is working, that you discovered the fraud, and it's being prosecuted?

**Senator Hughes:** Here's what they found out, Senator Whitmire. They found out that these vote harvesters were going to voters who were able-bodied and telling the voters, oh, here, check this box. Do you have to work, is it inconvenient to get to the polls? Check this box, that means you're disabled. Senator, I'm answering your question, I'm answering your question. The vote harvesters told these voters check this box, the voters, not knowing what it meant, checked the box. And so, what we're proposing in Senate Bill 7 is that on the application for voting by mail, we define what disability is so that voter is protected when the vote harvester tries to get them to put something fraudulent down. Now, that's based on testimony from my district attorney, from the Attorney General's office from what they found in this case. Now, this is, you're asking about the specific cases, I'm telling you about specific cases. And so, this has nothing to do with national trends or with Georgia. This is about testimony we've heard about problems in Texas. It's about Texas elections.

**Senator Whitmire:** I'm was just asking you isn't that an example of where fraud is being prosecuted? I mean, what's broken about you discovered a fraudulent county commissioner's election and they're under indictment? That's the way—

**Senator Hughes:** They told us the voters, the voters were being misled by the information on the form, so we're putting more information on the form so the voters will know. And, Senator, in 2017, this body voted and the Governor signed a law that says if you claim a disability for a mail ballot and you're not entitled to it, it's a state jail felony. Now, that's already the law, that's not part of this bill. So, what we're saying is, if we're going to hold people accountable, shouldn't we tell them what the definition is? Who can object to that, Senator?

**Senator Whitmire:** You know what—

**Senator Hughes:** I don't think that's controversial, it applies to everyone.

**Senator Whitmire:** —you just raised another serious question. In 2016, when you made that revision, why didn't you go and make all these other proposals?

**Senator Hughes:** That was a bill that—

**Senator Whitmire:** What's happened between '16 and now that you didn't have the election fraudulent reforms in 2016, or even when we did voter ID years ago? I mean, why?

**Senator Hughes:** Senator, you and I have—

**Senator Whitmire:** Why now, why now?

**Senator Hughes:** You and I have filed bills on various topics each time we come back, because why, because in the two years when we're not here, we hear from our constituents and we take testimony in interim hearings, and we learn problems in the law and so we come back and try to solve them. As you know, if we got everything solved, they wouldn't need a Legislature and it'd be great for Texas. But problems still arise, and every two years we try to come back—

**Senator Whitmire:** Hughes—

**Senator Hughes:** —and fix them.

**Senator Whitmire:** –you know, there you go. You, you're smooth, and you're a good proposer, but you and I know it was this last November election results, would you not?

**Senator Hughes:** That's not, Senator. I filed Senate Bill 9 in 2017 with many of these same provisions. You and I had this debate, I'm sorry, forgive me, in 2019, you and I had a debate on many of these matters in 2019, which was before 2020. If this were about the outcome of elections, Republicans would be happy, 2020 was great for Republicans. This is about fixing problems in Texas elections.

**Senator Whitmire:** The Harris County phenomenon and practices hadn't even occurred until the November 2020. A couple of, a couple of questions, and I'll move on. The fiscal note on page 3, and all the Members ought to review it, it talks about the individual counties' unfunded mandate. A number of counties said we're not going to get the reimbursement that we need to modernize our machines or make these adjustments. Are you aware that if you pass your bill, there will be unfunded mandate to numerous Harris counties, to Texas counties?

**Senator Hughes:** Senator, it depends on whether they choose to update their machines. There's an incentive in the bill. If they will update the machines right away the state will pay for 100 percent. If they wait, the state doesn't pay as much.

**Senator Whitmire:** Well, your fiscal note says there's going to be a shortage in Hidalgo County, and I can name several others. Members ought to be aware of that. One last thing, your criminal justice impact statement, I'm sure you've read it.

**Senator Hughes:** I've seen it.

**Senator Whitmire:** It says there won't be a fiscal impact, or criminal justice impact, because in the last couple of years, there has only been 10 or fewer persons confined or incarcerated because of election fraud. Doesn't that make a statement that there's really not the large problem that you're trying to solve?

**Senator Hughes:** Well, Senator, all I can tell you is that folks have testified before the Senate and testified before the House about these problems and that's what we do. We hear about problems and we as the Legislature try to address those problems.

**Senator Whitmire:** One last question. When you and Representative Cain were drawing up the final version, set the hours on Sunday from one to nine, was there any discussion about Black voters that on a regular basis go to Sunday morning service and then go vote? Was there any discussion of dealing with that practice?

**Senator Hughes:** Senator, that provision was not in the Senate bill, it was added over in the House. And if you'll look at that, look at the terms, right now the counties have to allow at least five hours on that Sunday, this bill expands–

**Senator Whitmire:** I heard–

**Senator Hughes:** –Senator–

**Senator Whitmire:** –I heard your dialogue with Senator West–



**Senator Hughes:** –would you let me answer your question? It allows it to be expanded, it requires it to be expanded to six hours and that's the intent. Now, that provision was added in the House, and I don't know the details, that wasn't in the bill we sent out.

**Senator Whitmire:** But you know there's some honest beliefs that this is about voter suppression. And I'm asking you, in your presence, was there any discussion about the practice on Sunday morning, of primarily African American churches, of having services and then as a group going to the church, going to the ballot box and voting?

**Senator Hughes:** No. Senator West and I–

**Senator Whitmire:** It's a very–

**Senator Hughes:** –Senator West and I talked about "souls to the polls" on the Senate bill when it came over and today. I don't know about that provision was one to nine, that was added over in the House, and I wasn't part of those discussions. So, I don't know the answer.

**Senator Whitmire:** So, your answer is you never heard a conversation about how to address that practice?

**Senator Hughes:** That's correct. Senator West and I discussed it on the floor on the bill in here, but as far as that provision in the House, I don't know where that came from. I know that it expanded by one hour the minimum requirement for that Sunday voting.

**Senator Whitmire:** So, you're going to interfere with it. That's, there's no question about that. I mean, I guess you and I surely can agree that if your practice was to go to church at eight, nine, in a community church, listen to the pastor, and as a group, a congregation, go vote on Sunday morning, this will no longer allow that.

**Senator Hughes:** Well, Senator, I will say, I think the record will bear this out. When Senator West and I spoke about "souls to the polls" on Senate Bill 7, when it was here, I described, I'm answering your question, I described my understanding in East Texas where folks go to church, go eat lunch, and then go vote. Now, that's the only discussion we've had about it. I don't know what was done over in the House.

**Senator Whitmire:** My worst–

**Senator Hughes:** I believe Senator West–

**Senator Whitmire:** –my worst concerns are somebody knew what they were doing.

**Senator Hughes:** –well, I believe Senator West, and of course, you.

**Senator Whitmire:** I take, I take your word, but I don't take other people's word.

**Senator Hughes:** Well, thank you, Senator.

**(President in Chair)**

**President:** Members, we're going to take a, another five minute At Ease. Take a break and we'll come back in five minutes.

(Pause)

**President:** We'll come back to order. Yeah, see if you can take the other side and be convincing. You have your own way of being smooth. It's a little rough but it's really smooth. Senator Johnson, before I come to you, you're first. Senator Bettencourt, you wanted to respond to a question that Senator Whitmire posed to you and you didn't have a chance to respond.

**Senator Bettencourt:** Absolutely.

**President:** Do you yield?

**Senator Whitmire:** No.

**President:** Senator, you have the floor.

**Senator Bettencourt:** Thank you, Mr. President.

**Senator Hughes:** I'll yield to Senator Bettencourt.

**Senator Bettencourt:** I will, a short rebuttal, but I do want to say—

**President:** Make it short, very short.

**Senator Bettencourt:** Alright. In, Senator Hughes, were you aware that the *Houston Chronicle* in 2012 ran a story that talked about 16 small counties across Texas appear to have more registered voters on their rolls as of 2010 than qualified citizens of voting age. You are, of that, Senator?

**Senator Hughes:** Senator, I'm looking at the article now. It's very interesting.

**Senator Bettencourt:** It would seem to answer Senator Whitmire's question of where might there be counties in the State of Texas that have more registered voters than qualified citizens of voting age. In fact, this was done based on the 2010 Census because, and I'll look forward to the 2020 Census when we get the numbers, but this was Brooks, Chambers, Crockett, Culberson, Dimmit, Duval, Kendall, Kenedy, Loving, Maverick, Polk, Presidio, Terrell, Trinity, Walker, and Zavala.

**Senator Whitmire:** Parliamentary inquiry.

**President:** Senator, yes, I was going to close him down there. He was, you had—

**Senator Whitmire:** I just want to make an inquiry.

**President:** You, make an inquiry.

**Senator Whitmire:** Mr. President, you and I have spent a lot of time back home with Mr. Bettencourt, have you ever known him to believe anything the *Houston Chronicle* writes? In fact, did he not cancel—

**President:** Score some points for Whitmire.

**Senator Whitmire:** —did he not cancel his subscription?

**Senator Bettencourt:** I'm, still a loyal subscriber—

**President:** Thank you.

**Senator Bettencourt:** —to the *Houston Chronicle*, Dean—

**President:** Senator Bettencourt, thank you. You—

**Senator Bettencourt:** –the answer to that.

**President:** –wanted to respond to Senator Whitmire's challenge. Senator Johnson. That's pretty good, John, for five in the morning, that's pretty good. Senator Johnson, for what purpose?

**Senator Johnson:** Questions of the author. I don't think I can be as funny as the Dean, but I'll be brief.

**President:** Do you yield?

**Senator Hughes:** I'll yield for questions, of course.

**Senator Johnson:** Thank you, Senator Hughes. There's been a little bit of talk already about the things that are in the bill, I wanted to talk just briefly about what's not in the bill. And if you will, I, just so we can go through these quickly, if you'll pull up your side-by-side analysis, starting with page 95, just going to look at a couple of things, and I'll ask you why these aren't in here.

**Senator Hughes:** Let me grab that document. Hold just a second.

**Senator Johnson:** And while we're waiting, Senator, oh, there you are.

**Senator Hughes:** What page did you say, Senator?

**Senator Johnson:** Page 96, key provisions, the House version of this bill not only has language concerning an Internet posting that the county would put up, a county that has a website would put a posting concerning the day of the election, location, et cetera, and that was adopted in the conference report, but the, page 96, the House version had a requirement that counties that actually have an Internet presence post election results. That didn't make it in conference. Is there some reason we don't want counties to post election results, or are we just deferring to local control for a change?

**Senator Hughes:** So, Internet posting of election results, I'm on page 96, and so the conference is same as Senate version, so.

**Senator Johnson:** Right. And the Senate version is blank whereas the House version has a bunch of stuff on it.

**Senator Hughes:** Senator, I know there are provisions in the bill for Internet posting. Pardon me. I know there was, there was also separate legislation on some of these topics and I can speak to that.

**Senator Johnson:** We won't dwell on it. If you, if you'd like to comment on it–

**Senator Hughes:** No, no–

**Senator Johnson:** –that's fine. I don't want to–

**Senator Hughes:** –well, thank you. I'll tell you there's a couple of provisions that were in Senate Bill 7 when they left the Senate, and then they passed in separate legislation so they were removed in the conference committee.

**Senator Johnson:** You think that's one of them?

**Senator Hughes:** I believe it is.

**Senator Johnson:** Okay, very good. Thank you. Let's go on to the next one. Page 98, Correcting Mail Ballot Defects. Do you know if that provision exists somewhere outside of the conference report?

**Senator Hughes:** Senator Zaffirini filed, and I co-authored with her, Senate Bill 1018 to provide a cure process for the mail ballots. Great bill, I thought so, I signed on to it, passed here with a big margin, went over to the House. That was expected to make it through the process. Now, the mail ballot cure process that the House had was, we thought, inferior to the one in Senator Zaffirini's bill. There was hope that her bill would become law and it didn't, and so there is no provision for a mail ballot cure process.

**Senator Johnson:** What happened to her bill in the House?

**Senator Hughes:** I don't know because it was not a controversial bill, had strong support over here, and I don't think it was a problem on the merits. It was, it's real disappointing that bill didn't make it through the House, it should have.

**Senator Johnson:** Thank you, Senator Hughes. And so, while we're there, on page 101, would you have the same response on the opportunity to correct defect that that was anticipated to be taken up by a bill that you and Senator Zaffirini worked on together?

**Senator Hughes:** Yes, Sir. That's my recollection.

**Senator Johnson:** Okay. That speeds up those questions. And finally, page 99, the House version, there is no Senate version, it's not adopted in the conference committee. But this provision—

**Senator Hughes:** Page, I'm sorry, page 99?

**Senator Johnson:** —page 99, appears to be a mechanism for letting the clerks calculate and tabulate early mail, early vote by mail ballots as they come in on a rolling basis rather than having them all dumped in the last couple of days, which is the way we do it now. You know why that was left out, or whether that's somewhere else?

**Senator Hughes:** And so, at some point that becomes a policy discussion about when those early votes are going to be tabulated. As you know, the numbers aren't released until—

**Senator Johnson:** Seven o'clock election night.

**Senator Hughes:** —there you go. And so, in fact, a number of states have provisions like this where you're not allowed to even begin. In fact, some of this has come up when they're watching, we're watching presidential returns around the country, not just in 2020—

**Senator Johnson:** And wasn't that frustrating?

**Senator Hughes:** —exactly. They can't even start counting, some states can't even start counting until election day. In Texas, they can't be released until then. I believe this provision is just a policy question about when is that counting going to take place to make sure the numbers don't get out. That's my recollection of what this is about.

**Senator Johnson:** Exactly, a policy question. So, any idea why we resolve to not be efficient and start counting and do it on a rolling basis?

**Senator Hughes:** I believe, and I'm going to have to go back and look, I believe that's just the historical Texas position, again, to make sure those numbers are released at the right time. And if you have more information, please let me know, but I don't think there's anything else to that.

**Senator Johnson:** So, there's actually no reason to have done that. Okay, or that you're aware of.

**Senator Hughes:** That's not exactly what I said, but—

**Senator Johnson:** Well, it is a historical position, but this whole bill changes our historical position on a lot of things, so—

**Senator Hughes:** It does.

**Senator Johnson:** —that can't be a reason. But if we're not aware of a further one at this point in the morning, we'll have to let that go and regret that we don't have a more efficient way to tabulate our mail-in ballots. Thank you.

**Senator Hughes:** Thank you, Senator.

**(Senator Perry in Chair)**

**Presiding Officer:** Senator Eckhardt, for what purpose?

**Senator Eckhardt:** To ask questions of the author.

**Presiding Officer:** Do you yield, Senator Hughes?

**Senator Hughes:** Of course I'll yield for questions.

**Presiding Officer:** Alright.

**Senator Eckhardt:** Thank you so much, Senator Hughes. And it's so early in the morning.

**Senator Hughes:** It is.

**Senator Eckhardt:** So I rise, as you know, I was a county official before I came here, and my phone has been blowing up from El Paso County, Bexar County, Tarrant County, Harris County, numerous other counties across the state, regarding this bill and a belief by my colleagues at the local level that this bill punishes their success. Much as we appeared not to trust teachers in the critical race theory bill, this is coming across back home as a bill about mistrusting our highest-achieving county clerks and election administrators. So, I have some questions that they sent to me. So, I wanted to start with the fiscal note, and I know that Senator Whitmire went into this some. I did get the fiscal note earlier this evening on this bill and it showed about 30, I believe, \$35 million in this biennium and about 700 to \$800,000 ongoing. Is that your understanding as well?

**Senator Hughes:** And I think the main, by far the main portion of that is helping counties with retrofitting those voting machines or purchasing new voting machines.

**Senator Eckhardt:** Well, I really appreciate that, but my county of Travis County has already pioneered—

**Senator Hughes:** Yes.

**Senator Eckhardt:** –the auditable paper trail–

**Senator Hughes:** That's right.

**Senator Eckhardt:** –voting machine.

**Senator Hughes:** No, that's right, Senator.

**Senator Eckhardt:** So–

**Senator Hughes:** Travis County was an early adopter of that and it's very good policy.

**Senator Eckhardt:** That's right. So, in that 35 million, is there anything in there, I do note and I'm happy about this, the creation of a statewide voter registration database, I think that's a good thing. That's a lot of really important and very sensitive information going into that statewide database. Is there anything in this bill, because this bill is about integrity after all, and trust, is there anything in this bill for cybersecurity at the Secretary of State?

**Senator Hughes:** Senator, not in this bill. Now, there is cybersecurity legislation that applies to all state agencies, and we had testimony in the past couple of sessions about how many times a day there are, or attempted attacks, what do they call them, pings, maybe–

**Senator Eckhardt:** Umh hmm.

**Senator Hughes:** –against the Secretary of State's website. So, they've, we've directed resources to them to make sure they're protected. So, it's not addressed in this bill but it is addressed.

**Senator Eckhardt:** Well, I'm glad to hear that and I really look forward to working with you on that.

**Senator Hughes:** Well, thank you.

**Senator Eckhardt:** Also, is there anything in this bill, because I'm glad you mentioned those auditable paper trail machines that the state is going to help counties purchase.

**Senator Hughes:** Yes.

**Senator Eckhardt:** Is there anything in this bill about using those auditable paper trails because those give you integrity? You heard Senator Bettencourt talk about a 1.1, 1.5 percent error rate. I'm here to tell you, you cannot determine an error rate on an election until you do a recount. What he was talking about is an efficiency rate.

**Senator Hughes:** Well, Senator Kolkhorst had a stand-alone bill dealing with those auditable paper trails and also risk-limiting audits and best practices from other states about how to use those paper backups to make sure our system is working properly. So, that's not all addressed in this bill, but it is in legislation that has become law, filed by Senator Kolkhorst.

**Senator Eckhardt:** So, I also noticed in the fiscal note that it says with regard to the local fiscal impact, that it could not be determined at this time. But several counties have noted that the fiscal note doesn't even mention the cost of the video monitoring requirement, the livestreaming requirement, and the additional staffing requirements for managing the watchers, which now have, who now have extreme latitude in the elections process. Do you have any idea, any guesses that you'd want to venture as to the local impact and whether or not the state is going to assist with that?

**Senator Hughes:** Senator, for the video, for the livestreaming of central counting and the signature verification in those areas, we're not talking about very expensive technology, we're talking about a stationary camera and so not a significant fiscal impact as far as that goes. Now, in watchers, again, there were previous versions of the bill that talked about poll watchers with cameras, big discussion about that. But under the Conference Committee Report before this House, we're not talking about expanded powers of poll watchers. In fact, for the first time poll watchers would take an oath where they affirm that they will not interfere, that they won't harass or get in the way of voters.

**Senator Eckhardt:** And I very much appreciate that.

**Senator Hughes:** Well, thank you, Senator.

**Senator Eckhardt:** What do you say, this is one of the questions from the counties, what do you say to the voters who may be concerned about videotape of them voting being livestreamed?

**Senator Hughes:** Well, thanks, a great question. So, the provisions of the Conference Committee Report do not provide for livestreaming of the polling area. So, the livestream would be in central counting, and, of course, you know what that means, you're a county government person, where those precinct polling places bring their results, central counting, also that mail ballot signature verification. So, livestreaming cameras in Senate Bill 7 are not, are not in the areas where the voters are casting their ballots.

**Senator Eckhardt:** Such an important point, so thank you for clarifying that.

**Senator Hughes:** No, it is important. I'm glad you asked because this is, it's important to explicate these things and this didn't all come up. So, these are helpful questions, thank you.

**Senator Eckhardt:** And I love the word explicate.

**Senator Hughes:** I've been wanting to use it all night, so thank you, or all morning.

**Senator Eckhardt:** Good. So, the video monitoring will be at the central voting location, so again, another question from the counties, what do you say to the folks that are concerned that someone could study those videos of the central voting location, which is usually the county clerk's central office, for nefarious purposes?

**Senator Hughes:** Well, Senator, in central counting there's so much going on there, ballots are being brought in, and again, it's about sunshine and about people seeing what's going on and so as long as those ballots are there that needs to be livestreamed so that people have confidence. As you know, people wonder what's going on when it's back in the shadows, when it's—

**Senator Eckhardt:** Yes.

**Senator Hughes:** —blocked. And so, the idea here is—

**Senator Eckhardt:** I could not agree with you more.

**Senator Hughes:** I'm sorry, what did you say?

**Senator Eckhardt:** I could not agree with you more—

**Senator Hughes:** Well, thank you.

**Senator Eckhardt:** —when things happen behind closed doors—

**Senator Hughes:** Yes, Ma'am.

**Senator Eckhardt:** —at the last minute and not with a quality process, people do tend to distrust the results.

**Senator Hughes:** Right. So, that's the idea. And so, then this livestreaming at central counting whenever those ballots are there, folks need to be able to look at any time just so they're confident that the ballots are there, that's where they are staying, they aren't being brought in, taken out, not being tampered with. And as you know, an individual ballot does not give any indication of who cast that ballot, that's obviously important.

**Senator Eckhardt:** So, you don't have concerns with regard to livestreaming the inside physical plant at the county clerk's office, knowing that the county clerk does maintain considerable databases of sensitive information as well as considerable amounts of cash from transactions.

**Senator Hughes:** Well, I see what you're asking. So, this applies to central counting only. Only that portion, wherever the county puts that, it's only about central counting.

**Senator Eckhardt:** Thank you. Also, the County of El Paso wonders, in House Bill 3276, which also had similar requirements for video surveillance of balloting, the bill said that the bill would only need to be implemented if the state provided money for it. Is there similar language in SB 7?

**Senator Hughes:** There is not in SB 7. Now there is language in SB 7 that says we're going to tap into federal money that's available and state money that's available, but there's, no, I want to be clear, there is no provision of state funding for those. And again, not talking about very advanced technology for the camera with what's available today.

**Senator Eckhardt:** Also, another question from Tarrant County. Only counties that are above 30,000 are required to have the video monitoring, and for livestreaming, don't a majority, don't our counties with populations over 30,000, aren't they our more diverse counties?



**Senator Hughes:** Senator, the larger counties are the ones that tend to have more advanced IT and tend to have better broadband access. As you know, in rural Texas we still have some work to do on broadband and that sort of thing, and so that's where that break is. And just so we're perfectly clear, central counting, there are not voters in central counting. The ballots are there and the ballots are color-blind, you can't tell from a ballot anything about the background, racial or otherwise, of the person that cast the ballot. So, just so we're clear, voters are not subject to this video equipment, this is about central counting.

**Senator Eckhardt:** And you've talked a lot about that, about how the criminal penalties are not applicable to the voters, they're really applicable to the election administrators and the people running the elections. Do you think that election administrators and people running these elections are just inherently corrupt?

**Senator Hughes:** No, Senator, I believe they're human. And like all of us, need accountability.

**Senator Eckhardt:** Can you tell me how many election administrators or election workers have been successfully prosecuted for fraud in the last 25 years?

**Senator Hughes:** I don't know the answer. You may know, I believe you if you have a number. I don't know the answer.

**Senator Eckhardt:** To my knowledge, zero.

**Senator Hughes:** Okay.

**Senator Eckhardt:** So, this may be a solution in search of a problem. These election administrators were looking eagerly at the results in other counties and looking forward to scaling these wonderful, successful programs that were popping up in other counties. And it's not just Harris County, I want to push back on that narrative tonight. Yes, Harris County is catching the brunt of this bill, absolutely. But we've also had other counties achieving very, very high voter registration, and this bill punishes them for that. So, I want to speak specifically to the new provision about their voter rolls, Section 2.05 on page 5, requiring the Secretary of State to compare the county's number of registered voters to the number of people eligible to register. That was part of the out of bounds resolution. How many ineligible people voted in the last election?

**Senator Hughes:** I don't know the answer to that.

**Senator Eckhardt:** Neither do I. I do know, as Senator Whitmire pointed out, that the criminal justice impact statement showed that maybe 40, I think it did say 45 people were accused from 2018 to 2020 and less than half of them were successfully prosecuted. I don't know how many of those were prosecuted for being ineligible and voting anyway, there was a very high-profile case out of Houston I'm aware of. But other than that, I don't know.

**Senator Hughes:** Believe that's right. And again, the protections in this bill are aimed not at voters so much as vote harvesters and folks who would try to take advantage of voters, try to coerce, unduly influence, mislead voters, steal their votes, that sort of thing.

**Senator Eckhardt:** So, this provision, 2.05, is really about ineligible and eligible people, though. Correct? It's to compare the county's number of registered voters against the number of people eligible to register. How do you determine the number of people eligible to register in a county?

**Senator Hughes:** So, voting age population—

**Senator Eckhardt:** Umh hmm.

**Senator Hughes:** —is one, of course, you know, you know this, one measure of that. Or that's the one I've seen and a lot of the literature, and that's what I think, so voting age population gives you a good idea of folks who are eligible or registered to vote. That's one way.

**Senator Eckhardt:** That is one way. Where do you get that data?

**Senator Hughes:** That's Census, usually Census data. And, of course—

**Senator Eckhardt:** In an American Community Survey?

**Senator Hughes:** There you go. And, of course, as you know in between those decennial Censuses, there are estimates that people rely on. Decennia— is it decennial Censuses or decennial Censi, decennial, between the, every time they do that count.

**Senator Eckhardt:** I got you.

**Senator Hughes:** Thank you.

**Senator Eckhardt:** So, we've already determined that, you know, we've gone back and forth a lot on counties that, any counties that you're aware of that claim 100 percent voter registration and then Senator Bettencourt very helpfully pulled up a really old *Houston Chronicle* article about small counties, which in all probability, I'm speculating here, but I think it's probably a pretty decent speculation, that their voter rolls were paper voter rolls and had dead people on them. Which would explain having a higher number than live and eligible, but I'm not even going to go there. Let's talk specifically about how this provision punishes high accuracy and high percentage counties like Travis County for instance. Travis County has an above 90 percent voter registration, has an excellent percentage.

**Senator Hughes:** Yes, good.

**Senator Eckhardt:** So, if the Secretary of State comes up with a number of people eligible to register in Travis County, what do you suppose the error rate, or the efficiency rate, on that calculation is going to be considering the fact a very high percentage of Travis County residents are students and they're moving in and out of the county on a semester basis. They may register here and then they may move home, and your bill, of course, requires, and I'm happy for this, that if they move home and they register there, you immediately transfer the registration. That's the benefit of the statewide, and I recognize that benefit of the statewide registration program.

**Senator Hughes:** Well, thank you, Senator. Thank you.

**Senator Eckhardt:** But how do you get an accurate estimate of the numbers of eligible Travis County, those eligible to vote in Travis County when you have a highly mobile student population and 184 new people moving here daily?

**Senator Hughes:** Well, Senator, I'm glad you brought it up because Travis County does have an impressive voting registration rate. And so, I don't think there's any evidence that Travis County has ever been at 100 percent, and please correct me, you would know, I may be walking into a trap. You could tell us if they have been, I don't think they have. But as you know, this just triggers a process. And so, if the number indicates that there are more voters than eligible voters, or that they're exactly equal, they'll be down to one person, then it begins a process and it says when that happens, the county refutes in writing that the number of registered voters is equal to or greater than the number of people eligible to register to vote in the county. And so, Travis County will be able to demonstrate what you just described to us and so—

**Senator Eckhardt:** So, let's say—

**Senator Hughes:** —so that's, so that's important. It starts a discussion.

**Senator Eckhardt:** —so Travis County is very successful at registering voters. This punishes them and this is how, if Travis County is, say, at 90 percent voter registration, we have a highly mobile population and the Secretary of State comes back and says, oh, no, you are at 100, or maybe 101, and so we're going to need to audit you. And the Travis County elections administrator, who in our case is the county clerk, refutes that and says, no, we're not, we're at 97. By the act of refuting the county clerk still, even if she's right, even if the Secretary of State ultimately agrees that the discrepancy is explainable, the county clerk has to take a class, and the Secretary of State, while they're reviewing and auditing the discrepancy, will post notice that Travis County Elections Division is being audited for elections fraud. So, if we're punishing officials who are high performing in getting people registered to vote by making them take a class and posting public notice that implies fraud, even when they've done nothing wrong. How does this increase integrity in our voting system?

**Senator Hughes:** Well, I see what you're asking, and if I'm reading this correctly, one of the requirements you mentioned, publish notice that the county is undergoing an audit under this subsection, and so to make sure I'm clear, this subsection is about voter roll maintenance. So, I don't think it would allege fraud, I may, now if I got it wrong you tell me, I don't think it would, it would allege voter fraud, but it would say an audit under this subsection and that's just going to be on the Secretary of State's website. So, I don't think that's what it says.

**Senator Eckhardt:** It very clearly says that the Secretary of State must post notice that they are under an audit. And I think that you would agree with me that the implications of being under an audit is that you're doing something wrong.

**Senator Hughes:** Well, Senator, it's an audit under this subsection, so it's pretty narrow, it's not some kind of a broad, sweeping grand jury process. It's an audit under this subsection, just about this one provision. And respectfully, Travis County is on top of its game and would be able to refute the problem if the numbers weren't there.

**Senator Eckhardt:** And during the process of refutation, the County Clerk would have to take, would have to take a class and be under notice for the world that they were being audited. And I would suggest to you that any of the counties, like Brazos, Lubbock, or McLennan that have a high, mobile student population and any of our major metropolitan areas that are really showing incredible innovation at getting people registered to vote will be punished by this section that was not vetted, that was part of the expanded scope of this bill, that the House did not deliberate, and that the Senate is only now getting to deliberate after seeing it for the first time.

**Senator Hughes:** Well, Senator, I think as far as the training course required here, and I think this is helpful, if there's some reason why the Secretary of State system is showing a different number than the county system, this says the registrar, the county registrar attends a training course developed under this subsection. That's going to help shed light on why the numbers aren't matching up because, again, it's tied to this subsection. It's not a broad investigation or a broad training course, it's just about this subsection.

**Senator Eckhardt:** At the end of the day, this bill is really troubling to me because it does smack of a persistent mythology that county election officials are corrupt. And, in fact, the foundation of this entire legislation is built on a fabrication. By any metric the 2020 elections in Texas were the most successful in our state's history. We registered more Texans than we have ever registered before. We set turnout records for both parties, Republicans and Democrats. We reached people we had never reached before, people who had never been enfranchised before went to the polls and made their voice heard. We had next to no fraud. And that's been documented at the federal level and the state level, as well as corroborated at the local level. And we did this in the middle of a pandemic, when people were literally afraid for their lives. This was remarkable, and if anything we should be building on that innovation that made the 2020 election cycle so incredibly successful. But instead, you're rewriting the Election Code and the majority party in this building is using a surgical strike against every single method that we found that was so successful, resoundingly successful, at registering every Texan, Republican and Democrat, and particularly Texans of color who live in urbanized areas. And yet this bill is rolling it back and it's trumpeting to the world a false narrative that our elections administrators and election workers are suspicious, shady, need to be surveilled, need to be overseen, and need to be punished. And that breaks my heart. It's one of the reasons why I came here, this mythology and this continual narrative that we in this building know better and that the people at the local level do not, that they are at least incompetent, if not corrupt, and we need to tell them what to do and we need to punish them when they don't do it. Thank you for answering my questions.

**Senator Hughes:** Well, thank you, Senator.

**Presiding Officer:** Senator Gutierrez, for what purpose?

**Senator Gutierrez:** Just a few questions.

**Presiding Officer:** Do you yield, Sir?

**Senator Hughes:** Of course I'll yield for questions.

**Presiding Officer:** Alright.

**Senator Gutierrez:** You know, Bryan, I, my goodness, how do you follow that, and Boris Miles, Senator Miles and Senator Whitmire? I was leaning on my chair over there thinking to myself, Bryan Hughes is a cyborg, like a machine, you just keep going. And it was like God brought down this epiphany on me and I saw my name plaque on there, on the back of the chair, heck, I didn't even know it was there. Did you know that you had a plaque on the back of your chair?

**Senator Hughes:** I didn't know it when I first got here, somebody had to point it out to me. Didn't have those over in the House.

**Senator Gutierrez:** I thought to myself, you know, this is a big deal.

**Senator Hughes:** Pretty neat.

**Senator Gutierrez:** Pretty neat. This kid from the west side of San Antonio, did you know I didn't speak English in the first grade?

**Senator Hughes:** I did not know that. We haven't talked about that. I didn't know that.

**Senator Gutierrez:** Somehow I developed this accent, I don't know where that came from. But pretty neat. I didn't cheat to get here, you didn't cheat. You didn't. Right?

**Senator Hughes:** No, Sir.

**Senator Gutierrez:** And I didn't cheat.

**Senator Hughes:** No, Sir.

**Senator Gutierrez:** And I know none of these people cheated. Because that's what this thing is about. Right? It's about some folks are cheating. Right? According to you and of some other folks in the room.

**Senator Hughes:** According to testimony before the State Affairs Committee and the select committee on election integrity and the House Elections Committee, yes, Sir.

**Senator Gutierrez:** I had a Republican DA back in the day, her name was Susan Reed, real nice lady, real nice lady. She did an investigation on voter fraud, the only voter fraud was she found was two American citizens claiming to be Mexicans, nationals, to get out of jury duty. Really interesting. Republican district attorney. I wasn't going to bring this up, and the new me, the senatorial me, isn't going to get into names at all. I didn't think that this was some burning problem in Mineola, but apparently it is because you mentioned that there's two Democrats that were picking at each other and got indicted, or one got indicted because the other one said, oh, this guy did this. Right?

**Senator Hughes:** Yes, Sir. Not in, not in my hometown but in my district in the neighboring county over in Gregg County. Great folks, great county, and the County Commissioner is under indictment, happens to be a Democrat, happens to be African American. And the complainant happens to be a Democrat, happens to be African American. Of course—

**Senator Gutierrez:** Well, that's fair—

**Senator Hughes:** —these rules are color-blind, apply to everybody.

**Senator Gutierrez:** —and that's fair, but that's also sometimes the gotcha nature of what we do to get to where we are. I got you. Sometimes it's the other guy saying, I got you, and sometimes it's unfounded. Right? He hired Mary the vote hauler, he must be the bad guy. There's three Republicans, by the way, we don't need to get into any names because I don't need to go there, that hired a vote hauler that our former colleague, yours and mine, Ken Paxton just indicted, took the case out to Kerr County, God knows why. Republicans.

**Senator Hughes:** Well, there've been, there've been claims on—

**Senator Gutierrez:** So, it happens.

**Senator Hughes:** —Republicans and Democrats. You bet.

**Senator Gutierrez:** But your contention—

**Senator Hughes:** Absolutely.

**Senator Gutierrez:** —your contention, I'm going to give those Republicans the benefit of the doubt that they hired this gal to hand out pins, keychains, and calendars. I'll let that case flow through the system. I wasn't going to talk about it, and I think that that's about where we need to go with it. And I bring it up only to show that what we are doing in this legislation, not only is there criminality that is based on inferences, and I know you are probably one of the smartest lawyers I have ever met, but I also know you have not done a whole lot of criminal law.

**Senator Hughes:** That's right. Don't have much experience in criminal law.

**Senator Gutierrez:** Is this a rebuttable presumption, a rebuttable inference, the inference on page, oh goodness gracious, I knew I had to be prepared for this.

**Senator Hughes:** So, in the voter ID provision if—

**Senator Gutierrez:** Oh, it's on page 40—

**Senator Hughes:** —if on the mail ballot application—

**Senator Gutierrez:** Yeah.

**Senator Hughes:** —you put your driver license number or your state ID number—

**Senator Gutierrez:** No, no, no, no, Bryan.

**Senator Hughes:** —okay, that creates a presumption that the signature is valid.

**Senator Gutierrez:** No, Bryan. That's not what I'm talking about. There is an inference that says that if you hired this person to do something else, if you hired the person to do something else, the inference is that you've hired her to harvest votes. Do you know what I'm talking about?

**Senator Hughes:** I'm looking for the—

**Senator Gutierrez:** Page 45, in this section, line 26, Section (f), in this section, compensation exchange for vote harvesting services is inferred if a person who performed vote harvesting services for a candidate or campaign solicits, receives, or is offered compensation from the candidate or campaign directly or through a third party for services other than vote harvesting. How the hell is that fair?

**Senator Hughes:** Well, so if the campaign hires someone—

**Senator Gutierrez:** Umh hmm.

**Senator Hughes:** —for vote harvesting but then calls it something else, that means they cannot evade the law. That's how I read it, but you help me, I don't know—

**Senator Gutierrez:** No, that's how I read it, too.

**Senator Hughes:** —okay.

**Senator Gutierrez:** But how is that fair from a criminality standpoint, where we have elements of crime, now we got some inference on maybe an assumption. So, in this instance, those Republican candidates that may have hired this gal to give away pins, keychains, and calendars to voters now, and I'm giving them the benefit of the doubt because unfortunately for them the evidence came out, it's one of those gotcha things on video, came out on NBC affiliate. And then our colleague Ken Paxton indicted the gal, and I hope those other folks have the defense at least that they hired her for pins, keychains, and calendars. I say pins, keychains, and calendars because when I was a kid I used to do that telephone marketing stuff and I used to sell pins, keychains, and calendars. But that's sometimes often what we do in our campaigns. Right? Put our names on them. But under your bill here, if you, God help us, if we hire someone to distribute literature, a baseball cap, a T-shirt, and that gal goes off and does something else for another candidate because sometimes these people work for a couple different candidates. Right? God help you if that person is doing something illicit, because in your bill this fact pattern, these people, these Republican candidates, if this happened post-September, this indictment, those candidates would be guilty of a third degree felony. Because—

**Senator Hughes:** Well, let me be—

**Senator Gutierrez:** —the law of parties applies. Right?

**Senator Hughes:** —let me be clear, Senator, so that, so that we're seeing this the same way. Anyone, Republican, Democrat, Libertarian, Independent, anyone, any person is subject to the provisions of this Act. And I want to make sure we're clear, for the definition of ballot harvesting it requires a number of specific elements. It's not just canvassing, it's not knocking doors, it's not anything like that. But if you interact in person with a voter and this involves an official ballot, application for ballot by mail, or mail ballot, and your interaction is to influence that voter for a particular candidate or measure, and you're paid, only then, only then would ballot harvesting be triggered. And I'm sure we're on the same page but I want to make sure—

**Senator Gutierrez:** Well, I'm sorry, but that's wrong.

**Senator Hughes:** —I may not have said that right.

**Senator Gutierrez:** I'm sorry, but that's incorrect.

**Senator Hughes:** Okay, well, help me out.

**Senator Gutierrez:** Page 45.

**Senator Hughes:** Yes, Sir, I got it.

**Senator Gutierrez:** Section (f).

**Senator Hughes:** I beg your pardon?

**Senator Gutierrez:** Line 26.

**Senator Hughes:** Okay.

**Senator Gutierrez:** Sub (f).

**Senator Hughes:** Yes.

**Senator Gutierrez:** It says in this section, compensation in exchange for vote harvesting services is inferred, is presumed, assumed, however you want to call it, if a person who performed vote harvesting services for a candidate or a campaign solicits, receives, or is offered campaign from the candidate, campaign directly for services other than vote harvesting services. So, if you hire Mary the vote hauler to go hand out some signs and she just happened to do something illegal—

**Senator Hughes:** Senator—

**Senator Gutierrez:** —that's why I'm trying to give your friends the benefit of the doubt here because I actually think that the Republican folks that hired this gal, there was one Democrat, too, I actually think that in about one, two, about three of the people, three of those instances, I believe she was just handing out stuff. One of them, I'm not so sure, because he sure did pay her a lot of money.

**Senator Hughes:** So, just to be clear, this is not a question of the person who just does something illegal, but the section you just read uses the term vote harvesting services and that's that narrow definition I was reading before. And it's on page 45, starting at line 2, vote harvesting services means in-person interaction with one or more voters involving an official ballot, ballot by mail, or application for ballot by mail, intended to deliver votes for a specific candidate or measure. So, I want to make sure, the definition you read about the inference, it's still tied back to the definition of vote harvesting services which is pretty tight.

**Senator Gutierrez:** I guess you and I are, I guess you're not quite understanding me.

**Senator Hughes:** Okay.

**Senator Gutierrez:** Maybe I'm not—

**Senator Hughes:** I'm trying—

**Senator Gutierrez:** —explaining myself.

**Senator Hughes:** —I'm really trying. I'm sorry, go ahead.

**Senator Gutierrez:** It's okay. It basically says here if I hire someone to hand out my T-shirts or my calendars or my cap, and that person also is vote harvesting, then it is a rebuttable presumption that I have to refute. And all of a sudden I'm guilty of this. So, I guess what I want to tell you is watch out who you hire, because to hand out your



T-shirts, because this very, it's not vague at all. I've never seen a criminal section, a criminal statute have a rebuttable presumption of this nature. And quite frankly, it's a third degree felony.

**Senator Hughes:** Well, Senator, I want to be clear. That inference is only on the one element, the compensation. The other elements still have to be proven, and again, you know criminal law and I don't, but I suspect if you were to hire someone to perform an illegal act—

**Senator Gutierrez:** Oh, no, no, no.

**Senator Hughes:** —but in fact you cast it as, I don't mean you, you the, me, let's say I hire someone to commit an illegal act but I couch it as something else. So, I can't hide behind that and if, I think that's the idea here.

**Senator Gutierrez:** Yeah, I get it.

**Senator Hughes:** You can't just set up a straw man and get away with breaking the law.

**Senator Gutierrez:** I get it but that's not what the language says. The inference is that you hired them to do an illegal act.

**Senator Hughes:** The inference is—

**Senator Gutierrez:** The inference is—

**Senator Hughes:** —only inference is on the compensation element only. The others still have to be proven.

**Senator Gutierrez:** Yeah. The inference is that you hired them for an illegal act. So, are we done with this, by the way? Is this it, is the end of the line for voting because you and I, you have been here for a lot longer than me. In 2009, I arrived and, boy, we had voter ID in '09, the great big chub in the House, 2011, voter ID part two, 2013, more voter stuff, '15, so on and so on. Is this it? We done?

**Senator Hughes:** Well, Senator, I don't know if the voters are going to send me back. But I hope whoever is here will listen to the voters and if there's testimony before the Legislature, if there's evidence that there are problems in voting or in transportation or education or in anything else, that the Legislature will come back and try to address those problems.

**Senator Gutierrez:** I know that the fine folks of Mineola are going to send you back because you're a very fine person. But what we're trying to do here today and what we try to do every day is find the temporal truth. And the temporal truth about this is that some folks didn't like the outcome in Houston, Texas. So, what I'm getting at is when we do the retrofitting and we get the great machines in Houston, Texas, we have some basic foundational principles here as Americans. Cicero said something, you brought this to my attention earlier, boy, it was so, you said something about Cicero, and I started looking because I used to love my Roman history. And I pulled this up. And so, he said something about government, right, he said the budget should be balanced, you and I can both agree on that, the treasury refilled, public debt reduced, the arrogance of officialdom tempered and controlled. We do have a lot of that in this place sometime, from time to time, not anybody in this room by the way. And the

assistance to foreign lands curtailed, lest Rome be bankrupt. And here's the best part I like, freedom, freedom is participation in power. What does that mean to you? Freedom is participation in power.

**Senator Hughes:** I think that means that the government works for the people, and to be truly free the people have to have a say, have to have a hand, have to have a voice. And again, I'm no scholar as evidently, evident to everyone—

**Senator Gutierrez:** You are far—

**Senator Hughes:** —that's what that means to me.

**Senator Gutierrez:** —you are a scholar. Because Cicero was around when who was around? He was a senator, right? And who was there, who killed him, first off?

**Senator Hughes:** Read about it. Read a little bit about it but I'm not, I'm not an expert, I'm a business major.

**Senator Gutierrez:** Who killed him?

**Senator Hughes:** You'd have to tell me.

**Senator Gutierrez:** Mark Antony killed him. Why'd he kill him?

**Senator Hughes:** Go ahead, I—

**Senator Gutierrez:** Because he wanted a revenge for Caesar. Right?

**Senator Hughes:** Yes, Sir.

**Senator Gutierrez:** And Caesar, he got a little ahead of himself and he became a dictator. Right?

**Senator Hughes:** Senator, that's what I've read.

**Senator Gutierrez:** Cicero, freedom is participation in power. Freedom, participation, voting, voting is power, it's your personal power.

**Senator Hughes:** Sir, yes, Sir.

**Senator Gutierrez:** And so, if we retrofit all the machines in Houston and getting people to drive through a tent or a parking lot or whatever, if we get the good machines, are we okay with them doing the drive-through thing then? Do we change the law next session? I'm just wondering.

**Senator Hughes:** I hope we listen to the folks back home. And if there are problems, I hope we address them. And, of course, technology continues to improve, these voting machines we have today are not what they had 10 years ago or 20 years ago, but it's an ongoing process.

**Senator Gutierrez:** I'm going to not quite get off my soapbox, but now I'm going to ask the very smart questions that the staffers send us because those are the really good questions.

**Senator Hughes:** Those tend to be the best ones.

**Senator Gutierrez:** They're not all the smart-alecky stuff that we do. But it's good stuff. On page 45, 46, Senate Bill 7, and 46, SB 7 says compensation for vote harvesting services inferred if a person who performed the vote harvesting services for a candidate or campaign solicits, receives, or is offered compensation for the candidate or campaign. Correct? We talked about that, you just defined it earlier.

**Senator Hughes:** Yes, Sir.

**Senator Gutierrez:** My question's about the legal inference. Again, what is the legal inference and what is the consequences, the inference rebuttable, question number one. Is the inference rebuttable?

**Senator Hughes:** Yes.

**Senator Gutierrez:** Because it doesn't say anything about a rebuttable presumption. I said that earlier.

**Senator Hughes:** An inference is weaker than a rebuttable presumption as I understand it, but you tell me. That's what I thought it meant.

**Senator Gutierrez:** We already, we already suggested that you're a smarter lawyer than me. So, I'm going to assume, and at least for legislative intent here, we are, we have a rebuttable, not even a rebuttable presumption because an inference is weaker. So, in this situation this inference is rebuttable. Correct?

**Senator Hughes:** That's my understanding of the term.

**Senator Gutierrez:** Alright. Fair enough. How often are inferences of this type used in, we don't need to get into the whole criminal law question, we already covered that as well. This is some good stuff here, though. Is it fair to say that the new crime of vote harvesting applies only to in-person interactions with a voter?

**Senator Hughes:** Yes.

**Senator Gutierrez:** Yes. Alright.

**Senator Hughes:** Yes.

**Senator Gutierrez:** So, this is where you and I really have to figure this thing out. Because you and I are going to be knocking on doors here pretty soon. Right?

**Senator Hughes:** We're going to be what?

**Senator Gutierrez:** Knocking on doors.

**Senator Hughes:** Oh, yes, Sir. Yes, Sir.

**Senator Gutierrez:** So, if a paid campaign worker, some kid that works for you—

**Senator Hughes:** Yes.

**Senator Gutierrez:** —we do pay them from time to time, or volunteer, knocks on the door, the voter says I got my ballot today and the campaign worker says, I'd like you to vote for Bryan Hughes. This bill makes that a third degree felony. Doesn't it?

**Senator Hughes:** So, I want to be clear, I'm on page 45, vote harvesting services means in-person interaction with one or more voters involving an official ballot, ballot voted by mail, application for ballot by mail. And so, if there's interaction with the

ballot, if that voter says here's my mail ballot and our campaign worker says, oh, let me help you fill that out for Bryan, that's a problem. If they're getting paid and they're helping them with that mail ballot to influence to vote for me, they have committed vote harvesting under this statute as I read it. That's sure my intent.

**Senator Gutierrez:** Pretty dangerous. Pretty dangerous. So, let's get some intent going here. You're okay with your paid worker saying, vote for Bryan, but don't write anything on the ballot. You're okay with that part because that's legal.

**Senator Hughes:** Oh, Senator, I want to be clear, this is about interaction with one or more voters that involves an official ballot, ballot voted by mail, or application—

**Senator Gutierrez:** I know, I know, I know.

**Senator Hughes:** —so those specific documents. One of those documents, the ballot, application ballot by mail, or mail ballot, and so it's specific documents that have to be involved here.

**Senator Gutierrez:** Alright.

**Senator Hughes:** Not just talking about them, but those specific documents.

**Senator Gutierrez:** We got to clear this up. Mrs. Smith in Mineola. Alright? Your paid walker knocks on the door. Mrs. Smith? How are you today? I work for Bryan Hughes, he's a great Senator, we love him, we want you to bring him back. Oh, Mrs. Smith says, great, I got my mail-in ballot today. Mrs. Smith, we'd like you to vote for Bryan and put that on your mail-in ballot. Is that legal or illegal? Simple question, just want to verify.

**Senator Hughes:** What you described is not sound to me like it would qualify, but I'll tell you this, this bill passes, we're sure going to be carefully training, more carefully training our volunteers and our workers to make sure that we don't get close to the line.

**Senator Gutierrez:** You didn't give us a real straight answer there on whether that was legal or illegal because he didn't—

**Senator Hughes:** I—

**Senator Gutierrez:** —touch the ballot—

**Senator Hughes:** —I don't believe what you described would violate this statute.

**Senator Gutierrez:** Because your campaign worker's paid. Alright?

**Senator Hughes:** Yes.

**Senator Gutierrez:** Mrs. Smith identifies as receiving a ballot, just got it in the mail yesterday.

**Senator Hughes:** Yes.

**Senator Gutierrez:** Right?

**Senator Hughes:** That's right.

**Senator Gutierrez:** And your campaign worker says vote for my boss because he's the greatest—

**Senator Hughes:** That's right.

**Senator Gutierrez:** –he's a cyborg.

**Senator Hughes:** That's right.

**Senator Gutierrez:** He's a, he's a heck of an–

**Senator Hughes:** That's not right, but it's, but if they say that, that's the facts–

**Senator Gutierrez:** –William Jennings Bryan of the Legislature.

**Senator Hughes:** You're very kind.

**Senator Gutierrez:** You are. And you got some stamina, boy, let me tell you. I bet, let me stop there on that one. We have to work that one out, Bryan. Can't have our walkers knocking on doors, vote for Roland–

**Senator Hughes:** Right.

**Senator Gutierrez:** –and all of a sudden that kid just committed a crime by, and by the law of parties, so did I.

**Senator Hughes:** No, Senator, unless that is involving the official ballot, ballot voted by mail, or application, as you know–

**Senator Gutierrez:** I get it, but–

**Senator Hughes:** –those are documents–

**Senator Gutierrez:** –Mrs. Smith just said I have the ballot.

**Senator Hughes:** –those are specific documents. And if interaction involves one of those documents and that interaction is intended to deliver votes for you, for me–

**Senator Gutierrez:** That's correct.

**Senator Hughes:** –that would be a problem.

**Senator Gutierrez:** Alright. So, your campaign worker, let me switch it up on you, knocks on the door, Mrs. Smith says hello, vote for Bryan because we love him. And she says, I just got my mail-in ballot, but I need some help filling it out because I can't see too well. And he says, okay, and she says, I like Bryan, I want to vote for him. And he helps her fill it out. Did he just commit a crime?

**Senator Hughes:** Senator, I'm going to instruct people helping me not to do that. If that, if that person is there being paid by a campaign to deliver votes for that campaign and they're interacting with that mail ballot, that's a problem.

**Senator Gutierrez:** But it's not a crime now–

**Senator Hughes:** That's a problem.

**Senator Gutierrez:** –to do that. But right now that would be a legal, would that be legal today?

**Senator Hughes:** Right now under the law, you would have to report that you had, that you had assisted that person with their ballot. As you know, when you, current law, if you assist someone with a mail ballot, you've got to make a record of that, how

many people you helped. That is the law today, as you know, on assisting folks to prepare those ballot applications, those ballots by mail. There are already reporting requirements in place today—

**Senator Gutierrez:** Dean—

**Senator Hughes:** —that would, that would trigger that already.

**Senator Gutierrez:** —I hope the Dean is listening because he's going to be running a big election soon. And the world, the rules are changing. So, as you know, we, I think we've covered that, and you and I are going to have to figure out some kind of training course so we don't trip this one up because we're going to have all those little kids that work for us in federal prison or in state prison, I guess. That'll be a crummy place to have little kids be.

**Senator Hughes:** We want to make sure folks know what the rules are.

**Senator Gutierrez:** Boy, I tell you, man. So, you know, we have laws that sometimes become void for vagueness. You understand that, right, if it doesn't give notice to the public about which specific behaviors it prohibits?

**Senator Hughes:** That's right. It's giving notice, nothing more fundamental to due process than notice so folks know what the law requires so they can order their conduct.

**Senator Gutierrez:** In this one we already went through, vote harvesting services are in-person interactions with a voter involving an official ballot voted by mail, intended to deliver votes for a specific candidate or measure. Correct?

**Senator Hughes:** Those are the elements. Yes, Sir, I believe you read that correctly.

**Senator Gutierrez:** Let's break down the elements. Number one, in-person interaction, correct?

**Senator Hughes:** That's right.

**Senator Gutierrez:** With a voter?

**Senator Hughes:** One or more, that's right.

**Senator Gutierrez:** Involving an official ballot.

**Senator Hughes:** Or, that's right, that's part of it.

**Senator Gutierrez:** Intended to deliver votes.

**Senator Hughes:** Well, it's official ballot or a ballot voted by mail or an application for ballot voted by mail. But, yes, intended to deliver votes. Go ahead.

**Senator Gutierrez:** Aren't all those interactions between a campaign worker and a voter intended to deliver votes for that campaign or candidate? Aren't all those interactions—

**Senator Hughes:** They don't all—

**Senator Gutierrez:** —isn't that stuff we do?

**Senator Hughes:** No, Senator—

**Senator Gutierrez:** When we—

**Senator Hughes:** –Senator, let's be precise. Three documents, three documents are described there. One of three documents must be involved in the interaction or this is not triggered. Got to be the official ballot, application for ballot by mail, or a ballot by mail, those literal, physical, one of those three documents must be present–

**Senator Gutierrez:** I get it, and that's stuff we do every day. That's how I got here, but I didn't cheat. I knocked on the door.

**Senator Hughes:** Senator, I've never knocked on a door, and I've done a lot of door-knocking–

**Senator Gutierrez:** You don't block walk?

**Senator Hughes:** –I've never knocked on a door–

**Senator Gutierrez:** How the hell did you win?

**Senator Hughes:** –well, I'd like to finish the answer. I've never knocked on a door where the voter came to the door with a ballot in their hand or an application for ballot by mail. This is those three specific documents that are specifically described in the statute.

**Senator Gutierrez:** So, most of this are elements likely to, that apply to campaign behavior.

**Senator Hughes:** No, Sir, they're not.

**Senator Gutierrez:** Sure they are.

**Senator Hughes:** All the elements have to be there.

**Senator Gutierrez:** Okay.

**Senator Hughes:** All the elements have to be there for this to be triggered. It's not or, it's and.

**Senator Gutierrez:** I better not talk to any voters that have a mail-in ballot in their house, and they better not be blind or incapable of writing, or they better not need any assistance.

**Senator Hughes:** Someone who's not working for the campaign needs to provide that assistance.

**Senator Gutierrez:** Umh hmm. So, after the mail-in ballots are sent to the voter, aren't all the interactions with them involving their ballot? Let me go back to one thing here. We already know the behavior that we described a few times, already under this new set of, this new bill is going to be illegal, and it's behavior, quite frankly, that many of our campaigns do and quite innocently. What happens when the person gets the ballot and your paid campaign worker calls them on the phone?

**Senator Hughes:** That would not be an in-person–

**Senator Gutierrez:** Vote for Bryan.

**Senator Hughes:** –would not be an in-person interaction, would not be triggered by this statute.

**Senator Gutierrez:** What's the rational difference between those two behaviors? Still influencing them.

**Senator Hughes:** The interaction with the ballot, application for ballot by mail, or the ballot by mail.

**Senator Gutierrez:** You know, Bryan—

**Senator Hughes:** That's vote harvesting.

**Senator Gutierrez:** —I'll tell you what, after this bill, because we didn't cheat, you and I—

**Senator Hughes:** No, Sir.

**Senator Gutierrez:** —we didn't cheat. And you're a good, hard-working Member for the folks of Mineola and beyond. And I'm a good, hard-working, honest person from my district, and so is everybody in here.

**Senator Hughes:** Looks like it to me. Yes, Sir.

**Senator Gutierrez:** Everybody in here. But after this bill, God help us all. Might want to think about your retirement, Mr. President.

**Senator Hughes:** Thank you, Senator.

**Presiding Officer:** Senator Hall, for what purpose?

**Senator Hall:** Mr. President, I'd like to make a motion that the interchange between Senator Hughes and myself earlier with, on legislative intent be reduced to writing and included in the Journal.

**Presiding Officer:** Senator Hall requests that the Journal reflect the conversation between him and Senator Hughes. Is there objection? Hearing none, motion is adopted. Senator West, for what purpose?

**Senator West:** A few questions of the author.

**Presiding Officer:** Do you yield, Sir?

**Senator Hughes:** Of course I'll yield for questions.

**Senator West:** Senator, you filibustered this bill all night long.

**Senator Hughes:** I beg your pardon?

**Senator West:** You have filibustered this bill all night long. You've heard of the concept, voter suppression.

**Senator Hughes:** Yes, Sir.

**Senator West:** How would you define voter suppression?

**Senator Hughes:** Voter suppression, as I understand the term—

**Senator West:** Yeah. How do you understand it?

**Senator Hughes:** —would be an attempt to prevent people from exercising their right to vote.

**Senator West:** Okay. Does that exist in the State of Texas?



**Senator Hughes:** I'm sure there are, sadly, there are people who want to do that, all across the spectrum.

**Senator West:** How would you measure voter suppression in the State of Texas?

**Senator Hughes:** Voter turnout is probably the one measure. We can see how we're doing, right, in terms of people showing up and exercising their vote, using the franchise.

**Senator West:** Okay. Alright, that's exactly where I want to be, right there. If indeed you had measures that were passed by a governmental body that reduced or inhibited the turnout of vote, would that be an example of voter suppression?

**Senator Hughes:** Well, Senator, it would depend on whether we're talking about votes that were legal voters. Right? Folks who were—

**Senator West:** Okay.

**Senator Hughes:** —eligible to vote—

**Senator West:** Alright.

**Senator Hughes:** —registered to vote, following the rules.

**Senator West:** Right.

**Senator Hughes:** We agree on that?

**Senator West:** Right, we agree on that. So, but, if you end up getting rules put in place that were not in place when you ended up having a significant turnout of African Americans or Latino voters, but you put rules in place and as a result of those rules, there is some causal connection between them not coming back out again. Would that be a measure of voter suppression?

**Senator Hughes:** Well, Senator, I'm not an expert on the, on the legal standards, but I think you'd look at a number of factors. You would look at what caused that turnout to change. Was it caused by the legislation? You'd look at how broadly the legislation applied. Did it apply to everyone? Those are the, those are the factors I would look at. You help me if you know the answer, but those are the factors I would think—

**Senator West:** I've been trying to help you all along—

**Senator Hughes:** —I would think you would look at.

**Senator West:** —well, I'll tell you, pull the bill down and I'll help you out.

**Senator Hughes:** Alright. Other than that, how can you help?

**Senator West:** Okay. Alright. Would you agree that if there were methods that were employed throughout the state that increase minority voter participation and you had legislation that took away those methods, that that would be an indicator also that should be taken in consideration as to whether or not voter suppression occurred?

**Senator Hughes:** Well, Senator, it would depend on whether those methods also increase fraud, whether they resulted in almost 2,000 votes being unaccounted for. I would think you'd look at the whole picture and you wouldn't want to take anything in isolation, you want to look at the whole, the whole *res gestae*.

**Senator West:** Okay.

**Senator Hughes:** Did I pronounce that right? *Res gestae* is that the—

**Senator West:** Yeah, yeah.

**Senator Hughes:** Alright.

**Senator West:** You may want to explain that to everyone else, I understood what you were talking about.

**Senator Hughes:** Go ahead.

**Senator West:** Alright. If indeed there was a system that had problems, okay, not necessarily fraud but technical problems and things of that nature, but it turned out the voters in numbers that hadn't turned out before, a particular group, and then the system is thrown out as opposed to fixed, we fix problems all the time, don't we?

**Senator Hughes:** Well, we try.

**Senator West:** If we have a system, Senator Bettencourt, that where there're problems, what we try to do is attack those particular problems to fix the system. You take this mobile voting that we had in Harris County. You agree that it turned out a lot of votes. Correct?

**Senator Hughes:** I've heard, I've heard different things said about it. But—

**Senator West:** Is one of the things that you've heard said about it that it turned out more African Americans and Latino voters?

**Senator Hughes:** Well, I've heard that the polling places where that was provided for were in the places where more voters live, and so, again, there's a, respectfully, I think we want to have the whole picture and not just pull part of it out in isolation.

**Senator West:** No, and I agree—

**Senator Hughes:** I'm just trying to answer the question.

**Senator West:** —yeah, I'm talking voter suppression right now. Voter suppression. And so, it's my understanding, listening to Senator Whitmire and Senator Miles, that those particular voting locations ended up increasing the number of minority votes. Am I right about that, Senator Miles? Okay. And—

**Senator Hughes:** Well, Senator, there, go ahead.

**Senator West:** —that's what happened. And so, what this legislation is doing, instead of fixing whatever problems occurred and seeing whether or not that innovative solution to increasing voter participation can be replicated around the state, your legislation has decided to make it illegal.

**Senator Hughes:** Senator, as I understand the record, voter turnout, voter turnout increased across the State of Texas in 2020 among all demographic groups. Even, not just in Harris County, in those particular parts of Harris County where the county put these new procedures in place, so it was not limited to those areas. So, voter turnout increased among all demographics across the state. And so, the fact that within Harris County those, that increased turnout voted in this way because that's where those services were offered. That does not tell us that it had a net increase in turnout of those

voters. If that were the case, it would only have been in Harris County and only in those areas, but instead we saw it across the state, the increased turnout among demographics—

**Senator West:** But again—

**Senator Hughes:** —of all groups.

**Senator West:** —you are not understanding my argument to you. Am I correct?

**Senator Hughes:** Well, maybe I don't agree with your argument but I'm trying—

**Senator West:** Oh, okay, and that's fine. I want to, and you don't have to agree. But what I'm saying is, yes, there was turnout all over the state—

**Senator Hughes:** Increased turnout all over the state.

**Senator West:** —increased turnout all over the state. But do we not want to further increase the turnout throughout the state? And if there are novel approaches to doing that, then should we not look at those in order to continue to increase the turnout throughout the state? We should give counties optional tools to utilize in order to do that and make certain that when we do that, that we look at the model, the pilot project, because that's exactly what it was, somewhat of a pilot, that we look at it and make certain that we put in place those tools or those fixes necessary to make certain that there's integrity and accountability in the system. As opposed to saying, no, you can't do it. Because that's what your legislation is doing.

**Senator Hughes:** Well, Senator, as you know the Election Code has never provided for those things.

**Senator West:** I understand that. That's what I'm saying.

**Senator Hughes:** And so, the Legislature—

**Senator West:** Should we not be trying to, if indeed—

**Senator Hughes:** —could decide to do that—

**Senator West:** —right.

**Senator Hughes:** —but one county, one county doesn't get to do that and then make a decision for the rest of us. Especially, Senator, especially—

**Senator West:** I'm not saying that one county, I'm not saying one county—

**Senator Hughes:** —when there's no evidence—

**Senator West:** —what I'm saying—

**Senator Hughes:** —to that increase in turnout.

**Senator West:** —I'm talking about voter suppression—

**Senator Hughes:** There's no evidence increased turnout was because of those methods.

**Senator West:** —I'm talking about enhancing voting in the State of Texas by using innovative approaches. This was an innovative approach, a pilot project, innovative approach.

**Senator Hughes:** Innovative—

**Senator West:** Right.

**Senator Hughes:** —is one way to describe it.

**Senator West:** Okay.

**Senator Hughes:** If there's almost 2,000 votes unaccounted for, that's a problem. I wouldn't—

**Senator West:** Well—

**Senator Hughes:** —none of, would want folks from our communities, our districts, voting and then have their votes not be counted.

**Senator West:** Okay—

**Senator Hughes:** I know we agree on that.

**Senator West:** —no, no, we agree with that. Okay, if indeed there were 2,000 votes unaccounted for—

**Senator Hughes:** Well, I think it was 18 and change, I don't want to exaggerate, I'm sorry.

**Senator West:** —whatever it was. Surely, there's a way to fix that. We fix those things all the time, as opposed to just saying that we shouldn't, that it shouldn't occur across the state. But that's okay, if that's what your bill does, that's what your bill does. I suggest to you that if indeed that pilot project had safeguards on it, it would increase our voting in the State of Texas, not only in the African American and Latino community, but our entire community. Let me move on.

**Senator Hughes:** And I would just say, respectfully, there's no evidence in the record that that's the case. But I understand, I do understand the argument.

**Senator West:** Okay, that's fine. I want to visit with you about voter suppression to make certain that, on page 45 of your bill, again, you and Senator Hinojosa had a very good discussion about it. I just want, and you and I had a discussion about this, this kind of, it was kind of off the record. I need to understand voter harvesting, I want to visit with you about that, and it may just be me. When you say voter harvesting means in-person interaction with one or more voters, and I'm just going to, stay right here, this is the only part I don't understand, involving an official ballot. What do you mean by that?

**Senator Hughes:** Official ballot, so we're talking about the document whereby the voter casts their vote. And so, if you think about that official ballot, we think of that in, if we read it in the context of this list, that's talking about voting in person at the polling place. Because the next part deals with ballot voted by mail or an application for ballot by mail.

**Senator West:** I'm not talking about those, I understand that. And so, what I'm trying to understand is how is it that a person, if official ballot means the ballot when I go into the voting location, is that what we're talking about?

**Senator Hughes:** Yes, Sir.

**Senator West:** And so, you're saying a one-on-one with a person, interaction with one or more voters involving an official ballot. How can I have an interaction with one or more persons with an official ballot given the fact that you can't campaign within those voting locations?

**Senator Hughes:** Well, Senator, it can be the situation described to us where someone claims to be assisting a voter but in fact is not, and they're there with the voter, interacting with them, trying to influence their vote, paid to do that, involving that official ballot. That's, so this would be, hopefully, hopefully, this would be a narrow circumstance.

**Senator West:** So, then—

**Senator Hughes:** Hopefully, this would not happen—

**Senator West:** —what you're talking about then is a person that is within that 100 feet of, I think it's 100 feet, it's within the 100 feet of the ballot, of the voting precinct, that may very well be an undercover agent, so to speak, for someone inside the voting precinct that's directing someone to vote for Robert Nichols?

**Senator Hughes:** Or that, or that person who offers someone a ride, offers someone a ride to the polls, and then when they get there, they say, the driver says, hey, we need curbside assistance for these folks. Now, the voter is unsophisticated, doesn't know what that means, so the election worker brings that equipment out, then this person who offered the ride helps them and shows them how to vote and tells them who to vote for, and then the voter, not knowing what's going on, makes that vote. Then the voter gets home and they call and complain about that.

**Senator West:** So, that—

**Senator Hughes:** So, in that situation the official ballot would be involved, it'd be a personal interaction, they'd be influencing the voter to cast a vote for a candidate or a measure, and doing it for pay. Only if all those conditions were met would the official ballot, that first of the three list—

**Senator West:** Got it.

**Senator Hughes:** —so, hopefully, this is a narrow circumstance.

**Senator West:** I understand what you're saying then. Alright.

**Senator Hughes:** Either curbside or in the polling place if they met the person outside, say, let me help you, Ma'am. The woman doesn't know if they're official or work for the county and she's unsure, she's timid. This person preys on her, leads her inside, says, oh, I'm assisting this lady, takes her in, shows her how to vote. If he's doing it with that official ballot, being paid, influencing her to vote for a particular candidate or measure, then that would trigger this as well.

**Senator West:** One last question, because most of my questions have already been asked. What's the problem with people voting after nine o'clock?

**Senator Hughes:** I beg your pardon?

**Senator West:** You're banning people voting after 9 p.m.

**Senator Hughes:** Well, it's standardizing, the county can choose any 12 hours within 6 a.m. and 9 p.m. And that's to make it easier to find election workers and to find poll watchers. That's the general idea behind it. And again, there's, oh, go ahead, I'm sorry.

**Senator West:** Is there any indication that those jurisdictions that have had voting until midnight have had problems finding people to work the polls?

**Senator Hughes:** The only—

**Senator West:** And if so, if so, where?

**Senator Hughes:** —the only, the only 24-hour voting I read about was in Harris County in that one election that you might, I don't think Dallas has done that. You correct me if I got it wrong. But I read about that in Harris County, and there was testimony before the committee it was difficult getting workers and getting poll watchers there on that overnight, on those late night hours.

**Senator West:** It was difficult getting poll watchers?

**Senator Hughes:** Yes, Sir.

**Senator West:** And so, what you're saying is that candidates couldn't get someone to work as poll watchers during those hours? That's what you're saying?

**Senator Hughes:** More difficult than those hours like that. And, of course, you know the poll watchers—

**Senator West:** Okay.

**Senator Hughes:** —are the eyes and ears of the public—

**Senator West:** And so—

**Senator Hughes:** —they're there for Democrat, Republican, different candidates.

**Senator West:** —there was no issue getting people to work the poll, there was, there was issues getting volunteers to be poll watchers.

**Senator Hughes:** I read something about difficulty getting workers, but I'm not sure if that was sworn testimony or just some kind of a media report.

**Senator West:** Now, listen to me very closely.

**Senator Hughes:** Yes, sorry.

**Senator West:** Alright. We're talking about Houston. Right? I'm from Dallas—

**Senator Hughes:** Yes, Sir—

**Senator West:** —but I still like Houston.

**Senator Hughes:** —and Dallas didn't—

**Senator West:** I really do like Houston. Okay?

**Senator Hughes:** —that's alright. And I don't think Dallas—

**Senator West:** Hold up—

**Senator Hughes:** —you correct me. I don't think they did—

**Senator West:** –stay with Houston, stay with Houston–

**Senator Hughes:** –okay. We're in Houston.

**Senator West:** Alright. You said that there were people, listen to this, Borris, now that site was at what, 24-hour, that 24-hour site, Joan, was at Texas Southern, wasn't it? At Texas Southern? Okay. And you said you had poll watchers that testified, someone testified that they weren't able to get there.

**Senator Hughes:** I know there was at least one witness that testified about it.

**Senator West:** Okay. Who was the witness?

**Senator Hughes:** Senator, we can go back and look at the hearing, I don't–

**Senator West:** Let me ask the question.

**Senator Hughes:** –I don't remember the name–

**Senator West:** Was that witness an African American or Latino?

**Senator Hughes:** I think the witness may have been a Latino, but I don't want to stereotype as I–

**Senator West:** I'm not trying to stereotype–

**Senator Hughes:** –as I picture it and I believe–

**Senator West:** –I'm not trying to stereotype.

**Senator Hughes:** –I believe it may have been Latino, but I, we can go back and look.

**Senator West:** But you had one person say that, and as a result of one person saying that they, that they had problems volunteering at a location, we decide to ban those type of innovative approaches so people on the third shift, nurses, doctors, essential workers, refiners, people working at a refinery, could go to a location after they got off from work to be able to vote. We're taking one person–

**Senator Hughes:** No, Sir, that's not what I said.

**Senator West:** Well, okay. Well, who, were there other poll watchers?

**Senator Hughes:** I'm testifying, I'm testifying from memory–

**Senator West:** Okay, good.

**Senator Hughes:** –I remember one witness in particular, also remember written reports, that again, as you and I discussed before, Senate Bill 7 also provides that not just for election day but for early voting, the employer is required to let me off work if I have to work during the hours when the polls would be open.

**Senator West:** You know we can almost–

**Senator Hughes:** So, there are two pieces to it.

**Senator West:** –we can get, we can get to six o'clock. I'm trying to get this question out and get an answer to it. I'm, let me be very specific.

**Senator Hughes:** Alright.

**Senator West:** Judge Huffman, please, I'm going to object to relevance. Okay, alright. I'm talking about a 24-hour voting location.

**Senator Hughes:** Yes, Sir.

**Senator West:** I'm not talking about early voting.

**Senator Hughes:** I thought you—

**Senator West:** I'm not talking about applications—

**Senator Hughes:** —I thought you was concerned about folks who had to work. I'm sorry, I misunderstood.

**Senator West:** And so, these 24-hour voting locations in Houston?

**Senator Hughes:** Yes, Sir.

**Senator West:** I understand that you said the complaint was getting people to work those 24-hour voting locations. Is that what you just said a second ago?

**Senator Hughes:** I remember testimony about that, I remember reading about that. Yes, Sir, that's my recollection. We can go back and look, but that's my memory at this hour. I'm doing my best.

**Senator West:** You're not testifying. I don't want you to think you're testifying.

**Senator Hughes:** I'm doing my best, thank you.

**Senator West:** We're just debating. And that the person or persons, you said one person, was either Anglo or Hispanic, you don't remember one way—

**Senator Hughes:** I, Senator—

**Senator West:** —it was not an African American.

**Senator Hughes:** —I'm not sure, and I don't want to be accused of racial stereotyping, I'm just trying to remember, but that's my recollection.

**Senator West:** And so, based on what other factors other than that, did you make a decision to ban 24-hour voting locations?

**Senator Hughes:** Well, Senator, I haven't made any ultimate decisions, I'm just one vote in this process and—

**Senator West:** You're the author of the bill.

**Senator Hughes:** —if the Senate, if the Senate adopts this Conference Committee Report, and if the House does, if the Governor signs it, then that'll be the majority will of the House, the Senate, and the Governor.

**Senator West:** Keep on thinking, keep on thinking about that answer. Keep on thinking about an answer. You are the author, you're the author of the bill.

**Senator Hughes:** I didn't, so as far as the decision I made, I think we all recognize that the election policy is set by the state. Before and after Senate Bill 7, Texas still has more opportunities for in-person, early voting than many states, than the President's home state, than many other blue states. And I don't want us to lose sight of that. Texas has a robust early voting, in-person system.

**Senator West:** Sir—

**Senator Hughes:** And that's not going to change.



**Senator West:** –again, that's not what I'm talking about–

**Senator Hughes:** In fact, this bill would expand the hours for a number of counties in Texas.

**Senator West:** –not what I'm talking about–

**Senator Hughes:** Well, you were asking about people getting to work–

**Senator West:** –I was asking about–

**Senator Hughes:** –I answered that.

**Senator West:** –I was asking about the 24-hour voting locations.

**Senator Hughes:** Go ahead.

**Senator West:** That's all I'm talking about. I'm not talking about–

**Senator Hughes:** Go ahead.

**Senator West:** –let's, again–

**Senator Hughes:** I thought you said something about folks having to work. I may have misheard you.

**Senator West:** Okay, you did. And if I, it was probably the way I stated it. So, let me state it this way. Okay? I'm talking about 24-hour voting locations where someone on the night shift can say, ah, I can vote, I can participate in the democracy. Okay? It makes it convenient for me to vote. I can get off of my job as a nurse or refiner, essential other, some other essential worker and go to that location and vote. Your bill, that you're the author of, the Chairman of the Conference Committee Report, has taken away the ability to be able to do that. Correct? At a 24-hour voting location.

**Senator Hughes:** The ability was never there in the Texas Election Code. The code never provided for that. One county, in one election, tried that. It was an *ultra vires* action, the Election Code's not provided for that, and we, how about that, *ultra vires*–

**Senator West:** I like that.

**Senator Hughes:** –alright. So, one county without authority did that. And that's not how the Election Code works. That's what we're talking about.

**Senator West:** Alright, and it's great. But what I'm saying, don't you think that was a innovative approach to–

**Senator Hughes:** My phone says it's time to get up, let me turn that off.

**Senator West:** –okay.

**Senator Hughes:** I'm sorry.

**Senator West:** Don't you think that was an innovative approach, though? In order to increase the ability for people to vote in elections, that help drive the election results up and across Harris County and across the state, isn't that what this particular bill supposed to be doing?

**Senator Hughes:** I don't know what the motivation was for 24-hour voting. There's questions about where the locations were, and I don't know what was in people's minds. But I know that the arguments against it were that for election workers and for poll watchers it was difficult to get people out.

**Senator West:** Poll watchers or a poll watcher?

**Senator Hughes:** Yes, Sir. That's the testimony that I recall. And this was the arguments made in favor of the provision, we heard this from a number of Harris County folks, there was also testimony over in the House on the issue—

**Senator West:** What was the testimony?

**Senator Hughes:** On the same general topic. And I—

**Senator West:** A poll watcher? A poll watcher? One person?

**Senator Hughes:** Well, Senator, there was testimony about poll watchers from folks who work in elections and volunteers and folks who are involved in the process. As you know, anybody gets to come testify because we want to hear from everybody, hear from all sides.

**Senator West:** Okay, because I could've sworn I heard you say there was only one person who testified to that.

**Senator Hughes:** You asked me about a particular witness and I was—

**Senator West:** No, you said that there was a witness, and then I asked you what was the, whether the person was a African American or Latino, that's, that was the question. And you, and you said that you thought—

**Senator Hughes:** I said I think I remember a gentleman who may have been a Latino—

**Senator West:** Right.

**Senator Hughes:** —but I don't recall from his witness affirmation card—

**Senator West:** But you said it was only one witness. And my deal is this, and, you know, I'm trying to figure out what do the hours have to do with the, hours that a person vote have to do with fraud?

**Senator Hughes:** Senator, Texas has more days of early voting today and will after the passage of Senate Bill 7, without a county choosing to do its own thing. Texas has more than many states, more than many blue states, more than the President's home state, so to suggest that we don't have a robust, a robust early voting, in-person opportunity would not be a fair characterization of Texas law, before or after Senate Bill 7.

**Senator West:** I have not said a, you know, I'm asking you about a 24-hour voting and you keep on using the same narrative. That's fine, that's fine. I was going to ask the judge to rule on it, but I'm not going to ask the judge to rule on that one.

**Senator Hughes:** Thank you, Senator.

**Senator West:** Here's the situation. We know that many ethnic minorities that have to work, you know, the third shift, many doctors and nurses who have to work the late shift, were utilizing that 24-hour location or locations. It would seem as though, given that, that we would expand the opportunity to vote as opposed to contract the opportunity to vote. You say, and you're right, there's nothing in the law that says that you can do that. But there's nothing in the law that sits up and says that you can't do it, either. And I understand it was in litigation, no final decision made. Here's the deal, your particular bill is restricting the ability of citizens to vote. I think, Sir, in all due respect, that once the numbers are looked at in those particular voting locations, you're going to see a significant number of ethnic minorities utilize that particular method in order to vote. And if they did, would you not agree, here's the question, if they did and we find if those numbers to be correct, and you as the author and the Chairman of this report, decide to take that particular method out, then that can be construed as a voter suppression tactic. Could it not, Sir?

**Senator Hughes:** No, Sir. It could not.

**Senator West:** And why wouldn't it? Why? You don't think that could be considered as a weighty fact as it relates to voter suppression in the State of Texas, specifically in Harris County?

**Senator Hughes:** No, Sir. The evidence is that voter turnout increased across the state.

**Senator West:** No, I'm not talking, see, again, again, again—

**Senator Hughes:** Senator—

**Senator West:** —I'm talking, but you know as well as I—

**Senator Hughes:** —we talked about whether the increase was attributable—

**Senator West:** —you know as well as I—

**Senator Hughes:** —to this particular method of voting.

**Senator West:** —you know as well as I, I'm talking about a specific county. If you had, if you had taken away that ability in Harris County, is that not a voter suppression tactic—

**Senator Hughes:** No, Sir.

**Senator West:** —in Harris County when ethnic minorities, if it's determined that ethnic minorities utilize those particular locations at a higher rate than their Anglo counterparts?

**Senator Hughes:** Senator, the testimony about the ethnicity of the voters who used that method came from some political group. There were no official records made. Senator, there were, you were at the hearing. You met, well, I'm not sure if you were there then, but you were at the hearing, part of the hearing. There was no official record made, no official estimate made by the county or anyone else. Some political group was hired to come in and that's what they said. I don't know if that's true or not. I know that, I don't know the name of the group, just some political group. But, Senator, so I don't believe the record is even clear on that.

**Senator West:** Watch this. No political groups came in to talk to you about this bill?

**Senator Hughes:** Political groups calling themselves official would be a different matter. And so, I object to the characterization that there were official records or official estimates. As you know, the voter rolls are color-blind, they don't, doesn't say what my race is.

**Senator West:** That wasn't the question, Sir. That wasn't the question. You stood up and said a group came in and asked you, made these statements about the numbers. And what I'm saying, and they were a political group, my question to you, weren't there political groups that came in to you to help, to give input into this particular bill?

**Senator Hughes:** Everybody has a voice in the process.

**Senator West:** Okay, then. So, I mean, it's not unusual—

**Senator Hughes:** It's just not an official—

**Senator West:** —it's not unusual—

**Senator Hughes:** —estimate. It's not an official estimate of the breakdown of the voters based on demographics.

**Senator West:** —okay. So, the groups that came in to see you, were they in their official capacity? Did you take the information that they gave you to put in this particular bill, was it based on some study that they conducted?

**Senator Hughes:** There have been a couple representations that official numbers told us the demographics of folks who use different methods to vote, and there were no official numbers taken.

**Senator West:** Okay, you know, we can go back and forth, I know it's early in the morning and I know people want to go home and get back here early in the morning. Senator, you know, and I'm going to follow with what my colleague, my little brother here, Senator Miles said, and I want you to understand and appreciate this. We're knocking at the door. We're knocking. Guess what? Eventually, we're going to come in.

**Senator Hughes:** Thank you, Senator.

**(President in Chair)**

**President:** Question is on the adoption of the Conference Committee. Secretary will call the roll.

(Roll call)

**President:** Being 18 ayes and 13 noes, the report is adopted.