[BACKGROUND CONVERSATION]

CHAIRWOMAN HEWITT: Okay. All right, good morning, everyone. I'd like to call this meeting with governmental affairs to order. Glad to have everybody here today. I apologize for getting a little bit of a late start. All right, madam secretary, if you would, please call the role.

SECRETARY: Senator Hewitt?

SENATOR HEWITT: Present.

SECRETARY: Present. Senator Milligan?

SENATOR MILLIGAN: Here.

SECRETARY: Present. Senator Allain? Senator Foil?

SENATOR FOIL: Here.

SECRETARY: Present. Senator Tarver?

SENATOR TARVER: Here.

SECRETARY: Present. Senator Womack?

SENATOR WOMACK: Present.

SECRETARY: Present. Senator Reese?

SENATOR REESE: Here.

SECRETARY: Present. Senator Harris? Senator Price.

SENATOR PRICE: Here.

SECRETARY: Present. That is seven in a quorum.

Hearing Exhibit
PR-49
3:22-cv-00211-SDD-RLB

CHAIRWOMAN HEWITT: All right, great. Thank you. All right, the first order of business is approval of the May 26 minutes, members, you have that in your folder. Senator Milligan has moved that we approve the minutes of May 26. Is there any objection? All right. Seeing none, those minutes are approved. All right. Appreciate everybody being here today. It's, you know, as always, it's a busy day at the Capitol and we have lots of committee hearings that are competing with time from these legislators. So, you know, you'll see us going in and out some today as members are either having to go vote in other committees or present their bills. And so, you know members I appreciate everything you can do to kind of help support the work of this committee today. Let me invite Representative Edmonds to kick us off. I know that you have several bills, representative. Which one would you like to start with today?

REPRESENTATIVE EDMONDS: Members, we can start an order with HCR-3.

CHAIRWOMAN HEWITT: HCR-3. Whenever you're ready.

REPRESENTATIVE EDMONDS: Thank you, members. We formed the Medicaid Oversight Committee and in doing so, the only thing that we left out when we did that is we couldn't provide the opportunity. When members

could not be present, we could not provide a proxy and that ended up being an issue a couple of meetings so we're just adding the proxy from the speaker and the president.

CHAIRWOMAN HEWITT: All right. Any questions from the Committee? All right, Senator Milligan moves favorable on HCR-3. Are there any objections? All right, seeing none, we'll report HCR-3 favorable. All right.

REPRESENTATIVE EDMONDS: HCR-81.

CHAIRWOMAN HEWITT: HCR-81, yes sir, whenever you're ready.

REPRESENTATIVE EDMONDS: Thank you, Madame Chair, thank you, members. This basically works something that you guys have already done with Senator Cloud on a bill which is directing the legislative auditor to include processes regarding elections in the upcoming performance audit. What this does is every seven years, the auditor looks at each agency anyway and this is directing them to go through the policies, procedures and practices regarding integrity of our elections. So, if bill did not get through the process, the HCR would stand in and direct the auditor to work in that process. I'd be glad to answer any questions.

CHAIRWOMAN HEWITT: All right, any questions from the group on this? So, it doesn't conflict in any way. It's really a resolution working to do something similar to what Senator Cloud has done through legislation and that bill is still moving through the process I believe.

REPRESENTATIVE EDMONDS: It came out of Appropriations yesterday so it hadn't made the House floor yet but it would still way to governor's signature. The HCR obviously would not and so, this would still give us the opportunity to direct the legislative auditor which I have met with months ago on this subject matter and so, absolutely no problem with auditor. They're going to do a great job for us.

CHAIRWOMAN HEWITT: All right. Senator Price moves favorable or you have a question? Excuse me, Senator Price?

SENATOR PRICE: Yeah, quick question. As HCR, I know the bill is moving through. Will this HCR at that time if the bill is passed and signed not be effective or?

REPRESENTATIVE EDMONDS: They're not in conflict. They're almost identical.

[00:05:00]

I actually had an audit bill that I set aside to run. It's a very detailed election audit bill. And the reason I did that is because I thought the note might be out and so I went and met with the auditor and his team and this is what we came up with, what we thought would be the better answer. They're going to use their opportunity every seven years anyway so it was really a win-win.

SENATOR PRICE: Okay. And with HCR, isn't it only effective until 60 days after the next session?

CHAIRWOMAN HEWITT: I don't think so.

REPRESENTATIVE EDMONDS: I am not aware of that either. We've got it listed in the HCR that it is through the 2021-2022 physical year which is exactly what we need so that they will begin their work.

CHAIRWOMAN HEWITT: I mean, I know we've passed HCRs or SCRs in the past that require an annual report or origin request and annual report and they keep doing them I think until the legislator terms out and quits asking for the report.

SENATOR PRICE: Okay.

CHAIRWOMAN HEWITT: Okay. All right. So, what's the pleasure of the Committee on this agency are? Senator Foil moves favorable on HCR-81. Any objection? All right. We'll report HCR-81 favorable.

And we had of course, we had members of the Secretary of State's office here to provide information if necessary. All right, Representative Edmonds, your last bill is HB 456.

REPRESENTATIVE EDMONDS: HB 456. Thank you, Madam Chair and thank you members. This is an employee data protection bill and what it does is that this is in regards to tax exemption programs. So, like quality jobs and others where there is reporting processes. In fact, what I have done is I have made a copy of what is just a sample of what are the baseline instructions of what goes to each one of these departments as they report, how they are fulfilling the agreement of the tax exemption. If it's a certain amount of employees, certain amount of moneys that they dedicated to it, hourly wages, et cetera, this is sort of the - and I have made a copy of it that this is what goes to LED, this is what goes to the auditor, can have so all of these, this is no change to any of this. I think there's been some misunderstanding that I want to clarify today. There's no change to any of that. What this does is it affects a personal employee. In fact, we did amend it to say individual wages so if you are a regular employee of a business that gets a tax exemption,

we're not talking about the owner, we're not talking about the board, I'm talking about a regular guy that works the line or works in plastics or whatever he does. He may not even know that they have a tax exemption that they file for. He has no idea. He's just a regular employee. What this bill does, it says as a public record, you can't go get that guy's position. You can't get his wage. It has nothing to do with what they have to report. It doesn't mean that they don't fulfill the requirements of any of the tax exemptions or quality jobs programs, has nothing to do with any of that. This is just a protection for individual employees as stated on page 1 which says the department shall redact the following employee data. Just that person. And so, that's what this basically does. I know there's been a lot of discussion about quality jobs and all this is not - it has nothing to do with any of those programs. There's nothing to do for them or against them. This is strictly employees deserve to have their private information protected. The Louisiana Economic Development is required by law to verify companies are meeting all their tax incentive, contacts to ensure that the company's meeting all of its commitments. This doesn't change any of that. The

Department of Revenue, Louisiana Workforce Commission have protection in law from releasing individuals, personal information, this basically lines up with what we do with all of those other agents as it relates to individuals and their individual wages and this other information. So, again, this is a personal freedom kind of thing. This is a personal data issue alone and I hope that you will allow it to stand on that merit.

CHAIRWOMAN HEWITT: So, let me ask you in the bill, Representative Edmonds. I know you're talking about just everyday employees. Where does it say that in your bill?

REPRESENTATIVE EDMONDS: So, the first part is on Page 1, Line 13, the Department shall redact the following employee data submitted by an applicant. That's the first part and it lists the areas that are there.

[00:10:06]

CHAIRWOMAN HEWITT: But if I'm the president of a company, am I not an employee?

REPRESENTATIVE EDMONDS: You are but I believe you're held to a different standard in the application process. That is in the other documentation of what it takes to even receive the

tax exemption. A regular employee may not even have an idea that that company has or has not received anything from anybody. They're just an employee. They're just a regular hourly wage-type of worker.

CHAIRWOMAN HEWITT: Yeah, I understand wanting to not have the hourly wage folks' personal information become public record but doesn't this also prevent the CEO of the company from any of his information being public record because he's also an employee?

REPRESENTATIVE EDMONDS: Not that I'm aware pf but I do know that David's here at the table from the Baton Rouge Area Chamber and we also have a couple other folks and maybe we can dive into that and make sure that we're clear about what we are asking or what we're not asking.

CHAIRWOMAN HEWITT: Okay. One second here. I've got a question from Senator Tarver. Do you want to go now senator? Okay, Senator Tarver.

SENATOR TARVER: Are you saying that a person that receive a benefit from the general public and it is a benefit just like a salary of the president of the senate or the salary of a senator because we deal with public money. Are you saying that the State is giving this man a benefit? The people of Louisiana

given this man a benefit and we cannot know anything about his salary and we're giving them public money?

REPRESENTATIVE EDMONDS: I don't think I'm saying that at all.

SENATOR TARVER: But is he receiving indirectly public money?

REPRESENTATIVE EDMONDS: He is working for a business.

SENATOR TARVER: But is he receiving public money?

REPRESENTATIVE EDMONDS: He could be.

SENATOR TARVER: Yeah, okay. Thank you.

REPRESENTATIVE EDMONDS: He could be.

SENATOR TARVER: That is a benefit, isn't it?

REPRESENTATIVE EDMONDS: That business or that corporation makes that decision, not some every day employee.

SENATOR TARVER: But it's still money - it's the public's money. It's the people's money. Is that correct?

REPRESENTATIVE EDMONDS: That portion goes as an exemption to that particular business.

SENATOR TARVER: Okay. But also, that's the people exemption. Is that correct? That's the State of Louisiana exemption which is owned by the people.

REPRESENTATIVE EDMONDS: It is an exemption that we authorized through about four different programs. These particular businesses that make application and then after they make application, they have to report every one of the things you're asking for including every employee, every wage, every total earning, all of it.

SENATOR TARVER: I understand what you're saying.

REPRESENTATIVE EDMONDS: So, if this document goes to let's say LED, they would have all of that information but can a person go make a public record and say that Joe the plastic handler, he makes $9.25 an hour and made $31,000 last year, this would say, you can't go get that portion of a public record. You can get all the other information and our agencies all have to report every one of these issues including Joe, the plastic worker's money, they do have to give each one of these on the quality jobs, enterprise zone, industrial tax exemption and the retention and modernization tax credit baseline jobs. So, they still have to report every piece of every one of those information by category.

SENATOR TARVER: You can't go get John, just average and below salary?

REPRESENTATIVE EDMONDS: No, sir. They can now.

SENATOR TARVER: Well, even if they receive an exemption?

REPRESENTATIVE EDMONDS: If they receive the exemption now, we're trying to say that portion of a public record - why do we need Joe the plastic worker's hourly wage?

DAVID ZOELLER: If I may clarify, David Zoeller with the Baton Rouge Area Chamber. The exemption does not go to the individual directly. The exemption in the tax incentive is for the company and they get the exemption based on the number of jobs they have. So, it's directed toward the company.

SENATOR TARVER: Okay, it's direct towards the company, and basically, it's exemption so with the company, you can do business, the company will come here, it's a benefit. That's what it is. It's a monetary benefit.

DAVID ZOELLER: Yes.

SENATOR TARVER: And it's monetary benefit actually owned by the people of Louisiana. Is that correct?

DAVID ZOELLER: Correct.

SENATOR TARVER: Okay. And you're saying the people own it and the people don't have a right to go and get that person, any individual's salary - they

can get all of the salary they want to from a large range, but they can't say John Doe's salary, I want his salary. Is that what you're saying?

[00:15:05]

DAVID ZOELLER: Correct. And we're also saying that the incentive does not go to the individual. It goes to the company and we want to make sure the company's information is still available.

SENATOR TARVER: Well if it goes to the company, it goes to the individual. Let's be honest, you know?

DAVID ZOELLER: I would disagree saying it because it incentivizes the company to hire a position, the individual is whether that individual is there or another individual is there, it doesn't matter. It goes to the creation of the jobs.

SENATOR TARVER: But it goes directly - indirectly get to the employee. If the company get a benefit, the employee gets the benefit. Come on.

DAVID ZOELLER: I would argue that the company gets the benefit.

SENATOR TARVER: Well, you can argue all you want to. Okay.

REPRESENTATIVE EDMONDS: I do want to add back to this spreadsheet that on this baseline reporting, we are talking about the contact, the physical year, the

ID number, the employee name, the Social Security number, the hourly wage, the position, the hire date, the term date, I mean, it is extremely specific of what is required in order for them to remain certified with any one of these particular exemptions. So, this is a public record for an employee, not for what they still have to report to stay certified to keep their certification. Does it change any of that?

CHAIRWOMAN HEWITT: So, representative, you're saying this report is an example where this would have to be filled out for every single employee of a company that is seeking one of these four tax exemptions?

REPRESENTATIVE EDMONDS: Correct.

CHAIRWOMAN HEWITT: Okay.

REPRESENTATIVE EDMONDS: And if they make $9.25 an hour, it's listed. They have to do it with every employee.

CHAIRWOMAN HEWITT: I get that. What my focus is the owner of the company. I mean, if you are to prohibit all of this information from being public record for these four exemptions, then the public does not know anything about the owner because it's nothing. There's no name or the CEO or any of those

1 folks that perhaps are benefiting more directly from
2 the tax benefit. That information is also being
3 shielded from the public with this bill, is it not?
4 REPRESENTATIVE EDMONDS: I do not think that it
5 is but we would have to - I would certainly be
6 willing to work with you to make certain that's not
7 the intent of the bill. If there is a place that
8 we're redacting and you're thinking that's sort of an
9 overreach, I'm certainly willing, that's not the
10 intent. And I do not think that's what we've done and
11 I think we've studied it well enough to say that's
12 not what we've done, but I certainly would be willing
13 to work with you to make absolutely certain that is
14 not the intent of the bill.
15 CHAIRWOMAN HEWITT: I mean, it just says
16 employee. It doesn't clarify which employees so
17 whether it's the CEO or Joe the plastics guy, to use
18 your example, they are all shielded from public
19 record in this bill and I think anybody that gets a
20 paycheck from that company would be considered an
21 employee.
22 REPRESENTATIVE EDMONDS: So, again, I think we
23 would have to look at the details of what the
24 requirements are from whether it's quality jobs or
25 enterprise zone of what is required of them and if

we're overreaching, then you would be correct and we have to fix that.

CHAIRWOMAN HEWITT: Okay, you've got someone else here at the table. Would you like to say anything and introduce yourself?

RHONDA REAP-CURIEL: Rhonda Reap-Curiel with Cencor Consulting representing Lydia and Senator Hewitt. You are correct, and that the bill would - as it is currently written would not exclude owners. There is an ownership disclosure form that has to be submitted with applications. And if you wanted to work on an amendment to exclude those persons, then perhaps you should exclude the ones that are listed on the disclosure. The intent of the bill is to protect the every day employee, the W-2s that are there from 9-5, 8-5, whatever their shift is, from having their personal information revealed in a public record's request.

CHAIRWOMAN HEWITT: I get that.

RHONDA REAP-CURIEL: We would all respect that and while they may indirectly be receiving a benefit because they were hired by a company who did an expansion and is receiving a benefit for making that investment in jobs in Louisiana, it's really hard to say that they are personally receiving a benefit.

CHAIRWOMAN HEWITT: I get that. But I think the guys at the top of the company, it's a little easier to say that they are receiving a direct benefit from those tax programs, of course, depending on their compensation structure and the structure of the of the company, but I think that's what the public records folks are concerned about is that we have really no knowledge of who's, you know, leading these companies and who's getting the benefit of the tax exemption. We are not trying to get Joe, the plastic guy's hourly wage. I don't think that's what we want but what we are concerned about the guys at the top.

[00:20:00]

DAVID ZOELLER: Absolutely, and that's why we only redacted, certain forms that are submitted, not all of them. So, those names would appear in other places that we are not redacting currently or asking to be redacted.

CHAIRWOMAN HEWITT: Okay. All right, question from Senator Milligan.

SENATOR MILLIGAN: Thank you, chairwoman. Company CEOs, presidents, board of directors, officers, aren't all that information on them already required mandated by Federal Law?

DAVID ZOELLER: Yes.

SENATOR MILLIGAN: Okay, thank you. No further question.

CHAIRWOMAN HEWITT: All right. We've got several cards here I want to highlight. One is LED, Mandy Mitchell from Economic Development present, will provide information if requested and Mandy, I think I am going to ask you to come to the table and just talk about this a little bit. We have other folks here present, do not wish to speak, you know, Rhonda has been at the table. Jim Patterson with the lobby, present, does not wish to speak. [PH 00:21:03] Keeley Miller with One Acadiana present in support. Ileana LaDay with GNO Inc. present in support. David Zoeller who just spoke with BRAC, present. Will provide information. Welcome.

MANDY MITCHELL: Good morning, madam chair and members of the Committee. Mandy Mitchell, Louisiana Economic Development. Want to share some information with you all on this issue. So, as you all know LED administers about $400 million in exemptions and credits and rebates throughout the year, typically about 400 million per year for corporations that are providing jobs for our citizens and making capital investments. LED has been collecting information to verify compliance with our programs for decades and

not once have we released or had a breach of personal identifying information. Not once have we had complaints of this information being released to the public throughout the years of being audited. Not once have we had an audit relating to personally identifiable information. We've never been sued by an individual for accidental release or breach of their information. We've never been sued by an entity dissatisfied with the department's response on public records request on compliance information and for your knowledge that those public records requests are not received by LED very frequently. We receive public records request infrequently for the information pertaining to corporate compliance with our incentive programs and when we receive those, we handle them on a case-by-case basis with the entity making the request to make sure that we're striking the right balance by sharing the information needed by the entity to confirm compliance while at the same time, if it contains personally identifiable information, we go to great lengths to protect that information. The form you have as an example, I think it's the example for the industrial tax exemption program. So, it does vary, the information we collect according to what the program benefit is. So, for

quality jobs, we'll need the wage. Thank you. Yes, for quality jobs, we do need the wage because that benefit hinges upon how much they're paying the employee per hour, but if we get a request for that, we will redact that individuals name, the last four of their Social, the wage may be shown, but anything else that what trace it back to an individual is protected and redacted when we issue that information and we have, we believe in the law today, the ability to do that, there are a couple of statutes in the public records law that gives LED the ability to protect the information that is confidential in nature and information that's proprietary or trade secret information and they're also legally protected and recognize privacy rights which LED honors that are in the constitution in the state law. Also, further in the law because we do cross-check. In order to verify compliance, we cross-check with Department of Revenue, we also cross-check with Workforce Commission. And so, when we do those cross-checks any information that we are privy to is also protected to the extent of not being subject to subpoena the information contained by the Workforce Commission.

[00:25:00]

1 So again, I just wanted to make sure everyone
2 knows LED has been collecting this information for
3 decades and we successfully negotiate on a case-by-
4 case basis with entities that are requesting this
5 information, what information we disclose to them,
6 Enterprise Zone, for example, that one apart of that
7 incentive hinges upon where the company is located
8 and where the individual employee is located. So, we
9 do have to have their address. But if we get a public
10 records request, that information is redacted and we
11 feel the department by existing laws has the ability
12 to protect that information if we get a public
13 records request. So, I just wanted to sort of address
14 some of the questions and comments that had been
15 mentioned prior to me coming to the table and I
16 unfortunately didn't have an opportunity to present
17 in on the House committee but these are the facts as
18 to how LED is very protective and by the way, I've
19 talked to our legal team and we would go to court to
20 defend the way that we protect personally
21 identifiable information that we have in our
22 possession in order to verify compliance.
23 CHAIRWOMAN HEWITT: So, just to summarize, you
24 believe that current state law gives you the
25

1 authority to redact this information that the
2 representative is seeking to redact.
3 MANDY MITCHELL: Yes.
4 CHAIRWOMAN HEWITT: And protect again, those
5 folks, you need the information for the reasons you
6 stated for different programs because they're based
7 on wage data and things like that, but in terms of
8 responding to public record request, you believe that
9 current law gives you the authority to redact this
10 information already.
11 MANDY MITCHELL: Yes, and we haven't had an issue
12 for decades. And I mean, I've been at the department
13 for about nine years and I am sometimes involved in
14 public records requests in reviewing our response to
15 those. And so, we are certain to protect any
16 information, personally identifiable information that
17 would be sensitive and would expose an individual's
18 privacy. So, just wanted to make sure the Committee
19 knows the department takes its responsibility very
20 seriously.
21 CHAIRWOMAN HEWITT: All right. I appreciate that.
22 Okay, any questions from the Committee for Ms.
23 Mitchell? I've got several cards and opposition.
24 Kevin Hayes with the Press Association present in
25 opposition but does not wish to speak. Peter Robbins

1 Brown in opposition, does not wish to speak and Mr.
2 Scott Sternberg with the Louisiana Press Association,
3 present and would like to speak in opposition.
4 Welcome, Mr. Sternberg.
5 SCOTT STERNBERG: Good morning, senators. It's a
6 pleasure to be here this morning. It's also a
7 pleasure to have my son, George, with me over there
8 because daycare is closed today so—
9 CHAIRWOMAN HEWITT: I saw George. You look very
10 handsome I might add. I think you're the best dressed
11 gentleman in the building.
12 SCOTT STERNBERG: Well, speaker [PH 00:28:16]
13 Selter over there is keeping an eye on him for me so
14 we got to go.
15 CHAIRWOMAN HEWITT: Scott, introduce yourself
16 again for the record.
17 SCOTT STERNBERG: I apologize. Scott Sternberg,
18 Louisiana Press Association, general counsel. I have
19 been working on this particular issue for a couple of
20 years as it keeps coming up. I think that you heard
21 from LED what we kind of see as the crux of the
22 matter is that this is a solution without a problem.
23 You haven't heard from any businesses today that have
24 this problem. All you've heard firm our Chambers, due
25 respect to the Chamber, I'm on the board of the

Jefferson Chamber or I was until recently and LEBI and all these great Chambers do great work but other than the Chambers, you didn't hear from any businesses who say, I have this problem. And what we're really talking about here, most of this stuff is already exempt as LED just told you. What we're really talking about here is name, job title, wage. Those are the three things that really matter, right? Because we're talking about $400 million of public money and the question is, can we review name, job title, wage because although the aggregate amount of those salaries might be $3 million. One person might be making $800,000 and that's notable and interesting. Particularly, if someone is, you know, receiving this public benefit, as you said Senator Tarver. And so, the ability of the public to review these records is about accountability. We know that LED is going to review these records but the ability of the public to check on that new company that's moving into their area in Slidell or, you know, maybe a chemical plant on, you know, in some place that may be emanating some kind of are trying to change their what they're producing.

[00:30:07]

What this money is being spent on - senators, I'm an owner of my law firm and I am also an employee of my law firm, so I don't know what the owner-employee distinction is but as a lawyer, I can tell you that you can be an owner and an employee. I'm a business lawyer, I promise. So, the question is, you know, what are we trying to fix? I just don't see it. I just don't see it and I'll take any questions that you might have.

CHAIRWOMAN HEWITT: All right. Any questions from anyone of Mr. Sternberg? All right. I don't see any questions.

SCOTT STERNBERG: Thank you.

CHAIRWOMAN HEWITT: All right. The board is clear. I think I've read all the cards. Let's see, I do have some emails and you all do too in your folders in opposition. One from Joyce Thomas, constituent, in opposition and Michelle Suyay. Again, no specific title. I would assume a citizen of our state in opposition. Representative Edmonds, you're welcome to close on your bill.

REPRESENTATIVE EDMONDS: Thank you, madam chair, and I want to say I appreciate the good job that LED does and we appreciate their good work. This has nothing to do with anything that we think they're

1 doing a poor job. We just think this is a - and I'm
2 grateful for folks in that you've heard like Chambers
3 and others that Scott just mentioned that work hard
4 for economic development. Obviously, there are some
5 businesses that feel like that this puts them in the
6 possibility of a precarious situation. I think this
7 just cleans it up which is certain. Again, I make my
8 pledge as I always do. If there's something that we
9 need to do, we'll work on better legislation
10 throughout the process. I always give my word, I'll
11 keep my word but I appreciate you hearing it today
12 and I appreciate your favorable passage.
13 CHAIRWOMAN HEWITT: All right. Senator Tarver?
14 SENATOR TARVER: I move to defer.
15 CHAIRWOMAN HEWITT: Senator Tarver makes a motion
16 to defer. Is there any objection to that? Senator
17 Foil objects. All right. Madam Secretary, if you
18 would please call for the vote. So, a vote in favor
19 is to defer the bill. A vote against is keep the bill
20 alive.
21 SECRETARY: Senator Milligan?
22 REPRESENTATIVE HODGES: No.
23 SECRETARY: No. Senator Foil?
24 SENATOR FOIL: No.
25 SECRETARY: No. Senator Tarver?

SENATOR TARVER: Yes.

SECRETARY: Yes. Senator Womack?

SENATOR WOMACK: No.

SECRETARY: No. Senator Harris?

SENATOR HARRIS: Yes.

SECRETARY: Yes. Senator Price?

SENATOR PRICE: Yes.

SECRETARY: Yes. Senator Hewitt, sorry. It's a 3-3.

CHAIRWOMAN HEWITT: I'm sorry, representative. I'm going to have to say no.

REPRESENTATIVE EDMONDS: Thank you, madam chair.

CHAIRWOMAN HEWITT: Thank you. You know what, I voted the wrong way, didn't I? The vote to defer would be a yes. I'm going to vote to defer. I'm a yes. All right. I'm looking to see who else we've got here ready to present. All right, Mr. Pierre, would you like to present your bill? Representative Pierre, HB 351.

REPRESENTATIVE PIERRE: Good morning.

CHAIRWOMAN HEWITT: Good morning.

REPRESENTATIVE PIERRE: Thank you all for allowing us to be here this morning. Today, we have cheerful news. Hopefully, we can ask you guys to designate the song Southern Night by Alan Toussaint

as an official state cultural song. We moved really good through the House. Today, we bought Grammy Award winner, Terrance Simien here to answer any questions, any concerns you may have as it relates to the song.

CHAIRWOMAN HEWITT: Yeah, we're kind of expecting you to hum a few bars. You know, when I had my national anthem bill, they insisted that I sing the national anthem so—

REPRESENTATIVE PIERRE: Southern nights, have you ever seen the southern nights?

[00:35:02]

CHAIRWOMAN HEWITT: There we go. And I'm going to say you did a much better job than I did on the national anthem. You brought in an ace, representative. I see that.

REPRESENTATIVE PIERRE: I did. I think it's really important that we do have someone like Alan Toussaint as one of our Louisiana stones and what better person to be here today is our own Terrance Simien, Grammy Award winner, and we ask for your favorable passage.

CHAIRWOMAN HEWITT: All right. Trying to make sure, is this the right card? Sorry, that card did not make any sense to me, sorry. All right, Senator Tarver? Yes sir?

SENATOR TARVER: As long as Pierre is not a backup singer. I have to vote against your bill.

CHAIRWOMAN HEWITT: All right. Any other questions or comments? Let me double check and see do I have any cards on this? All right. Senator Tarver has moved favorable on HB 351. Are there any objections? Hang on. I do have cards. Okay, that's all right. It's still early. All right, we have several cards in support, representative, of your bill. Lieutenant Governor Billy Nungesser do not wish to speak, present and in support. Peter Robins-Brown with Louisiana Progress Action present and in support. Cynthia Suma with Music Industry present, in support, and Terrance Simien, sorry, I think these were both the same last names, Music Industry Grammy Award winner, and an awesome singer, present and would like to speak. Would you like to say a few words before we close this out?

TERRANCE SIMIEN: Well, I just want to say I've had the privilege of—

CHAIRWOMAN HEWITT: Introduce yourself again one more time for the record.

TERRANCE SIMIEN: Oh, okay. My name is Terrance Simien and thank you guys for allowing me to speak today and I just want to say that I've been touring

for over 40 years with my band and we've had the privilege of performing several times with the late Alan Toussaint, working with the late Alan Toussaint. And you could not find a better gentleman to represent our music, our state. Alan was a great artist who was in it into the rock and roll hall of fame, one of the few from Louisiana. He was also a great songwriter. I would say he's responsible for American music being the way it is today. I mean, he just contributed so much in his career, worked with people like Paul McCartney, Elvis Costello, Professor Longhair, Fats Domino, I mean the list goes on and on and on. And this song was written for Louisiana, for his love for Louisiana. And I think it just would be a fitting song for the state. A great song for tourism. Those people all over the world will know who Alan Toussaint is and was and know his work. I just once again want to thank you for your time today and hope that you pass the bill. Thank you.

CHAIRWOMAN HEWITT: Well, it looks like its prospects are very good I would say at this point. All right, thank you for those comments. Representative, thank you. Would you like to close on your bill?

REPRESENTATIVE PIERRE: Thank you, and I really appreciate you all hearing me singing back up today and I ask for your favorable passage.

CHAIRWOMAN HEWITT: I think you need to be practicing up. I'm still waiting for you to lead us in song. Senator Tarver has moved favorable on HB 351. Are there any objections? Then we will report HB 351 favorable. Thank you both.

TERRANCE SIMIEN: Thank you.

REPRESENTATIVE PIERRE: Thank you.

CHAIRWOMAN HEWITT: All right. Representative Goudeau, how do you prefer it be said?

REPRESENTATIVE GOUDEAU: Goudeau.

CHAIRWOMAN HEWITT: Goudeau. Thank you. Representative Goudeau. HB 315, which I think is to why we got the cards confused with 351. All right, representative, whenever you're ready.

REPRESENTATIVE GOUDEAU: Madam Chairman, thank you. Members, it's really a simple Bill and most of you seem to be able not to have kids at the age that I had mine and one of the issues that I had running for office is my kids were not allowed to attend my victory party.

[00:40:08]

They're not allowed to be participating in my photos and that's precisely it, it's a family photo. My son works with the Police Department at Lafayette or did at the time and my son was a captain at the Fire Department so I had to go back and crop him out of our photos to continue if not their department would penalize them for it so what this Bill is going to do is allow them to be in a family photo and also come to my victory party and participate on fundraising, things like that. They're not allowed to go door-to-door which is one of the things why I brought out this Bill last year. I was at to take that part out and I did and I called the ordinance office and they asked me to exclude their employees from it as well too with that Amendment so I did that as well. I'll open up with any questions.

CHAIRWOMAN HEWITT: All right so where does it specifically say that they can't go door-to-door in this?

REPRESENTATIVE GOUDEAU: It specifically states just the family photos and attending the events.

CHAIRWOMAN HEWITT: Okay. Yeah, I kind of remember seeing that but I'm having trouble finding that again. Okay so there's this is the - that's right. Support means attending campaign related

events and appearing in campaign, advertisements and photographs.

REPRESENTATIVE GOUDEAU: Correct and realizing it's a constitutional amendment. It passed the House in 1944 as well too so overwhelming support.

CHAIRWOMAN HEWITT: Okay, so this would be on a ballot, on a future ballot. The language would be do you support an amendment to allow classified civil service employees to support the election to public office of members of their own families? Okay and the definition of immediate family is that consistent with definitions and in other parts of State Law of immediate family like from the ethics definition of immediate family.

REPRESENTATIVE GOUDEAU: That's correct.

CHAIRWOMAN HEWITT: All right what about you know, families are all different now, right? We have blended families and in some cases we have you know, stepchildren or half brothers and sisters, would they be in the photo under your Bill?

REPRESENTATIVE GOUDEAU: That's correct. I also have a stepson.

CHAIRWOMAN HEWITT: They would be? I mean they're not specifically listed the way I read it in the language the way it's written.

REPRESENTATIVE GOUDEAU: Yeah, they would be immediate family. I mean I consider my stepson my son but they would be immediate family as well.

CHAIRWOMAN HEWITT: Okay. Would you be open to an amendment that would specifically list them, stepchildren and half brothers and sisters just to make sure that we accomplish your intent to do so?

REPRESENTATIVE GOUDEAU: I'm not opposed to that.

CHAIRWOMAN HEWITT: Okay. All right, I think Stef has an amendment to do that. Again we're trying to dot all the Is and cross the Ts and support what you're trying to accomplish here.

REPRESENTATIVE GOUDEAU: Yeah, that's fine.

CHAIRWOMAN HEWITT: Okay, I think the amendment is being distributed. Thank you. All right members, I'll offer Amendment 3137 which - all right, it says his step-parent, grandparent or step grandparent, his spouse or spouses' parent or step-parent we're trying to get all the steps in there so again, the intent is to do just what you described. Your definition of immediate family we're trying to make sure that that these stepchildren, parents, siblings are all part of the equation.

REPRESENTATIVE GOUDEAU: I appreciate that.

CHAIRWOMAN HEWITT: All right, any objection to the adoption of this Amendment? All right, seeing no objection then this Amendment 3137 will be adopted. All right, a question, we can take a question now from Senator Tarver.

REPRESENTATIVE GOUDEAU: Sure.

SENATOR TARVER: So when you decided to run for office you knew that your kids could not get involved in it because they were civil servants, correct?

REPRESENTATIVE GOUDEAU: I didn't know it has that depth. I thought a family photo is exactly that, a family photo, these are my kids.

SENATOR TARVER: But you knew the law. Your kid, your son knew the law, he is a policeman.

REPRESENTATIVE GOUDEAU: As I ran it took me two and a half years that I've started the process and in that process is when I began to learn that and how deep it was you know, and trying to get the right channels before we did everything.

[00:45:09]

SENATOR TARVER: So you came up with a Bill just make sure the next time you run your family will be able to get into a photo?

REPRESENTATIVE GOUDEAU: And yours as well.

SENATOR TARVER: Yeah.

REPRESENTATIVE GOUDEAU: Yes, Sir.

SENATOR TARVER: Yeah well I don't know if my work for civil service, you know.

CHAIRWOMAN HEWITT: Some of his family don't claim him, but—

SENATOR TARVER: No, they don't claim them especially my brother but you know, don't you think this is just clogged enough to constitution. One of the main problems that we have right now we got everything the constitution has become very lengthy because we're putting things like this in the Constitution. When you ran for office it's just like your salary you know. You knew it before you ran and everything because everybody want to change their salary too. We have to put that in the Constitution but if we're putting everything under the sun in the constitution, when get to Constitution it would be about 5,000 pages but you know, I don't see any reason why we will put something like this in the Constitution because you ran for office, your kids can't be in the photo after you win or they can't knock on doors for you and if your son is a policeman, we know he's telling everybody to vote for his daddy but the point is and why we want to put

this in the Constitution like this? Why do we want to clog up the Constitution?

REPRESENTATIVE GOUDEAU: I appreciate your comments. It's for future aspects of it you know, learning the extent that the Civil Service Board was willing to penalize my son-in-law.

SENATOR TARVER: B not being in a picture?

REPRESENTATIVE GOUDEAU: Correct, correct. They said if I move forward with those photos they would suspend him for one year without pay to refer to and investigation is complete just being in a photo.

SENATOR TARVER: But what big thing it is being in the photoa fter you won, you know?

REPRESENTATIVE GOUDEAU: It's not after you win, it's—

SENATOR TARVER: But we're doing about - why are you running? Even why are you running? Why? Is that necessary?

REPRESENTATIVE GOUDEAU: Well, I mean what better thing—

SENATOR TARVER: Pleading you want your cousin in there, your nephew in there.

REPRESENTATIVE GOUDEAU: Yeah, what better statement do you make again is not the Bill walking door to door, I took that component but what better

statement does it make when you knock on someone's door and your kids aren't often by your side supporting you.

SENATOR TARVER: People are looking at you. People hate on - they're not looking at your kids, they look at what type of person you are. They're not voting for your kids, they're voting for you and you have to prove yourself to them, you know. Like your worthy of their vote, you know? Okay.

REPRESENTATIVE GOUDEAU: Thank you.

SENATOR TARVER: Oh yeah.

CHAIRWOMAN HEWITT: All right, Senator Tarver. All right any other questions from the Committee at this point? We do have a card in support from the Chief of Police Association, Scott Kirkpatrick present and then support does not wish to speak. We also have an email in opposition that you all will see in your folders from Christina Carol representing, she attached she's the executive counsel for the City of New Orleans, Civil Service Commission and attached the resolution from the Civil Service Commission opposing the Bill and asking that they oppose the legislation. Okay so that's in your folders. All right, Representative, sorry Senator Harris.

SENATOR HARRIS: I'd just like to move favorable.

CHAIRWOMAN HEWITT: All right, Senator Harris moves favorable on HB 315.

SENATOR TARVER: I object.

CHAIRWOMAN HEWITT: To which there's an objection from Senator Tarver. All right, so we'll call Madam Secretary if you will call the votes so the vote, a vote yes is in support of reporting the Bill favorable as amended, to report it as amended. A vote no would be to not report the Bill. All right.

SECRETARY: Senator Milligan?

REPRESENTATIVE HODGES: Yes.

SECRETARY: Yes. Senator Foil?

SENATOR FOIL: Yes.

SECRETARY: Yes. Senator Tarver?

SENATOR TARVER: No.

SECRETARY: No. Senator Womack?

SENATOR WOMACK: Yes

SECRETARY: Yes. Senator Harris?

SENATOR HARRIS: Yes.

SECRETARY: Yes. Senator Price?

SENATOR PRICE: Yes.

SECRETARY: Yes, that is five yays and one nay.

CHAIRWOMAN HEWITT: All right so that Bill HB 315 will be reported as amended.

REPRESENTATIVE GOUDEAU: Thank you, Madam Chair and members. I appreciate it.

[00:50:00]

CHAIRWOMAN HEWITT: Thank you, Representative. All right, Representative Crews.

All right Representative Crews has HCR60 whenever you're ready, Sir.

REPRESENTATIVE CREWS: Chairman, members of the Committee, I'd had an idea when I got a charge for my credit card pop up on my phone and it said you know, $2,500 to Louisiana Tech or whatever it was. I was like this pretty interesting technology that as soon as something happens we can be notified and I thought with all this interest in elections now and I just want to continue to remain a good state in terms of our reputation with elections, I thought that'd be a neat idea if we can implement some types of electronic notification like maybe if your vote was recorded absentee or something I know at election day we are not connected to the internet but as your absentee voter, your mail and vote was recorded it would say, "Hey, your vote was recorded on this day," and then if one popped up and you hadn't voted you would know or suspect there might be a problem with the system so I approached the Secretary of State

who's here with me today and mentioned this to him and he says, "Hey you know, we are already pursuing some things along that avenue but it sure would help to have a resolution to show that you're supporting us in those endeavors," so I just wanted to see if you all might be interested in the same thing as keep our great reputation in terms of elections in the state and have a yet another method to ensure that.

CHAIRWOMAN HEWITT: All right, I appreciate that. Senator Foil, for a question.

SENATOR FOIL: Thank you Madam Chair. Representative Crews, I like your resolution and it's simply an urgent request to have the Secretary of State look at this issue so I appreciate you bringing it at the appropriate time. I would move favorable passage or report favorable, I'm sorry.

CHAIRWOMAN HEWITT: All right, any question? Other questions from the Committee? We have of course, the Secretary of State's office here. If you have any questions of them present and in support, green cards, Peter Robbins Brown, Louisiana Progress Action does not wish to speak and Arabelle Adams for with the Louisiana Family Forum present and in support does not wish to speak and I do not believe that I have anything from an email or any cards in

opposition. All right, it looks like you have a good resolution, Representative Crews.

REPRESENTATIVE CREWS: Thank you very much. I appreciate your time.

CHAIRWOMAN HEWITT: Oh, we didn't vote yet.

REPRESENTATIVE CREWS: Oh you didn't. Okay on that.

CHAIRWOMAN HEWITT: I was just giving you a little atta boy, there. All right, Senator Tarver moves favorable on HCR60. Is there any opposition? All right, HCR60 will be reported favorable.

REPRESENTATIVE CREWS: Then double thanks. Thank you very much.

CHAIRWOMAN HEWITT: All right. Oh no, who's hiding behind the walls here that I can't see. Did I see Representative Hodges earlier? Okay. All right. I've got a couple of things here that I can handle. All right let's see about HCR51 and it's Representative Hodges'. Would you like to come now Representative? All right we are going to go back to Representative Hodges's HB 704.

CHAIRWOMAN HEWITT: Thank you, Madam Chairwoman. Thank you, members. What I'd like to start off by thanking the Secretary of State and the Chairwoman and the staff of the Secretary of State for working

very hard over the past, I guess eight weeks on this Bill to try to get it in a place that I think that we feel the public would have the trust because we know that Louisiana is transitioning from the old machines to the new machines with the modern technology that's more susceptible and so I've met with the Clerk of Courts, the Registrars of Voters and the Secretary of State several times to get this Bill in a position that I think everybody could support. This is a non-partisan Bill because I believe what we see across the nation people are concerned about the process of elections and what we need most of all is a bipartisan bill that we can bring the public back to that place of trust where they trust the elections.

[00:55:00]

CHAIRWOMAN HEWITT: Our duty as legislators is to ensure that laws are in place to protect the integrity of every vote so what this Bill seeks to do is to secure the process and do everything possible to restore trust in the election process. This legislation will make our voting process even better by codifying practices that the Secretary of State has in place that we believe will rebuild trust. What it does is the first several pages deals with language related to poll watchers and super watchers

and then the rest of the Bill deals with is the new requirements for voting systems that would be used after we get whatever system that we choose and so with that I'll take any questions.

CHAIRWOMAN HEWITT: All right - these Bills are always hard to read aren't they because there's a lot to them so I appreciate that. All right let me start out with a question from Senator Price.

SENATOR PRICE: Yes thank you, Madam Chairman. Will you pass a Bill very, very similar matter of fact by what Chairman here, that is going through the process of I don't know how we continued to pass these basically the same Bill, the Chairman Bill is moving forward. Have you had that Bill heard in the House, Madam Chairman?

CHAIRWOMAN HEWITT: Yeah, it was passed off the House floor, yesterday.

SENATOR PRICE: Also a dollar rated pass.

CHAIRWOMAN HEWITT: It's got some amendments though so it has to come back for concurrence.

SENATOR PRICE: Okay.

CHAIRWOMAN HEWITT: Yeah.

SENATOR PRICE: I guess, of course it is. That Bill already passed and waiting on concurrence the

need for another Bill that does basically the same thing.

CHAIRWOMAN HEWITT: Well, Senator Price, it doesn't do the same thing. What Madam Chairwoman's Bill does is creating a commission, an oversight commission that will look at all the different voting vendors and have hearings go across the state and try to bring the public into the process and then bring the vendors into the process and so by setting up that commission, that brings a lot of transparency. What my Bill does actually deals with the poll watchers and super watchers right now. Super watchers that none of that is in her Bill, mine has some technical things that I worked very hard with the Secretary of State and his staff. His IT staff, his attorneys, that have very specific language that I believe our people are really concerned about. Some of the things like new systems that are purchased must comply with the following: No exposed forth or components establishing a wireless connection during the election. No tabulation of fractional votes shall be prohibited and that's two of the things that we heard from I believe from the meetings that she has had, that I've had in seating governmental and health in governmental, people they've come to testify.

There's two things that are really important to the voters is that they want paper ballots, secure paper ballots and they want to be sure that is not connected to the internet so that it can't be hacked into I guess is the best word to use and so we've had very secure elections in the past and I commend our Secretary of State for that. We felt very none-to-little fraud or I would say probably none but as we're transitioning to these new systems, I gave the example like if you take a new car, like if I get my keys locked in my carI can call on store and they can unlock my car. They can tell me where I am in my car if I have a wreck. Well in the machines from the 1960s you can't do that. In cars from the 1960s they just don't have the capability so here's where the concern is, that we've got these DRE machines that are old and they're really secure. They're safe machines but so depending on what vendor, what type of voting system that we choose we just want to make sure that the public understands that the legislature is doing everything that we can to make that process and put these things in statute. I have a lot of terms in my Bill that are not in her Bill so that's why I brought this Bill.

SENATOR PRICE: When you mentioned paper ballots, would it be required?

CHAIRWOMAN HEWITT: No, it's just says as an option. It would be an option for a secure paper ballot to be used and so that it's not directing any vendor or prohibiting any vendor or saying you have to use a certain type of ballot or machine, it just says these are the options but here are the things that we want to make sure that these machines don't have.

SENATOR PRICE: Okay, thank you. Madam Chair.

CHAIRWOMAN HEWITT: You're welcome.

[01:00:00]

Thank you, senator. Senator Foil.

SENATOR FOIL: Thank you, Madam Chair. Representative Hodges, good morning. In looking through your bill, this still leaves the Secretary of State solely responsible for selecting the better machine vendor.

CHAIRWOMAN HEWITT: Absolutely.

SENATOR FOIL: And this bill it looks like you're putting a lot of details as far as what the voting machine requirements would be.

CHAIRWOMAN HEWITT: Right that and I worked with them. We had original bill and three substitute bills

to try to get it in the position that that his technical people all agree with.

SENATOR FOIL: And I'm sure we'll hear from them as well. So, you've run this by the Secretary of State's office and there.

FEMALE 1: You want to come?

FEMALE 2: Yes. [INDISCERNIBLE 01:00:51].

SENATOR FOIL: Yeah, and I just wanted to - we can hear for you for a minute. I just wanted to know what issues with their position what was on the bill. And then lastly, I know there's several different instruments so, my hope is maybe we put one of these instruments in conference and bring them all together as one instrument.

CHAIRWOMAN HEWITT: I hear you.

SENATOR FOIL: That's all I have right now, Madam Chair.

CHAIRWOMAN HEWITT: Thank you, Senator. All right. I'll see any other questions at this time. We have several folks here that we can bring to the table that t are available. Certainly, the Secretary of State and his staff are here. We have Brian Champagne from Louisiana Registry of Voters Association present and can provide information if requested and the Secretary of State's folks. Mr.

Secretary, would you or your staff like to come to the table and answer any questions? Welcome.

KYLE ARDOIN: Well, thank you, Madam Chair, members, Kyle Ardoin Secretary of State. This has been one very long session for me in my office and my staff certainly with working with Senator Hewitt and her legislation and I want to commend Representative Hodges for all of her hard work and working with my staff. and I, and so many members of the public. We also in my office by working with Representative Hodges brought in other folks into this discussion. I think it was pretty lively when we began the session and has continued to be a tremendous dialogue across this state with regards to this and I think will likely continue for quite some time. Certainly, Representative Hodges and I, when the bill went to the floor of the House, we had reached an agreement on all the language that we felt that we could work with. There were two amendments that were put on the floor that caused us some concern and there's probably needs to be reworked because it encapsulates so much more than what the intent is and I understand the intent is both from Representative Hodges and the public. And it deals with the amendments that Representative Deshotel put on and Representative

Horton put on. We certainly understand and want to provide for the option of paper ballots. The concern is that portions of the way the bill is written could create legal problems for us right out the gate and Representative Hodges has had some other conversations with other folks outside of my office to confirm that and so what we don't want to do is create a situation where we're automatically in a legal battle from the get-go. So, we want to continue working to work with through some of that language issues to move forward. I think she's really put together an understanding of what the public is seeking or some members of the public are seeking in terms of trying to make sure that we have all options on the table for us to consider and for the commission to consider moving forward. I know that Senator Hewitt's intention is to try to find a way to combine Representative Hodges's bill, Representative Ivey's bill or the good parts of all of those to and Senator Hewitt's as well. And we stand ready to assist you all in that process. I think this dialogue has been tremendous. I've got friends that are sitting behind me. that we've had some real animated discussions but it's all proving to be a good process that we're going through and I certainly hope that we

1 get by the end of session, we get to that point that
2 we can all look back and say we've done a good job.
3 [01:05:05]
4 We've gotten to a product that we can all work
5 with and that all options are on the table moving
6 forward. The current law does not provide us all
7 those options, but these new legislations with
8 Senator Hewitt and Representative Hodges and
9 Representative Ivey have, do get us to that point of
10 being able to look at all options on the table
11 including a secure paper ballot as has been referred
12 to. There are some concerns with a little bit inside
13 the definition with real arts because we don't
14 understand everything on that and we haven't been
15 able to find any other state that has that in it. So,
16 we just really need to work through some more of the
17 language, but I want the public to understand and
18 know that we are absolutely from the commitment of
19 our Memorial Day discussions. I just want everybody
20 to know, Senator Hewitt, Representative Hodges,
21 Representative Ivey and I didn't have a vacation on
22 Memorial Day. We were working. So, we're trying to
23 come to a really good conclusion and encompassing as
24 much of what's in the Hodges bill, the Hewitt bill
25

1 and the Ivey bill to make it a working document
2 moving forward. Did I encapsulate that?
3 CHAIRWOMAN HEWITT: Well, thank you. Yeah, I
4 agree. I think this is election integrity is the
5 single biggest issue in our country right now? And we
6 know that the public's confidence, you know, they've
7 done polling data, the public's confidence around the
8 country in an election, integrity has been shaken.
9 And so everyone wants to know that their vote counts
10 and their vote is secure and we're working together
11 to figure out the best way to do that. So, I
12 definitely appreciate Representative Hodges and
13 Representative Ivey for stepping up and working with
14 me and with the Secretary of State's office to figure
15 out the best way to do that because if you have no
16 confidence in your election system, you've lost such
17 a core principle in our country. And so I think it is
18 something that resonates and clearly the interest
19 that we have from the public has been evidence of
20 that. And everyone's been working very hard to try to
21 identify options and learning from other states what
22 are the best practices out there and even though we
23 have sort of come at it from different directions I
24 think our goals are exactly the same and that's to
25 make sure that Louisiana still has safe and secure

elections. We know from a mechanical standpoint we have problems with our current machines being old and hard to repair and replacement parts are difficult. And so, you know, you've identified for some time now the need for us to replace the process, the voting system that we use and there are many alternatives there. There's certainly a lot of support for paper ballots. And I do think that that's where most states have gone already. I think that is probably where our state needs to go as well. And so, we just have to figure out how to build the system around that that is separate from the internet, that we can completely control and know that it's safe and secure.

KYLE ARDOIN: Yes, Madam Chair and I am to reiterate that, I don't want the public to think that any of our system is connected to the internet. It is not and one of the important factors that we need to continue to reiterate in this discussion is that we are not like other states. We do not outsource any part of our elections processes to vendors. Other states their counties do that, and we do not, we never have and we never will. That's why when I say we expect them to adapt their processes to our system, not the other way around, and we want to continue doing that because I think that we are a

1 leader in elections. We've had secure, safe,
2 transparent and accurate elections all the way up to
3 this point, and we're going to continue doing that.
4 And if it weren't solely for the age of this
5 equipment, the election day equipment we probably
6 wouldn't be in this position and/or having to have
7 this debate, but I certainly think it's an important
8 process that we move forward hearing all the voices
9 across the state and having public hearings and
10 getting public input. But I certainly do think, and
11 I've always said, even since my predecessor, we've
12 always talked about there must be a paper component
13 in this process. There must be a paper process that
14 the voter can verify before they cast their vote
15 electronically. If we do have an electronic component
16 in this process because that's the important part.
17 Then the paper becomes the ruler. The paper then is
18 used to audit the equipment. The paper is then used
19 for recounts. The paper is then used for the audit
20 process. And so let it be known all throughout the
21 state that's been my number one goal since the get-go
22 and I certainly understand all the concerns of folks
23 have about the equipment and that's why I think once
24 we get through the session and we begin public
25 hearings on the process, their voices will be heard

as well as we'll be able to bring in the vendors and have them, require them to answer questions that are serious questions about their processes and about their equipment and about their companies, et cetera.

[01:10:17]

CHAIRWOMAN HEWITT: All right, question from Senator Foil.

SENATOR FOIL: Thank you Madam Chair. And I echo the sentiments of the Chairwoman, paper ballots is what the public wants and I appreciate your commitment to that But if you can hit it again for me real quick it sounds like the House Bill, one of it was on the floor. You had worked out your concerns with Representative Hodges and there were some amendments that are now on the bill that give you concerns. Can you hit it real quick again the concerns with the floor amendments?

KYLE ARDOIN: Sure. So, the definition of secure paper ballot has some concerns with this. We don't know and have not been able to find anything with regard to crypto marking. We understand watermarking, we get that. Basically there's a security process by which the paper is a very secure proprietary piece. If we even go to and as you said, if we are going to do a complete paper ballot process, we're going to

have to have a vendor in that process as well. So, we're going to need to vet those vendors because you've got to have a security process within the ballot marking, whether it's a ballot marking device or whether it's just a hand-marked ballot. What are the security processes in that? What's the security inside dealing with the type of paper utilized? What's the security for the scanning? How the scanner detects the security of the paper itself, the weight, the security markings on it or in it, that sort of thing. So, that's going to be a whole lot of work for a lot of folks to do but that's, that's basically, we were concerned with.

SENATOR FOIL: I understand and appreciate your concern, but it sounds something procedural that we could work out.

KYLE ARDOIN: Oh, absolutely and there's a little bit more detail in Representative Deshotel's amendment that encapsulates more than what we think should be encapsulated. It's certainly not out of the norm or out of what we can deal with, but there's just some language that we have to work out and there were some additional language that we were deleting that is in current law that protects part of our

system for cybersecurity requirements. And so, we need to deal with that as well.

CHAIRWOMAN HEWITT: Excuse me.

SENATOR FOIL: Yeah.

CHAIRWOMAN HEWITT: And when I've addressed it, Senator Foil, I had a conversation yesterday with one of the major vendors about that language and he read it. And he said, I believe this language is going to cause some problems because it might exclude certain vendors. He said this language is problematic because it's going to definitely create a lawsuit. So, he made some suggestions that they used in Texas Law that we could possibly use but we didn't even get to that point to talk about that. But so, I explained that to the secretary and just said we need to take this out because of the lawsuit factor.

SENATOR FOIL: And I appreciate that. I knew Representative Hodges, you work well with people and will work with him on this I hope.

KYLE ARDOIN: And Representative Foil, I'm sorry. Excuse me, sir. Sorry. Senator Foil, my staff is analyzing the Texas Law. I don't know that it's passed yet but at least it's moving through the process and so, they're analyzing that as well to see what we can do language wise for this legislation.

SENATOR FOIL: Let me ask one other question. We've had all this legislation dealing with procurement of voting machines but at this point in time there's no RFP out there, is there?

KYLE ARDOIN: There is no RFP out there. No, sir.

SENATOR FOIL: Do you have any plans right now when you may issue the next RFP or will it be before the next session, or—

KYLE ARDOIN: We're waiting to see what happens with the legislation and then we'll be able to determine there's a timeframe in Senator Hewitt's legislation that probably deserves a little bit more discussion just because of what we are up against in terms of the spring and the fall elections, but certainly, the sooner the better because what comes out of the commission, the recommendations being brought to me in my office. We then have to develop the standards and that's done through the rule making process and then you all and the House Committee will have oversight over that. So, we'll have to go through those standards. Some of them are built into this bill which again means we all have to talk about how much of that do we want to put in law versus how much do we want to put in regulations given the fact that things are going to change pretty quickly as a

result of all the states making adjustments into the little action laws and seeing with the companies whether they're a mail, excuse me, a paper ballot process or a machine and paper or machine process just to see what the technology comes.

[01:15:09]

There's blockchain technology out there and other things that are coming down the pike so, we really, we need to be - we need to make sure that we don't jump the gun and so I really appreciate. I know it was difficult at the beginning of the year, but I really appreciate the process of which we all have all come together to try to slow the train down, be more methodical, and transparent and get public input better than what the procurement process allowed for us to do beforehand.

SENATOR FOIL: Thank you. Thank you, Madam Chair.

CHAIRWOMAN HEWITT: Thank you, Senator. Senator Milligan.

REPRESENTATIVE HODGES: Thank you Madam Chairman. Secretary, Representative Hodges, a couple things. We have all heard for months now, the same wish list, the same safeguard wish list, right, because in Louisiana our elections ran smooth as compared to

other states and you're to be congratulated for that sector.

KYLE ARDOIN: Thank you.

REPRESENTATIVE HODGES: It seems like looking at these two things, hearing what our constituents are saying and telling you guys and saying, here's what we would like to see, right. And then we have Madam Chairwoman's bill, which basically establishes a framework for an oversight commission both in the design of the RFP but also in the framework of vetting the machines in compliance with the RFP. It seems like we're running two concurrent pieces of legislation here that can work in tandem. It seems like Representatives Hodges's bill when it comes to this piece is truly a safeguard wish list, which is representative of what the people are asking for, right?

KYLE ARDOIN: Correct

REPRESENTATIVE HODGES: And so to me, working through that process, we could take these safeguard wish lists and obviously through your office and through the commission incorporate those wish lists into what we'd like to see inside the RFP and then on the back side, make sure that the machines that we're

1 looking for were in compliance with that. And it
2 seems like that's where this needs to go.
3 KYLE ARDOIN: That's exactly right. In fact, a
4 lot of the safeguards that Representative Hodges has
5 in her bill are actually things that were in the RFP
6 to begin with.
7 REPRESENTATIVE HODGES: Correct.
8 KYLE ARDOIN: And we're very conscious of the
9 desire to make certain that we're not creating a
10 process by which we feel like they are interference
11 with or could be interference with our elections from
12 outside sources. So, we want to continue that and we
13 want to add to it. A lot of what Representative
14 Hodges bill provides are things that we either
15 already do or we want to do in the next RFP. And I
16 think you all make a good point and Representative
17 Hodges and I have discussed this is that the
18 important thing is, is that we need to make sure that
19 the standards that we promulgate are these things and
20 could be more. But the concern is that, if we put too
21 much in the law and we're too prescriptive in in the
22 legislation, then we create a problem with ourselves
23 because if we have to go and change something in the
24 future, then we're having to go back through
25 legislation versus the rule making process of

adopting new standards or additional standards. I think that's one of the concerns that Senator Hewitt has brought forth and we've discussed Representative Hodges and I and Senator, how do we make that? But I certainly think we should absolutely have a baseline in the law so that everybody knows here's the baseline of the playing field and then through rule making we are going to add more standards to this process if that answered your question.

REPRESENTATIVE HODGES: Oh, very much so and I think it really checks off everybody's box and the fact that, that we're hearing what our constituents are asked for because they want integrity in our elections which Louisiana has done a good job, but we're going forward in the consideration of new voting machines to be able to comply with what they're asking for, what our constituents ask for and all of us want, right? And I think that - and we do a lot of this already as you pointed out and I'm very pleased about that. And so I don't think it would be too difficult to be able to take what our constituents are asking Representative Hodges and asking all of us and be able to incorporate that in the process that Chairman—

CHAIRWOMAN HEWITT: It's a mouthful, isn't it?

REPRESENTATIVE HODGES: Chairman—

CHAIRWOMAN HEWITT: We all have very few Chairwoman and so it doesn't roll off the tongue very easily.

REPRESENTATIVE HODGES: Chairwoman Hewitt is asking for in that commission which is basically that oversight that works in partnership with you guys. And I think that's what's going to safeguard this entire process moving forward as we do consider what needs to be in RFP, but also what we're asking our machine vendors or bidders to be able to supply us and then vet to make sure it's in compliance.

KYLE ARDOIN: Right. So, some of the language just as an example in the Deshotel Amendment and nothing against Representative Deshotel, I think his intentions are pure but it encapsulates and creates a problem for us to be able to even deal with the laptops that we utilize, the printers we utilized, the scanners that we currently utilize or the scanners that we envision utilizing if it is a paper-based system at the precinct level.

[01:20:09]

So, we just need to work through those things. And I really think that we're very close. I think that the folks behind us here that we are hearing

them. I think they realize that we we're hearing them and I'd like to just add one thing from what, the question from Senator Foil and to Representative Hodges was, there is no sole authority by me to pick a vendor. There has to be an evaluation committee and under current procurement code, I would have sole authority to make that decision, but under Senator Hewitt's bill, I would no longer have that. She is telling us the types of individuals that need to serve on that versus what I could have done in the previous one, is just pick whomever I wanted. That's not going to happen again and it's going to be a much more public process, and I think that's important because what folks believe to be occurring if we don't adopt this legislation and collapse everything into Senator Hewitt's legislation, the reality is that Senator Hewitt's legislation takes authority away from the Secretary of State because normally in the procurement process, it is done solely by the lead agency head and their agency staff to develop an RFP for whatever product they want. And that's how it's been done up to this point. This takes it and removes it from that process and actually gives less power to the secretary because now it's got to be a much more public process of which I agree. I was

bound by the procurement code as written. This will address that issue, and I think that is a far better process for us to all go through in order to get to the point that we want in order to replace our aging equipment and have a new process for elections that we can all be confident in.

REPRESENTATIVE HODGES: Well, and I appreciate that. And again, I think we're all moving in the right direction because we hear what everybody's saying and we vote too. Look, we want those elections to be fair now in the future and one of the things that I've considered and you and I have talked about it before when it relates to the RFP and the actual purchases of new machines is my Act 52 that I'm bringing back, that I've brought back and passed this session, and what that does is it makes sure that the computer components that are going to be as voting machines as in any other electronic devices to the state would be procuring, they don't come from banned companies, banned countries according to the John McCain National Defense Act of 2019. And so that's one more level of protection for us going forward. And obviously, if we can pull all these tools together and incorporate it in the building of the RFP and in the vetting machines, every voice has been

heard and we'll have the safest machines and a continuation of a fair election process in Louisiana.

KYLE ARDOIN: Agree with you, 100%.

REPRESENTATIVE HODGES: Thank you, appreciate it.

KYLE ARDOIN: Thank you, Representative Hodges.

CHAIRWOMAN HEWITT: All right, Senator. Thank you. Senator Womack.

SENATOR WOMACK: Thank you. Representative Hodges, from what I'm hearing here, would you be willing to work with Senator - I mean, Chairlady Hewitt?

CHAIRWOMAN HEWITT: See, it just doesn't roll off the tongue. You all are making my point.

SENATOR WOMACK: I'm trying to not mess up, but there's no way out of it.

CHAIRWOMAN HEWITT: Chairwoman.

SENATOR WOMACK: Chairwoman Hewitt to pull all of this to together?

REPRESENTATIVE HODGES: Yes.

SENATOR WOMACK: Is that something you'd be willing to work with her on?

REPRESENTATIVE HODGES: Yes, sir. For sure. And I guess, we'll - like they say, the devil is in the details and we can work out some of this technical stuff on her bill. And I do - one of the parts that I

really would like to see in this and I don't know that we can fit this in her bill, is the part about the watchers, the poll watchers and the super watchers if we're adding that. So, you know, you have my commitment. If we can get - there are just a few, I guess non-negotiable things in my bill that I would like to see, and hopefully we can get that on her bill. And so, I definitely would be glad to work with her and combine these bills as much as we can. And then I guess we can talk about how do we do the poll watchers and the super watchers and all that, because I don't think that fits into purview of your bill, but we can - between here and the floor, can we work that out?

CHAIRWOMAN HEWITT: Yeah, there's certainly lots of different ways to handle that, you know, as you know, and I'm not opposed to adding it to my bill.

[01:25:00]

I mean, I think it's all in the same general part of statute, but we'd have to get some legal advice as to whether or not we could do that and make sure that everything is germane because we don't have any objection to that.

REPRESENTATIVE HODGES: Okay.

CHAIRWOMAN HEWITT: And I think again, there are parts of all three bills that I think are very strong. And we certainly know that there are some parts as fundamental as the definitions where we don't agree and we've got to work through that. We talked about Representative Ivey, probably has some of the best definitions.

REPRESENTATIVE HODGES: Right.

CHAIRWOMAN HEWITT: So, we may go with his definitions and then just, we need time for the attorneys to all work through and make sure everything all kind of fits together. So, you know, we know we have this happen in the legislative process. We don't all know who's filing bills ahead of time until we file them. And so, then you have to get to a point where, you know, you figure out a way to consolidate and work together, so we get all the best ideas ultimately in state law. So, I think we're on a good path to do that and I would certainly commit with you, to you and Representative Ivey for us to work together to make sure that happens.

REPRESENTATIVE HODGES: Very good.

CHAIRWOMAN HEWITT: All right, let's see where we are. I've got some folks that have turned in cards. I don't see any other questions on the Board from the

Committee. We've got some folks here in support. Amber Thomas with the Republican Party of Louisiana, does not wish to speak. Kathy Constanza, present in support. Susie Library, present and in support. Dale Clary Convention of States, present, will provide information. Dr. Will Hall, Baptist Office of Public Policy, present and in support. Jamie Pope present and in support. Lennar Whitney, Republican National Committee Woman, present and would like to speak. So, if you would like to come to the table now, we'd be glad to hear what you have say.

LENNAR WHITNEY: Thank you very much, members. So glad to be back with you again. I guess I'll be considered the public or folks out here and represent their viewpoint. So, I certainly do appreciate everything and all the efforts that went into both the SP 221 and HB 704, as well as some of the bills that Representative Barry Ivey is carrying. So, and I appreciate, and I agree with most of what was said between the Senator, Senator Milligan, Representative Hodges, and Secretary of State, and Madam Chairwoman. See how easy that comes off the tongue. So, I appreciate all that. And I guess, what I'm basically here to say is that Valerie Hodges's bill does have some key components that we think that or essential

to securing or to providing us at least the option of having secure paper ballots, going through an optical scanner and having that as the auditable process at the end of the day, where you have a tangible piece of paper that you actually write on, whether it's in crypto paper, whether it's layered paper, whether its watermarked, whether it's whatever in code moments you want to use, the density of the ink, whatever that is and it passes through a scanner that's able to detect the ballots that were produced by whoever is going to produce them here in the State of Louisiana that they are authentic ballots and that if they were mailed, they have folds, and if they were, you know, produced in Louisiana, that we know it has certain characteristics that this scanner will be able to pick up for fraudulent purposes. And then that ballot would be used at the auditable process. You don't have to go to a thermal paper roll, you don't have to do anything else. It's dropped into a lockbox. It's a simple, easy form to voting. 69% of every jurisdiction in the United States votes on hand-marked secured paper ballots, 69%. Only 29% of the United States votes on ballot marking devices. So, there's all the companies I guess by now, everybody knows its Dominion ES&S and to enter civic.

Those are basically your machine industry companies that will provide equipment for voting. So, and it doesn't really matter what it is. The swing states that are right now that are having a lot of - are going through litigation right now and are looking at and having audits most of those States and it's this is just a fact are using Dominion machines. And so - and whether it's a ballot marking device or it's a hand-marked paper ballot, and Maricopa County, that goes to a Dominion ballot just about regular scanner. So, I do appreciate the language that we have in Representative Hodges's bill to prevent some of the situations that we're seeing that other states are actually going through. So, there's lawsuits that are going through.

[01:29:59]

I mean, Florida has hired top-ranking criminal attorneys to defend themselves against the citizen tree. I mean, they want to look into it and they want to see about auditing, what happened in Georgia and yet, they're being resisted and then they're now - Georgia has hired criminal attorneys to prevent that from happening. We saw where Maricopa County finally the senators were strong enough and put together were demanding that they audit Maricopa County. So, that,

a million of those ballots have already been - already had been assessed and their saving grace was the fact that they had hand-marked secured paper ballots. Had they had not had that, I mean, Dominion is preventing them from getting username, passwords, looking into the routers. We see where other states, some of the information has even been erased from some of the machinery so that they can't even go through an auditable process. So, we just want to make sure I thought I got them speaking for the citizens now just to make sure that we do have the option of hand-marked secured paper ballots, and that we do have all the bells and whistles for security and also for internet protocol and that in the combination of this, when you said, you know, take out some of the things, that we make sure that we're utilizing the proper terminology, I would agree with that, and we don't really - that procurement has the options for all this. I know that I was - as Secretary Kyle Ardoin mentioned about Texas, we were on a phone call with Colonel Waldron who is a security cyber expert, and he said that he's working with Texas right now. They are spending almost $100,000,000 to hire him and his company in order to

1 protect themselves against some of the problems that
2 happened in other counties and other state.
3 CHAIRWOMAN HEWITT: You say $100,000,000?
4 LENNAR WHITNEY: I did. He said like—
5 CHAIRWOMAN HEWITT: Sure, we can't fit that in
6 the Louisiana budget.
7 LENNAR WHITNEY: Well, that's why it's very
8 important that you take recommendations from other
9 companies and other states, exactly who were willing
10 to spend the money because they realize the
11 vulnerabilities of what they're actually using and
12 what these machines that now we have to do - I mean,
13 it's cybersecurity, that's it. That's the name of the
14 game. And so, we just have to make sure that we
15 protect ourselves in that manner. And yes, Kyle heard
16 that it was, you know, he's said almost - I thought
17 it was like 75% of what he was spending, because he
18 has. How much would it be? Remember, it was almost
19 $100,000,000 would be spent in order for us to do
20 that. So, taking the Texas recommendations would be a
21 good thing because they're spending the money to
22 protect themselves against that. So, I guess I just
23 would like just to reiterate that in this, you know,
24 we're the folks, the public, you know, when everybody
25 keeps saying public hearings, but in your billing SP

221, it says public hearing. There's no S on the end of that word.

CHAIRWOMAN HEWITT: Well, but that's clearly a typo but, you know. So, we're going to have as many hearings as it takes to get all the information and bring all the people together. So, you know what has been missing a lot from the conversations so far have been the vendors, you know, in terms of what we don't want to happen. And I think we're saying the same thing, is we want to be prescriptive enough to provide the guardrails to get the big things that we want, right? Paper ballots, no internet, a secure audible paper trail with paper ballots, in my opinion, being the vehicle to do that, the vote of record. What we don't want is to be so prescriptive, and I pick on the secretary on this example, but, you know, you don't want to have something so prescriptive like the screen size being an RFP that prevents some vendors from participating. So, you want to have a readable screen but you don't want to say exactly what the dimensions of the screen have to be because then you're preventing some people. So, we want to make sure, to me, the things that we have in state law, the rules that we promulgate, the specifications that are in the RFP have all the

protections that we want, but provide enough room for the fact that the vendors have all solved the same problem in different ways and they offer different solutions that are could be all equally acceptable. And you want to make sure that, again, we don't shoot ourselves in the foot by being so narrow or prescriptive that we're preventing some folks from participating or that we're creating lawsuits as the secretary said, you know, the all of those things. So, that's the needle that we're trying to thread, and I do believe that our end objective, I believe is very similar or the same. I can't speak for everybody. But everything that I've heard and all of the discussions I've been in, I do believe they're end goal is the same.

[01:35:00]

It's just figuring out the best way to get there through the public bid process that we are required to do.

LENNAR WHITNEY: Good. And I would ask you just to look at SP 221, then in mine it says public hearing maybe say public hearings, and then that way at least allow for two because right now it's not plural.

CHAIRWOMAN HEWITT: No, I suspect if you're talking about the commission part, I mean, that's a 90-day effort. I think that's going to be 90 days of lots and lots and lots of public hearings.

LENNAR WHITNEY: Okay. Well, but - and then again and just like, everybody is concerned, it's the language in the law that you know, that determines what happens. It's not just everybody's, you know, what we think and what we'd like to happen. It's the language that's put on the piece of paper that everybody follows.

CHAIRWOMAN HEWITT: Absolutely. No, the words matter in law.

LENNAR WHITNEY: Okay. Well, thank you very much.

CHAIRWOMAN HEWITT: So, we want to make sure.

LENNAR WHITNEY: Yeah. So, I appreciate it. Thank you very much and we just want to make sure that you know that we do have the proper language and correct protections for election integrity.

CHAIRWOMAN HEWITT: Thank you.

LENNAR WHITNEY: Thank you.

CHAIRWOMAN HEWITT: Thank you for comments. All right, we have - let's see where I am here. A card in support now wishing to speak, Robert Stack. All right. Thank you. All right, and we have a couple of

1 cards here in opposition would like to speak, Tory
2 Rocca with the disability rights of Louisiana and
3 Peter Robins-Brown, Louisiana Progress Action in
4 opposition does not wish to speak. You would like to
5 speak? Okay. Well, come onto the table then if you
6 would like to do that. Yes, sir. Please introduce
7 yourself.
8 TORY ROCCA: Good morning, Madam Chairwoman and
9 members of the Committee. Thank you for having me. My
10 name is Tory Rocca. I am the Public Policy Director
11 for Disability Rights Louisiana. We're a 501(c)(3)
12 nonprofit that was founded pursuant to Federal Law
13 that created protection and advocacy systems
14 throughout the country in every state and territory
15 for people with disabilities. We have an objection to
16 the bill in that and I'm working off the re-engrossed
17 version here. I don't know if there's a more current
18 version on—
19 CHAIRWOMAN HEWITT: That's the current version.
20 TORY ROCCA: Thank you. On page four, line eight
21 where it talks about who is qualified to be an early
22 voting watcher, it states that someone who is not
23 entitled to assistance in voting is qualified, which
24 means that if you are entitled to assistance in
25 voting, you cannot be an early voting watcher and

1 that would mean that a broad range of people with
2 disabilities could not be early voting watchers. That
3 would include people with spinal cord injuries in
4 traffic accidents, people with [INDISCERNIBLE
5 01:37:45] disabilities, disabled veterans who receive
6 veterans benefits, all would not be eligible to be
7 early voting watchers, and that would, of course, be
8 in violation of Federal Law and the Constitution. So,
9 we do have an objection to that and if this goes
10 forward, we would like to see the reference to people
11 who are entitled to assistance in voting stricken
12 from this so they're not discriminated against.
13 CHAIRWOMAN HEWITT: I think that seems like a
14 very reasonable point, and I've made a note.
15 TORY ROCCA: Thank you.
16 CHAIRWOMAN HEWITT: Anything else?
17 TORY ROCCA: That was the one reason I came to
18 talk.
19 CHAIRWOMAN HEWITT: All right. Thank you. We
20 appreciate you bringing that to our attention and I
21 know Representative Hodges certainly had no intention
22 of discriminating against the disabled community. So,
23 thank you for bringing that to our attention.
24 TORY ROCCA: Thank you.
25 CHAIRWOMAN HEWITT: Yes, sir.

PETER ROBINS-BROWN: Thanks. Peter Robins-Brown Louisiana Progress Action. I just wanted to clarify, initially, I had filled out a red card without wishing to speak, mainly due to the amendments and a little bit of the overlap issues that I think Senator Foil spoke to and Secretary Ardoin spoke to. Just wanted to clarify that, you know, that I think that a lot of the elements in here, the hand-marked paper ballots that, you know, the internet or lack of internet connectivity, all the issues, those are things that we all are - we are very much in support of and so just because I put in a red card, I wanted to kind of clarify that it had to do with kind of some of those complications, not the meat of the issue, especially after the discussion. So, just wanted to thank you for the time.

CHAIRWOMAN HEWITT: Thank you. All right. We have a number of emails, copies of emails in your packets, members. Some were listed as in support and you'll see those Z. Z. Lynch. I see, Lennar Whitney who spoke earlier. We have a packet in opposition that have been sent in Catherine Blakely. Tory Rocca, who spoke, Christian Green. All right, then we've got some that were just bundled together as public

comments. CJ [PH 01:39:54] Coals from Verified Voting.

[01:40:00]

Okay. So, lots of good information. Again, it goes back to the earlier point. This is the number one issue in the country and people are very concerned and very interested in making sure that we have a good system. And so, that's what we're all here, committed to doing. All right. I don't see any other questions on the board. Representative Hodges, would you like to come back to the table?

REPRESENTATIVE HODGES: Thank you members. I ask the secretary to explain one of the concerns that the gentleman had.

KYLE ARDOIN: Thank you, Madam Chairwoman and members, Kyle Ardoin, Secretary of State. Point well taken from the individual representing the disability community. That's just current law. So, we'll need to address that moving forward and as point is well taken, we changed it for commissioners, but obviously that language didn't make it into with regard to poll watchers, and that is just current law. So, there was no intention on anyone's part to carve out a situation where those individuals wouldn't be able to be participating in the process. And I'll make a

1 point as well just so that it's on the record and you
2 all understand. Regardless of the system, we move
3 forward to, if we go to a paper-based system, we will
4 have to have mechanical or electronic processes for
5 the disability community because of Federal Law and
6 simply because it's the right thing to do. So, there
7 will be some sort of mechanism - electronic mechanism
8 so that we can support their efforts to be able to
9 cast an independent ballot on their own, which we
10 already do under current law and our current
11 situations.
12 CHAIRWOMAN HEWITT: Okay. Well, thank you.
13 REPRESENTATIVE HODGES: All right. Well, I just
14 want to say thank you to all the members for
15 listening and thank you to Ms. Chairwoman for
16 listening. What I think we're all seeking to do is
17 restore trust because that's what the American
18 election system is about, to be able to trust our
19 system, and the public has felt left out of a lot of
20 the processes in the past. And so, now with the
21 internet and people being able to be more involved,
22 they are more involved. And so, I really just want to
23 say thank you to you and thank you to the Secretary
24 of State and all of his staff for working very hard
25 to represent the people, to hear their voices and to

let them know we are listening, we hear you, we share those same concerns. And so with that, I'll just say thank you very much and ask for your favorable passage.

CHAIRWOMAN HEWITT: Well, I appreciate that and again, kudos to you. I know, again, how much work you've put into this. It's a significant learning curve, you know, to understand and to learn about, again, our system in terms of how we do it and all the best practices around the country. So, you've put in a lot of work. I know I've done a little bit of work on my own as well as Representative Ivey. And so, thank you to the Secretary of State and his office as well for working with us. Representative, because we have identified a number of issues, you know, with the bill that we know are problematic, the Secretary of State touched on a few of those, know, would you be agreeable to us leaving this in committee and Representative Ivey think we'll talk to him about the same thing. We'll continue to work together as I've committed to both of you to put all of our best ideas together into one instrument through the conference committee process. So, we have basically a week to continue to pull that together. Should we have any problems in that process or

whatever, then of course, as Chairwoman, I can pull this committee back together and we can move those bills and do something with those bills if we choose to or need to do so.

REPRESENTATIVE HODGES: So, you're asking me? I would rather pass the bill out. I know that's what my constituents want to know. That's what the people of Louisiana, what they want is to pass it out and then park it. If we could get the really important things on your bill, then I'll agree to pull it out of the [PH 01:44:25] files and not move it. Obviously, you know, I don't have that final say, so whether it gets heard on the Senate floor or not, but I mean that's what I would rather do, but I'll just defer it to the will of the Committee.

CHAIRWOMAN HEWITT: Well, I appreciate that and you know, the Committee is always a little bit unpredictable. So, but I do think it'll work either way. I think we could voluntarily defer it and keep it here in committee and I think, again, we're going to accomplish the same thing.

REPRESENTATIVE HODGES: Okay.

KYLE ARDOIN: If I may inject myself into this discussion.

[01:45:00]

I guess I would ask Madam Chair and the Committee, and obviously as a member of the executive branch, I completely divert to you your opinion and your will in this process, because that's what you were sent here to do. I would think it would be better to move it out of committee and park it and have it available in case something occurs, especially I think, as hard as we've worked with regards to the watcher issue, I would not want to lose that piece given the fact that we've worked so hard with outside interest on that, and any concern that may come if that's added to a bill that didn't have in it originally, does that create as a problem? And certainly, we have to discuss with all the attorneys, but I would think given the late hour in this session and the amount of work that you all have ahead of you, and as far as we've gotten, I think it would - I'm just recommending that. Obviously, I can't tell you what to do and I'm not trying to tell you what to do. That's just my - that's just my opinion in my prerogative as being involved in all of this to this point.

CHAIRWOMAN HEWITT: And I hear you, you know. It'll go to the will of the Committee. And there's - I would be agreeable to that if you're committing

that we're not going to move it, you know, while we continue to work to put all this together. I definitely don't want to lose the poll watchers. And so, I would be amenable to that personally and us moving it and holding it on the floor, and continuing to work together as we've already committed to doing.

REPRESENTATIVE HODGES: Okay. Thank you. I appreciate that.

CHAIRWOMAN HEWITT: Okay, but we'll see what the will of the Committee is. Senator Tarver?

SENATOR TARVER: Wouldn't it be best for everyone to get together? You can call a committee at any time even on the floor. You can call the Committee on the side. Wouldn't it be best if all of you all get together and sit down and work something out, then bring it back to the Committee, then pass one item out of the Committee so less people would be confused out there by all these bills that's on the floor and in some over in the House itself, wouldn't that be much easier? Let me say this, I think it'd be easier if you work it out in the Committee. It's difficult getting on the floor working things out, but it's much easier, and she can call a committee meeting at any time he like.

REPRESENTATIVE HODGES: Well, I don't think we need to have a committee meeting. I think what we need to do is—

SENATOR TARVER: No, I'm just saying we have to have - you all get together—

REPRESENTATIVE HODGES: Conference, her bill was already passed. It passed both sides. So, it's going to any committee.

SENATOR TARVER: Well, it can go to conference. If it goes to conference, [INDISCERNIBLE 01:47:37].

REPRESENTATIVE HODGES: Right and that what we're talking about, working it out in conference. But if we have to - I've got some very - some more very - not controversial, but difficult bills that I've got to present. We've got a week left in session and I just, you know, if the chairwoman is agreeable to—

SENATOR TARVER: I preferred to leave it in committee at this particular time. Then while you all can get together and work it all, if she need to call a committee meeting to put other bills together, other people might have the bills together that's active right now. So, I move to defer.

CHAIRWOMAN HEWITT: All right, Senator Tarver - and I appreciate that. I think we're talking about six of one half a dozen of the other and I respect

Representative Hodges and I know her commitment is to continue to work with me, which we've already agreed to.

SENATOR TARVER: Okay, I withdraw it if you think that it could work.

CHAIRWOMAN HEWITT: Yeah, let's withdraw that motion or I'll make a substitute motion if you prefer.

SENATOR TARVER: I'll withdraw it.

CHAIRWOMAN HEWITT: All right. All right, Senator Tarver withdraws that motion. I'll make a motion then that we report this bill favorable with the commitment that you and I both have, that we'll continue to work together and bring our bills together. Any objection to that? Then we'll report HB 704 favorable.

REPRESENTATIVE HODGES: Thank you.

CHAIRWOMAN HEWITT: Thank you.

REPRESENTATIVE HODGES: Thank you very much Ms. Chairwoman, members.

CHAIRWOMAN HEWITT: Thank you.

[OVERLAY]

All right, Representative Ivey. All right, Representative Ivey—

[OVERLAY]

REPRESENTATIVE IVEY: If I could take them out of order—

CHAIRWOMAN HEWITT: You have several instruments, which would you like to do first?

REPRESENTATIVE IVEY: If I could speak to the - my election bill, you know, when—

CHAIRWOMAN HEWITT: Okay.

REPRESENTATIVE IVEY: Based on our previous conversations.

CHAIRWOMAN HEWITT: HB 653, members by Representative Ivey. Whenever you're ready, sir.

REPRESENTATIVE IVEY: Yes, ma'am. Thank you, Madam Chairwoman. We've had a lot of conversations about this.

[01:50:00]

Obviously, my bill takes a slightly different approach than yours, and as does Representative Hodges. That said, we've had conversations about folding in some of the elements of mine and to your bill, so we don't step on each other for definitions and other elements. So, I'm happy to continue to work with you in that process in conference to really bring about a good, solid solution. That said, I did want to take the opportunity before I asked to voluntary bill, to address what I believe is some

gross misconceptions in the public as a result of the presidential election. And I had the opportunity and as well, I believe each of you to do a field trip to the Secretary of State's Office and really look behind the scenes at the Election Division and walk through the entire process that they have to go through. I was amazed at what they have - what they'd have to do every single election cycle. And then, that was only - my amazement was only compounded knowing they had to do all of that last year with COVID as another issue they had to overcome. So, it looks like magic in the background. It's a miracle in my mind that they were able to pull it off the way they do with the level of integrity and security that they provide for our constituents every single election cycle. So, hats off to the fine folks at the Election Division in Secretary of State's office. What it also did, it provided me some additional insight that I don't believe I could have gained without really being able to see the process. We have, you know, some statute, we have the Election Code and there's a lot of internal processes that just are not in the light. And so it afforded me the opportunity to really educate myself even more on how we do provide for election integrity security. One of

1 the things that really surprised me and I think is at
2 the really heart of the voter fraud concerns
3 regardless of who the vendor is, we're one of the
4 very few States, I believe there may be only three,
5 who have a top-down approach, meaning that we control
6 our election process completely entirely at the state
7 level, and that includes the voting equipment, voting
8 machines and all of that, and the process as well.
9 Other states, that process is controlled at the
10 county level. And the - you can imagine the level of
11 dysfunction and disparity between one, you know, one
12 pair - one county versus another. And one of the
13 things that I've walked away with appreciation of it
14 is the fact that you cannot scale down what our
15 Secretary of State's Election Division does very
16 easily to a county level. The amount of resources and
17 staff and the checks and everything that they go
18 through to provide for election security cannot be
19 easily replicated at every single county level. As a
20 result, while the vendors of the election - these
21 voting systems, they provide the hardware. I didn't
22 know this, but they also provide services to the
23 counties, including tabulation services. So, I
24 believe one of the primary issues that is being, you
25 know, brought to light on a national level is the

1 fact that there's an over-dependence on these vendors
2 to provide not only the hardware but the, you know,
3 the services that are provide in our Secretary of
4 State's Election Division, they have to outsource
5 that and they're outsourcing it very frequently to
6 these same technology vendors. And so, that to me is
7 at the heart of some of the concerns that have been
8 brought on a national level and of course, that is
9 percolated up to the Louisiana level, and there's
10 just a disconnect I believe with our constituencies
11 on what really goes on the actual levels of security
12 that we already have and we can, you know, my
13 intentions on my bill were to reaffirm and to
14 reinforce Louisiana's election integrity and election
15 security, because I believe we do a very good job. So
16 with that said, Madam Chair, I would ask that we
17 voluntary bill and continue to work with you, and if
18 something breaks between now and then, you've already
19 said, you have - you kind of know someone and can
20 call committee meeting.
21 CHAIRWOMAN HEWITT: I can probably arrange to
22 call a committee meeting. I appreciate your work. I
23 think there are, again, very many strong points in
24 your bill. We've talked about the definitions. I
25 mean, I think there are things in all three bills

that I think bring great clarity to the process and strengthen. And so, I look forward to continuing to work with you and I appreciate your willingness to do so. We have before we leave, I have cards here, of course, from the Secretary of State's office that are available. We have present and in support Annabelle Addams, Family Forum, Peter Robins-Brown and Dr. Will Haul from the Baptist's Office of Public Policy in support of the work that we're doing which is strong election integrity reform.

[01:55:06]

And so, I appreciate your efforts. We will leave this bill in Committee HB 653.

REPRESENTATIVE IVEY: All right.

CHAIRWOMAN HEWITT: Let's see.

REPRESENTATIVE IVEY: And then next, I would like to - if I could dispense with the easier of the two lists. That would be the concurrent resolution. I know it's jumping subjects, but before we approach the constitutionality of the congressional election solution, if that's okay.

CHAIRWOMAN HEWITT: Hang on. I'm trying to catch up on my agenda here a little bit.

REPRESENTATIVE IVEY: HCR 57.

CHAIRWOMAN HEWITT: Why don't we do - let's do - let's come back to that. Let's do HB 557, if we can do that one next.

REPRESENTATIVE IVEY: Okay.

CHAIRWOMAN HEWITT: Again, we've got members. Sorry. We've got members that are juggling a lot of different commitments to other committees too and I want to make sure we get this one heard. Now, we're passing me papers from every direction. Sorry about that, Representative Ivey. I threw you a curveball.

REPRESENTATIVE IVEY: No problem.

CHAIRWOMAN HEWITT: Like I said, we've got members that are all getting pulled to different directions, and so, we're trying to make sure that we can keep a quorum here.

REPRESENTATIVE IVEY: Absolutely. This is a [PH 01:57:13] weedy subject. And so, my level of preparation was a little different. This is all for this bill. I will not—

CHAIRWOMAN HEWITT: I'm hope that you're not planning on going through all of that.

REPRESENTATIVE IVEY: I'm not planning on, going through all of that. I will say - and so, we're on HB 557.

CHAIRWOMAN HEWITT: HB 557.

REPRESENTATIVE IVEY: One last thing.

[OVERLAY]

Okay. All right. Thank you, Madam Chair, members. HB 557. When the conversation arose concerning addressing our Congressional elections and how a member could have to go to a runoff, particularly for a vacated seat when this usually occurs, and they'd not be elected until December and as Congressman Scalise brought up it, there's certain disadvantages, you know, being seated after everyone else. And so, there were multiple ideas being floated around with regard to how to properly address that, one of them being of course closed primaries. Having authored closed primary bill like two or three times as a new legislator and having evolved personally on the subject. I felt that it was necessary to provide an alternative methodology for trying to address that specific issue and that is what HB 557 attempts to do. The reason why the system is the way it is, is largely the result of the Supreme Court ruling on the Foster v. Love case in '97, and Louisiana went to our open primary. We held the primary in October and then if we literally in statute declared that if the majority vote in that election in October was declared the winner, and then there would be no

1 actions taken on Federal Election Day. And so, this
2 is an effort to thread all of the needles and provide
3 for, you know, the Constitutional requirements being
4 met and there is this much data, the oral arguments,
5 the questions from the Supreme Court Justices, to
6 then-Attorney General [PH 02:00:08] Ayub.
7 [02:00:08]
8 There's the Appellate Court's decision and then
9 there's all of the reference Supreme Court cases.
10 Everything in this folder is a reference Supreme
11 Court case and the Supreme Court's opinion which you
12 should have a copy before you. So, I would like to
13 speak to what the Supreme Court in Foster v. Love
14 identified fairly clearly in my mind as the principal
15 failures of Louisiana's Election Law as it pertains
16 to its adhering to Title 2 Section 7 of the United
17 States Code, and which provides for a federal
18 election day, the first Tuesday after the first
19 Monday in November. I've highlighted it if you have
20 it with you so we can kind of hit just the
21 highlights. It says Louisiana's open primary statute
22 provides an opportunity to fill the office of the
23 United States Senator and Representative during the
24 previous month without any action to be taken on
25 federal election day. That's a very critical element

without any action being taken on federal election day. Later, it talks about the election clauses of the clauses, a default provision, it invests the states with the responsibility for the mechanics of congressional elections it says, but also as far as Congress declines to pre-empt state legislative choices, what is clearly expressed in many court cases is that the time, manner, and place of an election, that's what can be legislated on. Congress has chosen only to provide for the time of election in statute, which is the federal election day. This is not chosen to provide any statutes with respect to the manner. That is solely left up to the states, the same thing with regard to the place. So, the issue at hand is how the law at this time conflicted with the time the federal election day, and so they further all go on to say on Page 3, it says, but if one such candidate gets majority vote in October, that candidate, "Is elected and no further action on federal election day to fill the office in question." Yes, so it repeats what they stated in the introduction there, is elected because that's what our state statute specifically said that in October, the majority vote getter in that election, if they have a majority, then they are declared elected. In

1 Part 2, Paragraph 1, they said the Fifth Circuit's
2 conception of this issue here as a narrow one turning
3 entirely on the meaning of the state and federal
4 statutes is exactly right. And then on Page 4 says,
5 when the federal statutes speak of, "The election of
6 a senator or representative, they plainly refer to
7 the combined actions of voters and officials meant to
8 make a final selection of an officeholder." They
9 define for us what the federal statutes, the words,
10 the election means. It is an action by the voters and
11 an action by the officials meant to make a final
12 selection of an officeholder. And so they say that by
13 establishing a particular day as the day on which
14 these actions, plural, these actions being actions of
15 the voters and actions by the officials must take
16 place, the statutes, we failed at that time. It says
17 while there's true, there's room for argument about
18 just what may constitute the final act of selection
19 within the meaning of the law, our decision does not
20 turn on any nicety in isolating precisely what acts a
21 state must cause to be done on Federal Election Day
22 and not before it in order to satisfy the statute.
23 And it says without paring the term election in
24 Section 7 down to the definitional bone, it is enough
25 to resolve this case to say that a contested

1 selection of candidates for congressional office that
2 is concluded as a matter of law because our law said
3 it was concluded in October before the federal
4 election day with no act in law or in fact to take
5 place on the date chosen by Congress clearly violates
6 Section 7.
7 [02:05:05]
8 Page 6, state law straightforwardly provides that
9 a candidate who receives a majority vote of cast for
10 office in a primary election is elected. They were
11 citing the statute there, Louisiana statute at the
12 time, and because the candidate said to be elected
13 has been selected. Again, this is all supporting why
14 it did fail. This is after declaration that a
15 candidate received a majority in the open primary
16 state law requires no further act by anyone to seal
17 the election. And if I can read Footnote 4, I
18 believe, which is on Page 5 it says in Footnote 4, it
19 says the case thus does not present the question of
20 whether a state must always employ the conventional
21 mechanics of an election. We hold today only if an
22 election does take place it may not be consummated
23 prior to federal election day. The bill I have before
24 you specifically requires an act in the legislation
25 and therefore if passed in law would require an act

of the official, the Secretary of State to certify, may take a step back. If we have a primary and that someone receives the majority vote over 50%, then that person would not be declared that they would not be declared elected until federal election day. It is actually a change of words from not until, but actually requiring the action to take place on federal election day. If no one received 50% plus one in the primary, then the general election would run off, would be held on federal election day. If you go through the oral arguments and the questions presented by the multiple justices in this, they specifically speak to what was discussed in the Appellate Court's ruling concerning literally presented like, "Well, why couldn't the state just simply require an action on federal election day?" Like doing exactly what I'm proposing right now. That's actually what the Supreme Court Justices discussed in their oral arguments, but also what the Appellate Court presented in their opinion as well. And as you can read the Supreme Court's opinion in Foster v. Love, they clearly delineate specifically what the actions that must take place for the election of congressional and senatorial elections. So, I believe all of this, I've seen absolutely

nothing in all of my significant research to demonstrate any weakness in this argument that this would absolutely - should be able to provide for a very strong legal defense should be challenged and go up to the Supreme Court. It's impossible and we know this, it's impossible for us as lawmakers to exclusively provide for constitutionality on really anything. That's not for us to be able to determine and so the best thing I believe that we can do, especially on something like this is to provide as strong of a defense as possible. If there are any concerns with regard to this proposed solution and it not being able to withstand the Supreme Court scrutiny, well then I only ask that someone present some legal basis for their concern citing some case, something. And so with that, Madam Chair, I'm happy to take any questions.

CHAIRWOMAN HEWITT: All right, representative, thank you. Let me start with our local attorney, Senator Foil.

SENATOR FOIL: Thank you Madam Chair. Representative Ivey I've heard the same arguments that there's some disadvantage to sometimes our members for being elected late, but I've actually spoke with my congressman, and at least one of my

1 senators about that. They said really other than
2 maybe missing orientation, everyone gets sworn in. I
3 think it's January 5. So, they don't believe there is
4 any disadvantage.
5 REPRESENTATIVE IVEY: Right.
6 SENATOR FOIL: So why do we need this bill?
7 REPRESENTATIVE IVEY: Well, a couple. There's a
8 couple of reasons why. Number one, one of the
9 multiple evils that Congress was trying to address
10 when they provided for the Federal Election Law that
11 for the federal election day in 1871 or 2, was having
12 the voters having to go to multiple elections to
13 elect their congressman.
14 [02:10:10]
15 The fact is that if - and I didn't ask for a
16 fiscal note, but the fact is that the fiscal note
17 would be negative because in those cases where we
18 have to have a very separate December election,
19 right? We would no longer have to have a separate
20 December election in those cases. So, we would have a
21 primary, a broad primary, and then also the general
22 election. So, it maximizes - should there need to be
23 a runoff, it actually maximizes voter participation
24 which is something I believe is also an important
25 element. There's many benefits to this that go

1 outside of how it benefits our actual elected
2 official in their role. And having been elected one
3 year after the term began and had a 30-minute
4 orientation, I can tell you clearly that there's a
5 strong disadvantage having not benefited from the
6 orientation process and is thorough for people who
7 are having to play catch up. I don't know if any of
8 the congressmen who were elected that you spoke with,
9 Congressman Graves, he was elected in a normal
10 process, as I believe everyone except Representative
11 Letlow. Maybe she might be the right person to ask as
12 far as disadvantages, and she's not my congresswoman,
13 but that may be a good question for her - her
14 perspective on disadvantages of not getting that
15 initial orientation. But again, the primary impetus
16 initially was to provide an alternative solution to a
17 closed primary. I don't want to get into the closed,
18 I have a different perspective on it and I wanted to
19 provide an alternative solution to address this
20 having to go to a December runoff. So, again,
21 ultimately, I believe it would bring us in line with
22 - should there need to be a true runoff on federal
23 election day, we could have that without having to
24 kick it into December where people, our constituents
25 are shifting gears most of the time getting ready for

1 holidays and things like that. It's a little more
2 disruptive having to have a runoff in December.
3 SENATOR FOIL: Yeah, and just to follow up. I
4 presume when you were bringing this bill, you're
5 bringing it because you felt like our congressional
6 delegation was at some disadvantage. But after my
7 research, I don't believe they are other than once
8 again, maybe they might miss the group orientation,
9 have to get their own orientation, but they don't
10 lose any seniority because of our system.
11 REPRESENTATIVE IVEY: Right. Well, again, my
12 initial intent was to provide an alternative to a
13 closed primary if we were trying to address that
14 subject. After a lot of research, what I've really
15 honed in on is that in Foster v. Love - Foster v.
16 Love created the system that we have now, it was
17 never the intended system, the intended system was to
18 be able to provide for a congressional election, and
19 to be able to produce an outcome by federal election
20 day. And so that's what the intention was before the
21 Foster v. Love decision and it was also the intention
22 before Louisiana went away from the closed primary
23 system. So, the reason we have what we have today is
24 largely in a failure based on the laws it was
25

1 constructed in Foster v. Love, not by any specific
2 design or intent of this institution.
3 SENATOR FOIL: Let me go and I do have some
4 concerns about Foster v. Love. I've read it as well
5 and I've spoken to Attorney General's office about
6 it. They have some concerns that this bill would
7 violate Foster v. Love. Look, I'm one legal opinion,
8 but I think it's certainly a very questionable this
9 would withstand constitutional scrutiny because the
10 election clause which is in the US Constitution
11 allows the states to conduct the elections, except it
12 does give Congress the right to dictate how federal
13 elections are held and specifically --.
14 REPRESENTATIVE IVEY: Now how federal elections
15 is held, the time.
16 SENATOR FOIL: The time, right.
17 REPRESENTATIVE IVEY: Specifically is the only
18 statutory.
19 SENATOR FOIL: Congress may at any time by law
20 make or alter such regulations is what it said.
21 REPRESENTATIVE IVEY: They have the authority in
22 the constitution to do that. The only actions they
23 have taken is Title 2 Section 7 and Section 8 for
24 instances where there were exceptions to the rule
25

like a runoff or if someone had to be replaced, but we had to fill a vacant office.

SENATOR FOIL: Well, specifically in Title 2 that you refer to it says that in federal elections the, Tuesday next after the first Monday in November in every even numbered year establishes the day for the election in each of the state and territories of the United States of representatives and delegates to the Congress. So, that's where you come into the constitutional issue. What is the date of the election? I know with your bill; you're trying to - by having the certification at a later date suggest that that is the election date is that right?

[02:15:11]

REPRESENTATIVE IVEY: The date of the election is the date of the election and what the Supreme Court states very clearly in Foster v. Love on Page 4, it says that when the federal statutes speak of the election, right? So the election on federal election day, right? The election of a senator or a representative, it says they plainly refer to the combined actions of voters and officials meant to make a final selection of an officeholder. So, it is a combination of those actions that equals the election per the election day clause. They're

literally, I believe the Supreme Court is serving up the solution that I'm presenting. In fact, if you read the oral arguments it will be very clear that what they state here in the opinion is supported by in their oral arguments.

SENATOR FOIL: But they're oral arguments, not law. That's the arguments that are made to the court.

REPRESENTATIVE IVEY: I understand, but their opinion was created after the oral arguments and so I'm suggesting having read both that this opinion is supported by the statements and questions made by the court.

SENATOR FOIL: Let me just get to my point here. This is what my concern is. I'm looking at Title 2 and I'm looking at the Love case and it says that the first Monday, November, in every even numbered year is established as the day for the election in each of the states. And then you look further in Louisiana law and it says that the candidate who receives the majority of the votes cast for an office in primary election is elected. That's in Title 18 Section 511. So, I'm not suggesting Representative Ivey that you could win the case in the Supreme Court, but I have serious questions as to whether we would be successful. I think if we did pass this bill, we

could be subject to litigation. Once again, if there was strong reason because our congressional delegation is at some disadvantage, I can understand, but I don't know if it's worth the risk to put us in litigation. So, that's just my read on it. I appreciate your motives and I don't dispute them, I just have those concerns.

REPRESENTATIVE IVEY: I appreciate your concerns. I will say that it was 20 years, almost 20 years before the open primary law that was enacted in '78. Well enacted in '76, and first applied in '78, before it was challenged. So, there's nothing we can do other than what is clearly being done anywhere else that may provide for any lack of concern and respectfully, and I appreciate the Attorney General's office having reached out to me in advance letting me know they were going to express concerns. I believe I've addressed the concerns that have been presented. The fact is that clearly when they say that the election, they say plainly, it refers to the combined actions of the voter and the officials. It plainly refers to it. That's the opinions, work terminology. And so to be concerned that in the plainly referring to the combined actions and deferring one of those actions until federal election day, I just don't see

where there's an actual concern because it plainly accomplishes what is referred to in each of the highlighted elements in either red or orange. They restate the lack of an act being required on federal election day and if you read through the Supreme Court cases, and if you read through the Appellate Court's decision, they make it abundantly clear that the intent of the federal statute providing for an election day was the time, everything else was up to the state legislatures and it still is. So, the fact that the Supreme Court did us a favor and defined what the election means, referring to the election clause, it's two actions.

[02:20:06]

And they also say multiple times, three or four times throughout their opinion that it's the absence, the failure of in Foster v. Love was the absence of an action being required on federal election day. And again, I can provide you all with my electronic highlighted version of all of the Supreme Court cases having gone through them for your good.

CHAIRWOMAN HEWITT: I don't think we're going to go there.

SENATOR FOIL: Let me say this, we just have difference of opinion and interpretation and no one

prepares any harder for bills than you do. I appreciate your time on this.

REPRESENTATIVE IVEY: Thank you and in the follow up on that briefly, to not move it forward, out of impossible to determine concern and if you can show some deference to my own due diligence as opposed to a concern brought by the Attorney General which they haven't been able to speak yet, but obviously you've spoken with them, that where they fail in my opinion to provide any concrete or supporting reference of why this would not meet the federal harms other than a concern. So, there is no harm in actually moving this forward, doesn't hurt anyone regardless of whether or not the value or benefit to the Congress, in our congressmen or women, is there is not material. I do believe that being able to not have to have a December runoff is very valuable to our constituents. I do believe that besides the cost savings there if we need a runoff, having it on federal election day, does provide for a more participation in those elections. So, this is the only thing that can happen is all positive, there's nothing negative that can happen. And if this should be challenged at some point, which again it took almost 20 years before the last one was challenged in

Foster v. Love, it would have to be litigated and if it goes to the Supreme Court, then they're the only ones who can actually alleviate those concerns regardless of what we confect in law.

CHAIRWOMAN HEWITT: I appreciate again what you're working to do. As you know, I have kind of been working on the same issue with the with the closed party primary. But I guess to Senator Foil's point, the question is going to be the tradeoff, the advantages and disadvantages or the pros and cons of getting our congressmen and women elected in November or December compared to potential cost of litigation should this bill go forward, how does one outweigh the other in terms of benefits to the state?

REPRESENTATIVE IVEY: I don't believe that the legislature having the constitutional plenary power to write laws is ever concerned with potential litigation costs on the myriad of bills that we pass, many, and sometimes where I have my own constitutional reservations, but as I was informed as a freshman legislator, that anything that this institution passes through the process is deemed constitutional until the Supreme Court says it's not.

CHAIRWOMAN HEWITT: It's not, that's right.

REPRESENTATIVE IVEY: So I will also say that this passed unanimously in the House on the floor 99, I believe to nothing. So, there was, I believe this provides for a very clear pathway. This does not prevent or preclude future efforts to move to a closed party primary. It does not. So, if that's something that can gain traction in this institution, this doesn't prevent it. I do believe that this does provide for a strong of a basis to support what I believe passes constitutional muster.

CHAIRWOMAN HEWITT: Okay, let's read in the cards. I know the Attorney General's office is here and they would like to speak on this issue as well. So, I'll let you all come to the table. Whoever would like to, we've got Jeffrey Whale, Angelique Freel. Who else do I have? Lance Maxwell. We've also got members of the Secretary of State's office of course and Registrars of Voters Association. If you all have any questions for them, they're here as well.

[02:25:02]

And then I do have one card in support here, not wishing to speak, Peter Robins-Brown with the Louisiana Progress Action. He may want to speak after this. Okay. Okay, you got to check the card.

MALE 1: I know. Well, I've changed some of that stuff.

JEFFREY WHALE: Thank you, senators. Good morning to you, maybe afternoon now. I apologize. But my name is Jeffrey Whale. I handle elections issues for the Attorney General's office and another part of my responsibility is I'm in a department that defends the constitutional challenges to the laws that you all pass. I have to say I had some prepared remarks this morning. But honestly, Senator Foil did my job for me. Thank you so much, senator, I appreciate that. You covered the exact points I was going to make in the same concerns. We're looking for what this bill does. It's trying to move our primary dates earlier in the election and then somehow declare these people, declare these candidates elected months thereafter. So, in defending these laws, I worked on several constitutional challenges throughout my years with the Attorney General's office. Very rarely do we have such a clear federal statute and a clear Supreme Court case directly on point. The Supreme Court said the last time Louisiana tried to do this, the Supreme Court said no. The Supreme Court said you cannot do this. It is against the law. So, we have, it is against Federal Law and in conflict with Federal Law.

So, I'm here to express concerns on a white card to express our serious concerns about the law and so what are those concerns? The concern is that the United States Supreme Court said that we cannot do this, we have to elect people on federal election day, and the first Tuesday after the first Monday November because that is what Federal Law says, and that is provided by the United States Constitution. So, what are some of the other concerns we have there? Obviously, the cost of litigation. We have Director Angelique Freel is here and could speak more to the costs associated with litigation and expenses by the state. But the last time we did this, we went all the way to the United States Supreme Court. That would be an immense cost and litigation and there would be no point because it's already been to the Supreme Court several years ago. Also, not to go too far down the road here, but depending on how the contest is, depending on what a constitutional challenge or any type of challenge would look like, we run the risk of our congressman not being able to be seated in November or anytime thereafter until the litigation is resolved. So, we can talk about sitting congressman later, and there are absolutely legitimate concerns there that may need to be spoken

of. But the other concern that we have is that the congressman may not be seated for months.

CHAIRWOMAN HEWITT: Remember what happened in Georgia, right? I guess that was being contested, and so they weren't seated right away. Isn't that right?

JEFFREY WHALE: I don't remember a specific election there. They had their runoff. So, they're very similar to us. None of their two senator candidates got the majority of votes there. So, they had their runoff in January from what I understand.

CHAIRWOMAN HEWITT: Yeah, there was something though. Maybe I'm not remembering to correctly, but there was some state where it was a contested election up north, I guess, and they were not seated right away.

JEFFREY WHALE: Several congressional seats, right? I believe a member was seated provisionally in one state.

CHAIRWOMAN HEWITT: Minnesota maybe okay.

JEFFREY WHALE: And there were several out there that there was recount, I remember, there's a recount in one, there was a really close election in one. Thankfully, our Election Code provides really clear election contest, but we're talking about a constitutional challenge to a law. And again, one

that the Supreme Court has spoken to. So, we believe that the Supreme Court use it and it's where we really see him do this where they do it sometime, they use Webster's dictionary to define an election as the act of choosing a person to fill an office. That's an election. We know what an election is. We go to the polls, and we vote for our members of Congress and we vote for our candidates and they're elected. Part of the policy behind that, the Supreme Court mentioned - and by the way, this is a unanimous Supreme Court opinion, absolutely unanimous, no dissents. But there was a third part. The three justices didn't join in, but the majority of them did. They talk about the evils of sending people to vote across the country on different days, about having a different election day for different states and they wanted to avoid that evil. We have a national election day. So, the entire country goes to vote and we choose our members of Congress at the same time. So, of course, look, if someone doesn't get a majority vote, then they do go to the December runoff and they can be elected later. The Supreme Court said that is okay because that's more of a backup option, if you will. That's in case someone doesn't get elected in November with a majority of

votes. But obviously, I think we see that happen more often than not and so with that, I'm happy to defer to Angelique Freel.

ANGELIQUE FREEL: Hi, I'm Angelique Freel with Attorney General's office also. I just wanted to point out, we've talked a lot about the United States Supreme Court case, but there's an actual congressional statute that's prescribed by law when these elections are supposed to occur, and that's 2 USC 7 and so there's a specific law on point and then there's also a specific law 2 USC 8 that would provide for, if on that day, someone is not elected and you necessarily have to have another election. In our case, if we have to have a general, that's okay. But those are matters that are prescribed specifically by law.

[02:30:08]

JEFFREY WHALE: And to answer a question brought up by the former speaker. The reason it passed 99 to 0 in the House, we were not able to address these concerns until now. We hadn't had a chance to weigh in and provide our input. So, I don't believe the House members had the benefit of hearing what we are testifying to today. So, I apologize for that.

ANGELIQUE FREEL: Yes, and I'd like to add to that. So, as most agencies, we have people that monitor legislation and it was actually Jeffrey that noticed this, but it was after it had gone through the House and so we noticed the constitutional concern. We wanted to make sure that it got brought up so that you would have this information.

CHAIRWOMAN HEWITT: That's right. I appreciate that. Any questions for the Attorney General's office? Okay. All right, thank you all. I've got a card wishing. Nope. He's changed his mind again.

MALE 1: Sorry.

CHAIRWOMAN HEWITT: That's all right. All right. I think that's all of my cards. We'll see if I've got any - make sure I don't have any emails, have emails here relative to this. I don't believe that we have any emails in support or in opposition. Okay. The board is clear. Representative Ivey, would you like to close?

REPRESENTATIVE IVEY: I would. While I can appreciate the Attorney General's office coming and providing and expressing their concern, their argument is as weak as it could possibly be. There was no foundation. In fact, what they said was absolutely factually incorrect. They say that and let

me quote, "This is already been to the Supreme Court and we cannot do this." I'm sorry. Did I delete something. I must have hit a button, but to paraphrase they said that they've already decided this. In this opinion, clearly they have not. Very clearly, they have not. In fact, the actual opinion clearly defines what the election equals. If you read the oral arguments and I will provide just a couple of excerpts - if I can find, it's only 44 pages, so bear with me.

CHAIRWOMAN HEWITT: You promised you wouldn't read all the details.

REPRESENTATIVE IVEY: I'm not. I just want to provide an example from - let me use a real world example to disprove the concerns about doing something prior to election day. We have early voting, do we not? We provide for early voting and absentee by mail voting in the State of Louisiana. How is it meet constitutional muster if someone cast their vote prior to federal election day? How is that legal?

CHAIRWOMAN HEWITT: They're not tabulated until the election day.

REPRESENTATIVE IVEY: So the tabulation though is not material, what is material is - so there's two

actions that the Supreme Court states very clearly. They say it's the clause plainly refers to the election as the act of the voters and an act of the officials. The reason why it is lawful is because that two actions are required to constitute the election. By requiring one of those actions, requiring not saying that they have to wait until, but requiring an act of an official on federal election day, it supports - this is supported by the fact that we allow for absentee by mail voting where people literally cast their ballots before federal election day.

[02:35:05]

While the tabulation may occur, the fact remains that they have cast their ballot. The act of casting a ballot has nothing to do with when the officials tabulate, that's an act of the officials. So, there's a clear distinction in the courts and in practice, by just using the absentee by mail process and actually the same thing with the early voting process. It is the combination of two actions. This bill sufficiently provides for a clear action to be required on federal election day. So, I can't handle concerns that aren't supported with referenced opinions or other marks, I can't. So, I've done my

due diligence, members. This doesn't hurt anyone and with regard to litigation costs, I will respectfully withhold my comments on the AG's participation in litigation outside of the State of Louisiana, being that we're so concerned about litigation costs. So, I'm happy to answer any more questions.

CHAIRWOMAN HEWITT: All right. I think we're on close. I don't have any other questions on the board. What's the pleasure of the Committee? Senator Foil moves to defer. Any objections to that? Right? Seeing none, Representative Ivey, we will defer.

REPRESENTATIVE IVEY: Thank you.

CHAIRWOMAN HEWITT: All right. You got one more bill. Remember the other one?

REPRESENTATIVE IVEY: Thank you.

CHAIRWOMAN HEWITT: Sorry. I messed up. I've taken them out of order.

REPRESENTATIVE IVEY: That's why I didn't want to do this one first because you're messing with my mental mojo here.

CHAIRWOMAN HEWITT: I didn't mean to mess with your mojo.

REPRESENTATIVE IVEY: All right.

CHAIRWOMAN HEWITT: All right, but we appreciate your passion and all your work.

REPRESENTATIVE IVEY: Yeah.

CHAIRWOMAN HEWITT: All right. So, the let's see, the last bill on your list is HCR57.

REPRESENTATIVE IVEY: Yes, ma'am.

CHAIRWOMAN HEWITT: All right. Let's take HCR57.

[BACKGROUND CONVERSATION]

REPRESENTATIVE IVEY: Okay.

[BACKGROUND CONVERSATION]

CHAIRWOMAN HEWITT: All right. Thank you. We're managing our schedule here.

REPRESENTATIVE IVEY: No problem. I'm going to be brief on this one.

CHAIRWOMAN HEWITT: Okay. HCR57, whenever you're ready.

REPRESENTATIVE IVEY: All right, members last year, the legislature passed a bill and went through this committee providing a mechanism whereby the legislature could via concurrent resolution or by signature from a letter from both presiding officers requesting direct any oddity of the state to provide a synchronized copy of data to the legislative auditor. So, this provides for efficiency in many, many ways. So, this is the first instrument to request, that a synchronized copy of data be transmitted to the legislative auditor. As it

happens, it's not usually until morning of where you hear concerns on stuff. So, unfortunately last week, the individual who I deal with the Office Technology Services, he was out of town and unavailable for a little over a week. So, I haven't been able to prepare an amendment that is necessary. Let me express what will be in the amendment set. One, we will provide for - it just says la.gov data, but we will provide more specifically for which la.gov data that we're requesting be synched, provided for. The other element is the timing of the updates because it's kind of a push thing where they update it every so often.

[02:40:05]

Having spoken with the division, they felt that they provide this type of update on a monthly basis. I felt that was reasonable. So, I will provide that it be updated on a monthly basis. The next issue they had concerns with was implementation and so I asked what they felt was a reasonable implementation period and I think they said October, getting past - but I said, "How about December 31?" They said, "It's more than generous." So implementation is not an issue. The frequency is not an issue. The data itself is something that needs to be pared-down. After

1 conversations with staff from the governor's office
2 this morning, I'm going to pare down the request to
3 only the public records elements within the la.gov
4 dataset. So, this is not the entirety of la.gov which
5 would provide immense value to the legislative
6 auditor's ability to audit, but we're going to limit
7 it to the public record elements within the la.gov
8 dataset. So, it's a much smaller - maybe it's a walk
9 before you run type of approach. I've spoken with the
10 president and I've spoken with the speaker regarding
11 the cost. There were concerns brought up by the
12 division that the costs and having the division bear
13 those costs. I believe those cost to be relatively
14 nominal, that's obviously relative and perspective.
15 I've got the head nod from both presiding officers
16 that will look into the specifics of those costs
17 between here and the floor should the instrument get
18 out and if it's something they feel that the
19 legislature can't afford or doesn't want to do at
20 this point, then I'll defer to their responsibility
21 as the presiding officers of this institution. So,
22 the concerns on data privacy or security should not
23 be relevant because the only records that I'm going
24 to pare down to is public record type data. So, data
25 security should not be an issue. The frequency is not

at issue because they said that's what they routinely do. The implementation period is not an issue because it was much further beyond than what they needed. So, with that, I'm happy to answer any questions.

CHAIRWOMAN HEWITT: All right, I appreciate that. So, you've identified. You've worked with all the parties. You've got a few things that you want to do between here and the floor and so you're committed to do that and I think that's great and we're happy to work with you on that. Senator Foil has moved favorable on HCR57. Any objections to that? All right, seeing none, we'll report HCR57 favorable.

REPRESENTATIVE IVEY: Thank you all.

CHAIRWOMAN HEWITT: Thank you, sir. All right. I know we're - again everybody is balancing a lot of different commitments to different committees. What I would like to do now is I'm going to take a like a truly 15-minute recess. Excuse me. Yeah, let's do that. That's very quick, the HCR for Representative Johnson. You can do it from there, HCR10 and then we're going to take a short recess. Those of you in the audience, we'll come back and wrap up with a couple of bills and then start confirmations. All right, HCR10, Senator Reese.

SENATOR REESE: Thank you Madam Chairwoman, members. HCR10 is establishes Central Louisiana Delegation Caucus. The parishes of that include Allen, Avoyelles, Catahoula, Concordia, Grant, LaSalle, Natchitoches, Rapides, Red River, Sabine, Vernon, and Winn.

CHAIRWOMAN HEWITT: All right, would you be part of that delegation, that caucus?

SENATOR REESE: I shall.

CHAIRWOMAN HEWITT: All right. Sounds like a great idea. Any questions or comments from the Committee? Do I have any cards? I heard there was a card from the Northshore delegation. All right. Seeing no cards and no emails, Senator Reese moves HCR10 favorable. Any objections? Seeing none, we'll report that as favorable.

SENATOR REESE: Thank you.

CHAIRWOMAN HEWITT: All right, let's take a 15-minute recess and you guys, if you'll work with me, we'll get back to business as soon as we can. Thank you.

[02:45:01]

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I, Anders Nelson, hereby certify that the document "F880187-louisiana-redistricting" is, to the best of my knowledge and belief, a true and accurate transcription from English to English.

Anders Nelson
Project Manager

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